

It cannot be disputed that Ms. Berzon's training and experience qualify her for a life of public service as a federal appellate judge. Indeed, Ms. Berzon's qualifications are unimpeachable, and her competence is beyond question. Ms. Berzon completed her undergraduate studies at Harvard/Radcliffe College, and then was graduated from the Boalt Hall Law School at the University of California. After law school, Ms. Berzon served as a judicial clerk—first for Judge James R. Browning of the United States Court of Appeals for the Ninth Circuit, and then for Justice William J. Brennan, Jr. of the United States Supreme Court.

For the last 25 years, Ms. Berzon has built a national reputation as an appellate litigator at a private law firm in San Francisco. She has argued four cases and filed dozens of briefs before the United States Supreme Court, and has argued numerous cases before State and federal trial and appeals courts. In addition to representing private clients, Ms. Berzon also has represented the States of California and Hawaii, and the City of Oakland, California. Ms. Berzon is uniformly described as honest, intelligent and fair-minded. Attorney J. Dennis McQuaid, whom she opposed in a case, later stated that "unlike some advocates, she enjoys a reputation that she is devoid of any remotely partisan agenda and that her service on the court will be marked by decisions demonstrating great legal acumen, fairness and equanimity." Another opposing counsel, Carter G. Phillips, said that in a case involving delicate federalism issues, Ms. Berzon

... did an extraordinary job of presenting her clients' position aggressively without overreaching. She presented solid limiting principles that would allow the lawsuit to go forward without placing too much of a burden on the State. I thought her submissions, both written and oral, demonstrated a significant effort to balance the respective interests implicated by the legal issue. . . . Her advocacy demonstrated skill, integrity and sound judgment. These are precisely the traits I would want in a federal appellate judge.

Simply put, Ms. Berzon appears to have the intellect, integrity and impartiality to serve as a federal judge.

The fact that many of Ms. Berzon's clients have been unions should not disqualify her from being confirmed. That Ms. Berzon has advocated on behalf of unions—and, by all accounts, advocated well—cannot, I think, be determinative of her qualifications. In her testimony before the Judiciary Committee, Ms. Berzon testified that she is committed to following the Supreme Court's Beck decision, which sets forth the statutory rights of employees who object to their union dues being used for political activities. Moreover, Ms. Berzon testified that, if confirmed, she will make decisions based upon the law and the facts of the particular case before her. No one has shown me evidence why I should not take Ms. Berzon at her word.

In addition to having excellent legal training and experience as a lawyer, Ms. Berzon also has experience in legal academia. She has taught law students as a practitioner-in-residence at Cornell University Law School and at Indiana University Law School, and has published articles on various legal topics. In my view, she will bring to the Ninth Circuit a significant measure of intelligence, experience and legal scholarship.

In conclusion, Ms. Berzon is well-qualified to assume a seat on the United States Court of Appeals for the Ninth Circuit. She enjoys a reputation among colleagues and opposing counsel for being a fair-minded, well-prepared, and principled advocate. I therefore will cast my vote in favor of Ms. Berzon's confirmation.

The PRESIDING OFFICER. The majority leader is recognized.

UNANIMOUS CONSENT REQUEST— S. 761

Mr. LOTT. Mr. President, I ask unanimous consent to appoint the conferees to S. 761, the Millennium Digital Commerce Act.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Mr. President, reserving the right to object, has the leader cleared this with someone on this side of the aisle?

Mr. LOTT. Mr. President, if I could respond to the distinguished Democratic whip, this is for conferees on this Millennium Digital Commerce Act. We have tried, over the past couple of weeks, to get clearance to appoint conferees.

The recommendation was that we have, I believe, 11 from the Commerce Committee, 3 from Banking—6 and 5 and 2 and 1. For some reason, there have been objections to that. There continue to be objections, but this is a bill that has broad support in the industry and on both sides of the aisle. So I am confused and perplexed about why we can't get these conferees appointed and move forward to this conference. So it has not been signed off on, as I understand it. But since I talked to the Democratic leader last week twice, I thought perhaps we had reached a point where this could be done.

Mr. REID. I am confident we can work it out. But at this stage, I will have to object.

The PRESIDING OFFICER. Objection is heard.

Mr. LOTT. Mr. President, if I could be heard on this issue at this time.

I don't understand, again, what the objection is to this procedural motion. The House appointed conferees to this bill 2 weeks ago, and they have been calling over saying, "What is the deal?" I understand that perhaps there are other Senators who would like to be conferees from other committees. There is some indication that maybe the problem is they don't like the fact

there are some Banking conferees. The House bill has several provisions that are clearly in the Banking jurisdiction, and that is why we have recommended having three from Banking—two and one—so we can get this into conference and get it worked out.

There are a lot of us who realize there are Silicon Valley interests in this. We also have the Dulles corridor high-tech industry in Northern Virginia that really wants this legislation completed. I don't think it would be a long conference. So I want to highlight the fact that we are anxious to get to conference.

I have addressed concerns as best I could. I don't think we can take Banking members off the conference. Maybe there is another way to solve this problem. But since I was getting questions both from the high-tech industry and from the House as to why we weren't going on to conference, I had to point out or emphasize what the problem was.

I would be glad to yield to the Senator from Michigan, the author of this legislation. He probably knows more about it than any other Senator.

Mr. ABRAHAM. If the majority leader will yield briefly, I thank him for making another attempt to appoint conferees on this legislation.

Mr. President, I share the majority leader's frustration over our inability to really move anywhere with this bill. This bill, the Millennium Digital Commerce Act, is a bipartisan bill. This legislation passed the Senate by unanimous consent. We worked together here to try to craft the legislation in a bipartisan fashion. The House companion legislation passed by an overwhelming margin.

I understand—and the majority leader has just indicated it again—there may be some Members who have concerns with the bill. But, obviously, going to conference is the usual procedure for moving legislation. As I understand the request that has been put forward, there would be six Democratic Senators on the conference committee, which is about 15 percent of the entire Senate Democratic caucus who would then be able to participate in the proposal.

Mr. LOTT. If the Senator will yield on that point, I also note at this time that I think the House only has perhaps five conferees. I don't believe I have ever been to a conference where the House has one-third as many conferees as the Senate. So we have already tried to include as many Senators as we possibly could.

Mr. ABRAHAM. I do think that is a sufficient number to guarantee the views reflected by each side. They would be adequately represented in the conference.

Mr. LOTT. Let me ask the Senator something, if I may. This is a sophisticated title, the Millennium Digital Commerce Act. What does this bill do?

Mr. ABRAHAM. Essentially, the legislation is designed to address a problem we have now with respect to the

enforceability of contracts that are entered into electronically. A number of States have attempted to deal with this. This would be where parties, over the Internet, engage in some form of contractual activity. A number of States have passed legislation—in fact, about 45 States have done so. The problem is that each of these State laws is different from the other. As a result of that, it has created a serious potential impediment to the expansion of electronic commerce because if the laws of two different jurisdictions are different, somebody can hide behind that difference to argue that they did not have to fulfill the terms of the contract.

Fortunately, the States are trying to work toward a solution, as they have done in other areas of commercial activity. We have a Uniform Commercial Code, and the States are trying to work together to address these kinds of interstate contracts. That will take time. Even after they come to final agreement on a specific format or formula for the legislation, it is going to take probably years for all the States to adopt it. So this would guarantee the enforceability of contracts entered into electronically in the interim. That is the approach we have taken, and we hope it will therefore allow continuing growth in the area of electronic commerce, which is, as you well know, becoming one of the key sectors and key activities in our economy today.

Mr. LOTT. Mr. President, I want to clarify a point.

As author of this legislation and as a member of the Commerce Committee where this legislation originated—I am a member of that committee—does the Senator object to having banking representation as a part of this conference?

I note that the House bill has several provisions that are clearly banking-type provisions. Does the Senator see a problem with that?

Mr. ABRAHAM. I don't, for the very simple reason that in the House, the House-passed legislation went beyond the scope of what we passed in the Senate to include legislation, or to expand the use of this legislation to transactions that involved securities and other transactions which would fall under our Banking Committee's jurisdiction. Had those been in the initial legislation we introduced here, then the jurisdiction of this bill in the Senate might have been altered or in some way divided.

For that reason, I think there is a very valid argument for the Banking Committee, because of the broader nature of the legislation that came to the House, to participate in the conference.

Mr. LEAHY. Mr. President, which of the two Senators has the floor?

The PRESIDING OFFICER. The majority leader has the floor.

Mr. LOTT. Mr. President, I would be glad to yield to Senator LEAHY, and I will come back to Senator ABRAHAM, if he desires to have some additional time.

Mr. LEAHY. I wish to ask a question. Were we referring to the Abraham-Leahy substitute as it passed the Senate on digital signature? Is that what we are referring to? I ask that question of either Senator.

The PRESIDING OFFICER. The Senate is considering nominations.

Mr. LEAHY. I thank the distinguished majority leader for yielding. I ask the question of either the Senator from Michigan or the Senator from Mississippi: Are we referring to the Abraham-Leahy substitute that passed the Senate on digital signature?

Mr. LOTT. Mr. President, if I could try to respond, is the Senator a cosponsor of the legislation?

Mr. LEAHY. I believe so, with the substitute that I authored along with the Senator from Michigan.

Mr. LOTT. As is our tradition around here, it could be the Abraham-Leahy bill, or the Lott-Daschle bill, or something other bill.

Mr. LEAHY. That is what I am asking.

Mr. LOTT. I assume the Senator has been interested and involved in this.

Mr. LEAHY. I ask the question of the Senator from Michigan: Am I correct that the House only appointed members of the Commerce Committee, as opposed to the Banking Committee?

Mr. LOTT. They appointed only five.

Mr. LEAHY. They did not appoint anyone from the Banking Committee?

Mr. LOTT. They did not appoint anybody from the Banking Committee, as I understand it.

Mr. LEAHY. I thank the Senator.

Obviously, as one of the authors of this legislation, along with the distinguished Senator from Michigan, I would like to see the law in its present form. I just wanted to make sure, having spent enormous amounts of time with the Senator from Michigan and others to work out a compromise that allowed it to pass unanimously from this body. Had we not done otherwise, we would be in a position of having to make sure improvements made in this body were preserved within the legislation.

Mr. LOTT. I think that clearly would be the intent of our conferees. Therefore, I assume Senator LEAHY would support getting conferees appointed and going to conference. Is that correct?

Mr. LEAHY. I would be supportive of the Leahy-Abraham compromise.

Mr. LOTT. I yield to the Senator from Michigan. Senator DASCHLE is on the floor. He may want to get involved in this.

Mr. ABRAHAM. Mr. President, point of clarification: In the process of the appointment of conferees, obviously each Chamber has to appoint them based on the respective jurisdictions of the parts of this bill that are before us; that is, the House bill as it finished the House and the Senate bill as it finished the Senate. Although I don't have an intricate knowledge of the jurisdictions of various areas in the House, it

is my understanding that matters that pertain to the SEC and securities-related issues in the House fall under the Commerce Committee's jurisdiction, whereas in the Senate they fall under the Banking Committee's jurisdiction.

I think that may explain the problem a little bit because in the House it is perfectly reasonable and appropriate that the Commerce Committee alone be represented. They have jurisdiction over those provisions that are securities-related as well as those that are related to the technology side of this. In the Senate, that is not the case. Our Banking Committee, not the Commerce Committee, has responsibility for those areas. I think that is part of the problem.

Mr. LOTT. Mr. President, I would be glad to yield to Senator DASCHLE or yield the floor, if he wants to speak on his own time.

Mr. DASCHLE. Mr. President, I appreciate the leader yielding to me.

As we go through our daily schedules and responsibilities, I bet I do a lot of things which are a source of concern for the majority leader. I am sure he is not surprised that the way this matter has been handled is a source of concern to me. We talk daily. Sometimes we talk hourly. Sometimes I am sure we talk more than he would like. But, nonetheless, we talk. To say we were surprised and disappointed that a unanimous consent request could be propounded without any notification is an understatement. It is disappointing.

I hope we can avoid surprising one another. But, of course, we do it. That is understandable. Certainly, the majority leader has every right to proceed in any way he sees most appropriate. I think it is a violation of the trust and communication that we try to maintain. And I am very disappointed he sought to come to the floor without any notification of the issue.

Let me say three things.

Mr. LOTT. Mr. President, if the Senator will yield, I apologize to Senator DASCHLE for what led him to make his comments.

First of all, the Senator will recall that last week we discussed on a couple of occasions how we could work through getting the conferees' names agreed to and through the body. This morning—I don't remember the exact hour—we decided to have a colloquy on this issue. I assumed he had been notified and that all of you were aware we were going to try to get the conferees appointed and have a colloquy. I first realized it had not been done when I saw the expression on one of our staff members' face when I stood up and made the unanimous consent request. I assumed he had been notified, as he is when we do this sort of thing. I don't shift the blame to staff; I accept the responsibility. I apologize to Senator DASCHLE because he should have been notified. I assure him we have done a lot of things already this year together and I always notify him. We should have done that.

Nevertheless, it doesn't diminish the need to get an agreement on conferees. I will be glad to work with him to get this done because this is a bill that really is important to a large segment of our society.

My own son is also harassing me about how he wants to do e-commerce. He is concerned about what he can do. He is doing business in Kentucky. We are not only hearing from House Democrats and Republicans, asking, Where are your conferees? This is also something my son is harassing me about.

We have to get this worked out some way and real quick.

I think the Senator is entitled to an apology because of the way this was handled. I would expect him to be notified.

Mr. DASCHLE. Mr. President, I appreciate the majority leader's graciousness and accept the apology.

As I say, we have had a great working relationship this year already on a lot of different issues. I appreciate very much the manner in which he has expressed himself on this particular situation.

Let me say to the issue, as he noted, we have attempted to resolve this in the past. I give Senator LOTT great credit for trying to find as many innovative ways in which to address what has been an irresolvable conflict.

We have indicated a willingness to go to conference so long as it involves the committee that was responsible for passing this legislation. The Commerce Committee held hearings. They marked up the bill. They passed it. We are now at a point where the conference includes conferees from the Commerce Committee in the House, and we are prepared as we move to conference to accept conferees from the Commerce Committee.

The problem is, the chairman of the Banking Committee wants to be part of the conference, and, frankly, the Banking Committee didn't have jurisdiction.

The Banking Committee is not represented on the House side. There is no reason that we can understand why the Banking Committee, in and of itself, ought to be involved in the conference when they didn't have jurisdiction.

Certainly, the chairman ought to be heard and he ought to be recognized as one who certainly has every right to express himself to the conferees, as other Members. Let him go to the conference and express himself. Let him offer suggestions on the Senate floor.

But to make him a conferee when we have already agreed that the Commerce Committee could move forward, could accomplish what I think is unanimous support for the legislation—I am sure we could achieve that at some point, and it would be the fastest and most meaningful way with which to get it done.

I am hopeful we can do that. There is no reason for this legislation to be delayed anymore. Let's have the conferees work their will. Let's get this

legislation passed. Like Senator LOTT, I think there are a lot of people out there, including his son, who ought to see the Senate act. I desire that no less than he. Hopefully, we can do it soon.

Mr. LOTT. Mr. President, I note the House bill includes an entire title pertaining to the use of electronic signatures in securities transactions. That language falls under the jurisdiction of the House Commerce Committee, but in the Senate, the jurisdiction is in the Banking Committee. Clearly, there is Banking Committee jurisdiction in this legislation in the House bill.

Also, let me get specific about what and whom we are talking about. We are talking about three very thoughtful Members of the Senate who have a real interest in these electronic signatures and securities transactions. They are: Senator GRAMM, the chairman of the Banking Committee from Texas; Senator BENNETT from Utah, who had been very much involved in our efforts to pass the Y2K legislation last year and in a number of areas, including cyberterrorism—he is very knowledgeable in this whole area—and Senator SARBANES, the ranking member on the Banking Committee.

These are not three Senators who would be anything but instructive in sharing information in an area in which they have a greater knowledge than the Members of the Commerce Committee.

Did the Senator from Michigan wish to comment further?

Mr. ABRAHAM. I think the majority leader has outlined the jurisdictional situation well.

I reiterate, had the bill that the House passed been the bill that was introduced here, clearly the jurisdiction on the Senate side would have been differently arranged in some fashion. I don't know if it is called sequential jurisdiction or what, but provisions would have fallen under the Banking Committee's domain.

Mr. LOTT. Let me conclude by saying again to Senator DASCHLE, we talked last week and we both tried a couple of innovative ideas as to how to work this out. I will continue to do that because I think we need to get the conferees appointed. I don't recall any situation quite like this, in the last year or two anyway. We ought to be able to find a way to get the conferees appointed.

I yield the floor.

Mr. DASCHLE. I share the desire expressed by the majority leader to get this done. I want to publicly, again, commend Senator LEAHY for all of his leadership and effort to get the Senate to this point. He spoke earlier and I appreciate very much his willingness to stay committed and his persistence in getting the Senate to a point where we actually could see this become law.

Maybe there is a way, if we go beyond Commerce jurisdiction, to include the leadership of the Judiciary Committee and the leadership of the Banking Committee and maybe expand it to

include a lot more Members than just Commerce Committee members.

As Senator LOTT noted, we can perhaps try to find another innovative mix of participants. Certainly if this happens, the distinguished Senator from Vermont ought to be a part of the conference. I am sure we can work it out at some point.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. ABRAHAM. Before we conclude, I ask unanimous consent to have printed letters from a number of organizations that have called on the Senate to move to appoint conferees.

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

AMERICAN ELECTRONICS ASSOCIATION,
Washington, DC, March 3, 2000.

Hon. THOMAS A. DASCHLE,
Senate Democratic Leader, Hart Senate Office Building, Washington, DC.

DEAR SENATOR DASCHLE: On behalf of the American Electronics Association (AEA), I urge you to appoint conferees on S. 761, the Electronic Signatures in Global and National Commerce Act ("E-Sign"), which was passed by the Senate by unanimous consent on November 19, 1999. As you know, the House passed its version of E-Sign by a margin of 356-66 on November 9, 1999.

AEA is the largest high-technology trade association in America, representing over 3,000 companies who develop and manufacture software, electronics and high-technology products. Our member companies range from industry leaders such as Intel, Motorola, Compaq, Microsoft and America Online, to small and medium sized high-technology start up ventures.

Passage of the E-Sign bill is one of AEA's top legislative priorities for this session of Congress. As you know, our members conduct a tremendous amount of business online. In order to continue the growth of online commerce, companies need to know that they are operating in an atmosphere of legal certainty. The E-Sign bill would establish certainty in online contracting and promote e-commerce by recognizing the validity and enforceability of electronic signatures and records.

It is now time to move forward with this legislation. The Senate Democratic leadership needs to appoint conferees and move the process along. If there are any legitimate consumer concerns they can be ably addressed in conference.

Thank you again for your leadership on this most important matter. Please feel free to contact me if I may be of any assistance to you and I look forward to working with you on this and other issues of concern to the high-technology community.

Very Truly Yours,

WILLIAM T. ARCHEY.

BUSINESS SOFTWARE ALLIANCE,
Washington, DC, March 1, 2000.

Hon. THOMAS A. DASCHLE,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR DASCHLE: I am writing to you on behalf of the Business Software Alliance* to urge prompt action by the Senate on S. 761, the Millennium Digital Commerce Act. This bill was passed by the Senate last November, and a similar bill, H.R. 1714, The Electronic Signatures in Global and National Commerce Act, was approved by the House. It is our understanding that further action on these bills is now awaiting

the appointment of conferees by the Senate so that reconciliation of the two bills can proceed. We urge you to act quickly.

Electronic commerce is now a reality. Using electronic networks to purchase goods and services, as well as conduct financial transaction, has rapidly gained tremendous consumer acceptance. A number of legal elements are needed to ensure the continued development of the electronic marketplace. Key among these is ensuring that digital signatures, and other forms of digital authentication, receive substantially the same legal treatment as their pen and ink counterparts. Likewise, the authorization of electronic disclosures in e-commerce transactions would be an important step forward. It is critically important to clarify and update the law in these areas, which would deliver a boost to e-commerce and the economy.

S. 761 is one of the top legislative priorities for software and computer companies for this Congress, and we urge you to appoint conferees at the earliest possible date.

Sincerely,

ROBERT W. HOLLEYMAN II,
President and CEO.

SECURITIES INDUSTRY ASSOCIATION,
Washington, DC, March 2, 2000.

Hon. TOM DASCHLE,
*Minority Leader,
The Capitol, Washington, DC.*

DEAR SENATOR DASCHLE: On behalf of the Securities Industry Association (SIA) and our member firms I am writing to urge your prompt action on the conference committee to reconcile pending electronic authentication legislation (H.R. 1714 and S. 761). The House has appointed their conference committee members and SIA encourages the Senate to do the same. We ask that you do all within your power to appoint the committee members as soon as possible.

After many delays this very important legislation is once again being detained. Electronic authentication legislation will play a vital role in expanding electronic commerce. It will not only allow the business community to continue to compete nationally and globally but it will also provide the consumer with choices he did not have before.

Electronic authentication legislation, when completed and signed into law, will be historic in the effects it will have on the marketplace. But, quick action is needed and with each delay another missed opportunity passes by. SIA thanks you for your leadership and attention to this important issue and encourages you to name conference committee members quickly.

Sincerely,

STEVE JUDGE.

COALITION FOR E-AUTHENTICATION,
Washington, DC, March 2, 2000.

Subject: Conference on Electronic Signature Legislation (S. 761/H.R. 1714)

Hon. TOM DASCHLE,
Minority Leader, U.S. Senate.

Hon. HARRY REID,
Minority Whip, U.S. Senate.

DEAR MINORITY LEADER DASCHLE AND MINORITY WHIP REID: The Coalition on Electronic Authentication (CEA), which includes many of the Nation's leading electronic commerce companies, is writing to urge you to take all steps necessary to expeditiously begin the conference on the Electronic Signature legislation passed by both Houses last Fall.

Now, with a tight legislative calendar, it is imperative that the conference begins as soon as possible so Congress can complete work on its most important high-tech legislative initiative this year. The House has ap-

pointed conferees, as have the Senate Republicans. Now it is time to complete conferee selection so the conference can move forward.

When enacted, Electronic Signature legislation will be a truly historic step. It will have an immediate and dramatic impact on the growth of electronic commerce and the Internet because it will create, for the first time, the legal certainty required to permit electronic signatures to become widely used nationally by both consumers and businesses. Electronic Signature legislation is essential to help businesses of all kinds expand their use of electronic commerce and meet their customers' growing expectations on how business should be transacted over the Internet. Most importantly, consumers will benefit from the increased security, convenience, and lower costs associated with on-line business transactions. In addition, with this legislation, businesses will be able to greatly expand their use of business-to-business electronic commerce in ways that will significantly lower their costs.

Therefore, we respectfully urge you to do everything possible to appoint conferees expeditiously, so the conference can meet and conclude its work as soon as possible.

Sincerely,

COALITION FOR ELECTRONIC
AUTHENTICATION.

The PRESIDING OFFICER. The Senator from Nevada.

NOMINATIONS OF RICHARD A. PAEZ AND MARSHA L. BERZON—Continued

Mr. REID. I rise to speak on the comments and statements made by Senator HATCH, chairman of the Judiciary Committee.

First, Senator HATCH and I don't always agree on substantive issues. I think the country is well served with the leadership of the Judiciary Committee, the Senator from Utah, and the Senator from Vermont. These two men worked tireless hours to try to clear one of the busiest committees we have. I personally wish there were more nominations cleared. I have the greatest respect for Senator HATCH, and, of course, my dear friend, the Senator from Vermont.

However, this Ninth Circuit issue is something that should be approached cautiously. We have done that. I say to my friend from Utah and the Senator from Alaska, who introduced legislation, as I said earlier today, we need to take a look at what the White commission said should be done with the Ninth Circuit. They spent a year's period of time listening to witnesses and using their experience and his experience as a member of the U.S. Supreme Court as to what should happen to the Ninth Circuit. They came up with the decision after they reviewed all the alternatives, and the decision was not to split the Ninth Circuit but to change the way it was administered. I think that is something at which we need to take a close look.

Senator LOTT, the majority leader, talked about his son being involved in the last issue before the body. I say candidly I have had two sons, one of whom was the administrative assistant

for the chief judge of the Ninth Circuit, my son Leif; and my son Key, who is presently a clerk for the chief judge of the Ninth Circuit, Procter Hug. I have a keen interest there not only because my two sons have worked for the chief judge of the Ninth Circuit, but, in fact, the chief judge of the Ninth Circuit is a Nevadan, a graduate of the University of Nevada at Reno and Stanford School of Law, and has rendered great credit to this country, the Ninth Circuit, and the State of Nevada.

In short, let's not beat up on the Ninth Circuit because there are a lot of people in the circuit. Let's take a look at what should be done with the Ninth Circuit. I think the starting point should be what Justice White's commission said. If there were a few hearings held in the Judiciary Committee, I think we could move on to resolve this problem.

I am happy we are moving forward on these two nominations. It is something that should have happened some time ago. We are moving forward on them. Based upon the statements made by Senator HATCH, there should be bipartisan support for both of these nominees. I hope tomorrow, or whenever it is decided by the leadership that we will vote on them, that there are overwhelming votes in support for Judge Paez and Judge Berzon.

The PRESIDING OFFICER (Mr. CRAPO). The Senator from Vermont.

Mr. LEAHY. Mr. President, I appreciate the comments of my friend from Nevada. I also want to commend the distinguished senior Senator from Utah for his support of Judge Paez and Marsha Berzon.

Today, we are going to take up the long delayed nomination of Judge Julio Fuentes for the U.S. Court of Appeals for the Third Circuit. It is long delayed; Judge Fuentes was nominated 365 days ago. We tried for a whole year to get his nomination moving. He was finally included in a confirmation hearing on February 22, then on to the Judiciary Committee 2 days later, then reported without a single objection.

Now, I understand it came on the calendar yesterday and the distinguished majority leader scheduled it immediately for a vote. I thank him for doing that. No need to linger, especially after waiting a year to get his hearing and a vote.

Moving at once from the hearing, quickly to a committee agenda and to committee consideration and on to the floor is how we used to proceed. In the days before 1994, nominees were favorably reported by the Judiciary Committee, then routinely considered by the Senate within a day or so thereafter. That was before the unfortunate practice that has developed in the last 6 years, where oft times extremely well-qualified nominees are held for long times—weeks, months, sometimes years.

I am glad in this case, at least, while he had to wait almost a year for a hearing, once we got the hearing, the