

judges who can undertake the litigation matter on recusal. Even if Judge Paez had not spoken up on the matters and had such strongly held views, that probably would have been an appropriate matter for recusal in any event. I don't think speaking up on those matters is a burden or inappropriate for his judicial duties. Again, it might be better not to do that, but it is not a disqualifier.

Objections have been raised on two matters where he refused to dismiss a case brought against Unocal involving charges of abuse of human rights in Bosnia—a pretty tough standard to get a case dismissed on a preliminary motion. There again, not a weighty matter which would warrant disqualification.

An issue was raised at him being a municipal court judge handling a case involving Operation Rescue where there was an issue of whether he stormed off the bench or simply called a recess for a cooling off period, and some issue as to how he treated people in the audience who were waving Bibles, an issue of whether he threatened to take the Bibles away.

Again, I think the aggregate of these three matters are not sufficient to rise to the level of disqualification.

There is one matter which concerns me and that was a plea bargain which Judge Paez handled on a case involving John Huang. I have reviewed that matter in some substantial detail on the notes of testimony, of the sentencing, and of the Government's brief filed on the downward departure and believe that the Government did not present all the evidence, all the materials which should have been presented at the John Huang sentencing. I have discussed the matter with Judge Paez by telephone.

There has been a pattern on plea bargains where the Department of Justice has, in my judgment, not done the vigorous, forceful work that a prosecutor ought to do in the plea bargain. One of those cases involves Dr. Peter Lee, where there were serious charges of espionage. I went to California and talked to the Chief Judge Hatter out there about that case and found there was insufficient information presented to Judge Hatter. I mention that because it is a parallel to the case involving John Huang with Judge Paez.

The Judiciary oversight subcommittee, which I chair, is looking into the Huang plea bargain, as we are looking into the Dr. Peter Lee plea bargain, as we shall look into other campaign finance matters, including the probation of Charlie Trie in the campaign finance case, and the probation of Johnny Chung in a campaign finance case. However, there were very serious matters which were not presented to Judge Paez. The essence of the complaint filed by the Department of Justice involved only \$7,500 of illegal campaign contributions, and an obtuse, obscure reference in the Government's brief to a figure of \$156,000 for the pe-

riod covered by the conspiracy, which lasted from 1992 to 1994.

What the Government did not bring forward was information disclosed by the Governmental Affairs Committee that John Huang was involved in soliciting \$1.6 million which was returned by the Democratic National Committee. In that was a \$250,000 contribution from a John H. Lee, a South Korean businessman, which Huang collected, knowing that Lee was a foreign national, and also the Huang solicitation for arranging for Ted Sioeng, a foreign businessman, with connections I will not describe on the Senate floor, which should have been called to Judge Paez's attention.

After reviewing the records in the case, the notes of testimony at sentencing, and what was made available in the Government's memorandum, none of these matters were called to Judge Paez's attention.

I have made a request of Judge Paez, as I made a request of Chief Judge Hatter in the Dr. Peter Lee case, to examine the presentence report. That is customarily a confidential matter, but Judge Paez said on a showing of cause after notification of the parties, that might be made available to the Judiciary subcommittee on oversight.

I make these references to Judge Paez on this state of the record, and we are continuing to make the inquiries as to what the Government put on as to John Huang, but there is nothing on this record which suggests that Judge Paez knew of these other factors, which I think would have warranted a very different and a much more substantial sentence, just as I think had Chief Judge Hatter been informed about the details of Dr. Peter Lee, there would have been a different sentence in that espionage case.

These matters are now ripe for decision by the Senate. There has been some suggestion of a further investigation on this matter, but when Judge Paez's nomination has been pending since January of 1996, and all of the factors on the record demonstrate it was the Government's failure, the failure of the Department of Justice to bring these matters to the attention of Judge Paez and on the record, he has qualifications to be confirmed. I do intend, on this state of the record, to support his confirmation.

The PRESIDING OFFICER. All time has expired.

NOMINATION OF JULIO M. FUENTES, OF NEW JERSEY, TO BE UNITED STATES CIRCUIT JUDGE FOR THE THIRD CIRCUIT

The PRESIDING OFFICER. Under the previous order, the clerk will report the nomination.

The assistant legislative clerk proceeded to read the nomination of Julio M. Fuentes, of New Jersey, to be United States Circuit Judge for the Third Circuit.

Mr. LAUTENBERG. Mr. President, I want to start by thanking the Judici-

ary Committee—particularly Chairman HATCH and Ranking Member LEAHY—for moving the nomination of Judge Julio Fuentes through the committee process so efficiently.

Judge Fuentes clearly is the kind of candidate that we want on the federal bench. In many ways, his life demonstrates the promise of America—the idea that anyone committed to getting an education and working hard can build a distinguished career.

Judge Fuentes wasn't born to wealth or privilege. He was raised by a single parent—his mother who worked as a nurse. But he pursued his education diligently, earning a college degree while serving his country in the Army's Special Forces. Eventually, he earned not only a law degree but also two Masters degrees.

After completing law school, Judge Fuentes began building a successful legal practice, honing his skills as an associate with a Jersey City law firm. He later established his own firm and gained experience handling a wide range of criminal and civil matters.

In 1978, he was appointed a judge on the Newark Municipal Court, where he served until his appointment to the New Jersey Superior Court in 1987. As a Superior Court judge, he has presided over criminal cases and a wide range of civil disputes, including product liability actions, environmental suits, and property claims. He has also ruled on a number of federal and state constitutional issues.

In addition to his professional endeavors, Judge Fuentes has also volunteered his time to help members of the community. He has mentored many Hispanic youths and he has received several awards for his public service.

Judge Fuentes' hard work on and off the bench has earned the respect of his judicial colleagues, the lawyers who appear before him, and the people of New Jersey. The people who know him well describe him as "bright," "dedicated," and "even-tempered."

In short, I feel certain that Judge Fuentes' depth of experience, his legal knowledge, his compassion and his temperament would make him an exceptional federal judge.

Again, I thank Senators HATCH and LEAHY for their hard work on this nomination, and I urge all of my colleagues to vote to confirm Judge Fuentes.

Mr. SPECTER. Mr. President, I seek recognition today to express my support for the nomination of Julio M. Fuentes to be a judge on the Third Circuit Court of Appeals.

I recently had the opportunity to meet Judge Fuentes when he came before the Senate Judiciary Committee for his nomination hearing on February 22nd. At that time, I questioned the Judge on his experience and credentials for the bench and was persuaded that he will be able to meet the great challenge of serving on the Third Circuit.

Judge Fuentes has had a distinguished legal career. He earned his law

degree from the State University of New York in Buffalo in 1975. He then entered the practice of law in New Jersey and continued to practice for 7 years. While he was practicing, Mr. Fuentes was appointed to be a judge on the Newark Municipal Court, where he served from 1979 to 1987. In 1987, Judge Fuentes was appointed to the New Jersey Superior Court, where he has served until the present day.

His 20-plus years on the state bench have given Judge Fuentes a strong judicial background that will serve him well on the Third Circuit. Many of the issues that Judge Fuentes will encounter on the federal bench, from criminal law to torts to contracts, are ones with which he will be well acquainted from his time on the state bench. Other issues before the federal courts, such as antitrust and securities cases, will be new to Judge Fuentes. But I am confident that his experience has given him the skills and temperament needed to tackle these issues.

The Third Circuit is a prestigious court with a proud history. It has a tremendous volume of very high-powered litigation. I wish Judge Fuentes a long and productive career in this most important position.

Mr. TORRICELLI. Mr. President, it is with great pleasure that I rise to thank my colleagues for their support of the nomination of Judge Julio Fuentes to the Third Circuit Court of Appeals.

There has been much discussion of late of the slow pace at which the Senate has moved to confirm judicial nominees in the 106th Congress. It is a fact of which no one should be proud. Each judicial seat that we leave vacant slows the administration of the courts and access to justice for the American people.

That being said, I want to publicly thank Senator HATCH who has repeatedly—and admirably—demonstrated his commitment to moving nominees through the Judiciary Committee in a timely fashion. I want to thank both Senator HATCH and Senator LEAHY for their support in assuring Judge Fuentes' confirmation.

The vote that we took this evening on Judge Fuentes is an important step towards easing the burdens on the courts. It is also evidence that a qualified candidate with broad support can get a fair vote in this Senate and move quickly from a hearing to confirmation. Judge Fuentes' nomination was reported out of the Judiciary Committee just last week by a unanimous voice vote.

George Washington once said, "The Administration of Justice is the firmest pillar of government." As I stand here today I am reminded of that quote because long after we all leave the Senate, those who sit on the Judiciary will continue to impact public policy and the lives of other Americans. When I recommended Judge Fuentes, I did so with the utmost confidence that he was well-suited to such great responsi-

bility. In fact, I first considered Judge Fuentes for the position of District Court Judge. However, it soon became apparent that his stellar qualifications were so impressive that he deserved consideration for the Third Circuit. And I note with considerable pride that Judge Fuentes will be the first person of Hispanic descent to serve on the Third Circuit.

His career has been distinguished by a solid record of public service, which began in 1966 when he left college for three years to serve in the United States Army, including service in the Airborne Rangers. From his days in law school to his current tenure on NJ's Superior Court, he has demonstrated that he is an accomplished attorney who has made a commitment to improving the quality of justice in our society. I have no doubt that he will bring these same qualities to the federal bench.

A graduate of SUNY—Buffalo School of Law, Judge Fuentes began his legal career in private practice where he worked for 7 years on both civil and criminal matters. For his last three years in private practice, he also served as a part-time Judge on Newark's Municipal Court. Then in 1981, he assumed the bench full-time as a Municipal Judge where he remained until 1987 when he was promoted to the New Jersey Superior Court.

In his now 13 years on the Superior Court, he has built a reputation as a fair and able jurist. When you speak with those who have had the opportunity to work with Judge Fuentes throughout this distinguished career, they universally praise his integrity as well as the depth and breadth of his knowledge of the law. And those who know him well describe him as bright, dedicated, and compassionate.

I could not be more confident that Judge Fuentes is the right person to fill this seat—a view that is shared by those best in a position to know the Judge's qualifications. New Jersey's Governor Christie Whitman, the New Jersey State Bar Association, and the Hispanic Bar Association—both nationally and in New Jersey—have written letters enthusiastically supporting the Judge's nomination.

I am extremely proud to support Judge Fuentes nomination to the Third Circuit Court of Appeals. I know he will be a superb addition to the bench.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Julio M. Fuentes, of New Jersey, to be United States Circuit Judge for the Third Circuit? On this question, the yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Arizona (Mr. MCCAIN), the Senator from Missouri (Mr. BOND), and the Senator from Georgia (Mr. COVERDELL) are necessarily absent.

Mr. REID. I announce that the Senator from Delaware (Mr. BIDEN), the

Senator from California (Mrs. FEINSTEIN), the Senator from Nebraska (Mr. KERREY), and the Senator from Minnesota (Mr. WELLSTONE) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. WELLSTONE) and the Senator from Delaware (Mr. BIDEN) would vote "aye."

The PRESIDING OFFICER (Mr. SMITH of Oregon). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 93, nays 0, as follows:

[Rollcall Vote No. 34 Ex.]

YEAS—93

Abraham	Feingold	Lugar
Akaka	Fitzgerald	Mack
Allard	Frist	McConnell
Ashcroft	Gorton	Mikulski
Baucus	Graham	Moynihan
Bayh	Gramm	Murkowski
Bennett	Grams	Murray
Bingaman	Grassley	Nickles
Boxer	Gregg	Reed
Breaux	Hagel	Reid
Brownback	Harkin	Robb
Bryan	Hatch	Roberts
Bunning	Helms	Rockefeller
Burns	Hollings	Roth
Byrd	Hutchinson	Santorum
Campbell	Hutchison	Sarbanes
Chafee, L.	Inhofe	Schumer
Cleland	Inouye	Sessions
Cochran	Jeffords	Shelby
Collins	Johnson	Smith (NH)
Conrad	Kennedy	Smith (OR)
Craig	Kerry	Snowe
Crapo	Kohl	Specter
Daschle	Kyl	Stevens
DeWine	Landrieu	Thomas
Dodd	Lautenberg	Thompson
Domenici	Leahy	Thurmond
Dorgan	Levin	Torricelli
Durbin	Lieberman	Voinovich
Edwards	Lincoln	Warner
Enzi	Lott	Wyden

NOT VOTING—7

Biden	Feinstein	Wellstone
Bond	Kerrey	
Coverdell	McCain	

The nomination was confirmed.

Mr. LEAHY. Mr. President, I move to reconsider the vote.

Mr. LOTT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

• Mr. BIDEN. Mr. President, circumstances have prevented my being able to be here for the vote this evening on Julio Fuentes's nomination to the United States Court of Appeals for the Third Circuit, but I wanted to take this opportunity to make it clear that I am pleased to support his nomination.

Judge Fuentes is eminently qualified for this important position. After several years in private practice, Judge Fuentes has served the New Jersey community with honor first, as a judge on the Newark Municipal Court, and now, as a judge on the New Jersey Superior Court, where he has served admirably for well over a decade.

Judge Fuentes is an excellent jurist with an unblemished record and a man of integrity. He is regarded with great esteem within his community and has

received the endorsement of many different organizations. In fact, I understand that Judge Fuentes was originally recommended for a seat on the District Court in New Jersey, but the White House was so impressed after meeting him that the President nominated him to the Third Circuit instead.

I always monitor the nominations made to the Third Circuit with special interest because my own state of Delaware is part of that Circuit. And I can say without reservation that I am confident that Judge Fuentes will discharge his new responsibilities with distinction and will make a fine addition to that court. I commend the two Senators of New Jersey for their support of this nominee and am proud to join them.●

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

CLOTURE MOTIONS

Mr. LOTT. Mr. President, I understand there have been a couple of hours of spirited debate on the nominations of Judge Paez and Mrs. Berzon, which is certainly the right of the Senate. I am sure we will have some further spirited discussion about these nominees.

However, I have given my word that these two nominees should at least have the opportunity for a vote. We did work out an agreement last year, and I made a commitment that these two nominees would have a Senate vote on their confirmation. With that in mind, in order to accomplish this—while I had hoped it would not be necessary, again, I emphasize, as I did last year and earlier this year, I think it is a mistake to begin to have cloture votes on judicial nominations on the floor. We had one instance of that last year, and I said to my Democratic friends I thought that was a mistake, and pretty shortly thereafter we worked that out and moved that nomination.

I don't like to have to file cloture on these nominations either, but in order to fulfill the commitments that have been made and have a good debate but some limit on it where we would get a vote, I send a cloture motion to the desk on the nomination of Marsha Berzon to the Ninth Circuit Court of Appeals.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on Executive Calendar No. 159, the nomination of Marsha L. Berzon, to be United States Circuit Judge for the Ninth Circuit:

Trent Lott, Orrin G. Hatch, Susan M. Collins, Arlen Specter, Ted Stevens, Thad Cochran, James M. Jeffords, Robert F. Bennett, Richard G. Lugar, Chuck Hagel, Conrad Burns, John W. Warner, Patrick J. Leahy, Harry Reid

of Nevada, Charles E. Schumer, and Tom Daschle.

Mr. LOTT. Mr. President, I send to the desk also a cloture motion on the pending nomination of Richard Paez.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on Executive Calendar No. 208, the nomination of Richard A. Paez to be United States Circuit Judge for the Ninth Circuit:

Trent Lott, Orrin G. Hatch, Susan M. Collins, Arlen Specter, Ted Stevens, Thad Cochran, Robert F. Bennett, Harry Reid of Nevada, Richard G. Lugar, Chuck Hagel, Conrad Burns, John W. Warner, Patrick J. Leahy, Charles E. Schumer, Tom Daschle, and Barbara Boxer.

Mr. LOTT. Mr. President, I ask unanimous consent that notwithstanding rule XXII, these cloture votes occur in the order in which they were filed at 5 p.m. on Wednesday, and that the mandatory quorum under rule XXII in each case be waived.

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

Mr. LOTT. Mr. President, it is my understanding that if cloture is invoked in each case, Senator SMITH of New Hampshire will require 5 hours of total debate on both nominations under his control, and following the conclusion of the time, the Senate would be in a position to vote in a back-to-back sequence on the confirmations of Berzon and Paez. I will not propound that request at this time but will put Members on notice that this is the fashion in which I see the Senate considering these nominations.

I have discussed that with Senator DASCHLE, and he understands that. Of course, there will be a need to have equal debate on both sides, if that is required by Senators.

I thank all my colleagues for their cooperation. I look forward to further debate on these nominees during tomorrow's session prior to the 5 p.m. back-to-back cloture votes. In light of this agreement, we can announce that there will be no further votes this evening.

Mr. DASCHLE. Mr. President, I know there is another unanimous consent to propound.

Let me briefly thank the majority leader for keeping his commitment. He and I both hoped we wouldn't have to file cloture. We may yet have the opportunity to vitiate cloture if something can be worked out. I am hopeful that we will have an opportunity to have the votes as he has anticipated tomorrow at 5 o'clock. This agreement accords everybody their rights. People will have an opportunity to further discuss this matter. They will be able to respond to whatever statements may be made on the floor. We will have a

good debate about these nominees tomorrow, even though we will be taking up other legislation.

I think this is a very good agreement. I am grateful to him and to all of our colleagues for their cooperation. I appreciate the fact that we have come this far.

I yield the floor.

Mr. LEAHY. Mr. President, will the Senator yield?

Mr. LOTT. I am glad too yield.

Mr. LEAHY. Mr. President, I wish to associate myself with the comments of the distinguished Senator from South Dakota. I was privileged to be part of some of the discussions the distinguished Republican leader and the Democratic leader had last fall, along with the distinguished Senator from Mississippi. He has fulfilled the commitment he made to us at that time. I suspect that some aspects probably will not be debated with great ease. I wish to commend them for doing that. As I have said all along, I want to be in the position where Senators can vote up or down on these two outstanding nominees.

I thank the Chair.

Mr. LOTT. Mr. President, I thank both Senators for their comments.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will resume legislative session.

ORDER OF PROCEDURE

Mr. LOTT. Mr. President, I ask unanimous consent that at 9:30 a.m. on Wednesday, the Senate proceed to the conference report to accompany H.R. 1000, the Federal Aviation Administration reauthorization bill. I further ask unanimous consent that there be 60 minutes of debate equally divided as follows: 20 minutes for the majority manager, 20 minutes for the minority manager, and 20 minutes for Senator LAUTENBERG.

I further ask unanimous consent that following that debate time, the conference report be laid aside with a vote on adoption to occur at 5 p.m. just prior to the scheduled cloture votes with no intervening action or debate.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. LOTT. Mr. President, it will be my intention that following the hour of morning business, at 11:30 a.m. on Wednesday the Senate proceed to the Export Administration Act. I am not propounding that at this time, but that would be the next legislation on which we have been working. It has broad bipartisan support. It involves a very important segment of our economy. We need to move forward with this legislation as soon as possible. We would like to start on that at 11:30 tomorrow. Between that time and the stacked votes at 5 o'clock, we could have opening statements and begin to move forward