chaos. Peru is in a situation—if I might quote from the Christian Science Monitor:

Rebel groups' presence growing near Peru's capital. The Shining Path wants to show that democracy is weak, it can't handle problems with crime and corruption, and the government's inability to improve the country's economy.

Andres Pastrana wrote in the Washington Post on April 15:

Finally, continued U.S. support for planned Colombia and final Congressional passage of the Andean Trade Preferences Act will strengthen Colombia's economic security. The trade act will have a minuscule impact in the United States but will create tens of thousands of jobs in Colombia and across the Andean region. Enhanced ATPA now being considered in Congress will foster new business investment in Colombia.

These countries are in trouble. If these countries are not allowed to engage in economic development, are not given our assistance, with which we have provided them since 1991—this Trade Preference Act—then we are going to pay a very heavy penalty. We have already had to allocate a billion dollars to Colombia to help them militarily. Situations now are arguably worse than 2 years ago when we first began this matter. Every objective observer will tell you Colombia is in terrible shape. In Peru, people are losing confidence in democracy. In Ecuador—I have read stories about Hezbollah and other terrorist entities locating in these countries.

We don't have the time to waste fooling around with aid to steelworkers, or adjustments to health care, which are directly related to the Trade Promotion Act, not to the Andean Trade Promotion and Drug Eradication Act. I hope we can have some debate and discussion about that.

I ask unanimous consent that the Finance Committee be discharged from further consideration of H.R. 3529; further, I ask unanimous consent that the Senate immediately proceed to its consideration, all after the enacting clause be stricken, and the text of S. 2485, the Andean Trade Promotion and Drug Eradication Act, be inserted in lieu thereof. I further ask consent that the bill be read the third time and the Senate proceed to a vote on passage of the bill, with no other intervening action or debate.

Mr. NICKLES. Mr. President, reserving the right to object, I want to clarify the request that my colleague from Arizona made.

The request is we would move immediately to the Andean Trade Preference Act, which is a continuation of the current law going back to 1991 which would assist four countries—the Senator mentioned the four countries: Colombia, Peru, Ecuador and Bolivia, all of which desperately need our help.

The Senator's intention is to continue to assist those countries so we do not have punitive tariffs hit, I believe, by the 15th of this month, next week; is that correct?

Mr. MCCAIN. That is correct.

Mr. NICKLES. Mr. President, I compliment my colleague from Arizona. I hope we can do this and pass an Andean trade bill. I believe the vote on it will be 90-plus votes in favor of it. If we are successful in passing this, then we can continue to wrestle with and hopefully pass trade promotion authority and trade adjustment assistance. Correct me if I am wrong, this in no way would keep us from passing trade promotion and trade adjustment assistance in the future.

Mr. MCCAIN. It would have no impact.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I understand the frustration of the Senator from Arizona. Magnify that 1,000 percent for the majority leader. We have a bill on the floor——

Mr. LOTT. Regular order, Mr. President.

Mr. REID. The underlying vehicle is the Andean trade bill. I think we should move on to the trade bill.

The PRESIDING OFFICER. Is there objection?

Mr. REID. I object.

The PRESIDING OFFICER. Objection is heard.

CONSTITUTIONAL RESPONSIBILITIES OWED TO THE JUDICIAL BRANCH

Mr. WARNER. Mr. President, Article II, Section 2 of the Constitution provides that the President ''shall nominate, and by and with the Advice and Consent of the Senate, shall appoint . . . Judges of the supreme Court, and all other Officers of the United States . . . .''

The debate before us today involves this clause of the Constitution, and this debate is a very important one. We should put aside partisanship and examine the very roots of our Republic to determine the respective responsibilities of the three branches of our government.

The magnificence of the ''Great Experiment,'' a term used by the skeptics of the work of our founding fathers, is what has enabled our Republic to stand today, after over 200 years, as the longest surviving democratic form of government still in existence.

But, the survival of that ''Great Experiment'' is dependent upon the continuous fulfillment of the balanced, individual responsibilities of the three branches of our government.

Let's reflect on the historical roots of the ''advice and consent'' clause.

During the Constitutional Convention, the Framers labored extensively over this clause, deferring a final decision on how to select federal judges for several months.

Some of the Framers argued that the President should have total authority to choose the members of the Judiciary. Others thought that both the House of Representatives and the Senate should be involved in providing ''advice and consent.''

Ultimately, a compromise plan, put forth by James Madison, won the day—where the President would nominate judges and only the Senate would render ''advice and consent.''

Such a process is entirely consistent with the system of checks and balances that the Framers carefully placed throughout the Constitution. Presidents select those who should serve on the Judiciary, thereby providing a philosophical composition in the judicial branch. However, the Senate has a ''check'' on the President because it is the final arbiter with respect to a nominee.

Throughout the debates of the Constitutional Convention, there appears to have been little debate on what factors the Senate should actually use when evaluating presidential nominees. It is likely that this silence was intentional.

The first test case arose with our First President! Soon after the Constitution was ratified it became clear that the Senate did not take its ''advice and consent'' role as one of simply rubber-stamping judicial nominees. This became evident when the Senate rejected a nomination put forward by our first President and a founding father, President George Washington.

President Washington nominated John Rutledge to serve on the U.S. Supreme Court. And, even though Mr. Rutledge had previously served as a delegate to the Constitutional Convention, the Senate rejected his nomination. It is interesting to note that many of those Senators who voted against the Rutledge nomination were also delegates to the Constitutional Convention.

From the earliest days of our Republic, the nomination process has worked. We must now reconcile and make sure it continues to work.

Based on history, it is clear to me that the Senate's role in the confirmation process is more than just a mere rubber-stamp of a President's nomination; but it is the Senate's Constitutional responsibility to render ''advice and consent'' after a fair process of evaluating a President's nominee.

This process illustrates well how our three branches of government are interconnected yet independent.

Thomas Jefferson remarked on the independence of our three branches of government by stating, ''The leading principle of our Constitution is the independence of the Legislature, Executive, and Judiciary of Each other.''

But, I would add that each branch of government must perform its respective responsibilities in a fair and timely manner to ensure that the three branches remain independent.

In my view, we must ask ourselves, is the current Senate posture of the nomination and ''advice and consent'' process during the early days of the Bush

Administration consistent with our country's experience over the last 200 plus years since our Constitution was ratified? That is for each Senator to decide.

Currently, more than 10 percent of Federal judgeships are vacant. And, for the 12 Circuit Court of Appeals, nearly 20 percent of the seats are vacant. Is our federal Judiciary able to fulfill its obligations? That is for each Senator to decide.

In day to day court workloads, judicial vacancies result in each of the active and senior status judges having a greater caseload. This, in turn, often results in a longer time period for cases to be decided.

The ultimate effect is that Americans who have turned to the court system seeking justice in both civil and criminal matters are left waiting for a resolution of their case. And, all too often, justice delayed is justice denied.

Our current Chief Justice of the Supreme Court, Judge William Rehnquist, has expressed his views on this subject several times during both the Clinton and Bush Administrations. Judge Rehnquist recently reiterated remarks he made first in 1997 when he stated, ''the President should nominate candidates with reasonable promptness, and the Senate should act within a reasonable time to confirm or reject them. Some current nominees have been waiting a considerable time for a Senate Judiciary Committee vote or a final floor vote.''

I am in complete agreement with the Chief Judge. We must act in a timely fashion to fill judicial vacancies.

Mr. DASCHLE. Mr. President, our friends on the other side of the aisle are right about one thing: it is important to fill vacancies on the Federal bench in a timely manner.

In his remarks last week, President Bush cited Chief Justice Rehnquist's report about the alarming number of vacancies in the federal courts.

He's right. Let me read some of Chief Justice Rehnquist's report: ''vacancies cannot remain at such high levels indefinitely without eroding the quality of justice.''

Except that's from the report he wrote in 1997.

Democrats, independent-minded observers, and the Chief Justice of the United States Supreme Court have all raised concerns about the judicial vacancy crisis for years.

But our Republican colleagues never seemed to hear those concerns when they ran the Senate. The fact that they now recognize the seriousness of the situation is—I suppose—progress.

It appears, however, that there are some facts on which they are still unclear. I'd like to take a few minutes to set the record straight:

First, the judicial crisis developed when Republicans ran the Senate.

Under Republicans, total court vacancies rose by 75 percent—from 63 at the beginning of 1995 to 110 by the time Democrats took control of the Senate.

Circuit court vacancies more than doubled—from 16 to 33.

As the vacancy rate was skyrocketing, more than half—56 percent—of President Clinton's circuit nominees in 1999 and 2000 never received a hearing or a vote.

Second, Democrats have reduced the number of vacancies.

The judicial nominations process has significantly improved under Democratic leadership.

As of this afternoon, in only 10 months, the Democratically controlled Senate has confirmed 56 nominees—more judicial nominees than the Republican-controlled Senate confirmed for President Reagan in his first 12 months in office.

Our 10-month number is also greater than the number of judicial nominations confirmed in four of the 6 years Republicans controlled the Senate during the Clinton administration.

It also exceeds the average number of judicial nominees the Republicans confirmed during the time they controlled the Senate—when, from 1995–2001, confirmations averaged only 38 per year.

But Democrats aren't just improving the numbers, we're improving the nomination process. Under Senator LEAHY's stewardship, the process is now faster, fairer—and more productive.

Senator LEAHY has restored a steady pace to the judicial nominations process by holding regular hearings and giving nominees a vote in committee. Despite the chaos of September 11 and the disruption caused by anthrax, the Judiciary Committee has held 15 hearings involving 48 judicial nominations in the past 10 months, and is planning an additional hearing this week to consider another 7 nominations.

In addition to increasing the total number of hearings, Senator LEAHY is reducing the amount of time it takes to confirm a nomination. The Judiciary Committee has been able to confirm nominations, on average, within 86 days after a nominee was eligible for a hearing. This is more than twice as fast as the confirmation process under the most recent Republican-controlled Senate.

Senator LEAHY has also made the process more fair.

Unlike our Republican colleagues, who would sit on nominations for years—many never receiving a hearing, Senator LEAHY has ensured that President Bush's judicial nominees are treated evenhandedly. Senator LEAHY has also eliminated the practice of secret holds within the judiciary, that were often used to delay and defeat nominees for political reasons.

Third, the confirmation of judges is part of a constitutional obligation we take very seriously.

Democrats have been clear: We will make the process move more fairly, and more quickly—but we will not abdicate our constitutional responsibility to advise and consent.

I believe the President has a right to appoint to his cabinet and administration men and women with whom he is personally and ideologically comfortable.

But Federal judges and Supreme Court justices do not serve at the pleasure of the President. Their term does not end when the President leaves office. These are lifetime positions. Their decisions will have profound consequences for years, possible decades, to come. For that reason, they deserve special scrutiny. The Constitution requires the Senate to evaluate the President's judicial nominees, nominees, offer advice, and grant—or withhold—its consent.

Fourth, I'm concerned that the real issue isn't numbers, but using Judiciary to achieve a political agenda.

Appointing judges that are out of the mainstream is a way that the right-wing can achieve through the judiciary what they can't get through Congress, the President, or any other office represented by those who reflect the will of the people, and need to stand for election before them.

Most Americans simply don't want to see a judiciary that will turn back the clock on decades of progress for civil rights, women's rights, workers rights, and the environment. Most of us don't either.

Senator LOTT and Senator NICKLES both hinted after Judge Pickering's nomination was defeated in committee that they would find ways to retaliate. The irony is: By shutting down the Senate today, they are preventing the Senate from doing the very thing they claim to want.

Right now, their tactics are preventing the Judiciary Committee from holding hearings on 4 of the President's nominees. And last August they wouldn't give us consent to carry pending nominees over the recess—further slowing the process. Amazingly, their judges are falling victim to their own tactics.

There are 77 days left in this Congress—only 46 days if you don't include Mondays and Fridays.

Shutting down the Senate at a time when there are so many major questions facing our nation, and so few working days left in this Congress—is not the way to achieve their stated goal of confirming judges.

When all the facts are thoroughly examined and honest comparisons are made, it is clear that the judicial nominations process has significantly improved under Senator LEAHY'S stewardship, and Democratic leadership.

There are real differences between our parties on many issues.

We have shown time and time again, on issue after issue, that we can work through those differences for the good of the nation.

Today, I ask our Republican friends to join with us in helping—and not obstructing—the Senate as we work to meet the needs of the American people, and perform our constitutional obligation regarding federal judges.