

in the mold of two ideologically conservative activists, Justice Scalia and Justice Thomas. No judicial nominees should be rubber-stamped by the Senate, not even a President's first few choices. All nominees for these lifetime positions merit careful review by the Senate. When a President is using ideological criterion to select nominees, it is fair for the Senate to consider it as well. Federalist Society credentials are not a substitute for fairness, moderation or judicial temperament. When a President is intent on packing the courts and stacking the deck on outcomes, consideration of balance and how ideological and activist nominees will affect a court are valid considerations for Senators entrusted by the Constitution to evaluate these lifetime appointees.

The high dudgeon expressed by Republicans about the order in which we have been considering this President's circuit court nominees is especially unwarranted in light of the objectively unfair way they treated President Clinton's circuit court nominees. Some of the vacancies we inherited date back to 1990, 1994 and 1996.

Partisans conveniently ignore the Republicans' terrible record of obstruction when they complain that a few of President Bush's nominees have not yet had a hearing. Those nominees chosen without consultation with both parties in the Senate and, in particular, those who do not have home-State Senator support do not get hearings, according to longstanding Senate tradition. Republicans have tried to measure our achievements by standards they never met but surely even they are not now suggesting overriding the longstanding Senate tradition of consent or blue slips from both home-State Senators on which they themselves insisted. Republicans averaged only seven confirmations a year for President Clinton's circuit court nominees. We confirmed nine in our first 10 months.

I have tried to work with the White House on judicial nominations. I have gone out of my way to encourage them to work in a bipartisan way with the Senate, like past Presidents, but in all too many instances they have chosen to bypass bipartisanship. I have encouraged them to include the ABA in the process earlier, like past Presidents, but they have refused to do so even though their decision adds to the length of time nominations must be pending before the Senate before they can be considered.

This past January, I again called on the President to stop playing politics with judicial nominations and act in a bipartisan manner. Just last month I sent a detailed letter to the President on these issues. My efforts to help the White House improve the judicial nominations process have been rejected. My most recent effort met with a perfunctory acknowledgment or receipt, which I will ask unanimous consent to have printed in the RECORD at

the end of my remarks. Unfortunately, this letter is about the most constructive response that I have received from the White House to my many efforts to improve the process and speed up the filling of judicial vacancies with qualified, fair-minded judges.

Republican statements on judicial nominees regularly rely on superficially appealing but misleading statistics to gloss over the types of nominees they are choosing for our Federal courts. For example, they complain that Presidents Reagan, Bush and Clinton got 97, 95 and 97 percent, respectively, of their first 100 judicial nominations confirmed. What they conveniently fail to mention is that it took 2 full years for President Reagan to have 89 of his judicial nominees confirmed, and well into year 3 to reach the 100 mark. Similarly, the first President Bush had only 71 judicial nominees confirmed after 2 full years, and it took well into year 3 to reach 100 confirmations.

We are moving quickly, but responsibly, to fill judicial vacancies with qualified nominees we hope will not be activists. In our first year we confirmed 57 judges and reported 74 judicial nominees. Partisans ignore these facts. The facts are that we are reporting President Bush's nominees at a faster pace than the nominees of prior Presidents, including those who worked closely with a Senate majority of the same political party. We have accomplished all this during a period of tremendous tumult and crisis.

The Judiciary Committee noticed the first hearing on judicial nominations within 10 minutes of the reorganization of the Senate, and held that hearing on the day after the committee was assigned new members. Yesterday was the 1-year anniversary of that first hearing for Judge Roger Gregory, who was initially nominated by President Clinton, but like so many other judicial candidates, including other African-American nominees to the Fourth Circuit, his nomination languished without a hearing by the Republican-controlled Senate. Because of this history of inaction on such nominees to that court, President Clinton made a recess appointment to make Roger Gregory the first African-American judge in history to sit on the Fourth Circuit, and he sent his nomination for a permanent position on that court back to the Senate at the beginning of the 107th Congress. Unfortunately, President Bush withdrew Judge Gregory's nomination in March of 2001, but he finally sent it back to us later that year. When the Senate Judiciary Committee held the hearing on the nomination of Judge Roger Gregory to the Fourth Circuit last year, it was the first hearing on a Fourth Circuit nominee in 3 years, although five nominees to that court during that period were never given hearings by Republicans.

Subsequent to that hearing, we held unprecedented hearings during the August recess last year and proceeded

with a hearing 2 days after the 9/11 attacks and shortly after the anthrax attack. We will hold our 22nd hearing for judicial nominees next week. We are doing our best to address the vacancy crisis we inherited.

The Senate Judiciary Committee and the Democratic-led Senate has a record of achievement and of fairness to be proud of on this anniversary. I thank the Members who have worked cooperatively with me to make progress in so many areas over the last year.

Mr. President, I ask unanimous consent that the letter previously referred to be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,  
Washington, June 27, 2002.

Hon. PATRICK LEAHY,  
U.S. Senate,  
Washington, DC.

DEAR SENATOR LEAHY: This is to acknowledge the receipt of your letter to the President expressing the need for bipartisan cooperation while the Senate considers judicial nominations.

I hope you will understand that in light of the tragic events of September 11th, enhanced screening of all incoming White House mail prevented our office from receiving your correspondence and providing you with a prompt reply to your letter.

I have shared your letter with the President's advisors and the appropriate agencies who have been formulating policy recommendations in this area. Your letter is receiving their close and careful attention.

Thank you for your patience.

Sincerely,

NICHOLAS E. CALIO,  
Assistant to the President and  
Director of Legislative Affairs.

#### HONORING 65 MEN FROM ALEXANDRIA WHO WERE KILLED IN ACTION OR MISSING IN ACTION IN SOUTHEAST ASIA DURING THE VIETNAM WAR

Mr. ALLEN. Mr President, I rise today to recognize 65 fallen servicemen from Alexandria, VA, who paid the ultimate sacrifice with their life while defending freedom in the Vietnam war.

No mere words can express the depth of gratitude this country owes to the families of our fallen service members for the loss of their sons, daughters, brothers, sisters, husbands, or wives. By touching their names etched in granite and marble on monuments and statues in countries around the world, we who are living and those who come after us have the ability to connect with these fallen heroes. We must never take the sacrifices of past generations of Americans for granted, for each new generation is called upon to defend representative democracy's first axiom: that "freedom is not free."

On July 6, 2002, the city of Alexandria dedicated a beautiful memorial plaza to pay tribute to the 65 fallen American heroes from Alexandria who were killed in action or who remain missing in action in southeast Asia from the Vietnam war. Toby Mendez, a brilliant

young sculptor, has created a work that will allow us to touch the names of the brave men whose sacrifice will be memorialized for all time.

A statue of U.S. Army Cpt. Humbert Roque "Rocky" Versace is the centerpiece of the plaza. On July 8, 2002, I had the distinct honor of being present at the White House for the posthumous awarding of the Medal of Honor by President George W. Bush for Rocky's conspicuous gallantry at the risk of his life above and beyond the call of duty while a captive of the Viet Cong from October 29, 1965, until he was executed on or about September 26, 1965. His captors took his life after they had given up trying to break Rocky's indomitable will to resist interrogation and indoctrination, his unshakable faith in God, and his steadfast trust in his country and his fellow prisoners.

Captain Versace was a 1959 graduate of the U.S. Military Academy and lived his life by the West Point ideals of Duty, Honor, and Country. His fellow prisoner, U.S. Army 1 Lt James Nicholas "Nick" Rowe recalled that Rocky told his captors that "as long as he was true to God and true to himself, what was waiting for him after this life was far better than anything that could happen now. So he told his captors that they might as well kill him then and there if the price of his life was getting more from him than name, rank, and serial number."

Captain Versace's statue shows him holding hands with two Vietnamese children, who had been orphaned by Viet Cong terror against their parents. Rocky did many good works on his own to improve the lives of the many orphans he came in contact with. In fact, he planned on entering the Maryknoll priesthood after his tour of duty ended in Vietnam. It was Rocky's desire to return to Vietnam after ordination to be a missionary priest to work among the villagers and help educate their children so they could achieve a better life for themselves, free of Communist domination.

The remains of Captain Versace and three other men from Alexandria lie in unmarked graves in southeast Asia, known only to God. They are: U.S. Army SSG Douglas Randolph Blodgett; U.S. Air Force Maj Joseph Edwin Davies; and U.S. Air Force Maj Morgan Jefferson Donahue.

Additionally, two other servicemen drowned, and their bodies did not resurface: U.S. Army 1 Lt Leland S. McCants III, who drowned on his first day in Vietnam while trying to save another soldier; and U.S. Navy Seaman Apprentice John Anthony Winkler, who was swept off of the deck of the Navy aircraft carrier USS *Bon Homme Richard* and was lost at sea. The waters, jungles, and mountains of southeast Asia may never reveal these missing men's remains, but the U.S. Government is committed to continue to search for all those of our missing in action personnel, those brave souls who, in the words of General of the

Army Douglas MacArthur gave up their "youth and strength, . . . love and loyalty . . . all that mortality can give."

Each of the 65 names engrave on the limestone benches in Alexandria has a story to tell of honor and courage. Two outstanding examples of the dedication and service of this fine group of men are Robert William Cupp and Herman Leroy Judy, Jr.

U.S. Army Cpl., Robert William Cupp served proudly with Company D, 2d Battalion, 1st Infantry Brigade of the Americal Division. He was killed in action in South Vietnam on June 6, 1968, by an enemy booby trap. Corporal Cupp was laid to rest in his family's plot at Mount Comfort Cemetery on June 17, 1968, his 21st birthday.

U.S. Cpl., Herman Leroy Judy, Jr. served proudly with Company B, 2nd Battalion, 505th Infantry, 82nd Airborne Division. He was killed in action in South Vietnam on May 29, 1969, a day before his first wedding anniversary. He is buried in Arlington National Cemetery.

Both of these brave men received the Combat Infantryman's Badge, Bronze Star Medal, and Purple Heart Medal for their heroism in combat.

Plato, that wise philosopher of ancient times, observed that "only the dead have known the end of war." So it is today with the never-ending struggle between freedom and evil. All those brave men and women who proudly wear the uniform of our armed services, and who willingly risk their lives to achieve battlefield victories over our enemies, deserve our Nation's eternal gratitude.

Mr. President, it is my great honor to enter into the CONGRESSIONAL RECORD the names of the 65 men from Alexandria who were killed in action or remain missing in action in southeast Asia during the Vietnam war, and who were memorialized on July 6, 2002.

I ask unanimous consent that the list be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

NAMES AND DATES OF CASUALTY FOR 65 MEN  
KILLED IN ACTION OR MISSING IN ACTION,  
ENTERING SERVICE FROM ALEXANDRIA, VA  
(Dates are from thevirtualwall.org website.)

Lewis L. Stone, January 11, 1963.  
Ray B. Browne, January 16, 1964.  
Humbert R. Versace, September 26, 1965.  
John A. Winkler, November 22, 1965.  
Paul M. Bayliss, November 7, 1966.  
Carl L. Young, December 24, 1966.  
Paul R. Karas, February 3, 1967.  
Wayne L. Jordan, March 17, 1967.  
Ralph B. Pappas, March 30, 1967.  
Ronald W. Ward, May 22, 1967.  
Richard H. Freudenthal, June 30, 1967.  
Joseph C. Shartzter, July 29, 1967.  
Foster J.G. Touhart, Jr., September 6, 1967.  
Darrell L. Gibbons, October 11, 1967.  
Robert E. Whitbeck, January 30, 1968.  
Harry F. Richardson, Jr., January 31, 1968.  
Raymond L. Conway, February 1, 1968.  
Douglas R. Blodgett, April 19, 1968.  
Jeron F. Valentine, May 7, 1968.  
Michael E. Ludwig, May 27, 1968.  
Robert W. Cupp, June 6, 1968.

Henry L. Page III, June 25, 1968.  
Henry A. Ledford, July 5, 1968.  
Charles H. Elliott, Jr., August 21, 1968.  
Henry L. Warner III, August 27, 1968.  
Joseph L. Powell, Jr., October 17, 1968.  
James E. King, November 25, 1968.  
Morgan J. Donahue, December 13, 1968.  
Leland S. McCants III, December 30, 1968.  
Matthew W. Thornton, January 11, 1969.  
Kenneth E. Norris, January 31, 1969.  
Charles L. Suthard, Jr., February 6, 1969.  
Kenneth R. Sawyer, February 12, 1969.  
David J. Warczak, March 4, 1969.  
Philip N. Malone, March 6, 1969.  
Ross W. Collins, Jr., March 29, 1969.  
Robert W. Clirehugh, Jr., April 22, 1969.  
James W. Ward, May 9, 1969.  
Raymond L. Williams, May 13, 1969.  
Herman L. Judy, Jr., May 29, 1969.  
Robert W. Dean, July 11, 1969.  
Michael O. Thomas, July 26, 1969.  
Richard W. Hoffer, August 31, 1969.  
Michael J. Keberline, October 1, 1969.  
Donald W. Gill, Jr., November 12, 1969.  
David A. Lerner, November 20, 1969.  
George B. Colgan III, December 1, 1969.  
Brian J. O'Callaghan, January 16, 1970.  
Thomas M. Gaither, January 21, 1970.  
Michael J. McCarron, March 9, 1970.  
Kermit W. Holland, Jr., March 22, 1970.  
Tschann S. Mashburn, May 5, 1970.  
Johnny J. Smith, May 20, 1970.  
Bruce E. Graham, May 26, 1970.  
Clarence M. Overbay, Jr., June 25, 1970.  
Kevin C. McElhannon, Jr., September 15, 1970.  
James W. Dickey, October 21, 1970.  
Cleveland R. Harvey, November 18, 1970.  
William D. Holmes, April 22, 1971.  
Bernard G.J. Dillenseger, September 4, 1971.  
Michael J. Kilduff, September 11, 1971.  
Henry M. Spengler III, April 5, 1972.  
George B. Lockhart, December 21, 1972.  
Richard T. Gray, January 5, 1973.  
Joseph E. Davies, October 9, 1973.

#### ADDITIONAL STATEMENTS

##### RECOGNIZING THE NATIONAL HIGH SCHOOL FINALS RODEO IN FARMINGTON, NM

• Mr. DOMENICI. Mr. President, I rise to recognize the Tres Rios High School Rodeo Association, which will soon host the 2002 National High School Finals Rodeo in Farmington, NM. The association, formed in cooperation with San Juan County and the cities of Farmington, Aztec, and Bloomfield, is rolling out the welcome mat for all to visit the beautiful Four Corners area of New Mexico for the July 22-28 competition.

I join in welcoming the thousands of student athletes and spectators who will descend on Farmington to celebrate the athleticism associated with the rodeo competitions. Farmington, a burgeoning city that has already proven itself as an excellent host for sporting events with the annual Connie Mack World Series tournament, will be a wonderful setting for this rodeo. The Tres Rios High School Rodeo Association knows it is in a national spotlight for showcasing a richly blessed, multi-cultural region that has been cherished since the dawn of the ancient Anasazi and Navajo cultures.

Just last month, I had the pleasure of meeting with students from San Juan