justice in one place, then we've got a dictatorship and we go down the drain the same as all the rest of those republics have.

Madam President, the administration's proposal makes clear to me that it is not freedom in Government the administration is after.

The Secretary of Homeland Security will become a human link between the FBI, the CIA, and local police departments, serving as a ''focal point'' for all intelligence information available to the United States. I am concerned that in this role he may be able to circumvent existing legal restrictions placed on those agencies to protect individual privacy, civil rights, and civil liberties.

The Homeland Security Department will be authorized to draw on the resources of almost any relevant agency at the Federal, State, and local level, ranging from sensitive international intelligence compiled by the CIA and the NSA to surveillance of U.S. citizens by the FBI and local police. Many of these agencies were very purposely kept separate and distinct, or were given limited jurisdiction or investigative powers, in order to reduce abuses of power. However, when the Department—this new Department—draws on the resources and information of other agencies, it may not necessarily be subject to the same legal restraints imposed on those agencies.

In addition, the civil rights officer and the privacy officer established under the administration's plan to uncover abuses in the Department are not given enough authority to actually carry out their jobs. They are essentially advisers with no real investigative or enforcement power. Both officers are responsible for ensuring compliance with existing law, but their only legal recourse after identifying a problem or violation is to report the problem to the Department's inspector general.

However, the inspector general, in turn, is under no obligation to follow up on privacy and civil rights complaints, only an obligation to inform Congress of any ''civil rights abuses'' in semi-annual reports. If and when the IG does choose to investigate, he will often be unable to do so independently as the Inspector General Act intended, because this plan provides that the inspector general will be ''under the authority, direction, and control of the Secretary''—now get that. That ought to be enough to curl your hair. Let me read that again. The inspector general will be ''under the authority, direction, and control of the Secretary''—meaning the Secretary of Homeland Security—''with respect to audits or investigations, or the issuance of subpoenas, which require access to sensitive information.'' And the Secretary can say no if he determines certain things, which I can read into the RECORD—he determines; if he determines, the Secretary; if he determines no, the inspector general is stopped in his tracks. That is it. Is that the way the people in this country want it to be? I do not believe so.

Granting the Secretary control over internal investigations puts the ''fox in charge of the hen house'' whenever the fox claims a national security reason for it.

The inspector general can say: I have a national security reason. You have to stop. You cannot investigate further. You cannot subpoena witnesses. You cannot because Congress passed the law that the administration wanted saying you cannot. So you stop right here in your tracks.

Is that the way the American people want it? No.

The President's proposal also lets the fox have his way when he uses working groups—now get this—to investigate or craft policy. Although not included in the Senate bill, the House bill, which will be before the Senate likewise, allows the Secretary of Homeland Security to exempt advisory groups within the Department from the disclosure requirements of the Federal Advisory Committee Act. The practical effect of this authority would be to give the Secretary of Homeland Security the ability to conduct secret meetings to craft Department policy, minimizing interference from Congress and the public.

This would appear to expand the model of secret policymaking currently employed in the administration, the most notable example being Vice President CHENEY's secret energy working group.

While the Federal Advisory Committee Act does exempt the Central Intelligence Agency and the Federal Reserve from disclosure requirements, the justification for doing so cannot support providing the same exemption for the Department of Homeland Security.

The broad authority and domestic jurisdiction of the Department distinguish it from the CIA which has no authority to invade the privacy of U.S. citizens domestically and whose activities are controlled more directly by the President in exercise of his constitutional powers over foreign affairs. The exemption for the Federal Reserve protects financial information and economic projections in order to protect the integrity of the markets.

While it may be reasonable to excuse the Fed from this kind of public disclosure, I am not comfortable in allowing the Secretary of Homeland Security to set the level of preparedness in complete secrecy in the same way that Alan Greenspan sets interest rates.

The Federal Advisory Committee Act already allows waivers for sensitive information, so there is no compelling national security justification for providing this blanket exemption. Removing this exemption would not eliminate the Secretary's ability to convene committees in secret, but it would make the Secretary and the President more accountable—more accountable—for choosing to do so.

The President is authorized under existing law to determine which committees should be exempt from disclosure for national security reasons, and he must explain himself every time he does so. The bill passed by the House allows the Secretary to exempt committees at will, while only paying lipservice to Congress. Both the House bill and the Senate bill provide an unnecessary exemption, in my viewpoint, from the Freedom of Information Act for critical infrastructure information provided by private corporations.

The FOIA requires public disclosure of Government materials on request, but it already provides exemptions for national security information, sensitive law enforcement information, and confidential business information. The administration's proposal extends these exemptions to include any information voluntarily submitted by corporations to the Department. As a result of this exemption, this corporate information could not be released under the Freedom of Information Act for other enforcement purposes, so corporations would be allowed to escape liability for any information they submit.

I have argued, Madam President, that parts of this bill should be put off to allow enough time for informed deliberation. I reaffirm my objections to rushing into all of these agency transfers and new directives. However, these secrecy problems have to be addressed also.

The President has said that how we respond to this crisis will determine what kind of legacy we leave. I agree with the President on that point. That is exactly why I suggest to the Members of the Senate we should take time to remember the legacy that we have inherited, a legacy of liberty and limited Government, and preserve these principles in the legacy that we will bequeath.

This new Department is going to be with us for some time, so we must think beyond the next election and act with an eye to the future. This Congress needs to make sure we will have some recourse in the event that the administration's reorganization does not live up to all of its promises. Congress has a role to play in the ongoing supervision of the Federal Government, and we should not compromise that role by hastily surrendering our constitutional powers.

I yield the floor.

## EXECUTIVE SESSION

### NOMINATION OF TERRENCE F. MCVERRY, OF PENNSYLVANIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE WESTERN DISTRICT OF PENNSYLVANIA

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 having arrived, the Senate will proceed to executive session to consider Executive Calendar No. 962, which the clerk will report.

The assistant legislative clerk read the nomination of Terrence F.

McVerry, of Pennsylvania, to be United States District Judge for the Western District of Pennsylvania.

The PRESIDING OFFICER. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID, I announce that the Senate from Hawaii (Mr. AKAKA), the Senator from Delaware (Mr. BIDEN), the Senator from Vermont (Mr. JEFFORDS), the Senator from Vermont (Mr. LEAHY), and the Senator from New Jersey (Mr. TORRICELLI) are necessarily absent.

Mr. NICKLES. I announce that the Senator from Texas (Mr. GRAMM), the Senator from North Carolina (Mr. HELMS), the Senator from Alaska (Mr. MURKOWSKI), the Senator from Pennsylvania (Mr. SANTORUM), the Senator from Pennsylvania (Mr. SPECTER), the Senator from New Mexico (Mr. DOMENICI), and the Senator from Texas (Mrs. HUTCHISON), are necessarily absent.

I further announce that if present and voting the Senator from New Mexico (Mr. DOMENICI), and the Senator from North Carolina (Mr. HELMS), would each vote ''yea''.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 88, nays 0, as follows:

[Rollcall Vote No. 208 Ex].

YEAS—88

| | | |
|---|---|---|
| Allard | Dorgan | McCain |
| Allen | Durbin | McConnell |
| Baucus | Edwards | Mikulski |
| Bayh | Ensign | Miller |
| Bennett | Enzi | Murray |
| Bingaman | Feingold | Nelson (FL) |
| Bond | Feinstein | Nelson (NE) |
| Boxer | Fitzgerald | Nickles |
| Breaux | Frist | Reed |
| Brownback | Graham | Reid |
| Bunning | Grassley | Roberts |
| Burns | Gregg | Rockefeller |
| Byrd | Hagel | Sarbanes |
| Campbell | Harkin | Schumer |
| Cantwell | Hatch | Sessions |
| Carnahan | Hollings | Shelby |
| Carper | Hutchinson | Smith (NH) |
| Chafee | Inhofe | Smith (OR) |
| Cleland | Inouye | Snowe |
| Clinton | Johnson | Stabenow |
| Cochran | Kennedy | Stevens |
| Collins | Kerry | Thomas |
| Conrad | Kohl | Thompson |
| Corzine | Kyl | Thurmond |
| Craig | Landrieu | Voinovich |
| Crapo | Levin | Warner |
| Daschle | Lieberman | Wellstone |
| Dayton | Lincoln | Wyden |
| DeWine | Lott | |
| Dodd | Lugar | |

NOT VOTING—12

| | | |
|---|---|---|
| Akaka | Helms | Murkowski |
| Biden | Hutchison | Santorum |
| Domenici | Jeffords | Specter |
| Gramm | Leahy | Torricelli |

The Nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the President will be immediately notified of the Senate's action.

Mr. LEAHY. Madam President, today the Senate is confirming Terrence McVerry to the United States District Court for the Western District of Pennsylvania. He is the 73rd judicial nominee of President George W. Bush to be confirmed by the Senate since July 20 last year. With today's vote, the Democratic-led Senate has already exceeded the number of circuit and district court nominees confirmed in the last 30 months of Republican control of the Senate, when 72 judges were confirmed in those 2½ years. Democrats have done more than Republicans did in less than half the time.

It is revealing that Republicans, with all of their misleading statistics, consistently fail to compare their actual results during their most recent period of control of the Senate with the progress we have made since the shift in the Senate majority. They do not want to compare their own record over the prior 6½ years with our record of accomplishment in evaluating judicial nominees. They do not want to own up to their delay and inaction on scores of judicial nominees during the last administration. During the period of Republican control of the Senate, judicial vacancies rose from 63 to 110. Since the change in majority, the Democratic Senate has worked hard to help fill 73 of those vacancies.

All too often the only claim that we hear about the Republican record is that President Clinton ultimately appointed 377 judges, five fewer than President Reagan. Our Republican critics try to obscure the fact that only 245 of those district and circuit court judges were confirmed in the 6½ years that the Republican majority controlled the pace of Senate hearings and consideration. That averages only 38 confirmations per year. Over an 8-year period that would have yielded 304 confirmations. In fact, the Republican majority over the last 6 years of the Clinton administration produced on average only 58 percent of the confirmations achieved during the first 2 years of that administration.

As of today, the Democratic majority in the Senate has acted to confirm 73 judges, including 13 nominees to the circuit courts. We have proceeded to almost double the confirmation rates of the former Republican majority. We have done more in less than 15 months then they achieved in their last 30 months in the majority.

The reason Republicans do not want to talk about their record and compare apples to apples is because this truth does not fit comfortably with the myth of obstruction by Democrats that they have been working so hard to disseminate for their own partisan purposes. This situation reminds me of a quote by Adlai Stevenson, who said ''I have been thinking that I would make a proposition to my Republican friends . . . that if they will stop telling lies about the Democrats, we will stop telling the truth about them.'' Unfortunately, the persistence of the myth of inaction in the face of such a clear record of progress on judicial vacancies by Democrats makes me worry that Republicans are following the cynical observation that a lie told often enough becomes viewed as the truth. I am confident that Americans understand that Democrats have been fairer to this President's judicial nominees than Republicans were to his predecessor's nominees.

Today's vote is another example. The Senate has acted quickly on this nomination to the District Court in Pennsylvania. Mr. McVerry was nominated in January, received his ABA peer review in March, participated in a hearing in June, and he was reported out of the Senate Judiciary Committee in July. The Judiciary Committee has held hearings for 10 district court nominees from Pennsylvania and the Senate has confirmed nine of them in just five months. There is no State in the Union that has had more Federal judicial nominees confirmed by this Senate than Pennsylvania. I think that the Senate Judiciary Committee and the Senate as a whole have done well by Pennsylvania.

This is in sharp contrast to the way vacancies in Pennsylvania were left unfilled during Republican control of the Senate, particularly regarding nominees in the western half of the State. Despite the best efforts and diligence of my good friend from Pennsylvania, Senator SPECTER, to secure confirmation of all of the judicial nominees from every part of his home State, there were seven nominees by President Clinton to Pennsylvania vacancies who never got a hearing or a vote.

A good example of the contrast between the way the Democrats and Republicans have treated judicial nominees is the case of Judge Legrome Davis, a well qualified and uncontroversial judicial nominee. He was first nominated to the Eastern District of Pennsylvania by President Clinton on July 30, 1998. The Republican-controlled Senate took no action on his nomination and it was returned to the President at the end of 1998. On January 26, 1999, President Clinton renominated Judge Davis for the same vacancy. The Senate again failed to hold a hearing for Judge Davis and his nomination was returned after two more years.

Under Republican leadership, Judge Davis' nomination languished before the Committee for 868 days without a hearing. Unfortunately, Judge Davis was subjected to the kind of inappropriate partisan rancor that befell so many other nominees to the district courts in Pennsylvania during the Republican control of the Senate. This year, the Democratic-led Senate moved expeditiously to consider Judge Davis, and he was confirmed promptly, five weeks after receiving his ABA peer review, without a single negative vote. The saga of Judge Davis recalls for us so many nominees from the period of January 1995 through July 10, 2001, who never received a hearing or a vote and who were the subject of secret, anonymous holds by Republicans for reasons that were never explained.

The hearing we had earlier this year for Judge Joy Conti was the very first

hearing on a nominee to the United States District Court for the Western District of Pennsylvania since 1994, despite President Clinton's qualified nominees to that court. It is shocking to me that this was the first hearing on a nominee to that court in eight full years. No nominee to the Western District of Pennsylvania received a hearing during the entire period that Republicans controlled the Senate during the Clinton Administration. One of the nominees to the Western District, Lynette Norton, waited for almost 1,000 days, and she was never given a hearing. Unfortunately, Ms. Norton died earlier this year, having never fulfilled her dream of serving on the Federal bench. With the confirmation of Judge Conti, we confirmed the first nominee to the Western District of Pennsylvania since October of 1994. Despite this history of poor treatment of President Clinton's nominees, the Democratic-led Senate continues to move forward fairly and expeditiously. Terry McVerry is the most recent example of our willingness to proceed in spite of recent Republican obstructionism.

Democrats have reformed the process for considering judicial nominees. For example, we have ended the practice of secretive, anonymous holds that plagued the period of Republican control, when any Republican Senator could hold any nominee from his or her home State, his or her own circuit or any part of the country for any reason, or no reason, without any accountability.

We have returned to the Democratic tradition of regularly holding hearings, every few weeks, rather than going for months without a single hearing. In fact, we have held 23 judicial nominations hearings in our first 12 and one-half months, an average of almost two per month. In contrast, during the 6½ years of Republican control, during each of 30 months they did not hold a nominations hearing on a single judicial nominee. By holding 23 hearings for 84 of this President's judicial nominees, we have held hearings for more circuit and district court nominees than in 20 of the last 22 years during the Reagan, first Bush, and Clinton administrations. The opposition party would rather not refer to these facts, which debunk Republican myths about who caused the vacancy crisis and delayed judicial appointments.

When the Senate Judiciary Committee reorganized after the change in Senate majority, there were 110 judicial vacancies. That included 33 circuit court vacancies, twice the number that existed when Republicans took over the Judiciary Committee in 1995. During the past 13 and one-half months, another 43 vacancies have arisen, largely due to retirements of past Republican appointees to the courts. If Democrats had, in fact, obstructed judicial nominees, as Republicans so often claim, there would now be 153 vacancies in our Federal courts, not the 80 that currently remain.

We have tried to do our best to address the judicial vacancies problem. We have been able to consider district court nominees more quickly because they have been generally less controversial and ideological than this President's choices for the circuit courts. Not all of the district court nominees we have considered, however, have been without controversy. One of the nominees on whom we have proceeded received a majority ''Not Qualified'' peer review rating from the ABA due to his relative inexperience. Five other district court nominees have received some ''Not Qualified'' votes during the ABA peer reviews. This is despite the fact that the ABA's rating now come after the President has given his imprimatur to the candidate and peers may be chilled from candidly sharing their concerns.

A number of President Bush's district court nominees to lifetime seats on the Federal bench have also been unusually young and have been practicing law for a little more than a decade. Some of them have views with which we strongly disagree. Several of this President's judicial nominees seem to have earned their nominations as members of the Federalist Society. Others have records demonstrating that they are pro-life and will actively undercut women's right to choose. Some have already gone on to issue decisions against the privacy rights of women. Many of this President's district court nominees have been very active in Republican and conservative politics or causes. Still other nominees have been intimately involved in partisan politics or played key roles in Republican fundraising. Today, the Senate is confirming a person whose spouse is employed as the treasurer of Senator SANTORUM's election campaign.

The Federal district courts matter. They are the courts of first resort, the trial courts where individuals' claims are tried or dismissed. Not everyone can afford the costs of appealing a trial court ruling. Additionally, circuit courts traditionally give great deference to the findings of the lower court that examined the claims and observed witnesses first hand, rather than making new factual findings based on a cold record. Of course, matters of law are reviewed by the circuit courts, and their rulings can have a substantial impact on the development of the law, especially with a Supreme Court that hears fewer than 100 cases per year.

Because we have moved quickly and responsibly on consensus nominees, the number of vacancies is not at the 153 mark it would be at with no action, but is down to 80. On July 10, 2001, with the reorganization of the Senate, we began with 110 vacancies, 77 of which were on the district courts. Despite the large number of additional vacancies that have arisen in the past year, with the 60 district court confirmations we have had as of today, we have reduced district court vacancies to 51. That is almost to the level it was at when Republicans took over the Senate in 1995.

The opposition party dismisses this achievement in a backhanded way, but it is one of the most significant things we have accomplished for the sake of the Federal courts and for litigants in the Federal courts. It has not been easy to process that many district court nominees in little more than one year. We have confirmed more of this President's district court nominees over the past year than in any of the prior 6½ years of Republican control. Indeed, we have achieved more district court confirmations in the last 13 months than Republicans accomplished in all of 1999 and 2000 combined and more than were confirmed during the last 30 months of Republican majority control of the Senate.

We have had hearings for more of this President's district court nominees than in any year of the Reagan Administration, and he had 6 years of a Senate majority of his own party. Indeed, we have confirmed more of President George W. Bush's district court nominees in these past 13 plus months than were confirmed in any year of his father's presidency and more than were confirmed during his father's first two full years combined.

In contrast to how fairly we have treated this President's Federal court nominees, consider how poorly nominees were treated during the prior 6½ years of Republican control of the Senate. Some district court nominees waited years and never received a hearing. For example, nine district court nominees from Pennsylvania alone never got hearings, including then Pennsylvania Common Pleas Court Judge Legrome Davis, who was subsequently re-nominated by President Bush and confirmed earlier this year. Four district court nominees from California were never given a hearing by Republicans despite the full support of their home-State Senators. These are just a few examples of Republican obstruction of judicial nominees. In all, more than three dozen of President Clinton's district court nominees never received hearings or votes by Republicans.

Several others received hearings but never were given votes by the Republican-controlled Judiciary Committee. These included six district court nominees, such as Fred Woocher, a California district court nominee and Clarence Sundram from New York. Still others waited hundreds and hundreds of days to be confirmed, such as Judge Susan Oki Mollway of the District Court in Hawaii, whose nomination languished for 913 days before she was confirmed, and Judge Margaret Morrow of the District Court for the Central District of California who waited almost 2 years, 643 days, to be confirmed. Let us not forget Missouri Supreme Court Justice Ronnie White who was delayed twice only to be defeated on the Senate floor, in a sneak attack.

Judge White had waited 801 days only to be defeated through character assassination on the floor of the Senate. In all, nearly 60 of President Clinton's judicial nominees were blocked, many in the dark of night through secretive, anonymous holds.

When confronted with their record Republicans often refer to all nominees not getting hearings in 1992. That year, the Senate confirmed more of President George H.W. Bush's judicial nominees than in any year of his presidency and confirmed more judges than in any year in which the Republican majority controlled consideration of President Clinton's nominees. In 1992, 66 judges were confirmed. So, even though some nominations were returned, the Senate in 1992 worked hard to confirm a substantial number, 66, of new judges in the 10 months they were in session during that presidential election year. By contrast, in 1996 when the Republicans were in the Senate majority only 17 judges were confirmed all year and none for the vacancies on the courts of appeals. In 2000, the Republican majority in the Senate confirmed only 39 judges.

When the Senate is working hard to confirm judges, as it was in 1992 and since last summer, it may be understandable that not all nominees can be considered. When, as was the case during the Republican majority, the Senate is averaging only 38 confirmations a year and going months and months without a single hearing, the circumstances are quite different. The Republican majority in their 6½ years of control of the Senate ensured that they never treated President Clinton's judicial nominees better than the best year of former President Bush's Administration—just as they made sure that President Clinton's total number of judges appointed never reached that of President Reagan. By contrast, the Democratic majority has reversed the downward spiral and has treated this President's nominees more fairly than the Republican majority treated those of the last President.

We have also been confirming this President's judicial nominees at a record pace. Rather than continue the Republican pace of 38 confirmations a year, we have worked hard to do better. We have been so fair to President George W. Bush, despite the past unfairness of Republicans, that if we continue at the current pace of confirmations, President Bush will appoint 227 judges by the end of his term. If this President were to serve two terms like Presidents Reagan and Clinton, he would amass 454 judicial appointments, dramatically shattering President Reagan's all-time record of 382. Some may say we have been foolishly fair, given how Republican treated the nominees of the last Democratic President. But this, too, demonstrates how fair the Democratic Senate majority has been these last 13½ months.

When we adjourned for the August recess we had given hearings to 91 percent of this President's judicial nominees who had completed their paperwork and who had the support of both of their home-State Senators. That is, 84 of the 92 judicial nominees with completed files had received hearings. Indeed, when we held our last nomination hearing on August 1, we had given hearings to 66 district court nominees and we had run out of district court nominees with completed paperwork and home-State support. Only two district court nominees were eligible for that hearing. This is because the White House changed the process of allowing the ABA to begin its work prior to formal nomination. This unilateral change by the White House has already cost the federal judiciary the chance to have 12 to 15 more district court nominees on the bench and hearing cases these past 13 months. Many more of the two dozen pending nominees may not receive an ABA evaluation in time to be considered by the Senate this year.

On average, the ABA reviews of district court nominees have been received 59 days from the date of nomination. With the recent delays that we have experienced in the time nominees are taking to complete the Committee questionnaire and the changeover in personnel at the ABA, that time may continue to expand in the few weeks remaining to us before the recess in October this year. Thus, even as the White House professes to blame the Senate for not making progress on even more nominees, it continues to do all it can to delay the process due to its unilateral approach.

In January I had proposed a simple procedural fix to allow the ABA evaluation to begin at the same time as the FBI investigation, as was the practice in past Republican and Democratic administrations for 50 years. Then the ABA could be in position to submit its evaluation immediately following the nomination. Had this proposal been accepted, I am confident there would be more than a dozen fewer vacancies in the Federal courts. Instead our efforts to increase cooperation with the White House have been rebuffed. We continue to get the least cooperation from any White House I can recall during my nearly three decades in the Senate.

In spite of the obstacles they have put in the way of their own nominees through their lack of consultation and cooperation, we have been able to have a record-breaking year restoring fairness to the judicial confirmation process. We have been rewarded with nearly constant criticism from the administration and its allies.

White House Counsel Alberto Gonzales dismisses our accomplishments with a terse, one-sentence acknowledgement that Democrats have ''made progress in holding hearings and votes on district court nominees.'' With today's vote, we have already confirmed 60 new Federal trial court judges. That is more than were confirmed in 21 of the past 23 years. We have confirmed more district court nominees in these past 13½ months than were ever confirmed by the Republican majority during their prior 6½ years of control of the Senate.

For example, in 1995, the year the Republicans took over the Senate, President Clinton nominated 68 district court candidates, but the Republican controlled Senate held hearings for and confirmed only 45 of those nominees. Republicans would call that 66 percent. In 1996, Republicans confirmed only 17 of the district court nominations pending and, of course no nominees to the circuit courts. That was 50 percent of the district court nominees. In 1997, Republicans allowed only 50 percent of the pending district court nominees to be confirmed. In 1998, they hit their high mark in considering district court nominees and allowed 77 percent to be confirmed. In 1999, they were back down to allowing the confirmation of slightly over half, 58 percent, of the district court nominees to be confirmed. Finally, in 2000, again Republicans allowed only little more than half, or 56 percent, of the pending district court nominees to be confirmed.

In contrast, we have already had hearings for 100 percent of those district court nominees who were eligible for a hearing. We have had hearings for 66 district court nominees, voted 64 of them out of committee and, as of today, 60 of them have been confirmed by the Democratic-led Senate.

I would like to thank the members of the Judiciary Committee who have labored long and hard to evaluate the records of the individuals chosen by this President for lifetime appointments to the Federal courts. The decisions we make after reviewing their records will last well beyond the term of this President and will affect the lives of the individuals whose cases will be heard by these judges and maybe millions of others affected by the precedents of the decisions of these judges.

While the opposition party seeks to attribute the vacancy crisis in the Federal courts to the Democrats, who only recently became the majority party in the Senate, I remain hopeful that the American people will discover the truth behind such partisan accusations. Republicans are trying to take advantage of the vacancies they hoarded while waiting for a Republican President with an ideological approach to judicial nominations. Democrats are trying to clean up the vacancies mess that the Republican majority created. I am proud of the efforts of the Senate to restore fairness to the judicial confirmation process.

The Senate Judiciary Committee is working hard to schedule hearings and votes on the few remaining judicial nominees, but it takes time to deal with a mess of the magnitude we inherited. I think we have done well by the Federal courts and the American people, and we will continue to do our best to ensure that all Americans have access to federal judges who are unbiased,

fair-minded individuals with appropriate judicial temperament and who are committed to upholding the Constitution and following precedent. When the President sends judicial candidates who embody these principles, we have tried to move quickly. When he sends controversial nominees whose records demonstrate that they lack these qualities and whose records are lacking, we will necessarily take more time to evaluate their merits.

Mr. HATCH. Madam President, I rise today in support of the confirmation of Terrence McVerry, who has been nominated to serve as a U.S. District Judge for the Western District of Pennsylvania.

Terrence McVerry has the breadth of experience and accomplishment we look for in a Federal judge. After graduating from law school, Mr. McVerry served in the U.S. Army Reserves and the Pennsylvania Air National Guard. He then went to work as an assistant district attorney for Allegheny County, prosecuting hundreds of trials with an emphasis in major felonies and homicides.

Mr. McVerry also has 17 years of civil litigation experience representing individuals in a variety of matters including personal injury, real estate, contracts, family matters, estate planning, and small businesses and corporations.

Mr. McVerry has been an able legislator, winning election to the Pennsylvania House of Representatives in 1979 and serving there for 21 years. In 1998 Governor Tom Ridge appointed him to fill a judicial vacancy on the Court of Common Pleas of Allegheny County in the Family Division. Currently Mr. McVerry is the solicitor of Allegheny County, acting as the chief legal officer and director of a governmental law department comprised of 36 attorneys.

I thank my colleagues for joining me in my unqualified support for Mr. McVerry.

## LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will return to legislative session.

## RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 2:15 p.m.

Thereupon, the Senate, at 1:01 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. CLELAND).

## HOMELAND SECURITY ACT OF 2002—MOTION TO PROCEED—Continued

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I ask unanimous consent that I be allowed to proceed under Senator LIEBERMAN's time.

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

### TERRORISM INSURANCE

Mr. REID. Mr. President, I have to believe that the President is not getting the right information from his staff; otherwise, knowing him, I cannot believe he would say some of the things he has said recently.

I was running yesterday morning, and on Public Radio I heard a preview of the speech the President was going to give before a union in Pennsylvania. And I thought they must have made a mistake. Then, later in the day, I heard him complete that speech, and he went ahead just as they had said on Public Radio.

As we consider homeland security and the measures we should take to defend America, I think it is important we talk about terrorism insurance. That is the issue I want to talk about. I believe the President has not received the proper information from his staff.

Following the attacks on the World Trade Center and the Pentagon about a year ago, many American businesses have had trouble purchasing affordable insurance covering acts of terrorism.

As a consequence, many construction projects and real estate transactions have been delayed, interrupted, and in some cases canceled. We are talking about billions of dollars worth of projects that have been stalled, some terminated, solely because of the lack of being able to purchase terrorism insurance.

These problems cost many American workers their jobs and prevent businesses from being as productive as they could be. Clearly, the lack of affordable terrorism insurance has had a harmful effect on our Nation's already troubled economy.

I am glad we are back from our break and the President is back from his vacation. However, as I have indicated, yesterday, the President made some statements relating to terrorism insurance, about the need for Congress to move forward on terrorism insurance, that simply were without any fact.

As millions of students across the country go back to school, I want them to understand that they must speak the truth. I repeat, I do not think the President said what he said yesterday based upon full knowledge of all the information.

The truth, Mr. President, is Senate Democrats—because I have been here offering the unanimous consent request for months—have been leading the effort to pass an effective terrorism insurance bill—and we started on this last year—while Republicans have delayed and attempted to thwart this important legislation time after time. The President should know that. The leadership in the Congress of his party has not allowed us to go forward on this legislation.

One of the statements he made before the union is: I am for hard hats, not trial lawyers.

This is terrorism insurance. We should move it forward. I am confident everyone can see through these statements the President made as being without fact.

I want to remind him and the people who give him advice—give him good information, good background information so he can speak with the full knowledge of the facts.

We are eager to pass terrorism insurance. We have done everything within our power to do that. This would help workers, businesses, and the Nation's economy.

Shortly after the terrorist attacks last year, our colleagues—Senators DODD, SARBANES, and SCHUMER—developed a strong bill to help businesses get the affordable terrorism insurance they badly need.

When we attempted to move this bill last December, the minority voiced no fundamental disagreement with the bill but argued over the number of amendments to be offered. This was done in an effort to prevent us from moving forward on this legislation. So we could not do it in December. We came right back and started on it. After having had many private attempts to get this legislation moving, we decided to go public and try to move it from the floor, right from where I stand.

We tried offering in early spring unanimous consent agreements to take up the terrorism insurance legislation. Again, there was no objection to the base text or that the Dodd-Sarbanes-Schumer bill should be the vehicle we would bring to the floor. They wanted some amendments. We wanted to treat this as any other legislation. They said let us agree on the number of amendments. Whatever number we came up with wasn't appropriate. We could not move it. Finally, they simply disagreed with bringing up the bill at all.

It is the right of the majority leader to decide which bills are brought to the floor. If the minority is opposed, they have the right to offer amendments and attempt to modify the text of the bill. We have offered to bring the bill up with amendments on each side so everyone could have the opportunity to make changes.

Nevertheless, the minority continued to object and further prevented us from passing the terrorism insurance legislation.

In April, the importance of the terrorism insurance legislation was enunciated by Secretary O'Neill in his testimony before the Appropriations Committee that the lack of terrorism insurance could cost America 1 percent of the GDP because major projects would not be able to get financing.

Finally, we were able to get an agreement that we could bring the bill to the floor. We passed the legislation. And then came weeks and weeks of more stalling by the minority. We could not get agreement on appointing conferees. We attempted and attempted and attempted. First, they were upset because the ratio was 3 to 2, which is fairly standard. They said they wanted 4 to 3. So we came back