numbers in the early 1980s. I was a prosecutor as U.S. attorney in Mobile, AL. I remember participating in bringing Judge Goldstein up to our community to talk about it. As a result of his presentation, our community established a drug court which has been led most ably for many years by Judge Mike McMaken, a State judge there in Mobile County. I believe it works.

I also think we have not fully studied drug courts to understand how they work and how they can be made to work better, what are the most effective parts of the drug court process, and what should we emphasize and what should we deemphasize. I had hearings on this very subject when I chaired the courts subcommittee of the Judiciary Committee early last year.

This bill does require that the General Accounting Office conduct a very rigorous, scientific study of the drug courts to find out what works and what doesn't and to see if we can't do a better job of intervening in lives going bad.

The way it works is simply this: An individual is arrested for a minor crime. Usually, it is the first offense. It could be drugs, or it could be another crime. Hopefully, when they are arrested, they are tested for drugs in that system because that is an important thing, in my view. You need to know what is driving that criminal behavior. Every defendant in America arrested for any offense should be immediately drug tested, in my view. A lot of them have a history of drug problems. Immediate testing would let us know that this individual, arrested for whatever crime, if it is their first offense, has a drug problem.

The way the drug court works is that the judge says they will not send them to jail, and in some cases even allow them to have their conviction set aside only if, over a period of months, they conduct themselves under the most rigorous scrutiny in a way that eliminates drug use or criminal activity.

The defendant would voluntarily sign up for the drug court procedure. They are drug tested on a weekly basis—maybe three times a week at first. They report regularly to the probation officer. And on a weekly basis they report personally to the judge. If they come in drug positive, he may put them in jail for the weekend. If he believes it is hopeless and that they are not going to succeed in the program, he will send them to jail and kick them out of the drug court program. But we believe there is some success being found with this program.

It is spreading all over America. More and more cities are doing it. When you have a tough judge, a good probation officer, and intense drug testing with the availability of drug treatment, it is quite often possible that lives can be turned around as a result of this intervention. It is a tough love type of program which does have the possibility of being successful.

I am glad we are expanding that. I support that. I have been at the very beginning of this kind of program. But I don't think we know enough about it yet and what the key parts of it are, or what the program should contain or maybe what should not be a part of any drug court program. So the study should help us in that regard.

We have a lot of challenges in America in our Federal court system. Federal judges are needed in certain districts. Our population has grown. Certain types of criminal activities have grown. We, obviously, at various points in time, have districts with surging caseloads that need relief in terms of the number of Federal judges we have.

I am not one who believes we ought to just exponentially expand the Federal court system. I propose that we take one-half of what the Administrative Office of Courts requested—50-some-odd Federal judges—and that we approve 24 Federal judges based on a strict caseload basis in the districts where judgeships are most needed, and where those cases are based on a weighing of caseload factors—not just on cases but weighted for how big and how difficult the cases are.

We know, for example, that southern California has not had any relief for some time. It has been seeing a surge in caseload based on such things as immigration as well as other crimes that go into Federal court. They are larger numbers when you are on a border like that. This will provide 20 new judges—a number of them temporary. But the net result will be assistance to some critical districts in America, such as the western district of Texas, or the southern district of California. I think we are moving in the right direction there.

I am also pleased that a bill that Senator DIANNE FEINSTEIN and I offered—the James Guelff and Chris McCurley Body Armor Act—was made a part of this legislation. This bill dealt with the situation in which violent criminals today are oftentimes better armed and better protected than the police. It is estimated that 25 percent of police do not have body armor available to them. But criminals can go out and buy body armor. It is a crime, for example, for a criminal to have weapons. A felon who possesses a gun is in violation of Federal and most State legal systems. But, it is not today a crime for a felon to be wearing body armor, or to wear body armor during the course of a crime.

James Guelff was murdered as a result of a confrontation with an individual wearing body armor. Chris McCurley, a deputy sheriff in Alabama, was out to arrest a criminal. He entered the residence of that defendant and was killed in a shootout. It was discovered that the defendant—the criminal—premeditatedly and calculatedly waited for him while wearing body armor, prepared himself for a shootout, and killed him on that scene.

This bill is named for James Guelff and Chris McCurley. It would add intense punishment to criminals who use body armor in the course of their criminal activity.

It has the support of the Fraternal Order of Police, the National Association of Police Organizations, the Federal Law Enforcement Officers Association, and many other national police groups.

I think, all in all, there are good things in this legislation. I wish we could have done more. I support it, and look forward to voting favorably on it.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Kentucky is recognized.

CONFIRMING CIRCUIT COURT JUDGES

Mr. MCCONNELL. Mr. President, we have heard lately a lot of self-congratulation by our Democratic friends on the Judiciary Committee about confirming judges. However, my friends' self-congratulation is arrived at not by comparing apples and apples but by cherry-picking the period of time that will be most advantageous to them.

It is beyond a doubt, with respect to circuit court nominees in particular, that President Bush is being treated far worse—dramatically worse—than any President in recent history in his first term. In both absolute and relative terms, no President of the United States has been treated as badly as President Bush in their first Congress.

Let us take a look at the last four Presidents and their record with regard to circuit court nominations during the first 2 years of their Presidency.

During the Reagan years, 1981–1982—President Reagan submitted 20 nominations for the circuit court, and 19 of them were confirmed—95 percent. President Reagan, of course, had a Republican Senate during those 2 years.

President George Bush in his first 2 years, when his party did not control the Senate, in a session comparable to the one we are in now, submitted 23 circuit court nominations, and 22 of them were confirmed—96-percent confirmation during the first President Bush's term when his party did not control the Senate, and exactly the situation we find ourselves in today.

With regard to President Clinton in his first 2 years, a period during which his party did control the Senate, he submitted 22 circuit court nominations, and 19 were confirmed. That is an 86-percent confirmation rate.

It is noteworthy, even when his own party controlled the Senate, President Clinton's percentage of confirmations was slightly less than President George H. W. Bush when his party did not control the Senate during the first 2 years, but still a hefty percentage, 86 percent.

Then we look at the first 2 years of the presidency of George W. Bush, which is now coming to a conclusion. We are near the end now where the statistics actually mean something.

President George W. Bush has submitted 32 circuit court nominations to

the Senate, and only 14 have been confirmed, which is 44 percent. Forty-four percent. This is the worst record in anybody's memory of confirming circuit court nominations of a President in his first 2 years.

When you look at comparable situations, as I have just indicated, the first President Bush, confronted with a Democratic Senate—just like the current President Bush—got 96 percent of his circuit court judges confirmed. This President Bush, with a Democratic Senate, has only gotten 44 percent of his circuit court judges confirmed—dramatically worse.

Now, let me say, our friends on the other side are trumpeting how well they are doing on judicial nominations and do not want us to look behind the curtain of their statistics that have been put out.

In relative terms, President Bush has only half as many of his circuit court nominations confirmed as President Clinton did—44 percent as opposed to 86 percent. In absolute terms, President Bush has five fewer circuit court nominees confirmed than President Clinton did.

It is impossible at this stage for the Senate to catch up, to treat President Bush as fairly as it treated his predecessors, including President Clinton. So there is no chance this statistic can be dramatically improved this late in the game. But there is still time to improve upon this sorry record and at least have the Senate look as though it tried to treat President Bush with some elementary basic fairness.

For example, John Rogers, who happens to be from my State of Kentucky, a nominee to the U.S. Sixth Circuit Court of Appeals, which until August was 50 percent vacant—it has been 50 percent vacant not because there were not nominations made by the President, but because we have not approved them. We finally approved one from Tennessee right before the August recess—John Rogers has been languishing in the Senate for 285 days.

This was not even one of those controversial nominations. He cleared the Judiciary Committee unanimously, and he has been stuck on the executive calendar for 3 months. The sixth circuit, which is supposed to have 16 judges, currently has 9. But one of those nine was only confirmed last July, right at the end before the August recess. So it is still almost 50 percent vacant, not because the President has not sent up nominations, but because we simply will not act on them. It is hard to understand what the problem is.

The ABA unanimously rated Professor Rogers—the person I was just mentioning—as ''qualified,'' and his services are in dire need. The sixth circuit is in the worst shape of any circuit and is almost half vacant, as I just said.

Shifting to the fourth circuit, Dennis Shedd, a nominee in the fourth circuit, has been before the Senate for over 500 days; in fact, to be specific, 511 days. The ABA rated him ''well-qualified.'' That is the highest rating one can get, and it is about as common as teeth on a chicken—not very common.

Our friends on the other side used to call the ABA the ''Gold Standard''—the ''Gold Standard.'' Judge Shedd was in President Bush's first batch of nominees. Until this Congress, it was Senate precedent for all nominees in a President's first submission to be confirmed, the first batch. Until this year, they were all confirmed, and to be confirmed within a year of those submissions.

Unfortunately, Judge Shedd, like many of his colleagues, not only will not meet the 1-year rule, he is in jeopardy of not getting confirmed at all.

Michael McConnell—no relation, but an outstanding nominee by the President to the tenth circuit—has also been pending for over 500 days; in fact, the 511 days that Judge Shedd has been pending. The ABA has rated Professor McConnell—now listen to this—unanimously ''well-qualified''—unanimously ''well-qualified.''

Like Judge Shedd, Professor McConnell was in the President's very first submission, yet, he, too, is in danger of not getting confirmed at all.

Miguel Estrada, a nominee to the D.C. Circuit, is yet another nominee who has been pending for 511 days. Like Professor McConnell, Mr. Estrada received one of those extremely rare, unanimously ''well-qualified'' ratings from the ABA. This is really hard to get. That means nobody on the ABA committee found the nominee anything other than ''well-qualified,'' the highest rating the ABA can give a nominee.

Like Judge Shedd and Professor McConnell, Mr. Estrada is one of those superlative nominees whom the President sent up in May of 2001. Now he will not beat the 1-year rule, and he may not get confirmed at all.

Even if all four of these nominees I just referred to were confirmed, the Senate would still not be treating President Bush as well as his predecessors, either in absolute or in relative terms.

As shown on the chart, even if all four of these nominees were confirmed, President Bush would only have 18 circuit court nominees confirmed. President Clinton got 19 confirmed. That would still only be 56 percent versus 83 percent.

Further, President Clinton got his nominees to the Senate much later in the first Congress than President Bush did, and President Clinton sent up a lot fewer. He nominated fewer people. He sent up fewer circuit court nominees than President Bush did. There were 22 Clinton circuit court nominees sent up versus 32 Bush nominees. So there were a larger number of nominations made by President Bush. That means the Senate has had more time, since President Bush sent them up sooner. The Senate has had more time, has had more options, but has done less. More time, more options, and done less—far less, far less—for President Bush than the Senate did for President Clinton.

You would think we would be trying to redouble our efforts to solve this sad situation, but it seems we are determined to squander what few opportunities we have left.

We had a markup originally scheduled for this morning in the Judiciary Committee, in which we could have gotten Judge Shedd, Professor McConnell, and Mr. Estrada to the floor of the Senate, but, inexplicably, the committee session was cancelled. We will not have a hearing until next week, if then. If the markup is delayed any more, we will delay it right out of this Congress.

A lot of us are very upset about this situation. I know there has been some discussion of legislative remedies. I know the conference report to the DOJ reauthorization, for example, is popular among some of my Republican colleagues. But it only takes one Senator—one person—to file a point of order to it, and that point would probably succeed.

If we see a good-faith effort by our Democratic colleagues, I am hopeful we can avert a legislative crisis on the DOJ authorization conference report. But it depends on having some level of cooperation.

Even if we were to confirm these four fine nominees, President Bush still would have been treated dramatically worse—dramatically worse—than any of the Presidents in recent time.

I think it is good not to be distracted by this sort of Enron-style accounting, where folks cobble together a few months from here and there to manipulate statistics with regard to what our sorry record is with regard to judicial confirmations. Facts are stubborn things. The bottom line is, President Bush is being treated far worse than his predecessors on circuit court nominees.

So let's just look at it one more time.

President Reagan, who had benefited from having a Senate of his own party: 95 percent of his circuit court nominees confirmed in the first 2 years of his term.

The first President Bush, not benefiting from Senate control by his own party—a situation directly analogous to the one we have today—got 96 percent of his circuit court nominees confirmed in the first 2 years.

President Clinton, benefiting from having a Senate controlled by his party, had 86 percent of his circuit court nominees confirmed in the first 2 years. The second President Bush, in a situation analogous to his father, who got 96 percent during the first 2 years, has to date only 44 percent. And even if we process the four nominees that could be handled—Professor Rogers who has been on the calendar for 3 months, and Professor McConnell, Judge Shedd, and Miguel Estrada—he

would still have a pretty sorry record. But we could improve somewhat this dismal performance on the current President's nominations for circuit court.

I hope we will have some action at the end of the session on at least one of the four nominees who could be acted upon by the full Senate. It is not too late to at least partially fix and improve a very sad situation.

I yield the floor.

The PRESIDING OFFICER (Ms. STABENOW). The Senator from Minnesota.

Mr. WELLSTONE. Madam President, I want to give the rest of what time we have left to the Senator from Oregon, Mr. WYDEN.

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

IRAQ

Mr. WELLSTONE. Madam President, I rise to address our policy in Iraq. The situation remains fluid. Administration officials are engaged in negotiations at the United Nations over what approach we ought to take with our allies to disarm the brutal and dictatorial Iraqi regime.

The debate we will have in the Senate today and in the days to follow is critical because the administration seeks our authorization now for military action, including possibly unprecedented, preemptive, go-it-alone military action in Iraq, even as it seeks to garner support from our allies on a new U.N. disarmament resolution.

Let me be clear: Saddam Hussein is a brutal, ruthless dictator who has repressed his own people, attacked his neighbors, and he remains an international outlaw. The world would be a much better place if he were gone and the regime in Iraq were changed. That is why the United States should unite the world against Saddam and not allow him to unite forces against us.

A go-it-alone approach, allowing a ground invasion of Iraq without the support of other countries, could give Saddam exactly that chance. A preemptive, go-it-alone strategy toward Iraq is wrong. I oppose it. I support ridding Iraq of weapons of mass destruction through unfettered U.N. inspections which would begin as soon as possible. Only a broad coalition of nations, united to disarm Saddam, while preserving our war on terror, is likely to succeed.

Our primary focus now must be on Iraq's verifiable disarmament of weapons of mass destruction. This will help maintain international support and could even eventually result in Saddam's loss of power. Of course, I would welcome this, along with most of our allies.

The President has helped to direct intense new multilateral pressure on Saddam Hussein to allow U.N. and International Atomic Energy Agency weapons inspectors back in Iraq to conduct their assessment of Iraq's chemical, biological, and nuclear programs. He clearly has felt that heat. It suggests what can be accomplished through collective action.

I am not naive about this process. Much work lies ahead. But we cannot dismiss out of hand Saddam's late and reluctant commitment to comply with U.N. disarmament arrangements or the agreement struck Tuesday to begin to implement them. We should use the gathering international resolve to collectively confront this regime by building on these efforts.

This debate must include all Americans because our decisions finally must have the informed consent of the American people who will be asked to bear the cost, in blood and treasure, of our decisions.

When the lives of sons and daughters of average Americans could be risked and lost, their voices must be heard in the Congress before we make decisions about military action. Right now, despite a desire to support our President, I believe many Americans still have profound questions about the wisdom of relying too heavily on a preemptive go-it-alone military approach. Acting now on our own might be a sign of our power. Acting sensibly and in a measured way, in concert with our allies, with bipartisan congressional support, would be a sign of our strength.

It would also be a sign of the wisdom of our Founders who lodged in the President the power to command U.S. Armed Forces, and in Congress the power to make war, ensuring a balance of powers between coequal branches of Government. Our Constitution lodges the power to weigh the causes of war and the ability to declare war in Congress precisely to ensure that the American people and those who represent them will be consulted before military action is taken.

The Senate has a grave duty to insist on a full debate that examines for all Americans the full range of options before us and weighs those options, together with their risks and costs. Such a debate should be energized by the real spirit of September 11, a debate which places a priority not on unanimity but on the unity of a people determined to forcefully confront and defeat terrorism and to defend our values.

I have supported internationally sanctioned coalition military action in Bosnia, in Kosovo, in Serbia, and in Afghanistan. Even so, in recent weeks, I and others—including major Republican policymakers, such as former Bush National Security Adviser Brent Scowcroft; former Bush Secretary of State James Baker; my colleague on the Senate Foreign Relations Committee, Senator CHUCK HAGEL; Bush Mid-East envoy General Anthony Zinni; and other leading U.S. military leaders—have raised serious questions about the approach the administration is taking on Iraq.

There have been questions raised about the nature and urgency of Iraq's threat and our response to that threat: What is the best course of action that the United States could take to address this threat? What are the economic, political, and national security consequences of a possible U.S. or allied invasion of Iraq? There have been questions raised about the consequences of our actions abroad, including its effect on the continuing war on terrorism, our ongoing efforts to stabilize and rebuild Afghanistan, and efforts to calm the intensifying Middle East crisis, especially the Israeli-Palestinian conflict.

There have been questions raised about the consequences of our actions here at home. Of gravest concern, obviously, are the questions raised about the possible loss of life that could result from our actions. The United States could post tens of thousands of troops in Iraq and, in so doing, risk countless lives of soldiers and innocent Iraqis.

There are other questions about the impact of an attack in relation to our economy. The United States could face soaring oil prices and could spend billions both on a war and a years-long effort to stabilize Iraq after an invasion.

The resolution that will be before the Senate explicitly authorizes a go-it-alone approach. I believe an international approach is essential. In my view, our policy should have four key elements.

First and foremost, the United States must work with our allies to deal with Iraq. We should not go it alone, or virtually alone, with a preemptive ground invasion. Most critically, acting alone could jeopardize our top national priority, the continuing war on terror. I believe it would be a mistake to vote for a resolution that authorizes a preemptive ground invasion. The intense cooperation of other nations in relation to matters that deal with intelligence sharing, security, political and economic cooperation, law enforcement, and financial surveillance, and other areas is crucial to this fight, and this is what is critical for our country to be able to wage its war effectively with our allies. Over the past year, this cooperation has been the most successful weapon against terrorist networks. That—not attacking Iraq—should be the main focus of our efforts in the war on terror.

As I think about what a go-it-alone strategy would mean in terms of the consequences in South Asia and the Near East and the need for our country to have access on the ground, and cooperation of the community, and get intelligence in the war against al-Qaida and in this war against terrorism, I believe a go-it-alone approach could undercut that effort. That is why I believe our effort should be international.

We have succeeded in destroying some al-Qaida forces, but many operatives have scattered. Their will to kill Americans is still strong. The United States has relied heavily on alliances with nearly 100 countries in a