cannot yet bring to closure the terrible tragedy that befell their families. They are just not emotionally ready to begin the process of closure by applying to the victims compensation fund while their grief is still surrounding them.

Imagine the Thanksgiving table without a son or a daughter or a mother or a father or a child. How sad that is. And we walk away from here not yet completing the task.

I quickly point out, there are no additional funds required. Those funds were allocated 2 years ago when the fund was established. It is a rather confusing application, 40 pages. The difference is, if one applies to the fund, there is a settlement available. But in some cases, it may seem better for them to resort to the courts. That is why we have the system we have.

It is hard to proceed and leave here without trying to do something about the condition in which we leave these families. We should help them get through the holiday period and encourage them a little bit further.

The fund was estimated to cost $5 billion by Mr. Feinberg, who is the master in charge of the distribution. He is an outstanding lawyer who took this job, volunteered to do it. He notes that only $1 billion out of $5 billion that might be required or available were expended. Many others have been waiting. Some victims' families are non-native-English speakers, working hard to understand, get people to help them comprehend the application forms. Many others have been waiting to receive the required information from their loved ones' former employers in order to complete the forms.

S. 1602, the bill that Senator LEAHY and I introduced, keeps our promise to the 9/11 victims' families by extending the deadline to apply to the fund to the end of 2004, roughly a year from now. We are simply giving these grief-stricken families some more time to fill out this cumbersome application. Senators BOXER, CLINTON, CORZINE, DODD, DURBIN, LIEBERMAN, and SCHUMER are cosponsors of this bill.

I think it is really unfair that the Republican majority will not permit us to just move this bill along. President Bush and other Republicans were anxious to appear with the 9/11 families soon after the tragedy to show that they shared in some way their grief and to try to alleviate their distress. Now the cameras are gone. We should not, however, forget that we have these obligations to these families. This bill is unfinished business with a deadline.

I had hoped the majority leader and my Republican colleagues would allow us to pay our respects to these families who need our help.

On September 11 of this past year, I spoke at an event in Central Park, NY, that was arranged by a company called Cantor Fitzgerald. They lost 700 of their 1,000 employees. One of those who perished was a very close friend of my oldest daughter. They had worked together at another firm. My daughter went to law school and her friend went to work for Cantor Fitzgerald and was one of the 700 and left 3 young children and a husband behind—so unwilling to believe that his wife, the mother of these children, was taken away, that he visited hospitals in the area for some time after the attack took place, hoping that there was an error someplace, that he might find his wife, and that some way they would be able to continue. But she is gone.

When I spoke to the people from Cantor Fitzgerald, about 4,000 people were there. And, again, this company lost 700. The people they touched is a far greater number than the number who actually perished. They were looking to us for some leadership, some recognition that they paid a price for their sheer courage, many of whom died helping others, including the policemen and the fire personnel, the emergency personnel.

There are all kinds of stories, including the one about the man who walked up a flight to try to carry a woman down and both of them perished in the process. The stories are replete with heroism and courage—but dying.

I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. 1602 and that the Senate then proceed to its immediate consideration; that the bill be read the third time, passed, and the motion to reconsider be laid upon the table, without intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. CORNYN. I object, Madam President.

The PRESIDING OFFICER. Objection is heard.

Mr. LAUTENBERG. Madam President, I know I have to surrender the microphone. I do it sadly, because I don't believe that the Senator from Texas, who raises the objection on behalf of the Republican Party, really would object to extending a deadline—no more money and nothing else has to be done except to say to these people that we have not forgotten. We remember that you died when America's invincibility was shattered. That is a day that will mark our coming and going forever. One need only remember what happens every time you take your shoes off at the airport, or you are forced to show your ID, or you are searched with a magnetic wand, or whatever, or the fence surrounding the Washington Monument so you cannot see it at ground level when you pass by on Constitution Avenue and fortresses are being built out there. They did this to us and we are going to have to live with that.

I wish reconsideration would be taken here in a discussion with the majority leader and the Senator from Texas, if he cares to be involved, and that we can pass that bill.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas is recognized.

JUDICIAL CONFIRMATION PROCESS

Mr. CORNYN. Madam President, I wish to speak for the next few minutes about the judicial confirmation process, now that we have passed the Medicare bill, which represents perhaps the single largest accomplishment of this session—a session filled with many important accomplishments. I want to revisit the judicial confirmation process because I think it is perhaps the one issue that has the greatest potential for constructive action in this body, and the one issue that has the most potential for destruction of constructive action in this body.

The American people have seen accusations fly back and forth in the Senate as we have observed partisan minority filibusters of President Bush's judicial nominees. As a relatively new Member of the Senate, I have no personal stake in these grievances over past perceived slights or actions. In fact, as the Chair knows, in April, all 10 freshmen Senators wrote a letter to the Senate leadership asking that we have a fresh start when it comes to the way we approach this process because, as we all know, any tactic or strategy used by a partisan minority now to obstruct President Bush's nominees, if successful, if allowed to proceed, will no doubt be sought to be used in the event a Democrat takes the White House and Republicans find themselves in the minority of this body.

I ask unanimous consent that the letter we freshmen Senators wrote to the leadership be printed in the RECORD.

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

U.S. SENATE,
Washington, DC, April 30, 2003.

DEAR SENATORS FRIST AND DASCHLE: As the ten newest members of the United States Senate, we write to express our concerns about the state of the federal judicial nomination and confirmation process. The apparent breakdown in this process reflects poorly on the ability of the Senate and the Administration to work together in the best interests of our country. The breakdown also disserves the qualified nominees to the federal bench whose confirmations have been delayed or blocked, and the American people who rely on our federal courts for justice.

We, the ten freshmen of the United States Senate for the 108th Congress, are a diverse group. Among our ranks are former federal executive branch officials, members of the U.S. House of Representatives, and state attorneys general. We include state and local officials, and a former trial and appellate judge. We have different viewpoints on a variety of important issues currently facing our country. But we are united in our commitment to maintaining and preserving a fair and effective justice system for all Americans. And we are united in our concern that the judicial confirmation process is broken and needs to be fixed.

In some instances, when a well qualified nominee for the federal bench is denied a vote, the obstruction is justified on the ground of how prior nominees—typically, the nominees of a previous President—were treated. All of these recriminations, made by

members on boths sides of the aisle, relate to circumstances which occurred before any of us arrived in the United States Senate. None of us were parties to any of the reported past offenses, whether real or perceived. None of us believe that the ill will of the past should dictate the terms and direction of the future.

Each of us firmly believes that the United States Senate needs a fresh start. And each of us believes strongly that we were elected to this body in order to do a job for the citizens of our respective states—to enact legislation to stimulate our economy, protect national security, and promote the national welfare, and to provide advice and consent, and to vote on the President's nominations to important positions in the executive branch and on our Nation's courts.

Accordingly, the ten freshmen of the United States Senate for the 108th Congress urge you to work toward improving the Senate's use of the current process or establishing a better process for the Senate's consideration of judicial nominations. We acknowledge that the White House should be included in repairing this process.

All of us were elected to do a job. Unfortunately, the current state of our judicial confirmation process prevents us from doing an important part of that job. We seek a bipartisan solution that will protect that integrity and independence of our Nation's courts, ensure fairness for judicial nominees, and leave the bitterness of the past behind us.

Yours truly,

John Cornyn, Lisa Murkowski, Elizabeth Dole, Norm Coleman, Lamar Alexander, Mark Pryor, Lindsey Graham, Saxby Chambliss, Jim Talent, John E. Sununu.

Mr. CORNYN. Madam President, I, frankly, think it would be just as wrong for that to happen as I do for a partisan minority to stand in the way of a bipartisan majority of the Senate, who stand ready to confirm many of President Bush's fine nominees.

I guess just when you think this process cannot get any worse, it does. The credibility of this process has recently been called into question by the disclosure of several internal memos written for Democratic Senators on the Judiciary Committee.

Madam President, as the Chair knows, and as all Members of this body know, there is currently an investigation ongoing by the Sergeant at Arms into the circumstances under which these memos became public to determine whether there was any wrongdoing in obtaining those memos, and, of course, we must withhold judgment until that investigation is complete and the facts are made known to the Members of this body. I trust we will do whatever the law and justice requires, and that we will follow the truth, wherever it may lead in the investigation and take appropriate action. I certainly support that.

These memos are available on the Web at *http://fairjudiciary.campsol.com.*

The fact is, these memos have now entered into the public domain, and I think it is important that we address these memos and what, in fact, they confirm about the obstruction and destructive politics that have taken hold of the judicial confirmation process and which have left me concerned that there is no foreseeable end to the current gridlock.

Let me go over a few of the examples. You will see here on this chart to my left, one internal memorandum, dated November 2001. It was reported that liberal special interest groups urged Senate Democrats to oppose the nomination of Miguel Estrada ''because he has a minimal paper trail, he is Latino, and the White House seems to be grooming him for a Supreme Court appointment.''

Such comments discredit the claim made by those who object to this nomination and who oppose Miguel Estrada's confirmation to the DC Circuit Court of Appeals and who say that ethnicity played no part in their obstruction. This memo stands in stark contrast to that claim. But the one thing I hope we can all agree to is that the Senate should not make any decisions about judicial nominees, or anyone else, period, based on their ethnicity or their race. Such actions demean not only this body but all of us, and the American people did not elect us to do any such thing.

Yet this memo makes clear—or at least adds credence to the argument that but for his ethnicity Miguel Estrada would be on the Federal bench today.

In another memo, dated November 7, 2001, Democratic staff asked the question, ''Who to fight?'' Which of President Bush's judicial nominees should be opposed? The answer: Texas Supreme Court Justice Priscilla Owen. Why? Because '' . . . she is from Texas and was appointed to the Supreme Court by Bush, so she will appear parochial and out of the mainstream.''

I served for 4 years on the Texas Supreme Court with Priscilla Owen. I know Priscilla Owen. It is obvious to me that the people who wrote this memorandum do not.

Nevertheless, they decided to use the terms ''parochial'' and ''out of the mainstream,'' and to suggest that simply because she was from Texas, she could be cast in an ignorant and unfair stereotype, which should never be appropriate, even in discussing judicial nominees.

I believe firmly that these nominees should be judged on their merits, not on their home State, and certainly not on the basis of any ignorant or ill-informed stereotype.

An April 2002 memorandum indicates some Democrats wanted to delay judicial nominees, not because of any lack of qualifications but because they wanted to influence the outcome of particular cases, a very troubling suggestion.

According to one memorandum, Elaine Jones of the NAACP Legal Defense Fund would like the committee to hold off on any Sixth Circuit nominees until the University of Michigan case regarding the constitutionality of affirmative action and higher education is decided en banc by the Sixth Circuit. The memo writer appears to have understood that such tactics were highly improper but chose to proceed with those plans anyway. The memorandum expressed concern about the propriety of scheduling hearings based on the resolution of a particular case but went on to say, ''nevertheless, we recommend that Sixth Circuit nominee Julia Scott Gibbons be scheduled for a later hearing.''

Even acts that are widely recognized as improper and inappropriate seem to have become fair game for obstructionists today.

Not only have we seen obstruction, we have seen destruction when it comes to the reputation of the nominees who have been proposed by the President by the use of vicious ad hominem character attacks. In public, leading Democrat Senators have called this President's judicial nominees everything from turkeys to neanderthals, to kooks, to selfish, despicable, and mean.

In memos, Democrats—the ones in the minority who obstruct the President's consideration of his nominees—seem to scrape the bottom of the barrel when it comes to vituperation, describing these widely respected nominees as alternately ugly, heartless, and even, as was reported in today's edition of the Washington Times, Nazis. This language is deplorable and simply has no place in the Senate.

After reading these offensive memos, we cannot, nor should America, harbor any further illusions about what is going on here. The current mistreatment of nominees is not politics as usual, it is politics at its worst and exposes those who would march in lockstep with ideologically driven special interest groups whose main purpose is to defeat these nominees—and not just defeat them but destroy their reputation.

I am sad to say that as long as these tactics continue without the condemnation they deserve, we will see only further degradation and a downward spiral of the judicial confirmation process. In the end, we all know who will pay the price. It is the American people who will pay the price.

Just so we understand why this is so critical to this process, why these memos, and what they reveal is so unfortunate and deplorable, in one of the memos it was made clear that one of the special interest groups that was monitoring this process would ''score this vote in the 2003 CONGRESSIONAL RECORD.'' In other words, these special interest groups are not only dictating the tune, expecting Senators to dance to that tune, but told that if they do not, they will be punished because their vote will be scored in mass mailings and advertising and other publications issued by the various special interest groups in the next election. This reveals something that should be very disconcerting to everyone and certainly to the American people.

The question that perhaps people who are paying attention, if there are people paying attention to my remarks today, would ask is: So what? What

does this mean? Why should we care? In the brief moments remaining, I will address why the American people should care and why we should care.

We have too often seen an unelected, lifetime-tenured judiciary make decisions based on dubious constitutional grounds that would never enjoy the support of the vast majority of the American people. Just one that comes to mind is a recent ruling of the Ninth Circuit Court of Appeals saying that the words ''under God'' in the Pledge of Allegiance may not be uttered in classrooms because it violates the first amendment separation of church and state.

That does not make any sense. It certainly cannot be the law. Yet we have lifetime-tenured judges who are stating that as if it were the law. Thank goodness that decision will be reviewed, and I hope expeditiously reversed, by the U.S. Supreme Court.

We have all sorts of strange things happening today. One recent article caught my attention: When current Supreme Court Justices in a recent speech said the decisions of other countries' courts should be persuasive authority in America's courts when interpreting what our law is, we ought to look to the law of the European Union or other countries, perhaps, to guide these American judges in interpreting American law and the American Constitution. Justice Breyer recently found useful, in interpreting the American Constitution, decisions by the Privy Counsel of Jamaica and the Supreme Courts of India and Zimbabwe. Later, Justice Kennedy of the United States Supreme Court cited a decision of the European Court of Human Rights in a decision handed down this month. Justice Ginsburg, joined by Justice Breyer, cited a decision by the International Convention on the Elimination of All Forms of Racial Discrimination in a recent case. It goes on and on.

Anyone who is paying attention to what Federal judges are doing today and what they view in terms of their obligation to interpret the law have to ask the question: What is going on? What would James Madison, Alexander Hamilton, Thomas Jefferson—what would our Founding Fathers say about what is happening in our Federal Judiciary today? We all know the answer. They would be shocked. We should be shocked as well.

Finally, this is an important debate because this determines what kind of country we are and what kind of country we will become. My hope and prayer is that in the intervening 2 months, when we come back, this debate will take on a new civil tone, we will deplore and avoid these tactics of the past and embrace the fresh start we so earnestly sought just a few short months ago.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

UNEMPLOYMENT COMPENSATION

Mr. LEVIN. Madam President, after the Senate adjourns for the year, the plan is for the Senate to reconvene on January 20 of next year. Unless Congress acts to extend Federal unemployment benefits, the so-called Temporary Extended Unemployment Compensation Program, before we adjourn, hundreds of thousands of unemployed Americans face the holidays with the prospect of losing their unemployment benefits on January 1. This lack of action would put us in exactly the same situation as last year: going home to our loved ones without helping jobless Americans during the holiday season.

At a minimum, we should extend the current Federal Unemployment Assistance Program for 6 months. At a minimum, we should stand by America's workers and help the unemployed during this holiday season.

According to the Center for Budget and Policy Priorities, in January, about 90,000 current unemployed workers are likely to exhaust their regular State benefits each week. Absent congressional action, starting January 1 next year, workers who exhaust their regular State benefits will no longer be eligible for the additional Federal benefits. The only people who will continue to receive those benefits will be those who have begun to receive their Federal benefits by January 1.

This chart shows where we are in terms of the Federal benefits. In the recession of 1974–1975, there were Federal benefits accumulating to 29 weeks. That is in addition to the 26 weeks of State benefits. In the 1981–1982 recession, again, 29 weeks of Federal benefits. In the 1990–1991 recession, 26 weeks of Federal benefits. Currently, until December 31 of this year, there will be 13 weeks of Federal benefits that are offered in addition to the 26 weeks in each of our States. That is what will disappear December 31.

This is a very modest program we have going. This is half of what we have done in the prior two recessions in terms of Federal benefits, slightly less than half of what we did in the recessions of 1974–1975 and 1981–1982, but exactly half of what we did in the 1990–1991 recession.

Currently, we only have 13 weeks of Federal benefits. This is going to run out on December 31 unless we act before we leave.

Some contend the issue of whether or not to extend the program and in what form can be dealt with when we return on January 20. I believe, however, by the time January 20 rolls around, it is going to be too late. In fact, we know it will be too late for thousands of unemployed who will have exhausted their benefits. So action is needed today. It is needed now or else this Federal benefit program, which is a modest program—again, I emphasize, half of what we have done in prior recessions—unless this is reauthorized today, it is going to run out and hundreds of thousands of unemployed Americans are going to see their benefits exhausted without the benefit of the Federal program.

In the month of January alone—this coming January—as many as 400,000 unemployed workers are going to exhaust their State benefits if we don't act.

The number of long-term jobless—that is the people who have been jobless 6 months or more—grew in October to over 2 million workers for the first time since this recession began. That represents an increase of over 700,000 workers compared to March 2002 when the current Federal unemployment program was most recently authorized.

The Federal extended benefits program which was implemented in the last recession did not end until the economy had added nearly 3 million jobs to the prerecession level. The current unemployment program is scheduled to end, although there are 3 million fewer private sector jobs than when this recession began.

Renewing this Temporary Emergency Unemployment Compensation Program, this Federal benefits program, is essential under these circumstances. The comparison on this chart is dramatic between what we did in prior recessions and this recession.

In prior recessions, we had twice the level of Federal benefits as we do now. We have a modest 13 weeks, half the level, and in the prior recession we waited to end the Federal program until millions of new jobs had been created.

Unless we act today, we will have lost 3 million jobs and still will be ending a Federal program which is so critically essential to those people who are unemployed.

The Department of Labor's announcement that 125,000 jobs were created in October and that the unemployment rate dropped to 6 percent, the first decline since I don't know how long—I don't have the exact date here, but in a long time—presents a glimmer of hope. It is a glimmer of hope at least in some places, but in my home State of Michigan the unemployment rate is 7.6 percent.

We, like most other States, are very dependent upon a minimum level of unemployment benefits. It would be unconscionable for this Congress to leave without renewing this program.

Factory employment in America declined for the 39th consecutive month by eliminating approximately 24,000 manufacturing jobs. So even though we had that slight increase in jobs in October, for the first time really, we are seeing a slight up-tick in the total number of jobs. We have at least some jobs being created. In the manufacturing sector, for the 39th consecutive month, we lost tens of thousands of manufacturing jobs.

America's manufacturing core has shed an average of over 50,000 jobs a month for the last 12 months. These manufacturing jobs, which build and sustain America's middle class, are disappearing. A total of over 2.5 million