

Bush. This total of 133 judges confirmed for President Bush is more confirmations than the Republicans allowed President Clinton in all of 1995, 1996 and 1997—the first 3 years they controlled the Senate process for President Clinton. In those 3 full years, the Republican leadership in the Senate allowed only 111 judicial nominees to be confirmed, which included only 18 circuit court judges. We have already exceeded that total by 20 percent and the circuit court total by 40 percent with 6 months remaining to us this year. In truth, we have achieved all this in less than 2 years because of the delays in organizing and reorganizing the Senate in 2001. The Judiciary Committee was not even reassigned until July 10, 2001, so we have now confirmed 133 judges in less than 2 years.

In the first half of this year, the 33 confirmations is more than Republicans allowed to be confirmed in the entire 1996 session, when only 17 district court judges were added to the Federal courts across the Nation. In the first half of this year, with 9 circuit court confirmations, we have already exceeded the average of seven per year achieved by Republican leadership from 1995 through the early part of 2001. That is more circuit court confirmations in 6 months than Republicans allowed confirmed in the entire 1996 session, in which there were none confirmed; in all of 1997, when there were 7 confirmed; in all of 1999, when there were 7 confirmed; or in all of 2000, when there were 8 confirmed. The Senate is moving two to three times faster for this President's nominees than for President Clinton's, despite the fact that the current appellate court nominees are more controversial, divisive and less widely-supported than President Clinton's appellate court nominees were.

The confirmation of David Campbell to the District Court for Arizona illustrates the effect of the reforms to the process that the Democratic leadership has spearheaded, despite the poor treatment of too many Democratic nominees through the practice of anonymous holds and other obstructionist tactics employed by some in the preceding 6 years. David Campbell is the fourth Federal judge confirmed from Arizona for President Bush. Under Democratic control, the Senate confirmed Judge David Bury, Judge Cindy Jorgenson and Judge Frederick Martone to the District Court for the District of Arizona.

If the Senate did not confirm another judicial nominee all year and simply adjourned today, we would have treated President Bush more fairly and would have acted on more of his judicial nominees than Republicans did for President Clinton in 1995-97 or the period 1996-99. In addition, the vacancies on the Federal courts around the country are significantly lower than the 80 vacancies Republicans left at the end of 1997 or the 110 vacancies that Democrats inherited in the summer of 2001.

We continue well below the 67 vacancy level that Senator HATCH used to call "full employment" for the Federal judiciary. Indeed we have reduced vacancies to their lowest level in the last 13 years. So while unemployment has continued to climb for Americans to 6.1 percent last month, the Senate has helped lower the vacancy rate in Federal courts to a historically low level that we have not witnessed in over a decade. Of course, the Senate is not adjourning for the year and the Judiciary Committee continues to hold hearings for Bush judicial nominees at between two and four times as many as it did for President Clinton's.

For those who are claiming that Democrats are blockading this President's judicial nominees, this is another example of how quickly and easily the Senate can act when we proceed cooperatively with consensus nominees. The Senate's record fairly considered has been outstanding—especially when contrasted with the obstruction of President Clinton's moderate judicial nominees by Republicans between 1996 and 2001.

Mr. NELSON of Florida. Mr. President, yesterday the Senate voted on the nomination of David Campbell to serve as a U.S. District Judge for the District of Arizona.

I was unable to vote because I was returning to Washington, DC from official travel to Iraq in connection with my duties as a member of the Senate Armed Services Committee.

Had I been present, I would have supported Mr. Campbell's confirmation to the district bench. After reviewing his credentials, I believe Mr. Campbell is well prepared to serve in this important position and has the proper judicial temperament to fairly and justly apply the law.

#### IN REMEMBRANCE OF SENATOR STROM THURMOND

Mrs. DOLE. Mr. President, I rise to speak on the passing of a dear friend and a leader in this Chamber, Strom Thurmond.

Strom retired this year at the age of 100—after more than a half century of serving the people of South Carolina and our Nation as U.S. Senator, as Governor of South Carolina, and as a State legislator. Remarkably, his career in the Senate spanned the administrations of 10 presidents—from Dwight Eisenhower to George W. Bush.

His passing certainly will be felt by so many Members of this Chamber who had grown accustomed to the courtly gentleman from South Carolina. But his life leaves a lesson for us all—in compassion, civility, dedication, hard work, and respect.

Before he was elected to the Senate in 1954 as the only write-in candidate in history to win a seat in Congress, Strom Thurmond was elected county school superintendent, State senator, and circuit judge until he resigned to enlist in the Army in World War II. He

landed in Normandy as part of the 82d Airborne Division assault on D-day, and the story goes, flew into France in a glider, crash-landed in an apple orchard. He went on to help liberate Paris, and he received a Purple Heart, five battle stars, and numerous other awards for his World War II service.

My husband, Bob, and I were honored to have known Strom Thurmond for so many years and to count him among our friends. He and Bob shared a great deal of common history dating from their World War II days, and his Southern gallantry always had a way of making this North Carolinian feel right at home.

I first worked with Strom Thurmond when I served as Deputy Special Assistant to the President at the White House. Even then, he was an impressive Senator. President Reagan praised his "expert handling," as chairman of the Senate Judiciary Committee, of nominees to the U.S. Supreme Court. In fact, it was Strom Thurmond's skill as chairman that helped to shepherd through the nomination of Sandra Day O'Connor as the Nation's first female on the United States Supreme Court.

I always admired Strom Thurmond for his constant dedication to the people of South Carolina and the industries of that State. Bob Dole has joked that "Someone once asked if Strom had been around since the Ten Commandments." Bob said that couldn't have been true—if Strom Thurmond had been around, the 11th Commandment would have been "Thou shall support the textile industry." That industry still needs a lot of help. In fact, when President Reagan called Strom to wish him a Happy 79th birthday back in 1981, Strom Thurmond, with his constant attention to South Carolina interests, used the opportunity to talk to the President about the textile industry.

Indeed, South Carolina is full of stories of how the senior senator from South Carolina managed to cut through red tape to make sure that his residents got the things they needed. And whenever South Carolinians called—or anyone else for that matter—Strom Thurmond could always be counted on to show up: at a Fourth of July parade, a county festival, or a State fair, armed with his trademark Strom Thurmond key chains.

And North Carolinians developed a fondness for Strom Thurmond. He often flew into Charlotte before driving to his Edgefield, SC home. And he became so familiar in the airport that many of the workers there knew him—and he knew them, often stopping to share a kind word or a funny story.

And I was so honored that just before he went home for good, he came in his wheelchair, with Nancy's help, to visit me in my basement office and welcome me to the Senate.

Bob and I sent our heartfelt condolences to Strom's family: our dear friend Nancy and the children, and daughter, Julie, who worked with me

at the Red Cross. He was a loving husband, proud father, and a new grandfather. And, of course, he loved the people of South Carolina—for whom he worked tirelessly throughout his career in public service, and to whom he chose to return when his work was done in the Senate.

Today, as I remember him, his life, and his legacy, I think of the Bible in the 25th Chapter of Matthew, when the Lord said, "Well done, thou good and faithful servant. . . . Enter thou into the joy of the Lord."

May God bless him and his family.

#### LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a series of terrible crimes that occurred in Ashton, MD. During September 2001, an Arab-American homemaker was attacked and her property vandalized by a female neighbor. The neighbor spread feces across the Arab Americans' porch three times, pelted the home with dead plants, and doused the woman with liquid. The neighbor doused the Arab-American woman a second time, this time with bleach, which burned the victim's skin and discolored her clothes.

I believe that government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

#### JUDGES ACT

Mr. LEAHY. Mr. President, earlier this year, the House Republicans saddled the bipartisan, non-controversial AMBER Alert bill with numerous unrelated and ill-conceived provisions, collectively known as the "Feeney amendment," that effectively overturned the basic structure of the carefully crafted sentencing guideline system. At the time, we were warned by distinguished jurists that these provisions would irrevocably harm our sentencing system and compromise justice. For example, the Nation's Chief Justice warned that the Feeney amendment, if enacted, "would do serious harm to the basic structure of the sentencing guideline system and would seriously impair the ability of courts to impose just and responsible sentences." Despite such objections, and without any serious process in the House or Senate, these provisions were pushed through conference with minor changes and enacted.

We are now beginning to witness the far-reaching impact of this folly. Not only have we compromised the sentencing system, but we have alienated and minimized the effectiveness of our Federal judges, prompting at least one to announce early retirement.

As enacted, the Feeney amendment, substantially reversed provisions allowing Federal judges to depart from sentencing guidelines when justice requires. It also created a "black list" of judges who impose sentences that the Justice Department does not like, and limited the number of Federal judges who can serve on the Sentencing Commission, thus reducing the influence of practical judicial experience on sentencing decisions.

In response, in a June 24 op-ed in the New York Times, Republican-appointed district judge and former Federal prosecutor, John S. Martin, Jr., decried these provisions as "an assault on judicial independence," "at odds with the sentencing philosophy that has been a hallmark of the American system of justice," and tragically, the impetus for his decision to retire from the bench, rather than exercise his option to continue in a lifetime position with a reduced workload. "When I took my oath of office 13 years ago I never thought I would leave the Federal bench. . . . I no longer want to be part of our unjust criminal justice system."

It is shameful that we have allowed such half-baked, poorly-crafted legislation to lead to the loss of a judge that has dedicated his career to fighting crime and preserving justice. When he was appointed by the first President Bush in 1990, Judge Martin brought with him to the bench years of knowledge and experience as a Federal prosecutor, including 3 years as a U.S. Attorney for the Southern District of New York. As a former Federal prosecutor, he is no slouch on crime. He knows very well the importance of vigorously pursuing and punishing wrongdoers. But his experience has also taught him that these goals cannot trounce the equally-critical pursuit of justice and fairness.

Unless we reverse the damaging provisions in the Feeney amendment, we will continue to compromise justice, alienate Federal judges, and threaten the stability and integrity of our judicial system. That is why I joined Senators KENNEDY, FEINGOLD, and LAUTENBERG in introducing the Judicial Use of Discretion to Guarantee Equity in Sentencing Act of 2003, or the JUDGES Act. This bill would correct the Feeney amendment's far-reaching provisions by restoring judicial discretion and allowing judges to impose just and responsible sentences. In addition, the JUDGES Act would reverse the provisions limiting the number of Federal judges who can serve on the Sentencing Commission. Finally, the JUDGES Act would follow through on the advice of Chief Justice Rehnquist to engage in a "thorough and dispassionate inquiry" on the Federal sentencing structure by

directing the Sentencing Commission to conduct a comprehensive study on sentencing departures and report to Congress with 180 days.

In his New York Times op-ed, Judge Martin raised another important point: Limiting judicial discretion and involvement in sentencing practices also reduces the personal satisfaction that judges derive from knowing that they are integrally involved in promoting a more just society, and in doing so removes a powerful incentive that prompts potential judges to accept a judicial appointment, despite inadequate pay. "When I became a Federal judge, I accepted the fact that I would be paid much less than I could earn in private practice. . . . I believed I would be compensated by the satisfaction of serving the public good—the administration of justice. In recent years, however, this sense has been replaced by the distress I feel at being part of a sentencing system that is unnecessarily cruel and rigid."

We all know that judicial pay is a challenging issue. Indeed, this is why I introduced a bill, S. 787, to restore the many cost of living adjustments that Congress has failed to provide the judiciary, and have joined Chairman HATCH and many other members of the Judiciary Committee in sponsoring S. 1023 to increase the annual salaries of Federal judges and justices. I encourage my colleagues to support these efforts. But I ask them not to make the challenge of judicial pay worse by taking away the intangible compensation that is the satisfaction from serving the public good. Unfortunately, the Feeney amendment has done just that.

I again urge my colleagues to support the JUDGES Act, and I ask unanimous consent that Judge Martin's June 24 op-ed be printed in the RECORD.

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

[From the New York Times, June 24, 2003]

LET JUDGES DO THEIR JOBS

(By John S. Martin Jr.)

I have served as a federal judge for 13 years. Having reached retirement age, I now have the option of continuing to be a judge for the rest of my life, with a reduced workload, or returning to private practice. Although I find my work to be interesting and challenging, I have decided to join the growing number of federal judges who retire to join the private sector.

When I became a federal judge, I accepted the fact that I would be paid much less than I could earn in private practice; judges make less than second-year associates at many law firms, and substantially less than a senior Major League umpire. I believed I would be compensated by the satisfaction of serving the public good—the administration of justice. In recent years, however, this sense has been replaced by the distress I feel at being part of a sentencing system that is unnecessarily cruel and rigid.

For most of our history, our system of justice operated on the premise that justice in sentencing is best achieved by having a sentence imposed by a judge who, fully informed about the offense and the offender, has discretion to impose a sentence within the statutory limits. Although most judges and legal