What do we know about him? Born in Buffalo, NY, in 1955, Judge Roberts was raised in Indiana with his three sisters. He ventured off to Massachusetts for college at Harvard and graduated summa cum laude with a bachelor's degree in, as we have heard, only 3 years. During the summers, he worked at a steel mill to help pay for college.

But his academic journey did not stop here. He then enrolled in Harvard Law School, where he once again excelled. He earned the coveted position of editor of one of the most well-respected law journals in the country, the Harvard Law Review.

After graduating from law school with high honors, Judge Roberts served as a law clerk to Judge Henry Friendly on the Second Circuit, and then to William Rehnquist, who was then an Associate Justice on the Supreme Court.

In 1981, he continued his legal career at the Department of Justice as the Special Assistant to the U.S. Attorney General, and then as Associate Counsel to President Reagan.

In 1986, Judge Roberts entered private practice, joining the law firm of Hogan & Hartson, where he specialized in civil litigation. Three years later, he returned to public service as the Principal Deputy Solicitor General of the United States.

During his legal career, he has argued an impressive 39 cases before the Supreme Court—39 cases. To put that in perspective, only a few of the 180,000 members of the Supreme Court bar have ever argued a single case before the high Court.

In January 2003, President Bush nominated Judge Roberts to serve on the DC Circuit Court of Appeals, often referred to as the second highest court in the land.

Upon his nomination to the appellate court, more than 150 members of the DC Bar—including both Republicans and Democrats—expressed support for Judge Roberts. In a letter to the Senate Judiciary Committee, they wrote that Judge Roberts is ''one of the very best and most highly respected appellate lawyers in the nation, with a deserved reputation as a brilliant writer and oral advocate.''

Judge Roberts' nomination was well received by the Judiciary Committee and was favorably reported out of the committee by an overwhelming, bipartisan vote of 16 to 3, and on May 8, 2003, he was unanimously confirmed by the Senate.

I believe Judge Roberts is exactly the kind of Justice America expects on the Supreme Court. He is among the best of the best legal minds in America. He is a mainstream conservative, someone who understands that the role of a judge is to interpret the law and the Constitution and not to legislate from the bench.

He is someone who will be fair, open-minded, and impartial—not someone who will prejudge cases, predetermine outcomes, or advance a personal political agenda.

In short, he is a Supreme Court nominee who will make America proud. Throughout his life, Judge Roberts has worn many hats: a devoted husband and father of two, a skilled litigator, and a superb jurist. I am confident Judge Roberts will be an asset to the Supreme Court and that he will serve with honor and distinction, just as he has on the DC Circuit Court.

As we look ahead, I do encourage my colleagues to remain focused on our three goals: first, conducting a fair and thorough confirmation process; second, treating Judge Roberts with dignity and respect; and, third, having an up-or-down vote on Judge Roberts before the Supreme Court starts its new term on October 3.

These goals are reasonable. These goals are achievable. There are 75 days from today until October 3. It took an average of 62 days from nomination to confirmation for all the current Supreme Court Justices. It only took an average of 58 days to confirm President Clinton's nominees, Justices Breyer and Ginsburg. And even though some Senators held different philosophical views from these Justices—in many cases vastly different philosophical views—they both received up-or-down votes and were confirmed by wide margins. These nominations serve as useful models for us today.

Ultimately, I hope this process is marked by cooperation, and not confrontation, and by steady progress, not delay and obstruction.

This morning, less than 12 hours after the President's announcement, some extreme special interest groups already are mobilizing to oppose Judge Roberts. They are not even giving him the courtesy of reserving judgment until the Judiciary Committee hearings. Together, as Senators, we can rise above the partisan rhetoric and obstruction that has gripped the judicial nominations process in the past.

A thorough investigation and debate on Judge Roberts does not require delay or personal attacks or obstruction. A fair and dignified process is in the best interests of the Senate, the Supreme Court, the Constitution, and the American people.

I look forward to welcoming Judge Roberts to the Senate a bit later today. I urge my colleagues to join me in congratulating him on his nomination to the Supreme Court.

Mr. President, I yield the floor.

RECOGNITION OF THE MINORITY LEADER

The PRESIDENT pro tempore. The Democratic leader is recognized.

NOMINATION OF JOHN ROBERTS TO THE UNITED STATES SUPREME COURT

Mr. REID. Mr. President, as we all know now, last night the President announced he will nominate John G. Roberts of the District of Columbia Court of Appeals to the U.S. Supreme Court. I congratulate Judge Roberts on this most high honor.

Now the Senate begins the process of deciding whether to confirm Judge Roberts to a lifetime seat on the Supreme Court. The Supreme Court is the final guardian of the rights and liberties of all Americans. Serving on the Court is an awesome responsibility, and the Constitution gives the Senate the final say in whether a nominee deserves that trust. We should perform our constitutional role with great care.

Under the leadership of Chairman SPECTER and Ranking Member LEAHY, I am convinced the Judiciary Committee is in good hands. Two of our most respected, experienced lawyers in the Senate are going to operate this hearing process. They are exemplary of how we should work on a bipartisan basis. Since they have taken over the responsibilities of the Judiciary Committee, there has been real congeniality. Members of the committee seem to be more productive. I am very happy with both Senator SPECTER and Senator LEAHY.

It goes without saying, as we have heard from the distinguished majority leader, that John Roberts has a distinguished legal career. It is very impressive. Both in Government and in private practice, he has been a zealous and often successful advocate for his clients. As we have learned, he has argued 39 cases before the Supreme Court. For those of us who are lawyers, that is what we would say is a big deal. By all accounts, he is a very nice man. I have not met him. I look forward to doing that this afternoon.

While these are important qualities, they do not automatically qualify John Roberts to serve on the highest court in the land. Nor does the fact that he was confirmed to serve on the Court of Appeals mean he is entitled to be automatically promoted.

The standard for confirmation to the Supreme Court is very high. A nominee must demonstrate a commitment to the core American values of freedom, equality, and fairness. Senators must be convinced that the nominee, John G. Roberts, will respect constitutional principles and protect the constitutional rights of all Americans.

So the expectations for Judge Roberts are especially high because he has such large shoes to fill, and I do not mean that literally—large judicial shoes.

Justice Sandra Day O'Connor has been a voice of reason and moderation on the Court for 24 years. She has been the deciding vote in some of the most important questions in our society: Questions of civil rights, civil liberties, the right to privacy, and the first amendment freedoms of speech and religion.

I don't know very much about John Roberts. But one of the things I am going to look for as a lawyer, as someone who has practiced in the trial bar and, to a more limited extent, the appellate level—I argued cases before the

Nevada Supreme Court and the Ninth Circuit, but I certainly don't hold myself out to be an expert in appellate law; I consider myself to be an expert on the trial bar—I believe it is important that we have a person on the Court who believes in precedent, stare decisis, something we learned about in law school. I am hopeful that John Roberts will follow along the same line he took up when he appeared before the Judiciary Committee last time, indicating that he believed in precedent. Justice O'Connor, therefore, should be replaced by someone like her in the constitutional mainstream.

To gather the information it needs to make this decision, the Senate turns, first and ultimately for our ability to get information, to the Judiciary Committee. As I have indicated, I have confidence that the Judiciary Committee will garner information that is important to the American people and allow us to have a better picture of this man with his impressive legal resume. Clearly, a judicial nominee should not comment on pending cases—we all understand that—but there are many other questions a nominee must answer. I encourage Judge Roberts to be forthcoming in responding to the committee's questions and providing written materials requested by the Senate.

In the end, Judge Roberts must demonstrate to the Senate that he is a worthy successor to Justice O'Connor. To do that, he must win the confidence of the American people that he will be a reliable defender of their constitutional rights. Judge Roberts has argued many cases in his career, but this is his most important by far.

Since Justice O'Connor announced her retirement, I have called on the President to choose a nominee who can unite the country, not divide it. It remains to be seen whether John Roberts fits that description. I hope that he does. I look forward to giving him the opportunity to make his case to the American people.

I yield the floor.

The PRESIDENT pro tempore. The majority whip is recognized.

Mr. MCCONNELL. Mr. President, I rise to address the Senate on the issue brought to the fore last night by the nomination of John Roberts to be Associate Justice of the U.S. Supreme Court.

Judge Roberts, as we are all beginning to learn, has an impressive record. He has keen intellect, sterling integrity, and a judicious temperament. Most importantly, Judge Roberts will faithfully interpret the Constitution, not legislate from the bench. He has earned the respect of his colleagues, and I am confident he will make a fine addition to the U.S. Supreme Court.

He was raised in middle America in Indiana, a neighboring State to my own State of Kentucky. Judge Roberts is a son of the Midwest who went on to argue a remarkable 39 cases before the Supreme Court, more than virtually any other member of the Supreme Court bar. He graduated summa cum laude from Harvard and then graduated with high honors from Harvard Law School where he served as an editor of the Harvard Law Review. If that were not enough, he then went on to clerk for Chief Justice William Rehnquist, actually during the Chief Justice's period as Associate Justice, and served in various positions in the Justice Department. Now he serves with distinction on the DC Circuit Court of Appeals, often referred to as the second highest court in the land, and, of course, the Senate unanimously confirmed him to that position in 2003.

The President of the United States has discharged his constitutional obligation under article II, section 2 to nominate justices of the Supreme Court. He has chosen a truly outstanding nominee. It is now our job to provide advice and consent. In doing so, we should follow basically three principles. No. 1, we should treat Judge Roberts with dignity and with respect. No. 2, we should have a fair process. And No. 3, we should complete that process with either an up-or-down vote in time for the Court to be at full strength for its new term beginning October 3 of this year. These principles are simple and they are sound. Unfortunately, the Senate has not always followed them.

As to the first principle, the Senate has not always treated judicial nominees of Republican Presidents with respect. Last Friday, for example, I recounted how some of our colleagues spoke harshly about Justice Souter's fitness for office. Our colleagues' harsh criticism of Justice Souter was hardly unique. President George Herbert Walker Bush's other Supreme Court nominee, Justice Clarence Thomas, suffered far worse attacks. By engaging in an unprecedented level of consultation, the President has respected the views of Senators. Now Senators ought to reciprocate and treat Judge Roberts with the same dignity and respect that we afforded President Clinton's Supreme Court nominees over the last 10 years.

The Senate did not defeat Justice Ginsburg's nomination, even though she had argued in her capacity as a private lawyer for such provocative positions as abolishing Mother's Day and Father's Day in favor of a unisex parents day, and for other even more colorful positions. Those arguably unusual positions were not held against her during her confirmation process. I can recall voting for Justice Ginsburg myself. Similarly, we should not caricature Judge Roberts' beliefs or views. We should not attribute to him the actions of clients he has represented. We certainly should not criticize Judge Roberts because his position in a particular case did not mirror a Senator's personal policy preferences, nor when it comes to a fair process should we require Judge Roberts to prejudge cases or to precommit to deciding certain issues in a certain way. We should respect the fact that he may place himself in a compromising position by doing so, just as we did with Justice O'Connor, Justice Ginsburg, and other nominees who have come before us in the past. The inquiry should be thorough but at the same time fair.

Slow walking the process beyond historical norms and engaging in a paper chase simply to delay a timely up-or-down vote are not hallmarks of a fair process. The Supreme Court begins its new term on October 3. As Senator FRIST has pointed out, the average time for a nomination to confirmation for the current justices was 62 days. The average time from nomination to confirmation for President Clinton was 58 days. Justice Ginsburg was confirmed in only 42 days. The Senate has 72 days to complete action on Judge Roberts' nomination, in time for him to join the Court by the start of its new term, October 3. By any standard, that is a fair goal. What is not fair and what is, quite frankly, a little curious is for some of our colleagues who, before even having heard a single word of testimony, have already come up with excuses as to why we should depart from this historical standard. It is disturbing that they seek to justify so far in advance why the Court should begin its proceedings at less than full strength.

We, on this side of the aisle, are not asking the Senate to change its practices or standards. We are not asking that this President be treated better than his immediate predecessor. We are asking for equal treatment. Let's treat President Bush's nominees as we treated President Clinton's nominees. I am hopeful that the respect the President has shown the Senate will be reciprocated and that our handling of Judge Roberts' nomination will bring credit to the Senate.

I yield the floor.

The PRESIDENT pro tempore. The Senator from Kansas.

Mr. BROWNBACK. Mr. President, I join my colleagues in making brief comments about the selection of Judge John Roberts from the DC Circuit Court of Appeals to serve as Associate Justice of the U.S. Supreme Court, and I follow my colleague from Kentucky in noting how Ruth Bader Ginsburg was treated—appropriately, properly, with due diligence, and speed so that the nomination went through in an orderly process. She took the seat of Justice Byron White who was one of the dissenters in Roe. A number of my colleagues are saying we need to have somebody in this position that is exactly the same as Sandra Day O'Connor in her position. Yet that wasn't the standard that was applied in the most recent case with Ruth Bader Ginsburg, the replacement for Justice Byron White.

The process is as it is. The President nominates. The President campaigned vigorously about the role of the Supreme Court and the role of the courts in society today. He has made a noteworthy choice, a person of outstanding

academic credentials. I have heard a colleague of mine say: I don't know yet how I will vote, but I would certainly hate to argue a case against him. Somebody who has argued 39 cases in front of the Supreme Court is very impressive indeed. But I also would like to note that the process is for the President to nominate and us to vote by a majority. That has been the historical setting, and that is what we should continued to do in this case.

My colleagues have already outlined some of Judge Roberts' excellent legal credentials. He graduated magna cum laude from Harvard Law School. He clerked for then-Associate Justice Rehnquist.

He served as Principal Deputy Solicitor General at the Department of Justice. He amassed a strong record as a Supreme Court advocate in private practice and has distinguished himself as a judge on the court of appeals. As one of my colleagues said last night, Senator SCHUMER, Judge Roberts has the ''appropriate legal temperament and demeanor.'' We would call that, from my part of the country, ''midwestern calm.'' He has a great deal of calm demeanor about him that is quite good for judicial temperament.

I was particularly struck by Judge Roberts' statement at the White House yesterday evening, speaking extemporaneously and with all the skill of a practiced lawyer and as a person of not only a well-trained mind but a deep heart. He said he had a ''profound appreciation for the role of the Court in our constitutional democracy.'' The role of the Court in American life and Government is of great concern to the country today. That statement means a lot—rule of law rather than the rule of man. We are a country of laws, ruled by laws and not by the whim of any person or any five people. It is a set of laws. It is a Constitution. That is what rules in this country.

It is my hope that Judge Roberts and any nominee to the Supreme Court would be faithful to the role originally intended for the courts by the Framers of the Constitution. In our system of government, the Constitution contemplates that Federal courts will exercise—this is very clear within the Founders—limited jurisdiction. The Federal court is to be a limited jurisdiction court. They should neither write nor execute the laws but simply ''say what the law is,'' as former Chief Justice Marshall stated in Marbury v. Madison.

As Alexander Hamilton explained, this limitation on judicial powers is what would make the Federal judiciary the ''least dangerous branch.'' In his view, judges could be trusted with power because they would not resolve divisive social issues, short circuit the political process, or invent rights which have no basis in the text of the Constitution. That was simply not the role of the courts. They were simply to say what the law is, not to write it, not to execute it.

The expanded role assumed by the Supreme Court in recent years—and in Federal courts generally—makes it all the more important that Judge Roberts exhibit proper respect for the restrained role of the Federal courts in American Government. I hope the confirmation process demonstrates that he will live up to the President's ideal of nominating individuals who will refrain from making law on the bench.

This is a big issue in society today. People want to have legislatures to make laws. That is what we do. They want to have executive branch to execute. That is what they do. And the Court simply says what the law is. It does not write it.

Speaking of the confirmation process, I will say a few words about what to expect in the days ahead. Judge Roberts hardly had a chance to step before the cameras last night before interest groups had attacked him. MoveOn.Org attacked Roberts as a ''right-wing corporate lawyer and ideologue.'' NARAL Pro-Choice America blasted Roberts immediately as an ''anti choice extremist,'' urging him to ''help save the Supreme Court from President Bush.''

Even though Judge Roberts was approved as a DC Circuit Court judge in 2003, 2 years ago, without objection, and received the vote of Ranking Member LEAHY in the Judiciary Committee at that time as well, the interest groups immediately came out, before a word was said, even before the President presented him to the public, and made these sorts of characterizations of Judge Roberts. It is not right. It is not the process we should follow. We should look to the record of the individual and we should hold open and in-depth hearings. But there should not be these sorts of characterizations. These statements smack of personal attacks and litmus tests and are not becoming of a serious, openminded debate on the nominee.

I hope my colleagues resist the demands from these outside groups for knee-jerk opposition to Judge Roberts. We should instead live up to the tradition of careful, considered debate, which is the heritage of this great institution. Our deliberation on this nomination should be respectful and it should focus on substance.

It would be a tragedy for this body, and for the Republic, if the confirmation process for Judge Roberts reflects the treatment some of President Bush's nominees to this point, including Roberts himself in looking to be a circuit court nominee, have received. Judge Roberts' pleasant demeanor should be matched by civil treatment in the Judiciary Committee and on the Senate floor.

Finally, neither filibusters nor supermajority requirements have any place in the confirmation process. Those tactics of obstruction should become the historical relics they deserve to be. The country deserves, and the Constitution demands, a prompt, thorough debate, and a fair up-or-down vote on Judge Roberts' nomination to the Supreme Court. I look forward to being an active participant in that process and also to having this debate about the role of the courts in American society and American Government today. I think it is important that we have those debates. This is an eminently qualified nominee. He deserves fair treatment and a fair up-or-down vote.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. TALENT). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. COLEMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. COLEMAN. Mr. President, the nomination of a Justice to the Supreme Court of the United States is a solemn and momentous occasion. Our Constitution is the rarest of political documents in human history. Those individuals who are appointed for life to be its stewards and interpreters are extremely important to our future.

Each Court is made up of nominees from different political eras, shaped by unique forces and ideas. It is the dialog among the senior Justices and the new ones, those nominated by Democrats and Republicans, and all the backgrounds represented, that gives the Court its legitimacy and dynamism.

The PRESIDING OFFICER. The time designated for the majority has expired, unless the Senator gets unanimous consent for additional time.

Mr. LEAHY. Mr. President, reserving the right to object, how much time would the Senator be seeking? The only reason I ask is we are having a major hearing in Judiciary right now and we are trying to work it out based on the time that had been allotted.

Mr. COLEMAN. No more than 7 minutes. I can probably do it in 5.

Mr. LEAHY. Mr. President, I am worried about that hearing. Let's do this. I want to accommodate my colleague. I ask unanimous consent that he be allowed to continue for 5 minutes, but that the time not come from the time reserved for the Democratic side.

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

Mr. COLEMAN. Mr. President, I thank the Senator for that opportunity.

When the Court begins its term in October, we will include nominees spanning seven administrations and people shaped by events from Watergate to September 11 and beyond.

The Founders invested the President with the power to make nominations to the Federal judiciary and gave the Senate the role of providing advice and consent with respect to any nominee.

I am pleased that after extensive and unprecedented consultation with the Senate, President Bush announced Judge John Roberts as his nominee to

be the next Associate Justice of the Supreme Court, filling the vacancy left by Justice O'Connor.

Judge Roberts has a distinguished record and extensive experience. Judge Roberts graduated summa cum laude from Harvard University and Harvard Law School.

Judge Roberts clerked for Judge Henry Friendly on the Second Circuit and later for Justice William Rehnquist at the Supreme Court. After his clerkships, he served in the Department of Justice as associate counsel to President Ronald Reagan before going into private practice.

After 3 years in private practice, Judge Roberts returned to the Department of Justice as Principal Deputy Solicitor General, a position in which he briefed and argued a variety of cases before the Supreme Court.

Judge Roberts reported favorably out of the Senate Judiciary Committee by a vote of 16 to 3, and he was confirmed by the Senate for the DC Circuit Court of Appeals by a voice vote. The Presiding Officer and myself were there at that time. By unanimous consent this judge was confirmed.

I look forward to learning more about the nominee's views on the proper role of the judiciary at his confirmation hearings, as well as a thorough floor debate in which all are heard.

Again, and above all, Judge Roberts' nomination should be handled with the utmost dignity and respect, which the position he has been nominated to deserves. The fact that the nominee is a person of character and integrity will add to the tenor of the proceedings.

The nominations process needs to be fair, including a fair hearing, a floor debate in which all views are heard, and then an up-or-down vote on confirmation, so he can be sitting on the Supreme Court when the term begins in October of this year.

Judges are like umpires. They should be neutral. We trust them not to pick sides before the game begins but to fairly apply the rules. We should measure our nominees on whether they will give all parties a fair shake and consider the merits of every dispute, not based on whether we like particular results.

In carrying out my part in the Senate's role, I have always believed our Founding Fathers intended judges to interpret the Constitution rather than make law from the bench. The law needs to be stable and dependable, for the good of the whole society. I will continue to evaluate nominees based on whether they demonstrate competence, appropriate judicial temperament, and a commitment to the fair construction of our Constitution and our laws.

It is important that the Senate act promptly so we have a nine-member Supreme Court in October when the new term begins. There is no reason why that should not happen.

I commend the President for both his selection and the process he went through to make it. Sandra Day O'Connor has been a historic and wise figure on the Court. I hope her legacy of grace and class will extend to the process by which her seat on the Court will be filled. When Ronald Reagan appointed her, it changed our Nation for the better, and she has been a remarkably strong and influential figure even outside the confines of the Court.

I am honored by the opportunity the people of Minnesota have given me to examine the President's nominee. I will render a judgment on the President's choice with the values and expectations of Minnesotans in mind. It is an exciting time for this country to reexamine our constitutional processes and democratic institutions and come together. I think that is important. We have a unique opportunity to come together and have a dignified process, not to be pulled by special interest groups that will try to dictate what we should do based on their beliefs rather than what is good for the country. What is good for the country is to have a process in which we examine the character and integrity and judicial temperament of a candidate, not their position on a particular case. If you look at the history of Judge Roberts, who was in the Solicitor General's Office, he argued cases there; he did his job. Folks will say he argued that the Supreme Court doesn't require taxpayers to pay for abortions. They will point to a case where he defended U.S. law to protect the American flag. He was doing his job and he did it well. We should be looking at whether he did it well.

I commend the President on his choice and look forward to a confirmation process of dignity, respect, and commitment to the best interests of our Nation a generation into the future.

We pride ourselves on being the greatest deliberative body in the world. This is our moment to show that to the country and the world. Let us do it right.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, I ask unanimous consent that, in light of the additional 5 minutes on the other side, 5 minutes also be added to the time on this side.

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

Mr. LEAHY. I thank the distinguished Presiding Officer.

Mr. President, capping days of public speculation that maybe the President would appoint Judge Edith Clement or Attorney General Alberto Gonzalez or any number of other people, the President made a dramatic evening announcement of his intention to nominate Judge John Roberts to succeed Justice Sandra Day O'Connor on the U.S. Supreme Court.

The President called Senator FRIST, Senator REID, Senator SPECTER, and myself last night before this announcement to discuss it. I appreciated his call and the reasons he gave for the nomination. As I said to him last night, he has done his part of the equation, a very important part as President. He nominates the Justice. It is interesting that, in a nation of 280 million Americans, only 101 of us get a chance to actually have a say in who is going to serve on the Supreme Court, a person who is there to protect the rights of all Americans on the one body that is to be the ultimate check and balance in our Government. Of the 101, first, of course, is the President making the nomination. But then the 100 men and women in the Senate have an awesome responsibility to the rest of the Nation in how we vote. That is our job. The Senate has to fulfill its constitutionally mandated duty to ensure those who receive lifetime appointments to our highest Court will protect the rights and liberties of all Americans—not those of just one political party or the other but of all Americans—that they will uphold our Constitution and our laws and that they will be impartial in their judicial approach.

As I said, the President has announced his choice. Now we in the Senate have to rise to the challenge and get to work. To fulfill our constitutional duties, we need to consider this nomination as thoroughly and carefully as the American people expect and deserve. That is going to take time. It will take the cooperation of the nominee and the administration. It will require Republicans, as well as Democrats, to take seriously our constitutional obligations on behalf of all the American people, not just a select few. I will say similar things to Judge Roberts when I meet with him later today.

Justice O'Connor serves as a model Justice. She is widely respected by America as a jurist with common sense and practical values who brought no agenda from the far left or the far right. She did not prejudge cases. She cast the critical deciding vote in a number of significant cases. Her legacy of fairness is one that all Americans should want to see preserved. For 24 years on the Supreme Court, she has tried to decide cases fairly and with an open mind. I thank her for her service to the country and her graciousness in agreeing to serve until her successor is considered and confirmed by the Senate and appointed by the President.

I regret that some on the extreme right have been so critical of her and so adamantly opposed to a successor who shares her judicial philosophy and qualities. Their criticism reflects their own narrowmindedness and biased agenda. I regret that they have taken out ads and gone on the news trying to tarnish her record. Frankly, the American people know better, and nothing will tarnish the record of the first woman Justice of the U.S. Supreme Court.

I have noted that our neighbor to the north, Canada, a country that is only an hour's drive from my home in

Vermont, also has a supreme court with nine members, but four of them are women, including the Canadian chief justice. I look forward to the time when the membership of the U.S. Supreme Court is more reflective of America as Canada's supreme court is more reflective of that country.

I know Hispanics across the country are disappointed the President has missed this extraordinary historic opportunity to pick a candidate who will make the Court more diverse. I hope he will consider that in future nominations.

There was no dearth of highly qualified individuals who could have served as unifying nominees while adding to the diversity of the Supreme Court. Reports last week mentioned Judge Sonia Sotomayor of the Second Circuit and Judge Edward Prado of the Fifth Circuit. Certainly these are the kind of candidates worthy of consideration.

Judge Sotomayor was first appointed to the Federal court by President George H.W. Bush, the President's father. Judge Prado was first appointed by President Reagan and elevated to the circuit by the current President Bush. They are among the people who should be considered. There are many outstanding Hispanic judges and African-American judges who could have added to the diversity of the Supreme Court and made it more representative of all Americans.

Last week, Chairman SPECTER and I spoke about our interests in having the President consider nominees from outside what I call the ''judicial monastery.'' I believe their life experience is important and that the Supreme Court could have benefited from someone with experiences that were not limited to those of a circuit judge. Certainly, this is a consideration the President should make if he has further nominees. I wish he had done so with this nomination.

So now, however, the nomination has been made. The President has spent several weeks in determining who he wants. He has made his selection. Now it is the Senate's turn to decide what we will do. Above all, we in the Senate need to ensure that the Supreme Court remains protective of all Americans' rights and liberties from government intrusion and that the Supreme Court understands the role of Congress in passing legislation to protect ordinary Americans from abuse by powerful special interests.

No one is entitled to a free pass to a lifetime appointment to the Supreme Court, whether nominated by a Democrat or by a Republican. And there are far different considerations for the Supreme Court than there are for circuit courts. How the nominee views precedent, what the nominee regards as settled law, how the nominee will exercise the incredible power of a Supreme Court Justice to be the final arbiter of the meaning of the Constitution—all of these raise very different considerations than those for a lower court nominee. In addition, a nominee coming from the appellate bench will have a record there in votes and opinions and performance that will provide important additional insights into his likely tenure as a Supreme Court Justice.

We have to take the time to evaluate this nominee for a lifetime position on the Supreme Court. After all, if confirmed, Judge Roberts could be expected to serve to the year 2030 or 2040. So we have to have time to perform due diligence on Judge Roberts' record and judicial philosophy. The Senators on the committee have to have time to prepare for fair and thorough hearings. I ask all Senators to be mindful of the Senate's fundamental role in this process. The Americans put us all here to do an important job, and it is critical that we treat that responsibility with the seriousness and respect it deserves.

I start, as I always have, from the premise that the Supreme Court should not be a wing of the Republican Party or a wing of the Democratic Party. It has that responsibility not only to all 280 million Americans but also to millions and millions of future Americans. The independence of the Federal judiciary is critical to our American concept of justice for all. The Supreme Court provides a fundamental check in our system of government. We have to ensure that it serves as a bulwark of individual liberty against incursions or expansions of power by the executive branch. We also have to ensure that the Supreme Court respects the role of Congress when it acts to protect Americans from those with great power, to improve their lives with environmental laws, and by reining in powerful special interests.

We know that the current Supreme Court is the most activist Supreme Court in my lifetime. Time and time again, they have set aside congressional laws, some of long standing, and basically written new laws of their own. There was a time when my friends on the other side of the aisle were very opposed to the idea of an activist Supreme Court. Now we find that two of the heroes of the right are the most activist members of the current Supreme Court, Justice Thomas and Justice Scalia.

Ours is a nation based on the rule of law. The test of a good judge is his or her ability to apply the law fairly. As I evaluate candidates for lifetime appointments that often span not merely years but decades, I want to make sure that everybody who comes before the Court can look at that Justice and say: I can be treated fairly no matter who I am, no matter what political party I belong to, no matter what my station in life.

They are going to be there a long time. Justice O'Connor served for 24 years. Chief Justice Rehnquist has served for 34 years. Since 1970, the average term has been 25 years. So we are considering a nomination not just for the period remaining in the Bush administration, which is going to end in 2008, but for our children's and grandchildren's futures, 2030 and beyond.

This nomination fills the seat that Justice O'Connor occupied while serving as the ''swing'' or decisive vote in so many cases, and if her successor does not share her judicial philosophy, that replacement could radically change the Court in the way our Constitution is interpreted.

It is critical we not prejudge a nominee and that the Judiciary Committee be accorded the time to develop a full record on which Senators can base an informed judgment. I was disappointed to hear somebody say last night: Why can't we move immediately to the hearings? Come on, the American people would justly feel on something such as this that their rights have been shortchanged.

I look forward to working out agreements with Chairman SPECTER on procedures to allow the kind of thorough consideration that a nominee to a lifetime appointment to the Supreme Court deserves, and I know Chairman SPECTER feels the same way.

A preliminary review of Judge Roberts' record suggests areas of significant concern that need exploration. We have to consider his service on the circuit court, even though that is quite limited. We need to understand how he will exercise judicial power.

An independent study—and I referred to this earlier—demonstrated that the Rehnquist Court has been the most activist Court in my lifetime in overturning congressional enactments and restricting legislative authority—actually the most activist since before the New Deal. The most activist members, of course, as I said earlier, are Judge Thomas and Judge Scalia. We need to know what kind of Supreme Court Justice John Roberts would be.

When I talked with the President, I said I hoped that they would cooperate so that all relevant matters can be constructively explored as we begin this important process. When I meet with Judge Roberts today, I will ask for his cooperation. After all, the Constitution speaks of advise and consent. It does not speak about nominate and rubberstamp. That, incidentally, is a position I have taken whether it has been a Democrat or a Republican on the Supreme Court.

I look forward to hearings that will inform the Senate and the American people in making the Senate's confirmation decision. I have been here for hearings and to vote on all nine members of the Supreme Court and for one other who did not make it. Presidents come and go. Senators come and go. The Supreme Court Justices tend to be there a lot longer than all of us. I want to make sure we do our job the right way.

Mr. President, I know there are other members of the Senate Judiciary Committee who wish to speak. In fact, I see the member of the committee who has either presided over or been present for

more Supreme Court nominations than any Member now serving in the Senate. I yield to the distinguished senior Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, I thank my friend and colleague from Vermont. Listening to Senator LEAHY reminded us that the Judiciary Committee is in good hands, with Senator SPECTER and Senator LEAHY ensuring we are going to have a fair, open, transparent, and timely hearing, the way the American people deserve. We thank him for his continued service on the Judiciary Committee and for how he is developing this whole process. It is going to be done with great dignity. I thank Senator LEAHY.

Mr. President, the nomination of John Roberts to the Supreme Court comes at a time of heated debate and great division in America—a debate that is reflected in the deliberations of a Supreme Court in which his vote—just like Justice O'Connor's—will affect the freedoms and liberties of Americans on vital questions before the country.

I will not prejudge the President's nominee. And I will not decide whether to support or oppose him based on any single issue.

What all Americans deserve to know is whether Judge Roberts respects the core values of the Constitution and falls within the conservative mainstream of America, along the lines of Justice Sandra Day O'Connor.

That is the issue, and I look forward to asking the important questions that are on the minds of Americans as they consider his nomination to our Nation's highest court.

Supreme Court nominations involve far more than the hotly-debated social issues so often discussed in the media. Presidents have 4-year term. Senators serve for 6 years. But Supreme Court Justices serve for life, without ever having to face the electorate. Our decision whether to confirm a Supreme Court nominee affects the rights and freedoms not only of our generation, but those of our children and grandchildren as well.

The Court's decisions affect whether employees' rights will be protected in the workplace. They affect whether families will be able to obtain needed medical care under their health insurance policies. They affect whether people will actually receive the retirement benefits that they were promised. They affect whether people will be free from discrimination in their daily lives. They affect whether students will be given fair consideration when they apply to college. They affect whether persons with disabilities will have access to public facilities and programs. They affect whether we will have reasonable environmental laws that keep our air and water clean. And they affect whether large corporations are held accountable when they injure workers and consumers.

Each of these issues—and many others—has been addressed by the Supreme Court in recent years. In many of these cases, the Court was narrowly divided, and these issues are likely to be the subject of future Court decisions in the years to come.

Because so much hangs in the balance, Supreme Court nominees have a heavy burden to show that they will uphold justice for all. They must demonstrate a core commitment to preserving equal protection of the laws, free speech, workers' rights, and other individual rights. Americans deserve to know if nominees will be on the side of justice and individual liberties, or if they will side with powerful special interests.

The Senate's role will be to establish clearly whose side John Roberts would be on if confirmed to the most powerful court in the land. Because Judge Roberts has written relatively few opinions in his brief tenure as a judge, his views on a wide variety of vital issues are still unknown. What little we know about his views and values lends even greater importance and urgency to his responsibility to provide the Senate and the American people with clear answers.

The key question is whether he will uphold core constitutional and statutory principles.

For instance, in a case involving the ability of Congress to protect the environment, he issued an opinion with sweeping implications not just for the environment, but for a host of other important protections. In it, Judge Roberts questioned the settled interpretation of the commerce clause—the constitutional provision that is the foundation for not only the environmental laws that protect our natural heritage and ensure that we have clean air and clean water in our communities, but also for Social Security, Medicare, the minimum wage, and many other important national protections. I can imagine few things worse for our seniors, for the disabled, for workers, and for families than to place someone on the highest court in the land who would put these protections at risk.

If applied in other cases, Judge Roberts' view could severely undercut the ability of Congress to respond to real challenges facing our nation. His decision raises questions about whether he would roll back a host of other laws protecting civil rights, workers' rights, civil rights, and even many of our federal criminal statutes.

I believe that most Americans would agree that we should not re-fight the civil rights battles of the past. The spirit of America is to move forward to greater opportunity—not return to the days of second class citizenship for many. Too many of our fellow citizens over many generations have sacrificed everything—including their lives—so that others can fully enjoy the fruits of our liberties and freedoms. They have given their all for the rights of people of color, of women, of the disabled, of immigrants, of workers, of senior citizens, and so many who make up the vibrant American fabric that makes our nation the envy of the world.

So it is important to know where Judge Roberts stands on this great question of opportunity and justice for all.

The significance of the constitutional principles at issue is clear from the comments of other judges who serve in the same court as Judge Roberts. They noted that the constitutional provision he questioned not only is the basis of many of our civil rights laws, but also underlies important product safety laws and environmental legislation.

Judge Roberts urged the full court to review the panel decision to reconsider the established interpretation of the commerce clause in the Rancho Viejo v. Norton case.

Let me be clear. I do not prejudge Judge Roberts's nomination based on his decision in this case or any other. Nor should anyone else. But we must not fail in our duty to the American people to responsibly examine Judge Roberts' legal views.

Other aspects of Judge Roberts's record also raise important questions about his commitment to individual rights. He has opposed programs to guarantee equal opportunity. He opposed the right to privacy and argued to overturn Roe v. Wade, saying the case is ''wrongly decided'' and ''finds no support in the text, structure or history of the Constitution.'' As a private attorney, he represented coal companies against workers' rights. He sought to limit every American's right to a lawyer by arguing to narrow the Supreme Court's core precedent in Miranda v. Arizona.

Judge Roberts represented clients in each of these cases, but we have a duty to ask where he stands on these issues. I don't prejudge them, but the American people deserve to know more.

I join my colleagues in the hope that the process will proceed with dignity. But the nominee will be expected to answer fully, so that the American people will know whether Judge Roberts will uphold their rights. Anything less would make the Senate a mere rubberstamp in Supreme Court nominations.

In recent days, some have suggested that the Senate should not ask full questions about the nominee's legal views and judicial philosophy. The President made clear that he would consider judicial philosophy in choosing a nominee, and the Senate should not turn a blind eye to that issue.

When Justice Thurgood Marshall was nominated to the Supreme Court in 1967, I said that Senators should not vote against him just because they don't agree with him on every issue. But that is different from saying we should not consider judicial philosophy at all. Particularly today, when philosophy is important to the White House in choosing nominees, Senators should consider it as well.

To be clear, here is what I said in 1967:

I believe it's recognized by most Senators that we are not charged with the responsibility of approving [justices] if [their] views always coincide with our own . . . We are really interested in knowing whether the nominee has the background, experience, qualifications, temperament, and integrity to handle this most sensitive, important, and responsible job.

But if someone would clearly fail to uphold basic rights, that should be considered and the Senate is entitled to know.

There are few debates more important than this one, and I look forward to considering this important nomination.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ISAKSON). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is now closed.

DEPARTMENT OF STATE, FOREIGN OPERATIONS, AND RELATED PROGRAMS APPROPRIATIONS ACT, 2006

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of H.R. 3057, which the clerk will report.

The journal clerk read as follows:

A bill (H.R. 3057) making appropriations for foreign operations, export financing, and related programs for fiscal year ending September 30, 2006, and for other purposes.

Pending:

Landrieu amendment No. 1245, to express the sense of Congress regarding the use of funds for orphans, and displaced and abandoned children.

Chambliss amendment No. 1271, to prevent funds from being made available to provide assistance to a country which has refused to extradite certain individuals to the United States.

Mr. MCCONNELL. Mr. President, let me point out to all Members of the Senate that in spite of our best efforts to finish the State-Foreign Operations bill last night, right at the end, the amendments began to multiply. That is the bad news. But the good news is I can report that on the Republican side, shortly, we will be down to two amendments, one of which may—I repeat, may—require a rollcall vote. And I hope my friend and colleague Senator LEAHY is trying to narrow down amendments likewise on the Democratic side.

In the meantime, Mr. President, I ask unanimous consent that Senator LUGAR be added as cosponsor to amendment 1299, which the Senate adopted last night.

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

AMENDMENT NO. 1293

Mr. MCCONNELL. I call up amendment No. 1293 and ask for its immediate consideration. It has been cleared on both sides.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kentucky [Mr. MCCONNELL], for Mr. LUGAR, proposes an amendment numbered 1293.

The amendment is as follows:

(Purpose: To promote reform of the multilateral development banks)

On page 326, between lines 9 and 10, insert the following:

TITLE VII—MULTILATERAL DEVELOPMENT BANK REFORM

SEC. 7001. DEFINITIONS.

In this title:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ''appropriate congressional committees'' means the Committee on Foreign Relations of the Senate and the Committee on Financial Services of the House of Representatives.

(2) MULTILATERAL DEVELOPMENT BANK.—The term ''multilateral development bank'' has the meaning given that term in section 1622 of the International Financial Institutions Act (22 U.S.C. 262p-5).

SEC. 7002. ANTICORRUPTION PROPOSALS AND REPORT.

(a) PROPOSALS.—Not later than September 1, 2006, the Secretary of the Treasury shall develop proposals, including establishing one or more trusts and a set-aside of loans or grants, to establish a mechanism to assist poor countries in investigations, prosecutions, prevention of fraud and corruption, and other actions regarding fraud and corruption related to a project or program funded by a multilateral development bank.

(b) REPORT.—Not later than September 1, 2006, the Secretary shall submit to the appropriate congressional committees a report on the proposals required by subsection (a).

SEC. 7003. PROMOTION OF POLICY GOALS AT MULTILATERAL DEVELOPMENT BANKS.

Title XV of the International Financial Institutions Act (22 U.S.C. 262o et seq.) is amended by adding at the end the following:

''SEC. 1505. PROMOTION OF POLICY GOALS.

''The Secretary of the Treasury shall instruct the United States Executive Director at each multilateral development bank to use the voice and vote of the United States to inform each such bank and the executive directors of each such bank of the goals of the United States and to ensure that each such bank accomplishes the goals set out in section 1504 of this Act and the following:

''(1) Requires the bank's employees, officers, and consultants to make an annual disclosure of financial interests and income of any such person and any other potential source of conflicts of interest.

''(2) Links project and program design and results to staff performance appraisals, salaries, and bonuses.

''(3) Implements whistleblower and witness protection matching that afforded by the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7201 et seq.), the Inspector General Act of 1978 (5 U.S.C. App.), and the best practices promoted or required by all international conventions against corruption for internal and lawful public disclosures by the bank's employees and others affected by such bank's operations of misconduct that undermines the bank's mission, and for retaliation in connection with such disclosures.

''(4) Implements disclosure programs for firms and individuals participating in projects financed by such bank that are consistent with such programs of the Department of Defense and the Environmental Protection Agency.

''(5) Ensures that all loan, credit, guarantee, and grant documents and other agreements with borrowers include provisions for the financial resources and conditionality necessary to ensure that a person or country that obtains financial support from a bank complies with applicable bank policies and national and international laws in carrying out the terms and conditions of such documents and agreements, including bank policies and national and international laws pertaining to the comprehensive assessment and transparency of the activities related to access to information, public health, safety, and environmental protection.

''(6) Implements clear procedures setting forth the circumstances under which a person will be barred from receiving a loan, contract, grant, or credit from such bank, shall make such procedures available to the public, and makes the identity of such person available to the public.

''(7) Coordinates policies across international institutions on issues including debarment, cross-debarment, procurement, and consultant guidelines, and fiduciary standards so that a person that is debarred by one such bank is subject to a rebuttable presumption of ineligibility to conduct business with any other such bank during the specified ineligibility period.

''(8) Requires each borrower, grantee, or contractor, and subsidiaries thereof, to sign a contract to comply with a code of conduct that embodies the relevant standards of section 104 of the Foreign Corrupt Practices Act of 1977 (15 U.S.C. 78dd-2) and the international conventions against bribery and corruption.

''(9) Maintains independent offices of Inspector and Auditor General which report directly to such bank's board of directors and an audit committee with its own additional experts who are independent of management, or access to such experts, to assist it in ensuring quality control.

''(10) Implements an internationally recognized internal controls framework supported by adequate staffing, supervision, and technical systems, and subject to external auditor attestations of internal controls, meeting operational objectives, and complying with bank policies.

''(11) Ensures independent forensic audits where fraud or other corruption in such bank or its operations, projects, or programs is suspected.

''(12) Evaluates publicly, in cooperation with other development bodies, the interim and final results of project and non-project lending and grants on the basis of Millennium Development Goals, the goals of the Organisation for Economic Co-operation and Development related to development, and other established international development goals.

''(13) Requires that each candidate for adjustment or budget support loans demonstrate transparent budgetary and procurement processes including legislative and public scrutiny prior to loan or contract agreement.

''(14) Requires that before approving any natural resource extraction proposal the affected countries disclose accurately and