

first, so long as the subsequent nomination comes from the first State, I do not know of any precedent for shifting a circuit seat based on a judge's personal decision to change his or her personal residence. If that were to become the rule, I expect that Vermont might well benefit from judges initially named as from New York or Connecticut recognizing the beauty and lifestyle that Vermont has to offer and moving to the Green Mountain State. But that is not the rule and has never been the rule. Instead, we have worked out circuit court allocations among the States based on tradition and history.

Of course this White House has attempted to steal a seat before, when it attempted to replace a Maryland Fourth Circuit judge with someone from Virginia. That attempt was unsuccessful. That was the ill-fated nomination of Claude Allen, a White House insider who has since resigned his high-ranking position and been arrested on charges of retail theft.

I am sensitive that every State within a circuit should have at least one judge come from that State. I supported legislation to ensure that and to afford Hawaii a seat on the Ninth Circuit. I will defend Idaho's right to a seat on the Ninth Circuit, just as I defend Vermont's right to a seat on the Second Circuit. However, Judge Smith was not nominated to Idaho's seat. If the President would take my suggestion and renominate him to that Idaho vacancy, that would resolve this problem.

Judge Ikuta will occupy a California seat on the Ninth Circuit previously held by Judge James R. Browning. Judge Browning was an extraordinary jurist for whom the Ninth Circuit's building in San Francisco was recently named. She has a great tradition to uphold and I wish her well. I congratulate her and her family on her confirmation.

While I am pleased that the Senate will today confirm Ms. Ikuta to the Ninth Circuit, I note that President Bush has yet to nominate a single Asian-Pacific American candidate to any of the dozens of vacancies that have arisen on our federal circuit courts. Indeed, President Bush has nominated only one Asian-Pacific American candidate out of the hundreds of Federal judicial nominees he has named overall. There are many, many qualified Asian-Pacific American attorneys and judges. There is no quota or requirement that the Federal bench be diverse, but it is surprising that given the nominations he has had the opportunity to make, which are approaching 300, I can remember only a single Asian-Pacific American judicial nominee, and not one Asian-Pacific American appellate nominee. This lack of diversity in nominees is quite a contrast with the record of President Clinton, who appointed several Asian-Pacific nominees to the district and appellate courts. President Clinton appointed Judge Denny Chinn, Judge George H.

King, Judge Anthony W. Ishii, and Judge Susan Oki Mollway to Federal district courts in New York, California and Hawaii, and who elevated Judge A. Wallace Tashima to the United States Court of Appeals for the Ninth Circuit. The current President is more interested in naming White House insiders and ideologues. In fact, he has nominated more people associated with the Federalist Society than African-American, Hispanic, and Asian-Pacific American nominees combined.

With the retirement of Judge Tashima from the Ninth Circuit, there are no Asian-American circuit court judges. Despite the opportunity presented with two Supreme Court vacancies in the past year to make the Nation's highest court better reflect America's diversity, the President has made the Supreme Court less diverse, failing even to fill the seat of the Court's first female Justice, Sandra Day O'Connor, with a qualified woman. Of course he was forced by the extreme faction of his own party to withdraw his nomination of his friend and counsel Harriet Miers before she even had a hearing.

President Clinton sought to add diversity to the Federal bench. This President is more focused on guaranteed results and making sure certain circuits will be stocked with those who tilt the courts to the right and rule in his favor.

Mr. President, if I have remaining time, I yield it back.

The PRESIDING OFFICER (Mr. CORNYN). Under the previous order, the hour of 5 p.m. having arrived, the Senate will proceed to vote on the nomination.

Mr. LEAHY. Mr. President, have the yeas and nays been ordered?

The PRESIDING OFFICER. They have not.

Mr. LEAHY. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The question is, Will the Senate advise and consent to the nomination of Sandra Segal Ikuta, of California, to be United States Circuit Judge for the Ninth Circuit?

The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. The following Senators were necessarily absent: the Senator from Kansas (Mr. BROWNBACK), the Senator from Pennsylvania (Mr. SANTORUM), the Senator from Montana (Mr. BURNS), the Senator from Louisiana (Mr. VITTER), the Senator from South Carolina (Mr. DEMINT), the Senator from Wyoming (Mr. ENZI), the Senator from Mississippi (Mr. LOTT), the Senator from Florida (Mr. MARTINEZ), the Senator from Arizona (Mr. MCCAIN), and the Senator from Alaska (Ms. MURKOWSKI).

Further, if present and voting, the Senator from South Carolina (Mr. DEMINT) would have voted "yea."

Mr. REID. I announce that the Senator from Delaware (Mr. BIDEN), the

Senator from Washington (Ms. CANTWELL), the Senator from Illinois (Mr. DURBIN), the Senator from Hawaii (Mr. INOUE), the Senator from Vermont (Mr. JEFFORDS), the Senator from South Dakota (Mr. JOHNSON), the Senator from Massachusetts (Mr. KERRY), the Senator from New Jersey (Mr. MENENDEZ), and the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

I further announce that if present and voting, the Senator from Washington Ms. (CANTWELL), the Senator from Hawaii (Mr. INOUE), and the Senator from Massachusetts (Mr. KERRY) would each vote "yea."

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

The result was announced—yeas 81, nays 0, as follows:

[Rollcall Vote No. 175 Ex.]

YEAS—81

Akaka	Dodd	McConnell
Alexander	Dole	Mikulski
Allard	Domenici	Murray
Allen	Dorgan	Nelson (FL)
Baucus	Ensign	Nelson (NE)
Bayh	Feingold	Obama
Bennett	Feinstein	Pryor
Bingaman	Frist	Reed
Bond	Graham	Reid
Boxer	Grassley	Roberts
Bunning	Gregg	Salazar
Burr	Hagel	Sarbanes
Byrd	Harkin	Schumer
Carper	Hatch	Sessions
Chafee	Hutchison	Shelby
Chambliss	Inhofe	Smith
Clinton	Isakson	Snowe
Coburn	Kennedy	Specter
Cochran	Kohl	Stabenow
Coleman	Kyl	Stevens
Collins	Landrieu	Sununu
Conrad	Lautenberg	Talent
Cornyn	Leahy	Thomas
Craig	Levin	Thune
Crapo	Lieberman	Voinovich
Dayton	Lincoln	Warner
DeWine	Lugar	Wyden

NOT VOTING—19

Biden	Inouye	Menendez
Brownback	Jeffords	Murkowski
Burns	Johnson	Rockefeller
Cantwell	Kerry	Santorum
DeMint	Lott	Vitter
Durbin	Martinez	
Enzi	McCain	

The nomination was confirmed.

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

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will resume legislative session.

The Senator from Idaho.

MORNING BUSINESS

Mr. CRAIG. Mr. President, I ask unanimous consent that there now be a period of morning business, with Senators permitted to speak for up to 10 minutes each.

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

REPORT ON TRIP TO THE
NETHERLANDS AND FRANCE

Mr. SPECTER. Mr. President, in the 2 minutes I have left, I would like to comment very briefly on a trip made by the Veterans' Affairs Committee to oversee World War I and World War II cemeteries in the Netherlands and France. The chairman of the committee, the distinguished Senator from Idaho, Mr. CRAIG, organized the trip, with Senator BURR, Senator ISAKSON, and myself.

Let me say to you that it was inspirational to visit the cemeteries—I had never done that before—to see so many marble crosses and marble stars of David. It was especially poignant for me because my father fought in World War I. He left Russia at the age of 18 in 1911 to escape the tyranny. The Czar wanted to send him to Siberia. He wanted to go to Kansas. It was a close call. I say that jokingly. He was proud to serve in the U.S. Army as a Doughboy. It took all of 30 days for him to be inducted, until he was shipped overseas, really, with a big bull's eye on his back as cannon fodder by all means.

When I was growing up, he would regale my brother, my two sisters, and me with World War I songs, such as "It's A Long Way To Tipperary." I recall his singing the song about the bugler in the famous World War I song, "Oh, How I Hate To Get Up In The Morning." It said that if given a chance, he would have shot the bugler. And my father liked to sing that song. He got up early a lot of mornings.

Fighting in the Argonne Forest, he was wounded in action by shrapnel fire. He carried shrapnel in his legs until the day he died. Had the shrapnel hit him a little higher, Harry Specter might have been in one of those cemeteries and he wouldn't have been my father.

It was quite an inspirational trip.

I ask unanimous consent that my written statement be printed in the RECORD.

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

I have sought recognition to comment on a trip by the Senate Veterans' Affairs Committee to the Netherlands and France from May 26th through June 1st to conduct congressional oversight on World War I and World War II cemeteries in those countries. The trip was organized by the Committee Chairman, Senator LARRY CRAIG (R-ID) and with Senators RICHARD BURR (R-NC) and JOHNNY ISAKSON (R-GA) and myself in attendance. The itinerary included the following cemeteries: Aines-Marne American Cemetery, France; Ardennes American Cemetery, Belgium; Henri-Chapelle American Cemetery, Belgium; Netherlands American Cemetery, The Netherlands; Normandy American Cemetery, France, and Suresnes American Cemetery, France.

It was a sobering and thought provoking trip to see so many marble Crosses and marble Stars of David in symmetrical rows. We know the history of those two wars with so many casualties but until you actually see the tombstones it is an abstraction.

We found all of the cemeteries to be meticulously maintained. The grass was mani-

cured, the foliage was magnificent and the unique shrines at each cemetery were very impressive. From the point of view of congressional oversight, the Senate delegation was unanimous in concluding that the American Battle Monuments Commission has done a superb job in maintaining the cemeteries.

On May 28th we attended a particularly impressive cemetery at the Netherlands American Cemetery with dozens of wreaths being laid in honor of the fallen veterans. At the Suresnes American Cemetery in Paris, the memorial recounted the statistics of the 126,000 U.S. soldiers who were killed in World War I and the 407,300 U.S. soldiers killed in World War II.

On a personal level, I was especially touched by the graves of World War I veterans because my father, Harry Specter, fought in that War. He came to the United States at the age of 18 in 1911 to escape the Czar's tyranny. The Czar wanted to send him to Siberia. He wanted to go to Kansas. I jokingly say it was a close call.

My father was inducted on May 6, 1918 at Fairbury, Nebraska and shipped out of the United States for France thirty days later. His discharge papers bear the notation: "Character: Excellent".

The reality was that he, like so many others, was sent to France as cannon fodder—with really a big bull's-eye painted on his back. He patriotically brushed off that off and was proud to serve in the Army of his adopted country. He talked jokingly that frequently all they had to eat was "jam sandwiches" which meant two pieces of bread jammed together. He talked about climbing a tree in France to pick fruit for himself and his buddies. That is what his family had done in the village of Batchkurina in the heart of the Ukraine about 160 miles southwest of Kiev. He commented that he was never required to fire his rifle at the German enemy.

When I was growing up, he would regale my brother, two sisters and me with World War I songs such as "It's A Long Way to Tipperary." I recall his singing about the bugler on the famous World War I song "Oh How I Hate to Get Up in the Morning." Fighting in the Argonne Forest, he was wounded in action by shrapnel fire. He carried shrapnel in his legs until the day he died. Had the shrapnel hit him a little higher, Harry Specter might have lain in one of the cemeteries and he wouldn't have been my father.

The U.S. Ambassador to France, Craig R. Stapleton, invited the delegation to dinner on May 31st, attended by French officials and embassy personnel. During the course of the evening, Ambassador Stapleton spoke about a relative, Flem Stapleton, the son of his grandfather's first cousin Benjamin Franklin Stapleton. He recounted finding his relative's name on the roster of World War I veterans killed in action which prompted him to do some research. He found that Flem Stapleton was killed in action in his first battle at the age of twenty. When Ambassador Stapleton recounted the story, tears came to his eyes and he was unable to continue for a few moments.

When I was asked to speak a few moments later, I said Ambassador Stapleton had really captured and articulated the emotion which I felt on seeing the Crosses and Stars of David.

The visits to the cemeteries gave me new meaning for patriotism and the great contributions which our servicemen and women have made to the security of our nation and the freedom we all enjoy.

THE CONTINUING SERVICE OF
SENATOR ROBERT C. BYRD

Mr. LEAHY. Mr. President, the Senate has just marked another milestone with the extraordinary service of the senior Senator from West Virginia. I consider him a mentor and a friend. I have had the privilege of serving with Senator BYRD on the Judiciary Committee and I currently serve with him on the Appropriations Committee. I know firsthand his work as the Senate majority leader, the Senate Democratic leader, and as our President pro tempore.

He understands the role of the Senate and the need for it to act as a check and a balance on the President. In recent years, he has been discovered by a new generation of Americans as a true Senator.

By his work and his example he teaches each of us every day what the Senate should be and must be if the constitutional design of the Founders is to serve and preserve our rights and liberties.

One of the great privileges of serving in the Senate is to serve with the senior Senator from West Virginia. One of the great pleasures is to hear him speak on this floor. His continuing contributions to the Senate and the Nation are too numerous to recount but I would like to mention one of the many outstanding moments.

Senator BYRD has preserved the Constitution from numerous assaults. He takes seriously the Senate oath to "support and defend" the Constitution. He has protected it from a number of ill-conceived and politically-motivated amendments, including the so-called balanced budget amendment and the line-item veto. The last time the Senate considered amending the Constitution to cut back on our individual liberties and limit the first amendment, that guarantee in the Bill of Rights of our freedom of religion and speech, it was in no small way thanks to Senator BYRD that the Constitution and the rights of Americans were preserved.

On March 29, 2000, he gave an extraordinary speech. I was a manager on the matter and was fortunate to be present. I noted at the time that "periodically, we hear greatness in speeches," and observed that this was a case where the Senate had heard greatness. It is a speech that students of the Constitution and of constitutional history should study.

In the days ahead, we will again be challenged to amend our Bill of Rights for the first time in over 200 years. I can think of no one I would rather stand with and fight for the Constitution than the senior Senator from West Virginia. Every day he walks on the floor of this Senate carrying the Constitution because he knows that the liberties of the American people are not to be sacrificed for passing political favor. He is a fierce advocate for the Nation, the Constitution, the Senate, but first and foremost, for the people of the State of West Virginia whom he represents so ably.