

I call upon my colleagues to support the inclusion of H.R. 418 in the Heroes Earning Assistance and Tax Relief Act of 2007 in order to expand the options of military families whose loved ones have given their lives in the name of freedom and in defense of this Nation.

Mr. Speaker, I close by asking God to please bless our men and women in uniform. I ask God to please bless the families of our men and women in uniform. And also, I will ask God to continue to bless America.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. DEFAZIO) is recognized for 5 minutes.

(Mr. DEFAZIO addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BURTON) is recognized for 5 minutes.

(Mr. BURTON of Indiana addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

CONGRESSIONAL BLACK CAUCUS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 18, 2007, the gentlewoman from Ohio (Mrs. JONES) is recognized for 60 minutes as the designee of the majority leader.

Mrs. JONES of Ohio. Mr. Speaker, over the past 9 months, the Congressional Black Caucus has been at the forefront of many major issues here in Congress, from raising the minimum wage, to the Don Imus debacle, to the upcoming Southwick nomination vote that will be taken up in the Senate this week. We have been at the forefront of raising the issue about the need to cover 10 million children under SCHIP. And we've been at the forefront as well raising issues with regard to the war in Iraq and the number of people who have been killed, as well as the recent Jena Six situation.

Tonight, however, we will be focusing in on the Southwick nomination. And as we focus in on that nomination, we always remember that for people of color the court has been the place of last resort. Many of the opportunities that we've had to raise issues with regard to school desegregation, civil rights, economic opportunities, equal employment opportunity, have come through the courts. And it is that reason that we are particularly raising our voices with regard to this nomination.

I am joined this evening by my colleague and good friend, the Chair of the Homeland Security Committee, Mr. BENNIE THOMPSON. And Judge Southwick, the nominee, actually is a resident of Mississippi and being considered for that seat which oversees Mississippi and several other States

where the population of people of color is significant.

I yield such time as he may consume to my colleague and good friend, the Chair of the Homeland Security Committee, BENNIE THOMPSON.

Mr. THOMPSON of Mississippi. Thank you very much.

Mr. Speaker, I join members of the Congressional Black Caucus, who have unanimously opposed the nomination of Leslie Southwick to the Fifth Circuit Court of Appeals.

For the record, Mr. Speaker, the Fifth Circuit is composed of Mississippi, Louisiana and Texas. This circuit historically was one of those circuits that moved civil rights and voting rights issues in a manner that allowed all people representation. So what we've seen under the President's administration, we've seen this court move in the opposite direction.

As a resident of Mississippi and a representative for the Second Congressional District, we have yet to have a member of the Fifth Circuit Court of Appeals who is an African American. We have the highest population of any circuit in the State in the circuit; yet we are completely void of representation.

I don't have to go through the litany of problems we've had in Mississippi with respect to civil rights. As you know, and as so many know, Mr. Speaker, had it not been for the Federal court system, many of us would not be in elected office. Many of us would not hold positions of higher responsibility because our State denied African Americans, for a number of years, equal representation under law and denied that representation because of color.

And so what we have in the Southwick nomination, Mr. Speaker, is a continuing pattern of nominating people who have demonstrated racial insensitivity toward people of color. In the *Richmond v. Mississippi Department of Human Services*, a white employee was fired for using the phrase "good ole nigger" toward an African American coworker. When the white employee was fired, a hearing officer reinstated the employee.

In upholding the reinstatement, the majority, Mr. Speaker, which Judge Southwick joined, concluded that using the phrase "good ole nigger" was equivalent to calling the other employee her "teacher's pet". This opinion, I'm happy to say, Mr. Speaker, was unanimously reversed by the Mississippi Supreme Court. And this is our President's number one nominee for the Fifth Circuit, who says that it's all right to use the "N" word when referring to people of color because it's equivalent to being called the "teacher's pet," or as he said in later words, "a term of endearment." That's an insult. But it goes to the crux of the issue of whether or not the temperament of this gentleman, Leslie Southwick, fits promotion to the Fifth Circuit Court of Appeals.

In addition to that, on another case, *McWilliams v. Mississippi*, when a prosecutor cites nonracial readiness for strikes, *Davis v. Mississippi* is another case. Judge Southwick denied the defense's warranted attempts to strike white jurors, even when the defense used the same nonracial reasons for strikes. *Webb v. Mississippi*. In other words, it's all right to strike black people from juries for nonracial reasons, but you can't strike white people from juries for nonracial reasons.

So, Mr. Speaker, we have a problem. This is the person under consideration this week by the United States Senate. I'm happy to say that the Congressional Black Caucus has taken up a number of issues this session, but the Southwick nomination really goes to the heart of why we are all here. We cannot put people on the bench for a lifetime job who demonstrate this kind of insensitivity.

□ 2000

So, Mr. Speaker, I am happy to join my colleagues with the Congressional Black Caucus in unanimously opposing the elevation of Judge Southwick to the Fifth Circuit Court of Appeals. His nomination is not just an affront to people of color, but it is an affront to people of good will. That someone who demonstrated a lack of judicial temperament can actually be nominated and be given serious consideration by the United States Senate is beyond me.

But, again, I want to express my sincere opposition to the nomination of Leslie Southwick to the Mississippi Fifth Circuit Court of Appeals. Mississippi needs a nominee who will not look to discourage or impede its growth, but instead support and empower Mississippi's legacy. I appreciate my colleague from Ohio yielding me the time.

Mrs. JONES of Ohio. Mr. Chairman, just for a moment, I recall only a few months ago that you and the Chair of our Congressional Black Caucus, CAROLYN CHEEKS KILPATRICK, were actually over at the Senate side when this was in committee.

Mr. THOMPSON of Mississippi. That's correct.

Mrs. JONES of Ohio. Can you recount for us briefly what you encountered in that hearing?

Mr. THOMPSON of Mississippi. Well, the record will reflect, Mrs. TUBBS JONES, that at that hearing significant evidence was introduced as to the statistical probability of African Americans being nominated to the court. It was also introduced that the population of African Americans was the greatest in the State of Mississippi, that Mississippi had fewer individuals on the Fifth Circuit Court of Appeals and has never had an African American on a court in its entire history from the State of Mississippi. So this is a golden opportunity, it was a golden opportunity for President Bush to do the right thing. But this was his third nominee for this one judgeship. Each of

the other individuals who he has nominated also had that judicial temperament and their qualifications questioned to the point that they were denied.

So what we have here is a third bite at an apple that really deserves reconsideration by the President. But since he did not choose to do so, I am committed, like the other members of the Congressional Black Caucus, to make our voices heard this week on the floor of the United States Senate with its colleagues there to say that this is not the America that we all want to be known for.

And so that issue, Mrs. TUBBS JONES, was thoroughly aired. I am disappointed that a letter from Judge Southwick swayed one member of the Judiciary Committee to change their vote. You know, we can all write letters. But in the record, we have opposing views from the Magnolia Bar, which is the African American Bar Association in the State of Mississippi, the Mississippi NAACP, a whole host of elected officials and others saying that this is not in the best interests going forth with this nomination.

So we believe that the record was complete and that a thorough airing of what is before that Judiciary Committee would have basically provided significant opposition to Judge Southwick. But, you know, this is politics. That letter changed the position of one member on the judiciary who did not talk to anybody from Mississippi, did not talk to anybody from California, did not talk to anybody who had an interest diametrically opposed to the person under consideration. They took a letter, read it into the RECORD, and made a decision as to a person saying, I will do better now that I understand that it is not proper to use the N word or that it is not proper to deny African Americans positions on juries just because they happen to be black.

Well, that is not enough in my book, nor the Congressional Black Caucus's book, to warrant a person being elevated to the Fifth Circuit Court of Appeals. Now, the reason I say that, to be honest with you, is that the majority of the voting rights and civil rights legislation that comes before the court generally comes from that circuit. So if you have someone who demonstrates time and time again that they lack the temperament, that they lack the judicial restraint to deal with cases relating to people of color, then that person should not be promoted to that position for which they are not made. So for that reason, I am happy to be here on behalf of those Members who serve the Fifth Circuit Court of Appeals in the United States House of Representatives.

We have, as you know, gone on record many times in writing opposing the nomination. We reiterated that opposition today in a letter when we found out that it would be considered sometime this week. So there is no question that people who represent in-

dividuals, more than 700,000 American citizens, in the Fifth Circuit Court of Appeals district are in opposition to it. And how one can take a letter from the person that is nominated and say that that one letter rises above those hundreds of thousands of people who have sent individuals to represent them here in Washington gets beyond me. But, again, we will continue to press the case. As you know, we are prepared to speak to the leadership before the issue is considered and do other things, because this is too big an issue for us not to give it our maximum effort.

Mrs. JONES of Ohio. I want to thank you, Chairman THOMPSON, for your leadership not only in the State of Mississippi but also here in the Congress. Recently, I had a chance to be in Greenville, Mississippi, with you with an elementary school friend of mine, Jaribu Hill. I am just so happy to see the kind of leadership you are showing, and I thank you for joining me this evening for this Special Order.

Mr. THOMPSON of Mississippi. Thank you very much.

Mrs. JONES of Ohio. It gives me great pleasure at this time to call upon my sister, my good friend, the gentlewoman from California, and she happens to be from the State of the Senator who voted this, whose vote was determining in voting this nomination out of the committee. But I will leave for her the discussion on that issue. I give you the great gentlewoman from California, Congresswoman BARBARA LEE, who has been a leader on so many, many issues that I can't even recount them all at this time. And I will yield her such time as she may consume.

Ms. LEE. First, let me thank the gentlewoman from Ohio for her leadership and for her kind words, but also for her commitment to equal justice under the law.

As a former prosecutor, as a judge, your leadership and your clarity on these issues is deeply appreciated, and also for making sure that each week the Congressional Black Caucus has a voice on all of the issues that we are addressing in our country. This evening, yes, I would like to talk very briefly about the unfinished business of America as it relates to equal justice under the law.

Before I do that, let me just reflect for a minute on the contributions of my colleagues in the Congressional Black Caucus. Any reflection on Congressional Black Caucus members' accomplishments in this Congress must begin with the recognition of the incredible leadership role members of the Congressional Black Caucus are playing. In addition to our great Democratic whip, Mr. CLYBURN, from South Carolina, who is only the second African American to hold this position, more than half of our caucus members, 22 in all, are now serving as Chairs of committees and subcommittees. I have to salute and acknowledge, again, Madam Chair of the Ethics Committee tonight and her leadership, also, the

first African American woman appointed to the Ways and Means Committee. It makes a difference to have, again, STEPHANIE TUBBS JONES's voice on both of those committees and also as a leader on both of those committees.

Also, in addition to the significant achievements in both legislation and oversight, the Congressional Black Caucus members have also continued to play a major role in so many issues. The CBC has been long referred to as the conscience of the Congress for our members' steadfast refusal to turn our backs on injustice and for our commitment to shining the spotlight of truth on issues of injustice and racial prejudice wherever they may arise. I am proud to say that in the 110th Congress, the Congressional Black Caucus has continued with this proud tradition. When Don Imus, once again, crossed the line and denigrated the women of the Rutgers women's basketball team, members of the Congressional Black Caucus were there to call him out, to document his long history of racially offensive remarks, and to help see to it that sponsors understood that supporting such behavior is just bad business.

More recently, we were part of the national call for justice for the six young people from Jena, Louisiana, whose case represents an example of racially biased justice, or injustice, that is too familiar for people of color around this Nation.

Let me address another issue which my colleague, our chairman of the Homeland Security Subcommittee, Mr. THOMPSON, just mentioned. Tomorrow, the Senate will hold a cloture vote on the confirmation of Judge Leslie Southwick to the Fifth Circuit Court of Appeals. In August, when the Senate Judiciary Committee voted to send his nomination on the floor, I joined with my colleagues in the Congressional Black Caucus in speaking out against his nomination. I also expressed my profound, and I mean my very profound, disappointment as a Californian, first of all, and as an African American and as a woman, that a Senator from my home State, Senator FEINSTEIN, would vote with the Republicans to bring the Southwick nomination to the Senate floor.

Numerous concerns had been raised about Judge Southwick's commitment to equal justice, which Congressman THOMPSON just enunciated. I have profound concerns about the commitment to equal justice and dignity of anyone who thinks that it is ever acceptable for someone to refer to someone else using the N word. The idea of elevating a person to the Fifth Circuit Court of Appeals is, quite frankly, unacceptable. The fact is that the Fifth Circuit has the highest percentage of minority residents of any other circuit; yet all of the nominees over the last 22 years have been white. In fact, there is only one African American member of the court, and he is only the second since the court was created in 1869.

The recent case in Jena, Louisiana, shows the racism in the criminal justice system within the jurisdiction of the Fifth Circuit. The case in Jena makes it clear why we cannot afford to send anyone less than a civil rights champion to serve on this court, let alone someone with a record of hostility towards civil rights, someone who thinks that it is ever acceptable for someone to refer to someone else using the N word. We have come too far from the days of Jim Crow to tolerate the type of racist miscarriage of justice that we have seen in Jena and in the record of Judge Southwick.

If we are ever to overcome the legacy of racism in this Nation, we have a duty to our young people to see to it that the principle of equal justice is upheld. If we truly believe in our Nation's principle of equality before the law, then we have to make sure that everyone, regardless of race, is held equal before the law. So we are looking to our colleagues in the other body to take a stand for civil rights, to take a stand against racism, and to take a stand for justice and to block the nomination of Judge Leslie Southwick.

In so doing, we will take another step in completing this unfinished business in our country that so many people fought and died for. So I want to thank the gentlewoman from Ohio for once again stepping up to the plate, using her voice and her leadership to call for justice in our country and to help defeat the nomination of this individual, Judge Southwick.

Mrs. JONES of Ohio. Before you leave, Congresswoman LEE, how many African American members are there in the California delegation?

Ms. LEE. In the California delegation, there are four African American Members of Congress: Congresswoman MAXINE WATERS, Congresswoman DIANE WATSON, Congresswoman LAURA RICHARDSON, and myself.

Mrs. JONES of Ohio. To your knowledge, did Senator FEINSTEIN even bother to contact you, any of you, with regard to this particular nomination and her vote?

Ms. LEE. Well, I know we attempted, on many occasions, to reach many Members of the Senate, including Senator FEINSTEIN. We were not able to have a discussion at all about this nomination, which was really unfortunate, because I believe that people in California, all people in California, people of conscience, people of color, people on both sides of the aisle do not want to see a judge from the Fifth Circuit confirmed with this record, as Judge Southwick. We are very disappointed that we did not have the opportunity to have those conversations.

Mrs. JONES of Ohio. In addition to the four African American members of the California delegation, how many Hispanic members of the delegation are there?

Ms. LEE. We have a very large Hispanic congressional delegation. I would believe there are probably, let's see, we

have Congressman XAVIER BECERRA, Congresswoman LUCILLE ROYBAL-AL-LARD, and Congresswoman GRACE NAPOLITANO. We have Congresswoman LORETTA SANCHEZ and Congresswoman LINDA SANCHEZ. We have DENNIS CARDOZA. We have a very, very strong, very active and very committed delegation from our Latino communities.

□ 2015

Mrs. JONES of Ohio. In fact, a significant number of the issues that the African American community raises around civil rights are some of the very issues that the Hispanic community raises around civil rights issues as well.

Ms. LEE. They are the exact same issues that our Hispanic community raises. Also, the same issues that our Asian Pacific American community raises. In fact, to the extent that we decided several years ago to form what we called the Tri-Caucus, where I believe there are at least 73 votes that really do count and make a difference in this body, and so, yes, we are all on the same page as it relates to equal justice under the law.

Mrs. JONES of Ohio. I thank you very much for your time and your attention and your leadership around so many issues, Congresswoman Barbara Lee.

Once again, I have an opportunity to invite another one of my wonderful colleagues to join me this evening for the CBC Message Hour under the leadership of our Chair, Congresswoman CAROLYN C. KILPATRICK. The next colleague that I call upon is a former judge. She has been serving on the Judiciary Committee for the past 13 years. She has shown leadership around so many issues. I want to compliment you this evening, Congresswoman SHEILA JACKSON-LEE, on your presentation and the work you did during the Judiciary Committee hearing last week around the Jena Six. Unfortunately, I couldn't be at the hearing, but over the weekend I watched the replay of the C-SPAN presentation.

Mr. Speaker, I want to commend the Chair, our good friend from Detroit, Michigan (Mr. CONYERS), but I also want to commend you on the work that you do in and around that area. I will yield you such time as you will consume.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the distinguished gentlewoman from Ohio. I must say that she is representative of the talent and the commitment of members of the Congressional Black Caucus.

Let me say, Mr. Speaker, that we are very proud of this Congress. We are proud of all of our colleagues. We may agree or disagree with our friends across the aisle, but we know that they bring to bear great talent. We are proud of the Democratic Caucus, with our leadership, Speaker PELOSI; Majority Leader HOYER; Majority Whip Mr. CLYBURN; and, of course, our chairman, RAHM EMANUEL; Vice Chairman JOHN

LARSON; and, of course, the distinguished gentleman who chairs the DCCC, for his leadership.

When we speak of the Congressional Black Caucus, we really speak of them in the framework of providing conscious and pointed leadership in many areas. I must say that the distinguished gentlewoman from Ohio has always reminded us that you can be a benevolent prosecutor. You can have the spirited forcefulness that is necessary to ensure that people understand that they must follow the law, and that if you do the crime, you must do the time. But, at the same time, you can have a sense of fairness. I am so proud that she has brought her leadership to this place. I will quickly speak of some issues and then move to this question of why this is such a crucial special hour.

Mr. Speaker, as I mentioned, the gentlewoman from Ohio is not only a prosecutor and former judge herself, but she likewise now brings that to bear on several issues. I am going to speak very briefly about our members who engage in criminal justice and homeland security, but she is now the chairperson of the Ethics Committee. What a wonderful balance, recognizing that we must self-regulate, but yet she is firm and fair.

So, with the 17 cochairs that we have who are members of the Congressional Black Caucus, we are able to spread out and have a visible impact, from Transportation, Homeland Security, Education, to a number of issues that these subcommittee Chairs are engaged in, and working with JOHN CONYERS, the chairman of Judiciary; the chairman of the Ways and Means, CHARLIE RANGEL; and the chairman of Homeland Security.

But let me tell you why I think that we are most relevant to be speaking of this, if you will, confirmation hearing tomorrow, because members of the Congressional Black Caucus have worked on issues. In fact, tomorrow, Madam Chairwoman, we will be holding a hearing on selective prosecution, held by Chairman CONYERS, because that is something that has plagued our judicial system. That is why I am going to lead into this circumstance with Judge Southwick.

Then, of course, there is legislation that we filed, No More Tullias. That was a place where the prosecution relied on one police officer, a rogue cop, by the way, and I love my law enforcement, I work very well with them, who, unfortunately, pointed the finger at 50 African Americans or more, who were ultimately prosecuted and went to jail because of one officer's testimony, no other witnesses. And this is the issue that we face, the politicizing of U.S. Attorneys. JOHN CONYERS focused on it.

But my good friends Congresswoman STEPHANIE TUBBS JONES and DANNY DAVIS, and so many of us who were cosponsors, led on the Second Chance bill. So she balanced prosecution with recognizing that people should have a

second chance. This came out of the bowels, if you will, of the Congressional Black Caucus, the criminal justice system being fair.

Then, of course, she mentioned the Jena Six. I want to just frame this not by the Congressional Black Caucus affirming bad behavior. We have sons. We have daughters. We have children. We have children that go to schools, public schools. But the question that we just can't get over is how three young people that hung nooses that triggered the bad feelings then get a pass. Fine. Someone administratively decided we want these young people to stay in school. That is their decision. But then you take young people of color and you decide that they should be in the adult criminal justice system.

So the African American community looked to the Congressional Black Caucus to make a stand. I am delighted that, with the leadership of Chairwoman CAROLYN KILPATRICK, we have worked with the lawyers, we have worked with civil rights activists to keep this before us. The good time early release bill, because in the federal system there is no parole. Members of the Congressional Black Caucus have focused on nonviolent criminals who have been in prison for a period of time getting considered for good time early release. We have spent \$100,000 a year, almost, for the 2.4 million people that are in the federal system.

The SCHIP bill was led by convening leadership of Majority Whip CLYBURN, working with CHARLIE RANGEL. But we stood fast to say: No backing down on the SCHIP bill. Of course BENNIE THOMPSON, my chairperson, was able to pass for the first time the 9/11 bill.

That leads me to why we are here talking about Judge Southwick, and a personal story. I am a voting rights baby. This district that I represent, represented first by Barbara Jordan and then by Mickey Leland, would not have existed but for the 1965 Voting Rights Act that then provided the representation not at large, but by district.

Many people don't know that Barbara Jordan ran over and over again in Houston, Texas, and lost, because she had to run countywide, citywide. It was only when they carved out or were able to get a senatorial district that concentrated diverse people, that concentrated African Americans, that she was elevated to the State Senate. So the Fifth Circuit was the place of first Federal response, beyond the district courts, to save us from the discriminatory practices that were going on in the South, and Texas is the South.

So when Judge Southwick has cavalierly used the "N" word, and, by the way, the NAACP buried that word, and most of us know it is an offensive word, despite the first amendment, then I can't imagine that the Senate tomorrow is even going to think about affirming this individual. Because he ruled that a white employee who had been fired for calling an African Amer-

ican coworker a good old "N," he thought that that certainly was equivalent to calling somebody a teacher's pet.

But go back to the Jena Six. That is the same response the Department of Justice under Bush gave us, that we didn't think it was important to chastise, to admonish, to prosecute three young people who hung a noose, and the noose epidemic is going around America.

So here you want to elevate someone to the Fifth Circuit who believes that the "N" word is equal to, that it is like "teacher's pet." The Mississippi Supreme Court, by the way, unanimously reversed Southwick.

He has also rejected defense claims that prosecutors struck African American jurors based on race. I know it firsthand as a lawyer. We see it every day in the Harris County courthouse when the prosecution in down-south Houston, Texas, repeatedly rejects African American jurors. So that is not the temperament for being on the Fifth Circuit, because we appeal those cases to you.

His expressed views also raised doubts about his ability to rule fairly in cases involving the civil rights of gays and lesbians. We have gotten past that in the United States Congress. In fact, we understand you have employee rights not to be discriminated against in the workplace or anywhere in America. What will that do for us to be able to have a judge on the Fifth Circuit that has no understanding that we are diverse?

Then, of course, one other point that I am going to make before I close, one of the most important privileges is the privilege of being in the workplace safe and secure without discrimination, and it has been proven that Judge Southwick is not one that supports the rights of workers and the victims who suffer personal injury.

What it means is that you come before his court, obviously on appeal, and whether it be a malpractice case or whether it be a huge personal injury case, then he has not been warmly received or well received, these cases.

So I would simply ask, when you talk about judicial temperament, for those of us who are heavily dependent on the equality and balance of the judiciary, I reminded my colleagues and others in the hearing last week that the Federal Government is the "rainy day umbrella." That is why we were so frustrated with Hurricane Katrina and the response by this administration, because we looked to the Federal Government as that last stopgap.

So those of us in the South look to the Federal Government, whether it was John F. Kennedy calling down when Martin Luther King was in jail or Eisenhower sent the troops into Little Rock, we look to the Federal Government. All of us do.

So you are going to put on the bench someone who is predisposed that the "N" word is just a "funny word," and

then those of us who go to the Fifth Circuit on redistricting cases, short of the law that already exists, can't expect any relief because why do you "N" people need to have districts that you are able to vote on someone from communities of interest, in essence, or someone who is representative of your perspective or your view? That is what we get with the affirmation of Judge Southwick.

So I am going to make a personal plea to Senators who might have voted in the committee and whoever wants to take this plea to recognize the pain that would be generated from the affirmation of Judge Southwick. It is untenable. For those of us who want to hold up this flag that I am looking at right now as representative of all of America, the Stars and Stripes, that we would allow him to be affirmed. Letting him stay where he is, fine. I welcome his continued service. But the Fifth Circuit, the next court subject to appeal down from the Supreme Court, we cannot afford someone who would be so intolerable that they would disrespect workers, disrespect those who would be the victims of using the "N" word, those who are gay and lesbian who deserve the privileges of every citizen, and certainly does not respect the right of everyone to serve as a juror in order for someone to be tried by a jury of their peers.

Congresswoman, I am more than appalled that we would be here tonight to have to entreat, to encourage, to demand, to cajole, if you will, to express outrage, that we have to defend our position for someone who is certainly both untenable and certainly seemingly without the temperament to judge on behalf of the United States of America. I ask my good friends in the Senate, I ask the other body to consider the words of those of us who are here on behalf of the Congressional Black Caucus and this conscience that America deserves.

I thank the distinguished gentlewoman, and I hope these words are not in vain. Frankly, I hope that we will have a good day tomorrow so that we can make America a better place to live.

□ 2030

Another interesting thing, because the Supreme Court only takes cases that they choose, and in the law we use the term certiorari which means certification, that the Supreme Court certifies it is an issue that they want to take up, the Fifth Circuit Court and all the circuit courts become like the Supreme Court for almost every other case that will never reach the Supreme Court, and that is what makes a nomination to the circuit court even that much more important.

Ms. JACKSON-LEE of Texas. The gentlewoman has made an excellent point, and let me emphasize the word "supreme." It is the top Court, nine justices. They selectively select cases they will review. There are 11 circuits.

The circuits obviously are more plentiful than the Supreme Court. And sometimes that circuit court, in this instance the Fifth Circuit Court, will often be the court of last resort for many.

Also, before the court was split between the fifth and the 11th, the Fifth Circuit Court was the bountiful court of all civil rights cases. It covered at that time from Mississippi to Alabama, to both Carolinas, Georgia, down through Louisiana and back over to Texas. We were all under the Fifth Circuit. It might have even included Arkansas; I am not sure of that.

But all of the civil rights cases, all of these cases that ultimately were pursued, some of the cases, some of the old murder cases that were not taken up by the State systems ultimately went to the district courts and then might have made their way to the circuit court.

This court is a court of first impression on many civil rights cases. When I say that, making the cases end at the Fifth Circuit on many of them. In the old days, might I say, the Fifth Circuit of LBJ and Carter, those judges understood the pain of civil rights cases. They understood the redistricting cases and they understood the Voting Rights Act. They understood that they were not making law. They understood affirmative action cases.

You're right, these circuit courts now become courts that are the last refuge for many petitioners and litigants.

And on the jury selection case if you were to take it up on appeal, this attitude that African American jurors can be stricken and it is not a race question would be devastating. Might I say, the Jena Six case was a white judge, was a white prosecutor and an all-white jury for Michael Bell. And as I understand it, let me say this on the floor so I can correct it if I am wrong, they said that they noticed African American jurors. The African American jurors said they didn't get the notice, and some who came got there too late and so the jury pool was not diverse. If something had occurred that ultimately would be taken up on appeal to a Federal court, look who we would have to assess the case, Judge Southwick.

Mrs. JONES of Ohio. I thank Ms. JACKSON-LEE for her leadership on these issues and for joining me during the Congressional Black Caucus hour.

Let me talk about Judge Southwick for just a few minutes, and then I would like to review some of the progress that has been made under the leadership of our Chair, Ms. KILPATRICK, in the 110th Congress.

As we were talking about Judge Southwick, you have to understand this will be the first controversial judicial nomination considered by the Senate since Democrats took the majority. It has been 10 months since the Senate changed hands, and the people expect a difference in the way judicial nomina-

tions are handled. We don't want to go back to the way they were handled under the Republican leadership.

The Congressional Black Caucus and the civil rights groups warned the Senate about Roberts and Alito, yet they were both confirmed. The first full Supreme Court term of the Roberts court showed that we are able to predict how judges will act or respond on civil rights cases once confirmed.

To confirm a lower court judge in the face of a bad record on civil rights will simply be too much to bear. Let me step aside for a moment, and I heard my colleague Ms. SHEILA JACKSON-LEE talk about there being a white judge and an all-white jury and a white prosecutor. I served as a judge for 10 years in the Common Pleas Court, a general jurisdiction court, in Cuyahoga County, Ohio. I served for 3 years as an assistant county prosecutor and 8 years as an elected prosecutor. I have been in courtrooms where there have been all-white juries, and I will not say that an all-white jury cannot be fair. But what the law says is you should have a jury of your peers. And the law also says that people should not be excluded from a jury just because of their race. I have seen an attempt for that to happen in other cases.

It is so very, very important that if we expect people to follow the law and be a part of the law and be a part of the judicial system, that they have a belief that the judicial system will be fair. Once you have that perception and belief, then you can succumb to the rule of law. In this country, so often we see instances where young men and women have come before the court and they have not had fairness, and that is when it is important to have a circuit court where you can appeal your decision in a trial level court to the circuit court for relief.

The fight in the Fifth Circuit is a fight worth having. It has the highest percentage of minority residents, black and brown, of any circuit. At the same time, the civil rights jurisprudence is far to the right. We have already talked about the Jena Six.

There is a history with this seat. President Bush is intent on placing someone who has a history adverse to civil rights in Mississippi sit on this court. Charles Pickering and Michael Wallace were nominated, but couldn't get confirmed because of their civil rights records. This is the third try by the administration, and the pattern is very clear. We believe that the President, if he was really paying attention to the people of America, what he would in fact do is withdraw this nomination and go on and allow us to have someone who would be fair and honest.

We may not win this battle on a sound bite or our debate on the floor of the House of Representatives, but we believe that the Senate, we believe that this Senate under the majority, Democratic majority, is going to step up to the plate and make the right decision. We expect that they will take a

look at his background and experience and make that decision.

So I am pleased, as I said, having been a judge, and it is a difficult job being a judge. You have to have the right temperament. You have to give people the opportunity to present their evidence, and you make decisions and rulings on evidence and admissibility and whether it is probative, whether it can be prejudicial. And if it is prejudicial, is it outweighed by the probative value. And be familiar with the rules of evidence such that when you sit in the chair as the judge making a decision, and the reason, and it is symbolic, under the law, the reason judges wear robes, the robe is supposed to cover the human frailty of a judge and allow the judge to step up and be fair and set aside any of their background or experience that would be adverse.

So we are concerned about this judge, Judge Leslie Southwick, and we implore the U.S. Senate to not confirm his nomination.

I am going to close on a few of the accomplishments that the Congressional Black Caucus has been involved with over the first 9 months. We are pleased to have an opportunity to be in the leadership role. We fought for minimum wage. Nearly 13 million people will enjoy the benefit of an increase in the minimum wage.

We fought for stem cell research which provides Federal funding for research that has the potential to treat sickle cell anemia, diabetes, paralysis, Alzheimer's and Parkinson's. And many of these diseases are prevalent in the African American community, and we have been fighting for them.

We fought about student loans. I heard on the news today that George Washington University will be the first university to publish that their tuition and room and board is \$55,000, and that the largest increase in tuition is actually going to be in public universities, not private universities. And we all know that most working-class folks send their children to public universities, so we are happy to be in the forefront of fighting for student loans.

We have also been pushing for disadvantaged businesses, disaster eligibility in light of what happened with Hurricane Katrina. We fought for the Katrina Housing Tax Relief Act of 2007.

We fought for United States Troop Readiness, Veterans Health and Iraq Accountability Act because we understand that there are young men and women of all colors fighting over in Iraq and Afghanistan. It is very, very important that they have the ability to have the kind of health care they need and that this government be held accountable for their conduct.

We have fought for the Gulf Coast Hurricane Housing Recovery Act because so many people were left out as a result of Hurricane Katrina and Hurricane Rita.

We fought for accountability in contracting because all of us have learned that many of the dollars that have

been squandered over these past few years under this administration have come as a result of contractors not being held accountable.

We fought for the Hate Crimes Act which provides legal protection for churches, synagogues, and mosques against hate crimes.

We fought for the Farm Nutrition and Bioenergy Act addressing the issues around that.

We stood up on behalf of the Children's Health Insurance and Medicare Protection Act, CHAMP. It was defeated in the Senate, and so it really didn't get anywhere; and that brought us back to SCHIP, which recently was vetoed by the President.

We want everyone to know that Democrats are going to continue to fight to be assured that 10 million children in the United States of America have health care coverage.

We fought on behalf of the Darfur Accountability and Divestment Act, and the list goes on. I am so proud to be in the U.S. Congress. I often tell people the story that my father was a skycap for 38 years for United Airlines and my mother was a factory worker. And for them to have the opportunity in a generation to see their daughter serve as a judge, a prosecutor, and then have an opportunity and the ability to be in the U.S. Congress is just something wonderful.

I always tell people if I am judged, and we always talk about honor thy father and thy mother, that if I am judged on honoring thy father and thy mother, I am probably going to get to heaven. Now some of the other conduct I've engaged in may keep me out of heaven, but I want to say I am pleased and proud to be the daughter of Andrew and Mary Tubbs and to represent the Congressional Black Caucus and represent the country in the U.S. Congress.

Lastly, I will say, the first time I had the opportunity to sit in that chair where you are, Mr. Speaker, I looked up to my mom and dad and said: "Mom and Dad, look at me now, I am in charge of Congress and I'm swinging the gavel."

Mr. Speaker, I thank you on behalf of the Congressional Black Caucus.

FREEDOM OF EXPRESSION

The SPEAKER pro tempore. Under the Speaker's announced policy of January 18, 2007, the gentleman from Oregon (Mr. WALDEN) is recognized for 60 minutes as the designee of the minority leader.

Mr. WALDEN of Oregon. Mr. Speaker, my greetings to my colleagues, especially my friend from Ohio and her remarks. I look forward tonight to talking about another civil right, and that is freedom of expression, guaranteeing that we have the ability to have freedom of expression of even controversial political and religious topics on America's airwaves. That's right, to make sure when issues are debated on

talk radio or talk TV, that somehow there aren't government censors down the street at the FCC trying to silence those who are having these discussions about today's most vibrant issues.

It really goes to the heart of our democracy, I believe, to have an informed democracy which comes about because we have a vigorous discussion, intellectual discussion, a vibrant discussion about the issues of our day. Certainly, whether you are a conservative Member of the House or a liberal Member of the House or somewhere in between, we all debate these issues here; and some of what we say here actually ends up on the airwaves of our broadcast radio and television stations. That is a healthy thing for our country, for our democracy and for an informed electorate.

In 1949, the Federal Communications Commission promulgated a regulation that said every time you have a discussion about a controversial issue, you have to have an opposite viewpoint presented on the public airwaves. On its face, that certainly sounds fair, and that is why they called it the fairness doctrine and the whole premise was in 1949 that there weren't many radio stations. I think there were 2,800, and this was all designed to try and spur communication, to spur this debate on the airwaves, to have opposing viewpoints come forward. This was the government's viewpoint. This is what the Federal Government said this is how we will get this discussion going on the public airwaves. There aren't too many radio stations and very few television stations, no Internet, no iPods. That was it.

□ 2045

So they said, well, pass this regulation that will cause all this great discussion to occur. Well, guess what? That was 1949. Talk radio really didn't come about until about 1988 when, after a series of court decisions found that the so-called fairness doctrine really wasn't fair at all but, moreover, didn't spur the kind of debate on the public airwaves, and in fact, the courts have held, and I'll get into this in detail in a few minutes, but this Federal regulation actually had a very chilling effect on free speech, very chilling effect, actually discouraged discussion of public policy issues on the airwaves. That's right, discouraged discussion of public policy on the airwaves, had a chilling effect, chilling effect on free speech in America. And as a result, the Federal Communications Commission in 1987, I believe it was, decided to repeal the so-called fairness doctrine.

What happened after that? Well, what happened after that was all of the sudden talk radio came to life in America. Now you may like certain hosts and you may despise certain hosts. You may be a conservative Member of this House and think everything Rush Limbaugh says is gospel and the same thing with Sean Hannity. You may be a liberal Member of this House and like

the words of Al Franken or Alan Colmes or someone.

None of those hosts would be at the level they are today if the fairness doctrine were still in place. So why am I down here talking about the fairness doctrine, a regulation that was repealed in 1987, 20 years ago? What's the issue?

Well, the issue is this, that there are Members of this body and the one across the Capitol, there are the powerful elite in this city who don't like what happens on talk radio, makes their lives uncomfortable, gives them great discomfort. The most recent example of which was when the Senate was debating the immigration legislation and moving quite rapidly forward on that flawed legislation, and talk radio got a hold of it on the conservative side or on the liberal side and began to go into it in detail with the audiences they reached, the millions and millions of average Americans out there who are listening to talk radio. The more they educated the public, the more they debated and engaged their audiences in this debate, the more pressure got turned up on this issue.

It's just one example. You know, the issue ended up being defeated in the Senate, and some of them who are on the other side said talk radio is to blame and we need to do something about talk radio, that's not fair, we need to bring back the fairness doctrine. That's why I'm here tonight and why the Republican leadership has asked me to speak on this issue, because there is a very real threat at very high levels in the government, the Congress, that is, to bring back the fairness doctrine, which would be one of the worst things I think could happen.

Now, why did they ask me? Well, I serve on the Energy and Commerce Committee and the Telecommunications Subcommittee, but that's not why. They asked me because I grew up in a radio family. My father started in radio in the 1930s in rural Oregon, helped put stations on the air. He was an engineer and an announcer and a sportscaster and eventually, in 1967, was able to scrape together with a partner enough money to buy his first radio station and added another one he put on the air in 1978. And in 1986, my wife and I bought them from my parents and added three more. So I've been a small market broadcaster for 21½ years, and so I've seen this evolution of pre-fairness doctrine, post-fairness doctrine.

Indeed, one of our radio stations carries Rush Limbaugh and Sean Hannity and Michael Reagan and others on the conservative side, and there's great audience response. There are other radio stations, Portland and around, that have great audience response from Air America and the liberal viewpoints, and that's fine. That's what America's about is this debate of free speech.

I think that even liberals and conservatives should be able to agree that