Mr. SPECTER. Mr. President, the Senator from Illinois has proposed legislation that would authorize bankruptcy courts to reduce the principal value of mortgages—so-called ''cram down''. I have introduced legislation that would authorize bankruptcy courts to reduce the interest rates on variable rate mortgages. I have taken the position I have because I believe giving bankruptcy courts the authority the Senator from Illinois has advocated for would have a serious, disruptive effect, discouraging lenders from loaning money for home mortgages. I am not alone in that view. Congress expressed that view when it expressly barred bankruptcy courts from modifying mortgages. Justice Stevens noted this in Nobleman v. American Savings, when he said the following:

At first blush, it seems somewhat strange that the Bankruptcy Code should provide less protection to an individual's interest in retaining possession of his or her home than of other assets. The anomaly is, however, explained by the legislative history indicating that favorable treatment of residential mortgages was intended to encourage the flow of capital into the home lending market.

That is to say, in essence, that if bankruptcy courts could modify mortgages, lenders would issue fewer mortgages in the future, a serious disadvantage to Americans who want to buy homes down the road.

It is this concern that led me to introduce legislation that would allow bankruptcy courts to modify mortgages in a very limited way. My bill focuses on the problem by allowing bankruptcy judges to modify interest rates on mortgages where the rate has increased dramatically. The number of these types of mortgages has increased substantially in recent years. In 2001, adjustable rate mortgages accounted for 16 percent of all home loans. By 2006, this share had increased to 45 percent.

The Senator from Illinois has characterized my legislation in somewhat uncomplimentary terms, to put it mildly. He said:

Specter's language is worse than useless. It's counterproductive. It creates the image of action and response and it does nothing.

Worse than useless. That is very tough talk, but let's examine what the facts are. The facts are that the rate of delinquency and foreclosure on adjustable rate mortgages has been very considerable, in contrast with what has happened on fixed rate mortgages. As payments on adjustable rate mortgages have reset, many homeowners have had their monthly payment increase substantially. On average, a $1,200 monthly mortgage payment has increased by $250 to $300. Among homeowners with subprime adjustable rate mortgages, the percentage that was either 90 days past due or in foreclosure has more than doubled from 6.5 percent in the second quarter of 2006 to 15.6 percent in the third quarter of 2007. The percentage of homeowners with prime adjustable rate mortgages who are either 90 days past due or in foreclosure has more than tripled, from less than 1 percent in the second quarter of 2006 to 3.12 percent in the third quarter of 2007.

Contrast this with delinquencies and foreclosures among homeowners with fixed rate mortgages. The percentage of homeowners with fixed rate mortgages who are either 90 days past due or in foreclosure has increased only slightly from 5.72 percent in the second quarter of 2006 to 6.61 percent in the third quarter of 2007. Similarly, among homeowners with prime fixed rate mortgages, the percentage who are either 90 days past due or in foreclosure has only increased from .63 percent to .83 percent.

The point of all this is that adjustable rate mortgages have created an enormous problem for many homeowners. But that has not occurred where there are fixed rate mortgages. So it hardly seems to me that ARLEN SPECTER's language is ''worse than useless.''

It hardly seems that my proposal is counterproductive or that it creates the image of action and response but does nothing.

The fact is, it attacks the very core of the serious we face today problem. On one point the Senator from Illinois and I agree—we have a very serious problem. I wish to see this Senate address it. The fact is we could use some constructive work around here. May the RECORD show the Senator from Illinois nods in agreement. So we have quite a few points here that are not totally ARLEN SPECTER useless.

Mr. DURBIN. May I ask the Senator a question through the Chair?

Mr. SPECTER. I don't mind the presumption if the Senator will use his microphone.

Mr. DURBIN. It is not turned on. Now it is turned on. I wish to respond through the Chair and not take anything away from Senator SPECTER's time; that any time I use be taken from me. I will be very brief.

Mr. SPECTER. I will finish in less time than the Senator from Illinois used when he said he was about to finish. I only wish to say that I hope we will take it up in the Judiciary Committee this week and report it out of Committee, which is what ought to be done before it comes to the floor. Then perhaps we will have more time for an extended debate.

I will be glad to hear the response from the Senator from Illinois.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DURBIN. Mr. President, I thank the Senator from Pennsylvania for his effort to cooperate and with me.

First, he is concerned about the impact on interest rates if my bankruptcy provision goes through. Understand, it only applies to a fixed, finite, limited group of adjustable rate mortgagees who are facing foreclosure and going to bankruptcy court. The up-side estimate is 600,000. I think more realistically 400,000, 500,000 would qualify.

To suggest we are changing the policy of mortgages in America and will precipitate higher interest rates for all Americans from this point forward does not apply. We are dealing with a specific emergency, a specific crisis, and a specific response.

I will readily concede with some humility that my remarks were harsh and perhaps strong in relation to the Senator's amendment. But I will tell him why I felt that way and why I reacted that way.

There is one point in his amendment that he has not said on the floor. He gives the bank the last word. The bank makes the decision whether the mortgage is going to be changed. As long as the bank has the last word, nothing is going to happen. There is not a thing that bank cannot already do today in renegotiating the terms of the mortgage, and they are not doing it.

I have said to the Senator from Pennsylvania that I think that is the critical element, the critical difference in our approach. I believe the bankruptcy court should have the last word. The Senator from Pennsylvania believes the mortgage bankers should always have the last word. I don't think that is a reasonable way to approach it.

In terms of the number of adjustable rate mortgages, they are the problem. Six years ago, some estimated that about one out of twelve faced foreclosure. Today the estimate is one out of two. Clearly, the problem needs to be addressed. I tried to narrow my amendment so it addresses those now, it does not have a long tail to it, and does not give the bank the last word.

Mr. SPECTER. Mr. President, the conclusive response to the argument by the Senator from Illinois is that my bill allows the court to reduce the principal on a mortgage—a so-called cram down—if the bank agrees and if it is indicated by the facts. What the Senator from Illinois failed to note is that my bill gives full leeway to bankruptcy courts to adjust interest rates—which the Senator from Illinois has already acknowledged is the real problem.

Under current law, the court does not have the power to reduce the principal on a mortgage. So I added the provision that if the lender were in agreement, and if it makes sense in many cases this option will cost less than foreclosing—then extend the authority to court to make that adjustment.

Mr. President, how much time remains of the 30 minutes?

The ACTING PRESIDENT pro tempore. The Senator has 21½ minutes remaining.

JUDICIAL CONFIRMATION PROCESS

Mr. SPECTER. Mr. President, I have sought recognition today to comment about the serious problem in the judicial confirmation process where Federal judges are pawns in political partisanship. I wrote to my distinguished colleague Senator LEAHY on February

29, last Friday. I sent him an extensive letter on the subject.

I ask unanimous consent to have printed in the CONGRESSIONAL RECORD the full text of that letter at the conclusion of my comments.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See Exhibit 1.)

Mr. SPECTER. Mr. President, during the past 20 years, we have seen a very serious deterioration in the processes in the Senate on the confirmation of Federal judges. Without a broad sweep of historical reference, I believe it has been a very low point in the confirmation of Federal judges since the beginning of the Republic, but in order to say that with absolute certainty, there would have to be a very intense historical survey undertaken.

It is plain that since the last 2 years of President Reagan's administration until the present day, the confirmation process has broken down whenever the White House has been controlled by one party and the Senate controlled by the other party. In the last 2 years of the Reagan administration, the judicial confirmation process broke down. In the 4 years of the administration of President George H. W. Bush, the confirmation process was riveted with partisanship. When Republicans gained control of the Senate starting in January of 1995, during the last 6 years of the administration of President Clinton, the Republican Senate retaliated, and more than retaliated; it exacerbated the problem. Then, when the administration of President George W. Bush came, the Democrats were in control for about a year and a half of that process. Again, the process was stymied. Then it got even worse. Then, even though the Republicans had gained control of the Senate, after the 2002 elections, there were filibusters, which were very destructive to the Senate. Then, there was a very serious challenge to the filibuster rule. The Democrats were filibustering President Bush's nominees and Republicans responded with a so-called constitutional or nuclear option to change the filibuster rule to reduce the number from 60 to 51.

During the course of these battles, with one side raising the ante and the other side raising the ante, exacerbating the controversy, I was willing to cross party lines and support the nominees of President Clinton who were qualified. For example, I crossed party lines to support Judge Marsha Berzon who was confirmed to the Ninth Circuit on March 9, 2000, and Judge Timothy Dyk who was confirmed to the Federal Circuit on May 24, 2000. I supported Judge Richard Paez who was confirmed to the Ninth Circuit on March 9, 2000, and Judge H. Lee Sarokin who was confirmed to the Third Circuit on October 4, 1994. Similarly, I supported President Clinton's nomination of Judge Gerard Lynch who was confirmed to the District Court for the Southern District of New York on May 24, 2000.

I also supported other controversial, nonjudicial confirmations such as Lani Guinier to be Assistant Attorney General for the Civil Rights Division of the Justice Department and the subsequent nomination of Bill Lann Lee for the same position. I was willing to cross party lines and support the nominees of the Democratic President. Now, I believe the Republican caucus is correct. In order to determine which caucus is to prevail, I believe the American people are going to have to be informed as to what is going on. It is a picture, which I submit requires correction.

Comparing the statistics on the confirmation of President Clinton's nominees versus President Bush's nominees shows a significant disparity. In the last 2 years of President Clinton's term, President Clinton was successful in confirming 15 circuit nominees and 57 district court nominees, while President Bush has been successful in confirming only 6 circuit court nominees and 34 district court nominees.

Looking at the total of 8 years, there is, again, a great disparity. In President Clinton's 8 years, 65 circuit judges were confirmed and 305 district judges. During the full two terms up to the present time with President Bush, 57 circuit judges have been confirmed and 237 district court judges have been confirmed.

It is not just a matter of statistics, it is a matter of very substantial impact on the public, a very substantial impact on the courts, and a matter of very significant unfairness to the nominees themselves.

It is impossible with any other statistical analysis to draw any firm conclusions because the years overlap. Senator LEAHY and I have already exchanged extensive, candidly argumentative correspondence, and he has made some points, but a close analysis shows that is not the case. When he cites the confirmations in the year 2007, for example, his figures look good because 13 of the judges were held over from the preceding 109th Congress. So, if those 13 are extracted, it is not the kind of a picture that would show the statistical battle as tilting in his favor. But, I believe it goes much further than the statistics. It goes to what is happening day in and day out in the Federal courts.

There recently was extended publicity given to the *Exxon Valdez* case. The situation first arose in 1989 when 11 million gallons of crude oil were spilled in Alaska. The district court acted on the matter in 1994. The case is just now coming to the Supreme Court of the United States, which heard argument last week. In the interim, some 8,000 plaintiffs have died.

In the text of the letter which I have sent to Senator LEAHY and which will be included in the CONGRESSIONAL RECORD, there are the designations of areas where there are judicial emergencies. ''Judicial emergencies'' means that there is an insufficient number of judges to handle the backlog of cases in the courts. That means the people who have gone to court to sue for damages in a personal injury case or to sue for defective automobiles or to sue for negligently formulated medicines are delayed. The adage is well established in our lexicon that justice delayed is justice denied. I shall not elaborate in the limited amount of time I have on the many circuits and district courts where they face judicial emergencies because well-qualified judges have not been confirmed. Here again, I can mention only a few. But one nominee, Peter Keisler, whose nomination to the District of Columbia Circuit Court has been pending in Committee for more than 20 months, is a man who graduated magna cum laude from Yale, then graduated from Yale Law School, and was editor of the Yale Law Journal. Editorials in the Los Angeles Times and the Washington Post have called for confirmation of Mr. Keisler, calling him a ''moderate conservative'' and a ''highly qualified nominee'' who ''certainly warrants confirmation.''

Robert Conrad, nominated to the Fourth Circuit, is nominated to fill a judicial emergency and has been pending over 220 days. He is rated unanimously well qualified and graduated magna cum laude from Clemson University. An editorial in the Charlotte Observer stated it is ''outrageous'' that the Judiciary Committee has not held a hearing on Judge Conrad, calling him a ''well-qualified judge who only 3 years ago received unanimous Senate confirmation,'' and who ''was appointed by Democratic Attorney General Janet Reno to head the Justice Department's Campaign Task Force.'' He is a former prosecutor and distinguished district court judge who was picked by the Attorney General of the opposite party to head a very important campaign finance task force.

Nominee Rod Rosenstein for the Fourth Circuit has been pending for over 100 days. The American Bar Association rated him unanimously well qualified. He graduated from the University of Pennsylvania, summa cum laude and Harvard Law School, cum laude. Two editorials in The Washington Post urged Senate confirmation of Mr. Rosenstein, and one stated:

> ''Blocking Mr. Rosenstein's confirmation hearing would elevate ideology and ego above substance and merit, and it would unfairly penalize a man who people on both sides of this question agree is well qualified for a judgeship.''

I think that statement by The Washington Post is as good a characterization as you can find. The conduct of the Senate today is elevating ideology and ego above substance. So I would urge my colleagues on the other side of the aisle to extend their hands across the aisle, as I did on so many occasions during President Clinton's tenure in office. How much time remains, Mr. President?

The ACTING PRESIDENT pro tempore. The Senator has 8 minutes.

Mr. SPECTER. Eight minutes?

The ACTING PRESIDENT pro tempore. There is 7 minutes 58 seconds remaining.

Mr. SPECTER. I thank the Chair. The current presidential race provides the Senate with a unique opportunity to come to grips with the confirmation process of Federal judges and to make some very fundamental commitments and very fundamental changes to our process.

We are in the midst of a Presidential campaign, and I think it is fair to say the outcome is uncertain. It has fluctuated tremendously on both nomination pictures. But, this is a time, with the outcome uncertain, when neither side of the aisle would know who will gain an advantage; we would not know whose ox was being gored. It is a time, starting in the next Congress—if we can't act now, and my fundamental plea is that we act at the present time—we ought not to wait 11 months, until January 20, 2009. This is a unique time to tackle the problem for the future.

On April 1, 2004, I offered S. Res. 327, and I now offer the substance of that resolution again. The whereas clauses of the resolution recited a distressing array of facts similar to what we have at the present time, with filibusters by the Democrats and with the retaliatory prospect of changing the filibuster rule. The resolution called for establishing a timetable for hearings of nominees for district courts and courts of appeal and the Supreme Court to occur within 30 days after the names of such nominees have been submitted to the Senate by the President and then to establish a timetable for action by the full committee within 30 days after the hearings and for reporting out nominees to the full Senate. And then to have a timetable for the full Senate to act within 90 days, with a provision for reasonable extension of times, upon agreement of the chairman of the Judiciary Committee and the ranking member or the majority leader and the minority leader to extend the time.

This resolution would establish procedures which would guarantee that the confirmation of judges would go back to the good old days, where you took a look at the person's academic credentials, you took a look at the person's professional background, you interviewed the individual, you had an FBI background check, and the person didn't have to pass some ideological purity test. Or, the individual did not have to pass a test such as what Judge Southwick was subjected to on this floor for months and months and months.

It was particularly egregious in the case of Judge Southwick. Judge Southwick was a distinguished Mississippi State appellate court judge. He was nominated for the Fifth Circuit, and he had an extraordinary record, more than 10 years on the State court bench—more than 70 opinions. Objections were raised to two lines in two concurring opinions. Judge Southwick left the bench and went to Iraq and served for months in the Judge Advocate General's Corps. He was interviewed by many people of the Senate, and his confirmation hung on a thread until a courageous Senator from the other side of the aisle crossed party lines and led the way to get a few votes from the Democrats.

You don't have to be a profile in courage to support a judge such as Judge Southwick, and you don't have to be a profile in courage to support a nominee such as Rod Rosenstein or Peter Keisler or Robert Conrad or the others who were enumerated in my letter—some 10 circuit court judges and 18 district court judges.

I wish to quote a very respectable authority in my concluding comment. A man who has served in the Senate since he was elected from Vermont in 1974, twice chairman of the Judiciary Committee, and this is what the distinguished Senator from Vermont, Senator LEAHY, had to say on October 5, 2000.

This year, the Judiciary Committee reported only three nominees to the Court of Appeals all year.

This is the last year of President Clinton's administration.

We denied a committee vote to two outstanding nominees who succeeded in getting hearings. I hope we can look again and ask ourselves objectively, without any partisanship: Can we not do better on judges?

This is Senator LEAHY. Going on.

I quoted Governor George Bush—

He was in the campaign process at that time in the 2000 election. Senator LEAHY says:

I quoted Governor George Bush on the floor a couple of days ago. I said I agreed with him. On nominations he said we should vote them up or down within 60 days. If you don't want the person, vote against them. The Republican Party should have no fear of that. They have the majority in this body. They could vote against them if they want, but have the vote. Either vote for them or vote against them. Don't leave people such as Helene White and Bonnie Campbell, people such as this, just hanging forever without even getting a rollcall vote. That is wrong. It is not a responsible way and besmirches the Senate, this body, that I love so much.

Senator LEAHY, you were right on October 5, 2000, and you are right on March 3, 2008.

I yield the floor.

EXHIBIT 1

WASHINGTON, DC,
February 29, 2008.

Hon. PATRICK J. LEAHY,
Chairman, Senate Committee on the Judiciary, Dirksen Senate Office Building, Washington, DC.

DEAR PATRICK: I write in the hope that you and I can work out an accommodation on the confirmation of federal judges without our respective caucuses coming to an impasse. Without going into an elaborate history on the confirmation of federal judges, the essence of the situation is that 15 circuit judges and 57 district court judges were confirmed in the last two years of President Clinton's Administration, compared to 6 circuit court and 34 district court judges for President Bush in 2007–2008. That means there must be confirmations or at least up-or-down votes on 9 additional circuit and 23 district court judges to equal President Clinton's record.

President Bush is even farther behind President Clinton in total confirmations when contrasting their entire terms, since President Clinton confirmed 65 circuit court and 305 district court judges while President Bush has so far confirmed only 57 circuit and 237 district court judges. In addition, thus far in the 110th Congress, only 5 of President Bush's circuit court nominees have been granted hearings. By this date in President Clinton's final two years in office, the Committee had held hearings for 10 circuit court nominees. Until the hearing for Ms. Catharina Haynes on February 21, 2008, we had not had a circuit court hearing since September 25, 2007, some 5 months ago.

While there have been many hotly contested issues in the Senate in recent years, the most bitter controversies have involved federal judicial nominations. In 2005, the battle over judges reached a high point, or low point, with the Republican caucus threatening to employ the ''nuclear option'' to combat the Democrats' filibusters. In my judgment, in the past twenty years, there has been a great deal of blame split evenly between both sides.

As the record shows, I dissented from the Republican caucus's position by casting key votes in favor of several circuit court nominees, including controversial nominees such as Judge Marsha Berzon, who was confirmed to the Ninth Circuit Court of Appeals on March 9, 2000, Judge Timothy Dyk, who was confirmed to the Federal Circuit on May 24, 2000, Judge Richard Paez, who was confirmed to the Ninth Circuit on March 9, 2000, and Judge H. Lee Sarokin, who was confirmed to the Third Circuit on October 4, 1994. Similarly, I supported President Clinton's nomination of Judge Gerard Lynch, who was confirmed to the District Court for the Southern District of New York by a vote of 63–36 on May 24, 2000. I also supported other controversial non-judicial confirmations such as Lani Guinier to be Assistant Attorney General for the Civil Rights Division of the justice Department and the subsequent nomination of Bill Lann Lee for the same position.

Now I believe that my caucus is correct in insisting on up-or-down votes on nominees with extraordinary records, including several who are nominated to fill seats deemed judicial emergencies. A listing of these nominees with their superb qualifications proves the point:

CIRCUIT COURT NOMINEES

Nominee: Peter D. Keisler, of MD, to the D.C. Circuit: Pending over 600 days.

Nominated: June 29, 2006 Hearing August 1, 2006; Renominated January 8, 2007.

ABA Rating: Unanimous Well Qualified.

Education: B.A., magna cum laude, Yale University, 1981; J.D., Yale Law School, 1985; Notes/Comments Editor, Yale Law Journal.

Career Highlights: Law Clerk, Judge Robert H. Bork, D.C. Circuit Court of Appeals; Law Clerk, Justice Anthony M. Kennedy, U.S. Supreme Court; Assistant Attorney General, Civil Division, Department of Justice; Acting Attorney General, United States Department of Justice (DOJ).

Editorials in the Los Angeles Times and the Washington Post have called for confirmation of Mr. Keisler calling him a ''moderate conservative'' and ''highly qualified nominee'' who ''certainly warrants confirmation.

Nominee: Robert Conrad, of NC, to the 4th Circuit (Judicial Emergency); Pending over 220 days.

Nominated: July 17, 2007.
ABA Rating: Unanimous Well Qualified.
Education: B.A., magna cum laude, Clemson University, 1980; J.D., University of Virginia. 1983.
Career Highlights: U.S. Attorney, Western District of N.C.; District Judge, District Court for the Western District of N.C.; Chief Judge, Western District of N.C.
An editorial in The Charlotte Observer stated that it is ''outrageous'' that the Judiciary Committee has not held a hearing for Judge Conrad, calling him a ''well-qualified judge who only three years ago received unanimous Senate confirmation'' and who ''was appointed by Democratic Attorney General Janet Reno to head the Justice Department's Campaign Finance Task Force.''

Nominee: Steve A. Matthews, of SC, to the 4th Circuit; Pending over 170 days.
Nominated: September 6, 2007.
ABA Rating: Substantial Majority Qualified, Minority Not Qualified.
Education: B.A., University of South Carolina, 1977; J.D., Yale Law School, 1980.
Career Highlights: Deputy Assistant Attorney General, Civil Division, DOJ; Deputy Assistant Attorney General, Office of Legal Policy. DOJ; Managing Director, Haynsworth Sinkler Boyd, P.A.

Nominee: Catharina Haynes, of TX, to the 5th Circuit (Judicial Emergency); Pending over 220 days. Nominated: July 17, 2007; Hearing February 21, 2008. ABA Rating: Unanimous Well Qualified. Education: B.S., with highest honors, first in her class, Florida Institute of Technology, 1983; J.D., with distinction, order of the coif, Emory University School of Law. 1986.
Career Highlights: Partner, Baker Botts, LLP; Judge, State of Texas, Dallas County, 191st District Court, Dallas, TX; Partner, Baker Botts, LLP.

Nominee: Rod Rosenstein, of MD, to the 4th Circuit (Judicial Emergency); Pending over 100 days. Nominated: November 15, 2007. ABA Rating: Unanimous Well Qualified. Education: B.S., summa cum laude, University of Pennsylvania, 1986; J.D., cum laude, Harvard Law School, 1989.
Career Highlights: Law Clerk, Judge Douglas Ginsburg, D.C. Circuit; Special Assistant to the Assistant Attorney General, (Criminal Division, DOJ; Associate Independent Counsel, Office of the Independent Counsel; Principal Deputy Assistant Attorney General, Tax Division, DOJ; U.S. Attorney, U.S. Attorney's Office for the District of Maryland.
Two editorials in the Washington Post urged Senate confirmation of Mr. Rosenstein and one stated ''blocking Mr. Rosenstein's confirmation hearing . . . would elevate ideology and ego above substance and merit, and it would unfairly penalize a man who people on both sides of this question agree is well qualified for a judgeship.''

Nominee: Stephen Murphy, of MI, to the 6th Circuit (Judicial Emergency); Pending over 1100 days. Nominated: February 17, 2005; Renominated June 28, 2006; Renominated March 19, 2007. ABA Rating: Substantial Majority Well Qualified, Minority Qualified. Education: B.S., Marquette University, 1984; J.D., St. Louis University, 1987.
Career Highlights: Assistant U.S. Attorney, U.S. Attorney's Office for the E.D. of Michigan; Attorney, General Motors; U.S. Attorney, U.S. Attorney's Office for the Eastern District of Michigan.

Nominee: Raymond Kethledge, of MI, to the 6th Circuit (Judicial Emergency); Pending over 600 days.
Nominated: June 28, 2006; Renominated March 19, 2007. ABA Rating: Substantial Majority Well Qualified, Minority Qualified. Education: B.A., University of Michigan, 1989; J.D., University of Michigan Law School, 1993.
Career Highlights: Law Clerk, Justice Anthony M. Kennedy, U.S. Supreme Court; Counsel, Senator Spencer Abraham, U.S. Senate Judiciary Committee; Partner, Bush Seyferth Kethledge & Paige.

Nominee: William Smith, of RI, to the 1st Circuit (Judicial Emergency); Pending over 80 days. Nominated: December 7, 2007. ABA Rating: Substantial Majority Well Qualified, Minority Qualified. Education: B.A., Georgetown University Law Center, 1982.
Career Highlights: Counsel/Partner, Edwards & Angell, LLP; Staff Director, Senator Lincoln Chafee; District Judge, District of Rhode Island.

Nominee: Shalom Stone, of NJ, to the 3rd Circuit (Judicial Emergency); Pending over 220 days. Nominated: July 18, 2007. ABA Rating: Substantial Majority Qualified, Minority Well Qualified. Education: B.A., magna cum laude, Yeshiva College; J.D., cum laude, New York University School of Law. Career Highlights: Associate, Sills, Cummis, Tischman, Epstein & Gross; Member, Walder Hayden & Brogan, P.A.

Nominee: Gene Pratter, of PA, to the 3rd Circuit; Pending over 100 days. Nominated: November 15, 2007. ABA Rating: Unanimous Well Qualified. Education: A.B., Stanford University, 1971; J.D., University of Pennsylvania Law School, 1975.
Career Highlights: Partner, Duane Morris, LLP, District Judge, Eastern District of Pennsylvania.

DISTRICT COURT NOMINEES

Nominee: Thomas A. Farr, of NC, to the Eastern District of North Carolina (Judicial Emergency). Nominated: December 7, 2006. ABA Rating: Unanimous Well Qualified. Education: B.A., summa cum laude, co-salutatorian, Hillsdale College, 1976; J.D., Emory University School of Law, 1979; L.L.M., Georgetown University School of Law, 1982.
Career Highlights: Counsel, U.S. Senate Committee on Labor and Human Resources; Staff Attorney, Office of Personnel Management; Law Clerk, Judge Frank W. Bullock, Jr., U.S. District Court for the M.D. of NC; Adjunct Professor, Campbell University School of Law.

Nominee: James R. Hall, to the Southern District of Georgia (Judicial Emergency).
Nominated: March 19, 2007; Hearing Feb. 12, 2008; Scheduled for markup Feb. 28, 2008.
ABA Rating: Substantial Majority Well Qualified, Minority Qualified.
Education: B.A., Augusta College, 1979; J.D., University of Georgia Law School, 1982.
Career Highlights: Partner, Avrett & Hall; Corporate Vice President & General Counsel, Bankers First Corporation; 22nd District State Senator, Georgia State Senate; Partner, Warrick, Tritt, Stebbins & Hall.

Nominee: Gustavus Adolphus Puryear, of TN, to the Middle District of Tennessee.
Nominated: June 13, 2007; Hearing February 12, 2008.
ABA Rating: Unanimously Qualified.
Education: B.A., with highest honors, Emory University, 1990; J.D., with honors, University of North Carolina School of Law, 1993.
Career Highlights: Law Clerk, Judge Rhesa Hawkins Barksdale, Court of Appeals for the 5th Cir.; Legislative Director, Office of U.S. Senator Bill Frist; Executive VP, General Counsel & Secretary, Corrections Corporation of America.

Nominee: Brian Stacy Miller, of AR, to the Eastern District of Arkansas.
Nominated: October 16, 2007; Hearing February 12, 2008; Markup February 28, 2008.
ABA Rating: Unanimously Well Qualified.
Education: B.S., with honors, University of Central Arkansas, 1992; J.D., Vanderbilt Law School, 1995.
Career Highlights: Deputy Prosecuting Attorney, Arkansas Prosecuting Attorney's Office; Judge, Arkansas Court of Appeals (current).

Nominee: John A. Mendez, of CA, to the Eastern District of California (Judicial Emergency).
Nominated: Sept. 6, 2007; Hearing February 21, 2008.
ABA Rating: Substantial majority Well Qualified, minority Qualified.
Education: B.A., with distinction, Stanford University, 1977; J.D., Harvard Law School, 1980.
Career Highlights: United States Attorney, United States Attorney's Office for the N.D. of CA; Shareholder, Somach, Simmons & Dunn; Judge, Sacramento County Superior Court.

Nominee: Richard H. Honaker, of WY, to the District of Wyoming.
Nominated: June 29, 2006; Hearing February 12, 2008.
ABA Rating: Unanimous Well Qualified.
Education: B.A., Harvard College, cum laude, 1973; J.D., University of Wyoming College of Law, John J. Bugas Scholarship, 1976.
Career Highlights: State Public Defender, State of Wyoming; Member, Wyoming House of Representatives, 1987–1993; Partner, Honaker, Hampton & Newman.

Nominee: Lincoln D. Almond, of RI, to the District of Rhode Island.
Nominated: November 15, 2007.
ABA Rating: Unanimous Well Qualified.
Education: B.S., University of Rhode Island, 1985; J.D., with High Honors, University of Connecticut School of Law, 1988; Notes/Comments Editor, Connecticut Law Review.
Career Highlights: Law Clerk, Judge Peter C. Dorsey, District Court for the District of Connecticut; Partner, Edwards & Angell, LLP; Magistrate Judge, U.S. District Court for the District of Rhode Island.

Nominee: Mark S. Davis, of VA, to the Eastern District of Virginia.
Nominated: November 15, 2007.
ABA Rating: Unanimous Well Qualified.
Education: B.A., University of Virginia, 1984; J.D., Washington and Lee University School of Law, 1988.
Career Highlights: Law Clerk, Judge John A. MacKenzie, U.S. District Court for the E.D. of VA; Partner, McGuire Woods LLP; Partner, Carr & Porter, LLC; State Court Judge, Third Judicial Circuit of Virginia.

Nominee: David J. Novak, of VA, to the Eastern District of Virginia.
Nominated: November 15, 2007.
ABA Rating: Substantial Majority Well Qualified, Minority Qualified.
Education: B.S., magna cum laude, St. Vincent College, 1983; J.D., Villanova University Law School, 1986.
Career Highlights: Assistant District Attorney; Philadelphia District Attorney's Office; Trial Attorney, Criminal Division, DOJ; Assistant U.S. Attorney, U.S. Attorney's Office for the S.D. of Texas; Assistant U.S. Attorney, U.S. Attorney's Office for the E.D. of Virginia.

Nominee: William J. Powell, of WV, to the Northern District of West Virginia.
Nominated: May 24, 2007.
ABA Rating: Substantial Majority Well Qualified, Minority qualified, 1 abstention.
Education: B.A., magna cum laude, Salem College, 1982; J.D., West Virginia College of Law, 1985.
Career Highlights: Assistant United States Attorney, Southern District of WV; Member, Jackson Kelly, PLLC.

Nominee: David R. Dugas, of LA, to the Middle District of Louisiana.
Nominated: March 19, 2007.

ABA Rating: Unanimously Well Qualified.

Education: Cadet, United States Air Force Academy, 1973; J.D., Louisiana State University Law Center, 1978.

Career Highlights: Partner, Caffery, Oubre, Dugas & Campbell, L.L.P.; United States Attorney, Middle District of Louisiana (current); Exec. Director, Hurricane Katrina Fraud Task Force Joint Command Center.

Nominee: Stephen N. Limbaugh Jr., of MO, to the Eastern District of Missouri.

Nominated: December 6, 2007.

ABA Rating: Unanimously Well Qualified.

Education: B.A., Southern Methodist University, 1973; J.D., Southern Methodist University School of Law, 1976; Master of Laws in the Judicial Process, UVA School of Law, 1998.

Career Highlights: Circuit Judge: 32nd Judicial Circuit of Missouri; Supreme Court Judge, Supreme Court of Missouri; Chief Justice, Supreme Court of Missouri.

Nominee: David Gregory Kays, of MO, to the Western District of Missouri.

Nominated: Nov. 15, 2007.

ABA Rating: Substantial Majority Qualified/Minority Not Qualified.

Education: B.S., Southwest Missouri State University, 1985; J.D., University of Arkansas School of Law, 1988.

Career Highlights: Prosecutor, Laclede County Prosecuting Attorney's Office; Associate Circuit Judge, Laclede County Circuit Court; Presiding Circuit Court Judge, Twenty-Sixth Judicial District.

Nominee: James Edward Rogan, of CA, to the Central District of California (Judicial Emergency).

Nominated: January 9, 2007.

ABA Rating: Substantial Majority Well Qualified/Minority Qualified.

Education: B.A., University of California at Berkeley, 1979; J.D., University of California Los Angeles School of Law, 1983.

Career Highlights: Deputy District Attorney, Los Angeles County District Attorney's Office; Judge, Glendale Municipal Court; Member, California State Assembly; Member, United States House of Representatives; Judge, California Superior Court.

Nominee: William T. Lawrence, of IN, to the Southern District of Indiana (Judicial Emergency).

Nominated: February 15, 2008.

ABA Rating: Not yet rated.

Education: B.A., Indiana University, 1970; J.D., Indiana University School of Law-Indianapolis, 1973.

Career Highlights: Public Defender (Parttime), Marion County Superior Court, Criminal Division; Master Commissioner (parttime), Marion County Circuit Court; Judge, Marion County Circuit Court; Magistrate Judge, District Court for the Southern District of Indiana (current).

Nominee: G. Murray Snow, of AZ, to the District of Arizona.

Nominated: Dec. 11, 2007.

ABA Rating: Not yet rated.

Education: B.A., magna cum laude, Brigham Young University, 1984; J.D., magna cum laude, J. Reuben Clark Law School, Brigham Young University, 1987.

Career Highlights: Law Clerk, Judge Stephen H. Anderson, Tenth Circuit Court of Appeals; Member, Meyer, Hendricks, Victor, Osborn & Maledon, P.A.; Judge, Arizona Court of Appeals.

Nominee: Glenn T. Suddaby, of NY, to the Northern District of New York.

Nominated: December 11, 2007.

ABA Rating: Not yet rated.

Education: B.A., State University of New York at Plattsburgh, 1980; J.D., Syracuse University College of Law, 1985.

Career Highlights: Assistant District Attorney, Onondaga County District Attorney's Office; First Chief Assist, District Attorney, Onondaga County Dist. Attorney's Office; United States Attorney, Northern District of New York.

Nominee: Colm Connolly, of DE, to the District of Delaware.

Nominated: February 26, 2008.

ABA Rating: Not yet rated.

Education: B.A., University of Notre Dame; M.Sc., London School of Economics; J.D., Duke University Law School.

Career Highlights: Law Clerk, Judge Walter Stapleton, Third Circuit Court of Appeals; Assistant U.S. Attorney, U.S. Attorney's Office for the District of Delaware; U.S. Attorney, U.S. Attorney's Office for the District of Delaware.

It is my hope that we can work together to ensure that all of these nominees receive timely hearings and prompt votes in the Committee.

In light of my extensive consultation with you in scheduling the hearings for Chief Justice Roberts and Justice Alito, as well as our collaboration on numerous other Committee hearings, I was surprised when you scheduled a hearing for Judge Catharina Haynes on February 21st during the recess. I know you offered to postpone that hearing for a relatively brief period of time, but a formal, written request for a postponement would only have provided more grist for the argument mill on these issues. I was prepared to cancel my previously scheduled work in Pennsylvania to attend the Haynes hearing until Senator John Warner, who was in Washington, agreed to attend.

Given the uncertainty of who the next President will be, now would be a good time to change the confirmation process to guarantee prompt action on nominees with up-or-down votes. I again urge you to work for me to establish a schedule for prompt consideration of all currently pending judicial nominees and ensure they receive up-or-down votes in Committee and on the Senate floor. I have shared this letter with the other Republican members of the Committee.

Sincerely,

ARLEN SPECTER.

The ACTING PRESIDENT pro tempore. The Republican leader.

Mr. MCCONNELL. Mr. President, I wish to commend the ranking member of the Judiciary Committee for his comments, which I first watched from my office and then came to the floor.

I can recall, and I believe the Senator from Pennsylvania mentioned this, the Berzon and Paez nominations at the end of the Clinton administration, where there was a lot of discontent on the Republican side of the aisle—strong feeling that these nominees were ideologically unacceptable. I remember then-majority leader in the Senate, Senator Lott, saying: We don't want to set the precedent that the ideological leanings of these nominees will deny them an up-or-down vote.

I, similar to Senator SPECTER and Senator Lott, voted for cloture on those nominations, not to kill them but to move them forward. It was a very important decision on the part of then-Majority Leader Lott to prevent, to the maximum extent possible, the kind of meltdown that seems to have occurred in this Congress to which Senator SPECTER was referring.

At the beginning of this Congress, the majority leader, Senator REID, and I discussed the need for the Senate to have a fair, less-contentious confirmation process. To his credit, I think that is his view and his goal. We have made some progress on circuit court nominations last year. We didn't match President Clinton's number from the first session of his last Congress, but we came close. Now, we had one notable bump along the way and Senator SPECTER referred to that and that was the nomination of Judge Leslie Southwick. But we were able to get him through, thanks to, as Senator SPECTER pointed out, the courageous decision on the part of particularly one Senator on the other side. It was good for the institution that we did that.

Unfortunately, the prospect of turning the page on judicial nominations, a goal which I think all but the hardiest partisans share, has taken a wrong turn. Despite the best efforts of Senator SPECTER and others, progress has all but ground to a halt. There have been no—I repeat, no—judicial confirmations so far this year—not one. There has been only one hearing on a circuit court nominee since September of last year.

Let me say that again. So far this year, the second session of the 110th Congress, not a single judicial confirmation—not one. With regard to circuit court nominees, only one hearing since September of last year.

It is puzzling why progress has almost totally stopped. Some like to blame the President, but as the ranking member, Senator SPECTER, has noted, there are several circuit court nominees who have been pending for hundreds of days who have yet to receive a simple hearing—a hearing—let alone a committee or floor vote. In addition, many of these nominees satisfy most or all the chairman's specific criteria for prompt consideration. They have strong home State support—check the box on that—they fill judicial emergencies, and they have good or outstanding ABA ratings.

All these nominees Senator SPECTER referred to meet all those criteria. So it is puzzling why it is taking so long to move them. I hope the committee is not slow-walking these nominees based upon decade-old grievances, both real and imagined. That might be emotionally satisfying, but it will set a precedent that will serve us ill, regardless of who is in the White House and which party controls the Senate next year.

So I would hope our Democratic colleagues resist the desire by some to drag us into the judicial confirmation brinkmanship and establish a precedent they will regret. I hope they will treat these nominees fairly, before it is too late.

Again, I wish to particularly commend Senator SPECTER, our Republican leader on the Judiciary Committee, for pointing this out. He has excellent credentials to make this point because he made similar arguments when there was a Republican Senate and a Democratic President when he felt Members on our side of the aisle were being dilatory in providing fair consideration.

We know what the standard is. Each of the last three Presidents have ended their tenures in office with the opposite party in control of the Senate. We know that.

We know that the average number of circuit court judges appointed in the last 2 years of each of these three Presidents, when the opposite party controlled the Senate, was 17. We know the low end of that was President Clinton with 15. Right now, we have six. Even meeting the low threshold of President Clinton is a long way away.

Senator SPECTER has pointed out a way to meet that standard by reporting out of committee and confirming people who meet all of the criteria that have been specified by the chairman of the committee.

I commend Senator SPECTER for his comments. I hope they will be heeded by people on both sides of the aisle here in the Senate.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Arkansas.

Mr. PRYOR. Mr. President, what is our status right now on the floor? Are we still in morning business?

The ACTING PRESIDENT pro tempore. We are still in morning business.

Mr. PRYOR. Do we have any time remaining in morning business?

The ACTING PRESIDENT pro tempore. The majority has 6 minutes 52 seconds.

Mr. PRYOR. I ask unanimous consent to yield back that time.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. Morning business is closed.

CPSC REFORM ACT—MOTION TO PROCEED

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of the motion to proceed to S. 2663, which the clerk will report.

The legislative clerk read as follows:

Motion to proceed to consider Calendar No. 582, S. 2636, a bill to reform the Consumer Product Safety Commission to provide greater protection for children's products, to improve the screening of noncompliant consumer products, to improve the effectiveness of consumer product recall programs.

The ACTING PRESIDENT pro tempore. Under the previous order, the time until 5:30 p.m. shall be equally divided between the two leaders or their designees.

Mr. PRYOR. Mr. President, this is a historic day for the Senate because we have the opportunity, starting today, to consider the Consumer Product Safety Commission Reauthorization Act.

What I would like to do, if I may, is, when Senator STEVENS of Alaska comes—apparently he has an urgent, pressing need, and he cannot stay for what would have normally been his allotted time. I would like to allow him to use his time—I think it is about 10 minutes or so—to speak, and we will cross that bridge when he walks in.

For most Americans, when they hear the term ''CPSC,'' they think of some sort of alphabet-soup Federal agency. They do not really understand what it does, why it exists, or why it is important.

In fact, I had that same reaction back when I was the attorney general of my State. I was out playing in my front yard with my kids, and my kids had some toys, and they were called Star Wars Lightsabers. They are like flashlights, but they look like a lightsaber. They were out there playing around, and one of my neighbors came up and said: Wait a minute, I think those have been recalled. Well, I did not know whether they had been recalled. She did not know for sure. I asked her, and she said: Well, I think I saw something on television about that, but I am not sure.

Well, one thing led to another. It was very hard for me to figure out whether my children's toys had been recalled. So through a process at the State Attorney General's Office in Arkansas, we established a Web site called childproductsafety.com, which had the goal of making it easier for parents like me and grandparents to go to one Web site and find all the recalled children's products that are out there. All we really did was link to the CPSC Web site. But that gave me my first experience with working with the CPSC, and it was through that process that I began to understand how important they are and why we need a very strong and capable Consumer Product Safety Commission.

To reinforce this, last year I became the chair of the Subcommittee on Consumer Affairs as part of the Commerce Committee. When I looked at all of the various consumer issues—and there are many we can focus on—I decided that the subcommittee's top priority should be to reauthorize the CPSC. The reason I did that is because in 2006 we had seen a record number of recalls. We began working on this, and we realized that because of the changes in the marketplace, because the U.S. marketplace had changed a lot because of imports—and a lot of other changes going on in the marketplace—we realized the Consumer Product Safety Commission had not kept up with the times. So we made a concerted effort to get the Consumer Product Safety Commission reauthorized.

We started that about a year ago, had a few hearings, and then, over the summer of last year, we began to see the toy recalls. I may have it wrong, but I think it was the Chicago Tribune which had the first story. But after that, a series of national news stories came out—television, radio, newspaper, and other media like the Internet and news magazines—to talk about the record number of toy recalls from last year.

In fact, if you look at the Consumer Product Safety Commission, every year they think there are about 28,200 deaths and about 33.6 million injuries from the products the CPSC overseas. They oversee 15,000 types of products. So when you see big numbers such as this, you have to understand that these numbers cover almost every product in the American marketplace, with a few exceptions. There are a few things in the automotive world and a few other things that it does not cover, but by and large, consumer products are covered by the Consumer Product Safety Commission.

We saw this again last year. We saw a record number of recalls. We thought 2006 was a bad year, but 2007 was even worse. What we are seeing now is we are seeing an escalating effect. We are seeing more and more products being recalled all the time.

So let me give a very quick background, again, for a lot of the staffers watching in their offices and for the Senators who have not yet made up their mind on how they are going to approach this Consumer Product Safety Commission legislation and maybe some amendments. Let me give a few minutes of background to talk about why we are here today and what role the CPSC plays and why it is so important to Americans all over this great country.

First, let me say that the CPSC was established in the 1970s. They have done a good job. In fact, I wish to praise the employees at CPSC, because what you have seen in the last few years is a dwindling budget. It has either been flatlined or they have had cuts. You have seen the staff there shrink over time.

Let me give you the CPSC overview that they have on their Web site. It says:

The U.S. Consumer Product Safety Commission is charged with protecting the public from unreasonable risks of serious injury or death from more than 15,000 types of consumer products under the agency's jurisdiction. Deaths, injuries, and property damage from consumer product incidents cost the Nation more than $800 billion annually.

Let me read that again for those folks who are watching in their offices here.

Deaths, injuries, and property damage from consumer product incidents cost the Nation more than $800 billion annually. The CPSC is committed to protecting consumers and families from products that pose fire, electrical, chemical, or mechanical hazard or could injure children. The CPSC's work to ensure the safety of consumer products, such as toys, cribs, power tools, cigarette lighters, and household chemicals. . . .

Et cetera, et cetera.

The CPSC is a very important agency, and it is one that, unfortunately, Congress and the White House over the last several years have neglected. It is very important that we reauthorize the Consumer Product Safety Commission. It is long overdue and has not been done since 1990 in a major way. There was a little reauthorization in 1992, but