In each of these cases, Senator SPECTER not only faced down a deadly disease, but he pushed the limits of physical and mental endurance to remain deeply engaged in his Senate work. Work, for him, was integral to recovery. As he wrote in an inspirational book on his health experiences, ''Good health is a precious possession that is often taken for granted. The same is true of the time we have been given to contribute to the world around us. Poor health may limit our time and capacity for achievement, but I firmly believe that vigorous work provides the best way to overcome a health challenge.''

Senator SPECTER, thank you for the inspiring example of your determination. Thank you for a long and productive career in this body, a career that has meant much to the Senate, to Pennsylvania, and to the Nation.

PORTEOUS IMPEACHMENT

Mr. CARDIN. Mr. President, one of the most solemn obligations of Senators is try impeachments. The Constitution provides that the Senate shall have the ''sole power to try all impeachments,'' and that ''all civil officers of the United States shall be removed from office on impeachment'' for various offenses. Senators also take a special oath when hearing an impeachment case before the Senate holds an impeachment trial.

I recently heard evidence in the case of Judge Porteous, who would have lifetime tenure under the Constitution unless he resigns or is removed by the Senate. The House of Representatives impeached Judge Porteous on four different articles. After deliberation, I voted to convict Judge Porteous of three of the four articles, but voted against conviction on one of the articles. I rise to explain my not guilty vote on one of the articles.

Article I stated that Judge Porteous engaged in a pattern of conduct that is incompatible with the trust and confidence placed in him as a Federal judge. The Senate voted that Judge Porteous was guilty on this count by a unanimous vote of 96 to 0.

Article IV stated that Judge Porteous knowingly made material false statements about his past both to the U.S. Senate and to the Federal Bureau of Investigation, in order to obtain the office of U.S. district court judge. The Senate voted to convict Judge Porteous on this count by a vote of 90 to 6.

I voted against article IV because, in my view, it was duplicative of article I.

As a member of the Senate Judiciary Committee, I regularly review the questionnaire and nomination materials for Federal judicial nominees who are nominated for lifetime appointments. One question we ask nominees on our committee questionnaire—under oath—is whether there was ''any unfavorable information that may affect your nomination.'' Judicial nominees also fill out SF–86 personnel forms as part of the executive branch's review of a potential nomination. One question on the form asks—under oath—whether:

> There [is] anything in your personal life that could be used by someone to coerce or blackmail you? Is there anything in your life that could cause an embarrassment to you or to the President if publicly known? If so, please provide full details . . .

The FBI also asks potential nominees whether they are concealing any activity or conduct that could be used to influence, pressure, coerce or compromise them in any way or that would impact negatively on their character, reputation, judgment or discretion. Judge Porteous answered no to all of these questions.

I am concerned about the vagueness and catchall nature of these questions and its responses being the basis of an Article of Impeachment. I could understand an Article of Impeachment based on a response that hides information that if discovered later would be the basis of impeachment and where a separate Article of Impeachment using these specific facts was not presented to the Senate by the House of Representatives. Also, I would have understood if the statements in article IV were included as part of article I. Such was not the case here.

For this reason, I voted not guilty on article IV.

JUDICIAL NOMINATIONS

Mr. LEAHY. Mr. President, I have been urging Republicans and Democrats in the Senate to come together and take action to begin to end the vacancy crisis that is threatening the administration of justice by our Federal courts. I asked only that Senators follow the Golden Rule. Regrettably that has not happened. Now 38 judicial nominees whose qualifications are well established are being delayed. They should be confirmed before we adjourn.

Adherence to the Golden Rule, a simple step, would help us return to our Senate traditions, and allow the Senate to better fulfill its responsibilities to the American people and the Federal judiciary.

I was encouraged last week when Senator SESSIONS, the Judiciary Committee's ranking Republican, provided assurance that the many judicial nominees who have been stalled for months and months without Senate action will be confirmed before we adjourn. He is in a position to know. As the Republican leader on the committee, he works directly with the Republican leadership that continues to hold up virtually all judicial nominees, just as it has for months and months. At our Judiciary Committee business meeting on December 1, Senator SESSIONS said: ''The truth is except for a few nominees, the overwhelming majority have moved with bipartisan unanimous support and will be confirmed on the floor.'' He went on to predict that a number ''will clear before the session is over.'' I hope this assurance is true. I look forward to working with Senator SESSIONS to ensure that the Senate acts before adjourning.

He is right: The overwhelming majority of the judicial nominees awaiting final action have strong bipartisan support. This makes the Republican obstruction of their confirmation all the more mystifying. Twenty-nine of the judicial nominees whose confirmations are being stonewalled were not opposed by any Senator, Republican or Democrat, during Judiciary Committee consideration. Two others had only one or two votes in opposition. Committee Republicans voted in lockstep to oppose only 4 of the 38 pending nominations. I believe that if debated by the Senate, those nominations, too, would be confirmed.

Had we adhered to the Golden Rule, the judicial nominees who have been delayed for weeks and months would already be confirmed. That had been our practice and tradition. Democratic Senators did not stall the nominees of President Bush in this way. Senate Republicans should end their across the board blockade of noncontroversial judicial nominees. With 111 vacancies—a historically high number—plaguing our Federal courts today, the American people cannot afford this gamesmanship.

Despite these skyrocketing vacancies, the Senate has not been permitted by Republicans to consider a single judicial nomination since September 13, when we confirmed Jane Stranch of Tennessee to the Sixth Circuit. Only after 10 months of delay was the Senate permitted to act. The Stranch nomination was the only nomination we were permitted to consider that entire work period. In fact, the Republican blockade of judicial nominations has been so complete that the Senate has been permitted to confirm only five Federal circuit and district court nominations since the fourth of July recess. While one in eight Federal judgeships remains vacant, Senate Republicans consented to confirm only a single judicial nomination in July. They consented to consider only four judicial nominations before the August recess, despite 21 nominations then on the calendar. We have considered only the Stranch nomination since returning from that recess. I do not recall a time when one party so thoroughly prevented the Senate from acting on consensus nominees with bipartisan support.

I have been trying to end this obstruction, yet it continues. Democratic Senators have sought agreement on the floor to debate and consider nominations, but the Republican leadership has objected time and time again. The Democratic cloakroom has sought consent from the Republican cloakroom to move nominations, but there has been no consent.

The Judiciary Committee has favorably reported 80 of President Obama's

Federal circuit and district court nominees. Due to Republican obstruction we have been able to consider only 41 of these. That is barely half. This is in sharp contrast to the first 2 years of President Bush's first term when I was chairman of the Judiciary Committee and the Senate confirmed all 100 of the judicial nominations reported by the Judiciary Committee to the Senate. In 2002, we proceeded in the lameduck session after the election to confirm 20 of President Bush's judicial nominees.This year by contrast none have been considered since the November elections.

I have also urged for many months that the Senate debate and vote on those few nominees that some Republican Senators decided to oppose in committee. These nominees include Benita Pearson of Ohio, William Martinez of Colorado, Louis Butler of Wisconsin, Edward Chen of California, John McConnell of Rhode Island, and Goodwin Liu of California. I have reviewed their records and considered their character, background and qualifications. I have heard the criticisms of the Republican Senators on the Judiciary Committee as they have voted against this handful of nominees. I disagree, and believe the Senate would vote, as I have, to confirm them. Each of these nominees has been reported favorably by the Judiciary Committee, several of them two or three times, and each deserves an up or down vote. That they will not be conservative activist judges should not disqualify them from serving.

But that is not what is happening. We are not debating the merits of those nominations, as Democratic Senators did when we opposed the most extreme handful of nominees of President Bush. What is new and particularly damaging about this Republican strategy of obstruction is that dozens of nominees reported unanimously by the Senate Judiciary Committee, without Republican opposition, are still being delayed.

The Senate has received letters from Chief Judges of the Ninth Circuit Court of Appeals and the United States District Courts in California, Colorado, Illinois and the District of Columbia. They have all pleaded with us to end the blockade and confirm judges nominated to fill vacancies in their courts.

The vacancies on the Federal courts around the country have doubled over the last 2 years and now are at the historically high level of 111. Fifty-one of these vacancies have been deemed judicial emergency vacancies by the nonpartisan Administrative Office of the U.S. Courts. Due to the Republicans' obstruction, we have not been able to keep up with attrition over the last 2 years.

No one can accuse this President of selecting nominees to meet an ideological agenda. Senator SESSIONS has acknowledged that a vast majority of these nominees are consensus nominees. These are well-qualified nominees with the support of their home State Senators, both Republicans and Democrats. The Judiciary Committee has not proceeded with a single nominee who was not supported by both home State Senators, and I have worked with all Republican Senators to ensure that they were included in the process. Democrats have worked to restore comity to the process.

Regrettably, despite these efforts and the outstanding nominees before us, the Senate is not promptly considering judicial nominations. To the contrary, as the President has pointed out, nominees are being stalled who, if allowed to be considered, would receive unanimous or near unanimous support, be confirmed, and be serving in the administration of justice throughout the country.

The North Carolina Bar Association recently urged the Senate to consider one of the nominees who was reported by the Judiciary Committee in a unanimous rollcall vote—19 to zero. Republicans have objected to his consideration since January 28. For more than 10 months, Judge Albert Diaz, a respected and experienced jurist who served in the Armed Forces, has been prevented from serving the people of North Carolina and the Fourth Circuit. He is nominated to fill a judicial emergency vacancy on the Fourth Circuit. He has the support of both his home state Senators, one a Democrat and one a Republican. Senator BURR asked nearly a year ago that the Judiciary Committee ''look for an expedited review and referral to the full Senate so that that deficiency on the fourth circuit can be filled.'' The Senators who serve on the Judiciary Committee from South Carolina and Maryland, states also within the Fourth Circuit, also support him. The American Bar Association rated him well qualified. The North Carolina Bar Association describes him as ''very qualified and highly regarded.'' When will the blockade be lifted so that the Senate can confirm Judge Albert Diaz of North Carolina?

Judge Diaz and six other consensus nominees to the circuit courts are stalled on the Senate Executive Calendar. Judge Ray Lohier of New York would fill one of the four current vacancies on the United States Court of Appeals for the Second Circuit. He is another former prosecutor with support from both sides of the aisle. His confirmation has been stalled for no good reason for more than 6 months. Scott Matheson is a nominee from Utah supported by Senator HATCH; he was reported without opposition. Mary Murguia, a nominee from Arizona supported by Senator KYL, was reported without opposition. Judge Kathleen O'Malley of Ohio is nominated to the Federal Circuit and was reported without opposition. Susan Carney of Connecticut was reported with the bipartisan support of 17 of the 19 Senators on the Judiciary Committee to serve on the Second Circuit. Justice James Graves of Mississippi was reported unanimously to serve on the Fifth Circuit. These are not nominees whose judicial philosophy Republicans even question.

The President noted in his September letter to Senate leaders that the ''real harm of this political game-playing falls on the American people, who turn to the courts for justice'' and that the unnecessary delay in considering these noncontroversial nominations ''is undermining the ability of our courts to deliver justice to those in need . . . from working mothers seeking timely compensation for their employment discrimination claims to communities hoping for swift punishment for perpetrators of crimes to small business owners seeking protection from unfair and anticompetitive practices.''

If the Senate were allowed to consider the 38 judicial nominees that are currently on the Senate's Executive Calendar, their confirmations would raise the total from the historically low level of 41, where it currently stands, to almost 80. That would be in the range of judicial confirmations during President George H.W. Bush's first 2 years, 70, while resting below President Reagan's first 2 years, 87, and pale in comparison to the 100 confirmed in the first 2 years of the George W. Bush administration or those confirmed during President Clinton's first 2 years, 127.

In the 17 months I chaired the Judiciary Committee during President Bush's first 2 years in office, I scheduled 26 hearings for the judicial nominees of a Republican President and the Judiciary Committee worked diligently to consider them. During the 2 years of the Obama administration, I have tried to maintain that same approach. The committee held 25 hearings for President Obama's Federal circuit and district court nominees this Congress. I have not altered my approach and neither have Senate Democrats. What has changed is that Senate Republicans, who used to contend that every judicial nominee reported by the Judiciary Committee is entitled to a vote, have reversed themselves and reverted to the practices they followed in obstructing President Clinton's judicial nominees. The bottom line is that the Senate has been allowed to consider and confirm just 41 Federal circuit and district court nominees. That is less than half of the 100 such nominees we proceeded to confirm during President Bush's first 2 years.

When I became chairman of the Judiciary Committee midway through President Bush's first tumultuous year in office, I worked very hard to make sure Senate Democrats did not perpetuate the ''judge wars'' as tit-for-tat. By refusing to proceed on President Clinton's nominations while judicial vacancies skyrocketed during the 6 years they controlled the pace of nominations, Senate Republicans allowed judicial vacancies to rise to 110 by the end of the Clinton administration. As a result of their strategy, Federal circuit

court vacancies doubled. When Democrats regained the Senate majority halfway into President Bush's first year in office, we turned away from these bad practices. As a result, overall judicial vacancies were reduced during the Bush years from more than 10 percent to less than 4 percent. During the Bush years, the Federal court vacancies were reduced from 110 to 34 and Federal circuit court vacancies were reduced from a high of 32 down to single digits.

This progress has not continued with a Democratic President back in office. Instead, Senate Republicans have returned to the strategy they used during the Clinton administration of blocking the nominations of a Democratic President, again leading to skyrocketing vacancies. Last year the Senate confirmed only 12 Federal circuit and district court judges, the lowest total in 50 years. This year we have yet to confirm 30 Federal circuit and district judges. We are not even keeping up with retirements and attrition. As a result, judicial vacancies are now at 111, again more than 10 percent.

Regrettably, the Senate is not being allowed to consider the consensus, mainstream judicial nominees favorably reported from the Judiciary Committee. It has taken nearly five times as long to consider President Obama's judicial nominations as it did to consider President Bush's during his first 2 years in office. During the first 2 years of the Bush administration, the 100 judges confirmed were considered by the Senate an average of 25 days from being reported by the Judiciary Committee. The average time for confirmed circuit court nominees was 26 days. By contrast, if the Senate were allowed to consider the 34 judicial nominees being stalled by Republican objection and they were all confirmed this week, the average time Federal circuit and district and circuit court judges have been forced to wait after being considered and favorably recommended by the Judiciary Committee since President Obama took office would be five times that of those confirmed during the first 2 years of the Bush administration.

Time is running out in this Congress for Republicans to turn away from the disastrous strategy of blocking nominations across the board. The Senate's longstanding traditions demand that we reject this practice of obstruction. The Federal courts are suffering from rising vacancies and crushing caseloads. The victims are the American people who depend on the courts for justice.

ADDITIONAL STATEMENTS

REMEMBERING JUDGE VINCENT MICELI

● Mrs. BOXER. Mr. President, I ask my colleagues to recognize the extraordinary legacy of the late retired Riverside Superior Court Judge Victor Miceli, who passed away on September 16, 2010. He was a champion of justice, leader of city restoration projects, and preserver of the history of the city of Riverside, CA—his adopted hometown for which he worked diligently for nearly half a century.

After graduating from the University of Pittsburgh Law School in 1952 and serving as the judge advocate general in the U.S. Army, Vincent Miceli relocated to Riverside in 1961. He opened a private civil practice, which he maintained until he was appointed by Governor George Deukmejian to the Superior Court in 1986. Throughout his tenure, during which he served as a presiding judge, he rendered decisions in many high-profile cases, including those involving local politics, city growth, and environmental issues.

Judge Miceli's civic involvement included establishing Federal and State appellate courthouses in downtown Riverside, shaping this area as a justice center enhanced by $100 million in new construction. He also spearheaded restoration of the historic 1903 Beaux Arts courthouse on the city's Main Street and contributed to the restoration and preservation of the city's historic Evergreen Cemetery. In the words of retired appellate Judge John Gabbert: ''His contributions to the City and County of Riverside have just been beyond measure.''

I extend my heartfelt condolences to Judge Miceli's family, friends, and colleagues. He will be truly missed.●

REMEMBERING CHARLES RAY CARR

● Mr. SHELBY. Mr. President, I wish to pay tribute to Charles Carr, who passed away on December 2, 2010, following a life dedicated to service, family, and his community. He was a personal friend and, along with his family, I mourn his passing.

A native of Blount County, AL, Charles was a graduate of Oneonta High School and Snead State Junior College. After earning his bachelor's and master's degree in education from Auburn University, Charles began his distinguished career as an educator in the Blount County public schools. Later, he taught at Snead State Junior College and Wallace State Community College. Charles was a well-liked and admired educator by his former colleagues and students.

After serving 13 years in the classroom, his love of teaching and public service led him to Alabama's State capitol where he served on the staff and in the cabinet for Governors George Wallace and Guy Hunt as the director of postsecondary education. There, he also served as a mentor to many of those who would cross his path and give a helping hand to those who felt they did not have a voice. In doing so, he built a wide network of friends across the State.

After leaving the government to work as a private consultant, Charles joined Community Bank. Later, in 2002, he became the executive director of the Blount County-Oneonta Chamber of Commerce, a position that brought him joy and satisfaction. He was deeply committed to his community and I know that he enjoyed promoting it through his position with the chamber.

While Charles had great success in his career, he was first and foremost a family man. He was devoted to his cherished wife and son and enjoyed spending time with his extended family. He is survived by his wife Brenda Maynor Carr of Union Grove; son Jonathan Elliott Carr of Washington, DC; and two brothers, Jim Carr of Oneonta and Ken Carr of Houston, TX.

I ask my colleagues to join me in recognizing and honoring the life of my friend, Charles Carr. He will be greatly missed by all who knew him.●

MESSAGE FROM THE HOUSE

ENROLLED BILLS SIGNED

At 10:03 a.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

S. 3998. An act to extend the Child Safety Pilot Program.

H.R. 4994. An act to extend certain expiring provisions of the Medicare and Medicaid programs, and for other purposes.

The enrolled bills were subsequently signed by the President pro tempore (Mr. INOUYE).

MEASURES READ THE FIRST TIME

The following bill was read the first time:

S. 4023. A bill to provide for the repeal of the Department of Defense policy concerning homosexuality in the Armed Forces known as ''Don't Ask, Don't Tell''.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, December 10, 2010, she had presented to the President of the United States the following enrolled bill:

S. 3998. An act to extend the Child Safety Pilot Program.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–8407. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Pesticide Tolerance Crop Grouping Program II; Revisions to General Tolerance Regulations'' (FRL No. 8853–8) received in the Office of the President of the Senate on December 7, 2010; to the Committee on Agriculture, Nutrition, and Forestry.