CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

EXECUTIVE SESSION

NOMINATIONS OF LEONARD E. DAVIS TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF TEXAS; ANDREW S. HANEN TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF TEXAS; SAMUEL H. MAYS, JR. TO BE U.S. DISTRICT JUDGE FOR THE WESTERN DISTRICT OF TENNESSEE; THOMAS M. ROSE TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF OHIO

The ACTING PRESIDENT pro tempore. Under the previous order, the hour of 10:35 having arrived, the Senate will now go into executive session and proceed to the consideration en bloc of Executive Calendar Nos. 811, 812, 813, and 814, which the clerk will report.

The assistant legislative clerk read the nominations of Leonard E. Davis, of Texas, to be U.S. District Judge for the Eastern District of Texas;

Andrew S. Hanen, of Texas, to be U.S. District Judge for the Southern District of Texas;

Samuel H. Mays, Jr., of Tennessee, to be U.S. District Judge for the Western District of Tennessee;

Thomas M. Rose, of Ohio, to be U.S. District Judge for the Southern District of Ohio.

The ACTING PRESIDENT pro tempore. Under the previous order, there will be 1 hour of debate on the nominations, to be equally divided between the chairman and ranking member of the Judiciary Committee or their designees.

The Senator from Vermont.

Mr. LEAHY. Madam President, today the Senate is considering, as the Chair has reported, four more of President Bush's judicial nominees. We will begin voting on those nominees in about an hour.

I rarely predict the outcome of votes in the Senate. Having been here 28 years, I have had enough chances to be wrong in my predictions, but I will predict, with a degree of certitude, that these will be another four of President Bush's judicial nominees that we will confirm.

These confirmations demonstrate, as has been demonstrated with each of the judges we have confirmed in the past ten months, with the exception of one, that we have taken up nominees in the Senate Judiciary Committee, that they have gone through the committee and, when they have reached the floor, have been confirmed.

Democrats have demonstrated over and over again that we are working with the President on fundamental issues that are important to this country, whether it is our support for the war on terrorism, support for strong and effective law enforcement, or our effort to work collaboratively to lower judicial vacancies.

For a bit of history, when the Democrats took over the full Judiciary Committee in July of last year, there were 110 vacancies. My Republican colleagues had not held any judicial confirmation hearings at all prior to the time we took over, despite the fact that there were a number of pending nominations when they first came into power. Then there were, of course, nominations that President Bush sent to the Senate in May. But as of July, when we took over, the Republican-controlled committee had not held any hearings. Ten minutes after we took over the committee and I became chairman, we announced hearings on a number of the President's nominees.

I mention this to put in perspective that we have tried to move quickly. We inherited 110 vacancies. Interestingly enough, most of the vacancies occurred while the Republicans were in control of the Senate, notwithstanding the fact that former President Clinton had nominated people to fill most of those vacancies. But those nominees were never given a hearing. They were never allowed, under Republican leadership, to go forward.

Last Friday, when the Democratic Senators were out of town on a long planned meeting, President Bush spoke about what he now calls the ''judicial vacancy crisis.'' I was disappointed that the White House speech writers chose a confrontational tone and tried to blame the Democratic Senate majority, which has actually been the majority in the Judiciary Committee for only about 10 months.

The fact is, we inherited 110 judicial vacancies on July 10, 2001. The fact is, the increase in vacancies had not occurred on the watch of the Democratic Senate majority but in the period between January 1995 and July 2001, when the Republican majority on the committee stalled President Clinton's moderate nominees and overall vacancies rose by almost 75 percent—from 63 to 110. That is what we inherited because the other side would not hold hearings. Vacancies on the courts of appeals rose even more. They more than doubled, from 16 to 33.

I don't expect President Bush to know these numbers or to be that involved with them. But his staff does, and when they write his speeches, they ought to do him the favor of being truthful. They ought to know that the Federal judiciary is supposed to be independent and outside of partisan political battles, and they should not have drawn him into one, which makes it even worse.

It is bad enough when Republicans in the Senate threaten and seek to intimidate on this issue, but we are now being threatened with a shutdown of the Senate's business, a shutdown of committee hearings, a refusal to work together on unemployment, trade, and other important matters. It was bad enough when they utilized secret holds and stalling tactics in considering President Clinton's moderate judicial nominees, but now they bemoan the judicial vacancies that were created and take no responsibility for creating these vacancies. They seek to blame others. It is really too bad that the White House now appears to be rejecting all of our efforts—and they have been significant—at reconciliation and problem solving. Instead, the White House has joined the partisan attack.

The fact is, since last July, when we took over the majority, we have been working hard to fill judicial vacancies. We have had more hearings on more judicial nominees and confirmed more judges than our Republican predecessors ever did over any similar period of time. Actually, it is hard to know when there was a similar period in time. The Senate and the Judiciary Committee had to work in the aftermath of the attacks of September 11 and we kept on meeting. We were in this Chamber on September 12. We had the anthrax attacks on the Senate, on Majority Leader DASCHLE and, I hate to say, one on me, as chairman of the Senate Judiciary Committee. The New York Times reported it as the most deadly of all. While working to fill judicial vacancies, we were also approving executive branch nominees—Attorney General Ashcroft and others—and we were considering the Antiterrorism Act.

In my 28 years here, I have never known a time when the Judiciary Committee, or any committee, was hit with so many things that it had to do in such a short period of time and under so much pressure. The Hart Building, housing half of the Senators, was closed down. At times, this building was closed down. Senator DASCHLE and I and our staffs were under actual physical attacks with the anthrax letters. I mention that because this afternoon we are going to hold our 18th hearing for judicial nominees within 10 months—unless, of course, the other side objects to our proceeding.

By the end of today, the Senate will have confirmed 56 new judges, including 9 to the courts of appeals, within the last 10 tumultuous months—an all-time record.

I am sorry that the White House and our Republican colleagues do not acknowledge our achievements but choose, instead, to only criticize. I regret that the White House and our Republican colleagues will not acknowledge that the obstructionism of the Republican Senate majority between 1996 and 2001 is what created what they now term a ''vacancy crisis.''

When they were engaged in those tactics, some Republicans defended their record then by arguing that 103 vacancies was not a crisis. They actually did that. They said in an op-ed piece that having 103 vacancies was not a crisis. They let it go to 110.

The Democratic majority has cut back those vacancies. We have not only

kept up with attrition, we have cut them back. Under a Democratic President, some Republicans said 103 vacancies was not a crisis, but now, with a Republican President, they say that 84 vacancies is a crisis—even as we confirm judges at a record pace.

I have been here with six Presidents—Republican and Democrat. I have never seen a time when any White House has made the issue of the makeup of the Federal judiciary such a partisan issue. I am a lawyer, as is the distinguished Presiding Officer. I have argued cases before Federal courts, both at the district level and at the appellate level.

One thing I have always known when I walked into a Federal court in America is that it is an impartial court, where you are not looked at as a Republican or a Democrat, whether you are rich or poor, whether you are white or black, plaintiff or defendant, or liberal, conservative or moderate. You can always go into a Federal court here and think that you will be treated on the merits of your case. That is why I regret the lack of balance and the bipartisan perspective that was lacking in the President's speech and in the comments of some of my colleagues.

The Senate would do a disservice to the country if we allowed ideological court packing of the left or the right, if we were to put a stamp on Federal courts and say: ''He who enters here, if you do not fit the ideological rubber stamp of this court, if you cannot respond and say you fit in a certain mold, according to the speeches of the President's advisers—a very narrow ideological spectrum—forget about it when you come in here.'' If anybody would take time to read a history book, they would understand that it is the Senate's role to ensure that the judges it confirms meet the standards for impartiality and fairness.

A very popular President, a wartime President, Franklin Delano Roosevelt, a revered President, tried to pack the courts, and the Senate said: no, you cannot do that. Every historian will tell you today: Thank goodness the Senate has stood up to a popular wartime President and said you cannot pack the courts because it would destroy the independence of the Federal judiciary.

I say this because sometimes we sit here and think we have to decide on issues just for today. We have a responsibility in the Senate to decide issues for history's sake and for the good of this country. I want to know that each one of us can go back to our constituents and say that we have preserved an independent judiciary. That does not mean just all one party. I have voted for hundreds upon hundreds of judges who stated that they were Republicans. I have voted for hundreds of judges nominated by Republican Presidents. But I will not allow an ideological shift one way or the other on the courts.

I have voted for judges whom I know have a different personal view on the right-to-life issues than I and who have taken different positions on the death penalty. But I knew they would be fair judges. I will continue to do that. That is our responsibility as Senators to our country, to the judiciary, and to history.

With today's votes, the number of Federal judges confirmed since the change in Senate majority 10 months ago now totals 56. Under Democratic leadership, the Senate has confirmed more judges in 10 months than were confirmed by the Republican-controlled Senate in the 1996 and 1997 sessions combined. We have accomplished in less than 1 year what our predecessors and critics took 2 years to do. It took a staunchly Republican majority 15 months working closely with the Reagan administration to reach this number of confirmations, confirmations we have achieved in just 10 months.

Of course the ''anniversary'' of the reorganization of the Judiciary Committee after the shift in majority last year is not until July 10, more than 2 months from now. On July 10 last year we inherited 110 judicial vacancies, including 33 on the courts of appeals. Since then, 30 additional vacancies, including 5 on the courts of appeals have arisen. This is an unusually large number. Nonetheless, through hard work and great effort, the Democratic majority in the Senate has proceeded with 17 hearings involving 61 judicial nominees, the committee has voted on 59 nominees, and, today, the Senate is set to hold its 18th hearing involving four more judges and to approve four more new judges—bringing the working total to 56 confirmations in just 10 months.

The number of judicial confirmations over these past 10 months, 56, exceeds the number confirmed in 4 out of 6 full years under recent Republican leadership, during all 12 months of 2000, 1999, 1997, and 1996. And we have confirmed more judges at a faster pace than for all the years of Republican control.

Fifty-six confirmations exceeds the number of confirmations in the first year of the Reagan administration by a Republican Senate majority. It is almost double the number of confirmations in the first year of the Clinton administration by a Democratic Senate majority. And it is more than triple the number of judges confirmed for the George H.W. Bush administration by a Senate of the other party. In fact, with 56 confirmations for President George W. Bush, the Democratic-led Senate has confirmed more judges than were confirmed in 7 of the 8 whole years of the Reagan administration, that Senator HATCH acknowledges as the all-time leader in judicial appointments.

The confirmations of Justice Leonard Davis, Andrew Hanen, Samuel Mays, and Judge Thomas Rose today illustrate the progress being made under Democratic leadership, and the fair and expeditious way in which we have considered nominees. Many of the vacancies that will be filled by today's votes arose during the Clinton administration and are a prime and unfortunate legacy of recent Republican obstructionist practices.

The confirmations of Justice Davis and Mr. Hanen will make the third and fourth district court judgeships we have filled in Texas and the eighth and ninth judgeships we have filled overall in the Fifth Circuit since I became chairman last summer. Included among those confirmations is the first new judge for the Fifth Circuit in 7 years.

On February 5, the Senate confirmed, by a vote of 93 to 0, Judge Philip Martinez of Texas to fill a judicial emergency vacancy on the District Court for the Western District of Texas. On March 18, the Senate confirmed, by a vote of 91 to 0, Robert (Randy) Crane to fill a judicial emergency vacancy on the District Court for the Southern District of Texas. The Senate has confirmed Judge Kurt Engelhardt and Judge Jay Zainey to fill vacancies on the District Court for the Eastern District of Louisiana. The Senate has confirmed Judge Michael Mills to fill a vacancy on the District Court for the Northern District of Mississippi. Despite the unfounded claim of some Republicans that the Senate will not confirm conservative Republicans, these nominees were all confirmed and treated more fairly and expeditiously than many of President Clinton's nominees for the Federal Bench.

Mr. Hanen was nominated to fill the vacancy created by the retirement of Judge Filemon B. Vela in May 2000. I recall just 2 years ago when Ricardo Morado, who served as mayor of San Benito, TX, was nominated to fill this vacancy in the Southern District of Texas and never received a hearing from the Republican-controlled Senate. President Clinton nominated Ricardo Morado on May 11, 2000, and his nomination was returned to President Clinton without any action on December 15, 2000. In filling a judicial emergency vacancy that has been pending for more than 700 days, Mr. Hanen will be the 17th judicial emergency vacancy that we have filled since July and the 10th since the beginning of this session.

With the confirmation of Mr. Hansen, there will no longer be any vacancies on the District Court for the Southern District of Texas, a Court which has faced an extraordinary caseload and has the third highest number of filings of criminal cases in the country. With Judge Crane and Judge Hanen, we have provided much needed help to this court.

It was not long ago when the Senate was under Republican control, that it took 943 days to confirm Judge Hilda Tagle to the United States District Court for the Southern District of Texas. She was first nominated in August 1995, but not confirmed until March 1998. When the final vote came, she was confirmed by unanimous consent and without a single negative vote, after having been stalled for almost 3 years. I recall the nomination of

Michael Schattman to a vacancy on the Northern District of Texas. He never got a hearing and was never acted upon, while his nomination languished for over two years. These are district court nominations that could have helped respond to increased filings in the trial courts if acted upon by the Senate over the last several years. In addition to these nominees, the Republican-led Senate failed to provide any hearings on nominees to the Court of Appeals for the Fifth Circuit, which includes Texas, during the entire 6 years of their majority in the Clinton administration.

Many of the vacancies in the Fifth Circuit are longstanding. For example, despite the fact that President Clinton nominated Jorge Rangel, a distinguished Hispanic attorney, to fill a fifth circuit vacancy in July 1997, Mr. Rangel never received a hearing and his nomination was returned to the President without Senate action at the end of 1998. On September 16, 1999, President Clinton nominated Enrique Moreno, another outstanding Hispanic attorney, to fill a vacancy on the fifth circuit but that nominee never received a hearing either. When President Bush took office last January, he withdrew the nomination of Enrique Moreno to the fifth circuit.

The surge of vacancies created on the Republicans' watch is being cleaned up under Democratic leadership in the Senate. The Senate received Justice Davis's and Mr. Hanen's nominations the last week in January. Their ABA peer reviews were not received by the committee until late March and early April. Both participated in a confirmation hearing on April 25, were considered and reported by the committee last week and are being considered and confirmed by the Senate today.

Justice Davis has been serving as Chief Justice of the Court of Appeals in Tyler, TX, since 2000 and has extensive experience practicing as a litigator before State and Federal courts. Mr. Hanen has legal experience working as a civil trial attorney and in private practice for over 20 years, and has been a leader in establishing programs to serve the needs of the disadvantaged.

The confirmations of Mr. Mays of Tennessee and Judge Rose of Ohio, will fill two judgeships in the sixth circuit. They will make the fourth and fifth district court judgeships we have filled overall in the sixth circuit since I became chairman last summer, including the three earlier confirmations from Kentucky.

The Sixth Circuit Court of Appeals currently has eight vacancies, many of which are longstanding. Six of those vacancies arose before the Judiciary Committee was permitted to reorganize after the change in majority last summer. None, zero, not one of the Clinton nominees to those vacancies on the sixth circuit received a hearing by the Judiciary Committee under Republican leadership.

One of those seats has been vacant since 1995, the first term of President Clinton. Judge Helene White of the Michigan Court of Appeals was nominated in January 1997 and did not receive a hearing on her nomination during the more than 1,500 days before her nomination was withdrawn by President Bush in March of last year. Kathleen McCree Lewis, a distinguished lawyer from a prestigious Michigan law firm, also did not receive a hearing on her 1999 nomination to the sixth circuit during the years it was pending before it was withdrawn by President Bush in March 2001. Professor Kent Markus, another outstanding nominee to a vacancy on the sixth circuit that arose in 1999, never received a hearing on his nomination before his nomination was returned to President Clinton without action in December 2000.

Some on the other side of the aisle held these seats open for years for another President to fill, instead of proceeding fairly on consensus nominees. Some were unwilling to move forward knowing that retirements and attrition would create four additional seats that would arise naturally for the next President. That is why there are now eight vacancies on the sixth circuit. That is why it is half empty or half full.

Long before some of the recent voices of concern were raised about the vacancies on that court, Democratic Senators in 1997, 1998, 1999, and 2000 implored the Republican majority to give the sixth circuit nominees hearings. Those requests, not just for the sake of the nominees but for the sake of the public's business before the court, were ignored. Numerous articles and editorials urged the Republican leadership to act on those nominations. Fourteen former presidents of the Michigan State Bar pleaded for hearings on those nominations.

The former chief judge of the sixth circuit, Judge Gilbert Merritt, wrote to the Judiciary Committee chairman years ago to ask that the nominees get hearings and that the vacancies be filled. The chief judge noted that, with four vacancies—the four vacancies that arose in the Clinton administration—the sixth circuit ''is hurting badly and will not be able to keep up with its work load due to the fact that the Senate Judiciary Committee has acted on none of the nominations to our Court.'' He predicted:

> By the time the next President is inaugurated, there will be six vacancies on the court of appeals. Almost half of the court will be vacant and will remain so for most of 2001 due to the exigencies of the nomination process. Although the President has nominated candidates, the Senate has refused to take a vote on any of them.

Nonetheless, no sixth circuit hearings were held in the last 3 years of the Clinton administration, despite these pleas. Not one. Since the shift in majority the situation has been exacerbated as two additional vacancies have arisen.

With our April 25 hearing on the nomination of Judge Gibbons to the sixth circuit, we held the first hearing on a sixth circuit nomination in almost 5 years. And, with the confirmations of Judge Rose and Mr. Mays, we have now confirmed all the nominees to the district courts in the sixth circuit for whom we have received nominations. I note that the White House has still not sent nominees for the six remaining vacancies that exist on the district courts in the sixth circuit.

As our action today demonstrates, again, we are moving at a fast pace to fill judicial vacancies with nominees who have strong bipartisan support. Partisan critics of these accomplishments ignore the facts. The facts are that we are confirming President Bush's nominees at a faster pace than the nominees of prior presidents, including those who worked closely with a Senate majority of the same political party.

The rate of confirmation in the past 10 months actually exceeds the rates of confirmation in the past three presidencies. For example, in the first 15 months of the Clinton administration, 46 judicial nominees were confirmed, a pace on average of 3.1 per month. In the first 15 months of the first Bush administration, judges were confirmed at a pace of 1.8 judges per month. Even in the first 15 months of the Reagan administration, when a staunchly Republican majority in the Senate was working closely with a Republican President, 54 judges were confirmed, a pace of 3.6 per month. In fewer than 10 months since the shift to a Democratic majority in the Senate, President George W. Bush's judicial nominees have been confirmed at a rate of 5.6 judges per month, a faster pace than for any of the past three Presidents.

During the 6½ years of Republican control of the Senate, judicial confirmations averaged 38 per year—a pace of consideration and confirmation that we have already exceeded under Democratic leadership over these past 10 months in spite of all of the challenges facing Congress and the Nation during this period and all of the obstacles Republicans have placed in our path. As of today, we have confirmed 56 judicial nominees in fewer than 10 months. This is more than twice as many confirmations as George W. Bush's father had over a longer period—27 nominees in 15 months—than the period we have been in the majority in the Senate.

The Republican critics typically compare apples to oranges to mischaracterize the achievements of the last 10 months. They complain that we have not done 24 months of work in the 10 months we have been in the majority. Ironically, with today's confirmations, we even meet that unfair standard: Within the last 10 months we have confirmed more judges than were confirmed by the Republican majority in the entire 1996 congressional session and in all of 1997 combined—we have now exceeded their 2-year figure in 10 months.

A fair examination of the rate of confirmation shows that Democrats are

working harder and faster on judicial nominees, confirming judges at a faster pace than the rates of the past 20 years. The double standards asserted by Republican critics are just plain wrong and unfair, but that does not seem to matter to Republicans intent on criticizing and belittling every achievement of the Senate under a Democratic majority.

The Republican attack is based on the unfounded notion that the Senate has not kept up with attrition on the district courts and the courts of appeals. Well, the Democratic majority in the Senate has not only been keeping up with attrition but outpacing it, and we have started to move the vacancies numbers in the right direction—down. By contrast, from January 1995 when the Republican majority took over control of the Senate until July 2001, when the new Democratic majority was allowed to reorganize, Federal judicial vacancies rose by almost 75 percent, from 63 to 110. When Members were finally allowed to be assigned to committees on July 10, we began with 110 judicial vacancies.

With today's confirmations of Justice Davis, Mr. Hanen, Judge Rose, and Mr. Mays, we have reduced the overall number of judicial vacancies to 84. Already, in fewer than 10 months in the majority, we more than kept up with attrition and begun to close the judicial vacancies gap that grew so enormous under the Republican majority. Under Democratic leadership, we have reduced the number of district court vacancies by nearly 30 percent and the overall number of judicial vacancies by nearly 25 percent.

Overall, in 10 months, the Senate Judiciary Committee has held 17 hearings involving 61 judicial nominations and is scheduled this afternoon to hold its 18th hearing today involving four more judicial nominees. That is more hearings on judges than the Republican majority held in any year of its control of the Senate—twice as many as they held during some full years. Recall that one-sixth of President Clinton's judicial nominees—more than 50—never got a committee hearing and committee vote from the Republican majority, which perpetuated longstanding vacancies into this year.

Despite the new-found concern from across the aisle about the number of judicial vacancies, no nominations hearings were held while the Republicans controlled the Senate during the first half of last year. No judges were confirmed during that time from among the many qualified circuit court nominees received by the Senate on January 3, 2001, or from among the nominations received by the Senate on May 9, 2001.

The Democratic leadership acted promptly to address the number of district and circuit vacancies that had been allowed to grow when the Senate was in Republican control. The Judiciary Committee noticed the fist hearing on judicial nominations within 10 minutes of the reorganization of the Senate and held that hearing on the day after the committee was assigned new members.

That initial hearing included two district court nominees and a court of appeal nominee on whom the Republican majority had refused to hold a hearing the year before. Within 2 weeks of the first hearing, we held a second hearing on judicial nominations that included another court of appeals nominee. I did try to schedule some district court nominees for that hearing, but none of the files of the seven district court nominees pending before the committee was complete. Similarly, in the unprecedented hearings we held for judicial nominees during the August recess, we attempted to schedule additional district court nominees but we could not do so if their paperwork was not complete. Had we had cooperation from the Republican majority and the White House in our efforts, we could have held even more hearings for more district court nominees. Nevertheless, including our hearing scheduled for this week, in 10 tumultuous months, the committee will have held 18 hearings involving 65 judicial nominations.

The Senate Judiciary Committee is holding regular hearings on judicial nominees and giving nominees a vote in committee, in contrast to the practice of anonymous holds and other obstructionist tactics employed by some during the period of Republican control. The Democratic majority has reformed the process and practices used in the past to deny committee consideraiton of judicial nominees. We are moving away from the anonymous holds that so dominated the process from 1996 through 2000. We have made home State Senators' blue slips public for the first time.

I do not mean by my comments to appear critical of Senator HATCH. Many times during the 6½ years he chaired the Judiciary Committee, I observed that, were the matter left up to us, we would have made more progress on more judicial nominees. I thanked him during those years for his efforts. I know that he would have liked to have been able to do more and not have to leave so many vacancies and so many nominees without action.

I hope to hold additional hearings and make additional progress on judicial nominees. In our efforts to address the number of vacancies on the circuit courts we inherited from the Republicans and to respond to what the President, Vice President CHENEY and Senator HATCH now call a vacancy crisis, the committee has focused on consensus nominees. This will help end the crisis caused by Republican delay and obstruction by confirming as many of the President's judicial nominees as quickly as possible.

Most Senators understand that the more controversial nominees require greater review. This process of careful review is part of our democratic process. It is a critical part of the checks and balances of our system of government that does not give the power to make lifetime appointments to one person alone to remake the courts along narrow ideological lines, to pack the courts with judges whose views are outside of the mainstream of legal thought, and whose decisions would further divide our nation. The Senate should not and will not rubber stamp nominees who would undermine the independence and fairness of our Federal courts. It is our responsibility to preserve a fair, impartial and independent judiciary for all Americans, of all races, all religions, whether rich or poor, whether Democrat or Republican.

Some on the other side of the aisle have falsely charged that if a nominee has a record as a conservative Republican, he will not be considered by the committee. That is simply untrue. Take, for example, the nomination of Mr. Mays. Mr. Mays has been involved in more than 50 political campaigns on behalf of Republican candidates for President, Senate, Governor, and local offices. He is a member of the Republican National Lawyers Association. He was a delegate to the Republican National Convention in 2000, and he was on the Executive Committee of the Tennessee Republican Party from 1986 through 1990. Thus, it would be wrong to claim that we will not consider President George W. Bush's nominees with conservative credentials. We have done so repeatedly.

The next time Republican critics are bandying around charges that the Democratic majority has failed to consider conservative judicial nominees, I hope someone will ask those critics about Mr. Mays, or all the Federalist Society members and Republican Party activists this Senate has already confirmed. I certainly do not believe that President Bush has appointed 56 liberal judges and neither does the White House.

The committee continues to try to accommodate Senators from both sides of the aisle. The court of appeals nominees included at hearings so far this year have been at the request of Senators GRASSLEY, LOTT, SPECTER, ENZI, SMITH, and THOMPSON, six Republican Senators who each sought a prompt hearing on a court of appeals nominee who was not among those initially sent to the Senate in May 2001.

The whipsawing by the other side is truly remarkable. When we proceed on nominees that they support and on whom they seek action, we are criticized for not acting on others. When we direct our effort to trying to solve problems in one circuit, they complain that we are not acting in another. Since these multiple problems arose on their watch while they were in the majority, it is a bit like the arsonist who complains that the local fire department is not responding fast enough to all of his destructive antics.

I imagine that today we will be hearing a refrain about the most controversial of President Bush's nominees who

have not yet participated in a hearing. Some of them do not have the necessary home-State Senate support needed to proceed. Some will take a great deal of time and effort for the committee to consider. In spite of all we have done and all we are doing, our partisan critics will act as if we have not held a single hearing on a single judicial nominee. They will not acknowledge their role in creating what they now call a judicial vacancies crisis. They will not apologize for their harsh tactics in the 6½ years that preceded the shift in majority. They will not acknowledge that the Democratic majority has moved faster on more judges than they ever did. They will not acknowledge that we have been working at a record pace to seek to solve the problems they created.

Each of the 56 nominees confirmed by the Senate has received the unanimous, bipartisan backing of the committee. Today's confirmations make the 53rd through 56th judicial nominees to be confirmed since I became chairman last July. I would like to commend the members of the Judiciary Committee and our Majority Leader Senator DASCHLE and Assistant Majority Leader Senator REID for all of their hard work in getting us to this point. The confirmation of the 56th judge in 10 months, especially these last 10 months, in spite of the unfair and personal criticism to which they have each been subjected, is an extraordinary achievement and a real example of Democratic Senators acting in a bipartisan way even when some on the other side have continued to make our efforts toward progress as difficult as possible.

I again invite the President to join with us to fill the remaining judicial vacancies as quickly as possible with qualified, consensus nominees, nominees chosen from the mainstream and not for their ideological orientation, nominees who will be fair and impartial judges and will ensure that an independent judiciary is the people's bulwark against a loss of their freedoms and rights.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. HATCH. Mr. President, I am grateful for this opportunity to talk about some of the things that are going on with regard to judges.

I believe that my chairmanship of the Senate Judiciary Committee and the record we established during the Clinton administration have been viciously attacked through the last number of months. There seem to be a number of illusions floating around Capitol Hill relating to this committee's handling of judges during my tenure.

I am here to set the record straight. I am here to help everybody else know what that record is.

The Democrats are in power. They set the pace and agenda for such nomination hearings, and they have a right to do so. I want to shine a candle through five points that never seem to have seen the light of day in past discussions of confirmations.

First, there is a seemingly immortal myth around here that it was the Republicans who created the current vacancy crisis by stalling President Clinton's nominees. That is purely and unmistakably false. The fact is, the number of judicial vacancies decreased by 3 during the 6 years of Republican leadership while I was chairman over what it was when the Democrats controlled.

There were 70 vacancies when I became chairman of the Judiciary Committee in January of 1995 and President Clinton was in office, and there were 67 at the close of the 106th Congress in December 2000 and the end of President Clinton's Presidency. The Republicans did not create or even add to the current vacancy crisis.

Each Member of this Senate is entitled to his or her opinion on what happened, but not to his or her own set of facts. Enron-type accounting should not be employed regardless of which liberal interest group is insisting on it when we are talking about something as serious as our independent judiciary.

Second, there has been considerable sleight of hand when it comes to the true overall record of President Clinton's nominations. I worked well with President Clinton. I did everything in my power to help him with his nominations. One person does not control everything, but I did everything I knew how.

The undisputed fact is that Republicans treated a Democratic President equally as well as they did a Republican. We did not use any litmus tests, regardless of our personal views, whether it was abortion, religion, race, or personal ideology. I am disappointed to note that seems to be precisely what is happening with the Democrat-controlled Senate now.

Let's be honest and look at the facts. During President Clinton's 8 years in office, the Senate confirmed 377 judges, essentially the same as, only 5 fewer than, the all-time confirmation champion, Ronald Reagan, who had 382. President Reagan enjoyed 6 years of his own party controlling the Senate, while President Clinton had only 2. President Clinton had to put up with 6 years of a Republican-controlled Senate.

This proves that the Republicans did not let partisanship get in the way of principle when it came to judicial nominations. True, there were individual instances where a handful of nominees did not move, but it was nothing like the systematic and calculated stalling tactics being employed by this Democratic Senate to stop President Bush's highly qualified nominees.

At this point, I should also add the Clinton nominees we confirmed were no mainstream moderates as some of us have been led to believe. We confirmed nominees—and I am going to mention four—in one circuit; all four were moved up to the Ninth Circuit Court of Appeals. We confirmed Ninth Circuit nominees such as Judge Marcia Berzon, Judge Richard Paez, Judge Margaret Morrow, and Judge Willie Fletcher, and I could go on down the line. These nominees were confirmed with my support as chairman. I can tell you not a single one of these would be characterized, by any measure of the imagination, as nominees with political ideology within the moderate mainstream. I have personal political views almost completely opposite them, but they were confirmed.

I applied no litmus test to them. I reviewed them on their legal capabilities and qualifications to be a judge, and that is all I am asking from the Democrat majority. That is not what is happening. It is clear there is this wholesale, calculated, slow-walking of President Bush's nominees and particularly for the circuit court nominees.

Last year on this very day, May 9, we had 31 vacancies in the circuit courts of appeals. Today there are 29—2 fewer. We are not making a lot of headway on these very important circuit court nominations.

I might add, yes, it took a lengthy period to go through some of these nominees. Sometimes it was because objections were made; sometimes it was because of further investigation that had to occur; sometimes it was just because I had to fight with my own caucus to get them through. But they did get through.

The third point I wish to make is that an illusion has been created out of thin air that the Republicans left an undue number of nominees pending in a committee without votes at the end of the Clinton administration. Again, more Arthur Andersen accountings. Get ready for the truth.

There were 41 such nominees—I repeat, 41—which is 13 fewer than the 54 whom Democrats who controlled the Senate in 1992 left at the end of the first Bush administration. That is 41 under my chairmanship and 54 under the Democrat-controlled Senate in 1992, at the end of the first Bush administration.

My fourth point is, as you can see from this particular chart, I believe President Bush is being treated very unfairly. I will try to point this out.

President Reagan and the first President Bush got all of their first 11 circuit court nominees confirmed. All 11 were confirmed well within one year of their nominations. This is a stark contrast to today: 8 of current President Bush's first 11 nominations are still pending without a hearing, despite being here for a whole year at the end of yesterday. All have their ABA ratings. All are rated either well qualified, the highest rating possible, or qualified, a high rating, and all but one have their home State Senators' support, and that one is a North Carolina nominee for whom Senator EDWARDS has yet to return a blue slip.

I might add that the North Carolina nominee was nominated in the first

Bush administration. So he has been pending for over 10 years. John Roberts—who is considered one of the two or three greatest appellate lawyers in this country by everybody who knows intimately what he has done, both Democrats and Republicans—has been sitting here for 1 solid year.

My fifth point, shown in this chart, is that President Clinton had the privilege of seeing 97 of his first judicial nominees confirmed. The average time from nomination to confirmation was 93 days. Such a record was par for the course until the current Senate leadership took over last year. President Reagan got 97 of his first 100 judicial nominations confirmed in an average of 36 days. Again, he had 6 years of a Republican Senate to help him. President H.W. Bush saw 95 of his first 100 confirmed in an average of 78 days, and for most of his tenure he had a Democrat-controlled Senate.

The ground rules obviously have been changed as the extreme interest groups have reportedly instructed my Democratic colleagues. As we sit here today, the Senate has confirmed only 52—only 52—not the 97 President Clinton got, but only 52 of President Bush's first 100 nominees, and the average number of days to confirm these nominees is over 150 and increasing every day.

The reason I mention these five points is that there are some people who read the title of what we are doing today, and they hear what my colleagues have to say, and ignore the fact that, of President Bush's first 11 nominations, only 3 of them have gotten through. Those 11 were made on May 9 of last year. There is no historical justification for blocking President Bush's choices for the Federal judiciary. First, I do not want to accuse my colleagues on the other side of doing that.

Second, there simply is no historic justification for blocking President Bush's first 11 or first 100 judicial nominees. Nor is there any truth to the myth that the vacancies we have today were caused by the Republican Senate. They were caused by retiring judges. In other words, anything conjured up from the past and dressed up as a reason to thwart the requests of President Bush should be dismissed.

Now I want to switch gears a little bit and say something I consider to be personal, even though it has had—and still could have—a lot of bearing on this process. Back before I became chairman of the Judiciary Committee in 1995, I was personally affected by several events that occurred under the auspices of advise and consent. These events included the mistreatment of nominees including Sessions, Bork, Thomas, Ryskamp, Rehnquist, and others. In fact, even Justice Souter was not treated really well when he came before the committee, and the main reason was they thought he might be anti-abortion.

I saw how politics can affect the human spirit both in success and defeat. I saw how baseless allegations can take on a life of their own and how they can take away the life from their victims.

By the time I became chairman, I was determined to change the process that had gotten so vicious. I worked to restore dignity back to the nominations process both in the Committee and the Senate. I championed the cause of President Clinton's Supreme Court nominee Ruth Bader Ginsburg, even though she was criticized by many as a liberal activist and was a former general counsel of the ACLU, nothing that bothered me. I used my influence to quiet her detractors. I helped secure her vote of 96 to 3.

Under my chairmanship, I ended the practice of inviting witnesses to come into hearings to disparage the district court and circuit court nominees. In other words, I would not allow an outside group to come in. And there were plenty of them that wanted to. I dealt with the FBI background issues in private conference with Senators, never mentioning them in public hearings. Now that is a practice I am concerned has not been followed.

It is a matter of great concern because sometimes we do have to delay a hearing. We may have to put off some things because of further investigation, which may turn out be innocuous, or because of some serious charges that were raised, or because of something that has arisen that needs to be discussed. Anytime somebody indicates we have to put off a hearing because of an FBI report—that essentially comes down to telling everybody in the world. At the very least, it makes the public draw the conclusion that there must be something wrong with this nominee. Of course, in most cases there is not.

Now I told interest groups, even the ones with which I agree and whose work I like in other areas, that they were not welcome to come in and smear Clinton nominees. I refused to alter the 200-year tradition of deference to Presidents by shifting the burden onto nominees, and I informed the White House of problems that could, if made public, lead a nominee to a humiliating vote so that the nominee could withdraw rather than face that fate. These are the reasons we were able to confirm 377 Clinton nominees.

Anybody who thinks they were within the mainstream did not look at those nominees. We included some pretty contentious ones, such as the ones I have mentioned earlier in my remarks, and I only mentioned four because they were from the one circuit. I could mention many. If we had applied the same litmus tests as our colleagues are applying to President Bush's judges, very few of President Clinton's nominees would have gotten through.

I worked to get them confirmed. I stuck my neck out for them, and I still believe to this day I did the right thing, even though I am increasingly pessimistic that someone on the other side of the aisle will step up to the plate and reciprocate for any Bush nominees who might be in the same circumstance.

I urge and call upon the Democratic majority to show some leadership and put partisanship and the politics of personal destruction behind. Give fair hearings and confirmations of qualified nominees and keep the judiciary independent, as our forefathers intended. Keep the left-wing interest groups out of the nominations process. Do not let them smear our people.

I will introduce some of the nominees that have been held hostage in the Judiciary Committee this whole year. John Roberts, who is one of the most qualified and respected appellate lawyers in this country, has argued 37 cases before the Supreme Court. He just won a Supreme Court case 2 weeks ago for environmentalists. That was a historic property rights case. Miguel Estrada, who is a true American success story, arrived in this country from Honduras as a teenager, taught himself English, graduated with high honors from both Columbia and Harvard Law School, and has argued 15 cases before the U.S. Supreme Court—an exceptional Hispanic young man.

Professor Michael McConnell, from my State of Utah, one of the greatest legal minds of our generation, is supported by top liberal legal scholars Laurence Tribe of Harvard, Cass Sunstein of Chicago Law School, and many others. He is widely known to possess all the intelligence, temperament, and personal qualities that can make for an outstanding judge.

Jeffrey Sutton, a top legal advocate who graduated first in his class at the Ohio State College of Law, served as a law clerk to the U.S. Supreme Court.

There they are: John Roberts, Miguel Estrada, Michael McConnell, and Jeffrey Sutton on the top of this chart.

I will go a little bit further. Then there is Deborah Cook at the Sixth Circuit, who has overcome formidable obstacles in her personal life and legal career, including breaking a glass ceiling when she became the first female attorney in her law firm. She has served with distinction on the Ohio State Supreme Court.

Then there is Judge Dennis Shedd. He has a long and admirable record in public service. He was chief of staff of the Senate Judiciary Committee, and he is now a judge on the Federal district court. He already knows his way around the Fourth Circuit Court of Appeals where he has been nominated to serve because he has already been designated by that court to hear over 30 of their cases and write a number of opinions. I should also note that Judge Shedd has the bipartisan support of both home State Senators.

Then there is Priscilla Owen of Texas, who is a litigator with 17 years' experience and currently serving her 7th year as a justice on the Texas Supreme Court. She is only the second woman even to sit on that bench. She has been sitting, as have all these others, for over a year now.

Last but certainly not least, there is Judge Terrence Boyle, a judge with 14 years' experience, who is a thoughtful, fair, and nonpartisan jurist who has been waiting for a hearing for 11 years, ever since the first President Bush nominated him in 1991, and who has been designated to sit with the Fourth Circuit Court during 12 terms and has written more than 20 circuit court opinions. That is how much they have honored him. He was nominated, as I say, over 10 years ago and still has not had a hearing.

These are all superbly qualified, mainstream jurists who are committed to the principle that judges should follow the law and not make it up from the bench. They are also President Bush's selections. They enjoy bipartisan support. They are not ideologues. The Senate Democrats who are blocking them from having hearings should treat these nominees and the President who nominated them with fairness. I do not think the process is fair now and have to speak out.

It is time for this Senate to examine the real situation in the Judiciary Committee rather than to listen to the more inventive ways of spinning. We have lots of work to do. Let us put the statistics judo game behind us and get to work. We have been elected to do a job and let's do it instead of making up excuses for why we are not doing it.

If we look at these eight nominees, John Roberts, unanimously well qualified by the gold standard according to our colleagues on the other side, the American Bar Association; Miguel Estrada, unanimously well qualified by the American Bar Association; Michael McConnell, unanimously well qualified by the American Bar Association; Jeffrey Sutton, a majority qualified, a minority well qualified; Deborah Cook, unanimously qualified; Priscilla Owen, unanimously well qualified; Dennis Shedd, a majority of the ABA committee found him well qualified; Terrence Boyle, unanimously qualified. There is no reason why they should have sat there for 1 solid year.

I think the American people are disappointed; they want the Senate to help, not hinder, President Bush. I urge my friend across the aisle to focus on this situation and step up the pace of hearings and votes and do what is right for the country.

Having said that, I understand there are only four of the six judges pending on the floor that will be voted on today. Unfortunately, one of them who will not be voted on is a judge we recommended from Utah who is truly beloved out there and by many throughout the country. He is one of the finest law professors in the country. He came out of the committee with a vote of only four of our committee voting against him. Whenever members of the committee had judges, I did everything in my power to put them to the head of the line and to get them through. These two judges, Judge Paul Cassell, who is already approved by the committee, has been here for almost a year and will not get a vote today; and Judge Michael McConnell, who some say is probably one of the two or three greatest legal geniuses in the country, is still without a hearing—and I am ranking member.

This is bothering me to a large degree because I do not treat my colleagues on the other side the way they are treating our nominees. I believe it has to change. I will do everything in my power to change it. Should we get back in the majority, I will move to do a lot better job than has ever been done before and, hopefully, we can correct some of the ills that we have all complained about in the past.

We have a 100-person body and it is not easy sometimes to get people through. I have to say, in comparison, we treated President Clinton's nominees fairly. There are some exceptions—I have to admit; there always are—whether the Democrats or Republicans are in control of the committee. Look at the figures and facts. They were treated very fairly.

It is interesting to note how much my colleagues have changed their tune in the last year or so. Moments ago, my colleague criticized our President, President Bush, for using the phrase ''judicial vacancy crisis.'' My colleague called this ''confrontational.'' Yet in June of 1998, the Democrat leader of the Senate said that the ''vacancy crisis is the most serious problem.'' Has the phrase ''judicial crisis'' taken on a new connotation, or is this simply another example of the shoe being put on the other foot? I don't think we should be tit for tat in this body. Yes, we can always point to some nominees you wish could have gotten through, whether JOE BIDEN was chairman or whether ORRIN HATCH was chairman. I know we both worked very hard to get them through.

I am concerned. I don't think President Bush is being treated fairly. I don't think the courts are being treated fairly. I don't think litigants are being treated fairly when half of a circuit in the Sixth Circuit is without judges. That means the civil cases virtually cannot be heard because they have to go to the criminal cases first, and many of those cannot be heard.

Justice delayed is justice denied. That is happening all over our country. I believe we have to change that.

Madam President, I support the confirmation of Samuel ''Hardy'' Mays, Jr., to the United States District Court for the Western District of Tennessee.

I have had the pleasure of reviewing Mr. Mays' distinguished career, and I can say without hesitation that he will be an excellent addition to the Federal judiciary.

Mr. Mays graduated in 1961 from Amherst College and attended Yale Law School, where he served on the editorial board of the law journal. After receiving his Juris Doctorate, Mr. Mays began an over-20-year association with the law firm presently known as Baker, Donelson, Bearman & Caldwell. Mr. Mays became a partner in 1979. His law practice ranged from trial work—where he represented clients such as small, family-owned businesses in litigation matters—to banking and health care transactions.

In 1995 Mr. Mays entered government service as Tennessee Governor Sunquist's legal counsel. Here his responsibilities included reviewing all legislation requiring the Governor's approval; reviewing all clemency matters and extraditions; advising the Governor on matters of judicial administration; reviewing and recommending all judicial appointments; and supervising, on behalf of the Governor, all litigation to which the State of Tennessee was a party.

In 1997, recognizing Mr. Mays' hard work and legal talents, Governor Sunquist promoted him to Deputy to the Governor and Chief of Staff. As Chief of Staff, Mr. Mays became, in effect, the Chief Operating Officer of a State with approximately $19 billion in annual revenue. After leaving government service in 2000, he rejoined his old firm of Baker, Donelson.

No description of Mr. Mays' life would be complete without mentioning his active membership on numerous committees and boards, whose purpose is to enrich the lives of the people of Memphis.

Mr. Mays is eminently qualified to be a member of the Federal bench. I comment President Bush for another extraordinary judicial nominee, and I sincerely hope that the Senate will begin to deal with the growing judicial crisis that this Nation is facing.

Madam President, I support the nomination of Andrew Hanen to be U.S. District Judge for the Southern District of Texas.

It should be noted that in 1992 Mr. Hanen was nominated to the same position by the first President Bush, but, regrettably, he was not given a hearing by the Democratic Senate. Still, as was the case 10 years ago, I am confident he will serve with distinction on the Federal district court.

Following graduation from Baylor University School of Law, where he finished first in his class, Mr. Hanen clerked for a year with Chief Justice Joe Greenhill of the Texas Supreme Court. In 1979 Mr. Hanen joined the firm of Andrews & Kurth, handling medical malpractice defense cases, commercial litigation, products liability, and legal malpractice defense cases. In addition, he represented clients in cases in the areas of FELA, ERISA, lender liability, civil rights, and antitrust.

Following his unsuccessful nomination to the Federal bench in 1992, Mr. Hanen, along with two others, opened his own law firm, which is now composed of 17 employees. Mr. Hanen has represented clients in contract, patent litigation, toxic tort, mass tort, and personal injury matters.

Mr. Hanen is a leader in the Houston Volunteer Lawyers Program. While

serving as president of the Houston Bar Association, Mr. Hanen has led effort to raise funds for additional pro bono work. Mr. Hanen has also been active in promoting and instituting pro bono legal services for AIDS and HIV-affected individuals. He volunteers with Habitat for Humanity, ADR programs, and various nonprofit groups.

I am very proud of this nominee and I know he will make a great judge.

Madam President, I support the nomination of Leonard E. Davis to be United States District Judge for the Eastern District of Texas.

I have had the pleasure of reviewing Judge Davis' distinguished legal career, and I have concluded, as did President Bush, that he is a fine jurist who will add a great deal to the Federal bench in Texas.

Upon graduation from Baylor University School of Law, where he finished first in his class, Leonard Davis joined the Tyler, TX, law firm of Potter, Guinn, Minton & Roberts. He became a partner in 1979 and was managing partner from 1983 to 1990.

At the outset of his legal career, Judge Davis concentrated on insurance defense work. He also handled a diverse caseload including cases involving worker's compensation, section 1983, automobile accidents, deceptive trade practices, products liability, and malpractice. Later, as his practice developed, he focused primarily on commercial litigation. In addition, Judge Davis was appointed to defend several indigents in Federal and State criminal cases involving murder, aggravated assault, interstate transportation of stolen cattle, and tax evasion.

Judge Davis served on the Texas State Ethics Advisory Commission from 1983–88 and on the State Judicial Districts Board from 1988–92. Judge Davis was appointed by then-Governor George W. Bush as Chief Justice of the Twelfth Court of Appeals in Tyler, TX, where he has served since 2000.

I have every confidence that Judge Leonard E. Davis will serve with distinction on the Federal district court for the Eastern District of Texas.

Madam President, I rise in support of the confirmation of Judge Thomas Rose to the U.S. District Court for the Southern District of Ohio.

After reviewing Judge Rose's distinguished legal career, I can state without reservation that he is a man of integrity and honesty and will be a welcome addition to an already taxed judiciary.

Judge Rose graduated from Ohio University in 1970 with a Bachelors of Science in Education. He then went on to receive this Juris Doctorate from the University of Cincinnati College of Law in 1973.

After graduating law school, Judge Rose worked as a Greene County Assistant Prosecutor while maintaining a private practice. As a prosecutor, his responsibilities included addressing a wide range of issues from juvenile matters to capital murder cases. During this period, my colleague and good friend, Senator DEWINE, was also a prosecutor for Greene County. Senator DEWINE discovered that one of his superiors had bugged his office. Senator DEWINE took the only honorable action available and resigned in protest. Judge Rose also resigned because he felt the office's integrity had been violated. Clearly, this shows that Judge Rose, who was not involved in this incident in any manner, is a man who will put the interests of justice and fairness above his own personal gain.

Judge Rose is also a man deeply devoted to his community. After leaving the prosecutor's office, he became Chief Juvenile Court Referee for the Greene County Court of Common Pleas. In this position, he was responsible for working with delinquent, neglected and abused children. Currently, he is a Board Member of the Xenia Rotary Club and a member of three local Chambers of Commerce.

Later, under a new Greene County Prosecutor, Judge Rose became Chief Assistant Prosecutor in Charge of the Civil Division. In 1991, he rose to the bench as a Judge for the Greene County Common Pleas Court, General Division. Currently, Judge Rose handles approximately 400 civil and 400 felony criminal cases annually.

Judge Rose's nomination is yet another example of the quality of judicial nominations that President Bush is making. I believe that we should all follow the example set by the President when he said that it is time to provide fair hearings and prompt votes to all nominees, no matter who controls the Senate or the White House. This is what I tried to do when I was chairman, and it is a standard to which we should now aspire.

Mr. EDWARDS. Madam President, I wanted to say just a few words on this subject of judicial nominations.

Not everyone realizes how important the Federal courts are. They are extraordinarily important. Once judges are confirmed by the Senate, they hold lifetime appointments. Although the focus tends to be on the Supreme Court, the reality is that well over 99 percent of all cases never reach that court. These cases are decided by district judges and circuit judges who most Americans have never heard of. The final decisions made by these judges resolve the most fundamental questions about our civil rights and individual rights. Every single day, these judges make decisions that literally make and break people's lives.

So it is critical that we examine nominations to the Federal bench very carefully, particularly when those nominations raise serious questions.

Of course, being deliberate does not mean being dilatory. But Madam President, the truth is that the Senate is confirming large numbers of nominees. As of today, the Senate will have confirmed 56 judges, including 9 to the courts of appeals. That is a faster pace than in the last 6 years of the Clinton administration. In those six years, the number of vacancies in the Federal appeals courts more than doubled, from 16 to 33. Today, that vacancy level is down from 33 to 29.

To sum up, I believe that when it comes to judges, we are doing our job carefully, and we are doing our job well.

Mr. THOMPSON. Madam President, I am very pleased that the Senate is considering the nomination of Samuel Mays, whom everybody in Tennessee knows as ''Hardy,'' to be a U.S. District Judge for the Western District of Tennessee.

I am grateful to Chairman LEAHY and the Judiciary Committee and its staff for moving Mr. Mays's nomination so quickly. The need is quite urgent. The Western District of Tennessee typically has four judges assigned to hear cases in Memphis, along with a fifth who hears cases in Jackson. Only two of those four seats are currently filled with judges hearing cases, and the nomination of one of those two judges to the Court of Appeals is now pending before the Senate. A third seat, the one to which Mr. Mays has been nominated, is vacant. The fourth judge is currently on disability leave. So moving Mr. Mays's nomination so promptly is imperative for litigants with cases pending in the Western District.

Hardy Mays is very well known to the bar of the Western District of Tennessee. He was born and raised in Memphis. He graduated from Amherst College in 1970 and in 1973 from Yale Law School, where he served as an editor of the law journal.

He returned home to Memphis, where he joined the law firm that is today known as Baker, Donelson, Bearman & Caldwell, at which he practiced law for over 20 years, and which was also the firm of our former colleague, Senator Howard Baker, now U.S. Ambassador to Japan. Although Mr. Mays started his practice as a tax and banking lawyer, he soon shifted his focus to litigation. He represented clients before the local, State, and Federal courts in west Tennessee in a wide variety of civil cases. While his practice continued to evolve into one primarily concentrated on banking law issues, Mr. Mays continued to try cases until 1985. During his time as a litigator, Mr. Mays tried over 25 cases to judgment. Many of these cases were in Federal court. His peers recognized his standing at the bar and selected him as a member of the board of directors of the Memphis Bar Association, a position he held from 1985 to 1987.

In 1987, he became managing partner of his firm, a move that forced him to give up litigation. He helped turn the firm into a regional law firm, opening offices in Nashville and Chattanooga. He gave up his position as managing partner of the firm in 1988 and returned to the full-time practice of law. By then, his practice had again evolved into one focused on health law and related practice areas.

In 1995, Mr. Mays joined the administration of Governor Don Sundquist as his legal counsel. Two years later, he became the Governor's chief of staff. In these positions, he served the people of Tennessee ably and tirelessly. He was highly regarded during his tenure with Governor Sundquist.

In 2000, he returned to his former law firm, where he has continued to practice law focused on representing health care providers.

Mr. Mays is highly regarded by the bar for his intellect, legal ability, fairness, and his unfailing good humor. I am confident that he has the ideal temperament to serve in the stressful position of a trial judge. Mr. Mays enjoys broad, bipartisan support. I know the Judiciary Committee has heard from a number of prominent Democrats, including Memphis Mayor Willie Herenton; President Clinton's U.S. Attorney in Memphis, Veronica Coleman-Davis; former Tennessee Governor Ned McWherter; and our former colleague, Senator Harlan Matthews, in support of the nomination of Mr. Mays.

In addition to his record of professional accomplishments, no recitation of Mr. Mays's career would be complete without reference to his extraordinary commitment to his community. While I will not take the time to detail the full scope of his community involvement, including his significant political activities, I do want to focus on one aspect of his involvement with his neighbors: the arts in Memphis would be far poorer without his contributions. He serves or has served as a director of the Memphis Orchestra, Opera Memphis, the Memphis Ballet, the Playhouse on the Square, the Decorative Arts Trust, and the Memphis Brooks Museum, and the Memphis Botanic Garden.

Hardy Mays is an excellent choice to serve as Federal district judge in Memphis. I appreciate the President's decision to nominate him, and I am grateful to the Judiciary Committee for considering his nomination so promptly. I urge my colleagues to support his nomination.

Ms. CANTWELL. Madam President, the Senate and the Judiciary Committee have been under Democratic leadership for 10 months. During that 10 months, Chairman LEAHY and the Judiciary Committee staff have worked overtime to establish a steady process to fill judicial vacancies. In the 10 months, each one of my Democratic colleagues has taken time from their busy schedules to chair multiple nominations hearings.

Hearings on nominees began less than a week after the Senate reorganized, and have continued on a monthly, or twice monthly basis, right up to this afternoon. As you have heard repeatedly today, in 10 months we have confirmed 52 judges, and have 4 more awaiting confirmation today. We have held hearings on 13 Court of Appeals nominees. This afternoon, I will convene a hearing on four additional nominees including one for the Ninth Circuit Court of Appeals. Our record on confirmations is good.

So it has been a continual surprise to me that my colleagues on the other side of the aisle have complained day after day, that the Senate was not confirming judges. This is particularly surprising as those doing the complaining sit beside me week after week as we continue to hold hearings and vote these nominees out of the Committee.

The problem is not that the Senate has not been confirming judges. Any reasonable examination of the record makes clear that the Committee is working hard to confirm more judges than in past years. We have confirmed many strong Republican judges who are impartial, ethical, and who bring to their decision making an open mindedness to the arguments presented. My own experience in reviewing the record of nominees who have come before me makes clear that judges who are qualified, moderate candidates, who are held in high esteem by lawyers in their community, and who have a record of fair-minded decision making will be promptly confirmed.

The problem is that a few controversial nominees have not yet received hearings. President Bush last year nominated individuals to the Circuit Court of Appeals who are among the most conservative the Senate has ever considered. Many of these nominees have long records of decisions and writings that are far outside mainstream thinking. They have records that call into question their commitment to upholding precedent, and to respecting individual rights. When questions like these are raised about a nominee, the Committee must undertake a thorough examination of the nominee, and that takes time.

The Supreme Court hears fewer than 100 cases per year and circuit court judges make the final decisions in hundreds of cases a year that set precedent for thousands of additional cases. Senate confirmation is the only check upon federal judges appointed for life. I take seriously the responsibility to carefully review these nominees and to reflect upon the power they will hold to affect the lives of ordinary Americans in the workplace, the voting booth, and in the privacy of their home.

When the Senate confirms nominees to fill the remaining existing vacancies, as I am confident that it will, 11 of the 13 Circuit Courts will be dominated by conservative jurists. These same courts have increasingly issued rulings that have curtailed the power of Congress to enact laws to protect women from domestic violence, prevent discrimination based on disabilities, and to protect the environment. Rulings have increasingly limited the ability and the opportunity for women to exercise their right to reproductive freedom; limited the opportunity for education and advancement by curtailing programs promoting racial and ethnic diversity in our schools and workplaces; and overturned laws protecting workers. Balance in each of the branches of our government is a key precept of our democracy, and balance in the Federal judiciary is, in my opinion, crucial to ensure that the American public maintains its unquestioned respect for and deference to the rulings of our Federal judiciary.

Americans in huge numbers favor reproductive choice, and the right to work in a safe workplace free from injury and regardless of physical disability. They believe in the need for government to take steps to protect our environment for future generations, and to protect consumers from unfair and deceitful business practices. These are the values that are placed in jeopardy by extreme nominees. It is the responsibility of the Senate and of the members of the Judiciary Committee to ensure that the people we seat on the Federal bench share the same respect for these rights.

The reality is appointments to the judiciary have become more politicized over the past 20 years. If the Senate is truly interested in filling all the outstanding vacancies as quickly as possible, we must work together to find nominees who can help to correct the current imbalance on the courts. We need to see more cooperation and consultation between the White House and the members of the Senate, and a willingness to compromise on nominees who do not present a threat to values and rights that mainstream Americans accept and welcome. We have an amazing pool of talent in our legal community, and it would be a simple matter to nominate more mainstream nominees.

It is my hope that as we continue to work to fill existing vacancies, that it will become more possible to work together to find candidates for nomination who unite, not who seek to divide.

Mr. VOINOVICH. Madam President, today, May 9, 2002, marks one year to the date that I was at the White House when President Bush announced the nominations of Deborah Cook and Jeffrey Sutton for the Sixth Circuit Court of Appeals. However, one year later, no action has been taken on these Ohioans, as well as five other nominees to the Sixth Circuit. In fact, the entire judicial nominee process has been egregiously delayed over this past year.

There are currently over 96 vacancies in the Federal courts, enough that the Chief Justice of the Supreme Court, William Rehnquist, referred to the vacancy crisis is ''alarming.'' It certainly is alarming to note that these vacancies exist despite the fact that President Bush has nominated nearly 100 judges in his first year of office, more judges than any President in history. At the same point in his administration, President Clinton had nominated only 74 judges. In addition, former President Bush had nominated 46 and President Reagan had nominated 59.

Despite this overwhelming number of nominees, as of April 12, 2002, the Senate has only confirmed 42 of President Bush's 98 nominees. More egregious is the fact that only 7 of President Bush's 29 nominees to the circuit courts have been confirmed. No circuit has felt this delay more powerfully than the Sixth.

Since 1998, the number of vacant judgeship months in the Sixth Circuit has increased from 13.7 to 60.9 and is currently the highest in the Nation. The median time from the filing of a notice of appeal to disposition of the case in the Sixth Circuit was 15.3 months in 2001, well above the 10.9 months national average, and second in the Nation only to the Ninth Circuit.

Clearly the Sixth Circuit is in crisis and the reason is the inaction of the Senate Judiciary Committee.

When I talk to Ohio practitioners, I hear many complaints about the overuse of visiting judges throughout the Sixth Circuit. One lawyer told me that one of the visiting judges on his panel was from as far away as the Western District of Louisiana. In fact, the Sixth Circuit has the highest number of visiting judges providing service: 59 visiting judges participated in the disposition of 1,626 cases for the 12-month period ending September 30, 2001.

It is time to put a stop to this logjam of Sixth Circuit nominees and allow our overburdened appeals courts to operate free of partisan wrangling. In particular, it is time to give Justice Deborah Cook and Jeffrey Sutton a hearing, and allow their nominations to be considered by the full Senate.

In all candor, I can not think of two individuals more qualified or better prepared to assume the solemn responsibilities of the Sixth Circuit bench than Deborah Cook and Jeffrey Sutton.

I have had the privilege of knowing Deborah Cook for over 25 years. Throughout, I have found her to be a woman of exceptional character and integrity. Her professional demeanor and thorough knowledge combine to make her truly an excellent candidate for an appointment to the Sixth Circuit. Deborah Cook has served with distinction on Ohio's Supreme Court since her election in 1994 and reelection in 2000. My only regret is that with her confirmation to the Sixth Circuit, we will lose her on the Supreme Court of Ohio.

With a combined 10 years of appellate judicial experience on the Ohio Court of Appeals and the Ohio Supreme Court, Deborah Cook uniquely combines keen intellect, legal scholarship and consistency in her opinions. She is a strong advocate of applying the law without fear or favor and not making policy towards a particular constituency. Deborah Cook is a committed individual and a trusted leader, and it is my pleasure to give her my highest recommendation.

I am also very pleased to speak on behalf of Jeffrey Sutton, a man of unquestioned intelligence and qualifications, with vast experience in commercial, constitutional and appellate litigation. Jeffrey Sutton graduated first in his law school class, followed by two clerkships with the United States Supreme Court, as well as the Second Circuit. As he was the State Solicitor of Ohio when I was Governor, I worked with him extensively when he represented the Governor's office, and in my judgment, he never exhibited any predisposition with regard to an issue. He has contributed so much and his compassion for people and the law is so evident. In my opinion, Jeffrey Sutton is exactly what the federal bench needs: a fresh, objective perspective.

Jeffrey Sutton's qualifications for this judgeship are best evidenced through his experience. He has argued nine cases before the United States Supreme Court, including Hohn v. United States, in which the Court invited Mr. Sutton's participation, and Becker v. Montgomery, in which he represented a prisoner's interests pro bono. He has also argued twelve cases in the Ohio Supreme Court and six cases in the Sixth Circuit. While his participation in controversial cases has, in some instances, led to a clouding of his qualifications and accomplishments, what his detractors fail to mention is how he argued pro bono on behalf of a blind student seeking admission to medical school or how he filed an amicus curiae brief with the Ohio Supreme Court in support of Ohio's Hate Crimes law on behalf of the Anti-Defamation League, the NAACP and the Ohio Human Rights Bar Association. Jeffrey Sutton should not be criticized on assumptions that past legal positions reflect his personal views. Instead, he should be lauded for always zealously advocating his client's interests, no matter the issue. I know Jeff. He is a man of exceptional character and compassion. For these and many other reasons, Jeffrey Sutton will be an unquestioned asset to the Federal Bench.

As you may know, the Sixth Circuit is in desperate need of judicial appointments. Fourteen judicial vacancies now exist, one of which has been vacant since 1995. Furthermore, the Administrative Office of the U.S. Courts has declared five of these vacancies to be judicial emergencies within the U.S. federal court system.

Given the crisis in the Sixth Circuit and the exemplary records of Justice Cook and Jeffrey Sutton, I respectfully urge the Judiciary Committee to hold hearings on their nominations as soon as possible, and expeditiously move them to the floor of the Senate.

Mr. GRASSLEY. Madam President, I rise today to speak in support of President Bush's judicial nominees. President Bush says that we need to move these nominees swiftly and fairly. He wants our support for his nominees. I agree. The Senate needs to act to fill these vacancies and ensure that the Federal courts are operating at full strength.

Right now, President Bush has sent a number of extremely qualified men and women to the Senate for consideration to the Federal bench. But unfortunately, many of these outstanding individuals are still waiting for a hearing by the Senate Judiciary Committee, I believe 47 nominees are still pending. We need to move these judicial nominations quickly, because they are all good men and women.

I want to talk about a few facts and figures. We've heard a lot of numbers being thrown around by both the Democrats and the Republicans about who delayed who the longest, who denied hearings to whom, and on and on, so we are left in a numbers daze. I get dizzy from all the numbers. But this what I think is the bottom line. When President Bush Sr., left office, he had 54 nominees pending with a Democratic Senate. The vacancy rate was 11.5 percent. When President Clinton left office, he had 41 nominees pending with a Republican Senate. The vacancy rate was 7.9 percent. So the way I see it, Senate Republicans gave the Democratic President a better deal. The other bottom line is that a year, 365 days, after President Bush nominated his first 11 circuit court nominees, only 3 have been confirmed. By contrast, each of the 3 previous Presidents enjoyed a 100 percent confirmation rate on their first 11 circuit nominees, and they were all confirmed within a year. The way I see it, President Bush is getting the short end of the stick with his nominees.

I'd like to talk about some of President Bush's nominees, specifically the 8 nominees of the 11 original circuit court nominees sent up last May who are still pending without action. Today a full year has gone by, 365 days, with only 3 of President Bush's first 11 nominees having seen any action at all. And of those 3, I understand 2 were judges previously nominated by President Clinton. The Senate needs to do better than that. These individuals of exceptional experience, intellect and character deserve to be treated fairly and considered by the Senate promptly.

Let me say a few words about each of these nominees. I know that some of my colleagues may have already given many details about these individuals, but I think that it is important that Americans see what quality individuals President Bush has sent up to the Senate. These individuals have all excelled in their legal careers and I'm sure, if confirmed, they will all make excellent judges.

Judge Terrence Boyle is President Bush's nominee for the Fourth Circuit Court of Appeals. He is currently the Chief Judge of the U.S. District Court for the Eastern District of North Carolina, appointed by President Reagan in 1984. He has served in this post with distinction. He was nominated to the Fourth Circuit in 1991 by President Bush Sr., but he did not receive a hearing from the Democrat-controlled Judiciary Committee.

Justice Deborah Cook is President Bush's nominee to the Sixth Circuit

Court of Appeals. After graduation from law school, Justice Cook became the first female attorney hired at the oldest law firm in Akron, OH, and just 5 years later, she was named a partner. She then served on the Ohio Court of Appeals for 4 years, and in 1994 she became a justice on the Ohio Supreme Court. Her pro bono work is laudable: Judge Cook is a founder and trustee of a mentored college scholarship program in Akron, and I understand she and her husband personally fund efforts to help inner-city children go to college.

Miguel Estrada is one of President Bush's nominees to the D.C. Circuit Court of Appeals. He has an incredible story, having immigrated to the United States when he was young without even speaking English, to then graduate with honors from Columbia College and Harvard Law School. He clerked for the Second Circuit and the U.S. Supreme Court, then served as an Assistant U.S. Attorney in the Southern District of New York, where he became Deputy Chief of the Appellate Section in the Office. Mr. Estrada acted as Assistant to the Solicitor General for 5 years in both the Bush and Clinton administrations. If he is confirmed, Mr. Estrada would be the first Hispanic judge on the D.C. Circuit Court of Appeals.

Michael McConnell is President Bush's nominee to the Tenth Circuit Court of Appeals. He graduated from the University of Chicago Law School and then clerked for Judge Skelly Wright on the D.C. Circuit, and Justice William J. Brennan on the U.S. Supreme Court. Professor McConnell was a tenured professor at the University of Chicago Law School for more than a decade before accepting the Presidential Professorship at the University of Utah College of Law in 1997. He has earned the reputation of being one of the top constitutional scholars in the country.

Justice Priscilla Owen is President Bush's nominee to the Fifth Circuit Court of Appeals. Justice Owen spent 17 years as a litigator with a top Houston law firm. Currently, Ms. Owen is serving her 7th year as Associate Justice on the Texas Supreme Court, she is only the second woman ever to sit on that bench. She has great professional credentials, and has demonstrated a strong commitment to her community.

John Roberts is President Bush's other outstanding nominee to the D.C. Circuit Court of Appeals. He is one of the most qualified and respected appellate lawyers in the country. Mr. Roberts has had a distinguished record in private practice, and he has performed a significant amount of pro bono legal service. He also served as Deputy Solicitor General of the United States. Mr. Roberts' background in public office and private office are outstanding.

Judge Dennis Shedd is President Bush's nominee to the Fourth Circuit Court of Appeals. He has a long and admirable record of public service, both in the legislature and in the Federal courts, as well as in private practice and academia. Judge Shedd worked as the Chief Counsel and Staff Director for the Senate Judiciary Committee under then-Chairman STROM THURMOND. He was appointed a district court judge for the District of South Carolina in 1990, where he has served with distinction.

Jeffrey Sutton is President Bush's nominee to the Sixth Circuit Court of Appeals. Mr. Sutton clerked for Justices Scalia and Powell on the U.S. Supreme Court, then spent three distinguished years as Solicitor for the State of Ohio. Since that time, Jeffrey Sutton has worked in private practice and served as an adjunct professor of law at the Ohio State University College of Law.

These eight outstanding nominees are still waiting for a hearing, even though they are some of the most respected judges and lawyers and professors in the country. They have excellent qualifications, are of high moral character, and will serve our country well. They all have ratings of ''well qualified'' or ''qualified'' by the American Bar Association, the so-called ''gold standard'' by the Democrats on the Judiciary Committee. It's clear that the Senate Judiciary Committee needs to do its job and schedule them for a hearing and markup.

Let's give these good men and women what they deserve, to be treated with respect. They need a prompt hearing and markup. They have waited too long. The Senate has to act. Like the President said, the American people deserve better.

Mr. FRIST. Madam President, I rise today to thank my colleagues for the confirmation of Samuel Hardwicke Mays, Jr., of Memphis TN, as U.S. District Judge for the Western District of Tennessee. I am also grateful to President Bush for his nomination of an individual who I know will act with fairness to all in a way which will make all of us proud.

Hardy Mays is a Memphis institution. No one lives life more to the fullest than Hardy whose passion for the arts, a good book, the law and public service is known to all.

As have so many others, I first sought his counsel when I decided to run for the United States Senate. Since then, I have turned to Hardy for advice on a variety of occasions, and I value the thoughtful, balanced approach he can bring to any issue. And I am proud to call him my friend.

More importantly, he is an outstanding lawyer with a keen intellect. He is fair and impartial, and has enormous compassion for his fellow man. Hardy has demonstrated, both in his distinguished legal career with the Baker, Donelson firm in Memphis, and his life in public service as Legal Counsel and Chief of Staff to Governor Don Sundquist, his unique ability to hear all sides of an issue, to work with people from all walks of life, and to find equitable solutions to virtually any challenge. His personal and professional integrity are above reproach, and his even temperament is ideally suited for the federal bench.

Many outstanding Tennesseans have added their support to Hardy's nomination. They most often have mentioned to me his brilliant mind, sense of fair play and lack of personal bias, good wit, and respect for other's views and opinions.

Thomas Jefferson wrote in 1776 that our judges ''should always be men of learning and experience in the laws, of exemplary morals, great patience, calmness and attention.'' Samuel Hardwicke Mays, Jr., certainly fits President Jefferson's description. He will serve our country with distinction, and his talent, experience and energy will be an asset to our Federal judicial system.

I ask unanimous consent after Senator FEINGOLD speaks that Senator HUTCHINSON be permitted to speak for up to 5 minutes.

Mr. LEAHY. Reserving the right to object, does the Senator have the time? How much time is remaining on both sides? I don't want to object, but I know the Republican and Democrat leader have 11:35 for the vote.

The PRESIDING OFFICER. The Senator from Utah has 5 minutes 41 seconds.

Mr. LEAHY. OK.

The PRESIDING OFFICER (Mrs. CARNAHAN). Without objection, it is so ordered.

The Senator from Wisconsin.

Mr. FEINGOLD: Madam President, today the Senate is going to confirm four more of President Bush's nominees to the Federal bench. While there is no controversy about these particular nominees, there has been much debate here on the floor about the pace of confirmations. And today, because this is the anniversary of President Bush's announcement of his first batch of judicial nominations, we have been told to expect a series of events designed to criticize the majority leader and the chairman of the Judiciary Committee for their conduct of the confirmation process and to pressure them to move this process along faster.

I am pleased to join my colleagues on the floor this morning to make a few points about this.

First, though I am sure the complaints will never stop, on the basis of the numbers alone, it is awfully hard to find fault with the pace of judicial confirmations. Since the Democrats took control of the Senate last June, we have confirmed 52 judges, not including the four whom we will vote on today, which will bring the total to 56. In under a year, that is more judges than were confirmed in four out of the six years of Republican control of the Senate under President Clinton.

Judiciary Committee Chairman PATRICK LEAHY has vowed not to treat President Bush's nominees as badly as our predecessors treated President

Clinton's nominees. I believe he is fulfilling that pledge, but frankly, he doesn't have to work all that hard to do that.

For example, our friends on the Republican side are complaining that some of President Bush's nominees from last May 9 have not yet been confirmed. On today's anniversary of those nominations, I'm sure we'll hear a lot about that. So let's just put that in perspective.

Let's assume for the sake of argument that these individuals have actually waited 365 days, a full year. We all know that at this time, that's not really accurate. First, Democrats took control of the Senate in June 2001. Our committee was not organized so that nominations hearings could be held until July 10, 2001. So it's really been only 10 months that we have been in a position to confirm any of the May 9 nominees.

Second, and just as significantly, under this administration, the American Bar Association can't start its review of a nomination until after the nomination is formally announced. During the Clinton administration, as under all previous administrations, Republican and Democrat, dating back to President Eisenhower, the ABA conducted its reviews of nominations before they were sent to the Senate. President Bush's unfortunate decision to change the way the White House handles the ABA review has added 30–60 days to the process as compared to prior years. That has to be factored into any claims. They are the result of the President's own choice of cutting the ABA out of the process.

Assume for the sake of argument that all these nominees have been waiting 365 days to be considered by the Senate. That is still 140 days shy of the 505 days that Richard Lazarra waited between his nomination by President Clinton and his confirmation by the Senate. And Judge Lazarra, now serving on the district court of Florida, didn't wait the longest. No, the period between his nomination and confirmation is only the 15th longest of the Clinton appointed judges. So when nominees of President Bush have been waiting a year, however that is calculated, they won't even crack the top 15 of the Clinton judges who waited the longest to be confirmed.

Actually, the longest wait during the Clinton administration was endured by Judge Richard Paez, now on the Ninth Circuit—1,520 days—over four years. That's in another league altogether from the delay, if you can call it that at this point, on some of President Bush's May 9 nominees. Nine Clinton judges waited more than 2 years before they were confirmed. If all of the May 9 judges still awaiting confirmation are still pending in the committee on May 9, 2003, then maybe we should talk about a delay. I am absolutely certain that will not be the case.

Now so far, I have been talking about judges who were ultimately confirmed. But we all know that not all of President Clinton's nominees were confirmed. Far from it. In fact, 38 judicial nominees never even got a hearing in the last Congress, including 15 court of appeals nominees. Three other nominees received hearings but never made it out of committee. The nominations of eight court of appeals nominees who never got a hearing and one who got a hearing but no committee vote, were pending for more than a year at the end of the 106th Congress. In all, more than half of President Clinton's nominees to the circuit courts in 1999 and 2000 never received a hearing.

Those who are concerned about circuit court vacancies, if they are being honest, must lay the problem directly at the feet of the majority in the Senate during President Clinton's last term. Many of those who are now loudly criticizing Chairman LEAHY refused to recognize the results of the 1996 election and dragged their feet for 4 years on judicial nominations. Some of the vacancies that President Bush is now trying to fill actually date back to 1996 or even 1994.

So what are we to do about this? One alternative is to simply rubber stamp the President's nominees. That is what some would have us do. I, for one, am thankful that that is not the approach of Chairman LEAHY or Majority Leader DASHCLE. We have a solemn constitutional obligation to advise and consent on nominations to these positions on the bench that carry with them a lifetime term. We must closely scrutinize the records of the nominees to these positions. It is our duty as Senators.

That duty is enhanced by the history I have just discussed. If we confirm the President's nominees without close scrutiny, we would simply be rewarding the obstructionism that the President's party engaged in over the last six years by allowing him to fill with his choices seats that his party held open for years, even when qualified nominees were advanced by President Clinton.

The most important part of the scrutiny we must do is to look at the records of these nominees. Many of them are already judges, at the State level or on a lower court. There is nothing wrong with examining their work product; indeed, that is the best indicator of how they will perform in the positions to which they have been nominated.

Some have complained that it is improper for the committee to ask to see copies of the unpublished opinions of judges nominated for the Circuit Court who are currently serving as District judges. I disagree. Let me be clear that we have not, as the Wall Street Journal editorial page recently stated, asked judges to go back and write ruling in cases where they have ruled orally from the bench. That is laughable. No, we simply asked for the judge's work product—the judge's written rulings. Unpublished opinions are binding on the parties in the case. They are the law. They are the judge's decisions. And we who are charged with evaluating the fitness of a sitting judge for a higher court have every right to examine those decisions—before making our decision.

I commend Chairman LEAHY on his work on nominations thus far. Fifty-six confirmations in less than a year as chairman is an admirable record. I am sure he won't keep any nominee waiting for 4 years before getting a confirmation vote. I am sure we won't finish this Congress having held hearings for fewer than half of the President's circuit court nominees. Most of all, I'm sure he will continue to treat this confirmation process with the dignity and respect and care it deserves. The courts, our system of justice, and the American people deserve no less.

I reserve the remainder of our time and yield the floor.

Mr. HATCH. I yield time to the distinguished Senator from Texas.

The PRESIDING OFFICER. Under the previous order, the distinguished Senator from Texas is recognized.

Mrs. HUTCHISON. Madam President, I have been listening to the debate today. I certainly want to say I have a very good friend who is a nominee for the Fifth Circuit, who was nominated 1 year ago today, Priscilla Owen, who I hope will get a fair hearing because she is one of the most qualified people who has ever been nominated for the Fifth Circuit.

But I want to use my time this morning to give the due accolades to two judges on whom we will vote who are district judges. The circuit court judges are the ones about whom everyone has been talking and about whom people are very concerned. But we have two very qualified district judges who are going to be confirmed today. I want to speak for them.

The first nominee is Andy Hanen. Andy Hanen was nominated in June of 2001 to serve as Federal judge for the Southern District of Texas. He was also nominated for this judgeship 10 years ago by former President Bush. His nomination expired at the end of the congressional session and was not renewed by President Clinton.

Andy is a 1975 cum laude graduate of Denison University in Ohio, where he studied economics and political science. In 1978 he earned his law degree from Baylor University School of Law. He ranked first in his class and was president of the Student Bar Association and a member of the Baylor Law Review.

As a founding partner of the Houston law firm Hanen, Alexander, Johnson & Spalding, he has gained extensive civil trial experience, half of which was in Federal court. He went on to win a number of accolades, including Outstanding Young Lawyer of Texas, awarded by the State bar. He was elected president of the Houston Bar Association in 1998 and is currently a director of the State Bar of Texas. He has distinguished himself throughout his

career through civic and volunteer committees. He is an active member of the community and contributes his time to charities such as Habitat for Humanity, Sunshine Kids, and the Red Cross.

The Southern District of Texas is one of those that are in dire need of all the judicial vacancies being filled. I am very pleased to support Andy Hanen.

Leonard Davis has been nominated to serve on the Eastern District of Texas. He is a judge on the Circuit Court of Appeals for Texas, with an outstanding record. He, too, was nominated by former President Bush, but the nomination expired and was not renewed by President Clinton.

He earned a mathematics degree from UT Arlington and a master's degree in management from Texas Christian University. He earned his law degree from Baylor University School of Law, where he graduated first in his class. He went on to practice civil and criminal law for 23 years and handled hundreds of cases in State and Federal courts. He was appointed to his current position as Chief Justice of the 12th Circuit Court of Appeals of the State of Texas by then-President George W. Bush and has enjoyed strong bipartisan support and no opposition to his reelection in November of 2000.

He has served on numerous boards and commissions, including the State Ethics Advisory Commission, the State Bar of Texas's Legal Publications Committee, and the American Heart Association's Board of Directors.

Judge Leonard Davis is a long-time friend of mine. I believe he, too, will serve our country well.

I urge my colleagues to support both of these Texas nominees for district court benches—Andy Hanen and Leonard Davis.

Madam President, I also would like to say one more thing about Judge Priscilla Owen, a justice of the supreme court, and ask that she be considered for her Fifth Circuit nomination.

Every newspaper in Texas endorsed Justice Owen for her reelection bid in 2000 for the Supreme Court of Texas. On February 10 of this year, a Dallas Morning News editorial said:

> Justice Owen's lifelong record is one of accomplishment and integrity.

During her reelection campaign, the Houston Chronicle said, in a September 24, 2000, editorial:

> A conservative, Owen has the proper balance of judicial experience, solid legal scholarship, and real world know-how to continue to be an asset on the high court.

I do hope Justice Owen will receive due consideration for her nomination to the Fifth Circuit, and certainly I hope the Senate will act on these circuit court judge nominees. We have many vacancies that need to be filled. I urge the Senate to take action.

The PRESIDING OFFICER. The time of the Senator has expired.

The Senator from Vermont.

Mr. LEAHY. How much time is remaining?

The PRESIDING OFFICER. The Senator from Vermont has 8 minutes 20 seconds.

Mr. LEAHY. And the Senator from Utah?

The PRESIDING OFFICER. The Senator has 30 seconds.

Mr. LEAHY. Madam President, the Senator from Ohio has asked for time to make a statement. I yield that time to him.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. DEWINE. Madam President, I rise today in support of the confirmation of Judge Thomas M. Rose, whom the President has nominated for the post of U.S. District Judge for the Southern District of Ohio, Western Division. I first met Tom Rose 29 years ago when we were both serving as assistant county prosecuting attorneys in Greene County, OH. I can tell you without reservation that he is a man of great integrity, honor, and intelligence. I do not know a more qualified, more experienced candidate for this judgeship.

Tom, who comes from Laurelville, OH, graduated from Ohio University in 1970, and received his law degree from the University of Cincinnati's College of Law in 1973. Also in 1973, he was appointed as Assistant County Prosecutor in Greene County; he became the first Magistrate in the Greene County Juvenile Court in 1976; and he became the Chief Assistant Prosecutor in charge of the Civil Division in 1978. In 1991, he became the Judge of the Court of Common Pleas in Greene County.

During these last 11 years on the Common Pleas Court bench, Ohio's highest trial court, Judge Rose has presided over a wide range of cases from criminal cases to civil cases to administrative appeals. He has faced a tremendous volume of cases, many of which have been of unprecedented complexity. For example, Judge Rose recently presided over Ohio's first pro se murder case in which the defendant could have received the maximum sentence of death.

In addition, he has heard hundreds of the kinds of civil cases and administrative appeals that dominate a common pleas docket, tax appeals, annexation questions, school districting disputes, and insurance issues. In a particularly complex civil case, Judge Rose ruled on a case of first impression involving an ordinance enacted by a local Ohio city to put impact fees on developers.

In both criminal and civil cases, he has ruled on hundreds of motions to suppress and other constitutional issues, such as search and seizure and Miranda rights.

All of this demonstrates, that without question, Judge Rose is right for this job. His background and the depth of his wide-ranging experience on the bench, the experience that makes him so well qualified for the Ohio district judgeship. I am confident that he will discharge his duties of Federal judge with the fairness, integrity, sound judgment, and energy that the people of Ohio and this Nation deserve. I whole-heartedly support his confirmation, and I encourage my colleagues to do the same.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Madam President, I truly believe, as I said in the debate, Democrats have been and will continue to be more fair than the Republicans were to President Clinton's judicial nominees. The fact is that more than 50 of President Clinton's nominees never got a vote. Many languished for years before they were returned without even having a hearing. Others waited for years, up to even 4 years to be confirmed.

We are moving through, as we have these last 10 months, in filling vacancies with consensus nominees.

I voted for the vast majority of these nominees. I voted for all but one of these nominees.

They are going to be Republicans. We know they are going to be conservatives. That is fine.

But I am not going to vote for somebody who will put a sign up over the Federal court saying this is no longer an independent court.

If the White House would only work with us instead of working against us, we could end the vacancy crisis by the end of next year.

Many partisans in the other party appear, unfortunately, to have decided to make judges a domestic agenda item on which this administration is intent on winning partisan, political, and ideological victories. Given the closely divided Senate—and the Congress—and the narrow electoral victory of the President, the better course would have been to work together on vacancies that we inherited from the Republican Senate.

Republicans held court of appeals judgeships open for years. Now they see their chance to pack the courts and stack the deck with conservative judicial activists in order to tilt the outcomes on these courts.

The American people do not want—and our justice system does not need—a finger on the scales of justice. It is up to the Senate to maintain the independence of the courts and the balance on them. That means resisting the appointment of ends-oriented and ideologically-driven nominees. Do not be fooled about what the fight over circuit court nominations is about.

Republicans, perhaps brilliantly from a political point of view, but disastrous from the point of view of the independence of the courts, kept vacancies on the Fifth, Sixth, and D.C. Circuits open for the last 5 years. Now they have a President with a list of what he views as ''reliable nominees.'' They are trying to get these ideological nominees through.

This is not a political fight that we in my party have chosen. Indeed, the President's recent fundraising campaign swing through the South and the

antagonistic efforts of his political adviser, Karl Rove, make clear that the Republicans have chosen this fight because they think it serves their political advantage.

They are deadly serious about their efforts to gain control of the District of Columbia Circuit, the Sixth, and the Fifth Circuits, and others—even to the point of questioning the religious background of members of the Senate Judiciary Committee, something I have never seen in 28 years in the Senate. It is one of the most reprehensible tactics that I have seen in my time in the Senate. I respect the religious background of every Member. I do not know the background of most; it is none of my business. I would never question the religious background of any nominee.

I resent greatly people on the other side of the aisle questioning my religion or the religion of members of the Senate Judiciary Committee.

This battle is over whether the circuit courts have judges who will follow precedent, respect congressional action, and act to protect individual rights of Americans, or become dominated by ideologically-driven activists.

I will continue to evaluate all of President Bush's nominees fairly, and to work in spite of the obstructionism and unfair criticism coming from the Republican side.

In the weeks and months to come we will be called upon to vote on some very controversial activist nominees. The rights of all Americans are at stake.

We have to ask whether a fair-minded, independent judiciary will survive to protect our fundamental civil liberties and constitutional rights, and whether our children and grandchildren will be able to look to the Federal judiciary for even-handed justice and protection.

That is what hangs in the balance.

I again invite the President and all Republicans to join with us in working to fill the remaining judicial vacancies with qualified, consensus nominees chosen from the mainstream, and not chosen for their ideological orientation—nominees who will be fair and impartial judges, and who will ensure that an independent judiciary will be the bulwark against the loss of our freedoms and rights.

I reserve the remainder of my time.

Mr. HATCH. Mr. President, the American people are right to ask why this unprecedented departure from the past is happening. My colleague just accused me of accusing him of religious discrimination. He has mischaracterized my pleas for civility and fairness.

Some of my Democrat colleagues have made no bones about the fact that they are slowing down the President's nominees because they are imposing, for the first time, an ideological litmus test. This is something I can not accept.

Many Americans are concerned that the abortion litmus test that some Democrats are imposing on judicial nominees would have the same effect as a religious test. Let me explain how. Most people who are pro-choice hold their position as a matter of ideology. Some even allow their chosen ideology to trump the tenets of their religion. They do so in good conscience no doubt, and I respect that and would not judge them for that.

But the great majority of people who are pro-life come to their positions as a result of their personal religious convictions. We view unborn life as sacred. Many Americans hold this view as a religious tenet, but this view does not affect their ability to interpret the law and precedent, just as skin color does not.

In effect, what is ideology to my Democrat friends is a matter of religious conviction to a large portion of the American people, regardless of their position on abortion. But many rightly fear that a judge with private pro-life views, which often derives from religious conviction, will ever again be confirmed in a Democrat-led Senate.

To impose an abortion litmus test on private views, call it ideological if you want to, is to exclude from our judiciary a large number of people of religious conviction, who are perfectly prepared to follow the law. I fear this is the door this Democrat-led Senate could be opening. If a nominee who was personally pro-life came before the committee and said they could not follow Supreme Court precedent because of their pro-life views, then I would have a problem with that nominee too. But to simply discriminate against them and say that we can not trust you, despite your assurances to the Senate, to follow precedent, because you hold certain personal view, is pure and simple religious discrimination.

I can understand why people would believe that a religious test is being imposed. They fear as I do that the result would be a federal judiciary that neither looks like America nor speaks to America.

I am afraid that what is now occurring is far beyond the mere tug-of-war politics that unfortunately surrounds Senate judicial confirmation since Robert Bork. Some of my colleagues are out to effect a fundamental change in our constitutional system, as they were reportedly instructed to do by noted liberal law professors at a retreat early last year.

Rather than seeking to determine the judiciousness of a nominee and whether a nominee will be able to rule on the law or the Constitution without personal bias, they want to guarantee that our judges all think in the same way, a way that is much further to the left of mainstream than most Americans.

The legitimacy of our courts, and especially the Supreme Court, comes from much more than black robes and a high bench. It comes from the people's belief that judges and justices will apply a judicial philosophy without regard to personal politics or bias.

So I am protecting the Senator's right to free religion, not disparaging his religion. This is nothing like the often-used and offensive race-card that the Democrats often used.

The PRESIDING OFFICER. Who yields time?

Mr. LEAHY. Madam President, I urge my colleagues to vote in favor of each of the four nominees.

I also urge the Senate and the administration to work at keeping the impartiality of the Federal judiciary.

I urge those on the other side of Pennsylvania Avenue to stop making this a political partisan game but to do what is best for the country.

I yield any time remaining that I may have.

Mr. HATCH. I yield whatever time I may have remaining.

VOTE ON NOMINATION OF LEONARD E. DAVIS

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Leonard E. Davis, of Texas, to be United States District Judge for the Eastern District of Texas?

The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from New Jersey (Mr. CORZINE) is necessarily absent.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) and the Senator from Wyoming (Mr. THOMAS) are necessarily absent.

I further announce that if present and voting the Senator from North Carolina (Mr. HELMS) would vote ''yea.''

The result was announced—yeas 97, nays 0, as follows:

[Rollcall Vote No. 104 Ex.]

YEAS—97

Akaka	Durbin	McCain
Allard	Edwards	McConnell
Allen	Ensign	Mikulski
Baucus	Enzi	Miller
Bayh	Feingold	Murkowski
Bennett	Feinstein	Murray
Biden	Fitzgerald	Nelson (FL)
Bingaman	Frist	Nelson (NE)
Bond	Graham	Nickles
Boxer	Gramm	Reed
Breaux	Grassley	Reid
Brownback	Gregg	Roberts
Bunning	Hagel	Rockefeller
Burns	Harkin	Santorum
Byrd	Hatch	Sarbanes
Campbell	Hollings	Schumer
Cantwell	Hutchinson	Sessions
Carnahan	Hutchison	Shelby
Carper	Inhofe	Smith (NH)
Chafee	Inouye	Smith (OR)
Cleland	Jeffords	Snowe
Clinton	Johnson	Specter
Cochran	Kennedy	Stabenow
Collins	Kerry	Stevens
Conrad	Kohl	Thompson
Craig	Kyl	Thurmond
Crapo	Landrieu	Torricelli
Daschle	Leahy	Voinovich
Dayton	Levin	Warner
DeWine	Lieberman	Wellstone
Dodd	Lincoln	Wyden
Domenici	Lott	
Dorgan	Lugar	

NOT VOTING—3

Corzine	Helms	Thomas

The nomination was confirmed.

Mr. REID. Madam President, I ask unanimous consent that the three remaining votes be 10 minutes in duration.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The PRESIDING OFFICER. Under the previous order, the motion to reconsider is laid on the table, and the President shall be immediately notified of the Senate's action.

VOTE ON NOMINATION OF ANDREW S. HANEN

The PRESIDING OFFICER. Under the previous order, the question is, Will the Senate advise and consent to the nomination of Andrew S. Hanen, of Texas, to be United States District Judge for the Southern District of Texas.

The yeas and nays have been ordered, and the clerk will call the roll.

The senior assistant bill clerk called the roll.

Mr. REID. I announce that the Senator from New Jersey (Mr. CORZINE) is necessarily absent.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) and the Senator from Wyoming (Mr. THOMAS) are necessarily absent.

I further announce that if present and voting the Senator from North Carolina (Mr. HELMS) would vote ''yea.''

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

The result was announced—yeas 97, nays 0, as follows:

[Rollcall Vote No. 105 Ex.]

YEAS—97

Akaka	Durbin	McCain
Allard	Edwards	McConnell
Allen	Ensign	Mikulski
Baucus	Enzi	Miller
Bayh	Feingold	Murkowski
Bennett	Feinstein	Murray
Biden	Fitzgerald	Nelson (FL)
Bingaman	Frist	Nelson (NE)
Bond	Graham	Nickles
Boxer	Gramm	Reed
Breaux	Grassley	Reid
Brownback	Gregg	Roberts
Bunning	Hagel	Rockefeller
Burns	Harkin	Santorum
Byrd	Hatch	Sarbanes
Campbell	Hollings	Schumer
Cantwell	Hutchinson	Sessions
Carnahan	Hutchison	Shelby
Carper	Inhofe	Smith (NH)
Chafee	Inouye	Smith (OR)
Cleland	Jeffords	Snowe
Clinton	Johnson	Specter
Cochran	Kennedy	Stabenow
Collins	Kerry	Stevens
Conrad	Kohl	Thompson
Craig	Kyl	Thurmond
Crapo	Landrieu	Torricelli
Daschle	Leahy	Voinovich
Dayton	Levin	Warner
DeWine	Lieberman	Wellstone
Dodd	Lincoln	Wyden
Domenici	Lott	
Dorgan	Lugar	

NOT VOTING—3

Corzine	Helms	Thomas

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the motion to reconsider is laid upon the table and the President shall be immediately notified of the Senate's action.

VOTE ON NOMINATION OF SAMUEL H. MAYS, JR.

The PRESIDING OFFICER. Under the previous order, the question is, Will the Senate advise and consent to the nomination of Samuel H. Mays, Jr., of Tennessee, to be U.S. District Judge for the Western District of Tennessee. On this question, the yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from New Jersey (Mr. CORZINE) is necessarily absent.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) and the Senator from Wyoming (Mr. THOMAS) are necessarily absent.

I further announce that if present and voting the Senator from North Carolina (Mr. HELMS) would vote ''yea.''

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

The result was announced—yeas 97, nays 0, as follows:

[Rollcall Vote No. 106 Ex.]

YEAS—97

Akaka	Durbin	McCain
Allard	Edwards	McConnell
Allen	Ensign	Mikulski
Baucus	Enzi	Miller
Bayh	Feingold	Murkowski
Bennett	Feinstein	Murray
Biden	Fitzgerald	Nelson (FL)
Bingaman	Frist	Nelson (NE)
Bond	Graham	Nickles
Boxer	Gramm	Reed
Breaux	Grassley	Reid
Brownback	Gregg	Roberts
Bunning	Hagel	Rockefeller
Burns	Harkin	Santorum
Byrd	Hatch	Sarbanes
Campbell	Hollings	Schumer
Cantwell	Hutchinson	Sessions
Carnahan	Hutchison	Shelby
Carper	Inhofe	Smith (NH)
Chafee	Inouye	Smith (OR)
Cleland	Jeffords	Snowe
Clinton	Johnson	Specter
Cochran	Kennedy	Stabenow
Collins	Kerry	Stevens
Conrad	Kohl	Thompson
Craig	Kyl	Thurmond
Crapo	Landrieu	Torricelli
Daschle	Leahy	Voinovich
Dayton	Levin	Warner
DeWine	Lieberman	Wellstone
Dodd	Lincoln	Wyden
Domenici	Lott	
Dorgan	Lugar	

NOT VOTING—3

Corzine	Helms	Thomas

The nomination was confirmed.

Mr. LEAHY. Mr. President, I move to reconsider the vote.

Mr. BREAUX. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. The majority leader has asked me to notify everyone that following this vote we are going to a period of morning business until about 2:30 today. I so ask unanimous consent.

The PRESIDING OFFICER. Is there objection? The Senator from Oklahoma.

Mr. NICKLES. Reserving the right to object, I would like to discuss this for a moment with my friend and colleague.

VOTE ON NOMINATION OF THOMAS M. ROSE

The PRESIDING OFFICER. Under the previous order, the question is, Will the Senate advise and consent to the nomination of Thomas M. Rose, of Ohio, to be a United States District Judge for the Southern District of Ohio?

On this question, the yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from New Jersey (Mr. CORZINE), the Senator from Vermont (Mr. JEFFORDS), and the Senator from Louisiana (Ms. LANDRIEU) are necessarily absent.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) and the Senator from Wyoming (Mr. THOMAS) are necessarily absent.

I further announce that if present and voting the Senator from North Carolina (Mr. HELMS) would vote ''yea.''

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

The result was announced—yeas 95, nays 0, as follows:

[Rollcall Vote No. 107 Ex.]

YEAS—95

Akaka	Dorgan	McCain
Allard	Durbin	McConnell
Allen	Edwards	Mikulski
Baucus	Ensign	Miller
Bayh	Enzi	Murkowski
Bennett	Feingold	Murray
Biden	Feinstein	Nelson (FL)
Bingaman	Fitzgerald	Nelson (NE)
Bond	Frist	Nickles
Boxer	Graham	Reed
Breaux	Gramm	Reid
Brownback	Grassley	Roberts
Bunning	Gregg	Rockefeller
Burns	Hagel	Santorum
Byrd	Harkin	Sarbanes
Campbell	Hatch	Schumer
Cantwell	Hollings	Sessions
Carnahan	Hutchinson	Shelby
Carper	Hutchison	Smith (NH)
Chafee	Inhofe	Smith (OR)
Cleland	Inouye	Snowe
Clinton	Johnson	Specter
Cochran	Kennedy	Stabenow
Collins	Kerry	Stevens
Conrad	Kohl	Thompson
Craig	Kyl	Thurmond
Crapo	Leahy	Torricelli
Daschle	Levin	Voinovich
Dayton	Lieberman	Warner
DeWine	Lincoln	Wellstone
Dodd	Lott	Wyden
Domenici	Lugar	

NOT VOTING—5

Corzine	Jeffords	Thomas
Helms	Landrieu	

The nomination was confirmed.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

The majority leader.

MORNING BUSINESS

Mr. DASCHLE. Mr. President, I have been in consultation with the distinguished Republican leader. We are continuing to discuss matters pertaining