The obstruction of the counting of the electoral vote undermines the tradition that Jefferson and Adams established. By blocking this vote when there is no possibility whatsoever of overturning the result, the legitimacy of our republican form of government is questioned. I am sure that is not the intention of my colleagues who have forced us to debate this. Yet it is undoubtedly the result.

I understand that a minority of a minority protests the presidential vote in the State of Ohio. But President Bush has indisputably won that State by over 118,000 votes, and the votes have been counted twice.

Some of my colleagues have claimed that, even though they agree that President Bush has won Ohio, they must take this opportunity to speak about the need for electoral reform. I submit that hijacking a presidential election to use as a personal soapbox is shameful.

Electoral reform may very well be desirable—for as long as people administer elections, elections will be imperfect. There will always be some irregularities, most due to innocent mistake, some to outright fraud. We should absolutely do everything possible to combat this.

But if electoral reform is needed, Senators should introduce legislation. They should not obstruct a legitimate count of the electoral votes where there is an unequivocal victor. They should not trample on the proud republican government our Founding Fathers bequeathed us. They should not mock the beautiful concept that sovereignty lies with the people, while our troops are fighting and dying to plant that concept in the soil of Iraq.

Even the junior senator from Massachusetts has not endorsed the radical scheme that a minority of a minority has unleashed on us today. In an e-mail to supporters yesterday, Senator KERRY said that he would not participate in this petulant protest but, rather, will propose legislation to address perceived deficiencies in our electoral system. This is the only proper route to take, and history will applaud Senator KERRY for disavowing what is happening here today.

This is an ignominious beginning to the 109th Congress. Last month I spoke about the desire on this side of the aisle to work with our colleagues in the other party to get things done for the American people in a spirit of bipartisanship. I'm still holding onto that hope. I appeal to cooler heads on the other side of the aisle: Don't let a fraction of your number march you down a dead end.

The words that we say here today amount to little against the fact that in 2004, the President won an overwhelming victory in Ohio and 30 other States, and received 286 electoral votes. Years from now, that fact will still be obvious. I hope that the damage done from this assault on our traditions is not.

Mr. President, I yield the floor.

The PRESIDENT pro tempore. Is there any Senator who has not spoken who wishes to speak on this issue?

If not, the question is, Shall the objection submitted by the gentlewoman from Ohio, Ms. TUBBS JONES, and the Senator from California, Mrs. BOXER, be sustained?

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

The assistant legislative clerk called the roll.

Mr. MCCONNELL. The following Senators were necessarily absent. The Senator from Virginia (Mr. ALLEN), the Senator from Kentucky (Mr. BUNNING), the Senator from Montana (Mr. BURNS), the Senator from Idaho (Mr. CRAIG), the Senator from Nevada (Mr. ENSIGN), the Senator from Tennessee (Mr. FRIST), the Senator from Texas (Ms. HUTCHISON), the Senator from Arizona (Mr. MCCAIN), the Senator from Alaska (Ms. MURKOWSKI), the Senator from Alabama (Mr. SHELBY), the Senator from Rhode Island (Mr. CHAFEE), the Senator from Indiana (Mr. LUGAR), the Senator from Florida (Mr. MARTINEZ), the Senator from Wyoming (Mr. THOMAS).

Further, if present and voting, the Senator from Louisiana (Mr. VITTER), the Senator from Oklahoma (Mr. INHOFE), the Senator from Arizona (Mr. KYL), and the Senator from Arizona (Mr. MCCAIN) would have voted ''nay''.

Mr. DURBIN. I announce that the Senator from Hawaii (Mr. AKAKA), the Senator from Indiana (Mr. BAYH), the Senator from New Mexico (Mr. BINGAMAN), the Senator from New Jersey (Mr. CORZINE), the Senator from California (Mrs. FEINSTEIN), the Senator from Massachusetts (Mr. KERRY), the Senator from Louisiana (Ms. LANDRIEU), and the Senator from Washington (Mrs. MURRAY) are necessarily absent.

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

The result was announced—yeas 1, nays 74, as follows:

[Rollcall Vote No. 1, Joint]

YEAS—1

Boxer

NAYS—74

Alexander	Dodd	Lincoln
Allard	Dole	Lott
Baucus	Domenici	McConnell
Bennett	Dorgan	Mikulski
Biden	Durbin	Nelson (FL)
Bond	Enzi	Nelson (NE)
Brownback	Feingold	Obama
Burr	Graham	Pryor
Byrd	Grassley	Reed
Cantwell	Gregg	Reid
Carper	Hagel	Roberts
Chambliss	Harkin	Rockefeller
Clinton	Hatch	Salazar
Coburn	Inouye	Santorum
Cochran	Isakson	Sarbanes
Coleman	Jeffords	Schumer
Collins	Johnson	Sessions
Conrad	Kennedy	Smith
Cornyn	Kohl	Snowe
Crapo	Lautenberg	Specter
Dayton	Leahy	Stabenow
DeMint	Levin	Stevens
DeWine	Lieberman	Sununu
Talent	Thune	Warner
	Voinovich	Wyden

NOT VOTING—25

Akaka	Ensign	Martinez
Allen	Feinstein	McCain
Bayh	Frist	Murkowski
Bingaman	Hutchison	Murray
Bunning	Inhofe	Shelby
Burns	Kerry	Thomas
Chafee	Kyl	Vitter
Corzine	Landrieu	
Craig	Lugar	

The PRESIDING OFFICER. The objection is not sustained.

Mr. MCCONNELL. Mr. President, I move to reconsider the vote and to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Secretary will notify the House of the action of the Senate, informing that body that the Senate is now ready to proceed to joint session with further counting of the electoral vote for President and Vice President.

INDIAN OCEAN TSUNAMI RELIEF ACT

The PRESIDING OFFICER. Under the previous order, H.R. 241 having been received from the House, the bill is considered read the third time and passed, and the motion to reconsider is laid on the table.

The bill (H.R. 241) was read the third time and passed.

Mrs. FEINSTEIN. Mr. President, I rise today to express my support for the resolution submitted this week by Senator FRIST and Senator REID expressing sympathy and support for the victims of the devastating earthquake and tsunami.

Words cannot begin to describe my emotions when I first learned of the scope of the disaster and the loss of life. More than 140,000 people from 12 nations have perished to date and the number could double or triple as a result of infectious diseases spread in the disaster's aftermath.

The victims, their families, and all the affected countries are truly in my thoughts and prayers. When I visit the Indonesian Embassy this week to sign the condolence book, I will do so with a heavy heart but also a commitment to ensure that we do everything in our power to help in the rescue, recovery, and reconstruction efforts.

I welcome the President's commitment to provide $350 million in relief and as a member of the Senate Appropriations Committee, and I stand ready to do my part to designate a robust and comprehensive aid package. Initially, we must provide emergency supplies such as water, sanitation, food, and shelter to prevent the spread of disease and give people hope.

There is little time to lose.

Yet our work and our commitment must not end there. Together with our friends and allies in the international community, the United Nations, and vital organizations such as the Red Cross we will develop a long term relief

and reconstruction plan with substantial funding. Too often when a disaster leaves the headlines and the top of the news broadcasts, we forget that the work has only just begun and the victims and their families need to know that we are with them for the long haul.

Indeed, this is an important opportunity to show the world the best of America and the American people.

Americans have already donated more than $100 million through nongovernmental organizations to support relief efforts and thousands more stand ready to volunteer their time, energy, and skills.

And I am confident that President George H.W. Bush and President Bill Clinton will do an excellent job in leading a nationwide charitable fundraising effort to sustain awareness about the disaster and raise additional assistance.

We are a generous, giving, and caring people and through our actions we will earn the world's respect and admiration. We will show the victims and their families that America is always ready to help a neighbor and a friend in need.

I am pleased the resolution was passed by Unanimous Consent.

JUDICIAL NOMINATIONS

Mr. DURBIN. On Tuesday of this week, the majority leader came to the Senate floor and talked about judicial nominations. He said he was planning to have a vote next month on one of President Bush's judicial nominees. He didn't say which nominee he had in mind, but he gave a clear signal that it would be someone controversial. He warned that if Senate Democrats prevent the nominee from receiving an ''up or down'' vote, then he would try and change the rules and traditions of the U.S. Senate.

I am sorry to see that the majority leader chose to sound such a partisan note on a famously bipartisan day—the first day of the new Congress. On such a day, we swear in our new colleagues and strive for a fresh start.

I do not believe this is the time or the place to engage on this issue. There are too many other, more urgent problems facing this world and this Nation.

But it is important to address a few statements made by the majority leader that I believe are in error.

First, he stated that ''the Senate failed to perform in an essential constitutional duty'' last Congress when we blocked ten judicial nominees. He said that the Senate ''failed to offer advice and consent to the President'' and indicated this was an unconstitutional action on the part of Senate Democrats.

I do not believe that the Senate acted unconstitutionally. The Constitution requires advice and consent—it does not require us to be a rubberstamp. I could just as easily assert that President Bush acted unconstitutionally by not soliciting the advice of Senate Democrats before nominating most of his nominees. After all, Article II, Section 2 of the Constitution requires the advice and consent of the Senate.

There is no constitutional right for any President to have 100 percent of his judicial nominees confirmed. During President Bush's first term, the Senate confirmed 204 judicial nominees. President Bush had more judicial nominees confirmed in his first term than the previous three presidents had in theirs.

A second error made by the majority leader was his statement that ''these filibusters were unprecedented.'' Filibusters of judicial nominees are hardly unprecedented. The majority leader voted to filibuster some of President Clinton's nominees in the 1990s.

But the facts show that President Bush's judicial nominees have received far better treatment than President Clinton's. At least 61 of President Clinton's judicial nominees—representing 20 percent of his selections—were denied an ''up or down'' vote on the Senate floor. In fact, they were denied an ''up or down'' vote in the Judiciary Committee. The majority leader did not mention this critical statistic when he spoke on Tuesday.

I also take issue with his statement that ''I seek cooperation not confrontation.'' If he truly meant that, he would not threaten to change the Senate rules and traditions next month. If he truly meant it, he would have urged the White House not to re-nominate those nominees who were rejected by the Senate last Congress. If he truly meant it, he would have done what Senator HARRY REID did last month and send a letter to the White House urging the President to engage in bipartisan collaboration in the selection of Federal judges.

Finally, I wish to note the majority leader's surprising rejection of the longstanding tradition of the Senate as a continuous body. In his statement, he said that ''I do not acquiesce to carrying over all the rules from the last Congress'' and he specifically named Rule 22 as the rule he objected to. This is the rule that permits 41 Members of the Senate to prevent a vote on any measure, motion, or other matter pending before the Senate.

All of us who have served in the House and the Senate know that one of the most basic differences between our chamber and the House is that the Senate is a continuing body and the House is not. In other words, the Senate does not have to reorganize itself each new Congress by adopting new rules and electing new leaders. The House, on the other hand, must do so.

It is my hope that the 109th Congress can operate with more bipartisanship and less acrimony than the previous Congress on the issue of judicial nominations. But if my colleagues across the aisle try and change generations of Senate rules and traditions, it will not be good for this body, and it will not be good for the American people.

TRIBUTE TO CONGRESSMAN BOB T. MATSUI

Mrs. FEINSTEIN. Mr. President, I offer a few words about the passing of Bob Matsui, one of California's great political leaders.

Bob was one of those people who you always thought would be there. His death has come as a great shock and surprise to many.

I extend my deep sorrow to Doris, Brian, and the rest of the Matsui family. You are in my thoughts and prayers.

Throughout his career his wonderful wife Doris has been by his side. One of the things I remember most about the two of them is the wonderful smile she always had whenever they walked into a room together. They truly were a fine couple.

I would also like to offer my sympathy to everyone in the Sacramento area—you were so well served by this wonderful man. He has done a fantastic job representing you in Washington for the last 26 years and before that on the Sacramento City Council.

I have known Bob Matsui for a long time. I will remember him as a great human being, as a trusted colleague, as a fine public servant, and someone in whom I was very proud to place friendship, respect, and collegiality.

Bob was a superb public servant. He was a thoughtful, constructive leader who brought people together to find solutions for public policy issues. He was a reasoned voice; he was a dependable voice.

When we faced a problem related to the Folsom Dam, Bob was one of the most constructive figures in getting that very divided issue settled.

Bob was also a good thinker and a strong thinker. People knew that when Bob Matsui said something that it was steeped in practicality. He was well respected and influential among his colleagues.

If Bob told me something was true, I knew it was true and not some variation of the facts. This is an important quality in someone who represents others because it gives them credibility among their colleagues. Bob Matsui had that credibility.

We have all heard the story of Bob's family and their internment at the Tule Lake Camp in 1942. I think this probably had a very sobering impact on his life.

I think he knew what could happen in situations of stress and military conflict. I think it presented a challenge to him as a young man growing up. He clearly overcame that challenge and I think it probably had an impact in his knowing what he wanted to do with his life, and that was public service.

One of Bob's most significant legacies will be the work he did to help the government make amends with the Japanese Americans who were interned during World War II.

As a member of Congress, Bob was successful in passing legislation that