The country is paying a heavy price for this obstruction. Citizens can't get their day in court, because the Republican Senate is playing politics with the courts and preventing needed judicial positions from being filled.

When even a Republican Chief Justice criticizes the Republican Congress, you know something's wrong.

Chief Justice Rehnquist issued his annual year-end report on the State of the Judiciary last month, and he sharply criticized the Republican Senate for refusing to move more quickly to confirm judges.

The Chief Justice is deeply concerned about the high number of judicial vacancies on the federal courts. There are too few judges to handle the workload.

The Republican bottleneck in the Senate is jeopardizing the court system and undermining the quality of justice. Of the 77 judicial nominations pending last year, only 36 were confirmed—less than half. Eleven have been awaiting action for over 18 months.

That's a scandal. Nominees deserve a vote. If our Republican colleagues don't like them, vote against them. But don't just sit on them—that's obstruction of justice.

Free and full debate over judicial nominations is healthy. The Constitution is clear that only individuals acceptable to both the President and the Senate should be confirmed. The President and the Senate do not always agree. But we should resolve these disagreements by voting on these nominees—yes or no. As Chief Justice Rehnquist said in his annual report, ''The Senate is surely under no obligation to confirm any particular nominee, but after the necessary time it should vote'' up or down.

Some Republicans claim they are protecting the federal courts from ''judicial activism.'' But this argument is a smokescreen. If President Clinton is actually nominating judicial activists, then why is it that these nominees are approved almost unanimously when the Senate is finally allowed to vote on them?

Eric Clay's nomination to the Sixth Circuit Court of Appeals was held up in the Senate for more than 15 months. He was finally confirmed—unanimously—by voice vote.

Joseph Battalion—President Clinton's nominee to the District Court of Nebraska—was held up for 17 months. Then he, too, finally passed the Senate on a voice vote.

Other nominees were confirmed by overwhelming votes, but only after long delays. Katherine Sweeney Hayden was confirmed to the District Court in New Jersey by a vote of 97–0. Ronald L. Gilman's nomination to the Sixth Circuit Court of Appeals and Janet C. Hall's nomination to the District Court of Connecticut were each confirmed by a vote of 98–1.

The closest vote we have had on any of President Clinton's judicial nominees was 76 to 23 in favor of confirmation.

Clearly, the Republicans' claim that Clinton judges are activist judges is a transparent smokescreen being used to slow down the confirmation process. The reason is obvious. The Republican majority in Congress is doing all it can to prevent a Democratic President from naming judges to the federal courts. The courts are suffering and so is the nation.

In some areas of the country, people have to wait years to have their cases even heard in court. And then they have to wait years more for overburdened judges to find time to reach their decisions. Families, workers, small businesses, women and minorities have traditionally looked to the courts to resolve disputes. The lack of federal judges makes the swift resolution of their cases impossible.

The number of cases filed in the federal appeals courts has grown by 11 percent over the last six years. The average time between filing and disposition has also increased. Courts with long-standing vacancies are in even worse shape.

In the District Court in Oregon, the court to which Ann Aiken has been nominated, the number of case filings has risen by nearly a third since 1990.

Another nominee, Margaret Morrow has been nominated to the federal district court in Los Angeles, and I hope we will consider her nomination next week. Since 1994, the caseload in that court has grown by 15 percent. The time people have to wait for their civil cases to be resolved has increased by 11 percent. In that district, over 300 pending civil cases are more than three years old.

Real people are being hurt. Consider the case of Rudy Boerseker, a 40-year-old mine worker in Illinois who was injured by poor maintenance of equipment. The facts of the case made clear that the accident resulted from the mining company's negligence. Yet Mr. Boerseker was finally forced to accept a settlement for less than half of what he would probably have received if the case had gone to trial.

He agreed to an unfair settlement, because he could not afford to wait the three or four years it would take for the case to be decided.

In the Southern District of Texas, 4,000 victims of a student loan scam are waiting for the outcome of a class action suit that has been pending for almost eight years.

In South Carolina, there is still no decision in a suit filed more than six years ago against the state's apportionment laws. The outcome of this case will affect hundreds of thousands of citizens. It goes to the heart of whether the basic constitutional principle of ''one person, one vote'' is being fairly applied.

In Southern Florida, Julio Vasquez—a U.S. citizen migrant worker—broke his leg in 1989 in a boarding house provided by his employer. To this day, nearly nine years later, Mr. Vasquez has never received sufficient medical attention, and his injury affects his ability to work. He is still waiting for the judge's ruling in his case.

In the District Court of Oregon, a five-million dollar judgment in favor a family business in a patent dispute with a Fortune 500 firm was tied up for more than a year because of the delays caused by two vacancies on the court.

These examples are typical victims of the vacancy crisis in the federal courts.

They are hard-working Americans injured on the job—citizens seeking to exercise their right to vote—students trying to get an education—small businesses denied their rights by large corporations.

It is time to end these delays and end these industries. It's a new year, and a new session, and I hope very much that our colleagues will turn over a new leaf and end these unreasonable, unacceptable, and unconscionable delays.

NOTICE OF PROPOSED RULEMAKING

Mr. THURMOND. Mr. President, pursuant to Section 303 of the Congressional Accountability Act of 1995 (2 U.S.C. sec. 1383), a Supplementary Notice of Proposed Rulemaking was submitted by the Office of Compliance, U.S. Congress. This Supplementary Notice requests further comment on proposed amendments to procedural rules previously adopted implementing various labor and employment and public access laws to covered employees within the Legislative Branch.

Section 304(b) requires this Notice to be printed in the CONGRESSIONAL RECORD, therefore I ask unanimous consent that the notice be printed in the RECORD.

There being no objection, the notice was ordered to be printed in the RECORD, as follows:

OFFICE OF COMPLIANCE—THE CONGRESSIONAL ACCOUNTABILITY ACT OF 1995: AMENDMENTS TO PROCEDURAL RULES

SUPPLEMENTARY NOTICE OF PROPOSED RULEMAKING

Summary: On October 1, 1997, the Executive Director of the Office of Compliance (''Office'') published a Notice of Proposed Rulemaking (''NPRM'') to amend the Procedural Rules of the Office of Compliance to cover the General Accounting Office (''GAO'') and the Library of Congress (''Library'') and their employees. 143 Cong. Rec. S10291 (daily ed. Oct. 1, 1997). The Congressional Accountability Act of 1995 (''CAA'') applies rights and protections of eleven labor, employment, and public access laws to the Legislative Branch. Sections 204–206 and 215 of the CAA, which apply rights and protections of the Employee Polygraph Protection Act of 1988 (''EPPA''), the Worker Adjustment and Retraining Notification Act (''WARN Act''), the Uniformed Services Employment and Reemployment Act of 1994 (''USERRA''), and the Occupational Safety and Health Act of 1970 (''OSHAct''), became effective with respect to GAO and the Library on December 30, 1997. The NPRM proposed to extend the Procedural Rules to cover GAO and the Library and their employees for purposes of: (1) proceedings relating to these sections 204–206 and 215, (2) proceedings relating to section

207 of the CAA, which prohibits intimidation and reprisal for the exercise of rights under the CAA, and (3) regulating ex parte communications.

In the only comments received in response to the NPRM, the Library questioned whether the CAA authorizes employees of the Library to initiate proceedings under the administrative and judicial procedures of the CAA alleging violations of sections 204–207 of the Act. The Office is publishing this Supplementary Notice of Proposed Rulemaking (this ''Notice'') to give the regulated community an opportunity to provide further comment on the questions raised by the Library's submission.

With respect to proceedings relating to section 215 of the CAA (OSHAct) and with respect to ex parte communications, a separate Notice of Adoption of Amendments is being prepared to extend the Procedural Rules to cover GAO and the Library and their employees and to respond to relevant portions of the Library's comments, and will be published shortly.

Dates: Comments are due within 30 days after the date of publication of this Notice.

Addresses: Submit comments in writing (an original and 10 copies) to the Executive Director, Office of Compliance, Room LA 200, John Adams Building, 110 Second Street, S.E., Washington, D.C. 20540–1999. Those wishing to receive notification of receipt of comments are requested to include a self-addressed, stamped post card. Comments may also be transmitted by facsimile (''FAX'') machine to (202) 426–1913. This is not a toll-free call.

Availability of comments for public review: Copies of comments received by the Office will be available for public review at the Law Library Reading Room, Room LM–201, Law Library of Congress, James Madison Memorial Building, Washington, D.C., Monday through Friday, between the hours of 9:30 a.m. and 4:00 p.m.

For further information contact: Executive Director, Office of Compliance, at (202) 724–9250 (voice), (202) 426–1912 (TTY). This Notice will be made available in large print or braille or on computer disk upon request to the Office of Compliance.

SUPPLEMENTARY INFORMATION

The Congressional Accountability Act of 1995 (''CAA'' or the ''Act''), Pub. L. 104–1, 2 U.S.C. §§ 1301–1438, applies the rights and protections of eleven labor, employment, and public access laws to certain defined ''covered employees'' and ''employing offices'' in the Legislative Branch. The CAA expressly provides that GAO and the Library and their employees are included within the definitions of ''covered employees'' and ''employing offices'' for purposes of four sections of the Act:

(a) EPPA. Section 204, making applicable the rights and protections of the Employee Polygraph Protection Act of 1988 (''EPPA'')—in which subsection (a) generally prohibits an employing office from requiring a covered employee to take a lie detector test, regardless of whether the covered employee works in that employing office; and subsection (b) provides that the remedy for a violation shall be such legal and equitable relief as may be appropriate, including employment, reinstatement, promotion, and payment of lost wages and benefits.

(b) WARN Act. Section 205, making applicable the rights and protections of the Worker Adjustment and Retraining Notification Act (''WARN Act'')—in which subsection (a) prohibits the closure of an employing office or a mass layoff until 60 days after the employing office has served written notice on the covered employees or their representatives; and subsection (b) provides that the remedy for a violation shall generally be back pay and benefits for up to 60 days of violation.

(c) USERRA. Section 206, making applicable the rights and protections of section 2 of the Uniformed Services Employment and Reemployment Rights Act of 1994 (''USERRA'')—in which subsection (a) protects covered employees who serve in the military and other uniformed services against discrimination, denial of reemployment rights, and denial of benefits by employing offices; and subsection (b) provides that the remedy for a violation shall include requiring compliance, requiring compensation for lost wages or benefits and, in case of a willful violation, an equal amount as liquidated damages, and the use of the ''full equity powers'' of ''[t]he court'' to fully vindicate rights and benefits.

(d) OSHAct. Section 215, making applicable the rights and protections of the Occupational Safety and Health Act of 1970 (''OSHAct'')—in which subsection (a) protects the safety and health of covered employees from hazards in their places of employment; subsection (b) provides that the remedy for a violation shall be an order to correct the violation; and subsection (c) specifies procedures by which the Office of Compliance conducts inspections, issues and enforces citations, and grants variances.

Sections 204–206 and 215 go into effect by their own terms with respect to GAO and the Library one year after transmission to Congress of the study under section 230 of the CAA. The Board of Directors of the Office (''Board'') transmitted its study (the ''Section 230 Study'') to Congress on December 30, 1996, and sections 204–206 and 215 therefore went into effect at GAO and the Library on December 30, 1997.

The NPRM proposed to extend the Procedural Rules of the Office, which govern the consideration and resolution of alleged violations of the CAA, to cover GAO and the Library and their employees in four respects:

(1) Sections 401–408 of the CAA establish administrative and judicial procedures for considering alleged violations of part A of Title II of the CAA, which includes sections 204–206, and the Procedural Rules detail the procedures administered by the Office under sections 401–406. On the premise that GAO and the Library and their employees are covered by the statutory procedures of sections 401–408 when there is an allegation that sections 204–206 have been violated, the NPRM proposed to extend the Procedural Rules to include GAO and the Library and their employees for the purpose of resolving any allegation of a violation of these sections.

(2) Section 207 prohibits employing offices from intimidating or taking reprisal against any covered employee for exercising rights under the CAA. On the premise that GAO and the Library and their employees are covered under section 207, as well as under the statutory procedures of sections 401–408 when there is an allegation that section 207 has been violated, the NPRM proposed to extend the Procedural Rules to include GAO and the Library and their employees for the purpose of resolving any allegation of intimidation or reprisal prohibited under section 207.

(3) Section 215 specifies the procedures by which the Office conducts inspections, issues citations, grants variances, and otherwise enforces section 215, and the Procedural Rules detail the procedures administered by the Office under that section. As these statutory procedures are part of section 215, which expressly covers GAO and the Library and their employees, the NPRM proposed to extend the Procedural Rules to cover these instrumentalities and employees for purposes of proceedings under section 215.

(4) Section 9.04 of the Procedural Rules, which regulates ex parte communications, includes within its coverage any covered employee and employing office ''who is or may reasonably be expected to be involved in a proceeding or rulemaking.'' As GAO and the Library and their employees may reasonably be expected to be involved in proceedings and rulemakings, the NPRM proposed to extend the Procedural Rules to cover these instrumentalities and employees for purposes of section 9.04.

As to proceedings under section 215 of the CAA (OSHAct) and *ex parte* communications, the Library's comments argue that the Library should not now come under the Office's Procedural Rules generally or under the Rules relating to section 215 proceedings specifically. After considering those arguments, the Executive Director, with the approval of the Board, has decided to amend the Procedural Rules to cover GAO and the Library and their employees with respect to proceedings under section 215 and *ex parte* communications, and a NOTICE OF ADOPTION OF AMENDMENTS to accomplish this and to respond to relevant portions of the Library's comments is being prepared and will be published shortly.

However, as to whether CAA procedures cover GAO and the Library and their employees for purposes of resolving disputes under sections 204–207, the Library's comments raise issues of statutory interpretation upon which the Office seeks comment. The Library argues that Congress ''expressly excluded'' the Library and other instrumentalities from the application of all procedural and other provisions of the CAA other than the substantive provisions in Title II. The Library states: ''A fair reading of the CAA is that Congress intended to ensure that the Library's employees were covered by the substantive protections of the law, but that no procedural regulations should affect the Library's employees until the Office of Compliance completed its study [under section 230], made its legislative recommendations, and Congress acted on those recommendations.'' (The Office of Compliance had made the Library's entire submission available for public review in the Law Library Reading Room of the Law Library of Congress, at the address and times stated at the beginning of this Notice.) The Office hereby invites the views of the entire regulated community on the issues raised by the Library, including the following specific questions:

SUPPLEMENTAL REQUEST FOR COMMENTS

1. Can GAO and Library employees use the administrative and judicial procedures of sections 401–408 of the CAA when a violation of sections 204–206 (EPPA, WARN Act, USERRA) is alleged?

As noted above, the NPRM was premised on the view that the administrative and judicial procedures of sections 401–408 cover GAO and the Library and their employees with respect to proceedings where violations of sections 204–206 are alleged. Because the procedures in sections 401–408 can only be invoked upon an allegation that substantive rights granted in Title II have been violated, the procedures arguably derive their scope from the substantive provisions involved in a particular proceeding. Sections 204–206 expressly cover GAO and the Library and their employees, and, if the premise of the NPRM is correct, proceedings under sections 401–408 that involve alleged violations of sections 204–206 may likewise cover those instrumentalities and employees. However, the Library's comment challenged this premise, arguing that Congress ''expressly excluded'' the Library and other instrumentalities from the application of all portions of the CAA except the substantive provisions of Title II.

Commenters are asked to provide their views as to whether the statutory procedures

under sections 401–408 should be construed as covering GAO and the Library and their employees where violations of sections 204–206 are alleged, and are requested to present the legal rationales that may bear on this inquiry. Commenters should address:

The relationship, if any, between the substantive requirements and remedies granted in part A of Title II and the procedures established in Title IV of the CAA.

The definitions and usage of the defined terms ''covered employees'' and ''employing office'' in various portions of the Act.

Whether the statute can be read to provide substantive rights and remedies but not procedures.

The provision in section 415 of the CAA prohibiting the use of the Office's awards-and-settlements account for awards and settlements involving GAO and the Library.

The effect that section 225(d) of the CAA should have in determining this issue.

The canons of construction requiring that statutes in derogation of sovereign immunity must be construed strictly in favor of the sovereign and that a statutory construction which raises constitutional questions such as separation-of-powers may be adopted only if clearly required by the statutory text.

2. *Notwithstanding whether the procedures established under the CAA apply, are other procedures, whether internal or external to GAO and the Library, available for considering alleged violations of sections 204–206 and for imposing the remedies available under those sections?*

In considering the *Section 230 Study*, The Board received information from GAO and the Library and their employees indicating that a variety of internal and external venues are available for consideration of employee allegations of violations of workplace rights and protections. Commenters are invited to provide their views on the extent to which procedures other than those established by the CAA are available to GAO and the Library and their employees where a violation of sections 204–206 is alleged and the monetary and equitable remedies specified in those sections are sought. Furthermore, insofar as existing procedures may not comprehensively cover any dispute or provide any remedy afforded under the CAA, do GAO, the Library, and other employing offices have the authority to craft new procedures and, through such procedures, to grant whatever monetary and non-monetary remedies the CAA provides?

In responding to this inquiry, commenters are also asked to consider the implications of several provisions in the CAA. Do the following provisions limit the availability to GAO and the Library and their employees of the administrative, judicial, and negotiated procedures and might otherwise be available to them where violations of sections 204–206 are alleged and remedies granted under those sections are sought:

Section 225(d) and (e) and 401 contain provisions specifying, in general terms, what procedures must be used to consider a CAA violation and to seek a CAA remedy.

Sections 409 and 410 allow judicial review of CAA regulations and of CAA compliance only pursuant to the procedures of section 407, which provides for judicial review of Board decisions, and section 408, which provides a private right of action.

Commenters are also requested to be clear as to whether procedures available outside of the CAA cover claims by applicants for employment, former employees, and temporary and intermittent employees, and whether these procedures cover allegations by GAO or Library employees that their rights granted under the CAA were violated by other employing offices and allegations by employees of other employing offices that their CAA rights were violated by GAO or the Library.

3. *Does section 207 of the CAA cover GAO and the Library and their employees with respect to sections 204–206 and 215? If not, do other laws, regulations, and procedures covering GAO and the Library and their employees afford similar protection against intimidation and reprisal for exercising CAA rights?*

The NPRM proposed to amend the Procedural Rules to cover GAO and the Library and their employees with respect to ''any allegation of intimidation or reprisal prohibited under section 207 of the Act.'' While the Library did not object to this proposal, section 207 does not expressly cover GAO and the Library and their employees. Comment is therefore invited on whether the prohibition against intimidation and reprisal established by section 207 should be construed as covering GAO and the Library and their employees.

If section 207 is construed not to apply, would other laws and regulations covering GAO and the Library and their employees afford protection against intimidation and reprisal for exercising rights under the CAA? Would these laws and regulations afford the same substantive rights and remedies as section 207? What procedures would be available to consider violations and to impose such remedies? Commenters are requested to be clear as to whether such laws, regulations, and procedures outside of the CAA cover applicants for employment, former employees, and temporary and intermittent employees, and whether these laws, regulations, and procedures cover allegations that GAO or the Library intimidated or took reprisal against employees of other employing offices and allegations that other employing offices intimidated or took reprisal against GAO or Library employees for exercising rights granted under the CAA.

No decision will be made as to whether the Procedural Rules will be amended to cover GAO and the Library and their employees for purposes of alleged violations of sections 204–207 until after the comments requested in this Notice have been received and considered. During this interim period, the office will accept requests for counseling under section 402, requests for mediation under section 403, and complaints under section 405 filed by GAO or Library employees and/or alleging violations by GAO or the Library where violations of sections 204–207 of the CAA are alleged. Any objections to jurisdiction may be made to the hearing officer or the Board under sections 405–406 or to the court during proceedings under sections 407–408. The Office will counsel any employees who initiate such proceedings that a question has been raised as to the Office's jurisdiction and that the employees may wish to preserve their rights under any other available procedural avenues.

Signed at Washington, D.C., on this 26th day of January, 1998.

RICKY SILBERMAN,
Exective Director, Office of Compliance.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Tuesday, January 27, 1998, the Federal debt stood at $5,490,127,380,051.53 (Five trillion, four hundred ninety billion, one hundred twenty-seven million, three hundred eighty thousand, fifty-one dollars and fifty-three cents).

One year ago, January 27, 1997, the Federal debt stood at $5,312,990,000,000 (Five trillion, three hundred twelve billion, nine hundred ninety million).

Five years ago, January 27, 1993, the Federal debt stood at $4,174,096,000,000 (Four trillion, one hundred seventy-four billion, ninety-six million).

Ten years ago, January 27, 1988, the Federal debt stood at $2,448,164,000,000 (Two trillion, four hundred forty-eight billion, one hundred sixty-four million).

Fifteen years ago, January 27, 1983, the Federal debt stood at $1,196,387,000,000 (One trillion, one hundred ninety-six billion, three hundred eighty-seven million) which reflects a debt increase of more than $4 trillion—$4,293,740,380,051.53 (Four trillion, two hundred ninety-three billion, seven hundred forty million, three hundred eighty thousand, fifty-one dollars and fifty-three cents) during the past 15 years.

CLIMATE-RELATED CHANGES

Mr. GRAMM. Mr. President, with the administration expected to seek eventual Senate approval of the recent Kyoto Protocols on ''global warming,'' I would like to enter into the RECORD an excellent article on the subject by the noted author and historian T.R. Fehrenbach. It is a timely reminder of the many climate-related changes our planet has experienced and places the current debate in much needed historical context. I commend this article to my Senate colleagues and ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the San Antonio Express-News, Jan. 4, 1998]

WHO'S REALLY FULL OF HOT AIR?

The most cursory study of geology, archaeology and history shows that Earth has undergone vast climatic changes throughout its existence. The oil and gas under Texas soil come from natural decay when this land was a hot, fetid, fern-filled swamp. Later Texas was covered by sea, emerging again as geological ''new land.''

When the first human beings arrived, it was much cooler and wetter than today, supporting very different life forms from those Indians hunted in historic times.

Archaeology shows that Saudi Arabia was once a well-watered, populated plain, while Greece and Italy were heavily forested. Yes, people cut down those trees, some to make the ships that Helen launched, but man had nothing to do with the enormous climatic changes around the Mediterranean during our own geologic age, the decaying Pleistocene.

The world has grown steadily warmer and drier, the reason Spanish forests, once cut, never resprouted. Conversely, today in Alaska cut-over forests regrow within a few years without replanting.

The evidence of repeated glaciations—they seem to come about every 20,000 solar years—lies all over North America, the most obvious being our Great Lakes. During these repeated Ice Ages, Earth's water supply being constant, the oceans shrink, falling as much as 200 feet. The first Americans got here across a land bridge now sunk beneath