the appointment of conferees by the Senate so that reconciliation of the two bills can proceed. We urge you to act quickly.

Electronic commerce is now a reality. Using electronic networks to purchase goods and services, as well as conduct financial transaction, has rapidly gained tremendous consumer acceptance. A number of legal elements are needed to ensure the continued development of the electronic marketplace. Key among these is ensuring that digital signatures, and other forms of digital authentication, receive substantially the same legal treatment as their pen and ink counterparts. Likewise, the authorization of electronic disclosures in e-commerce transactions would be an important step forward. It is critically important to clarify and update the law in these areas, which would deliver a boost to e-commerce and the economy.

S. 761 is one of the top legislative priorities for software and computer companies for this Congress, and we urge you to appoint conferees at the earliest possible date.

Sincerely,

ROBERT W. HOLLEYMAN II,
President and CEO.

SECURITIES INDUSTRY ASSOCIATION,
Washington, DC, March 2, 2000.

Hon. TOM DASCHLE,
Minority Leader,
The Capitol, Washington, DC.

DEAR SENATOR DASCHLE: On behalf of the Securities Industry Association (SIA) and our member firms I am writing to urge your prompt action on the conference committee to reconcile pending electronic authentication legislation (H.R. 1714 and S. 761). The House has appointed their conference committee members and SIA encourages the Senate to do the same. We ask that you do all within your power to appoint the committee members as soon as possible.

After many delays this very important legislation is once again being detained. Electronic authentication legislation will play a vital role in expanding electronic commerce. It will not only allow the business community to continue to compete nationally and globally but it will also provide the consumer with choices he did not have before.

Electronic authentication legislation, when completed and signed into law, will be historic in the effects it will have on the marketplace. But, quick action is needed and with each delay another missed opportunity passes by. SIA thanks you for your leadership and attention to this important issue and encourages you to name conference committee members quickly.

Sincerely,

STEVE JUDGE.

COALITION FOR E-AUTHENTICATION,
Washington, DC, March 2, 2000.

Subject: Conference on Electronic Signature Legislation (S. 761/H.R. 1714)

Hon. TOM DASCHLE,
Minority Leader, U.S. Senate.

Hon. HARRY REID,
Minority Whip, U.S. Senate.

DEAR MINORITY LEADER DASCHLE AND MINORITY WHIP REID: The Coalition on Electronic Authentication (CEA), which includes many of the Nation's leading electronic commerce companies, is writing to urge you to take all steps necessary to expeditiously begin the conference on the Electronic Signature legislation passed by both Houses last Fall.

Now, with a tight legislative calendar, it is imperative that the conference begins as soon as possible so Congress can complete work on its most important high-tech legislative initiative this year. The House has appointed conferees, as have the Senate Republicans. Now it is time to complete conferee selection so the conference can move forward.

When enacted, Electronic Signature legislation will be a truly historic step. It will have an immediate and dramatic impact on the growth of electronic commerce and the Internet because it will create, for the first time, the legal certainty required to permit electronic signatures to become widely used nationally by both consumers and businesses. Electronic Signature legislation is essential to help businesses of all kinds expand their use of electronic commerce and meet their customers' growing expectations on how business should be transacted over the Internet. Most importantly, consumers will benefit from the increased security, convenience, and lower costs associated with online business transactions. In addition, with this legislation, businesses will be able to greatly expand their use of business-to-business electronic commerce in ways that will significantly lower their costs.

Therefore, we respectfully urge you to do everything possible to appoint conferees expeditiously, so the conference can meet and conclude its work as soon as possible.

Sincerely,

COALITION FOR ELECTRONIC AUTHENTICATION.

The PRESIDING OFFICER. The Senator from Nevada.

NOMINATIONS OF RICHARD A. PAEZ AND MARSHA L. BERZON—Continued

Mr. REID. I rise to speak on the comments and statements made by Senator HATCH, chairman of the Judiciary Committee.

First, Senator HATCH and I don't always agree on substantive issues. I think the country is well served with the leadership of the Judiciary Committee, the Senator from Utah, and the Senator from Vermont. These two men worked tireless hours to try to clear one of the busiest committees we have. I personally wish there were more nominations cleared. I have the greatest respect for Senator HATCH, and, of course, my dear friend, the Senator from Vermont.

However, this Ninth Circuit issue is something that should be approached cautiously. We have done that. I say to my friend from Utah and the Senator from Alaska, who introduced legislation, as I said earlier today, we need to take a look at what the White commission said should be done with the Ninth Circuit. They spent a year's period of time listening to witnesses and using their experience and his experience as a member of the U.S. Supreme Court as to what should happen to the Ninth Circuit. They came up with the decision after they reviewed all the alternatives, and the decision was not to split the Ninth Circuit but to change the way it was administered. I think that is something at which we need to take a close look.

Senator LOTT, the majority leader, talked about his son being involved in the last issue before the body. I say candidly I have had two sons, one of whom was the administrative assistant for the chief judge of the Ninth Circuit, my son Leif; and my son Key, who is presently a clerk for the chief judge of the Ninth Circuit, Procter Hug. I have a keen interest there not only because my two sons have worked for the chief judge of the Ninth Circuit, but, in fact, the chief judge of the Ninth Circuit is a Nevadan, a graduate of the University of Nevada at Reno and Stanford School of Law, and has rendered great credit to this country, the Ninth Circuit, and the State of Nevada.

In short, let's not beat up on the Ninth Circuit because there are a lot of people in the circuit. Let's take a look at what should be done with the Ninth Circuit. I think the starting point should be what Justice White's commission said. If there were a few hearings held in the Judiciary Committee, I think we could move on to resolve this problem.

I am happy we are moving forward on these two nominations. It is something that should have happened some time ago. We are moving forward on them. Based upon the statements made by Senator HATCH, there should be bipartisan support for both of these nominees. I hope tomorrow, or whenever it is decided by the leadership that we will vote on them, that there are overwhelming votes in support for Judge Paez and Judge Berzon.

The PRESIDING OFFICER (Mr. CRAPO). The Senator from Vermont.

Mr. LEAHY. Mr. President, I appreciate the comments of my friend from Nevada. I also want to commend the distinguished senior Senator from Utah for his support of Judge Paez and Marsha Berzon.

Today, we are going to take up the long delayed nomination of Judge Julio Fuentes for the U.S. Court of Appeals for the Third Circuit. It is long delayed; Judge Fuentes was nominated 365 days ago. We tried for a whole year to get his nomination moving. He was finally included in a confirmation hearing on February 22, then on to the Judiciary Committee 2 days later, then reported without a single objection.

Now, I understand it came on the calendar yesterday and the distinguished majority leader scheduled it immediately for a vote. I thank him for doing that. No need to linger, especially after waiting a year to get his hearing and a vote.

Moving at once from the hearing, quickly to a committee agenda and to committee consideration and on to the floor is how we used to proceed. In the days before 1994, nominees were favorably reported by the Judiciary Committee, then routinely considered by the Senate within a day or so thereafter. That was before the unfortunate practice that has developed in the last 6 years, where oft times extremely well-qualified nominees are held for long times—weeks, months, sometimes years.

I am glad in this case, at least, while he had to wait almost a year for a hearing, once we got the hearing, the

nomination is being moved very quickly.

I look forward to Julio Fuentes' confirmation. I congratulate the two Senators from New Jersey, Mr. LAUTENBERG and Mr. TORRICELLI, for their longstanding support.

Having said that, we should look at where we are. We have 76 current vacancies on the Federal judiciary and 9 more on the horizon. Last month, the Judicial Conference renewed its request for an additional 59 judgeships and taking 10 of the existing temporary ones and making them permanent. There are only 22 weeks left in session this year. We should get moving if we are going to fulfill our constitutional responsibility and help the President fill these vacancies.

In the first 2 months of this year, the Senate has only confirmed four judicial nominations—two a month. Incidentally, having waited for some time to even have their hearings and have their vote, they were voted overwhelmingly. Two of them were confirmed by votes of 98–0, which makes one wonder why in Heaven's name they were held up so long. The other two did have opposition. They had two votes against them: 96 for them, 2 against them. Again, one wonders what held them up so long. In fact, they had all been reported favorably last year, or, as someone pointed out, last century, and voted on favorably this century. There are still three very important nominees reported last year to be taken up.

The distinguished majority leader and the distinguished minority leader had a colloquy last November 10 talking about them. I fully expect them to be voted up or down. The three are Richard Paez, Marsha Berzon, and Timothy Dyk. Each has waited more than 23 months for Senate action. The Los Angeles Times calls Judge Paez the Cal Ripken of judicial nominations. This distinguished Hispanic, a man with one of the highest ratings ever to come before the Senate, one of the most sterling backgrounds of any nominee by either Republicans or Democrats, this distinguished jurist has waited more than 4 years. That is unforgivable. We should do our constitutional duty and vote up or vote down, not vote maybe.

I am glad the majority leader has agreed to bring them to a Senate vote before the Ides of March. The nominees deserve to be treated with dignity and dispatch, not delayed for years.

Judge Paez has been pending for over 4 years. He has the strong support of his home State Senators and of local law enforcement. He has had a distinguished judicial career in which he has served as a State and Federal judge for I believe 19 years. His is a wonderful American story of hard work, fairness, and public service. He and his family have much of which they can be proud. Hispanic organizations from California and around the country have urged the Senate to act favorably and soon.

I hope we do the right thing when we are called upon to vote. As I recall, when Judge Sonia Sotomayor, another outstanding district court judge, was nominated to the Second Circuit and her nomination was delayed by this Senate, apparently she was so extremely well qualified, some feared if we confirmed her too quickly, she might possibly be considered as a Supreme Court nominee, and that is why she was held up through all kinds of secret holds. It was not the Senate's finest moment. In fact, after all the delay in Judge Sonia Sotomayor's case, it was interesting that not a single Senator who voted against her confirmation and not a single Senator who delayed her confirmation uttered a single word against her.

Any Senator can vote as he or she sees fit, but I hope in the case of Judge Richard Paez, where his nomination has been delayed for over 4 years—the longest period in the history of the Senate—that those who have opposed him will show him the courtesy of using this time to discuss with us any concerns they may have and explain the basis for the negative vote against a person so well qualified for this position.

I believe we should come to a vote on Timothy Dyk. We should have done so long before now. He was first nominated to a Federal vacancy in April of 1998. After having a hearing and being reported favorably, the Senate in September 1998 left without action. The President had to resubmit the name. He was renominated in January 1999, favorably reported again in October 1999.

Again, he is a man with a tremendous background. He is the only person I can remember clerking for three Supreme Court Justices. He is supported by the U.S. Chamber of Commerce, the National Association of Manufacturers, and others. I hope we will get on with this nomination.

I look forward to the Senate finally approving the nomination of Marsha Berzon to the Ninth Circuit Court of Appeals. One-quarter of the active judgeships authorized for that court have been kept vacant for several years. The Judicial Conference recently requested that Ninth Circuit judgeships be increased, in light of its workload, by an additional five judges. That means that while Ms. Berzon and several other nominees have been waiting for confirmation, the court actually has been doing its work with 10 fewer judges than it needs.

Marsha Berzon is an outstanding nominee. She is an exceptional lawyer with extensive appellate practice, including a number of cases heard by the Supreme Court. She has the highest rating from the American Bar Association and the support of both the Senators from California.

It may well be coincidence, as someone suggests, that if you are a woman or a minority, you take a lot longer getting through the Senate. That is the way it has been the last 5 years.

The Chief Justice of the United States Supreme Court said:

> Some current nominees have been waiting a considerable time for a Senate Judiciary Committee vote or a final floor vote. . . . The Senate is surely under no obligation to confirm any particular nominee, but after the necessary time for inquiry, it should vote him up or vote him down.

Which is exactly what I would like.

We had one minority nominee, an extremely well-qualified individual, Jorge Rangel. He became tired of waiting. He got into this block of, if you are a minority or a woman, one seems to take longer. He said to the President:

> Our judicial system depends on men and women of good will who agree to serve when asked to do so. But public service asks too much when those of us who answer the call to service are subjected to a confirmation process dominated by interminable delays and inaction. Patience has its virtue, but it also has its limits.

Jorge Rangel withdrew.

All three of the nominees reported last year and before have been extremely patient. Each remains among the 10 longest pending judicial nominations before the Senate, and one has waited the longest of anybody in the Senate's history.

Some say, if it is a Presidential election year, we have to slow things down—the so-called Thurmond rule. Sure, if we are within a couple months of a Presidential election, we might slow things down. But before people justify the fact we have only moved four judges this year, I remind my colleagues of what happened in Presidential election years past.

Let's take a few of the Presidential election years since I have been here: 1980 was a Presidential election year. We confirmed 64 judges that year; 1984 was a Presidential election year, and we confirmed 44 judges that year.

Let me take 1988, when President Reagan was at the end of his second term, as much of a lame duck as one could possibly be. There was a Democratic majority in the Senate. We could have done the same thing to President Reagan that the Republicans have been doing for years to President Clinton, but instead we confirmed 42 of his nominees.

A better example: In 1992, under President Bush, when he was about to become a lame duck President, during a Presidential election year, where Democrats were in the majority, we confirmed 66 judges, as compared to the 4 who have been confirmed this year. At the end of President Bush's term, with Democrats in the majority, we confirmed 66.

My friend from New York may be interested in knowing that in 1996, again at the end of the first term of President Clinton, where Republicans were in the majority—do you know how many were confirmed? Seventeen. Democrats confirmed 66 of a Republican President's nominees; Republicans confirmed 17 of a Democrat President's nominees.

What happens is qualified nominees, such as Richard Paez or Marsha Berzon

or Tim Dyk, instead of being treated with dignity and dispatch, are delayed for years—or those like Jorge Rangel, they say: We cannot put up with the delay anymore. We withdraw our name.

Then we have to understand what this does to people who have offered themselves for this public service. But we have to also ask: What does it do to the independence of our Federal judiciary, the independence that is praised worldwide?

So if Judge Fuentes is confirmed this afternoon, as I fully expect he will, I congratulate him because he will be the first judicial nomination both reported by the Judiciary Committee and confirmed by the Senate this year.

I would hope that would give some indication that we might move forward with the nominations of Richard Paez, Marsha Berzon and Tim Dyk from years past, as well.

I am glad we are finally going to have the opportunity on this extremely well-qualified nominee to move forward to the Third Circuit. We will move forward on Judge Julio Fuentes, as I say, an outstanding Hispanic nominee, an outstanding American, to the Federal judiciary.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, first, I thank my colleague from New Hampshire for allowing me to speak for a brief period of time before him. I saw those books piled up on his desk and realized if I did not get my words in now, I might not ever get them in.

I very much appreciate his graciousness.

I also thank my colleague from Vermont for, as usual, his intelligent and considerate words. I also thank the chairman of our Judiciary Committee for bringing this nomination forward and for, just as importantly, announcing he will support the nomination of Judge Paez.

Mr. President, first, I rise in support of the nomination of Judges Paez, Berzon, Fuentes, and Dyk. But, more importantly, I rise to talk about the process very briefly. For instance, we do not have any problem with the Senator from New Hampshire debating, to the end, whether Judge Paez should be a judge. We have a problem that he had to wait 4½ years to do it.

The basic issue of holding up judgeships is the issue before us, not the qualifications of judges, which we can always debate. The problem is it takes so long for us to debate those qualifications. It is an example of Government not fulfilling its constitutional mandate because the President nominates, and we are charged with voting on the nominees.

The Constitution does not say if the Congress is controlled by a different party than the President there shall be no judges chosen. But that is sometimes how the majority has functioned.

Second, by not filling vacancies, we hamper the judiciary's ability to fulfill its own constitutional duties.

Our courts—my own in New York State—have large backlogs. We have three vacancies in New York: One in the eastern district; two in the southern district. We had four, and I thank the chairman of the Judiciary Committee for approving George Daniels last week. But we still have vacancies.

I also plead with my colleagues to move judges with alacrity—vote them up or down. But this delay makes a mockery of the Constitution, makes a mockery of the fact that we are here working, and makes a mockery of the lives of very sincere people who have put themselves forward to be judges and then they hang out there in limbo.

Judge Paez, Judge Berzon, Judge Dyk, and Judge Fuentes are extremely qualified. I urge all of my colleagues, at long last, to vote for their confirmation.

Again, I very much appreciate the Senator from New Hampshire for allowing me to speak for this brief moment.

I yield back my time.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SMITH of New Hampshire. Mr. President, I was very much intrigued by the remarks of my colleagues from New York and Vermont a few moments ago, talking about how we should move on in the process and that there does not seem to be much of a history of blocking nominees and that it is not good for the constitutional process.

I think the constitutional process is very clear that the Senate has the right and the responsibility, under the Constitution, to advise and consent. That is exactly what I intend to do in my role as a Senator as it pertains to these two nominees before us.

Let me summarize where I think we are on the issue of judicial nominees in general.

It is no secret that I am opposed to Judge Berzon and Judge Paez, as many of my colleagues on this side of the aisle are, I hope. At least that is what I am told.

The issue, though, is whether it is OK to block judicial nominees. We have heard from a couple of my colleagues in the last few moments that it isn't OK to block judicial nominees, as if there was something unconstitutional about it. There is thinking among some that we should not start down this path of blocking a judicial nominee whom we do not think is a good nominee for the court because it may come back to haunt us at some point when and if a Republican should be elected to the Presidency.

Let me say, with all due respect to my colleagues, I am not starting down any new path. The tradition of the Senate is one of blocking judicial nominees in the final year of an administration. I am going to be very specific and prove exactly my point that we are not starting down any new path. The path is well worn. We are following a path; we are not starting down any new path.

I am going to go back to 1992, since that is the most relevant year for this discussion, the final year of the Bush administration.

How did the Senate treat judicial nominees? Facts are sometimes pretty devilish things. They do point out the truth. They are pretty hard to discredit. Let's look at the facts.

There was only one controversial judicial nominee considered the entire year in 1992—in fact, only one rollcall vote, period, on judicial nominees. Why is that? That is no big deal. They voted the only one that came up. That is the point. Why didn't they come up? With all due respect to my colleagues from Vermont and New York, it is called blocking the nomination. It is called bottling them up in committee. It is called not bringing them to the floor. Let's be specific.

In 1992, we had a nominee by the name of Edward Carnes. He was nominated to the Eleventh Circuit. There were no fewer than three full votes in the Senate on one nominee: A motion to proceed, followed by a filibuster, a 66–30 cloture vote, and finally, on September 9, 1992, approval—a long process for this one judge. But other than that one nominee who was, in fact, filibustered, there was nothing—no action, no debate, no nothing—on the floor of the Senate. All other controversial nominees were filibustered in committee under the Democrat leadership in the Senate.

Sure, the Senate approved nominees here or there. I admit that. But if we define ''controversial'' as having at least a rollcall vote, there weren't any.

What about the controversial ones? Let's take a look at a few. Let me stick with the appeals court since that is what we are dealing with today with Judges Berzon and Paez. In April of 1990, President George Bush nominated Kenneth J. Ryskamp to the Eleventh Circuit. Mr. Ryskamp was opposed by none other than civil rights activists, and the Judiciary Committee bottled up the nomination of Mr. Ryskamp for an entire year. At the end of the year, they sent the nomination back to President Bush, and Mr. Ryskamp was resubmitted but never made it.

Don't come here on the floor and tell me that if I want to block Judge Paez or Judge Berzon, somehow I am going down some new path. I am not going down any new path. I am following the tradition and precedent of this Senate. Those who did that in 1992 had every right to do it under Senate rules and under the Constitution, as I do today and as I intend to do on these nominations.

In September of 1991, President Bush nominated Franklin S. Van Antwerpen of Pennsylvania to the Third Circuit. The nomination was blocked in committee for the entire final year of the Bush Presidency. It never saw the light of day. In November of 1991, President Bush nominated Lillian R. BeVier, a conservative from Virginia who had testified for Robert Bork. That was her first mistake. Lord help us, she was a conservative, No. 1, in the Democrat

years here. No. 2, she testified on behalf of Robert Bork. She was nominated to the Fourth Circuit. Guess what happened to her. Her nomination languished for a whole year. Finally, the committee deep-sixed her at the end of the Bush Presidency—gone, didn't see the light of day. I guess that was unconstitutional. If it is unconstitutional now, surely it was unconstitutional then.

Of course, it is not unconstitutional. You have that right. On the same day, President Bush nominated Terrence W. Boyle to the Fourth Circuit. Again, the chairman put a hold on the nomination for an entire year. It languished in the darkness of Judiciary and never saw the light of day.

Here is an article from 1992. It says: ''North Carolina Judge One of 50 Bush Court Nominations that Won't be Approved.'' It talks about the intentional strategy of Chairman BIDEN to delay and kill Bush nominees because of the likely Clinton victory. That speaks for itself.

Here are a few lines from the news service, September 28, 1992:

> Men and women named by President Bush to 50 vacant judgeships will not be confirmed by the Senate this year, leaving Republicans and Democrats pointing fingers of blame at each other. The nominees who must be approved by the Senate Judiciary Committee include Terrence W. Boyle, 46, a U.S. District Court Judge in Elizabeth City who was proposed for a seat on the U.S. Circuit Court of Appeals. Last week, Senator Joe Biden, Democrat of Delaware, who chairs the panel, said no additional hearings on nominations will take place this year. With Congress expected to adjourn for the year next Monday and Democratic presidential candidate Bill Clinton ahead in the polls, many Republicans fear the nominees will never be approved and charged Biden with intentionally delaying the process.
>
> South Carolina Senator Strom Thurmond, highest ranking Republican on the panel, said he had asked Biden earlier this year to increase the number of hearings and the number of nominees considered at each hearing. This was not done and we are now out of time, he said. ''It's got partisan written all over it,'' said Andy Wright, political director of the North Carolina Republican Party. Biden, Wright said, is ''taking advantage of an opportunity. He knows what power he has.'' But a Judiciary Committee aide rejected charges that the panel has initially stalled progress on the nominees, saying the committee had approved ''a record number of nominees in a presidential election year when the Senate and White House were controlled by different parties.''

Well, they are controlled by different parties. The thing is reversed.

They go on to explain that ''the Senate had approved 59 Bush nominees,'' so forth and so on.

The point is, this is not new ground; this is old ground we are walking.

In November of 1991, George Bush nominated Frank Keating of Oklahoma to the Tenth Circuit. It was blocked for the entire year. It died 2 years later at the end of the Bush Presidency.

Let me read an article from the Philadelphia Tribune entitled ''Shelving of Keating Nomination Pleases Rights Groups.'' The nomination wasn't defeated by the Senate. It was shelved by the committee. A group of liberal organizations opposed him, and the committee buried the nomination.

> National civil rights groups like the NAACP Legal Defense Fund, National Fair Housing Alliance, Children's Legal Defense Fund, are still smiling as a result of the U.S. Senate Judiciary Committee's decision not to vote on the nomination of Francis Keating for a judgeship on the Tenth U.S. Circuit Court of Appeals.
>
> This means that Keating's nomination and the fate of 50 other judicial nominees still under consideration by the committee will have to wait until January when the Senate is scheduled to come back into session.

It goes on to discuss this nomination—again, a nomination killed in committee by the other party. Controversial, never saw the light of day. New ground? I don't think so.

In January of 1992, President George Bush nominated Sidney Fitzwater to the Fifth Circuit. Same old story: Nomination languishes, a whole year goes by and the nomination dies.

Here is a story from the Texas Lawyer entitled ''Judiciary Panel Kills Texans' Nominations.'' This is American Lawyer Newspapers Group, October 1992:

> Surprised? Hardly. ''It's an every four-year occurrence,'' said U.S. District Judge Lucius D. Bunton, III of Midland, Texas, chief of Texas' Western District.
>
> As spring turns to summer in presidential election years, the party out of power at the White House traditionally throws up roadblocks to slow a process that in normal times confirms most candidates automatically. In addition to the expected slowdown, those close to the process from both parties say Governor Bill Clinton's lead in the polls has prompted Democrats to delay judicial confirmations in hopes of preserving the vacancies of the presidential candidate.

Again, they have the right to do that. They did do it, and they did it effectively. So when we come out here to do it now because of two very liberal activist judges, why should we be criticized for exercising our rights under the process? If you disagree with us on the basis of why we are objecting, fine. But don't pontificate on the floor of the Senate and tell me that somehow I am violating the Constitution of the United States of America by blocking a judge or filibustering a judge that I don't think deserves to be on the circuit court because I am going to continue to do it at every opportunity I believe a judge should not be on that court. That is my responsibility. That is my advise and consent role, and I intend to exercise it. I don't appreciate being told that somehow I am violating the Constitution of the United States. I swore to uphold that Constitution, and I am doing it now by standing up and saying what I am saying.

The same day in 1992, Bush nominated John G. Roberts of Maryland to the D.C. circuit. That was filed in the same old black hole with the rest of them. Congress adjourned; the nomination was blocked, end of story. Another nomination in January of 1992 was blocked in committee and killed at the end of the Presidency. Justin Wilson, nominated in May of 1992, was killed by committee. Here is an article, September of 1992: ''Outlook grim for Wilson nomination,'' from the Gannett News Service.

Byline by Lacrisha Butler, this article says:

> Nashville lawyer Justin Wilson's nomination to fill a vacancy on the U.S. Sixth Circuit Court, which has been pending in the Senate committee for 6 months, is among more than 100 Federal judge nominations still awaiting action before Congress adjourns in early October.
>
> And it appears unlikely that Wilson's nomination will see action before the session ends, because of snags in his background check and what is being called an attempt by Democrats to hold up nominations in anticipation of a change in administration.

Again, this is not new ground. This is a role the Senate has played for years, decades. It is an appropriate role if we believe a nomination, or the other side believes a nomination might be too far to the left or right—depending on which side you are.

Mr. President, this is just one year of the Presidency I am talking about. I have only dealt with 1992 when circuit court nominees were blocked in committee. I could have gone back further into the Bush Presidency. I could have gone back into other Presidencies. I didn't do that, but these are filibusters. When you don't allow a nomination to get to the Senate floor—it may not be under the technical term ''filibuster,'' but when you block it, that is a filibuster. You are not getting it here and you can't talk about it if it isn't up here. If it is languishing in committee, then we are not going to be able to debate it, approve it, or reject it. No matter how you shake it, they were filibusters led by committee chairmen rather than the majority leader on the floor.

If you want precedent for floor filibusters—I have heard it said there is no history of filibusters on the Senate floor. OK, they have been in committee; we stopped them in committee. All right. Well, let me read this:

> On July 2, 1999, Senate Judiciary Committee ranking member Patrick Leahy issued a statement claiming, ''I cannot recall a judicial nomination being filibustered ever.''

OK. Mr. President, I have 1, 2, 3, 4, 5, 6, 7, 8 volumes of the CONGRESSIONAL RECORD, Senate proceedings, and not every word is of the filibuster, but in each volume is a filibuster of 4 judicial nominations, both political parties, since 1968—4 out of 13. So out of 13 judges who have been filibustered on the floor of this Senate since 1968, these volumes here, 8 volumes, represents only 4 of the 13. Yet the ranking member of the Judiciary Committee says he can't ever recall a filibuster being offered.

As a challenge to my friend from Vermont, if he comes down and says it again, I am going to read every word of these filibusters on the floor of the Senate and filibuster these nominations by doing it. If he doesn't come

down or retract that statement, I won't. If he comes down and says he can't ever remember a filibuster taking place on the floor of this Senate, I am going to read every word of just these four. If he continues to aggravate me, I might read all 13 of them, if I can dig out the information.

Let's get real and understand what is happening. The names are Abe Fortas in 1968; William Rehnquist, who sat in that chair and was praised by all during the impeachment trial, was filibustered by Senator Birch Bayh. There are volumes and volumes, hundreds of pages here of that filibuster. I am prepared to read every word of it if he wants to say there have been no filibusters.

Stephen Breyer was filibustered; J. Harvie Wilkinson, Sidney Fitzwater, Daniel Manion in 1985, Edward Carnes, Rosemary Barkett, H. Lee Sarokin—there are 13 of them.

So don't tell me we haven't filibustered judges and that we don't have the right to filibuster judges on the floor of the Senate. Of course we do. That is our constitutional role. Some like it. And I have been on the other side. Listen, I wasn't in the Senate when it disapproved Robert Bork, but we lost one heck of a good judge. Clarence Thomas wasn't filibustered, but he sure was debated. I didn't like that either. But it is our right as Senators to do that. So don't criticize our right to do these things and don't say things didn't happen that did happen.

Now, let me move to the question at hand, which is the Ninth Circuit, where we have the nominations of Judges Paez and Berzon for the Ninth Circuit Court of Appeals. We need to understand this circuit is a very controversial circuit. Not only is it a controversial circuit, it is a renegade circuit. It basically is out of the mainstream of American jurisprudence. It is interesting that this circuit has been reversed by the Supreme Court—get this—in nearly 90 percent of the cases decided in the past 6 years. Let that sink in for a moment. Ninety percent of the decisions made by the circuit court in this Ninth Circuit have been reversed by the U.S. Supreme Court, the next highest court. What does that tell you about the judges on that court?

Mr. REID. Will the Senator from New Hampshire yield for a brief time?

Mr. SMITH of New Hampshire. Yes.

Mr. REID. Mr. President, I would like to have a colloquy between the two of us based on some statements made to this point. If I could say to my friend—and there is nobody in the Senate I have more respect for than the Senator from New Hampshire. We have served together on the MIA/POW Committee, and for many years, until he became a full committee chairman, we served as the two leaders of our parties with the Ethics Committee. I have the greatest respect for the Senator. I say, of course, he has a right to filibuster if that is what he chooses. Since the time I have been in the Senate, there have been a number of occasions when there has been, if not a filibuster, at least a delaying of judicial nominees. That is part of the tradition of the Senate. I have no problem with that.

I say, though, to my friend that the year the Senator has talked about in some detail—1992—holds the record for confirming more judges than during any other presidential election year. Sixty-six judges were confirmed at that time. That is when we had a Democratic Senate and a Republican President. So that year, 1992, should stand out as an example of how you can move these nominees, in spite of the fact that you have a majority of one party in the Senate, and the other party is represented in the Presidency. I will not take a lot of time, but I want the record to reflect that in 1996 we only had 17 confirmations.

So I think what we have been able to do in 1988 and 1992 when we got 42 nominees and 66, which is an all-time record—there is no question because I was there then. Toward the end of the session, there were a lot of nominees who didn't come forward. There was a line drawn and they said no more. Some were submitted too late.

What I am saying to my friend is that in addition to what I have just said, we now have 30 nominations pending. Once they get out of committee, let's bring them here and vote up or down on them. I don't know Richard Paez. I talked to him on the phone. I have talked to his mother. I think anybody who has to wait 4 years deserves an up-or-down vote.

I say to my friend that if there is something wrong with Judge Paez or Ms. Berzon, come out here and vote them down. But I think we need to move forward with these nominations as quickly as we can.

I can only say to my dear friend from New Hampshire that the State of Nevada for 14 years has been the fastest growing State in the Union. We have tremendous problems with the administration of justice. At this time, when the Senator and I are speaking, we are short four judges. It is not Senator LEAHY's fault, it is not Senator HATCH's fault, that these are not being voted on now. They are in the pipeline, so to speak. But we are desperate for judges. That is the way it is in other parts of the country.

We really need to move forward. I understand the Senator's feelings on the Ninth Circuit. I have heard them expressed several times today: It is too big. It is unwieldy. They have been reversed too much. That is a problem. I think we need to do something about it.

I would be happy to join with my friend. A number of Senators were really upset about this a number of years ago. The commission was appointed led by Justice White. He made recommendations. I think that is a starting point as to how we resolve it.

I close by saying, yes, there were people in 1992 who were not given the chance to vote. Keep in mind that the record for the Senate in 1992—when we had a Republican President and a Democratic Senate—is that we approved 66 nominees. There were 17 in 1996 when there was a Democratic President and a Republican Senate.

Mr. SMITH of New Hampshire. Mr. President, let me say to my colleague that I don't disagree with what he just said as far as the numbers are concerned. I point out that I am really referring here to controversial nominees. When a nominee has some controversy about him or her, if it gets to the floor, there are normally quite a few discussions; i.e., a filibuster. There were no votes. There was only one vote in the year 1992 on a controversial judge. That was filibustered. It eventually passed the nomination under the Bush Presidency. But it was filibustered and substantially debated.

That is the point I was making. Most of the nominees I listed and referred to languished for a whole year in the committee. I am not criticizing the Senator and his party for what they did then. They have a right to do that. I might not agree because I perhaps would have supported the judges. But I think you have the right to do it. I think we have a responsibility to the President of the United States duly elected by the American people. I think in our advice and consent role, we have an obligation to confirm some of those judges, especially those who are not controversial. But I think on those controversial judges, we should have the right to be able to air the concerns.

I don't want to speak at great length on this because I know one of my colleagues—perhaps Senator SESSIONS—wishes to do that.

But in the case of Paez, for example, I don't know that the American people are aware he has been involved in two decisions pertaining directly to the Clinton scandals. Why don't you get both of those decisions, the Marya Hsia case, for one, and the John Huang case? In both of those cases, the sentencing was lenient—perhaps as lenient as it could be.

I think those questions ought to be answered. I think we should know the answers to those questions about what happened before we put this person on the circuit court.

I tend to agree that to simply hold somebody up forever and never let them know how it is going to be resolved is very unfortunate for the individual. I tend to agree. But these are serious questions. When I say ''filibuster,'' I use the term in the sense of right now because the rule is pretty fairly restrictive. We have 48 hours after the motion is filed for cloture and, at the most, 30 hours after that. So we are not talking forever. But we are talking about just venting and airing concerns. That is what I am doing with both the Ninth Circuit as well as two individuals to which I will speak more directly in detail on Thursday.

It is not pleasant to stand here and criticize and air concerns you have about people who are wanting to move up to another level on the court. But I think we have an obligation to air our concerns. Certainly, concerns are aired about us when we run for our respective offices.

I think it is fair that as to judges who are appointed forever, who will be making decisions long after we are out of here, probably when our children are coming into voting age, or our grandchildren, whatever the case may be—these judges may still be here long after the President leaves—we have a responsibility to look very carefully at them. If they are active as judges and are making decisions that are being overturned almost 90 percent of the time in the case of the current court—I am not saying that would necessarily be the case of the two nominees, but the court itself has a very undistinguished record, in my view.

Mr. REID. If the Senator will yield with his right to have the floor, I agree. If there is a Senator who believes there is a problem with any judge, whether it is the one we are going to vote on at 5 o'clock or the two we are going to vote on tomorrow, or Thursday, they have every right to come to talk at whatever length they want. But with Judge Paez, it has been 4 years. There has been ample opportunity to talk about this man. He has bipartisan support. I have no problem with people talking about the decisions he has rendered. He has been a judge for about 18 years in State and Federal courts. I think there has been an exhaustive review of those.

If the Senator from Alabama, who has a fine legal mind and is former attorney general of Alabama, and the Senator from New Hampshire, who has had wide-ranging experience in government and in the Senate and House of Representatives, want to talk, more power to them. My only point is, 4 years is too long.

I also repeat some of the things the ranking member of the committee has said. It is a myth that judges are not traditionally confirmed in Presidential election years. It is simply not true. Recall that in 1980, a Presidential election year, 64 judges were confirmed; in 1984, 44; in 1988—we talked about that when we had a Democrat Senate and Republican President—42 were confirmed; in 1992, we had 66. That is the record. I think that really says a lot.

When we had President Bush and a Democratic majority, and a significant majority, we could have stalled things. We approved 66 nominees—I repeat that for the Record—whereas, in President Clinton's last year of his first term, 17 were approved. That is really not fair.

My point is that we need to move these along. I think as part of the legacy of the Republican leadership of this Congress, you can't hold your heads high when you have up to this point confirmed three or four nominees. You need to move up and have 40, 50, or 60. Otherwise, I think you are not fulfilling the need the country has to take care of the tremendous backlog of 30 pending judges and probably 35 or 40 more in the pipeline as we speak.

I hope Senator SESSIONS and Senator SMITH of New Hampshire, who are both very fine legislators, will say all they want to say negative or positive about the nominees. But let us move forward and vote on them.

I again repeat, I don't think it is a good legacy for the Republican leadership of the Senate to break a record that you certainly don't want to break; that is, in the country that is rapidly growing with all kinds of Federal crimes being committed, we have fewer judges to do the job. It is very desperate.

In the State of Nevada, a fine judge in the prime of his judicial life and a senior judge took senior status. It was the only way we could get another judge. It is that way all over the country.

I have no problem, I repeat, with what the Senator is doing. I think it is commendable.

I also think when we talk about the Ninth Circuit, which I have defended, I have, as I have stated, I guess some could say, a conflict of interest because one of my two sons was administrative assistant to the chief judge and my other boy is presently working there. It is a circuit in which I live and practice law. Let Members not denigrate that circuit.

Of course, they have so many cases; and it is true, their reversal rate is high. They decided almost 5,000 cases in a year. Out of approximately 5,000 cases, they have had about 12 or 14 reversals. That is not so bad. The cases that are taken up are ripe for the Supreme Court because they are in conflict with other circuits.

That reversal rate has improved. The numbers, as indicated by Senator MURKOWSKI earlier today, are from another year.

I think criticism of the Ninth Circuit is certainly in order. Go ahead and criticize the Ninth Circuit. As far as the Senator doing anything unconstitutional, it isn't even close. The Senator has every right to do what he is doing.

I appreciate very much the courtesy of the Senator. He did not have to allow me to speak out of order. I know the Senator has a lot to say.

Mr. SMITH of New Hampshire. I appreciate my colleague's remarks and will yield to him at any time.

I will respond briefly to my colleague because I think he is correct on the numbers. I think the numbers speak for themselves. I believe there were some 66 nominations brought through during the Bush years. This is not about the number of people. I think it is a fairly reasonable assessment to say if those nominations came through in 1992 or from 1989 through the end of the term in 1993, it is likely they were not very controversial. There was no debate, really. They were pretty much unanimously agreed to.

We are talking about two issues: One is the controversial nature of the judges involved; two, the controversial nature of the Ninth Circuit. Both the Ninth Circuit and the judges are in and of themselves controversial. In the case of the one vote the Democrats in 1992 brought forth, although it did win, it was a controversial nomination. I think Judge Paez, with all due respect, and Judge Berzon, are controversial nominations. Clearly, the Ninth Circuit is controversial.

I have agreed with the majority leader; if he chooses to accept, I have indicated I am willing to limit the debate on Thursday to about 5 hours total time on our side to discuss these nominations. I am not blocking for the sake of blocking. I am trying to make some points that I hope will result in the rejection of these nominees.

I will discuss this Ninth Circuit and the reversals. As I said, from 1994 to 2000, 85 of 99 decisions—86 percent—by the Ninth Circuit were reversed by the Supreme Court.

What kind of a record is that? What kind of knowledge of the law does this indicate when the Supreme Court could overturn 86 percent of the cases in the last 6 years and, as I said, 90 percent of the cases overall?

To be specific, in 1999 to 2000, 7 of 7—100 percent of the cases set down by this court—were overturned by the Supreme Court. There are four more pending now that are being challenged. I will not go into the details of each case, but U.S. v. Locke, Rice v. Cavetano, Roe v. Flores-Warden, U.S. v. Martinez-Salazar, Smith v. Robbins, Gutierrez v. Ada, Los Angeles Police Department v. United Recording Publication—all of those were overturned, all 7 of 7.

From 1998 to 1999, during that year, 13 of 18 of the decisions of this court, 72 percent, were overturned by the Supreme Court—reversed.

From 1997 to 1998, 14 of 17 were overturned by the Supreme Court, 82 percent of the cases.

From 1996 to 1997, 27 of 28 cases were overturned, 96 percent of the cases overturned.

From 1995 to 1996, 10 of 12, 83 percent, were overturned.

And on and on and on.

I have the documentations of these cases.

The bottom line is the Ninth Circuit is notorious for its antilaw enforcement record, its frequent creation of new rights for criminals and defendants, often in the face of clearly established law.

These two judges we now are debating, I believe based on their own records and comments and paper trail, are going to be act the same. They will be making the same kinds of decisions.

It is an embarrassment to have 90 percent of the cases overturned. In my view, it shows, frankly, an ignorance of

the law, or certainly a disrespect for the Constitution in some way to get that many cases overturned by the Supreme Court.

The Ninth Circuit, as I said before, is a renegade circuit. It is out of the mainstream of American jurisprudence. It has been reversed by the Supreme Court 90 percent of the time, 84 of 98 cases. That is terrible.

It routinely issues activist opinions. While the Supreme Court has been able to correct some of the worst abuses, the record is replete with antidemocratic, antibusiness, procriminal decisions which distort the legitimate concerns and democratic participation of the residents of the Ninth Circuit.

To give a couple of examples of the more outrageous decisions: Striking down the NEA decency standard, creating a right to die, blocking abortion parental consent law, and a slew of obstructionist death penalty decisions.

The Senate, and particularly Republican Senators from the Ninth Circuit, are on record in favor of a split of the circuit they are so upset with this. In 1997, all Republicans voted against an amendment to strike a provision to split the circuit. That is how outrageous these decisions have been. Even the independent White commission recommended a substantial overhaul of the circuit's procedures; it still has not been implemented. We are adding two liberal, very activist judges to this circuit, without any of the reforms that have been called for by many.

The Ninth Circuit covers 38 percent of this country, more than twice as much as any other circuit. It covers 50 million people. President Clinton has already appointed 10 judges to this circuit. Democrat appointees comprise 15 of the 22 slots currently occupied.

I say to the American people who may be listening right now, judges impact our lives big time in the decisions they make. Citizens complain about the violence and the criminals getting out. We hear all the stories about somebody serving 5 years for murder and going out and killing somebody else; or somebody stalking, serving a little time, and stalking and killing the woman he stalked before because he didn't spend enough time in jail, over and over again.

This is not by accident. These are bad judges making bad decisions that cost Americans their liberties, cost them their lives sometimes. That is wrong.

We have an obligation in the Senate to take a good, hard look at a lifetime appointment to the circuit. The members are there forever, even when they get real old. It is pretty hard to get rid of them. This is a lifetime appointment.

We have a responsibility to make darn sure these judges are going to represent the views of the majority of the American people in terms of the law. I intend to do that as long as I can stand here to do it.

Let me briefly hit two points on the two judges in question and then make a couple of other points and wrap up. The U.S. Chamber of Commerce is officially opposed to the nomination of Paez. In Berzon's case, the nomination was described by the National Right to Work Committee as the worst judicial nomination President Clinton has ever made.

I am going to go into more detail on Thursday on the Ninth Circuit and its anti-law enforcement record, for its frequent creation of new rights for criminals and defendants, often in the face of clearly established law. For that reason alone, we should look very carefully and very cautiously at whom we put on that court.

For instance, in Morales v. California, 1996, the Ninth Circuit struck down the California State law governing when defendants could present claims during habeas corpus appeals which had not been made during the appeals in the State courts. According to the California-based Criminal Justice Legal Foundation, this holding ''opened the door to a flood of claims that would be barred anywhere else in the country.''

In United States v. Watts in 1996, the Supreme Court issued summary reversals in two cases without even hearing arguments after the Ninth Circuit allowed past acquittals to be considered during sentencing.

This is just silliness in terms of the obvious intent of the law and the Constitution.

I will conclude, I say to my colleagues who may be prepared to speak, on this point. These judges are activist judges who are going to promote an agenda on the Ninth Circuit that has already been rejected 90 percent of the time by the U.S. Supreme Court. Let's not add insult to injury by putting two judges on this court, essentially fulfilling that promise of continuing that bad judicial policy.

I yield the floor.

The PRESIDING OFFICER (Mr. GORTON). The Senator from Nevada.

Mr. REID. Mr. President, I want to make an observation. We have heard a lot about the reversal rate of the Ninth Circuit. There has been a lot of talk that the Ninth Circuit's reversal rate in 1996 was some 90 percent, but that was less than five other circuits' reversal rates of 100 percent.

In the 1997–1998 term, the Ninth Circuit's reversal rate was 76 percent, equivalent to that of the First Circuit and less than other circuits because those circuits continued to have a 100-percent reversal rate.

In the 1998–1999 term, the Ninth Circuit's reversal rate was 78 percent, which was far less than several other circuits.

The point I am making is the Ninth Circuit decides thousands of cases, and they acknowledge, we acknowledge, everyone acknowledges, that 12 to 14 cases are reversed. That is not bad. Remember, the Supreme Court picks cases they believe will make good law, and that is why all these other circuits have a huge reversal rate. That is the way it is. That is the job of the U.S. Supreme Court, to look at these circuits and find cases it believes deserve to be interpreted one way or the other.

I hope my friends do not continue harping on the 90-percent reversal rate. It is lower than other circuits.

Also, Judges Paez and Berzon are qualified to sit on the court. I went over at some length earlier today the qualifications of Judge Paez, with whom I have spoken on the telephone, and I have talked with his mother. I do not have that same familiarity with Judge Berzon.

These are nominations that should go forward. These are good people who deserve the attention of the Senate. Certainly, Paez, after 4 years, deserves an up-or-down vote. I hope we can get to that at the earliest possible date. Judge Paez is not going to go away. He is a good man who is well educated and has been a judge for 18 years, 13 years in State court, some 5 years as a Federal district court judge. Everyone speaks highly of him, not the least of whom is a member of the House Judiciary Committee, a former State judge in California, a devout Republican, James Rogan, who supports Paez. He has bipartisan support. I hope we can move forward on these as quickly as possible.

Also, to illustrate what I said earlier, my friend from New Hampshire talked about the fact that in 1992 certain judges were not approved. More judges were approved in 1992 than in the entire history of the country, and we had a Democratic Senate and a Republican President.

In Presidential election years, we had a large number of judges approved.

Look what happened the last year of President Clinton's first term: 17 judges. And this year we are starting out worse than that.

I say to my friends on the other side of the aisle, this is not a legacy of which one should be proud. My colleagues need to move these nominations. If there are some nominees whom they do not like, vote them down or do not bring them forward, but let's get these numbers up this year into the fifties or sixties. We need that badly. States all over this country are in desperate need of judges, especially at the trial level.

Let's not be so hard on the Ninth Circuit. There are those of us who have practiced law in the Ninth Circuit. We are willing to move forward and do something to improve it. The Presiding Officer is a person who has argued before the Supreme Court—I do not think there is any doubt about this—far more times than anybody else in this body. I could be wrong, but I doubt it. He certainly understands the appellate process very well.

The Ninth Circuit needs some changes. Justice White, the leader of a study commission, sat down and decided what needed to be done. Let's start from there and see if we can do

something constructive rather than berate this appellate division that has 51 million people in it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, you have practiced in the Ninth Circuit. So has the distinguished assistant minority leader. There is no doubt that over a period of years, the Ninth Circuit has been reversed more than any other circuit. Their record of having 27 out of 28 reversed in 1 year is absolutely unprecedented. It has never been approached by any other circuit.

As a Federal prosecutor who spent 15 years full time in Federal court, I can assure my colleagues there is no circuit in America that is looked on with less respect on questions of law enforcement than the Ninth Circuit. It is the furthest left Circuit in the American judiciary, and there is no doubt about it. There are some great people there. They are wonderful. I would not mind having them over to my home discussing great legal issues, but they have been outside the mainstream of American law.

Mr. REID. Will the Senator yield for a brief question?

Mr. SESSIONS. Yes.

Mr. REID. Mr. President, maybe the Senator was busy with his staff, but in the 1996–1997 court term, the Ninth Circuit reversal rate was 90 percent. Five other circuits—the Fifth, Second, Seventh, D.C., and Federal Circuit—had a 100-percent reversal rate.

The only point I am trying to make——

Mr. SESSIONS. The D.C. Circuit had one case and Federal Circuit had one case reviewed by the Supreme Court, whereas the Ninth Circuit had 27 out of 28 reversed.

Mr. REID. The point, I say to my friend from Alabama, recognizing the different workloads the courts had, the appellate division with 51 million people has thousands of cases every year.

Also, the Senator has every right to feel the way he does about the Ninth Circuit, but I do not want the Senator's statement to go uncontested that reversal rates of other circuits pale in comparison to the Ninth Circuit because it is simply not factual.

Mr. SESSIONS. I do admit, in 1996, it looks as if the D.C. Circuit and the First Circuit had one case considered by the Supreme Court and it was reversed. D.C. Circuit had one, and it was reversed. And the Federal appeals court had one, and it was reversed.

Let me show you an article from the New York Times.

Mr. REID. One more thing, and then I promise to leave.

Mr. SESSIONS. All right.

Mr. REID. The Senator has not mentioned the Fifth, Second, and Seventh Circuits which also were 100 percent reversed.

Mr. SESSIONS. The Seventh had three cases, and those were reversed. Over the 3 years—I have done the numbers—the Ninth Circuit remains No. 1 in the number of cases reversed.

Mr. REID. I appreciate the Senator yielding.

Mr. SESSIONS. The New York Times had an article some time ago, saying this:

> The Ninth Circuit, which sits in San Francisco, remains the country's most liberal appeals court, and there is some evidence that the Supreme Court's conservative majority—

I would say it is a moderate to conservative majority—

> views it as something of a rogue circuit, especially on questions of criminal law and even more particularly on the death penalty.

That is from the New York Times, which certainly is not a conservative organ, particularly on legal matters. I think they are misunderstanding the importance of a lot of legal matters, frankly, but that is a comment they made, their observation.

That is why the Ninth Circuit has been reversed so regularly. As a matter of fact, I will mention a little later in my remarks—I believe in 1996–1997—there were 17 reversals in that year of the Ninth Circuit by a unanimous U.S. Supreme Court. In other words, the liberal and conservative members of the Supreme Court, in 17 out of 27 cases reversed, unanimously agreed the Ninth Circuit was wrong. I think that is a matter that we ought to think about.

I may go into that more because it is important to my analysis of how we ought to vote on these nominees.

There are two purposes for my remarks today. I would like to enter into the RECORD the results of the research I have done on two nominees—Mrs. Berzon and Judge Paez—for the Ninth Circuit Court of Appeals. My research forms the basis for my opposition to their nominations.

I would like my colleagues who do not sit on the Judiciary Committee, as I do, and who were not part of the initial evaluation process of these nominees to have the benefit of the full record and my observations on it.

Secondly, I would like to take this opportunity to ask my colleagues to consider the points I am raising and to join me in opposition to these nominees.

First, I would like to mention, I believe it is 330 or 340 nominees that have been brought forward by the President. Only one of those 300-plus nominees has been voted down on this floor.

We now have two nominees that have been held up for some time because they have been particularly controversial, and they are nominees to a particularly controversial circuit. That is what the Senate ought to do. We are not a potted plant. We are not a rubber stamp. We have given fair and just consideration to nominee after nominee after nominee of this President. We have confirmed his nominees overwhelmingly; 300-something to 1 have been confirmed to this date.

In terms of vacancies, nearly half of the vacancies that now exist in the Federal courts in this country are because the President has not submitted a nomination yet. This Senate cannot vote on a nomination when we do not have a nominee. The President is required to nominate. He ought to be careful. He ought not to rush in and pick the first name that comes out of a hat. But I am just saying that we are close to what experts have declared to be a full employment Federal judiciary.

I do not think that we have a crisis in failing to move nominees. We are going to continue to move them. We are going to have other votes on nominees this year; some which I will support and others who I will oppose.

I do not believe we ought to take these decisions about how to vote on a judicial nominee lightly. Having had to undergo, myself, an unsuccessful confirmation process for a Federal judgeship, I know better than most the thoughts and feelings these nominees have. That is why I always make sure I treat them in a respectful manner. I do not believe they are people who are unworthy in a lot of ways. What I believe is that their deeply held personal views are such that even though I might respect them as a person for those views, I do not believe that at this point in time, for this circuit, these nominees ought to be approved. I believe that very deeply. That is why I am here and share these comments.

I have done my best to ensure that the concerns I have raised about a nominee have been fair and objective over the 3 years I have been in this body. I try to ask questions that are appropriate and make sure that we are treating people fairly.

For a variety of reasons, I regrettably have concluded that Berzon and Paez should not be confirmed.

Let me talk about the Ninth Circuit in a fashion that I think is fair and gives an overall perspective.

First, we need to look at the problems that are in existence now in this circuit. It is the largest circuit, covering Alaska, Hawaii, the State of Washington, Oregon, California, Idaho, Nevada, Arizona, and Montana, as well as Guam and the Northern Mariana Islands. This amounts to roughly 38 percent of the country's area, approximately 50 million people.

In recent years, this circuit has been singled out to be the subject of increased scrutiny by the Supreme Court because of its tendency to engage in judicial activism.

In other words, roughly 20 percent of the American population lives in this circuit in which the rule of law is regularly being challenged by the issuance of activist opinions by ideologically driven Federal judges.

But do not just take my word for it. We have the article in the New York Times describing this circuit that I just quoted. The court's conservative majority—five members of the Supreme Court of the United States constitutes a majority; they are all not conservatives, a lot of them are more

moderate judges—they view it as something of a rogue circuit. That is strong language, I submit. If you look at the reversal figures for the Ninth Circuit, I believe you will tend to agree with the assessment made in that article.

In my experience as a Federal prosecutor, I found that a reliable index of a court's performance is the history of the circuit's reversals.

For the benefit of individuals who may be watching this debate at home and are not familiar with the workings of the Federal judicial system, a reversal rate is simply the measurement of the number of times a decision entered by that circuit is being reversed by the U.S. Supreme Court—changed or reversed because the lower court's decision was incorrect.

These figures illustrate the instances in which a judge, or in this case, a circuit is acting incorrectly. Reversal rates are a warning system of judicial activism and judicial error.

What do the statistics say? Do they lend validity to the New York Times charge I just cited? As a matter of fact, a fair reading of the reversal figures for this circuit does reveal that year after year, the Ninth Circuit leads the Nation in the number of times it is reversed in total numbers. It is the highest in percentage.

By way of illustration, allow me to present the reversal figures for the last three terms for which I have the data. In the 1996–1997 term, 28 cases were reviewed; that is, the Supreme Court agreed to hear 28 cases that arose out of the Ninth Circuit. Many times the Supreme Court does not hear a case unless it is important for them to hear it. They hear a case because a circuit rendered an opinion that they believe is plainly wrong. They hear a case if a circuit has rendered an opinion that is contrary to the other 11 circuit courts of appeals. They think there ought to be a uniform answer. So the Supreme Court renders the answer and, once it does, every circuit is bound by that answer. But in terms of the cases that are being heard by the Eleventh Circuit, hundreds, thousands of cases go through that on an annual basis. And most of those, even if wrong, will never be reviewed by the Supreme Court. The Supreme Court cannot and will not review every wrong case in America. It picks those that are most important, that will likely perpetuate an error, and tries to correct it and create a uniform system of law in the country.

Again, there were 27 out of 28 cases in 1996. That, in my view, is a stunning figure. It is a figure unmatched at any time by any circuit anywhere. In the 1997–98 term, the court reviewed 17 opinions and reversed 13 of those in the Ninth Circuit. In 1998–99, they reviewed 18 opinions and reversed 14. And this year, they have only heard, to date, six opinions from the Ninth Circuit, and they reversed all six of them.

This is from an article that appeared in the University of Oregon Law Review in 1998. The title of the article was ''Reversed, Vacated and Split: The Supreme Court, the Ninth Circuit, and the Congress.'' The author, realizing this is an important, newsworthy item, wrote a law review on it and said:

> Another interesting phenomenon is that the Supreme Court unanimously agreed—across the political spectrum—that the Ninth Circuit was wrong seventeen times during the [1996–97] term. This is a fairly remarkable record, considering that the rest of the Circuits combined logged in with only twenty unanimous votes, seven of which were affirmances.

Only 13 unanimous reversals throughout the whole United States, 17 in the Ninth Circuit. This circuit is out of step, in my view. In other words, over the 3-year span from 1996 through 1999, the Ninth Circuit has reversed 54 of 63 cases examined by the U.S. Supreme Court. That means that of the cases the Supreme Court has reviewed, the Ninth Circuit has been wrong a staggering 86 percent of the time. No other circuit in my analysis approaches these kind of numbers.

If this number were not bad enough on its own, it becomes truly appalling when it is compared to the number of reversals in the other circuits. Over the same 3-year period in which the Ninth Circuit was reversed 54 times, the next highest total number of reversals in any circuit was 14 out of 24 cases reviewed occurring in the Eighth Circuit and 14 reversals out of 22 cases in the Fifth Circuit.

In fact, the Ninth Circuit is so substantially wrong so much of the time that it even leads in the number of instances in which the U.S. Supreme Court is unanimous. Unfortunately, the Supreme Court has a limited docket and gets the opportunity to only review a relative handful of cases which any of the circuits or the Ninth Circuit adjudicates. So while the reversal rates are very revealing on their own, they fail in one troubling regard. They are unable to accurately quantify the number of activist or just plain wrong decisions that get through and become established law in the circuit because they cannot be reviewed by the Supreme Court. This is a sobering thought, and it is why we need to insist that we will only confirm judges to the Ninth Circuit who will move that court into the mainstream of American legal thought and not confirm judges who will continue the Ninth Circuit's leftward drift. That is the plain duty and responsibility of all of us in this body.

Many of these are just not trivial errors. If it is heard by the U.S. Supreme Court, it is a significant error. These reversal figures are not being inflated by mere inadvertence. Instead, they are the products of a seeming desire by the circuit to make law when the opportunity arises. In fact, I will describe one of the cases the Supreme Court has reversed in which the Ninth Circuit, without restraints, twisted the Constitution to further what appears to me to be their political goals.

In the case of Washington v. Glucksburg, the Ninth Circuit struck down the State of Washington's ban on assisted suicide by reading a constitutionally protected ''right to die'' into the 14th amendment. The 14th Amendment doesn't say anything about a right to die. I revere the text of the Constitution, and I assure my colleagues that there is nothing in that amendment that says anything about a right to die. Just look it up.

Despite the clear language of the 14th amendment, the Ninth Circuit judges chose to read into it the social policy outcome the circuit desired, overturning the will of the people of Washington who had voted for this law. That is what we are talking about. We have elected representatives in the State of Washington, elected by the democratic process, a free vote, held accountable. If they vote wrongly, they can be voted out of office. But what about Federal judges who are appointed. The only review they ever get is in this Senate. If we fail—and we do too often—they just go right on the bench and serve for life. No matter how wrong their opinions are, they get to stay in there. Who ought to set policy in America if we have a republic? I believe this a responsibility of the elected branch, not the lifetime-appointed branch.

The reason these issues are important is that it goes to the question of fundamental rights of the people to set the standards in America. The Ninth Circuit threw out the law that was passed by the legislature because the Ninth Circuit judges chose to read into it the social policy they desired even though it meant overturning the will of the people. This is what we classically call judicial activism. In an ironic twist, the Ninth Circuit employed their apparent belief in a living Constitution, which is what liberal people say the Constitution is, a living document. It is a piece of paper; it is not living. It is a contract with the American people entered into by our ancestors. The Ninth Circuit evidently said it is a living document, and, ironically, they read into this living document a right to die.

Upon review, the U.S. Supreme Court corrected the Ninth Circuit and restored the validity of Washington State's ban on assisted suicide. In blunt language, the U.S. Supreme Court reminded the Ninth Circuit that:

> * * * in almost every State—indeed, in almost every Western democracy—it is a crime to assist suicide. The States' assisted suicide bans are not innovations. Rather they are longstanding expressions of the States' commitment to protection and preservation of human life. * * *

I submit to you, the Supreme Court was directing that language to them directly. The judges on that circuit knew that was a rebuke, in my opinion. In fact, the Supreme Court further used the Glucksburg case to illustrate just how far out of the mainstream the Ninth Circuit is. The Supreme Court wrote further:

> Here * * * we are confronted with a consistent and almost universal tradition that

has long rejected the asserted right, and continues to explicitly reject it today, even for terminally ill, mentally competent adults. To hold for the respondents [the way the Ninth Circuit did] we would have to reverse centuries of legal doctrine and practice, and strike down the considered policy choice of almost every state.

But these unelected judges, with lifetime appointments, in no way accountable to the American people, just blithely go in there and wipe out the right, the statute of the State of Washington, and claim that the 14th amendment to the Constitution of the United States directed them to do so. And that is bogus because there is nothing in the 14th amendment that says anything of the kind. They got busted by the U.S. Supreme Court for it. That is just one of the cases. This is a recent one, and that is the reason I quoted it.

Glucksburg does not stand by itself on this dishonorable list of activist Ninth Circuit opinions that have been struck down, of course, but it is a perfect illustration of judicial arrogance that seems to permeate many judges, particularly in this circuit, and it helps frame the point that many of us who care about maintaining the rule of law in this country constantly make. We have a responsibility as Senators to ensure that the judicial branch is composed of individuals who will faithfully interpret the Constitution and the laws of this country. If we have doubts about a nominee's ability to do that, then we have a responsibility, a constitutional duty, if you will, under our advise and consent power to reject the nominee.

The President has the power to nominate, but we are given the power to advise and consent, which means in effect, in the words of the Constitution, we have a right to reject a nominee if we do not consent.

While statistics and written opinions are useful in looking at this troubled circuit, they do not get to the heart of the matter in that they don't answer the fundamental question as to why this circuit behaves in such an aberrational manner. I have looked at these issues and what legal analysts have said, and I want to share findings with you. Essentially, my findings strongly support an argument that one of the core problems with the Ninth Circuit is its composition of judges.

The Oregon State Bar Bulletin, in 1997, identified the current composition of judges on the Ninth Circuit as a primary cause of the circuit's extraordinarily high reversal rate. In fact, the author found:

There is probably an element of truth to the claim that the Ninth Circuit has a relatively higher proportion of liberal judges than other circuits. . . .

Furthermore, the analysis concluded:

The effect of the Carter appointments is that, relative to other circuits, there is a greater likelihood that a Ninth Circuit panel will be comprised mostly of liberals. This may result in decisions in some substantive areas that are out of step with the current thinking of the Supreme Court and other circuits.

In other words, when you have a substantial number on there, and a panel is randomly selected of three judges to hear a case, that is the way they do it. Three of the 20-some other judges will be selected to be on the panel. All three of them could be activist selectees. So the opinion may not even really speak for the Ninth Circuit. That points out again how important it is that we have a balance on the circuit to avoid panels routinely coming up that are out of step with mainstream legal thinking of the Supreme Court and other circuits throughout the United States.

One of the big reasons for this is, there was a major expansion of the size of the Ninth Circuit during President Carter's administration. It allowed him to make a number of appointments—an incredibly large number of appointments—and now we see that President Clinton has similarly successfully appointed a large number. Of the 23 judges that are active on the circuit, Democratic Presidents have appointed 15 of them. In fact, President Clinton has already appointed 10 and confirmed them to this circuit, and he has 5 additional nominees, including Paez and Berzon, awaiting Senate action, giving him the opportunity to have personally, himself, appointed 15 of the 28 judges.

So it is easy to see why activists and liberals are interested and chomping at the bit to push these nominations through, so it will solidify the stranglehold that Democrats and liberal activists have on this court. In fact, this is the impetus that drives me to believe we need to and are justified in reviewing more carefully nominees to this circuit. It is all right for there to be Democrats and for people to be liberal; every judicial nominee who has come up here since the Clinton Administration took office has been a Democrat and liberal. But the question for these nominees is: Will they remain disciplined and honor the law? Do they have a history and a tendency to impose their will under the guise of interpreting law? This is the fundamental question we have to answer.

I voted against Raymond Fisher to the circuit last year as I believed he was an activist nominee who would perpetuate this circuit's leftward drift, and I was joined by 28 colleagues in opposition to that nomination. I was able to support the nomination of Ronald Gould to the circuit after reviewing his record and hearing him in the Judiciary Committee. I believed him to be someone who was likely to serve as a moderating force to temper the activism of this circuit, and I believed his nomination was proof that my efforts, which I communicated to the White House, to begin sending moderate nominees forward was beginning to pay off. Regrettably, however, neither Judge Paez nor Mrs. Berzon meets that standard. I do not believe they will restore balance. As a matter of fact, I believe their nominations represent a further move to the left.

Let's talk about Judge Paez. I don't have anything against him personally. He is a fine man, and he has a fine family. But it should be noted that both of these nominees, Berzon and Paez, were controversial even in the Judiciary Committee. Both came out of the committee with only a 10–8 vote—pretty unusual—which is the highest level of opposition any judicial nomination faced in the committee. This vote reflected serious concerns committee members have with regard to the records these two nominees have compiled over their careers. In my opinion, the record of each indicates that confirming them to this circuit would be like adding fuel to the fire.

I want to begin this discussion by focusing first on Judge Paez. First, he is, in fact, a self-proclaimed activist. This is remarkable. If there is one thing the Ninth Circuit does not need, it is a nominee who will maintain activist traditions. However, his own words show that he is just that. First, he called himself a person with ''liberal political views.'' While this is hardly incriminating in itself, these statements do indicate some of the tendencies he might have. In his own words, he described his judicial philosophy as including an appreciation for—I will read this to you and ask you to think about these words carefully. This is from the Los Angeles daily Journal:

The need of the courts to act when they must, when the issue has been generated as a result of the failure of the political process to resolve a certain political question. . . .

So as a failure, in his view, of the political process to resolve a certain political question, the courts can act, and they must act.

He goes on to say:

because in such an instance [Paez explained] ''there's no choice but for the courts to resolve the question that perhaps ideally and preferably should be resolved through the legislative process.''

Now, that is a statement by an already sitting judge that a judge has the power, when a legislative body fails to act, to do what that judge believes he must to solve the policy problem before him. I submit to you, that is the very definition of what activism by the judiciary is.

Think about this. When a legislative body fails to act, it has made a decision just as certainly as if it had decided to act. A decision not to act is a decision. It is a decision made by elected representatives, and if the people who send them to Washington or to the State legislature don't agree, they can remove them from office. But can you remove a Federal judge who declares he has a right to act when the legislature does not? Can you remove that person? No, you cannot, under the Constitution, because he has a lifetime appointment with no ability to be reviewed whatsoever. That is one of the most thunderous powers ever given by our Founding Fathers, I have to say. In many ways, it works well. Judges are free, for the most part—Federal judges

who I have practiced before for 15 years during the majority of my career as a professional lawyer in Federal court, almost entirely. I respect Federal judges. But when you have a Federal judge who has an activist mentality, who believes that he or she has the power to solve political questions when the legislature does not act, you have the makings of a rogue jurist, and you cannot contain that person. It costs litigants thousands and thousands of dollars to appeal their rulings. They cannot always get to the Supreme Court. The Supreme Court is too busy. Even if they have a bad ruling, they can't always get there to get it reversed. Sometimes they are just stuck by these rulings no matter what they do.

That is wrong. That is a philosophy of adjudication that is false. It is precisely what Americans are concerned about. It should not be affirmed by this body in approving this judge to a circuit that is already out of control, in my opinion.

The record indicates that the judge is hostile to law enforcement. We have to be careful about that. I prosecuted many years, as I said. A judge can rule against a prosecutor, and he cannot appeal. If he rules against a defendant, the defendant can appeal.

Mrs. BOXER. Mr. President, will the Senator yield for a question on this very point?

Mr. SESSIONS. Very well.

Mrs. BOXER. I thank my friend.

Is the Senator aware that Judge Paez has been endorsed by the National Association of Police Organizations, Executive Director Robert Skully, the Los Angeles Police Protective League Board president, the Los Angeles County Police Chief Association, the Los Angeles Association of Deputy Sheriffs, the commissioner of the California Department of Highway Patrol, and a whole host of Republicans and Democrats alike in law enforcement and on the bench?

I am surprised that my friend would make the statement that the judge is hostile to law enforcement when, in fact, he has tremendous support from law enforcement.

Mr. SESSIONS. Mr. President, I was going to mention a few reasons for that.

I believe his record would indicate that he is not going to provide the kind of balanced adjudication that would be required in law enforcement matters.

For example, shortly after the judge was nominated, Los Angeles newspapers—I know the Senator supported his nomination, or was responsible perhaps for it—were filled with quotes made by his supporters. One supporter happened to be Ramona Ripston, the executive director of the American Civil Liberties Union of Southern California. Now, I would like to state for the RECORD that I doubt that the ACLU shares my concerns about the Ninth Circuit's activist bent. In any event, Ms. Ripston welcomed Paez' nomination to the Federal Bench describing Judge Paez as: ''A welcome break after all the pro-law enforcement people we've seen appointed to the state and federal courts''.

From the ACLU's position, Ms. Ripston's support for Judge Paez appears to be well-justified, as Judge Paez soon began to issue anti-law enforcement opinions. One case in point involved the case of Los Angeles Alliance for Survival v. City of Los Angeles, in which Judge Paez granted an injunction sought by the ACLU which prohibited the city's ordinance prohibiting aggressive panhandling from taking effect.

The city had an ordinance against aggressive panhandling passed by the people of Los Angeles. And a judge just up and threw it out, and said it was unconstitutional; no matter what you pass, I am the judge; no good, out.

The ordinance, incidentally, was passed following the stabbing death of an individual who would not give a panhandler 25 cents. In his decision, Judge Paez viewed the Los Angeles ordinance as ''facially invalid'' under the ''Liberty of Speech Clause''—I don't know exactly what that is. But the ''Liberty of Speech Clause'' is found in the California's State Constitution.

Listen to how one legal commentator described the judge's ruling:

> Judge Paez struck down the law as an unconstitutional restriction on ''speech'' and issued a preliminary injunction against its enforcement. He found that the ordinance constituted ''content based discrimination'' because it applied only to people soliciting money. Just hope Judge Paez doesn't get his hands on any laws against extortion, bribery or robbery. ''Stick 'em up'' could become Constitutionally protected speech in certain parts of California . . . The identical law has been upheld in other parts of California by other federal judges, but thanks to Judge Paez, the ordinance lawfully enacted over two years ago has yet to be enforced in Los Angeles.

The PRESIDING OFFICER. All time for the opponents of the nomination has expired. The time between now and 5 o'clock belongs to the proponents.

Mr. SESSIONS. I would ask unanimous for one minute.

Mrs. BOXER. Reserving the right to object, and, of course, I shall not object, we would like one minute on our side as well. Senator KENNEDY and I will divide the time.

Thank you.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SESSIONS. Mr. President, I point out in that case the Ninth Circuit asked the California Supreme Court for an advisory opinion. The California Supreme Court reversed Judge Paez' opinion, finding it to be erroneous, and condemned Judge Paez's ruling in exceptional strident terms stating:

> As noted above, the regulation of solicitation long has been recognized as being within the government's police power. . . . If, as plaintiffs suggest, lawmakers cannot distinguish properly between solicitation for immediate exchange of money and other kinds of speech, then it may be impossible to tailor legislation in this area in a manner that avoids rendering that legislation impermissibly overinclusive. In our view, a court [Judge Paez] should avoid a constitutional interpretation that so severely would constrain the legitimate exercise of government authority in an area in which such regulation long has been acknowledged as appropriate.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, will you let me know when I have used seven minutes? The rest of the time will be yielded to Senator KENNEDY.

Mr. President, I am very pleased to be here.

Finally, we are debating the nominations of Richard Paez and Marsha Berzon, two eminently qualified people for the Ninth Circuit. We have heard a lot of complaining about the Ninth Circuit. I think it is important to note that many of the opinions cited on the other side of the aisle as being overturned were written by Reagan appointees.

This isn't about politics. This is about allowing a court to function for the justices, whether they are appointed by Ronald Reagan, or George Bush, or Bill Clinton, to give it their best judgment. We have nominated two people who would add a tremendous amount to the Ninth Circuit.

Instead of the negativity we have heard today, I want to put a human face on these two nominees who have waited so long for this day.

The first one I want to talk about is Marsha Berzon. I have a photo. Here is Marsha with her husband and children.

There is a reason I have done this. I think it is important when we hear about the candidates; they have kind of become statistics. People talk about how many years it has taken.

Here is Marsha. Here is her family. I want to talk a little bit about this eminently qualified woman. She is an outstanding woman. She has displayed in her career a strong sense of integrity, dedication, and compassion, the very characteristics we should expect any Federal judge to have.

She has built a distinguished career as an attorney, and beyond that she has shown through her activities in the community a real caring and concern. She is an impassioned teacher and a published author. She is a wife and mom. She is an extraordinary person who deserves confirmation.

I am not going to go through all of her incredible accolades through college and law school because I have a feeling we will be talking about these nominees at length at another time.

I will talk a little bit about her experience with Federal court issues. She specializes in U.S. Supreme Court representation. She has argued four cases before the Supreme Court and has submitted over 100 briefs to the Court on behalf of a broad spectrum of cases. In the past 5 years, she has acted as chief counsel on five Supreme Court cases, as well as cocounsel before the Court on numerous other occasions.

This is the kind of support that Marsha Berzon has. Let me read what Senator HATCH wrote in her favor.

I am impressed by Miss Berzon's intellect, accomplishments and the respect she has earned from labor lawyers representing both management and the unions.

I do appreciate Senator HATCH's kind words and his decisive action in behalf of Marsha Berzon.

Former Republican Senator James McClure of Idaho, in support of Marsha, stated:

What becomes clear is that Miss Berzon's intellect, experience, and unquestioned integrity have led to strong and bipartisan support for her appointment.

Mr. President, the gentleman who ran against me the first time I ran for Congress in 1982, Dennis McQuaid, a Republican attorney, said:

Unlike some advocates, Ms. Berzon enjoys a representation devoid of any remotely partisan agenda.

He goes on to say:

Frankly, her presence will enhance the reputation of the ninth circuit.

We can go on and on with quotes from her opposing counsel. She has support from the Los Angeles County Professional Peace Officers Association. They wrote that she is analytical, fair and thorough.

When it comes to Marsha Berzon, I hope we will have a tremendous vote for her. She deserves that vote. She has waited 2 years. I hope she will get it.

Equally important and equally wonderful in terms of a nomination that stands on its own merit is Judge Richard Paez. Look at this man. He has been on the bench for many years. Behind him are photographs of his children. He has been married for many years, another wonderful family man and a wonderful jurist.

This Senate has already confirmed Richard Paez to a seat on the district court, and he has shown himself to be an incredible jurist. I don't have time to go through all the accolades. He was the first Mexican American on that particular bench in Los Angeles. He has won the respect of law enforcement, attorneys practicing in his courtrooms, and local scholars.

When Members poke holes in Richard's record, we will have time in the next 2 days to respond to every single example because there has been tremendous misstatement.

In the remaining short time I have, I will quote lawyers who have appeared before him. These are anonymous quotations that appeared in a review.

He is a wonderful judge. He is outstanding. He rates a 12 or 13 on a scale of 10.

Another:

He is highly competent, one of the smartest people on the bench; thoughtful and reflective.

Another:

I don't know anyone here who hasn't been exceedingly impressed by him. He does a great job.

Another:

He is very well represented. He knows more about a case than the lawyers will.

And another:

He has a great temperament. He never says or does anything that is off. He has a very good demeanor. He is professional. He doesn't have any quirks. He is very fair. He has a sense of justice.

It goes on.

Mr. President, we have some terrific editorials in behalf of Judge Paez that at another time I will have printed in the RECORD.

In closing this particular brief presentation, I thank my colleagues for listening. We have two incredible nominees deserving a yes vote. I hope we can all celebrate when this is behind us and as a Senate confirm these two excellent people.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. I yield myself 6 minutes.

I ask my friend and colleague from California, there was reference made on the Senate floor a few moments ago about a Los Angeles Daily Journal article that reviewed a variety of Judge Paez's rulings, which I think is fair to point out.

I wonder whether the Senator could confirm that in that Daily Journal review, seven cases were selected by the Los Angeles Daily Journal that would most effectively test the ability of Judge Paez to serve on the Ninth Circuit. The Journal asked 15 experts, including a fair balance of liberal and conservative law professors and attorneys, to evaluate Judge Paez's legal rulings. The Journal concluded:

The portrait that emerged is of a thoughtful, unbiased, even-tempered judge, propelled into the political spotlight, only to be trapped into a seemingly never-ending and bitterly polarized nomination process. . . . Of the 15 legal experts who examined Paez's ruling for the Daily Journal, 13 praised them, using descriptions such as ''clear, concise, and straightforward,'' ''clearly written and carefully reasoned,'' and ''scholarly and thorough.''

This is the import of the Los Angeles Daily Journal, as I understand. One could draw, perhaps, a different conclusion from the earlier references.

Would the Senator agree my characterization was a more accurate characterization than referenced earlier?

Mrs. BOXER. The Senator from Massachusetts is correct. I quote from the headlines in this paper: ''Paez's Opinions Praised as Well-Reasoned.'' Another says, ''Experts Say His Rulings Will Stand the Test of Time.''

My friend is right; this is a positive story. I think if every Senator read this story, there would be no question he should be confirmed.

Mr. KENNEDY. It was a reference to an objective evaluation. In that evaluation, the reviewers came to the same conclusion that the Bar Association arrived at, which was that the cause of justice in the Ninth Circuit would be well served and the people highly served with his confirmation.

I join with my friend and colleague from California, as well as others, in urging the favorable consideration of Marsha Berzon and Richard Paez for the Ninth Circuit Court of Appeals. They are exceptional nominees who have waited far too long for action.

The delay in reviewing the nominations is a case study in the failure of the Senate to deal effectively with judicial nominations. That failure has left the courts with 29 judicial emergencies, and is the result of the Senate's adbication of its constitutional responsibility to act on judicial nominees.

Marsha Berzon, as the Senator has pointed out, is an outstanding attorney. She is a graduate of Harvard/Radcliffe College and the University of California Law School. She clerked for the Ninth Circuit Court of Appeals and the U.S. Supreme Court—rare commendations for a young lawyer.

Nationally known as an appellate litigator in a highly regarded San Francisco law firm, she has written more than 100 briefs and petitions. She received strong recommendations from a bipartisan list of supporters, from major law enforcement organizations, and from those who have opposed her in court.

As our chairman, Senator HATCH, commented last June, Marsha Berzon ''is one of the best lawyers I've ever seen.''

It reflects poorly on the Senate that such a gifted lawyer was denied a vote on the Senate for so long.

The Senate's shabby and insulting treatment of Richard Paez is worse. He has almost two decades of judicial experience and received the highest rating from the American Bar Association. He was first nominated more than 4 years ago to serve in the Ninth Circuit. Judge Paez graduated from Brigham Young University and Boalt Hall Law School. Early in his career, he represented low-income clients. He later served in the Los Angeles Municipal Court, and the Los Angeles Superior Court, the California Court of Appeals, and 5 years ago he was nominated and appointed to the U.S. District Court for the Central District of California.

Clearly, Judge Paez has the experience and the ability to serve with great distinction on the Ninth Circuit. He has the support of former California state judge and Republican Congressman JIM ROGAN, as well as the Sheriff, the District Attorney, and the Police Officers Association of Los Angeles.

We rarely have two nominees who are as well qualified with the breadth of support these nominees have. We are fortunate to have these two nominees who are willing to serve in the judiciary. What they have been put through in terms of the failure of this body to act, I think, is indeed unfortunate.

Now we do have that opportunity. I join with all of my colleagues to urge the approval of both of these nominees. Since his nomination in January 1996, 4 years ago, Judge Paez has been approved by the Senate Judiciary Committee twice. Surely he deserves an affirmative vote by the full Senate. It is

time for the Senate to stop abusing its power.

Over 200 years ago, the Framers of the Constitution created a system of checks and balances to ensure that excessive power is not concentrated in any branch of government. The President was given the authority to nominate federal judges with the advise and consent the Senate. The clear intent was for the Senate to work with the President, not against him, in this process.

In recent years, however, by refusing to take timely action on so many of the President's nominees, the Senate has abdicated its responsibility.

Both of these nominees are uniquely well qualified. Both have demonstrated outstanding qualities and abilities to serve in the courts of this country and serve the cause of justice in this nation. I hope both of them will be speedily approved by the Senate.

At long last the Senate is considering the nominations of Marsha Berzon and Richard Paez for the Ninth Circuit Court of Appeals. They are both exceptional nominees who have waited far too long for action by the Senate. Indeed, the delay in reviewing these nominations is a case study in the failure of the Senate to deal effectively with judicial nominations. That failure has left the courts with 29 judicial emergencies, and is the result of the Senate's abdication of its constitutional responsibility to act on judicial nominees.

Marsha Berzon is an outstanding attorney with an impressive record. She is a graduate of Harvard/Radcliffe College and the Boalt Hall Law School at the University of California, Berkeley. She clerked for both the Ninth Circuit Court of Appeals, and the U.S. Supreme Court.

She is currently a nationally known appellate litigator with a highly regarded San Francisco law firm. She has written more than 100 briefs and petitions in the Supreme Court, and has argued four cases there. She has received strong recommendations from a bipartisan list of supporters, from major law enforcement organizations, and from those who have opposed her in court. She has argued in many U.S. Circuit Courts of Appeals, U.S. District Courts, and at all levels of the California state court system. She has represented numerous private clients, as well as the governments of the States of California and Hawaii, and the City of Oakland, California. Senator HATCH commented last June that Marsha Berzon, ''is one of the best lawyers I've ever seen.'' She was first nominated by President Clinton on January 27, 1998—over two years ago—and it reflects poorly on the Senate that such a gifted lawyer was denied a vote by the full Senate for so long.

The Senate's shabby and insulting treatment of Judge Richard Paez is even worse. He has almost two decades of judicial experience. He received the highest rating from the American Bar Association, and was first nominated more than four years ago—more than four years ago—to serve on the Ninth Circuit.

Judge Paez is a graduate of Brigham Young University and Boalt Hall Law School. Early in his career, he represented low income clients. He later served on the Los Angeles Municipal Court, the Los Angeles Superior Court, and the California Court of Appeals. Five years ago, Judge Paez was appointed to the United States District Court for the Central District of California.

Clearly, Judge Paez has the experience and the ability to serve with great distinction on the Ninth Circuit. He has the support of former California state judge and Republican Congressman JIM ROGAN, as well as the Sheriff, the District Attorney, and the Police Chiefs' Association of Los Angeles County.

Since 1991, Judge Paez has been appointed twice by the chief justice of the California Supreme Court to serve as a member of the California Judicial Council, the policy-making body for the California judiciary.

Last month, the Los Angeles Daily Journal reviewed a variety of Judge Paez's rulings, and selected seven cases that would most effectively test his ability to serve on the Ninth Circuit. The Journal then asked fifteen experts, including a fair balance of conservative and liberal law professors and attorneys—to evaluate Judge Paez's legal rulings. As the Journal concluded,

> The portrait that emerged is of a thoughtful, unbiased and even-tempered judge, propelled into the political spotlight, only to be trapped in a seemingly never-ending and bitterly polarized nomination process. . . . Of the 15 legal experts who examined Paez's rulings for the Daily Journal, 13 praised them, using descriptions such as ''clear, concise and straightforward,'' ''clearly written and carefully reasoned,'' and ''scholarly and thorough.''

Even the ruling subjected to the greatest scrutiny was complimented by other prominent legal experts.

In its evaluation of Judge Paez, The Almanac of the Federal Judiciary notes that attorneys have praised him highly in the following terms. They say he is one of the smartest judges on the bench; he rates a 12 or 13 on a scale of one to 10; he is highly competent; he's very professional; and he's always fair. Despite what some contend, he is not anti-business, he is not anti-religion. He is a well-respected and right-minded judge.

Since his nomination in January 1996—over four years ago—Judge Paez has been approved by the Senate Judiciary Committee twice. Surely, he deserves an affirmative vote by the full Senate.

It is time for the Senate to stop abusing its power over nominations. Over 200 years ago, the Framers of the Constitution created a system of checks and balances to ensure that excessive power was not concentrated in any branch of government. The President was given the authority to nominate federal judges with the advice and consent of the Senate.

The clear intent was for the Senate to work with the President—not against him—in this process. In recent years, however, by refusing to take timely action on so many of the President's nominees, the Senate has abdicated its responsibility. By doing so, the Senate has seriously undermined the judicial branch of our government.

This kind of partisan stonewalling is irresponsible and unacceptable. It's hurting the courts, and it's hurting the country. Chief Justice William Rehnquist felt so strongly about the long delays in acting on nominees that he sharply criticized the Senate in his 1997 Year-End Report,

> Judicial vacancies can contribute to a backlog of cases, undue delays in civil cases, and stopgap measures to shift judicial personnel where they are most needed. Vacancies cannot remain at such high levels indefinitely without eroding the quality of justice that traditionally has been associated with the federal judiciary . . . Whatever the size of the federal judiciary, the president should nominate candidates with reasonable promptness, and the Senate should act within a reasonable time to confirm or reject them . . . The Senate is, of course, very much a part of the appointment process for any Article III judge. One nominated by the President is not ''appointed'' until confirmed by the Senate. The Senate is surely under no obligation to confirm any particular nominee, but after the necessary time for inquiry it should vote him up or vote him down.

Little has changed since Chief Justice Rehnquist made that statement in 1997. For decades, the average time from nomination to a final vote on a judicial nominee was 91 days. But in 1998, the delay more than doubled—to 232 days. Of the 65 judges confirmed in 1998, only 12 were confirmed in 91 days or fewer.

The trend continued in 1999. As of February 24, 2000, the average time between nomination and confirmation in the current Congress is 152 days.

In addition, it is women and minorities who have suffered the most during the impasse over judicial nominations. According to one study, it took an average of 60 days longer for non-whites than whites and 65 days longer for women than men to be considered by the Senate in the last Congress. Minorities have failed to win confirmation at a 35% higher rate than white candidates. In 1999, six out of the ten nominees who waited the longest were women and minorities.

While the Senate plays political games with the judiciary, the backlog of cases continues to pile up in the courts and undermines our judicial system. There are currently 76 vacant federal judgeships. Several more are likely to become vacant in the coming months, as more and more judges retire from the federal bench. Of the current vacancies, 29 have been classified as ''judicial emergencies'' by the Judicial Conference of the United States. That means that they have been vacant for 18 months or longer. Thirty-

four nominees are currently waiting for Senate action. Three nominees are pending on the Senate floor, 3 are waiting for a vote in Committee, and all the others are waiting for a Judiciary Committee hearing. Only four judges have been confirmed by the Senate so far this year.

The effect of Senate inaction is clear. At the circuit court level in Texas, the court's workload has increased 65% over the past nine years, with no increase in judges and three vacancies. In California in 1997, 600 hearings had to be canceled because of the large number of vacancies. This slowdown in judicial confirmations is jeopardizing the integrity and viability of our judicial system.

The Senate has a constitutional duty to work with the President to confirm judicial nominees—particularly at a time when Congress is shifting more responsibility to the courts. Members should not use the excuse of an election year to stall this process. In 1988 the Democratic-controlled Congress confirmed 42 judicial nominees, and in 1992, they confirmed 66.

Opponents of Berzon and Paez argue that the high reversal rates of the 9th Circuit by the Supreme Court are proof that the Ninth Circuit is too liberal. This argument is false and a poor excuse for Republican stonewalling. In fact, from 1998 to 1999, five circuits had reversal rates higher than or equal to the Ninth Circuit. The Ninth Circuit reversal rate was lower than the combined reversal rate of the state appellate courts. And from 1996 to 1997—the year that critics point to—the Ninth Circuit had lower reversal rates than the Second, Fifth, Seventh, D.C., and Federal Circuits. As Chief Judge of the Ninth Circuit, Procter Hug, Jr., has written,

> . . . the reversal rate has little to do with the effectiveness of any circuit court of appeals. For example, the 13, 14, or 20 cases reversed in a term were out of 4,500 cases decided on the merits in the Ninth Circuit. The reversal rate in any circuit should also have little to do with the nomination or confirmation of judges to fill vacancies on a court.

The Senate has a constitutional obligation to fill the existing judicial vacancies. After such long delays, a vote in favor of Marsha Berzon and Richard Paez would be a significant step in the right direction. I urge my colleagues to support both of these highly qualified nominees.

Mr. DOMENICI. Mr. President, I rise today to announce that I intend to vote to confirm Judge Richard Paez to the Ninth Circuit. Judge Paez has waited four years for this vote, and I believe that the time has come for the Senate to perform its constitutional duty to advise and consent on this nomination.

I have reviewed Judge Paez's record, including some of the issues which have proven controversial over the last four years, and am satisfied that he has adequately responded to the concerns raised by some in this body about his fitness to serve on the Ninth Circuit.

Particularly, Judge Paez has expressed his regret about commenting publicly about two California ballot initiatives while he served on the federal bench. Affirmative action and welfare benefits for illegal immigrants are two issues which inspire passion in many people on both sides of the political aisle. While I understand, but do not necessarily agree with Judge Paez's comments and concerns about these two initiatives, I think he also knows that he made a mistake. That mistake should not prevent his elevation to the appellate court.

I also have reviewed several of Judge Paez's more controversial opinions. While I cannot say that I agree with some of his legal conclusions, I do believe that he has a well-deserved, bipartisan reputation for fairness, and for being a thoughtful, scholarly jurist. His fifteen years as a municipal and federal district court judge will serve him well on the Ninth Circuit.

Mr. President, Judge Paez has earned bi-partisan support from a variety of sources. Not only is he universally supported by the Hispanic community, but he also has received the endorsement of law enforcement officials, district attorneys and the business trial bar in California. I believe we have taken enough time to study Judge Paez's record on and off the bench. Despite the fact that Judge Paez and I come from opposite ideological positions, I am ready to join a majority of this body, Democrats and Republicans, in support of his confirmation. Thank you and I yield the floor.

Mr. SPECTER. Mr. President, this afternoon the Senate takes up the nominations of Ms. Marsha Berzon and also Judge Richard A. Paez. These nominations have been pending in the Judiciary Committee for a considerable period of time. I supported both of those nominees in moving them to the floor from the Judiciary Committee.

Ms. Berzon has an outstanding record academically and as a practicing lawyer. She received her bachelor's degree from Harvard and Radcliffe colleges in 1966. She received her J.D. degree, doctorate of law, from the University of California, Boalt Hall School of Law in 1973. Thereafter, she clerked for Ninth Circuit Judge James R. Browning and then for Supreme Court Justice William J. Brennan.

She has been in the practice of law since 1975 and most recently, from 1978 to the present time, with the firm of Altshuler, Berzon, Nussbaum, Berzon & Rubin, where she has had a very active litigation practice. She argued four cases before the Supreme Court of the United States, which is a large number of cases for a practicing lawyer to have before the Supreme Court.

That kind of appellate practice is a strong indicator of her preparation for work as an appellate court judge on the Ninth Circuit to which she has been nominated.

There have been objections raised to Ms. Berzon on ideological grounds. It is my view that this kind of a challenge ought not to be a basis for defeating a nomination to the Federal court.

She has opposed as a personal matter the death penalty, as many nominees do on a personal level, but has stated her willingness to follow the law in imposing the death penalty.

She has been supported by many police organizations, which I ordinarily would not mention except that the challenge has been made to her qualifications based upon her opposition to the death penalty.

I think it appropriate to note that she has been supported by a number of law enforcement organizations, including the National Association of Police Organizations, the California Correctional Peace Officers Association, the International Union of Police Associations, and the Los Angeles County Professional Police Officers Association.

I have attended the hearings on Ms. Berzon, which have been very detailed. I recall one day the hearing was interrupted. We came to the floor to vote and later continued the hearing in one of the Appropriations Committee rooms. On the basis of that hearing and her familiarity with the law and her extensive practice, especially her appellate practice, I believe she is qualified to be confirmed for the Ninth Circuit. Accordingly, I urge my colleagues to support her.

Judge Richard Paez is also on the list for confirmation. Judge Paez brings a distinguished record. He is a graduate of Brigham Young University where he received his Bachelor's degree in 1969; a graduate from Boalt Hall, University of California at Berkeley in 1972; worked for the California Rural Legal Assistance as a staff attorney from 1972 to 1974; took on work for the next 2 years for the Western Center on Law and Poverty as a staff attorney; and from 1976 to 1981 was with the Legal Aid Foundation.

Those are tough jobs, not high-paying jobs. I know from my work as district attorney of Philadelphia where I saw public defenders work—did a volunteer stint many years ago in the public defender's office—I know the pay in those positions and I know the nature of the work. It is a real contribution.

From 1981 to 1994, Richard Paez was a judge on the Los Angeles municipal court, and from July of 1994 until the present time, he has been a U.S. District Judge for the Central District of California.

A number of objections have been raised to Judge Paez. One, that he made a speech in 1995 where he criticized a couple of initiatives in California: Initiative 187, on benefits to illegal aliens; and a second, No. 209 on affirmative action.

I don't think a judge gives up his right to freedom of speech when he is on the bench. It could be said it would be a little more prudent not to speak on matters that might come before the court. But if the matter does come before the court, there are many other

judges who can undertake the litigation matter on recusal. Even if Judge Paez had not spoken up on the matters and had such strongly held views, that probably would have been an appropriate matter for recusal in any event. I don't think speaking up on those matters is a burden or inappropriate for his judicial duties. Again, it might be better not to do that, but it is not a disqualifier.

Objections have been raised on two matters where he refused to dismiss a case brought against Unocal involving charges of abuse of human rights in Bosnia—a pretty tough standard to get a case dismissed on a preliminary motion. There again, not a weighty matter which would warrant disqualification.

An issue was raised at him being a municipal court judge handling a case involving Operation Rescue where there was an issue of whether he stormed off the bench or simply called a recess for a cooling off period, and some issue as to how he treated people in the audience who were waving Bibles, an issue of whether he threatened to take the Bibles away.

Again, I think the aggregate of these three matters are not sufficient to rise to the level of disqualification.

There is one matter which concerns me and that was a plea bargain which Judge Paez handled on a case involving John Huang. I have reviewed that matter in some substantial detail on the notes of testimony, of the sentencing, and of the Government's brief filed on the downward departure and believe that the Government did not present all the evidence, all the materials which should have been presented at the John Huang sentencing. I have discussed the matter with Judge Paez by telephone.

There has been a pattern on plea bargains where the Department of Justice has, in my judgment, not done the vigorous, forceful work that a prosecutor ought to do in the plea bargain. One of those cases involves Dr. Peter Lee, where there were serious charges of espionage. I went to California and talked to the Chief Judge Hatter out there about that case and found there was insufficient information presented to Judge Hatter. I mention that because it is a parallel to the case involving John Huang with Judge Paez.

The Judiciary oversight subcommittee, which I chair, is looking into the Huang plea bargain, as we are looking into the Dr. Peter Lee plea bargain, as we shall look into other campaign finance matters, including the probation of Charlie Trie in the campaign finance case, and the probation of Johnny Chung in a campaign finance case. However, there were very serious matters which were not presented to Judge Paez. The essence of the complaint filed by the Department of Justice involved only $7,500 of illegal campaign contributions, and an obtuse, obscure reference in the Government's brief to a figure of $156,000 for the period covered by the conspiracy, which lasted from 1992 to 1994.

What the Government did not bring forward was information disclosed by the Governmental Affairs Committee that John Huang was involved in soliciting $1.6 million which was returned by the Democratic National Committee. In that was a $250,000 contribution from a John H. Lee, a South Korean businessman, which Huang collected, knowing that Lee was a foreign national, and also the Huang solicitation for arranging for Ted Sioeng, a foreign businessman, with connections I will not describe on the Senate floor, which should have been called to Judge Paez's attention.

After reviewing the records in the case, the notes of testimony at sentencing, and what was made available in the Government's memorandum, none of these matters were called to Judge Paez's attention.

I have made a request of Judge Paez, as I made a request of Chief Judge Hatter in the Dr. Peter Lee case, to examine the presentence report. That is customarily a confidential matter, but Judge Paez said on a showing of cause after notification of the parties, that might be made available to the Judiciary subcommittee on oversight.

I make these references to Judge Paez on this state of the record, and we are continuing to make the inquiries as to what the Government put on as to John Huang, but there is nothing on this record which suggests that Judge Paez knew of these other factors, which I think would have warranted a very different and a much more substantial sentence, just as I think had Chief Judge Hatter been informed about the details of Dr. Peter Lee, there would have been a different sentence in that espionage case.

These matters are now ripe for decision by the Senate. There has been some suggestion of a further investigation on this matter, but when Judge Paez's nomination has been pending since January of 1996, and all of the factors on the record demonstrate it was the Government's failure, the failure of the Department of Justice to bring these matters to the attention of Judge Paez and on the record, he has qualifications to be confirmed. I do intend, on this state of the record, to support his confirmation.

The PRESIDING OFFICER. All time has expired.

NOMINATION OF JULIO M. FUENTES, OF NEW JERSEY, TO BE UNITED STATES CIRCUIT JUDGE FOR THE THIRD CIRCUIT

The PRESIDING OFFICER. Under the previous order, the clerk will report the nomination.

The assistant legislative clerk proceeded to read the nomination of Julio M. Fuentes, of New Jersey, to be United States Circuit Judge for the Third Circuit.

Mr. LAUTENBERG. Mr. President, I want to start by thanking the Judiciary Committee—particularly Chairman HATCH and Ranking Member LEAHY—for moving the nomination of Judge Julio Fuentes through the committee process so efficiently.

Judge Fuentes clearly is the kind of candidate that we want on the federal bench. In many ways, his life demonstrates the promise of America—the idea that anyone committed to getting an education and working hard can build a distinguished career.

Judge Fuentes wasn't born to wealth or privilege. He was raised by a single parent—his mother who worked as a nurse. But he pursued his education diligently, earning a college degree while serving his country in the Army's Special Forces. Eventually, he earned not only a law degree but also two Masters degrees.

After completing law school, Judge Fuentes began building a successful legal practice, honing his skills as an associate with a Jersey City law firm. He later established his own firm and gained experience handling a wide range of criminal and civil matters.

In 1978, he was appointed a judge on the Newark Municipal Court, where he served until his appointment to the New Jersey Superior Court in 1987. As a Superior Court judge, he has presided over criminal cases and a wide range of civil disputes, including product liability actions, environmental suits, and property claims. He has also ruled on a number of federal and state constitutional issues.

In addition to his professional endeavors, Judge Fuentes has also volunteered his time to help members of the community. He has mentored many Hispanic youths and he has received several awards for his public service.

Judge Fuentes' hard work on and off the bench has earned the respect of his judicial colleagues, the lawyers who appear before him, and the people of New Jersey. The people who know him well describe him as ''bright,'' ''dedicated,'' and ''even-tempered.''

In short, I feel certain that Judge Fuentes' depth of experience, his legal knowledge, his compassion and his temperament would make him an exceptional federal judge.

Again, I thank Senators HATCH and LEAHY for their hard work on this nomination, and I urge all of my colleagues to vote to confirm Judge Fuentes.

Mr. SPECTER. Mr. President, I seek recognition today to express my support for the nomination of Julio M. Fuentes to be a judge on the Third Circuit Court of Appeals.

I recently had the opportunity to meet Judge Fuentes when he came before the Senate Judiciary Committee for his nomination hearing on February 22nd. At that time, I questioned the Judge on his experience and credentials for the bench and was persuaded that he will be able to meet the great challenge of serving on the Third Circuit.

Judge Fuentes has had a distinguished legal career. He earned his law