river that is closer to the capacity of the river, any additional rain from nature would create widespread flooding in the downstream communities.

The combination of a spring rise and a heavy rain during the 12-day period would increase greatly the chances for downstream flooding. The spring rise would come at a time of the year when downstream citizens are the most vulnerable to flooding. The Corps' plan provides less flood control and less navigability than the current plan, thus it should not be imposed.

I oppose the Corps' plan for rewriting the Missouri River Master Manual, and I call on the Corps to adopt a plan that better suits a balance among water uses. If the President decides, after we have passed the bill with this same provision in it that we have had in it for the last several years, to veto it, it is his prerogative. But what that tells the citizens of the lower Missouri basin is that the Clinton-Gore administration is willing to flood downstream midwestern communities. It is that simple. Section 103 provides the necessary protection for all citizens downstream from the Gavins Point Dam who live and work along the banks of the Missouri River.

In closing, each Senator is entitled to his or her opinion on any piece of legislation, but the Senator should understand that that opinion should be reflected in the legislative process with opportunities to strike. That opinion should not be expressed by keeping legislation reported by committees from coming to the floor. We simply want to debate section 103 and any motion with regard to this commonsense provision. We are willing to live by the will of the Senate in determining what should be the outcome. We believe the availability of this legislation should not be curtailed, especially since it includes identical language found in the last several years of this same energy and water appropriations. As a matter of fact, it is the will of the committee which has sent it to the floor.

With that in mind, I look forward to working to protect the interests of Missouri citizens, to protect them against flooding in the spring and to protect the output and available water resources for a flow which will support navigation in the fall.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

JUDICIAL NOMINEES

Mr. LEAHY. Mr. President, I am sorry I was not on the Senate floor to hear Chairman HATCH earlier this afternoon. I was attending an important confirmation hearing and chairing a meeting of the bipartisan Internet Caucus. I spoke to the issue of judicial nominations last Friday and say, again, with 60 current and longstanding vacancies within the federal judiciary, and seven more on the horizon, we cannot afford to stop or slow down the little progress we are making.

Our hearing today included three nominees moved forward to fill positions on the District Court of Arizona that have all been declared judicial emergencies. Each of the nominees was nominated last Friday. They are now having their hearing, they look forward to being voted out of committee on Thursday and approved by the Senate before the week is out—within one week of nomination. This demonstrates what we can do when we want to take action. All the talk about needing six months or more to process and review nominees is just that—talk. If all goes according to schedule, these nominees will be in and out of the Senate in less than one week.

We could do that with a number of nominees. Instead, this is a Senate that has kept highly-qualified nominees, such as Richard Paez and Marsha Berzon, waiting for years before they get a vote. There is just no reason to have a qualified nominee like Judge Helene White of Michigan held hostage for over 42 months without a hearing.

I am disappointed to have seen another hearing come and go without even one nominee to fill one of the many vacancies to the Courts of Appeals around the country. I was encouraged to hear Senator LOTT recently say that he continues to urge the Judiciary Committee to make progress on judicial nominations. The Majority Leader said: ''There are a number of nominations that have had hearings, nominations that are ready for a vote and other nominations that have been pending for quite some time and that should be considered.'' He went on to note that the groups of judges he expects us to report to the Senate will include ''not only district judges but circuit judges.'' Unfortunately, the Committee has not honored the Majority Leader's representations and was only willing to consider a few District Court nominees at today's hearing. Pending before the Committee are a dozen nominees to the Federal Courts of Appeals who are awaiting a hearing—12 nominees, not one of which the Republican Majority saw fit to include in this hearing. Left off the agenda are Judge Helene White of Michigan, who is now the longest pending judicial nomination at over 42 months without even a hearing; Barry Goode, whose nomination to the Ninth Circuit was the subject of Senator FEINSTEIN's statements at our Committee meeting last Thursday and who has been pending for over two years; as well as a number of qualified minority nominees whom I have been speaking about throughout the year, including Kathleen McCree Lewis of Michigan, Enrique Moreno of Texas and Roger Gregory of Virginia.

I noted for the Senate last Friday that there continue to be multiple vacancies on the Fourth, Fifth, Sixth, Ninth, Tenth and District of Columbia Circuits. With 20 vacancies, our appellate courts have nearly half of the total judicial emergency vacancies in the federal court system. I know how fond our Chairman is of percentages, so I note that the vacancy rate for our Courts of Appeals is more than 11 percent nationwide. Of course that vacancy rate does not begin to take into account the additional judgeships requested by the Judicial Conference to handle their increased workloads. If we added the 11 additional appellate judges being requested, the vacancy rate would be 16 percent. By comparison, the vacancy rate at the end of the Bush Administration, even after a Democratic Majority had acted in 1990 to add 11 new judgeships for the Courts of Appeals, was only 11 percent. Even though the Congress has not approved a single new Circuit Court position within the federal judiciary since 1990, the Republican Senate has by design lost ground in filling vacancies on our appellate courts.

At our first Judiciary Committee meeting of the year, I noted the opportunity we had to make bipartisan strides toward easing the vacancy crisis in our nation's federal courts. I believed that a confirmation total of 65 by the end of the year was achievable if we made the effort, exhibited the commitment, and did the work that was needed to be done. I urged that we proceed promptly with confirmations of a number of outstanding nominations to the Court of Appeals, including qualified minority and women candidates.

Yet only five nominees to the appellate courts around the country have had nomination hearings this year and only three of those five have been reported by the Committee to the Senate and confirmed—only three all year. The Committee included no Court of Appeals nominees at the hearings on April 27 and July 12, and there are no Court of Appeals nominee at the hearing today. The Committee has yet to report the nomination of Allen Snyder to the District of Columbia Circuit, although his hearing was 11 weeks ago, or the nomination of Bonnie Campbell to the Eighth Circuit, although her hearing was eight weeks ago. The Republican candidate for President talks about final Senate action on nominations within 60 days and we cannot get the Committee to report some nominations within 60 days of their hearing.

There is no good reason to have a qualified nominee such as Judge Helene White of Michigan held hostage for over 42 months without a hearing—42 months, and she has not even gotten a hearing. We had two men who were nominated last Friday, and they had a hearing today. They will probably be confirmed this week. Helene White has been held hostage for over 42 months without a hearing. She is the record holder for judicial nominees who have had to wait for a hearing—and her wait continues. It is insulting to the people of Michigan, insulting to the court, and insulting to her. The people of Michigan deserve a vote up or down on this outstanding lawyer and Judge from Michigan.

Now why do I keep mentioning this? I keep mentioning it because, frankly, we are doing a poor job in confirming judges. I compare this to the last year of President Bush's term. We had a Democratic majority in the Senate. We confirmed twice as many judges then as this Senate is confirming now with a Republican majority and a Democratic President. Something was said the other day that, well, the Democrats are in the minority, and that is probably why they complain so. Well, heavens, I would be happy to have the complaints of the Republicans when they were in the minority. The Democrats moved twice as many judges for a Republican President as Republicans are moving for a Democratic President. It is a simple fact.

The soon-to-be presidential nominee of the Republican Party has said—and I agree with him—that this is wrong, the Senate ought to vote these people up or down in 60 days. Of course, we could do that. There is a concern that has been expressed—and rightly so—that so many nominees are held without any vote. Nobody votes against them, but nobody gets an opportunity to vote for them; they just sit there. And even though the criticism stings, the fact is that, on average, women and minorities take longer to go through this Senate than white males do. Some women, some minorities have gone through very quickly, but most have taken longer.

I said earlier that I do not see any sense of bias or sexism in our chairman. I have known him for over 20 years, and I have never heard him make a biased remark or a sexist remark during that whole time. But something is happening, somewhere they are being held up. It is wrong. One of the things that most Republicans and Democrats ought to be able to agree on is what Governor Bush said: Do it and vote them up or down in 60 days. Let's make a decision.

Some of these people got held up for 2 or 3 or 4 years. When they finally got a vote, they passed overwhelmingly. But for 2 or 3 or 4 years they were humiliated, caused to dangle, have their law practices fall apart, have people question what was going on. Why? Because one or two Senators thought they should be held up. Well, let those one or two Senators vote against them. We are paid to vote yes or no, not maybe. I do not know whether it is because they are women, because they are Hispanic, because they are too liberal, or too conservative, too active, not active enough, that people don't want them to be confirmed. Let them vote against them.

I argued, when we had a very distinguished African American justice of a State supreme court, that we ought to let him at least have a vote. We had a vote after 2 years and, on a party line vote, he was voted down. Every single Republican voted against him, and every single Democrat voted for him, even though he had the highest rating of the American Bar Association, even though he was a justice of his state's highest court, and even though he was one of the most outstanding nominees either of a Democratic or Republican President to come before the Senate. At least he had a vote. I think the vote was wrong; he should have been confirmed. But at least he had a vote.

I also worry about are all these people who are not even given a vote.

Senator HATCH compared this year's confirmation total against totals from other Presidential election years. The only year to which this can be favorably compared is 1996 when the Republican majority in the Senate refused to confirm even a single appellate court judge to the Federal bench. The total that year was zero. That is hardly a comparison in which to take pride. I say let us compare 1992, in which there was a Democratic majority in the Senate and a Republican President. We confirmed 11 court of appeals nominees during that Republican President's last year in office—11 court of appeals nominees, and 66 judges in all. In fact, we went out in October of that year. We were having hearings in September. We were having people confirmed in October.

So do not come here and say the Democrats are not well grounded in complaining about what is happening. We established the way nonpartisanship can work in confirming judges. We did it for Republican Presidents. Obviously, it is not being done for a Democratic President. What we did in 1992, between July 24 and October 8, was the Senate confirmed 32 judicial nominees. We ought to try to do the same here, basically, from now until about the time we go out. Again, the last time that happened at the end of a President's term, the Democrats helped get 32 judges through during that period of 10 weeks at the end of the Congress. Well, we ought to do the same here. The Republicans ought to be willing to do the same thing.

In fact, in 1992 the Committee held 15 hearings—twice as many as this Committee has found time to hold this year. Late that year, we met on July 29, August 4, August 11, and September 24, and all of the nominees who had hearings then were eventually confirmed before adjournment. We have a long way to go before we can think about resting on any laurels.

Having begun so slowly in the first half of this year, we have much more to do before the Senate takes its final action on judicial nominees this year. We cannot afford to follow the ''Thurmond Rule'' and stop acting on these nominees now in anticipation of the presidential election in November. We must use all the time until adjournment to remedy the vacancies that have been perpetuated on the courts to the detriment of the American people and the administration of justice. That should be a top priority for the Senate for the rest of this year. In the last 10 weeks of the 1992 session, between July 24 and October 8, 1992, the Senate confirmed 32 judicial nominations. I will work with the Republican Majority to try to match that record.

One of our most important constitutional responsibilities as United States Senators is to advise and consent on the scores of judicial nominations sent to us to fill the vacancies on the federal courts around the country. I continue to urge the Senate to meet its responsibilities to all nominees, including women and minorities. That these highly qualified nominees are being needlessly delayed is most regrettable. The President spoke to this situation earlier this month in his appearance before the NAACP. The Senate should join with the President to confirm these well-qualified, diverse and fair-minded nominees to fulfill the needs of the federal courts around the country.

The Arizona vacancies are each judicial emergency vacancies. Two were authorized in appropriations legislation last year when the Republicans Majority continued its refusal to consider a bill to meet the judicial Conference's recommendation for 72 additional judges around the country. All we were able to authorize were a few judgeships in Arizona, Florida and Nevada. That points out one of the reasons that the comparisons that Chairman HATCH is seeking to draw to the vacancy rates at the end of the Bush Administration are incorrect. During President Reagan's Administration and again during the Bush Administration, Congress added a significant number of new judgeships. The so-called vacancy rate that Senator HATCH is so fond of citing at the end of the Bush Administration is highly inflated by the addition of 85 new judgeships in 1990 and by the addition of 87 new judgeships in 1984, of which many where yet to be filled. By contrast the vacancies currently plaguing the federal courts are longstanding and in spite of Republican intransigence against authorizing additional judgeships requested by the Judicial Conference since 1996. If those additional judgeships were taken into account, the vacancy rate today would be over 13 percent with over 120 vacancies—hardly a comparison that the Republican majority would want to make, but that would be comparing comparable figures.

In addition, even running the gauntlet and getting a confirmation hearing does not automatically guarantee someone a vote before the current Judiciary Committee. Bonnie Campbell, nominated by the President on March 2, 2000, has completed the nomination and hearing process and is strongly supported by Senator GRASSLEY and Senator HARKIN from her home state. But her name continues to be left off the agenda at our executive meetings for the last several weeks. She is a former Iowa Attorney General and former high ranking Justice Department official who has worked extensively on domestic violence and crime

victims matters. Allen Snyder is another well-respected and highly-qualified nominee who got a hearing but no Committee vote. He was nominated on September 22, 1999, received the highest rating from the ABA, enjoys the full support of his home state Senators, and had his hearing on May 10, 2000. There are and have been many others.

I continue to urge the Senate to meet its responsibilities to all nominees, including women and minorities. That highly-qualified nominees are being needlessly delayed is most regrettable. The Senate should join with the President to confirm well-qualified, diverse and fair-minded nominees to fulfill the needs of the federal courts around the country.

More than two years ago Chief Justice William Rehnquist warned that ''vacancies cannot remain at such high levels indefinitely without eroding the quality of justice that traditionally has been associated with the federal judiciary.'' The New York Times reported last year how the crushing workload in the federal appellate courts has led to what it calls a ''two-tier system'' for appeals, skipping oral arguments in more and more cases. Law clerks and attorney staff are being used more and more extensively in the determination of cases as backlogs grow. Bureaucratic imperatives seem to be replacing the judicial deliberation needed for the fair administration of justice. These are not the ways to continue the high quality of decision-making for which our federal courts are admired or to engender confidence in our justice system.

When the President and the Chief Justice spoke out, the Senate briefly got about its business of considering judicial nominations last year. Unfortunately, last year the Republican majority returned to the stalling tactics of 1996 and 1997 and judicial vacancies are again growing in both number and duration. Chief Justice Rehnquist wrote at the end of 1997: ''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.'' The Senate is not defeating judicial nominations in up or down votes on their qualifications but refusing to consider them and killing them through inaction.

During Republican control it has taken two-year periods for the Senate to match the one-year total of 101 judges confirmed in 1994, when we were on course to end the vacancies gap. Nominees like Judge Helene White, Barry Goode, Judge Legrome Davis, and J. Rich Leonard, deserve to be treated with dignity and dispatch—not delayed for two and three years. We are still seeing outstanding nominees nitpicked and delayed to the point that good women and men are being deterred from seeking to serve as federal judges. Nominees practicing law see their work put on hold while they await the outcome of their nominations. Their families cannot plan. They are left to twist in the wind. All of this despite the fact that, by all objective accounts and studies, the judges that President Clinton has appointed have been a moderate group, rendering moderate decisions, and certainly including far fewer ideologues than were nominated during the Reagan Administration.

Federal law enforcement relies on judges to hear criminal cases, and individuals and businesses pay taxes to exercise their right to resolve civil disputes in the federal courts. As workloads continue to grow and vacancies are perpetuated, the remaining judges are being overwhelmed and the work of the federal judiciary is suffering.

Our independent federal judiciary sets us apart from virtually all others in the world. Every nation that in this century has moved toward democracy has sent observers to the United States in their efforts to emulate our judiciary. Those fostering this slowdown of the confirmation process and other attacks on the judiciary are risking harm to institutions that protect our personal freedoms and independence.

What progress we started making two years ago has been lost and the Senate is again failing even to keep up with normal attrition. Far from closing the vacancies gap, the number of current vacancies has grown from 57, when Congress recessed last year, to 60. Since some like to speak in terms of percentage, I should note that the judicial vacancy rate now stands at over seven percent of the federal judiciary (60/852). If one considers the 63 additional judges recommended by the judicial conference, the vacancies rate would be over 13 percent (123/915).

What is most significant about the recent trend of judicial vacancies and vacancy rates is that the vacancies that existed in 1993 (after the creation of 85 new judgeships in 1990) had been cut almost in half in 1994, when the rate was reduced to 7.4% with 63 vacancies at the end of the 103rd Congress. We continued to make progress even into 1995. In fact, the vacancy rate was lowered to 5.8% after the 1995 session, and before the partisan attack on federal judges began in earnest in 1996 and 1997.

Progress in the reduction of judicial vacancies was reversed in 1996, when Congress adjourned leaving 64 vacancies, and in 1997, when Congress adjourned leaving 80 vacancies and a 9.5% rate. No one was happier than I that the Senate was able to make progress in 1998 toward reducing the vacancy rate. I praised Senator HATCH for his effort. Unfortunately, the vacancies are now growing again.

Let me also set the record straight, yet again, on the erroneous but oft-repeated argument that ''the Clinton Administration is on record as having stated that a vacancy rate just over 7% is virtual full-employment of the judiciary.'' That is not true.

The statement can only be alluded to an October 1994 press release. That press release cannot be construed or even fairly misconstrued in this manner. That press release was pointing out at the end of the 103rd Congress that if the Senate proceeded to confirm the 14 nominees then on the Senate calendar, it would have reduced the judicial vacancy rate to 4.7%, which the press release then proceeded to compare to a favorable unemployment rate of under 5%.

This was not a statement of administration position or even a policy statement but a poorly designed press release that included an ill-conceived comment. Job vacancy rates and unemployment rates are not comparable. Unemployment rates are measures of people who do not have jobs not of federal offices vacant without an appointed office holder.

When I learned that some Republicans had for partisan purposes seized upon this press release, taken it out of context, ignored what the press release actually said and were manipulating it into a misstatement of Clinton administration policy, I asked the Attorney General, in 1997, whether there was any level or percentage of judicial vacancies that the administration considered acceptable or equal to ''full employment.''

The Department responded:

> There is no level or percentage of vacancies that justifies a slow down in the Senate on the confirmation of nominees for judicial positions. While the Department did once, in the fall of 1994, characterize a 4.7 percent vacancy rate in the federal judiciary as the equivalent of the Department of Labor 'full employment' standard, that characterization was intended simply to emphasize the hard work and productivity of the Administration and the Senate in reducing the extraordinary number of vacancies in the federal Article III judiciary in 1993 and 1994. Of course, there is a certain small vacancy rate, due to retirements and deaths and the time required by the appointment process, that will always exist. The current vacancy rate is 11.3 percent. It did reach 12 percent this past summer. The President and the Senate should continually be working diligently to fill vacancies as they arise, and should always strive to reach 100 percent capacity for the federal bench.

At no time has the Clinton administration stated that it believes that 7 percent vacancies on the federal bench is acceptable or a virtually full federal bench. Only Republicans have expressed that opinion. As the Justice Department noted two years ago in response to an inquiry on this very questions, the Senate should be ''working diligently to fill vacancies as they arise, and should always strive to reach 100 percent capacity for the federal bench.''

Indeed, I informed the Senate of these facts in a statement in the CONGRESSIONAL RECORD on July 7, 1998, so that there would be no future misunderstanding or misstatement of the record. Nonetheless, in spite of the facts and in spite of my July 1998 statement, these misleading statements continue to be repeated.

The Senate should get about the business of voting on the confirmation

of the scores of judicial nominations that have been delayed with justification for too long. We must redouble our efforts to work with the President to end the longstanding vacancies that plague the federal courts and disadvantage all Americans. That is our constitutional responsibility. It should not be shirked.

I am sorry that Senator HATCH feels that he is being attacked from all sides. I regret that some on his side of the aisle and other critics have sought to prevent him from doing his duty. I have gone out of my way to compliment the Chairman when praise was warranted and to keep my criticism from becoming personal.

With respect to the Senate's treatment of nominees who are women or minorities, I remain vigilant. I have said that I do not regard Senator HATCH as a biased person. I have also been outspoken in my concern about the manner in which we are failing to consider qualified minority and women nominees over the last four years. From Margaret Morrow and Margaret McKeown and Sonia Sotomayor, through Richard Paez and Marsha Berzon, and including Judge James Beatty, Judge James Wynn, Roger Gregory, Enrique Moreno and all the other qualified women and minority nominees who have been delayed and opposed over the last four years, I have spoken out. The Senate may never remove the blot that occurred last October when the Republican Senators emerged from a Republican Caucus to vote lockstep against Justice Ronnie White to be a Federal District Court Judge in Missouri.

The United States Senate is the scene where some 50 years ago, in October 1949, the Senate confirmed President Truman's nomination of William Henry Hastie to the Court of Appeals for the Third Circuit, the first Senate confirmation of an African American to our federal district courts and courts of appeal. This Senate is also where some 30 years ago the Senate confirmed President Johnson's nomination of Thurgood Marshall to the United States Supreme Court.

And this is where last October, the Senate wrongfully rejected President Clinton's nomination of Justice Ronnie White. That vote made me doubt seriously whether this Senate, serving at the end of a half century of progress, would have voted to confirm Judge Hastie or Justice Marshall.

On October 5, 1999, the Senate Republicans voted in lockstep to reject the nomination of Justice Ronnie White to the federal court in Missouri—a nomination that had been waiting 27 months for a vote. For the first time in almost 50 years a nominee to a federal district court was defeated by the United States Senate. There was no Senate debate that day on the nomination. There was no open discussion—just that which took place behind the closed doors of the Republican caucus lunch that led to the party-line vote.

It is unfortunate that the Republican Senate has on a number of occasions delayed consideration of too many women and minority nominees. The treatment of Judge Richard Paez and Marsha Berzon are examples from earlier this year. Both of these nominees were eventually confirmed this past March by wide margins.

I have been calling for the Senate to work to ensure that all nominees are given fair treatment, including a fair vote for the many minority and women candidates who remain pending. According to the report released last September by the Task Force on Judicial Selection of Citizens for Independent Courts, the time it has been taking for the Senate to consider nominees has grown significantly and during the 105th Congress, minorities and women nominees took significantly longer to gain Senate consideration than white male nominees: 60 days longer for nonwhites, and 65 days longer for women than men. The study verified that the time to confirm female nominees was now significantly longer than that to confirm male nominees—a difference that has defied logical explanation. They recommend that ''the responsible officials address this matter to assure that candidates for judgeships are not treated differently based on their gender.''

On July 13, 2000, President Clinton spoke before the NAACP Convention in Baltimore and lamented the fact that the Senate has been slow to act on his judicial nominees who are women and minorities. He said: ''The quality of justice suffers when highly-qualified women and minority candidates, fully vested, fully supported by the American Bar Association, are denied the opportunity to serve for partisan political reasons.'' He went on to say: ''The face of injustice is not compassion; it is indifference, or worse. For the integrity of the courts and the strength of our Constitution, I ask the Republicans to give these people a vote. Vote them down if you don't want them on.'' I agree with the President.

The Senate should be moving forward to consider the nominations of Judge James Wynn, Jr. and Roger Gregory to the Fourth Circuit. When confirmed, Judge Wynn and Mr. Gregory will be the first African-Americans to serve on the Fourth Circuit and will each fill a judicial emergency vacancy. Fifty years has passed since the confirmation of Judge Hastie to the Third Circuit and still there has never been an African-American on the Fourth Circuit. The nomination of Judge James A. Beatty, Jr., was previously sent to us by President Clinton in 1995. That nomination was never considered by the Senate Judiciary Committee or the Senate and was returned to President Clinton without action at the end of 1998. It is time for the Senate to act on a qualified African-American nominee to the Fourth Circuit. President Clinton spoke powerfully about these matters last week. We should respond not by misunderstanding or mischaracterizing what he said, but by taking action on this well-qualified nominees.

In addition, the Senate should act favorably on the nominations of Judge Helene White and Kathleen McCree Lewis to the Sixth Circuit, Bonnie Campbell to the Eighth Circuit, and Enrique Moreno to the Fifth Circuit. Mr. Moreno succeeded to the nomination of Jorge Rangel on which the Senate refused to act last Congress. These are well-qualified nominees who will add to the capabilities and diversity of those courts. In fact, the Chief Judge of the Fifth Circuit declared that a judicial emergency exists on that court, caused by the number of judicial vacancies, the lack of Senate action on pending nominations, and the overwhelming workload.

I am disappointed that the Committee has not reported the nomination of Bonnie Campbell to the Eighth Circuit. She completed the nomination and hearing process two months ago and is strongly supported by Senator GRASSLEY and Senator HARKIN from her home state. She will make an outstanding judge.

Filling these vacancies with qualified nominees is the concern of all Americans. The Senate should treat minority and women and all nominees fairly and proceed to consider them without delay.

I think it was unfortunate that the chairman tried to assign blame for the Senate's lack of progress on a number of legislative items. I disagree with that assessment. He knows, as I do, that the Democratic leader made a proposal that would have moved the H–1B legislation and allowed votes on the humanitarian immigration issues. The Republicans refused Senator DASCHLE's offer. We all know the Democrats have not opposed the religious liberty bill Senator KENNEDY helped develop. We all know we have been pressing for reauthorization of the Violence Against Women's Act for many months. It is not fair to suggest Democrats are holding that up.

I will give you one other example. I am getting calls from police organizations, and I see the distinguished assistant minority leader, the Senator from Nevada, who served as a police officer. He will understand this. I am getting calls from police organizations all over the country.

They ask me: Why hasn't the Campbell-Leahy bill to provide more bulletproof vests passed? Why hasn't it gone through the Senate? I tell my friend from Nevada what I told them. I said: My friend from Nevada, who is the Democratic whip, has checked, as I have, with every single Democrat, and every single Democrat is willing to pass it this minute by unanimous consent. We said that to the Republican leader.

We were told there was an objection on the Republican side. My goodness. Have we gotten so partisan that a bill

sponsored by the distinguished Senator from Colorado, Mr. CAMPBELL, by myself and the distinguished chairman of the Senate Judiciary Committee, Mr. HATCH, a bill to provide bulletproof vests—cosponsored by the distinguished Senator from Nevada, Mr. REID, as well—that a bill to provide bulletproof vests for law enforcement officers is being stalled by Republican objections? That is wrong.

If that bill were allowed to come to the floor for a vote, I am willing to bet—in fact, I know because we have already checked—that every Democratic Senator would vote for it. But I am also willing to bet that virtually every Republican Senator would vote for it. This is not a Democrat or Republican bill. In fact, Senator CAMPBELL and I have specifically worked to make sure it is not a partisan bill.

So I tell my friends from law enforcement: Please call the other side of the aisle. I am convinced that a majority of Republicans support it, but somebody on the Republican side is holding it up. The Democrats are willing to pass it immediately.

The chairman of the Judiciary Committee knows we were working toward a bankruptcy bill until the Republicans decided to end bipartisan discussion and negotiate among themselves and not negotiate with the Democrats.

He knows we should have passed the Madrid Protocol Implementation Act weeks, if not months, ago. I tell the business community that continuously asks me that every single Democrat is willing to move forward with it. It has been stalled on the Republican side.

In fact, let me take a bill involving the two of us. The Hatch-Leahy juvenile crime bill passed the Senate in May of 1999. Again, I ask my friend from Nevada: As I recall, that passed with 73 votes, Democrats and Republicans, the majority of both parties. It passed the Senate with 73 votes.

My friend from Utah is the chair of the House-Senate conference. But we haven't convened in almost a year. It is a bill that should have been enacted last year. But we will not even have a conference. Seventy-three Senators voted for that bill—73. We can't get the conference to meet on it and the Senate controls the conference.

These are a lot of items, such as the H–1B legislation, the religious liberty bill, the Violence Against Women Act reauthorization, the bulletproof vest bill, the Madrid Protocol Implementation Act, the Hatch-Leahy juvenile crime bill, the bankruptcy bill. These are things that can move forward. But there seems to be no movement from the other side.

I will continue to try to find ways to work with the distinguished chairman, my friend from the Judiciary Committee, to make progress. I point out that we worked together on civil asset forfeiture reform, and it passed. We worked together on intellectual property and antitrust matters. Those measures pass with a majority of Republicans and Democrats joining us. But now we find legislation on the bulletproof vest bill, which most of us agree on, that we cannot get passed. We find nominations on which we cannot get a vote—even when the soon to be Republican nominee for the Presidency, Governor Bush, said we ought to vote them up or down within 60 days. We can't get votes on them. Some stay stalled for months and years by humiliating delay.

I have spoken about how humiliating it must be to somebody who is nominated for a judgeship—the pinnacle of their legal career. They get nominated. The American Bar and others looked at them, and said: This is an outstanding person, an outstanding lawyer, and they would be a terrific jurist. Usually we get inundated with letters from lawyers—Republicans and Democrats alike—who say they know this man or woman and he or she would make a superb judge. The FBI and others do the background check —as thorough as you can imagine, such that most people in private life would never be able to put up with it. Their privacy is just shredded. They come back and say: This is an outstanding person.

If they are in private practice, they are congratulated by their partners in their firm. They say how wonderful it is. They realize, of course, that the nominee can't take on any more new cases because no one wants conflicts of interest. They kind of suggest as soon as they have this party that the nominee can sort of move out so the rest of the law firm can go forward.

The nominees wait and wait and wait and wait. Nobody is against them, but they can't get a hearing. They can't get a vote. Then, if the public pressure grows enough, if they are in a high profile, they may get a hearing. Then if the pressure continues, they may get a Committee vote. And then, if the pressure really builds and the Democratic leader and the Democratic caucus insist, they may get a Senate vote on confirmation. When they get voted, they get confirmed—with the exception of Justice White—by 90 to 10, or 95 to 5, and many times unanimously. But their lives has been put on hold for 2 or 3 years. Their authority as a judge has been diminished because of that. It is humiliating to them.

Frankly, it is humiliating to the Senate. It is beneath this great body. I have served here for over 25 years. I can't think of any greater honor that could come to me than to have the people of Vermont allow me to serve here. I should put on my tombstone, other than husband and father, that I was a United States Senator.

I have always thought of this Senate as the conscience of the Nation. We are not handling the conscience of this Nation very well.

We have a responsibility to uphold the judiciary. If we allow it to be tattered, if we allow it to be shredded, if we allow it to be humiliated, how can a democracy of a quarter of a billion people uphold our laws? How can the country have respect both for the laws and the courts that administer them, if we in the Senate, the most powerful legislative body in this country, don't show that same respect? If we diminish that, it will be an example to be followed by the rest of the people in this country.

There are only 100 of us who have the privilege of serving here at any given time to represent a quarter of a billion Americans. Sometimes we should think more of that responsibility than partisan politics.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. REID. Mr. President, before my friend from Vermont leaves, let me say a few things. In this body, we tend not to give the accolades to our fellow Senators that we should. I want the Senator from Vermont to know how the entire Democratic caucus supports and follows the lead of this man on matters related to the judiciary. He has done an outstanding job leading the Democratic conference through this wide-ranging jurisdictional authority of the Judiciary Committee.

We are very proud of the work that PAT LEAHY does. The people of Vermont should know that, first of all, he is always looking after the people of Vermont. I am from a State 3,000 miles away from Vermont, the State of Nevada. People in Nevada should, every day, be thankful for the work the Senator does, not only for the State of Vermont but for the country.

I want the RECORD to be spread with the fact that we in the minority are so grateful for the work the Senator from Vermont does for our country. The statement made today certainly outlines many of the problems we are having in the Senate, none of which are caused by the Senator from Vermont.

Mr. LEAHY. Mr. President, I thank my friend from Nevada. I must admit, in my 25 years, nobody has handled the job as whip the way the Senator has. In having the Senator as an ally on the floor, I come well armed, indeed.

Mr. SANTORUM. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. NICKLES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. INHOFE). Without objection, it is so ordered.

MARRIAGE PENALTY RELIEF

Mr. NICKLES. Mr. President, in all likelihood tomorrow we will be sending the President a bill to eliminate the marriage penalty for most Americans. I urge the President to sign this bill.

This bill will provide tax relief for millions of married couples. For individuals or for couples who have incomes of $52,000, they will see their take-home pay increase by a total of about $1,400. Some of my colleagues on the Democratic side have said that is a tax cut for the wealthy. It is not. I don't consider a married couple who have an income of $52,000 particularly wealthy. We want to eliminate the marriage penalty and allow them to keep more of their own money. They should not be taxed at a 28-percent rate.

That is what our bill does. Our bill says we should double the 15-percent rate on individuals for couples. Right now, people who have taxable incomes of $26,000 as individuals pay taxes at 15 percent. We are saying married couples should pay taxes at 15 percent at twice that amount, up to $52,000. That only makes sense. If you tax individuals at 15 percent up to $26,000, for couples it should be double that amount, $52,000, except that present law taxes couples at 28 percent beginning at $43,000.

So if couples have taxable income above $43,000, they start paying 28-percent income tax. If they happen to be self-employed on top of that, it is 28 percent plus 15.3 percent Social Security and Medicare tax. That is 43.3 percent. In most States, they have income tax rates of another 6 or 7 percent, State income tax. That is over 50 percent for a couple with taxable income of $44-$45-$50,000. That is too high.

Congress has passed a bill—both the House and the Senate, identical bills—that says let's double that 15-percent rate for couples, the individual rate for couples, so the taxable income will be 15 percent up to $52,000, 28 percent above that.

Again, I urge the President to sign it. It is not tax cuts for the wealthy; it is tax cuts for all married couples who have incomes of $43,000, $52,000, or $60,000. The amount of benefit, maximum benefit, is about $1,400.

I urge the President to sign that bill.

MORNING BUSINESS

Mr. NICKLES. Mr. President, I now ask unanimous consent the Senate proceed to a period of morning business with Senators permitted to speak for up to 10 minutes each.

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

Mr. REID. Mr. President, will the Senator restate the unanimous consent request?

Mr. NICKLES. I asked unanimous consent that the Senate now proceed to a period of morning business with Senators permitted to speak for up to 10 minutes each.

Mr. REID. No objection.

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

ACKNOWLEDGMENT OF SENATOR JIM BUNNING'S 100TH PRESIDING HOUR

Mr. LOTT. Mr. President, today, I have the pleasure to announce that another freshman has achieved the 100 hour mark as presiding officer. Senator JIM BUNNING is the latest recipient of the Senate's coveted Golden Gavel Award.

Since the 1960's, the Senate has recognized those dedicated members who preside over the Senate for 100 hours with the Golden Gavel. This award continues to represent our appreciation for the time these dedicated senators contribute to presiding over the U.S. Senate—a privileged and important duty.

On behalf of the Senate, I extend our sincere appreciation to Senator BUNNING and his diligent staff for their efforts and commitment to presiding duties during the 106th Congress.

ACKNOWLEDGMENT OF SENATOR GORDON SMITH'S 100TH PRESIDING HOUR

Mr. LOTT. Mr. President, today, I have the pleasure to announce that Senator GORDON SMITH is the latest recipient of the Senate's Golden Gavel Award, marking his 100th hour of presiding over the U.S. Senate.

The Golden Gavel Award has long-served as a symbol of appreciation for the time that Senators contribute to presiding over the U.S. Senate—a privileged and important duty. Since the 1960's, senators who preside for 100 hours have been recognized with this coveted award.

On behalf of the Senate, I extend our sincere appreciation to Senator SMITH for presiding during the 106th Congress.

REMEMBERING SENATOR PAUL COVERDELL

Mr. JOHNSON. Mr. President, I rise today to add my condolences to that of my colleagues on the passing of our friend and colleague, Senator Paul Coverdell of Georgia.

Senator Coverdell was a model of proper conduct and decorum becoming of a Senator. He conducted himself in the quiet, deliberative manner that reflected his commitment to a thorough performance of his duties. He was a true leader, willing to do his best for all Americans.

Most recently, he and I worked together to keep our nation's promise to provide health care coverage to military retirees, when we introduced legislation together earlier this year. As my colleagues know, Senator Coverdell had extreme pride in this country. It was an honor to work with him on making good to those people who have served their nation and are now in the years of declining health. It was also an honor to work with Senator Coverdell every day, for he was truly interested in ensuring our democracy remained strong and pushed forward confidently into the Twenty-first Century.

Mr. President, I wish to extend my condolences to the Coverdell family, including his many friends and his staff. The entire Senate family has lost a friend and the nation has lost a leader. However, we are all enriched by having known such an honorable man. His service and commitment will have a definite and lasting legacy.

DEPARTMENT OF INTERIOR APPROPRIATIONS

INDIAN TRIBAL SELF-GOVERNANCE REGULATIONS

Mr. MCCAIN. Mr. President, I rise to engage several of my colleagues in a colloquy about some regulations which the Department of the Interior is preparing to issue in final form. These regulations would govern the federal and tribal administration of the Tribal Self-Governance program. I understand there is strong opposition from American Indian and Alaska Native groups to a handful of the proposed provisions.

Mr. CAMPBELL. Mr. President, the Senator from Arizona is correct. The Committee on Indian Affairs has received a series of communications from Native American tribes and tribal organizations indicating their opposition to eight of the hundreds of proposed provisions. These eight ''impasse'' issues appear to involve particularly sensitive matters which the Indian tribes believe would seriously set back the advances these tribes have made in the field of tribal self-governance during the past decade.

Mr. MCCAIN. I share the concerns raised by the Indian tribes, and would note that in 1994 when we enacted the Tribal Self-Governance Act, the Congress expressly authorized the tribal self-governance effort to go forward without regulations. At the same time, we required the Department to engage in a negotiated rulemaking with tribal government representatives to develop mutually acceptable rules. Now it appears that this effort has been largely successful. There are hundreds of provisions that have been developed and mutually accepted by the tribal and federal representatives. These should be permitted to go forward. But as to the eight or so provisions upon which there is a negotiation impasse, I believe it would be contrary to the intent of the 1994 Act and to the negotiated rulemaking process to impose objectionable provisions upon the Indian tribes.

Mr. INOUYE. I concur in the views of my colleagues, and add that the 1994 Act has been implemented without the benefit of any regulations for the past six years. Accordingly, I can imagine no undue hardship would come to the Department if the final regulations are silent as to eight of the hundreds of issues addressed in the draft regulations. As to these eight so-called ''impasse'' issues, I would encourage the