

nominees with well-known credentials. Many of these nominees were confirmed relatively late in the year.

Between June 1 and September 1, 1980, the Senate confirmed four Circuit Court nominees and 15 District Court nominees, including then-ACLU General Counsel Ruth Bader Ginsburg, who was confirmed June 18, 1980.

After September 1, 1980, the Senate confirmed two more Circuit Court nominees and eleven District Court nominees. The first Circuit Court nominee, Stephen Reinhardt of the Ninth Circuit, who is now thought to be one of nation's most liberal jurists, was confirmed on September 11, 1980.

More remarkable is the second Circuit Court nominee, that of Stephen Breyer to the First Circuit. Justice Breyer was then Senator Kennedy's Chief Counsel. He was nominated by President Carter on November 13, 1980, after Carter had lost the election to Ronald Reagan. The Senate, which was also about to switch party control, held a swift confirmation hearing and voted to confirm Breyer on December 9, 1980.

The presidential election year of 1980 was not an aberration, the pattern continued in subsequent election years. In 1988, President Reagan's last year in office, the Senate confirmed seven Circuit Court nominees and 33 District Court nominees. In 1992, President George H.W. Bush's last year in office, the Senate confirmed eleven Circuit Court nominees and 53 District Court nominees. In 2000, President Clinton's last year in office, the Senate confirmed eight Circuit Court nominees and 31 District Court nominees.

Furthermore, many of these presidential election year confirmations occurred late in the year. Since 1980, 110 judges were confirmed after July 1st of a presidential election year, 17 of those were confirmed to Circuit Courts. In the same period, 63 judges were confirmed after September 1st of presidential elections years, twelve of those to Circuit Courts. In short, there does not appear to be any historical basis for the so-called "Thurmond Rule." The Senate has confirmed numerous nominees during presidential election years, and I expect that with Senator Leahy and I working together, we will do so again next year.

In fact, I think it's time to move beyond some of the more acrimonious judicial battles of the past. I think the country is served best when the Senate fulfills its constitutional duty and votes on the President's nominees.

I have called on the White House to consult with Senator Leahy and Leader Reid during the nomination process. I have also worked to ensure that judicial nominees are afforded prompt consideration and fair treatment by the Judiciary Committee. I plan to continue to do that as the Ranking Member and am confident that under Senator Leahy's leadership, our Committee will fairly and expeditiously consider judicial nominees.

Aside from the responsibility the Senate has to vote up or down on the President's nominees, we cannot forget that these people, who have agreed to undertake important government service, have family considerations and professional lives that are often adversely impacted when their careers are out on hold because of a pending nomination. We should never forget that these nominees, whether a Member decides ultimately to support them or not, are deserving of our thanks for their willingness to undergo this process and to offer their services to the American people. They deserve fair treatment by this body.

I trust that during the 110th Congress the Senate will work productively to ensure that nominees are treated fairly and that judicial vacancies are filled as soon as possible. I

look forward to working with the White House and with Chairman Leahy to that end. I yield the floor.

Mr. SPECTER. Madam President, in the absence of any other Senator on the floor, 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. LEAHY. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. LEAHY. Madam President, what is the parliamentary situation?

The PRESIDING OFFICER. The Senate is in morning business, with Senators permitted to speak therein for up to 10 minutes.

The Senator from Vermont is recognized.

Mr. LEAHY. I thank the Chair.

(The remarks of Mr. LEAHY are printed in today's RECORD under "Morning Business.")

Mr. LEAHY. Madam President, I realize I have gone over the appropriate time, and I appreciate the Chair not calling me on it.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER (Mrs. LINCOLN). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KYL. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

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

WORKING TOGETHER

Mr. KYL. Madam President, this has been a good day. It is a day on which many of us were sworn in and a day that the Senate began again to function in this new 110th Congress. It began with a rather historic meeting called by the new majority leader, HARRY REID, in the Old Senate Chamber, a place which I explained to my family is so imbued with the history of the United States and the history of the Senate that one cannot but help feel a sense of responsibility, a special sense of duty when functioning as a Senator in that Old Senate Chamber. Frequently there are people there who remind us of some of the history to call on us to try to rise to the same level to which many of the great Senators in the history of this country rose in the most difficult and challenging times of our country.

I believe it was Senator KENNEDY who reminded us that exactly on this day, at the very beginning of the Civil War, the Senators from the South left the Senate Chamber for the last time. They did not meet with the Senate thereafter because of the beginning of the Civil War, and that is when the Senate moved from the Old Senate Chamber to the Chamber we are now in—here.

There is a great deal of a sense of mission and of history and of responsibility when we meet in a place such as that. The purpose for the meeting was to begin this new Congress thinking about something that we have tended to forget in recent months and even, I would say, years, and that is the degree to which Senators had in the past worked together to get the people's business done.

Unlike under the rules of the House of Representatives in which the majority pretty much rules and the minority has very little power, in the Senate the minority and the majority must work together to get anything done because of the rules. With a 51-49 division right now, it is obvious that this body is almost equally divided and that under our rules we are going to have to work very well together to get anything done.

In the past there has been—and I would say leading up to the last election—a special amount of politicking and of negativity, the sort of "gotcha" kind of politics that is designed to score political points; a cynicism, a lack of comity. I think we always see that a little bit before an election but I felt it much more oppressively in the runup to this last election.

Someone has pointed out that perhaps with a divided Government now, in the sense that Democrats control the Congress and the Republican Party controls the executive branch, actually there may be much less incentive for either side to engage in that kind of politics and, to the contrary, much more incentive for both sides to try to work with each other to get things done. The reputation of Democratic Senators and Representatives will depend to some extent on how much they can accomplish. They will have to have Republican help to accomplish things. The last 2 years of the Bush Presidency will depend a great deal on how much he, working with the Congress, can get done in these 2 years. He can't do anything on his own. He has to sign bills that we pass. So he has to work with us, meaning that Republicans working with him also have to reach across the aisle and work with our colleagues in the Democratic Party.

I thought some things the Republican leader, MITCH MCCONNELL, said today were especially appropriate in this regard. I want to close our day today, reiterating some of the thoughts he expressed with which I am in total agreement. He said this:

The Senate can accomplish great things over the next 2 years, but this opportunity will surely slip from our grasp if we do not commit ourselves to a restoration of civility and common purpose.

New Democratic colleague BERNIE SANDERS from Vermont, with whom I served in the House—we got reacquainted today—said, Are you enjoying it over here? I hesitated. And he laughed. We had a discussion about the fact that it can be very enjoyable when you work together to try to get something done. You have to work with

each other across the aisle if you are going to get something done. It is not enjoyable when there is a lack of comity, where harsh language is used, when you see things done purely for political purposes. Then it is not fun. I think we would all rather look forward coming to work in the morning. And it certainly is better when we go home and report to our constituents that we were able to get something done.

I am sure the distinguished majority leader would agree with this comment that MITCH MCCONNELL made this morning. He said:

... as we open this session, I stake my party to a pledge: when faced with an urgent issue, we will act; when faced with a problem, we will seek solution, not mere political advantage.

I think that is the credo all of us pretty well agreed to at the end of that very special meeting we had this morning: that we need positive solutions to real problems. We need to act in a spirit of comity. All of us need to stop the finger pointing, the negativity, the taking advantage for political purposes, and the setting up of each other in a way we would fail rather than finding a way that we can both succeed.

In fact, one of our colleagues made a comment almost exactly to that effect: We need to both succeed in what we do. Since we now have divided Government, there is an incentive for us to work with each other to do that.

There were, of course, some of our colleagues who reminded us that realistically this would not be easy, that there would be a great tendency to slip back into old habits and to fight politically, and we know that to be true. But there are some things—at least one of our colleagues made this point very strongly—on which we have to act in a united way and that starts with our national security, meeting this threat of terrorism. The distinguished Republican leader made that point. Among the things he suggested we would have to work on, he said:

America has not seen a domestic terrorist attack since we committed ourselves to the global war on terror. That's not an accident, some quirk of fate. Rather, it is due to the hard work of spotting and disrupting threats before they strike.

Much of that capability was granted by the Senate and the House and the President in reorganizing our intelligence agencies, reorganizing some of the laws under which our intelligence agencies and law enforcement work. So we have helped to keep the American people more secure. We should continue that hard work.

He concluded on this point:

Al-qaida is not a threat to Republicans, it is not a threat to Democrats, it is a threat to America. And the Senate must work together as we prepare for the long struggle ahead.

There were many other issues that have been discussed, things we can work together on, things we are going to have to work together on. I close

with one example that, to us in this body, we know this for a fact. That is the confirmation of judges. When you have a President of one party nominating judges and the majority in the Senate is of the other party, obviously something has to give. You have to work together. It was the hope of the Republican leader, I am sure, speaking on behalf of the President of the United States as well, that we would find ways to work together, Democrats and Republicans in this body, to give a fair chance to the President's nominees. He is, after all, elected President. He has the authority under the Constitution to nominate judges. Our responsibility is to check them out, to hold the hearings, and to question their qualifications but if in fact they are qualified, to give them a chance to be put on the bench with an up-or-down vote. I hope we could do that for the vast majority of the judges the President has nominated and for the other executive branch nominations of the President as well.

These are good examples of areas in which, without cooperation, the Government for the people does not function well. So, as we end this day I ask us to reflect on some of the words of our leaders, HARRY REID and MITCH MCCONNELL, today and our colleagues in that historic meeting this morning when we talked a good game about recommitting ourselves to bipartisan solutions to problems, to work on behalf of the American people with more comity in this body, in a way which will make us feel much better amongst ourselves and make our constituents much happier than they are when they see us fighting and bickering all the time. It is fitting to end this day on that note.

I commend the majority leader, HARRY REID. I commend the Republican leader, MITCH MCCONNELL, for serving as examples for all Members in the leadership they exhibited in starting the Senate off this way.

I see the distinguished majority leader now. We can conclude this day on that high note, giving some hope to the American people that we are committed to working on their behalf for a better future, a better America.

HONORING OUR ARMED FORCES

LANCE CORPORAL CLINTON JON (C.J.) MILLER

Mr. GRASSLEY. Mr. President, I rise to pay tribute to a fallen soldier from Greenfield, IA, LCpl Clinton Jon (C.J.) Miller, who was killed while serving his country as part of an improvised explosive device detection team in Iraq. My thoughts and prayers go out to his wife Jackie, his mother Susan, his father Kerby, and all his family and friends. I am sure I speak for all Iowans when I say that I am proud to call C.J. one of us. By all accounts, he was a fine marine who felt called to, and liked, military service. Family members say that he joined the Marines during wartime because he just felt he had to serve. Where would our country

be without patriotic young Americans like C.J. who feel a call to serve their country? All Americans owe a debt of gratitude to this brave Marine. As his father said, "He was a hero." Lance Corporal Miller's tremendous service and sacrifice should never be forgotten.

SERGEANT JAMES P. MUSACK

Mr. GRASSLEY. Mr. President, I rise to pay tribute to SGT James P. Musack of Riverside, IA, who tragically died as a result of a noncombat related incident while serving his country in Iraq. I am sure that all Iowans shared the same sense of sadness I felt when learning of the death of this young Iowa native. According to family and friends, he had found his calling in the military and all Americans owe him our deepest thanks for his service. Everyone joining the military knows the risks involved, but all Americans are indebted to brave patriots like James Musack who voluntarily assume those risks in order to defend our freedom and way of life. My prayers go out to his mother Yvette, his father Jim, and all his family and friends.

LIEUTENANT COLONEL PAUL J. FINKEN

Mr. GRASSLEY. Mr. President, I rise to pay tribute to LTC Paul J. Finken who has given his life for his country while serving in Iraq. He was 40 years old. Paul Finken was raised in Earling, IA, and I know all Iowans share my pride as we also mourn his loss. As a career Army officer, Lieutenant Colonel Finken had dedicated his life to the service of his country and we can never thank him enough for his service and his final sacrifice on behalf of our freedom.

In remembering Paul Finken, his family said, "Paul was a devoted husband, loving father and respected leader. He loved being a soldier and respected the soldiers he worked with. He always set the example and would never ask his soldiers to do anything he wouldn't do himself. He will be greatly missed by his family and by all who knew him." My thoughts and prayers are with his wife Jackie and his three daughters, Emilie, Caroline, and Julia, for their loss. I hope it will be of some comfort to them to know that Paul died a hero.

COLORADO WEATHER

Mr. ALLARD. Mr. President, I come today to discuss the situation in Colorado and surrounding States that has captured national attention. Over the last few weeks Colorado and its neighbors have experienced two record-setting blizzards. In some parts of Colorado these storms dropped almost 5 feet of snow and have created a nightmare situation for many in rural America. Thousands of head of cattle and other livestock are currently stranded without food or water. Only recently have some of these animals begun to see relief with supply drops via helicopter.

The aftermath of these devastating blizzards continues to paralyze many