

## JUDICIAL NOMINATIONS

Mr. GRAHAM. Mr. President, No. 1, I wish to acknowledge the progress that was made yesterday between Senator MCCONNELL and Senator REID regarding an impasse over circuit court nominations.

The average, I believe, for the last 2 years of a Presidential term when the opposing party had control of the Senate, was 15 circuit court nominations being confirmed by the Senate. At this point, we are at seven.

As I understand, an agreement reached yesterday between Senator REID and Senator MCCONNELL will allow three circuit court judges to be moved forward by the May 23 recess. I appreciate that progress.

I live in the State of South Carolina, which is in the Fourth Judicial Circuit. We have a judicial emergency on hand there. A third of the Fourth Circuit Court of Appeals is vacant. We have two nominees, one from South Carolina and one from North Carolina, who have been awaiting hearings and confirmation for well over 200 days now.

I urge my colleagues to allow these fine candidates for the judiciary to move forward and the Senate get on about its business when it comes to judges. What I worry the most about is, over the last 4 or 5 years, we have had an experience with judges pretty much unknown to the Senate. There are a lot of anecdotal stories, a lot of cases in the past where people slow walked. I can only speak to my time here. I was involved in the Gang of 14 to make sure the Senate did not do something that would haunt the body for years to come. The Gang of 14 was a bipartisan effort to make sure filibustering judges would be done only in extraordinary circumstances, simply because if we engage in this practice of trying to hold up Presidential nominations based on philosophy and not qualifications, if all of us become President, so to speak, saying, I am not going to allow a vote on a judge I wouldn't have picked, it becomes chaos.

I urge Senators CLINTON and OBAMA, who have been, quite frankly, part of the problem, to look at the model they are setting, because if they do secure the White House, they do not want this to come back to haunt them.

I want an independent judiciary. I wish to make sure it is well paid and insulated as much as possible from an unfair process. The confirmation process is getting out of hand, overly political, too many political interest groups on the left or right have an inordinate amount of say in who gets on the bench. The role of the Senate is to pass judgment, an up-or-down vote, on qualified nominees sent over by the President.

I found in the Senate if you get someone who is an outlier, there is usually bipartisan support to say no to that nominee. President Bush sent over a couple nominees I opposed. Generally speaking, I expect my time in the Senate to defer as much as possible to a

Presidential nominee who I think is qualified and not base my vote or denying a nominee a vote based on the fact I would not have chosen that person. I certainly would not have chosen Justice Ginsburg, if I was President, but she is eminently qualified and received well over 90 votes, I believe.

I hope in the future we will allow judges to come to the floor, through the committee, in a timely process. The Fourth Judicial Circuit is in dire need of Judge Conrad and Mr. Steve Matthews from South Carolina having hearings and a vote. If a Senator does not like these nominees, they can vote against them. What happened there is creating a problem in the area of the country in which I live and, quite frankly, it is unfair.

I look forward to working with my colleagues to break this logjam. Senator DURBIN and Senator KENNEDY were kind enough to meet with Steve Matthews, the nominee from South Carolina, and I appreciate them doing so.

Let's not get into a pattern that will come back to haunt us as a body and do a lot of damage to the confirmation process and over time erode the independence of the judiciary.

I appreciate the progress that was achieved yesterday, but there is a lot more to do, particularly when it comes to the Fourth Circuit.

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

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## JUDICIAL CONFIRMATIONS

Mr. DEMINT. Mr. President, over the past couple of weeks, there has been a lot of talk about the lack of progress the Democrat majority in the Senate has made on judicial confirmations in the last couple of years, but I want to thank the majority leader for his promise last night to confirm three judges by Memorial Day. This is certainly welcome news. I hope at least one of those is the nominee for the Fourth Circuit.

As we all know, our courts are in crisis. Currently, there are over 40 vacancies on the U.S. Circuit Court, and of those half are judicial emergencies. The consequences of the majority's failure to act on these nominations result in extended judicial vacancies, increased casework, and a delay in verdicts. This obstruction is harmful for the American judicial system and the American people.

One of the most important jobs we have here in the Senate is to offer advice and consent to the President's judicial nominees. While I believe all of these nominees deserve an up-or-down

vote on the Senate Floor, I rise today specifically to speak on the current judicial vacancies on the Fourth Circuit Court of Appeals and the qualified nominees waiting for a vote.

The Fourth Circuit of Appeals, which covers South Carolina, North Carolina, Virginia, West Virginia, and Maryland, is one-third vacant. Even though the Fourth Circuit is facing so many pronounced vacancies, and there is a critical need for judges, the Democratic leadership has made no effort to move any of the pending nominees.

In spite of the number of vacancies, the Fourth Circuit, run by Chief Judge Karen Williams, continues to do a remarkable job. Many of the cases brought before the Fourth Circuit are extremely complex, and the judges must spend a longer amount of time on each of these cases before issuing their opinion. Our judges will not sacrifice quality, but it may take a lot longer for the court to issue its decision. We are lucky that the Fourth Circuit has the leadership it has. They are dedicated and hardworking, clearly, but we cannot continue with this high level of vacancy.

I have heard firsthand about the impact these vacancies have on the Fourth Circuit. Appellate courts must have enough judges to fill the panel, and if a seat is vacant, they must fill it somehow. This means judges from other circuits or judges from the district courts must take time away from their families, their caseload, their administrative tasks to fill the spot on the panel.

Two of the Fourth Circuit nominees, Mr. Steve Matthews of South Carolina and Mr. Robert Conrad of North Carolina, have the support of their home State Senators and are ready for a hearing in the Senate Judiciary Committee. Despite these facts, both nominees have been waiting for over 200 days for a hearing.

Let me quote an editorial from the Washington Post in December of 2007 in which they addressed the dire straits of the Fourth Circuit.

The Senate should act in good faith to fill vacancies—not as a favor to the President but out of respect for the residents, businesses, defendants, and victims of crime in the region the Fourth Circuit covers. Two nominees—Mr. Conrad and Steve A. Matthews—should receive confirmation hearings as soon as possible.

On that note, I wish to spend a couple of minutes telling you about Mr. Steve Matthews from South Carolina. President Bush nominated Steve Matthews in September of 2007, but the Senate Judiciary Committee has failed to hold a hearing on his nomination.

Matthews received his undergraduate degree from the University of South Carolina and his law degree from Yale Law School. He is currently the managing director of Haynesworth, Sinkler, and Boyd in Columbia, SC.

Prior to joining the Columbia firm, Matthews practiced in the Washington office of Dewey Ballantine and served