this one. We urge our colleagues in the House to resist the special interests one more time. Together, we can send a strong endorsement of the Patients’ Bill of Rights to President Bush.

We hope that when that happens, the President will reconsider his threatened veto. We hope he will remember the promise he made last fall to the American people to pass a national Patients’ Bill of Rights. Texas has proven that we can protect patients’ rights—without dramatically increasing premiums. It is time—it is past time—to pass a Patients’ Bill of Rights to protect all insured Americans.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill, as amended, pass?

Mr. STEVENS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

Mr. NICKLES. I announce that the Senator from Colorado (Mr. CAMPBELL), the Senator from New Mexico (Mr. DOMENICI), the Senator from Texas (Mr. GRAMM), the Senator from Alaska (Mr. MUKOWSKI), the Senator from Mississippi (Mr. LOTT) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 59, nays 36, as follows:

(Roll Call Vote No. 220 Leg.)

YEAS—59

Akaka  Dobbs  McCain
Baucus  Dorgan  Mikulski
Bayh  Durbin  Miller
Biden  Edwards  Murray
Bingaman  Feingold  Nelson (FL)
Boxer  Feinstein  Nelson (NE)
Breaux  Fitzgerald  Reed
Byrd  Graham  Reid
Cantwell  Harkin  Rockefeller
Carlson  Hollings  Rockefeller
Carper  Inouye  Schumer
Chafee  Johnson  Smith (OR)
Clinton  Kennedy  (RI)
Kerry  Snow
Collins  Kohl  Specter
Conrad  Landrieu  Stabenow
Curtz  Leahy  Torricelli
Daschle  Levin  Warner
Dayton  Lieberman  Wexler
DeWine  Lincoln  Wyden

NAYS—36

Allard  Frist  McConnell
Allen  Grassley  Nickles
Bennett  Gregg  Roberts
Bond  Hagel  Santorum
Brownback  Hatch  Sessions
Burns  Hutchinson  Smith (NH)
Cochran  Hutchinson  Stevens
Craig  Inhofe  Thomas
Crapo  Jeffords  Thompson
Ensign  Kyl  Thurmond
Emerson  Voinovich

NOT VOTING—5

Campbell  Gramm  Murkowski
Domenici  Lott

The bill (S. 1052), as amended, was passed.
June 29, 2001

CONGRESSIONAL RECORD—SENATE 12485

simply dies without even a hearing. This is just plain wrong.

I have watched the painful process over the last 9 years. During 6 of those years, the blue slip itself contained the words, "no further proceedings on this nomination will be scheduled until both blue slips have been returned by the nominee's home State Senators." As a result, I saw nominees waiting 1, 2, 3, even 4 years, often without as much as a hearing or even an explanation as to why the action was taken. These nominees put their lives on hold. Yet they never have a chance to discuss the concerns that may have been raised about them. These concerns remain secret and the nomination goes nowhere.

As a member of the Judiciary Committee, I believe our duty is either to confirm or reject a nominee based on an informed judgment that he or she is either fit or not fit to serve; to listen to concerns and responses, to examine the evidence presented at a hearing, and to have a rationale for determining whether or not an individual nominee should serve as a district court judge or circuit court judge or even a U.S. Supreme Court Justice. That duty, in my view, leaves no room for a secret block on nominees by any Member which prevents their hearing and confirmation.

I believe in the last three Congresses, based on information I have been able to come upon, that the blue slip has been used at least 21 times. Consider this: An individual graduates college with honors, finishes law school at the top of the class; he or she may even clerk for a prestigious judge or join a large law firm, or maybe practice public interest law or even serve as staff of the Judiciary Committee. In fact, a nominee can spend years of his or her life honing skills and developing a reputation among peers, a reputation that may in some instances cause him or her to feel the proverbial pressure to get on "the list," to pursue a career in the Federal court. This must be the proudest day of his or her life. The nomination system is a national disgrace.

This is just plain wrong.

Simply put, the nominee has been blackballed by a blue slip, and there is nothing that can be done about it—no one to hold them accountable. And as a result of the blue slip, the nominee may have chosen to withdraw. In others, perhaps a misunderstanding can be cleared up. Either way, the process will be left open, and we will know the reasons.

I believe that many members of this Senate did not even realize they held the power of the blue slip until just recently.

In my view, the rationale behind the blue slip process is faulty. The process was designed to allow home state Senators—who may in some instances know the nominee better than the rest of the Senate—to have a larger say in whether the nominee moves forward. More often than not, however, this process is and will be used to stop nominees for political or other reasons having nothing to do with qualifications.

As a matter of fact, the Member who uses the blue slip, who doesn't send it in, or sends it in negatively, may never have even met the nominee.

If legitimate reasons to defeat a nominee do exist, those reasons can be shared with the Judiciary Committee in confidence, and decisions can be made based on that information—by the entire Committee.

The blue slip process as it now stands is open to abuse. I would join with those—I am hopeful there are now those—on the Judiciary Committee who would move to abolish the blue slip.

Before I conclude, I want to read from a recent opinion piece by G. Calvacante, a professor at Colby College and an expert on the appointment process. In the April 1, 2001 edition of the Washington Post, Mackenzie wrote:

"The nomination system is a national disgrace. It encourages bullies and emboldens demagogues, silences the voices of responsibility, and nourishes the lowest forms of partisan combat. It uses innocent citizens as pawns in politicians' petty games and stains the reputations of good people. It routinely violates fundamental democratic principles, undermines the quality and consistency of public management, and breaches simple decency."

I find myself in agreement with every word in that quote. It is quite an indictment of our nominations process. On both sides of the aisle, we hear: Well, they did it, so we are going to do it. Well, they blackballed our nominee, so now we will block their nominee. I don't believe that has any merit whatsoever. I believe at some point we have to stop this cycle. At some point, nominees have to come to the Senate Judiciary Committee, go promptly or as promptly as they can go to a hearing, have the questions asked, and we do our duty which we took our oath to do, which is to make the judgment whether that nominee qualifies to be a Federal court judge or district court judge.

I make these remarks to say that this is one Member of the Judiciary Committee who will happily vote to do away with the blue slip.

Thank you very much. I yield the floor.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerks will call the roll.

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

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

MORNING BUSINESS

Mr. DASCHLE. Madam President, I ask unanimous consent that there be a period for morning business with Senators permitted to speak for up to 5 minutes each.

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

EXPLANATION OF ABSENCE

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Pursuant to rule 6, Mr. President, earlier this afternoon, a few short blocks from this Chamber and in the shadow of the Capitol, hundreds of people gathered to celebrate the formal opening of the National Japanese American Memorial honoring the loyalty and courage of Japanese Americans during the Second World War.

As a World War II veteran and a native of Fairbanks, I am well-acquainted with the exceptional contributions of Japanese Americans to the war effort, both at home and abroad. The battlefield exploits of the 442nd, 100th, and