I noted with one of our colleagues over there, Senator NICKLES—and I am sure that he does not mind my quoting him here—he said that this markup in the budget was the least acrimonious that he had seen in his 17 years on the Budget Committee. I, too, in the 14 years I have been on the Budget Committee.

We had plenty of differences. Do not let anybody think it was smooth going all the way. But there was a determination to get the job done. It was largely PETE's leadership and our willingness to just put aside some differences.

My leader, TOM DASCHLE, was always there to encourage me and the team.

Senator LOTT, too, you know how to push at times and how to pull at other times. You still got us going in the same direction. I don't get it. But it was a pleasure working with the majority leader.

My team, John Cahill, Bruce King, Sander Lurie, Marty Morris, Sue Nelson, Mitch Warren, and the others whom I was fortunate enough to inherit from the experienced days of Senator Exon and Senator Sasser, Amy Abraham, Matt Greenwald, Phil Karsting, Jim Klumpner, Nell Mays, and Jon Rosenwasser, everybody helped enormously. I want to say Bill Hoagland and the majority leader's team were cooperative. They tried to always make sure we understood exactly what was going to be in there. There was no attempt to deceive or fool.

Thus, we have an agreement that we can all be proud of. The American people should be proud of it. They saw us cooperating, as the majority leader said. And here we saw a vote of 78 to 22. That is pretty darn good.

Thank you very much. I yield the floor.

Mr. LOTT. I thank the Senator.

I do have a couple unanimous-consent requests to make. I think Members will be very interested in this. Then we can go on with some closing statements and some wrapup information.

We have some other matters that we are going to try to work through in the afternoon. But if we can get these two agreements, then we could announce there would be no further votes today. I think that would be very important.

## EXECUTIVE SESSION

## EXECUTIVE CALENDAR

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate now proceed to executive session to consider the following nominations: No. 73, Donald Middlebrooks; No. 74, Jeffrey Miller; No. 75, Robert Pratt. I further ask unanimous consent that the nominations be confirmed en bloc, the motions to reconsider be laid upon the table, statements relating to any of these nominations be printed in the RECORD, the President be immediately notified of the Senate's action, and that the Senate then resume legislative session.

The PRESIDING OFFICER. Is there objection?

Mr. LEAHY. Reserving the right to object, Mr. President, we are now at the end of May. We have confirmed a grand total of two judges in this session. If we confirm these, it will make five, one a month, which is zero population growth in the Federal judiciary.

I will not ask for a rollcall, but we have been told over and over again these were all being held up so we could have rollcalls on them. I suspect we will not have them because it will be embarrassing to see that three excellent, well-qualified judges, held up all this time, then would get voted on virtually unanimously.

I will also note Margaret Morrow, the one woman who was on the panel on this, still is not before the Senate and still is being held for mysterious holds on the Republican side.

I urge my good friend, the majority leader—and he is my good friend—I urge him to do this. I have been here 22 years with outstanding majority leaders, Republicans and Democrats, with Senator Mansfield, Senator BYRD, Senator Baker, Senator Dole, and Senator Mitchell as majority leaders. And now I have the opportunity to serve with the distinguished Senator from Mississippi as the majority leader.

No majority leader has ever allowed the Senate before to do what is happening to the Federal judiciary now. I urge my friend from Mississippi not to allow this Senate to be the first Senate that acts toward the Federal judiciary or diminishes the integrity and the independence of our Federal judiciary, the integrity and independence recognized and commended and praised throughout the world, to let it be diminished here.

I urge the distinguished majority leader to work with the distinguished Democratic leader, the distinguished chairman of the Judiciary Committee, Mr. HATCH, and myself and others, to move these judges. We have 100 vacancies. We have 25 to 28 sitting before the committee that could go immediately, or nearly immediately. We have to do this and stop—stop—the belittling and diminishing of our Federal judiciary. It is part of what makes this a great democracy. We should not allow it to happen.

I will not object to the request of the distinguished majority leader.

The PRESIDING OFFICER. Is there objection to the request?

Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

THE JUDICIARY

Donald M. Middlebrooks, of Florida, to be United States District Judge for the Southern District of Florida.

Jeffrey T. Miller, of California, to be United States District Judge for the Southern District of California.

Robert W. Pratt, of Iowa, to be United States District Judge for the Southern District of Iowa.

STATEMENT ON THE NOMINATION OF ROBERT W. PRATT

Mr. LEAHY. Mr. President, I am delighted that the majority leader has decided to take up the nomination of Robert W. Pratt to be a U.S. District Judge for the Southern District of Iowa. Mr. Pratt is a well-qualified nominee.

We first received Robert Pratt's nomination in August 1996. He was not accorded a hearing last Congress and the President renominated him on the first day of this Congress for the same vacancy on the District Court for the Southern District of Iowa. He had a confirmation hearing on March 18 where he was supported by Senator HARKIN and Senator GRASSLEY and was reported to the Senate by the Judiciary Committee on April 17, more than 4 weeks ago.

With this confirmation the Senate has confirmed five Federal judges in five months—one Federal judge a month. Even with the three judicial confirmation votes today, there are still almost 100 judicial vacancies in the Federal courts. Since this session began, vacancies on the Federal bench have increased from 87 to 103 and we have proceeded to confirm only five nominees. After these three confirmations, after more than doubling our confirmation output for the entire year in this one afternoon, we still face 98 current vacancies today and that number is continuing to grow. At this rate, we are falling farther and farther behind and more and more vacancies are continuing to mount over longer and longer times to the detriment of more Americans and the national cause of prompt justice.

Mr. President, I ask unanimous consent to have printed in the RECORD recent articles on the crisis caused by the vacancies in the Federal courts.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From Time, May 26, 1997]

EMPTY-BENCH SYNDROME—CONGRESSIONAL REPUBLICANS ARE DETERMINED TO PUT CLINTON'S JUDICIAL NOMINEES ON HOLD

(By Viveca Novak)

The wanted posters tacked to the walls of courthouses around the country normally depict carjackers, kidnappers and other scruffy lawbreakers on the lam. But these days the flyers might just as well feature distinguished men and women in long dark robes beneath the headline ''Help Wanted.'' As of this week, 100 seats on the 844-person federal bench are vacant. Case loads are creeping out of control, and sitting judges are crying for help.

The situation is urgent, says Procter Hug Jr., chief judge of the Ninth Circuit Court of Appeals, which covers California and eight other Western states. Hug says that with a third of its 28 seats vacant, the court has had to cancel hearings for about 600 cases this year. Criminal cases take precedence by law, so at both the trial and appellate levels, it is civil cases that have been crowded out. Civil rights cases, shareholder lawsuits, product-

liability actions, medical-malpractice claims and so forth are being pushed to the back of the line, however urgent the complaints. Chief Judge J. Phil Gilbert of the southern district of Illinois went an entire year without hearing a single civil case, so overwhelmed was he by the criminal load in a jurisdiction down to two judges out of four. ''It's litigants who end up paying the price for the delays,'' says A. Leo Levin, a professor at the University of Pennsylvania Law School.

Things won't improve any time soon. Democratic Senators have been slow in recommending names to the White House, which in turn has dragged its feet in forwarding those recommendations to the Senate for confirmation. At a private meeting with federal judges last week, Clinton promised to send close to two dozen new names to Capitol Hill by July 4. But once they get there, they face new hurdles. Last year the Senate confirmed only 17 federal district-court judges and none for the appeals courts. This year looks even worse, with only two confirmations thus far. The number of days from nomination to confirmation is at a record high of 183, and 24 seats have been vacant more than 18 months, qualifying them as judicial emergencies.

This slowdown in judicial confirmations is not due to congressional lethargy. Just the opposite. With Republicans firmly in control of the Senate, many of the party's theorists feel they have the power—and the rightful mandate—to implement the ideals of a conservative revolution that lost its focus in recent years. So they have been not so quietly pursuing a historic change in the ambiguous ''advise and consent'' role the Constitution gives the Senate in the selection of federal judges. The successful assault by Democrats on Ronald Reagan's nomination of Robert Bork for the Supreme Court helped open the way for what has become a more partisan and ideological examination of all judicial nominees.

Some Republicans have as much as declared war on Clinton's choices, parsing every phrase they've written for evidence of what they call judicial activism. That label has long been applied to judges who come up with imaginative new legal principles in their decisions rather than simply following the letter of the law or the Constitution. Lately the term has been tossed around like insults at a brawl. ''The Republicans define 'activist' according to their political agenda,'' says a federal judge. ''It's O.K. to be an activist if you're striking down affirmative action and gun-free school laws. It's not if you're overturning abortions restrictions and the line-item veto.''

Meanwhile, nominees are left adrift. The federal bench's poster child of the moment is Margaret Morrow. Nominated in May 1996 with broad bipartisan support, Morrow was the first woman president of the California Bar Association, has had a distinguished career in private practice and could fill a trophy case with her awards and citations. She cleared the judiciary committee unanimously but got stuck in last year's G.O.P. freeze-out on the Senate floor. Clinton sent her name back up this year, but in the meantime, conservatives began raising questions about some of her writings the committee hadn't seen. After another hearing, she received a letter from Republican Senator Charles Grassley asking her position on every ballot initiative that's come up in California over the past decade, in effect asking which levers she pulled in the voting booth. Morrow's nomination still isn't scheduled for a vote, and she isn't even the longest-suffering nominee. That distinction belongs to William Fletcher, named by Clinton to the Ninth Circuit in April 1995.

Orrin Hatch, chairman of the Senate Judiciary Committee, says he would like to clear the backlog. ''Playing politics with judges is unfair, and I am sick of it,'' he said in March. But those close to him say he's feeling pressure from the right, and indeed his remarks have become more combative. Last week he told a group of judges that he would refuse ''to stand by to see judicial activists named to the federal bench.''

Republicans are also aiming rocket launchers at those lucky enough to have already been issued their robes. Proposals range from having three-judge panels, rather than a single judge, hear challenges to ballot initiatives to radical notions like amending the Constitution to eliminate lifetime tenure. Lawmakers have taken to threatening impeachment proceedings against judges whose rulings they dislike. House majority whip Tom DeLay of Texas, a chief proponent of using the impeachment process much more freely than it is now, says he wants ''to make an example'' of someone this year. Some candidates they're considering: Judge Thelton Henderson in California, who struck down a voter-approved referendum ending state affirmative-action programs (he has since been reversed); Judge John Nixon in Tennessee, who has reversed several death-penalty convictions; and Judge Fred Biery in Texas, who has refused to seat a Republican sheriff and county commissioner because of a pending lawsuit challenging some absentee ballots. Not mentioned are judges like New York's John Sprizzo, who freed two men who had blocked access to an abortion clinic because they acted on religious grounds.

So far, the Republicans see no real downside to picking on the third branch of government. ''Some of these rulings have inflamed mainstream America,'' says Clint Bolick of the conservative Institute for Justice. ''So when the GOP elevates this issue, it is seen as a winner.

It's ironic that these fusillades should be coming now, when even activists like Bolick concede that Clinton's nominees have been mostly moderate, and liberals are moaning that the President hasn't done enough to counteract the effect of 12 straight years of Republican court choices. But what it adds up to is ''probably the most intense attack on the judiciary as an institution ever,'' says Robert Katzmann, a lawyer and political scientist who has written a book on Congress and the courts. ''The framers of the Constitution tried to create a system in which judges would feel insulated from political retribution. That's being undermined.''

[From U.S. News, May 26, 1997]

THE GOP'S JUDICIAL FREEZE—A FIGHT TO SEE WHO RULES OVER THE LAW

(By Ted Gest and Lewis Lord)

When Bill Clinton was first elected, liberals thought they would finally get a chance to rectify what they saw as a great injustice. For 12 years, Ronald Reagan and George Bush had packed the judiciary with conservative judges. And their rulings were shifting power toward police and corporations and away from criminal suspects, environmentalists, and trade unions. Clinton, it seemed, would be able to shift the balance of power back.

Well into Clinton's second term, the judiciary's composition has barely changed, thanks to an aggressive Republican strategy of thwarting Clinton's nomineees—and a remarkable timidity on the president's part. During his first term, when Democrats controlled the Senate for two years, 202 of his nominations were confirmed. But in the past 16 months, with the GOP firmly in control, the Senate has approved the nominations of only 18 district judges and one circuit court of appeals judge. Roughly 100 judgeships—12 percent of the judiciary—are vacant, including a record 24 ''judicial emergencies,'' seats that have been open for at least 18 months. Judges are working nights and weekends on the stacks of new cases that keep piling up. Countless civil disputes involving businesses and families—whether a worker should get a disability benefit, whether a loss is covered by insurance, whether an alien should be deported—are being held up for months.

Congress has insisted on playing an unprecedented role. In the past, the Senate paid close attention to a president's Supreme Court nominees but usually gave him a free hand in selecting other federal judges. Now, the Republican Senate is demanding—and often getting—a voice in whom Clinton appoints to the district courts, where judges and juries make basic rulings involving federal law, and to the appeals courts, which decide most constitutional and other big issues. ''It's a scandalous and stunningly irresponsible misuse of the Senate's authority,'' says law professor Geoffrey Stone, the provost at the University of Chicago.

AUTHORITY CHALLENGED

The slowdown could become a constitutional showdown. ''In all of American history there has never been a situation where a newly elected president has faced this of challenge to his judicial nominations,'' says Sheldon Goldman, author of the upcoming book *Picking Federal Judges: Lower Court Selections From Roosevelt to Reagan*. ''The gauntlet has been thrown down to President Clinton. And now we will see if he is going to fight or if he's going to back off.''

Last week, Chief Justice William Rehnquist, a conservative, chastised the White House and the Senate for leaving so many vacancies. ''Unless the executive and the legislative branches change their ways,'' Rehnquist told the Federal Judges Association, ''the future for judicial appointments is bleak.'' He urged judges to meet with senators from their areas. One judge who recently did is Procter Hug Jr. of Reno, Nev., chief of the nation's busiest court—the nine-Western-state 9th U.S. Circuit Court of Appeals, which has lost nine of its 28 judges to retirement. Hug asked Sen. Orrin Hatch, chairman of the Senate Judiciary Committee, for action, and Hatch replied that he would hold one judicial nomination hearing each month. ''Nationally, there are 25 circuit-judge vacancies,'' said Hug. ''The have *got* to hold more than one a month.''

Republicans are resisting Clinton nominees aggressively in part because they had to fight so long to get the judiciary to their liking. The Reagan White House shrewdly decided not to rely solely on GOP senators, who might have picked judges mainly because of connections instead of ideology. Instead, Reagan created the Federal Judicial Selection Committee, which sought judges willing to reject affirmative action, give police more authority, allow restrictions on abortions, and permit voluntary school prayer.

The emphasis on ideology stirred a hostile Democratic reaction. Democrats in 1987 successfully blocked the nomination to the Supreme Court of Robert Bork, which increased Republican determination to protect their gains. And they have. Reagan's appointees and those of Bush are now considered the most conservative since the judges whom Franklin Roosevelt assailed 60 years ago for curbing his New Deal, and they make up more than half the federal judiciary.

FAILURE TO FIGHT

Liberals had hoped that Clinton would pull the courts back from the right and, by the year 2000, establish a majority of left-leaning judges. But he hasn't. For one thing, he has been slow to send up nominees, partly because the Senate has been reluctant to move

those already pending. Clinton has nominated candidates for fewer than one third of the vacancies. More important, he has shown an aversion to fighting for controversial nominees. One prominent example involved an old friend, Georgetown University law professor Peter Edelman. Clinton decided in 1995 not to nominate Edelman for a seat on the appeals court in Washington, DC, after conservatives served notice they would mount a Bork-like challenge, citing Edelman's writings as ''too liberal.''

In essence, Clinton rejects the liberal view that he should counter the Reagan-Bush emphasis on conservative views. ''He doesn't want to make a federal bench in his image,'' House counsel, Abner Mikva. ''What he really wants is a high-quality bench that will do the right thing regardless of ideology.'' Other insiders say that when the White House sets legislative priorities, it is more interested in winning votes from key senators on policy issues than in pressing them to support judicial nominees.

This has left liberal activists bitterly disappointed. ''He has an enormous opportunity to reshape the federal bench,'' says Nan Aron of the Alliance for Justice, an umbrella organization of public-interest law groups, ''but rather than hit the ground running, he has silently tolerated an unprecedented number of attacks on the federal judiciary.''

Liberals like Aron are doubly disappointed because those nominations Clinton has pushed have not been particularly liberal. His trial judges, according to one study, seem closer in ideology to Gerald Ford's judges than they do to those of Jimmy Carter, who are considered the most liberal of current judges.

To the extent Clinton has had a broad agenda for the judiciary, the guiding principle has been not philosophy but race and gender. ''Clinton's first term,'' says Goldman, who teaches political science at the University of Massachusetts—Amherst, ''was the first ever in which most of a president's appointments went to women or minorities.''

NOT MAINSTREAM?

Republicans argue that they have no choice but to hold up Clinton's nominees because many are ''judicial activists'' far out of the mainstream. One would-be district judge tarred as an activist is Margaret Morrow of Los Angeles, a former state bar president who was first nominated to the bench more than a year ago. In 1988, Morrow wrote an article suggesting that California might be putting too many questions to a vote in citizens' referendums. Senators now are demanding to know her positions on many referendum issues.

''Judicial activists do not abide by the law,'' says Hatch, who defines a judicial activist as ''someone who makes law as a superlegislator and usurps power from two other co-equal branches.'' Mikva, who was a longtime judge before working at the White House, offers a different view: ''An activist judge is a judge who makes a decision you don't like.''

This month, Hatch did remind his GOP colleagues that Clinton had won and thus was entitled to make nominations. ''He deserves respect and support for his nominees as long as they are qualified,'' the senator said. But he also has said that judicial activists are not qualified.

The Clinton administration insists that it has a grip on the problem. ''We are doing as much bipartisan consultation as we can . . . to see how Republican senators' views can be absorbed into the system,'' says White House Counsel Charles Ruff. That approach fails to placate Clint Bolick of the Institute for Justice, a libertarian group. When Clinton was re-elected, he said, ''the stakes doubled,'' and the prospect of a Democrat appointing a majority of judges became a ''very real concern, not an abstract concern.'' Bolick's goal is to thwart any Clinton choice who doesn't meet his sharply conservative standards. He expects that in the coming months his fellow conservatives will go after even more Clinton nominees.

Mr. HARKIN. Mr. President, it is a privilege for me to speak today in behalf of Robert Pratt, to serve on the U.S. District Court for the Southern District of Iowa.

I have known Bob and his wonderful family for almost 25 years. I met him when we were both fresh out of law school. We landed jobs at the Polk County Legal Aid Society. And it was this experience that made a permanent impression on me.

Since that time, Bob has dedicated his life to using the law to improve people's lives, their communities and their future. He is currently in private practice in Des Moines and continues to devote his practice to the legal needs of lower income and economically disadvantaged Iowans.

Bob Pratt is, quite simply, one of the best public interest lawyers in the country. And his respect for the rule of the law and his faith in our country's system of justice is truly inspiring.

I believe that Bob possesses all of the qualifications necessary to assume the very serious responsibilities carried out by any Federal judge. He has the temperament, the intellectual rigor, the compassion, and the ability to be fair and impartial.

I am also proud to say that Bob enjoys bipartisan support from the Iowa legal community. Robert Downer, former President of the Iowa State Bar Association, and a Republican, states: ''It has been my privilege to be acquainted with Mr. Pratt for some time, and I regard him very highly both personally and professionally. With the heavy caseload in the Southern District of Iowa it will be of great benefit to litigants in that court if he can be confirmed without delay.''

Mr. President, I am proud to continue Iowa's fine tradition of judicial selection based upon merit. I believe Bob Pratt reflects very proudly on all of us who have chosen to be public servants. And I have no doubt that he will make an excellent U.S. District judge for the Southern District of Iowa.

STATEMENTS ON THE NOMINATION

Mr. LEAHY. Mr. President, I am delighted that the majority leader has decided to take up the nomination of Donald M. Middlebrooks to be a U.S. District Judge for the southern district of Florida. Mr. Middlebrooks is a well-qualified nominee.

The Judiciary Committee unanimously reported his judicial nomination to the full Senate more than 4 weeks ago. The southern district of Florida desperately needs him to manage is growing backlog of cases.

We first received Donald Middlebrooks' nomination in September 1996. He was not accorded a hearing last Congress and the President renominated him on the first day of this Congress for the same vacancy on the district court for the southern district of Florida, which vacancy has existed since October 1992. This is another of the judicial emergency vacancies that we did not fill last year. It has been vacant for more than 4½ years. He has the support of both Senator GRAHAM and Senator MACK and was reported by the Judiciary Committee to the Senate on April 17.

With this confirmation, the Senate has confirmed three Federal judges this year—the same amount of times we have gone on vacation in 1997. At this rate, we are falling farther and farther behind and more and more vacancies are continuing to mount over longer and longer times to the detriment of more Americans and the national cause of prompt justice. We must do better.

Mr. President, I look forward to working with the chairman and other members of the Judiciary Committee and the full Senate to move the nominations process forward so that the Senate confirms the judges that the Federal courts need to ensure the prompt administration of justice.

Mr. GRAHAM. Mr. President, I join all those in America who are concerned about filling judicial vacancies in expressing gratitude to Senators HATCH and LEAHY for bringing judicial nominations to the floor for our timely consideration.

Florida, with some of the busiest districts in the Nation, has three Federal judicial vacancies. With our action today, one of those vacancies is no more, and the people of Florida's southern district will soon be served by an outstanding and experienced member of both the legal and larger south Florida community—Mr. Don Middlebrooks.

I look forward to working with my colleagues to fill all of the judicial vacancies in Florida. But today's action is a very positive step forward.

Mr. President, the people served by the jurists we confirm have a right to expect judges who bring unquestioned competence, strong integrity, devotion to duty, and diversity of experience with them to the Federal bench.

Throughout his career—as an undergraduate and law student at the University of Florida, a public servant, and a distinguished member of the south Florida legal community—Don Middlebrooks has met—and exceeded—this standard of excellence time and time again.

Mr. Middlebrooks started his career in the public service at the University of Florida, where his fellow undergraduates elected him president of the student body.

That excellence in student government was followed by distinction at the University of Florida Law School and, eventually, outstanding service in the Florida State government.

In 1974, Don Middlebrooks was asked to serve the people of Florida as assistant general counsel to then-Governor

Reubin Askew. He served with such distinction that Governor Askew ultimately elevated him to the post of general counsel.

Three years later, as Governor Askew's second and final term was coming to a close, Mr. Middlebrooks left Tallahassee and joined the south Florida offices of Steel, Hector, & Davis, one of our State's oldest and largest law firms.

His 20 years of experience with highly complex legal issues makes him especially well-prepared for the cases that he will see as a Federal district court judge in south Florida.

But the fact that Don Middlebrooks has spent the last two decades in the private sector does not mean that he has neglected his commitment to public service.

In addition to handling numerous pro bono cases himself, Mr. Middlebrooks was chairman of Steel, Hector, & Davis' public service committee when the firm received the American Bar Association pro bono award and the Florida Supreme Court chief justice's law firm commendation.

He has also been a civic leader. The list of his involvements is long and distinguished—chairman of the Palm Beach County Criminal Justice Commission, president of the Florida Bar Association, member of the Florida Ethics Commission.

Perhaps Don Middlebrooks' most important civic contribution has been his tireless commitment to the welfare of Florida's youngest generation—its children.

In addition to being the father of 11-year-old Amanda and 9-year-old Jack, Mr. Middlebrooks has served as chairman of the Palm Beach County Children's Services Council, chairman of the Florida Bar Commission for Children, and a member of the Florida Commission on Child Welfare.

Mr. Chairman, throughout his life, Don Middlebrooks has been respected by his peers, hailed for his outstanding service to the people of Florida, honored for his civic involvements, and praised for his skill and competence in the legal arena.

I have no doubt that this pattern of distinction and outstanding service will continue once he is invested as a Federal judge in the southern district of Florida.

STATEMENTS ON THE NOMINATION OF JEFFREY T. MILLER

Mr. LEAHY. Mr. President, I am delighted that the majority leader has decided to take up the nomination of Jeffrey T. Miller to be a U.S. district court judge for the southern district of California. Judge Miller is a well-qualified nominee.

The Judiciary Committee unanimously reported his nomination to the Senate more than 4 weeks ago. The southern district of California desperately needs Judge Miller to help manage its growing backlog of cases.

We first received Judge Jeffrey Miller's nomination in July 1996. He was not accorded a hearing last Congress and the President renominated him on the first day of this Congress for the same vacancy on the district court for the southern district of California, which vacancy has existed since December 1994. This is one of the judicial emergency vacancies that we should have filled last year. This vacancy has persisted for 2½ years. He has the support of both Senators from California. He had a confirmation hearing on March 18 and his nomination was considered and reported to the Senate by the Judiciary Committee on April 17.

With this confirmation, the Senate has confirmed four Federal judges this year—the same number as the number of amendments to the Constitution that have been considered and defeated by the House of Representatives and the Senate. At this rate, we are falling farther and farther behind and more and more vacancies are continuing to mount over longer and longer times to the detriment of more Americans and the national cause of prompt justice. We must do better.

Mrs. FEINSTEIN. Mr. President, I want to thank the majority leader for calling up these judicial nominations for votes by the Senate, and in particular for calling up Judge Jeffrey Miller, who has been nominated to the U.S. district court for the southern district of California in San Diego.

It was my distinct pleasure to recommend Judge Jeffrey Miller to the President. I feel strongly he is extremely well qualified for the position.

Judge Miller has been serving for 10 years as a superior court judge in San Diego, having been appointed by a Republican Governor, George Deukmejian, in 1987.

Judge Miller previously spent 19 years with the State attorney general's office.

He earned both his undergraduate and law degree from the University of California at Los Angeles in the 1960's. He first devoted himself to public service by working in the Peace Corps for a year.

During his experience in the Los Angeles attorney general's office from 1968 to 1974, he briefed approximately 60 cases on behalf of the people, urging affirmation of trial court convictions before the court of appeals in more than half of those cases.

Of those cases, published opinions were issued in 13, all but 1 affirming trial court convictions.

From 1974 to 1987, Judge Miller supervised attorneys and carried his own caseload in the tort and condemnation section of the attorney general's office, which oversaw the San Diego, Orange, San Bernardino, and Riverside areas. Here he represented the State in matters ranging from class action lawsuits to California Highway Patrol officers sued for false arrest.

Judge Miller has argued two cases before the U.S. Supreme Court. Both cases were argued successfully on behalf of the State.

His lengthy and distinguished experience as a prosecutor prepared him well for his appointment in 1987 as a superior court judge.

Since then, he has handled many sensitive high-profile criminal and civil cases including two murder cases where the juries rendered convictions with full sentences.

This has prepared him extremely well for the criminal and civil caseload facing the southern district judges.

Simply put, Judge Miller is one of the most respected and trusted judicial figures in the San Diego area. He is both fair minded and thoughtful, yet remains tough and decisive.

His bipartisan support and solid judicial background make him a strong nominee for confirmation. Among those who have endorsed Judge Miller's nomination are those who know the judge's work best:

Presiding Judge James R. Milliken of the superior court described Judge Miller as ''a superb judge'' and ''a fine, insightful person. He understands legal issues and problems and does an absolutely wonderful job in the courtroom.''

Judge Anthony Joseph, a colleague on the San Diego Superior Court, wrote: ''His positive outlook and pragmatic approach are essential in this era.''

Judge Daniel Kremer of the U.S. court of appeals noted that Judge Miller ''is particularly well known for his ability to handle complex cases efficiently and fairly.''

Retired Justice Charles Froehlich, Jr., of the court of appeals said: ''He is a person of very high ethical standards. He would indeed be a credit to the local district court bench.''

Judge Judith Haller of the court of appeals wrote: ''Judge Miller would be an outstanding selection and one which would be extremely well received by members of our legal community. He is one of those rare individuals who receives unanimous praise from all who have worked with him professionally or who know him personally.''

Judge Miller is an active member of the California Judges Association.

He has been elected to the executive committee and served on that committee as supervising judge of the north county branch of the San Diego Superior Court. He has also chaired the joint jury committee and the rules committee.

Let me conclude by saying how important it is to fill the vacancies on the southern district bench. Presiding Judge Judith Keep has provided some startling information about workload in the southern district, which I would like to submit for the RECORD.

There are currently two vacancies on the southern district bench. The six judges now serving in the southern district faced a caseload of 5,674 cases in 1996. Five years earlier, the total filings in this district were 2,914. That represents a 95-percent increase in the workload from 1991 to 1996 for the southern district judges.

In addition, the vacancy Judge Miller would fill has been vacant since December 28, 1994—more than 26 months. Judge Gordon Thompson took senior status on December 28, 1994.

This vacancy has only made the workload on the southern district more intense.

So I urge my colleagues to address the workload problem by confirming this eminently qualified candidate, Judge Jeffrey Miller.

I thank the Chair, and I yield the floor.

## LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

Mr. LOTT. Mr. President, we will have just some response from the chairman in a moment. But let me proceed to the next unanimous-consent request.

## CHEMICAL WEAPONS CONVENTION IMPLEMENTATION ACT OF 1997

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate proceed to Calendar No. 60, S. 610.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 610) to implement the obligations of the United States under the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, known as ''the Chemical Weapons Convention'' and opened for signature and signed by the United States on January 13, 1993 which had been reported from the Committee on the Judiciary, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

***SECTION 1. SHORT TITLE.***

*This Act may be cited as the ''Chemical Weapons Convention Implementation Act of 1997''.*

***SEC. 2. TABLE OF CONTENTS.***

*The table of contents for this Act is as follows:*

*Sec. 1. Short title.*
*Sec. 2. Table of contents.*
*Sec. 3. Definitions.*

*TITLE I—GENERAL PROVISIONS*

*Sec. 101. Designation of United States National Authority.*
*Sec. 102. No abridgement of constitutional rights.*
*Sec. 103. Civil liability of the United States.*

*TITLE II—PENALTIES FOR UNLAWFUL ACTIVITIES SUBJECT TO THE JURISDICTION OF THE UNITED STATES*

*Subtitle A—Criminal and Civil Penalties*

*Sec. 201. Criminal and civil provisions.*

*Subtitle B—Revocations of Export Privileges*

*Sec. 211. Revocations of export privileges.*

*TITLE III—INSPECTIONS*

*Sec. 301. Definitions in the title.*
*Sec. 302. Facility agreements.*
*Sec. 303. Authority to conduct inspections.*
*Sec. 304. Procedures for inspections.*
*Sec. 305. Warrants.*
*Sec. 306. Prohibited acts relating to inspections.*
*Sec. 307. National security exception.*
*Sec. 308. Protection of constitutional rights of contractors.*
*Sec. 309. Annual report on inspections.*
*Sec. 310. United States assistance in inspections at private facilities.*

*TITLE IV—REPORTS*

*Sec. 401. Reports required by the United States National Authority.*
*Sec. 402. Prohibition relating to low concentrations of schedule 2 and 3 chemicals.*
*Sec. 403. Prohibition relating to unscheduled discrete organic chemicals and coincidental byproducts in waste streams.*
*Sec. 404. Confidentiality of information.*
*Sec. 405. Recordkeeping violations.*

*TITLE V—ENFORCEMENT*

*Sec. 501. Penalties.*
*Sec. 502. Specific enforcement.*
*Sec. 503. Expedited judicial review.*

*TITLE VI—MISCELLANEOUS PROVISIONS*

*Sec. 601. Repeal.*
*Sec. 602. Prohibition.*
*Sec. 603. Bankruptcy actions.*

***SEC. 3. DEFINITIONS.***

*In this Act:*

*(1) CHEMICAL WEAPON.—The term ''chemical weapon'' means the following, together or separately:*

*(A) A toxic chemical and its precursors, except where intended for a purpose not prohibited under this Act as long as the type and quantity is consistent with such a purpose.*

*(B) A munition or device, specifically designed to cause death or other harm through toxic properties of those toxic chemicals specified in subparagraph (A) which would be released as a result of the employment of such munition or device.*

*(C) Any equipment specifically designed for use directly in connection with the employment of munitions or devices specified in subparagraph (B).*

*(2) CHEMICAL WEAPONS CONVENTION; CONVENTION.—The terms ''Chemical Weapons Convention'' and ''Convention'' mean the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, opened for signature on January 13, 1993.*

*(3) KEY COMPONENT OF A BINARY OR MULTICOMPONENT CHEMICAL SYSTEM.—The term ''key component of a binary or multicomponent chemical system'' means the precursor which plays the most important role in determining the toxic properties of the final product and reacts rapidly with other chemicals in the binary or multicomponent system.*

*(4) NATIONAL OF THE UNITED STATES.—The term ''national of the United States'' has the same meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).*

*(5) ORGANIZATION.—The term ''Organization'' means the Organization for the Prohibition of Chemical Weapons.*

*(6) PERSON.—The term ''person'', except as otherwise provided, means any individual, corporation, partnership, firm, association, trust, estate, public or private institution, any State or any political subdivision thereof, or any political entity within a State, any foreign government or nation or any agency, instrumentality or political subdivision of any such government or nation, or other entity located in the United States.*

*(7) PRECURSOR.—*

*(A) IN GENERAL.—The term ''precursor'' means any chemical reactant which takes part at any stage in the production by whatever method of a toxic chemical. The term includes any key component of a binary or multicomponent chemical system.*

*(B) LIST OF PRECURSORS.—Precursors which have been identified for the application of verification measures under Article VI of the Convention are listed in schedules contained in the Annex on Chemicals of the Chemical Weapons Convention.*

*(8) PURPOSES NOT PROHIBITED BY THIS ACT.—The term ''purposes not prohibited by this Act'' means the following:*

*(A) PEACEFUL PURPOSES.—Any peaceful purpose related to an industrial, agricultural, research, medical, or pharmaceutical activity or other activity.*

*(B) PROTECTIVE PURPOSES.—Any purpose directly related to protection against toxic chemicals and to protection against chemical weapons.*

*(C) UNRELATED MILITARY PURPOSES.—Any military purpose of the United States that is not connected with the use of a chemical weapon and that is not dependent on the use of the toxic or poisonous properties of the chemical weapon to cause death or other harm.*

*(D) LAW ENFORCEMENT PURPOSES.—Any law enforcement purpose, including any domestic riot control purpose and including imposition of capital punishment.*

*(9) TECHNICAL SECRETARIAT.—The term ''Technical Secretariat'' means the Technical Secretariat of the Organization for the Prohibition of Chemical Weapons established by the Chemical Weapons Convention.*

*(10) SCHEDULE 1 CHEMICAL AGENT.—The term ''Schedule 1 chemical agent'' means any of the following, together or separately:*

*(A) O-Alkyl ($\leq C_{10}$, incl. cycloalkyl) alkyl*
*(Me, Et, n-Pr or i-Pr)-phosphonofluoridates*
*(e.g. Sarin: O-Isopropyl methylphosphonofluoridate Soman: O-Pinacolyl methylphosphonofluoridate).*

*(B) O-Alkyl ($\leq C_{10}$, incl. cycloalkyl) N,N-dialkyl*
*(Me, Et, n-Pr or i-Pr)-phosphoramidocyanidates*
*(e.g. Tabun: O-Ethyl N,N-dimethyl phosphoramidocyanidate).*

*(C) O-Alkyl (H or $\leq C_{10}$, incl. cycloalkyl) S-2-dialkyl*
*(Me, Et, n-Pr or i-Pr)-aminoethyl alkyl*
*(Me, Et, n-Pr or i-Pr) phosphonothiolates and corresponding alkylated or protonated salts*
*(e.g. VX: O-Ethyl S-2-diisopropylaminoethyl methyl phosphono- thiolate).*

*(D) Sulfur mustards:*
*2-Chloroethylchloromethylsulfide*
*Mustard gas: Bis(2-chloroethyl)sulfide*
*Bis(2-chloroethylthio)methane*
*Sesquimustard: 1,2-Bis(2-chloroethylthio)ethane*
*1,3-Bis(2-chloroethylthio)-n-propane*
*1,4-Bis(2-chloroethylthio)-n-butane*
*1,5-Bis(2-chloroethylthio)-n-pentane*
*Bis(2-chloroethylthiomethyl)ether*
*O-Mustard: Bis(2-chloroethylthioethyl)ether.*

*(E) Lewisites:*
*Lewisite 1: 2-Chlorovinyldichloroarsine*
*Lewisite 2: Bis(2-chlorovinyl)chloroarsine*
*Lewisite 3: Tris (2-clorovinyl)arsine.*

*(F) Nitrogen mustards:*
*HN1: Bis(2-chloroethyl)ethylamine*
*HN2: Bis(2-chloroethyl)methylamine*
*HN3: Tris(2-chloroethyl)amine.*

*(G) Saxitoxin.*
*(H) Ricin.*

*(I) Alkyl (Me, Et, n-Pr or i-Pr) phosphonyldifluorides*
*e.g. DF: Methylphosphonyldifluoride.*

*(J) O-Alkyl (H or $\leq C_{10}$, incl. cycloalkyl)O-2-dialkyl*
*(Me, Et, n-Pr or i-Pr)-aminoethyl alkyl*
*(Me, Et, n-Pr or i-Pr) phosphonites and corresponding alkylated or protonated salts*
*e.g. QL: O-Ethyl O-2-diisopropyl- aminoethyl methylphosphonite.*

*(K) Chlorosarin: O-Isopropyl methylphosphonochloridate.*

*(L) Chlorosoman: O-Pinacolyl methylphosphonochloridate.*

*(11) SCHEDULE 2 CHEMICAL AGENT.—The term ''Schedule 2 chemical agent'' means the following, together or separately:*

*(A) Amiton: O,O-Diethyl S-[2-(diethylamino)ethyl]*