and we are paid pretty well to do that. We are failing our oath and we are failing the job the taxpayers of this country pay us to do.

CONFIRMATION OF EDWARD F. SHEA

Mr. LEAHY. Mr. President, I am delighted to see the Senate confirm Ed Shea as a Federal District Judge. I attended his confirmation hearing back on February 4 and found him to be all that his supporters and friends had said he would be. I know that he has the support of the Senators from the State of Washington. He also has the strong support of this Senator from Vermont. Ed Shea was nominated last September for a vacancy that occurred in 1996, over 15 months ago. Mr. Shea was reported by the Judiciary Committee without dissent and without objection. He was rated qualified for this position by the American Bar Association. I spoke of his nomination last week and am now delighted to see this nomination considered by the Senate.

With this confirmation the Senate will have acted favorably on only 14 nominees this year. I am glad that Margaret McKeown is luck number 13 and Ed Shea is number 14, but remain concerned for the other nominees who have been unlucky and remain stalled on the Senate calendar.

I have tried to bring to the attention of the Republican leadership the need to consider and confirm the two judicial nominees for District Courts in Illinois who have been languishing on the Senate calendar without action for the last five months.

It is time for the Senate to consider the nominations of Patrick Murphy and Judge Michael McCuskey. The Senate Judiciary Committee unanimously reported these two nominations to the full Senate on November 6, 1997. Their confirmation are desperately needed to help end the vacancy crisis in the District Courts of Illinois.

Pat Murphy is an outstanding judicial nominee. He has practiced law in the State of Illinois for 20 years as a trial lawyer and tried about 250 cases to verdict or judgment as sole counsel. During his legal career, Mr. Murphy has made an extensive commitment to pro bono service—dedicating approximately 20 percent of his working time to representing disadvantaged clients in his community. For instance, Pat Murphy has served as the court-appointed guardian to a disabled minor since 1990, without taking any fee for his services. The American Bar Association recognized this extensive legal experience when it rated him as qualified for this nomination. Mr. Murphy also served his country with distinction as a Marine during the Vietnam War.

Judge Michael McCuskey is also an outstanding judicial nominee. Judge McCuskey served as a Public Defender for Marshall County in Lacon, IL from 1976 to 1988. In 1988, he left the Public Defender's office and the law firm, Pace, McCuskey and Galley to sit on the bench in the 10th Judicial Circuit in Peoria, IL. He has served as a judge of the Third District Appellate Court of Illinois since his election in 1990.

The American Bar Association recognized his stellar qualifications by giving Judge McCuskey its highest rating of well-qualified for this nomination.

The mounting backlogs of civil and criminal cases in the dozens of emergency districts, in particular, are growing more critical by the day. This is especially true in the Central and Southern District Courts of Illinois, where these outstanding nominees will serve once they are confirmed. Indeed, in the Southern District of Illinois, where Pat Murphy will serve if his nomination is ever voted on by the full Senate, Chief Judge Gilbert has reported that his docket has been so burdened with criminal cases that he went for a year without having a hearing in a civil case. In 1996, 88 percent of the cases filed in all federal trial courts were civil, while 12 percent were criminal. But in the Southern District of Illinois, not one of those civil cases was heard by Chief Judge Gilbert.

The Chief Justice of the United States Supreme Court has called the rising number of vacancies ''the most immediate problem we face in the federal judiciary.'' There is no excuse for the Senate's delay in considering these two fine nominees for Districts with judicial emergency vacancies.

I have urged those who have been stalling the consideration of the President's judicial nominations to reconsider and to work with us to have the Judiciary Committee and the Senate fulfil its constitutional responsibility. Those who delay or prevent the filling of these vacancies must understand that they are delaying or preventing the administration of justice. Courts cannot try cases, incarcerate the guilty or resolve civil disputes without judges.

I hope that the Majority Leader will soon set a date certain to consider the nominations of G. Patrick Murphy and Judge Michael McCuskey.

These nominees may well be a case in which a secret hold by one Senator is delaying Senate action. I recall receiving a Dear Colleague letter from the Majority Leader in January 1997, the first day of this Congress. In that letter he proposed to address the frustrations with the hold system and what he termed ''a correction.'' The letter goes on to describe the hold as ''a request for notification of or protection on an unanimous consent request or proposed time agreement.'' The Majority Leader advised a Senator placing a hold ''should understand that he . . . may have to come to the floor to express his objection after being notified of the intention to move the matter to which he objects.''

I also recall last summer when the nomination of Joel Klein to be the Assistant Attorney General for the Antitrust Division was a source of some controversy. I recall then that the Majority Leader proceeded to consideration of that nomination and allowed opponents to debate their concerns and the Senate was able to proceed to a vote and to Mr. Klein's confirmation.

I hope that model will be utilized without further delay in connection with the Murphy and McCuskey nominations. These nominees are strongly supported by their home State Senators. Any Senator outside those Districts who wishes to oppose, speak against or vote no for any reason or no reason is free to do so. What we need to find a way to overcome is the veto of these nominations by a single Senator when a majority of the United States Senate is prepared to confirm them.

We are falling farther and farther behind the pace the Senate established in the last nine weeks of last year. When the Chief Justice of the United States Supreme Court wrote in his 1997 Year End Report that ''some current nominees have been waiting a considerable time for a . . . final floor vote'' he could have been referring to Patrick Murphy, Judge Michael McCuskey, Margaret McKeown and Judge Sonia Sotomayor.

Nine months should be more than a sufficient time for the Senate to complete its review of these nominees. During the four years of the Bush Administration, only three confirmations took as long as nine months. Last year, 10 of the 36 judges confirmed took nine months or more and many took as long as a year and one-half. So far this year, Judge Ann Aiken, Judge Margaret Morrow, and Judge Hilda Tagle have taken 21 months, 26 months and 31 months respectively. Margaret McKeown's nomination has already been pending for 24 months. Judge Sotomayor's nomination has already been pending for 9 months. Pat Murphy's and Judge McCuskey's nominations have already been pending for 8 months. The average number of days to consider nominees used to be between 50 and 90, it rose last year to over 200 and this year stands at over 300 days from nomination to confirmation. That is too long and does a disservice to our Federal Courts.

I urge the Republican leadership to proceed to consideration of each of the judicial nominees pending on the Senate calendar without further delay.

SPECIAL PROSECUTOR STARR

Mr. LEAHY. Mr. President, every week I wonder just what new step the special prosecutor, Mr. Starr, will find himself carrying out, and each week it seems he does not disappoint.

One week, we will recall, a citizen had the temerity to ask why Prosecutor Starr was using the results of an illegal wiretap, something that had been reported in the press that, without a doubt, he was using an illegal—illegal—wiretap. This citizen had the audacity to question Mr. Starr. Of course,

he got slapped with a subpoena, had to spend as much money on a lawyer as he saved for a year's college tuition for one of his children and was brought into the star chamber, the grand jury, and had to say why he dared question the man behind the curtain.

This was probably as outrageous an abuse of prosecutorial discretion as anything I have seen in a while, but unlike prosecutors who are elected or Senators who are elected or people who are elected, Mr. Starr, the Republican prosecutor, does not have to respond to anybody, and he has an unlimited budget. He sent a very clear signal: ''If you dare question my use of illegal tactics, I'll stop you from questioning me, I'll make you spend so much money that you can't do it.'' And, of course, he has an unlimited amount of money himself so he can do that.

He then topped that outrageous activity by bringing Monica Lewinsky's mother before him and for day after day grilled her on things that her daughter may have told her in confidence. So he set the precedent that a prosecutor will have a mother in there for something that has nothing to do with violent crime or crime against the country or anything else and say, ''You have to tell us what your daughter told you.'' If your daughter dares to confide in you, if your child dares to come to a parent and ask advice or confide in a parent, then Prosecutor Starr will want to know what you said to your parent. This is in between giving paid speeches to groups to talk about family values.

I was outraged as were many others. I have introduced a measure to lead to our reviewing the law on this point. On March 6, I introduced S.1721 to develop Federal prosecutorial guidelines to protect familial privacy and parent-child communications in matters that do not involve allegations of violent conduct or drug trafficking. In addition, the legislation would direct the Judicial Conference to undertake a study and then report whether the Federal Rules of Evidence should be amended explicitly to recognize a parent-child privilege.

Then what was this week's latest outrage? As I said, I keep wondering how he is going to top himself. He did this time by going to a bookstore and saying I want to know what books somebody was buying and reading. Now, the bookstore knows that this is an outrageous request, and the bookstore knows that people ought to be able to come into a bookstore, read anything they want, look at anything they want, buy anything they want without having Prosecutor Starr and his henchmen come right in behind them and see what they read.

The bookstore had it made very clear to them by Prosecutor Starr and his henchmen that ''If you want to fight this, you are going to have to sell one heck of a lot of books to pay the lawyers. You probably won't sell enough books this year to pay what we will cost you for defending the rights of your customers.''

Prosecutor Starr doesn't have to worry because he has already spent $40 million of what we, the taxpayers, have given him, with no end in sight. So he can tell that bookstore, ''Go ahead, make my day, you go on in and try to fight this. I'll bankrupt you. I'll just grind you down into the ground.''

So now there is this idea, Mr. President, that everyone has to think if they go into a bookstore, ''Am I going to have a subpoena in there to see what I read or don't read?''

I remember when Judge Bork was before the U.S. Senate for confirmation. Somebody came into the Senate Judiciary Committee and said, ''We have a list of what Robert Bork has been renting from video stores.'' I was so incensed that anybody would do that, I introduced legislation to make it illegal to give out the lists of what people rented in a video store. To make it bipartisan, my good friend Alan Simpson, the distinguished Republican whip and a conservative Republican, joined me on that, and we passed the Leahy-Simpson bill. What we said in the Leahy-Simpson bill is that it is nobody's business what you rent for videos, and I think the American people agreed with us.

The difference is we had Democrats standing up for the rights of a Republican nominee in that instance and all Americans. Now, of course, we have a Republican prosecutor who says it doesn't make any difference to him, ''I want to know what you are reading.'' Are we going to start with people following us through a video store now and say, ''Well, we can't tell you what he rented, but we know he glanced over at one of the R-rated videos.''

Or are they going to follow us into the library and say, ''He read Chaucer's 'Canterbury Tales,' and you know what they say.'' Actually most people don't, because they never bothered to read it in an English class—but they think something unseemly may be in there.

Or, ''He read 'Catcher in the Rye.'' Woo-wee, there is going to be a field day.

If Prosecutor Starr followed me through a bookstore, he is going to find me reading everything from ''Angela's Ashes'' to ''Batman.'' He can have a lot of fun with this. ''Angela's Ashes'' talks about Frank McCourt going into the library and reading dictionaries, where he looked up words that his parents wouldn't tell him the meaning of. Of course, ''Batman'' is a guy who runs around in a suit with a mask on. Now, that is going to kind of raise some questions.

What about the person who goes into a magazine store to buy Time or Newsweek magazine, but they may have slowed down by the magazines that had pictures of unclothed people or certain sports magazines with their swimsuit editions?

Or what about this—here is something for Prosecutor Starr to look at—check the person who has an average income who goes into the magazine store and picks up the magazine with expensive sports cars that they couldn't possibly afford. They are reading about Ferraris, Maseratis and Porsches. Maybe we better subpoena that person's bank accounts; maybe we better check him out. Why would they be reading about a Maserati and a Ferrari if they only make $40,000 a year? Something is going on here.

New Englanders have asked during witch hunts whether there is any sense of decency. Let's get a grip.

If, as Mr. Starr has indicated in his activities with the Paula Jones attorneys and with other groups, that he wants to get rid of the President of the United States who was elected twice—fine, let him just come forward and say so. Just say, ''Look, I want him out of office; I will do anything possible to get him out of office,'' and maybe people will understand. But let us at least realize the damaging precedents that are being set.

Are we going to have thought control? Are we really going to go to the point where we ask people what they read, what they see? Are we going to next ask, ''Well, what newspapers do you read?'' It is not enough to ask what newspaper do you read, ''What sections of the newspaper do you read? I mean, do you read the sports section or the business section? Do you read the comic page or the gossip page? Do you read the front page or the obituaries, and why those obituaries, what were you looking for?''

We Americans have a sense of privacy. We ought to be able to read anything we want. We ought to be able to look at what we want. We shouldn't have to worry that a prosecutor is going to come in and, basically, threaten a bookstore with bankruptcy if they don't tell you what their customers read or buy.

Just as Senator Simpson and I passed a law so people couldn't ask Judge Bork or any other nominee what videos they rent, we ought to be protecting what people read. This is America. This is not some totalitarian, thought-controlled country.

So let us have a sense of right and wrong. Frankly, this Vermonter finds the idea of asking bookstores what books their patrons read or buy, wrong. I find it chilling, I find it frightening, and I hope that the press and everybody else will consider it. I hope they will, because if they can ask what books you read, they can ask what newspapers you read, what television news programs you watch or radio stations you listen to. It is all one in the same.

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

The PRESIDING OFFICER (Mr. ASHCROFT). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

The Senator from Alabama is recognized.

TRIBUTE TO ROY JOHNSON

Mr. SESSIONS. Mr. President, I rise today to recall the contributions made to Alabama and the Nation by Roy Johnson, the district attorney for the Fourth Judicial Circuit of Alabama. Roy's untimely death on February 11, 1998, at age 49, cut short his career and deprived his wife Anita, his son Matthew, and his daughter Gabrielle of a loving and devoted husband and father.

Roy was the friend of thousands, and I was pleased to call him a personal friend. In addition, I knew him well as a professional prosecutor with whom I worked on a regular basis during the years I served as U.S. attorney for the Southern District of Alabama.

Service to his country as a Marine captain demonstrated his love for country, but it also caused him to develop, during his service time, a form of hepatitis that damaged his liver and which ultimately resulted in his having to undergo a liver transplant operation.

There were high hopes for the success of the operation. He seemed to be doing well when there occurred a sudden turn for the worst, and Roy was gone.

After nearly 18 years of service to Bibb, Dallas, Hale, Perry and Wilcox Counties, Roy had made plans to retire from his post as district attorney and to commence the practice of law with his brother Robert W. ''Robin'' Johnson II in his beloved hometown of Marion. And they also have law offices in Birmingham and Washington, DC.

I am pleased today, Mr. President, that his brother Robin is here today to hear these remarks about my good friend, his brother, Roy Johnson. As his long-time chief assistant, Ed Greene said, ''Everything seemed so bright for him.'' His death was truly a shock to me and to many.

Roy had great pride in his circuit and the people in it. He loved them deeply. He worked tirelessly on their behalf. The fourth judicial circuit is located in the heart of Alabama's Black Belt region—a beautiful area of the State in which the people know not only their neighbors, but they know the grandparents and grandchildren of their neighbors.

E.T. Rolison, Jr., supervisory U.S. attorney in Mobile, AL, noted, ''Roy did as much for law enforcement coordination as anyone I have [ever] seen in my 25 years with this office.'' And this was a high compliment from Mr. Rolison, who served for many years in the U.S. attorney's office and worked hard to further coordination between local, State and Federal law enforcement agencies.

Mr. Barron Lankster, himself a district attorney in nearby Marengo County, and an African American, noted that he had commenced his career in Roy's office. Mr. Lankster said, ''He fully integrated his office when he took over and treated everyone fairly and equitably.''

A graduate of Tulane University and the University of Alabama School of Law, Roy was prepared intellectually and professionally for the broad demands of his work. He loved history and he loved the wonderful Antebellum home in which he lived. The home was located right on the parade grounds at Marion Military Institute, an excellent military school. MMI, along with Judson College, have played a key role in making the town of Marion an extraordinary academic and intellectual community.

Roy's love and support for Marion Military Institute was deep and longstanding. Certainly, his career in the U.S. Marines helped shape his belief that we must have a strong national defense. I remember with delight the occasion when Roy's fellow marine, Col. Ollie North, was under great attack in Washington. This was before Colonel North's rebuttal that turned the tables on his accusers a bit. But Roy spoke out for him then. He served with him in the Marines, and he spoke up at a time of great unpopularity. I congratulated him later when it turned out that Colonel North had turned the tables a bit on that circumstance. He stood by his friends. He was indeed forever true.

During the mid-1980s, we worked together on the prosecution of three individuals for voter fraud in Perry County. The prosecution caused a great deal of furor locally and nationally. During that time I came to appreciate Roy's cool head, his innate decency, his legal skills, and his character.

Despite political pressure, this marine never wavered. He stood firm for what he believed to be right, and did so in a fair and just manner. The bond which we developed in that case was never broken.

There is much more that can be said about this educated, caring, fair, strong, loyal and kind son of the South. Certainly he was big in stature and big in spirit.

I am confident that if we were able to accomplish a fully accurate analysis of the many contributions he made to his judicial circuit and his region, the most significant would be his skill and determination during a period of rapid social change. He helped provide equal justice to all and conducted himself and his office in a manner that reflected fairness to everyone.

His leadership and his strength of character provided a framework which allowed for the development of harmonious relations between the races. Sometimes there would be periods of good feeling and sometimes there would be periods of tension and conflict. But whatever the situation, Roy stood firm and strong for justice and contributed mightily to the historic changes that have taken place in this region.

Roy loved Marion. He loved the Black Belt and the people who lived there and the people he represented. I know he is pleased that his strong and effective chief deputy, Ed Greene, in whom he placed such trust over the years, has been appointed to complete his term. I have the greatest respect for Ed's ability and have enjoyed working with him over the years, and I compliment Governor Fob James for his wise appointment.

I have been honored to know Roy Johnson. He was a superior public servant, an outstanding prosecutor. And I thank the Chair for allowing me to place these remarks upon the record and to express my sincerest sympathy to his fine family for the great loss they have suffered.

Thank you, Mr. President.

Mr. President, a few comments on another subject.

SPECIAL PROSECUTOR KENNETH STARR'S INVESTIGATION

Mr. SESSIONS. Mr. President, another Senator in this body made some very strong criticisms of the special prosecutor, Mr. Ken Starr. Judge Starr was appointed to that office some time ago. In recent months he was asked to continue his investigation into matters involving the Monica Lewinsky situation and to the possible obstruction of justice.

It happened this way: Mr. Starr presented information to the Attorney General of the United States, Janet Reno. He told her about the circumstances and what he knew and the evidence that had been obtained. She agreed that a special prosecutor should be appointed. They then went to a three-judge court, and the three-judge court, as the law requires—Federal judges, all with lifetime appointments, above politics—those three judges commissioned Kenneth Starr to be an investigator of this circumstance. He, therefore, has been directed by a court. He accepted that responsibility. As a result of that, he has a duty to perform.

Now, Mr. President, I know that the Chair has served, himself, as attorney general of the great State of Missouri. I have served as attorney general of Alabama. And I served almost 12 years as a Federal prosecutor, a U.S. attorney. I have prosecuted a great many public corruption cases, fraud cases, white-collar-crime cases. They are not easy. The people who have committed those kinds of crimes do not desire that they should be caught. They do not make it easy that they should be apprehended. It would be their preference to be able to get away with whatever they may have committed.

Now, many say Ken Starr as special prosecutor has a duty or responsibility to get someone. I assure you, that is not true. I assure you, with all confidence, because I have served in the Department of Justice with Mr. Starr and I know his reputation, that he has