Congress [in implementing the 16th Amendment] went beyond merely enacting an income tax law and repealed Article IV of the Bill of Rights, by empowering the tax collector to do the very things from which that article says we were to be secure. It opened up our homes, our papers and our effects to the prying eyes of government agents and set the stage for searches of our books and vaults and for inquiries into our private affairs whenever the tax men might decide, even though there might not be any justification beyond mere cynical suspicion.

To my colleagues who would brush off that statement as an exaggeration, I remind them of the horror stories we heard from many of our constituents 2 years ago, when the Senate Finance Committee held hearings into abuses carried out by the IRS. Those poor taxpayers whose lives were shattered thanks to the unwarranted excesses of an overeager tax collector were not exaggerating.

The income tax must be abolished because it has become so complicated and inefficient. The Federal Tax Code today stretches on for more than 7 million words, and is made up of 4 huge volumes, another 20 volumes of regulations, and thousands of pages of instructions. Not even tax accountants or lawyers fully understand it. What chance does the average taxpayer have of getting it right?

The government publishes 480 separate tax forms and mails out 8 billion pages of forms and instruction each year. The IRS employs over 10,000 agents to collect taxes, more agents than the FBI and the CIA combined.

The income tax must be abolished because it keeps enlarging the government. In Washington, taxing and spending always go hand in hand. As the income tax rate goes up, government spending explodes. Between 1913 and 1999, inflation-adjusted federal government spending increased by more than 16,000 percent.

The income tax must be abolished because even in an era of budget surplus, it allows the government to continue overcharging Americans as we see today with our surpluses. According to the Congressional Budget Office, working Americans' tax overpayments will be as high as $1.9 trillion in the next 10 years. After the biggest tax increase in history, President Clinton has repeatedly denied working Americans a tax refund and refuses to return tax overpayments to the American people. His last budget again increases taxes instead of cutting them. In a time of surplus, this President is out with a proposal to again increase your taxes.

How is this possible? We would all agree that if a customer is overcharged for a service he receives, the right thing for the merchant to do is to return the extra money—not keep it because the merchant has other things he'd like to spend it on. The same principle holds true for tax overpayments. I strongly believe we should return tax overpayments to their rightful owners—the taxpayers—rather than spend them on new government programs. Not only does this money belong to them, but the American people will spend it far more intelligently than Washington politicians ever could.

Mr. President, on this somber income tax anniversary, I argue that we have no choice but to repeal the income tax and abolish the IRS. I urge my colleagues to join me in a pledge that we will dedicate ourselves to replacing the Tax Code with a better system early next Congress, as we continue to do everything we can to reduce the existing tax burden on the overtaxed American people.

The PRESIDING OFFICER. The Senator from California.

NOMINATIONS

Mrs. BOXER. Mr. President, as one of the two California Senators, this is a very big day for two Californians who have been nominated for the Ninth Circuit Court: In the case of Richard Paez, more than 4 years ago, the longest time anyone has had to wait for a vote in a 100-year history; and Marsha Berzon, nominated a couple of years ago.

I am grateful we have gotten to this day. I am very hopeful. In fairness, our colleagues from both sides of the aisle will make a statement on this cloture vote, if we have to have a cloture vote, that they do deserve an up-or-down vote.

I will attempt in the next few minutes to put a face on the nominations. I had about 5 minutes to speak yesterday and will take a little bit longer today.

I will introduce Marsha Berzon, who is a stellar attorney. She is shown with her husband and her two children. This is a wonderful woman. The whole family has been so excited about her nomination, but every time we think we will have a vote, we don't seem to get there.

I say to Marsha and her family: We will have a vote and I am optimistic you are going to be seated on this bench.

Marsha Berzon is exquisitely qualified, as is Richard Paez. She is a native of Ohio. She was raised in New York. She now lives in California, is married to Stephen Berzon, shown here. She practices law with her husband and is a mom of two youngsters.

She was first nominated to the U.S. Court of Appeals for the Ninth Circuit in January of 1998, and she testified before the Senate Judiciary Committee in July of 1998. There was no action on her nomination in the 105th Congress, so her nomination was sent back and she testified on June 16, 1999. Then she was favorably reported out of the committee.

We are very hopeful since the committee considered her to be very well qualified that the Senate will agree.

Let me give a few of her qualifications. She is a nationally known and extremely well-regarded appellate litigator. She is a graduate of Harvard/Radcliffe College and Boalt Hall University of Law. She served as a law clerk for the Ninth Circuit Court of Appeals, Judge James Browning, and for U.S. Supreme Court Justice William Brennan. She has argued four cases in the Supreme Court of the United States and filed dozens of briefs in the Court in a wide variety of cases. She is praised broadly not only by those whom she had as clients, but more telling, I think, she is praised by the people she opposed, people on the other side of the case. People of both political parties have praised Marsha.

I could go on with the extensive quotations of the high regard she is held in, but they were printed in the RECORD yesterday.

She is supported by Senator HATCH. He is also supporting Richard Paez. ARLEN SPECTER is very strongly in favor of her. She is supported by former Republican Senator James McClure of Idaho. She has the support of Paul Haerle, Associate Justice of the Court of Appeals, First Appellate District in California, who is the former chair of the California Republican Party and a former point secretary to then-Governor and then-President Ronald Reagan.

She has tremendous support from law enforcement: From the president of the California Correctional Peace Officers Association; from Arthur Reddy, International Union of Police Associations; Robert Scully, the National Association of Police Organizations; from William Sieber, president of the Los Angeles Professional Peace Officers Association. She has a huge amount of support in the business community which I think is important to those on both sides of the aisle.

I ask unanimous consent to have a list of supporters printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

LETTERS OF SUPPORT FOR MARSHA S. BERZON, NOMINEE TO THE NINTH CIRCUIT U.S. COURT OF APPEALS

ELECTED OFFICIALS

Arlen Specter, U.S. Senator (R–PA)
Former Senator James A. McClure (R–ID)

JUDGES

Paul R. Haerle, Associate Justice, Court of Appeal, First Appellate District, California (former chair Cal. Republican Party, former Appointments Secretary to Gov. Ronald Reagan)
Michael M. Johnson, Superior Court Judge, Los Angeles

LAW ENFORCEMENT

Don Novey, President, California Correctional Peace Officers Association, West Sacramento, CA
Arthur J. Reddy, International Vice President, Legislative Liaison, International Union of Police Associations AFL–CIO, Alexandria, VA
Robert T. Scully, Executive Director, National Association of Police Organizations, Inc., Washington, DC
William Sieber, President, Los Angeles County Professional Peace Officers Association, Monterey Park, CA

BUSINESS LEADERS

Lydia Beebe, Chair, Fair Employment and Housing Commission, Corporate Secretary, Chevron Corporation, San Francisco, CA
William F. Boyd, Vice President, Corporate Counsel and Secretary, Coeur d'Alene Mines Corporation, Coeur d'Alene, ID
Dennis C. Cuneo, Vice President, Toyota Motor Manufacturing North America, Inc. Earlanger, KY
John D. Danforth, Vice President and General Counsel for Creative Labs, Inc., Milpitas, CA
William D. Ruckelshaus, Madrona Investment Group, L.L.C., Seattle, WA
Patricia Salas Pineda, Vice President and General Counsel, New United Motor Manufacturing, Fremont, CA
W. I. Usery, Jr., Bill Usery Associates, Inc., Washington, D.C. (former Rep. Secretary of Labor)

LAW SCHOOL PROFESSOR/DEAN

Robert A. Hillman, Associate Dean, Cornell Law School, Ithaca, NY
Theodore J. St. Antoine, Professor of Law, The University of Michigan Law School, Ann Arbor, MI

ATTORNEYS

James N. Adler, Irell & Manella, CA
Fred W. Alvarez, Wilson, Sonsini, Goodrich & Rosati, PC, Palo Alto, CA (former Commissioner of the Equal Employment Opportunity Commission and Former U.S. Assistant Secretary of labor)
Douglas H. Barton, Hanson, Bridgett, Marcus, Vlahos & Rudy, LLP, Larkspur, CA
Ronald G. Birch, Birch, Horton, Bittner and Cherot, Washington, D.C.
Henry C. Cashen, II, Dickstein, Shapiro, Morin & Oshinsky, L.L.P., Washington, DC
Laurence P. Corbett, Point Richmond, CA
David C. Crosby, Wickwire, Greene, Crosby, Brewer & Steward, Juneau, AK
Charles G. Curtis, Jr., Foley & Lardner, Madison, WI
Lynne E. Deitch, Butzel Long, PC, Detroit, MI
Larry C. Drapkin, Mitchell, Silberberg & Knupp, CA
Pamela L. Hermminger, Gibson, Dunn & Crutcher
Robert J. Higgins, Dickstein, Shapiro, Morin & Oshinsky, L.L.P., Washington, DC
Judith Droz Keyes, Corbett & Kane, Emeryville, CA
Edward M. Kovach, Lambos & Junge, San Francisco, CA
Daniel H. Markstein, III, Maynard, Cooper & Gale, PC, Birmingham, AL
Anna Segobia Masters, Crosby, Heafey, Roach & May
John L. Maxey, II, Maxey, Wann & Begley, PLLC, Jackson, MI
J. Dennis McQuaid, McQuaid, Metzler, McCormick & Van Zandt, L.L.P., San Francisco, CA
Steven S. Michaels, Debevoise & Plimptom, New York, NY
Morton H. Orenstein, Schachter, Kristoffr, Orenstein & Berkowitz, San Francisco, CA
Carter G. Phillips, Sidley & Austin, Washington, DC
Patricia Phillips, Morrison & Foerster, Los Angeles, CA
William B. Sailer, Qualcomm
Stacy D. Shartin, Seyfarth, Shaw, Fairweather & Geraldson
Robert A. Siegel, O'Melveny & Myers, Los Angeles, CA
Ronald G. Skipper, San Bernardino, CA
Stephen E. Tallent, Washington, DC
Wendy L. Tice-Wallner, Littler, Mendelson, Fastiff & Tichy, San Francisco, CA

Mrs. BOXER. In there you will see deans of law schools. You will see many attorneys who have come to appreciate Marsha. Again, this is a woman who has tremendous support in the community, Republican and Democrat; a fine family member. She will be an asset to this court and I am very hopeful Marsha will receive the overwhelming vote of this body.

Did my friend have a question? I would say to my friend, he is, I know, waiting to speak. I also had to wait quite a while. I am going to be about another 15 minutes.

So today we have this wonderful opportunity, yes, on Marsha, and we have an opportunity to say yes to another wonderful nominee, Richard Paez. Again, to put a face on it, here is Richard's face. This is a wonderful human being. He is a wonderful judge with many years of experience on the bench. He is a wonderful family man, married to his wife Dianne for quite a while, with two terrific kids. He is very involved with his children's lives, involved in their sports and academic achievements. He is someone most deserving of this honor I hope we are about to bestow upon him.

Yes, Richard has waited for 4 years. This has been very difficult for him. It has been very difficult for his family. But I can only say I am not going to look back. I want to look ahead. We are going to have a vote, and I am very hopeful we will see the tide turn in his favor. Everything I see now leads me to believe that.

Richard has the support of Senators HATCH and SPECTER and he just got the public support of Senator DOMENICI. We have a statement from him, which will take me just a moment to find. I am very pleased about it.

Yesterday, Senator DOMENICI has a statement in the RECORD. He says:

> I rise today to announce I intend to vote to confirm Judge Richard Paez to the Ninth Circuit. He has waited 4 years. I believe the time has come.

He says:

> I have reviewed Judge Paez' record, including some of the issues which appear controversial. I am satisfied he has adequately responded to the concerns.

I will paraphrase. He talks about those concerns. Then he goes on and says:

> Mr. President, Judge Paez has earned bipartisan support from a variety of sources.

He goes through those.

I called Senator DOMENICI this morning—I didn't have a chance to speak to him because he was at a hearing—to thank him profusely for his support. This is a deserving man. I am proud to see Senators from the other side stepping up to the plate and supporting him. I think it is so important.

Richard Anthony Paez was born in Salt Lake City, UT, which happens to be the hometown of our distinguished chairman of the Judiciary Committee. He graduated in 1969 from Brigham Young University and received his law degree from Boalt Hall at the University of California at Berkeley in 1972.

For 13 years, he served as municipal court judge. Then he was nominated to the district court. He has been in that capacity now for about 5½ years. As the first Mexican American on that district bench, he has proven himself to be a role model and a real leader.

He has won the respect of law enforcement and attorneys who practice in his court. They have analyzed his rulings. We have an amazing article that I have already had printed in the RECORD. I wanted to refer my colleagues to it. It is from the Daily Journal, a very open, bipartisan review of Richard Paez. People from the most liberal to the most conservative who looked at Richard's record, Judge Paez's record, essentially said his decisions will stand the test of time. His opinions are praised as being well reasoned. So I think we know Judge Paez will be fair.

He has received the endorsement of the National Association of Police Organizations, the Los Angeles Police Protective League, the Los Angeles County Police Chiefs' Association, the current district attorney, Gil Garcetti, and the late Sheriff Sherman Block of Los Angeles, Republican sheriff in Los Angeles. Listen to what the LA Police Protective League said:

> . . . he has a reputation for integrity, fairness and objectivity, all qualities we believe essential for a member of the Appellate Court.

The lawyers who appear before him have praised his skills. Yesterday, I read comments from some of them. I will repeat some of these comments:

> He is a wonderful judge.
> He's outstanding.
> He rates a 12 or 13 on a scale of 10.

Another one:

> I don't know anyone here who has not been exceedingly impressed by him.

Another:

> I think he has great temperament. He never says or does anything that's off.
> He has a very good demeanor. He's very professional. He doesn't have any quirks.

So it goes on and on. It is a wonderful thing to be supporting Judge Paez because I feel I have so many objective people saying so many good things about him.

A law professor who looked at one of the rulings said:

> The opinion is clear, concise, straightforward, logical—

I think this is important to my colleagues from the other side—

> and provides no indication of the author's personal policy predilections on the issue. . . . [It is] implicitly respectful of the separation of powers among the branches of government.

Again, we have so many Republicans supporting Richard outside of this Chamber and, hopefully, enough inside this Chamber so we can get him through. But let me tell you some of those outside the Chamber.

Sheldon Sloan, a former California judge, former president of the LA County Bar, the former head of Governor Pete Wilson's Judicial Selection

Committee—here is the man who picked the judges for Governor Pete Wilson—wrote a letter to Chairman HATCH, saying that Judge Paez:

. . . has performed his duties with distinction and he is held in great esteem by all who worked with him, be the members of the bench or of the Bar.

He goes on to say:

Richard Paez is a hard-working, experienced, quality Judge. He can be strong without being overbearing and he can be compassionate without being soft. He has been, and he will continue to be, a credit to the judiciary as a whole.

The American Bar Association gave Judge Paez the highest rating possible.

When I hear colleagues come over here, and they had every right in the world to vote no on this nomination; absolutely. I do not want to overstate it, but I would lay down my life for their right to do what they think is right. But the one thing with which I take issue is when the record is distorted. I do not think it is purposely distorted, but Richard has some people who do not want him to be on the bench, and they distorted things. We have heard things on the floor; that there were games being played in the district court when he got certain cases; that Judge Paez is soft on criminals when, in fact, a review that was requested by Senator SESSIONS showed, on the contrary, that Judge Paez is tougher than most.

This shows his downward departures in sentencing—in other words the times he has sentenced less than the guidelines—were far fewer than the average court. He granted downward departures only 6 percent of the time when U.S. district courts granted downward departures 13.6 percent of the time. So he has been tough. He has an excellent record on criminal appeals. He has not been reversed once on a criminal sentence.

I feel he has a strong sentencing record. Then, again, when Senator SESSIONS says he gave too easy a sentence to certain people, as Senator SPECTER put in the RECORD yesterday, he was following what the prosecution asked him to do to the letter. He was following what the prosecution asked him to do. So if there is any gripe about it, it is with the prosecutor. He did what the prosecutor asked.

So, I ask my colleagues—I would love to ask Senator HUTCHINSON how much time he needs on the floor, and Senator SPECTER, because I have another few minutes, but I would like to accommodate them.

Mr. HUTCHINSON. I think morning business is for 10 minutes. That is what I need, 10 minutes.

Mrs. BOXER. And my colleague?

Mr. SPECTER. Mr. President, if I may respond, I spoke in support of Judge Paez yesterday. I would like to speak for about 4 minutes on a matter, if I could squeeze in here?

Mrs. BOXER. May I make a suggestion, and may I ask a question? I am about to wrap up on Judge Paez and put a number of things in the RECORD. I have a question.

Mr. President, would it be in order to propound a unanimous consent request that Senator HUTCHINSON be allowed to speak for 10 minutes, Senator SPECTER for 7 minutes, and I will come back for another 10 minutes so I can give my friends time?

Mr. SPECTER. Reserving the right to object, is that a unanimous consent request?

Mrs. BOXER. Yes, it is.

Mr. SPECTER. Mr. President, can I persuade my colleague to let me have 4 minutes ahead of him?

Mr. HUTCHINSON. Yes.

Mrs. BOXER. Mr. President, I revise the request to ask for 4 minutes for Senator SPECTER, 10 minutes for the good Senator from Arkansas who has been waiting, and 10 minutes for this Senator. This is after I finish my remarks, which will be in a moment.

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

Mrs. BOXER. I thank my friends.

I will conclude about Judge Paez in this fashion. I will have printed in the RECORD the extensive list of his supporters—elected officials, both Republican and Democratic, national law enforcement associations, California State judges and justices, bar leaders, business leaders, community leaders, attorneys, and Hispanic groups. I ask unanimous consent that this list be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUPPORT FOR THE HONORABLE RICHARD A. PAEZ, NOMINEE TO THE NINTH CIRCUIT COURT OF APPEALS

CALIFORNIA ELECTED OFFICIALS

U.S. Representative James E. Rogan, (R–CA 27th)
Speaker of the California State Assembly Antonio R. Villaraigosa
Los Angeles County Sheriff, Sherman Block (deceased)
Los Angeles County District Attorney, Gil Garcetti
Los Angeles City Attorney, James K. Hahn

NATIONAL AND LOCAL LAW ENFORCEMENT ORGANIZATIONS

National Association of Police Organizations, Inc., Executive Director, Robert T. Scully
Los Angeles Police Protective League Board President, Dave Hepburn
Los Angeles County Police Chiefs' Ass'n, Endorsement Comm. Chair, Stephen R. Port
Association for Los Angeles Deputy Sheriffs, Inc., President Pete Brodie
Department of California Highway Patrol Commissioner, D.O. Helmick

CALIFORNIA STATE JUSTICES AND JUDGES

California Court of Appeal Justice H. Walter Croskey
California Court of Appeal Justice Barton C. Gaut
California Court of Appeal Justice Paul Turner
Los Angeles Superior Court Judge Victoria H. Chavez
Los Angeles Superior Court Judge Edward A. Ferns
Los Angeles Superior Court Judge Carolyn B. Kuhl
Los Angeles Superior Court Judge Michael Nash
Los Angeles Superior Court Judge S. James Otero
Los Angeles Municipal Court Judge Elizabeth Allen White

BAR LEADERS/BUSINESS LEADERS/COMMUNITY LEADERS

Former California Judge and Former President of the Los Angeles County Bar Association, Sheldon H. Sloan
Los Angeles County Bar Association President, David J. Pasternak
Los Angeles County Bar Association, Litigation Section Chair, Michael S. Fields
Former California Judge, Lawyer Elwood Lui, Jones Day, Reavis & Pogue, Los Angeles, California
Loyola Law School Associate Dean for Academic Affairs, Laurie L. Levenson, Los Angeles, California
National Council of La Raza President, Raul Yzaguirre
Mexican American Bar Association of Los Angeles County President-Elect, Arnoldo Casillas
Special Counsel to the County of Los Angeles, Consultant to the Los Angeles Police Commission, Merrick J. Bobb
Arizona Hispanic Chamber of Commerce President & CEO, Sandra L. Ferniza
Latina Lawyers Bar Association President, Elsa Leyva

Mrs. BOXER. Mr. President, believe me, this is going to be a very big day for this nominee, for my friend Richard Paez. He is a good man. Before Senator SPECTER begins, once more I thank him. He has been so fair to this nominee and also to Marsha Berzon. I thank him for his strong support of these two nominees.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

REPORT ON INVESTIGATION OF ESPIONAGE ALLEGATIONS

Mr. SPECTER. Mr. President, I have sought recognition to speak about the ''Report on the Investigation of Espionage Allegations against Dr. Wen Ho Lee.'' I have circulated this 65-page report with a Dear Colleague letter today, but I think it important to speak about it on the Senate floor.

The Dear Colleague letter urges Senators to support S. 2089 which is designed to reform the Foreign Intelligence Surveillance Act to avoid the mistakes which were made in the investigation of Dr. Wen Ho Lee.

In the Wen Ho Lee matter, the FBI went to the Attorney General personally to ask for approval for a FISA warrant and was turned down. The Attorney General in August of 1997 assigned the matter to a subordinate who had no experience on FISA matters. The Attorney General did not check on the matter, and the FBI request was, therefore, rejected. The FBI then let the matter languish for some 16 months before taking any investigative action.

At that stage, the Department of Energy meddled in the matter by giving a lie detector test to Dr. Lee, representing he had passed it when, in fact, he failed it, throwing the FBI investigation off course. The FBI then gave another polygraph on February 10