

needed ammunition, but refused medical attention until the wounds of all the other soldiers in his unit were tended. Asked why he showed such courage even though he was not yet a U.S. citizen, Mr. Rascon replied "I was always an American in my heart." So impressed were they by his bravery that fellow soldiers who witnessed his acts have urged that he receive the Medal of Honor.

I could tell many more such stories. But let these three suffice to show the commitment to America's ideals and way of life that has been shown by so many brave young soldiers and sailors over the years.

We owe a debt to all these people for keeping our nation free and safe in a dangerous world. And we owe a continuing debt of gratitude to those today who serve, guarding our country, our homes and our freedom. Like all good things, freedom must be won again and again. I hope all of us will remember those, immigrants and native born, who have won freedom for us in the past, and stand ready to win freedom for us again, if they must.

May we never forget our debt to the brave who have fallen and the brave who stand ready to fight.

I yield the floor.

RECOGNIZING JEAN FORD FOR
HER CONTRIBUTIONS TO THE
GREAT STATE OF NEVADA

Mr. REID. Mr. President, I rise today to pay tribute to a Nevadan whose dedication, foresight and work on behalf of women and minorities has profoundly changed the face of the Silver State. Jean Ford can be called a role model and an inspiration for generations to come, not only in Nevada but across our great Nation. Time and again she has given of herself to better the lives of those around her and she has created a legacy that will long endure in the history of Nevada.

Jean Ford has been a State legislator, an educator, a successful businesswoman and I am proud to say a true friend to me and my family. Over the years we worked together on a great many projects, and I have come to deeply admire Jean's compassion for all people, and her devotion to protecting and preserving Nevada's natural beauty.

I first met Jean Ford more than 25 years ago when she was elected to Nevada's State Assembly. Jean quickly rose to become a driving force for women's equality in Nevada, introducing the equal rights amendment in our State and working to end sex discrimination and break down long standing gender barriers. Through the years, her work in the legislature also carried over to other minority groups who found in Jean a voice, and a visionary willing to lead them on what was often a long, hard struggle for equal treatment under the law. Senior citizens, the disabled, single mothers, they were all important to Jean, and in turn, she

helped make them important to each of us.

It was through working with Jean that I came to realize the importance of many of the issues that I have taken on in my own legislative career. Women's health, child care, the environment, equal rights, protecting our seniors and the list goes on. I also owe her a great deal of thanks for bringing to my attention the need for involvement by women at every level of the political spectrum. From the State legislature where Jean and I both cut our political teeth, to this very body I stand before today. Diversity of opinion is the lifeblood that feeds democracy and I am grateful that people like Jean Ford helped break down the walls that once kept all but a privileged few out of the political realm.

For her work in opening these doors, Jean has been honored dozens of times by groups throughout Nevada, including being named "Outstanding Woman of the year" by the Nevada Women's Political Caucus, and "Civil Libertarian of the year" by the ACLU. Jean's legacy also encompasses several political organizations which she helped co-found including the National Women's Legislator's Network, and the Nevada Elected Women's Network.

More recently, Jean has dedicated herself to helping future Nevadans through her work in the classroom. Since 1991, Jean has been an instructor at the University of Nevada—Reno, where she served as acting director of the Women's Studies Program. She has also been an instructor of History and Political Science, and helped developed the Nevada Women's archives through the University library system. It is only fitting that Jean is also the current State coordinator for the Nevada Women's History Project.

But in spite of all that she has endeavored to create, the magnificent achievements of Jean Ford are truly overshadowed by the warmth and graciousness which she has exhibited through the many years that I have known her. I am sure if you could count them, her friends would number in the thousands, and her admirers would number even more. That is the true testament to a life long list of accomplishments.

I ask all my colleagues to join with me today to recognize a true pioneer who changed her world for the better, and whose efforts have touched not only those who call Nevada home, but the hearts and minds of all who have had the pleasure and the honor to know my friend Jean Ford.

JUDICIAL NOMINATIONS DURING
THE FIRST SESSION

Mr. LEAHY. Mr. President, as we wrap up our business for the first year of the 105th Congress, I believe it is appropriate to take account of the Senate's advice and consent on judicial nominations. As I have said many times this year in the Judiciary Com-

mittee and on the Senate floor, the Senate has failed to fulfill its constitutional responsibilities to the Federal judiciary.

In recent days, the Senate has quickened its painfully slow pace on reviewing and confirming judicial nominations. I have commended the Chairman of the Judiciary Committee for holding two judicial nominations hearings in September and October and for holding another hearing yesterday, which brings the total for the year to nine.

Unfortunately, we had no hearings at all in 4 months—January, February, April or August—and none is anticipated in December. I repeat that we have never had a day go by this session without having a backlog of at least 20 judicial nominations awaiting a hearing. Even with the virtual frenzy of last-minute hearings, we will close the year with more than 30 nominees having never been accorded a confirmation hearing.

I acknowledge that the majority leader has allowed the Senate to proceed to confirm 13 judicial nominees in the last week, but that still leaves eight outstanding nominees on the Senate Calendar still to be considered.

I understand that Senator BOXER has received a commitment from the Republican leadership to proceed to consideration of the longstanding nomination of Margaret Morrow by the middle of February next year. I commend the Senator from California for achieving what appeared to be impossible, getting the Senate to debate this outstanding nominee. I deeply regret that we have not proceeded to debate and vote to confirm Margaret Morrow to the District Court for the Central District of California this year. Hers is the nomination that has been stalled before the Senate the longest, since June 12.

She has twice been reported to the Senate favorably by the Judiciary Committee. She has been unfairly maligned and her family and law partners made to suffer for far too long without cause or justification. Some have chosen to use her nomination as a vehicle for partisan political, narrow ideological, and conservative fund raising purposes. She deserved better treatment. The people of California deserved to have this nominee confirmed and in place hearing cases long ago. The wait can never be rectified or justified.

I hope that the Republican leadership will not require any of the other nominees currently pending on the calendar to remain hostage to their inaction. Ann Aiken was finally reported favorably by the Judiciary Committee earlier this month. Her nomination was first received in November 1995, 2 years ago. She had an earlier hearing in September 1996 and another last month. This is a judicial emergency vacancy that should be filled without further delay.

G. Patrick Murphy would be a much-needed addition to the District Court for the Southern District of Illinois. He

was reported unanimously by the Judiciary Committee and his confirmation should be expedited.

Michael P. McCuskey was likewise reported without a single objection by the Judiciary Committee for a vacancy that is a judicial emergency that ought to be filled without delay.

Frederica Massiah-Jackson is a Pennsylvania State court judge. The Senate should move to consider her nomination without the months of delay that will ensue following adjournment.

As we enter the final hours of this session, the Senate has confirmed 36 of the President's 77 judicial nominations. That is certainly better than the 17 confirmed last year. It is better than the total of only 9 who had been confirmed before September this year. But in a time period in which we have experienced 121 vacancies on the Federal courts, the Senate has proceeded to confirm judges at an annual rate of only three per month. And that does not begin to consider the natural attrition that will lead to more vacancies over the next several months.

I want to thank the President of the United States for helping. Not only has the President sent us almost 80 nominees this year but he devoted a national radio address to reminding the Senate of its constitutional responsibility to consider and confirm qualified nominees to the Federal bench. When he spoke, the American people, and maybe even the Senate, listened. Since word that he would be speaking out on this issue reached Capitol Hill, the pace has picked up a bit.

Unfortunately, the final report on this session of Congress is that the Senate did not make progress on the judicial vacancy crisis. In fact, there are many more vacancies in the Federal judiciary today than when the Senate adjourned last year. At the snail's pace that the Senate has proceeded with judicial nominations this year, we are not even keeping up with attrition. When Congress adjourned last year, there were 64 vacancies on the Federal bench. In the last 11 months, another 57 vacancies have occurred. Thus, after the confirmation of 36 judges in 11 months, there has been a net increase of 16 vacancies, an increase of more than one-third in the number of current Federal judicial vacancies.

Judicial vacancies have been increasing, not decreasing, over the course of this year and therein lies the vacancy crisis, which 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."

The Senate still has pending before it 11 nominees who were first nominated during the last Congress, including five who have been pending since 1995. While I am delighted that we are moving more promptly with respect to some of this year's nominees, I remain concerned about the other vacancies and other nominees.

There remains no excuse for the Senate's delay in considering the nominations of such outstanding individuals as Professor William A. Fletcher, Judge James A. Beaty, Jr., Judge Richard A. Paez, M. Margaret McKeown, Susan Oki Mollway, Margaret M. Morrow, Clarence J. Sundram, Ann L. Aiken, Annabelle Rodriguez, Michael D. Schattman and Hilda G. Tagle, all of whom have been pending since the last Congress. All of these nominees have been waiting at least 18 months and some more than 2 years for Senate action.

Most of these outstanding nominees have been waiting all year for a hearing. Professor Fletcher and Ms. Mollway had both been favorably reported last year. Judge Paez had a hearing last year but has been passed over so far this year. Judge Paez, Professor Fletcher, and Ms. McKeown are all nominees for judicial emergency vacancies on the Ninth Circuit, as well.

Next year, I hope that the Committee will proceed without delay to consider these nominations, as well as the nominations of Clarence Sundram and Judge Sonia Sotomayor, who have participated in hearings but are still bottled up in the Judiciary Committee.

We should be moving promptly to fill the vacancies plaguing the Federal courts. Thirty-five confirmations in a year in which we have witnessed 121 vacancies is not fulfilling the Senate's constitutional responsibility.

At the end of Senator HATCH's first year chairing the Committee, 1995, the Senate adjourned having confirmed 58 judicial nominations. In the last year of the Bush Presidency, a Democratic majority in the Senate proceeded to confirm 66 judges.

Unfortunately, this year there has been a concerted campaign of intimidation that threatens the very independence and integrity of our judiciary. We are witnessing an ideological and political attack on the judiciary by some, both outside and within Congress. Earlier this fall the Republican Majority Whip in the House and the Majority Leader in the Senate talked openly about seeking to "intimidate" the Federal judiciary. It is one thing to criticize the reasoning of an opinion, the result in a case, or to introduce legislation to change the law. It is quite another matter to undercut the separation of powers and the independence that the Founders created to insulate the judiciary from politics. Independent judicial review has been an important check on the political branches of our Federal Government that have served us so well for over 200 years.

I want to commend all those who have spoken out against this extremist and destructive rhetoric.

I also thank my Democratic colleagues for their patience this year. No Democrat has delayed or placed a "hold" on a single judicial nominee for a single day, all year. It is the normal course in the Senate when one Senator sees the recommendations of other

Senators of the other party moving through to confirmation while his or her nominees are being held back, to place such a hold. This year we resisted.

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. The mounting backlogs of civil and criminal cases in the dozens of emergency districts, in particular, are growing more critical by the day.

I hope that when we return in January, there will be a realization by those in this body who have started down this destructive path of attacking the judiciary and stalling the confirmation of qualified nominees to the Federal bench that those efforts do not serve the national interest or the American people. I hope that we can once again remove these important matters from partisan and ideological politics.

PRESIDENT'S LINE ITEM VETO OF THE OPEN SEASON FOR CIVIL SERVICE RETIREMENT SYSTEM EMPLOYEES IN THE TREASURY AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 1998

Mr. STEVENS. Mr. President, last year the Congress enacted, and the President signed into law, the Line Item Veto Act—Public Law 104-130. This act delegated specific authority to the President to cancel in whole any dollar amount of discretionary budget authority identified by Congress, new direct spending, and limited tax benefits. As the chairman of the Governmental Affairs Committee at that time, I was chairman of the conference committee and one of the principal authors of the act. Another principal author was the Senator from New Mexico, my good friend and chairman of the Senate Budget Committee. We are here on the floor today to say that the President exceeded the authority delegated to him when he attempted to use the Line Item Veto Act to cancel section 642 of the Treasury and General Government Appropriations Act of 1998, which is Public Law 105-61.

Section 642 of that law would allow a six month open season for employees currently under the Civil Service Retirement System (CSRS) to switch to the Federal Employee Retirement System (FERS). The last such open season was in 1988.

On October 16 President Clinton sent a special message to Congress in which he claims to have canceled section 642 pursuant to the authority delegated to him by Congress in the Line Item Veto Act. Under the Act the President is permitted to cancel in whole any dollar