

3 years, to get an agreement on the budget. For 3 years we have been fighting about how can we restrain Federal spending, get it in line with receipts so we could get to a balanced budget agreement. We have been struggling for 3 years on that, yet now, less than 7 months after the agreement, the President is walking away. This is in gross violation of this agreement. We cannot let the administration mortgage away our children's future in order to help satisfy this insatiable appetite for big Government spending. We must be able to deal with these problems within the framework that we have already agreed to.

I just want to point out a few things, and I know some people have already done this but in case we get carried away with the idea that now we have these surpluses and everything is rosy, we can spend to our heart's content, I don't know how many people realize, I hope most do, that once we get to a balanced budget it has nothing to do with the mortgage we already have on the country, which is \$5.4 trillion, over \$20,000 per American. It has nothing to do with the unfunded obligations that we are on the hook for when the baby boomers and others start retiring, that extend to about \$14 trillion in addition to the \$5.4 trillion.

Here we are talking about being responsible for Medicare payments for when the baby boomers start retiring. We are talking about other entitlement programs that people have paid into, that there is an obligation by the Government, but we do not have funds set aside to take care of these obligations.

So you are looking at taxing future generations more and more and more to be able to meet those obligations at a time when, if we would exercise a minimum amount of fiscal discipline, just do the budget agreement we have already agreed to, we can start to deal with some of these unfunded obligations.

In case people think this is a long way off in the future, the baby boomers start retiring in less than 15 years, and they are going to be, instead of pulling the wagon, in the wagon saying, "You obligated yourself, I paid into these funds, now I am calling on these."

The percentage of the Federal Government, as a percentage of the overall economy, is at historically high levels, nearly 20 percent of the economy. If the President wants all these new spending programs, why doesn't he propose equal cuts to other Government programs? Does anybody in this body allege that we don't have significant amounts of Government waste in spending? Let's cut those programs if he wants the new spending programs, rather than adding more and more taxes and fees and burdens on the American public. That would be the way to deal with this, is to try to get at some of the wasteful spending programs that we already have.

I look forward to working with the administration on this budget, but we

cannot break this hard-fought bipartisan budget agreement on the altar of just more and more taxing and spending that keeps driving up the cost of Government, keeps taking more and more from taxpayers, keeps making it harder and harder for the average family to make a living and to be able to support their own children like they would like to do.

So I have great disappointment with what the administration has put forward in growing and in getting back to the era of bigger Government. I am afraid we are just going to have to push to maintain what our agreement was this past year. I think it is regretful that we are at that point. Madam President, it seems as if we are. Thank you very much. I yield the floor.

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#### CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is now closed.

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#### EXECUTIVE SESSION

NOMINATIONS OF CARLOS R. MORENO, OF CALIFORNIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE CENTRAL DISTRICT OF CALIFORNIA AND CHRISTINE O. C. MILLER, OF THE DISTRICT OF COLUMBIA, TO BE A JUDGE OF THE UNITED STATES COURT OF FEDERAL CLAIMS

The PRESIDING OFFICER. Under the previous order, the Senate will now go into executive session to consider two nominations which the clerk will report.

The assistant legislative clerk read the nominations of Carlos R. Moreno, of California, to be United States District Judge for the Central District of California and Christine O. C. Miller, of the District of Columbia, to be a judge of the United States Court of Federal Claims.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. HATCH. Madam President, I rise today to support the nominations of Carlos Moreno to the Federal district bench in the Central District of California and Christine O. Miller to the Court of Federal Claims.

I plan to discuss in greater detail why I intend to support these judges' nominations, but first I would like to address some of the concerns that have been expressed with respect to the Senate's role in the confirmation of Federal judges.

As chairman of the Senate Judiciary Committee, one of the most important duties I hold or fulfill is in screening judicial nominees. Indeed, the Constitution itself obligates the Senate to provide the President with advice concerning his nominees and to consent to their ultimate confirmation. Although

some have complained about the pace at which the Senate has moved on judicial nominees, I would note that this body has undertaken its constitutional obligation in a wholly appropriate fashion.

Indeed, the first matter to come before the Senate this session was confirmation of three of President Clinton's judicial nominees. Senator LOTT is to be commended for giving these nominees early attention. As well, the Judiciary Committee has announced judicial confirmation hearings for February 4 and February 25.

In 1997, the first session of the 105th Congress, the Senate confirmed 36 judges. This is only slightly behind the historical average of 41 judges confirmed during the first sessions in each of the last five Congresses. And I would note the Judiciary Committee itself processed 47 nominees, including the two judges we are considering today.

Currently, there are 88 judicial vacancies in the judiciary, 85 if the three nominees confirmed last week are included. In May 1992, however, when a Republican occupied the White House and the Democrats controlled the Senate, there were 117 vacancies on the Federal bench.

In fact, there are more sitting Federal judges today than there were through virtually all of the Reagan and Bush administrations. As of today, there are 756 active Federal judges. In addition, there are 432 senior judges who must, by law, hear cases, albeit with a reduced load. Ordinarily, when a judge decides to leave the bench, he or she does not completely retire, but instead takes senior status. A judge who takes senior status, as opposed to a judge who completely retires, must hear a certain number of cases each year. Thus, when a judge leaves the bench, he or she does not stop working altogether, he or she merely takes a somewhat reduced caseload.

Even in the ninth circuit, which has 10 vacancies, only one judge has actually stopped hearing cases. The others have all taken senior status and are still hearing cases. The total pool of Federal judges available to hear cases is 1,188, a record number of Federal judges.

The Republican Senate has confirmed the vast majority of President Clinton's judicial nominees, and if the President continues to send us qualified nominees, I am sure that trend will continue. Let me say, however, that I will not vote to confirm judges who refuse to abide by the rule of law. In my view, that is the absolute minimal qualification an individual must have to serve as one of our lifetime-appointed Federal judges.

Last year, I sought to steer the confirmation process in a way that kept it a fair and principled one, and exercised what I felt was the appropriate degree of deference to the President's judicial nominees. It is in this spirit of fairness that I will vote to confirm Judge Miller and Judge Moreno.

Judge Moreno is currently a Los Angeles superior court judge. He was appointed to that position in 1993 by Governor Wilson. Prior to his current appointment, Judge Moreno served as a municipal court judge, worked as an associate in the L.A. firm of Kelley, Drye & Warren, and served as deputy city attorney in Los Angeles.

Judge Miller currently serves on the Court of Federal Claims. She was appointed to that position in 1983 by President Ronald Reagan. Judge Miller, before her judicial appointment, worked at the law firms of Shack & Kimball, and then Hogan & Hartson. She also had the honor, after graduating from the Utah College of Law, of clerking for the Honorable David Lewis, a Tenth Circuit Court of Appeals judge.

I think both these individuals will serve the Federal bench well and, therefore, urge my colleagues to support them. I also would like to submit for the RECORD an editorial written by our leader, Senator TRENT LOTT, which appeared on February 2 in the Washington Post, also a letter I wrote to the ABA discussing the Senate's work in confirming nominees. I ask unanimous consent that both those documents be printed in the RECORD.

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

[From the Washington Post, Feb. 2, 1998]

REHNQUIST'S RUSH TO JUDGMENT

(By Trent Lott)

Chief Justice Rehnquist's 1997 year-end report has drawn considerable press attention to the Senate's role in the confirmation and appointment of federal judges. Good. It's about time proper attention was given to these unique government officials, who are appointed for life, paid salaries that can run to nearly \$145,000 and are provided facilities and staff costing American taxpayers many millions of dollars annually.

And if the cost of these judgeships and the judiciary bureaucracy isn't enough to cause concern, consider the fact that many such lifetime-appointed judges actually attempt to make law from the bench. This is especially troubling when federal judges seek to impose taxes on the public or turn criminals loose on society.

The chief justice contends that federal judges are underpaid and overworked and that the "quality of justice" administered by the federal judiciary is in peril. He also attempts to make an argument for more judges based on statistics regarding, for example, the total caseload of all district and circuit courts and the number of judicial vacancies.

Interestingly, Rehnquist chooses to omit statistics that hurt his case. In his report, he notes that the "Senate confirmed only 17 judges in 1996 and 36 in 1997, well under the 101 judges it confirmed during 1994."

True, the 17 judges confirmed in 1996 were certainly low as compared with most other years. But in 1989, the Democrat-controlled Senate confirmed 15 of President George Bush's nominees. Moreover, the chief justice's reference to 1994 and the confirmation of 101 judges that year is inappropriate, because the Democrats controlled the Senate and the presidency that year. Historically, the number and pace of confirmations lessen when one party holds the White House and the other the Senate. The large number of

vacancies on the bench in 1994 allowed Clinton to nominate many more judges than in an average year, which accounts for the large number of confirmations.

The chief justice also neglected to point out that Congress has authorized an additional 250 judgeships since 1978 (now totaling 849). Further, rather than retiring, many judges take "senior" status, in which they continue to be paid, have staff and decide cases. There are approximately 274 district and 82 circuit judges on "senior" status, contributing to the reduction of the workload of "active" judges.

Almost every year, Congress receives a request from the judiciary to add new judgeships to meet caseload increases. The Committee on Long Range Planning of the Judicial Conference projects that we will need 1,370 federal judges by the year 2000, 2,350 judges by 2010 and 4,110 by 2020. Clearly, the problems of caseload will have to be addressed over the coming years. But merely creating new judgeships will not provide solutions to such issues.

The chief justice also focused on the number of vacancies—83—in the district and circuit courts. This number pales in comparison with the 125 vacancies that occurred in 1993 during President Clinton's first year, when the Democrats controlled the Senate. The chief also failed to mention that President Clinton has not submitted nominees to the Senate for 41 of these vacancies.

Of the 13 nominees for circuit court judgeships, five were sent to the Senate less than 30 days from adjournment. Of the 28 district court nominees, three were sent to the Senate within 30 days of adjournment, another three within 45 days and one within 60 days of adjournment. Even the most partial observers of the confirmation process recognize that more than 60 days is required for investigation of a nominee's education, experience and potential judicial temperament.

As noted by the chief justice, the judiciary characterizes 26 of the current 83 vacancies that have existed for more than 18 months as "judicial emergencies." There appears to be no basis for this characterization other than the length of time the position has been vacant and the notion that every authorized position urgently needs to be filled. In fact, one vacant position in the 4th Circuit, authorized in 1990, has never been filled, and President Clinton has not nominated anyone to it. By the same token, he submitted nominees just last year for two Texas district court positions vacant since being authorized in 1990.

Clearly, the president did not view vacancies in any of those positions as "emergencies." In all, of the 26 "emergencies," only 12 apparently are deemed important enough that the president has submitted nominations fill them.

The pace of confirmation hasn't changed much in the Senate since 1987. That was the year Democrats regained control of the Senate and slowed the process of confirming Reagan nominees. District court confirmations averaged 129 days and circuit court confirmations 113 days in 1987. This pace continued during the Bush administration, when Democrats controlled the Senate. The experience of the Robert Bork, Douglas Ginsberg and Clarence Thomas nominations to the Supreme Court did much to further politicize an already labor-intensive and time-consuming review process.

The pace quickened in 1993 and '94, when President Clinton's district court nominees were confirmed on average within 74 days of referral to the Democrat-controlled Senate. The pace naturally slowed again when Republicans regained control of the Senate.

The chief justice's dismal assessment of the judiciary is not warranted. Congress will

continue to closely monitor the needs of the judiciary to fulfill its function as a separate and equal branch of government. As a part of this process, Congress will create and maintain such judgeships as are necessary to empower the judiciary to accomplish the fair and equal application of justice through the interpretation and application of our laws.

U.S. SENATE,

COMMITTEE ON THE JUDICIARY,

Washington, DC, February 3, 1998.

MR. JEROME SHESTACK,

President, American Bar Association, Philadelphia, PA.

DEAR PRESIDENT SHESTACK: I am sorry that I could not attend the American Bar Association's annual convention this year, as I am at the World Economic Summit. I understand, however, that Senator Patrick Leahy ably represents the Judiciary Committee. Nevertheless, I thought it prudent to make you aware of my views regarding the so-called judicial vacancies issue, in which, I am sure, the ABA has great interest.

As you are doubtless aware, Chief Justice William Rehnquist recently released his annual report on the federal judiciary. In that report, he noted, among other things, the need expeditiously to fill vacancies on the federal bench. The Chief Justice's comments were very similar to those made over the years, including 1992, when he urged the Senate to confirm more of President Bush's judicial nominees. Interestingly, 117 vacancies existed May 1992, compared with the 88 we have today.

In 1997, the Senate confirmed 36 judges, only slightly behind the historical average of 41 judges confirmed during the first sessions in each of the last five Congresses. And the Judiciary Committee itself processed 47 nominees during the past session. There are currently more sitting judges than there were throughout virtually all the Reagan and Bush administrations. As of today, there are approximately 756 active federal judges. In addition, there are 432 senior judges who must continue to hear cases, albeit with a reduced workload. That brings the total pool of federal judges available to hear cases up to 1,188.

Despite claims to the contrary, the Senate has confirmed the vast majority of President Clinton's nominees, and I am confident that we will continue on a steady course this session. I am basically pleased with the pace at which the Judiciary Committee and the Senate have acted on the President's nominees. Indeed, one of the Senate's first items of business this session was to confirm three judicial nominees, including Ann Aiken, a controversial nominee whom I supported. We can, of course, always improve. I am hoping that the Committee will establish a good working relationship with the White House in this new year.

Such a relationship, however, does not mean that the President has carte blanche to appoint judges. The Constitution obligates the Senate to give advice to the President on his nominees and ultimately to consent to them. Under my stewardship, the Judiciary Committee will not simply push nominees through just for the sake of filling vacancies. Only recently, after the Judiciary Committee had expeditiously reviewed and held hearings on two nominees, did information surface that caused one of those nominees to withdraw and that places the other's confirmation prospects in question. If the Committee were blindly to follow some sort of a timetable in processing nominees, the federal bench would have been adversely affected. Indeed, such a specific timetable could encourage nominees to withhold relevant information from the Committee in

the hope of forcing a vote. There is a good deal of background research that must be done by the Committee before it can send a nominee to the floor. If the Committee fails to do its groundwork, it fails the Senate, and thus prevents that body from fulfilling its constitutional duty. I do not hold the President to any sort of a timetable in selecting nominees; nor would I expect others to place such burdens upon the Senate.

I would further note that the Chief Justice's report did not focus solely on judicial vacancies. In fact, the primary focus of his remarks was the increase in the federal judiciary's workload. The Chief Justice complimented Congress on its efforts to reform federal habeas corpus procedures and to streamline prison litigation suits—two measures that he indicated would be of great benefit to the judiciary. As I recall, these were legislative measures the ABA opposed. Nevertheless, I am hopeful that the ABA will be supportive of further efforts to improve the judicial process.

In a similar vein, the Chief Justice expressed concern about the expansion of federal jurisdiction. I hope in the coming months to review the current status of federal jurisdiction and to search for recommendations on how federal courts might be freed from hearing cases more properly brought in state courts. I think we must be vigilant in searching for ways to utilize properly the federal courts' limited resources.

Last year, I sought to steer the confirmation process in a way that kept it a fair and principled one, and exercised what I felt was the appropriate degree of deference to the President's judicial nominees. Yet, the solution to an increased judicial workload should not be simply to add more judges or for the Senate to be held to some sort of a confirmation timetable. I am confident that the Committee will stay the course and continue to exercise its constitutional duty in an appropriate manner. Thank you for considering my views.

Sincerely,

ORRIN G. HATCH,  
*Chairman.*

Mr. HATCH. I thank the Chair, and I yield the floor.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. Madam President, I am glad to be here with my good friend from Utah and welcome him back from a productive weekend.

Last week, I commended the chairman of the Judiciary Committee for scheduling the judicial confirmation hearing, the first of this year, for tomorrow afternoon, and I commend the chairman again. I note that he is following through on his earlier statement by including both Margaret McKeown of Washington State and Susan Oki Mollway of Hawaii at that hearing. They have each been pending for over 18 months, and it will be good to have their confirmation hearing.

I hope we will maintain pace this year that was established during the last 9 weeks of the last session. In order to do that, I hope that in addition to these nominees we can proceed to confirm additional nominees for article III judicial vacancies before the end of the week.

I am delighted the Senate is getting the opportunity to consider the nomi-

nation of Judge Carlos Moreno to the United States District Court for the Central District of California. He has been strongly supported by both Senators FEINSTEIN and BOXER. They have both spoken to me about him and strongly support him.

I have spoken often about the District Court of the Central District of California, its workload and the need to confirm qualified nominees for the judicial vacancies that persist and are arising on that Court. I have spoken most often about that Court in connection with the longstanding nomination of Margaret Morrow. It is my expectation that the Senate will fulfill the commitment it made last year and proceed to that nomination by the end of next week.

Judge Moreno received his undergraduate education at Yale College and his law degree from Stanford Law School. He was a deputy city attorney in Los Angeles, as well as a municipal court judge before joining the Los Angeles Superior Court in 1993. Judge Moreno is currently serving the people of California as a Judge of the California Superior Court. He received high remarks from the American Bar Association and was reported by the Judiciary Committee on November 13, 1997, unanimously. I thank both the majority leader and my good friend from Utah for bringing him up this morning.

Along with Judge Moreno currently pending on the Senate calendar are Ms. Morrow, two nominees for long-vacant judgeships in Illinois and a Pennsylvania State court judge. I hope that we have a strong bipartisan vote in his favor.

I also expect that today the Senate will confirm the President's judgment in nominating and reappointing Judge Christine Miller to the Court of Claims. The President's nomination of Judge Miller was received last year before her first term expired, but the Senate failed to act on it before adjournment last fall.

The President used his recess appointment power to reappoint Judge Miller and resubmitted her nomination. Today the Senate will reaffirm the President's action and confirm her to a full term.

The Court of Claims is an important court. It is established by Congress under article I of the Constitution. No less than the Federal judiciary that is appointed to fill vacancies in the article III courts that we speak about so often, the vacancies on the Court of Claims should be filled and filled without delay.

Madam President, I hope that the distinguished Senator from Utah and I will be allowed by our caucuses to move forward on judges as quickly as possible. I know there is support in mine to do that.

Madam President, I see the distinguished Senator from California on the floor and yield to her.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. FEINSTEIN. Madam President, I thank the ranking member, and I thank the Presiding Officer. I also would like to begin by thanking the distinguished chairman of the Judiciary Committee for what was, by and large, a rapid and prompt processing of Carlos Moreno. I submitted the name of Carlos Moreno to the President for appointment to the District Court from the Central District of California. In a sense, Madam President, I believe he is prototypical of really what a good Federal judge should bring to that office. I would like to just quickly go over what is an amazing success story.

Judge Moreno was born in East L.A., just 2 miles from the Federal courthouse where he will be serving. He has earned the respect and admiration of both the legal and the law community, and he has had 13 years of service on the State courts. He has strong bipartisan support, including the endorsements of the former Governor George Deukmejian and Los Angeles County Sheriff Sherman Block.

As the chairman of the committee pointed out, he obtained his bachelor's degree from Yale in 1970 and his J.D. from Stanford in 1975. He began his legal career in the City Attorney's Office of Los Angeles where he worked for 4 years, from 1975 to 1979.

He prosecuted numerous jury trials, misdemeanor prosecutions, and criminal and civil consumer protection cases. He worked as a litigation attorney for 7 years, handling commercial litigation in State and Federal courts. So he has experience in both the civil as well as the criminal law. His caseload there included bankruptcy, wrongful termination, banking, real estate, and antitrust.

In 1986 the Governor of California, George Deukmejian, appointed him to the municipal court. He served there for 7 years, handling 40 civil jury trials in addition to a regular criminal trial workload.

In 1993, Governor Wilson elevated him to the California Superior Court where he served for the past 4 years. He averaged approximately 2 dozen jury trials a year, at least a third of which have been homicides. The remainder have consisted of a broad range of felonies and he has presided over about a dozen bench trials per year.

So, 13 years as a municipal and superior court judge. This year he was selected as the superior court judge of the year by the criminal law section of the Los Angeles County Bar Association and was described as one who earns praise from both prosecutors and defense attorneys for his fair, even-tempered handling of a high-volume calendar of criminal cases. The large number of court trials he handles in which both sides, both sides, waive the jury and try the case before him is an indicator, I believe, of the trust he has received from opposing counsels.

Madam President, I ask unanimous consent to have printed in the RECORD letters of support by George

Deukmejian, former Governor; a letter from the District Attorney of Los Angeles County; and a letter from the Sheriff of Los Angeles County.

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

LOS ANGELES, CA,  
October 6, 1997.

Re Judge Carlos R. Moreno.

Hon. ORRIN HATCH,  
Chairman, Committee on Judiciary, U.S. Senate,  
Washington, DC.

DEAR SENATOR HATCH: It has come to my attention that Judge Carlos Moreno has been nominated for an appointment to the U.S. District Court, Central District of California.

In 1986, it was my pleasure to appoint him to the Compton Municipal Court and in 1993 he was appointed by Governor Pete Wilson to the Los Angeles Superior Court.

It is my understanding that he has performed in an exemplary manner as a Municipal and Superior Court Judge and has a clear perception of the importance of maintaining a judicial system that insures fairness and social order.

Judge Moreno is well suited for this position. I am confident that he has the appropriate judicial skills and in light of his qualifications, I hope you will give him every consideration for appointment to the U.S. District Court.

Most cordially,

GEORGE DEUKMEJIAN,  
35th Governor of California.

LOS ANGELES COUNTY  
DISTRICT ATTORNEY,  
Los Angeles, CA, May 2, 1997.

Hon. DIANNE FEINSTEIN,  
U.S. Senator, San Francisco, CA.

DEAR DIANNE: Superior Court Judge Carlos R. Moreno has informed me that he is seeking an appointment to the U.S. District Court for the Central District of California, and I am writing to strongly recommend his nomination and confirmation.

Although Judge Moreno is not a personal acquaintance of mine, I have had the opportunity to personally interview him and to speak with several of my colleagues who have appeared before him on many occasions. All of the persons I contacted were effusive in their praise of the professional attributes that Judge Moreno brings to the bench as a Superior Court trial judge: he is fair, bright, willing to read with care the lawyers' written motions, control his courtroom, and give both sides fair hearings in his court. In addition, he apparently relishes legal research and thoroughly familiarizes himself with the issues of a case before he gives a decision—a quality which would serve him well on the Federal bench.

I do not make recommendations on behalf of those seeking appointments lightly, and in fact, I turn down most requests. However, the level of support and enthusiasm expressed by my colleagues on behalf of Judge Moreno prompted me to agree to interview him, and I found him during the interview to have the personal attributes that I had been told he displays on a daily basis in his court. I am confident Carlos Moreno would serve as a District Court judge with distinction, and I believe his appointment would be beneficial to the citizens of California.

Very truly yours,

GIL GARCETTI,  
District Attorney.

COUNTY OF LOS ANGELES,  
Monterey Park, CA, April 23, 1997.

Hon. DIANNE FEINSTEIN,  
U.S. Senate,  
San Francisco, CA.

DEAR DIANNE: It has come to my attention that Los Angeles County Superior Court Judge Carlos R. Moreno has indicated his desire to be appointed a United States District Court Judge for the Central District of California. I am pleased and honored to give him my personal endorsement.

Judge Moreno has an extensive criminal justice background. He has been a Judge of the Superior Court of Los Angeles County since November of 1993. Prior to that, Judge Moreno was a City Attorney with the City of Los Angeles from 1975 to 1979 where he handled criminal and civil consumer protection prosecutions and legislative and politically sensitive matters. He was a member of the law firm of Kelley, Drye & Warren from 1979 to 1986, and in October 1986 Judge Moreno was elected Judge of the Municipal Court. He held that seat until his appointment to the Superior Court in 1993. Throughout his tenure on the bench, he has continually demonstrated the prerequisite abilities necessary to be a fair, impartial, and knowledgeable jurist.

Judge Moreno is an extremely hard working individual of impeccable character and integrity. His list of credits, both professionally and within the community, is extensive.

I would like to recommend that you favorably consider his appointment. I have no doubt that he would be a distinguished addition to the United States District Court.

Sincerely,

SHERMAN BLOCK,  
Sheriff.

Mrs. FEINSTEIN. Madam President, to sum it up, I believe we have a man among men, a fine jurist, a fine attorney, skilled and knowledgeable in both criminal and civil law. This is the reason I respectfully submit him as someone who is really prototypical of the kind and type of background that one might bring to the Federal district court.

I thank the ranking member and I thank the chairman for the rapid processing of this distinguished nominee.

I yield the floor.

Mr. KENNEDY. Madam President, I strongly support the nominations of Carlos Moreno and Christine Miller to serve as federal judges.

Judge Moreno is superbly qualified to serve as a federal judge in the Central District of California. He is a graduate of Yale University, Harvard Business School, and Stanford Law School. Currently, he is a judge on the Los Angeles Superior Court. As a member of that court's Trial Delay Reduction Committee he was instrumental in establishing and enforcing policies that successfully reduced trial backlogs in Los Angeles County. At a time when lengthy backlogs are also plaguing the federal courts, Judge Moreno's experience will be an important asset for California's Central District Court.

Judge Miller is also well qualified to continue her service on the United States Court of Federal Claims. She has served on that court for the past fifteen years, and President Clinton's nomination of her for a second fifteen-

year term is a tribute to her ability and leadership.

I also want to take this opportunity to express my concern that the Senate has still not had a chance to vote on the nomination of Margaret Morrow to the federal district court for the Central District of California. Ms. Morrow was first nominated in May 1996. She was approved by the Judiciary Committee in June last year, and it is long past time for the Senate to vote on her nomination.

On average, it is taking twice as long for Senate Republicans to confirm President Clinton's nominees as it took for Democrats to act on President Bush's nominations. But I am especially concerned about the Republicans' record of subjecting women who are nominated for federal judgeships to far greater delays than men.

Women nominated to the federal courts are four times—four times—more likely than men to be held up by the Republican Senate for more than a year.

Last year, the Senate confirmed 30 men, but only 6 women. And, by confirming only 36 judges, the Senate condemned many of our nation's busiest courts to even lengthier delays in processing their civil cases.

There is no question that Margaret Morrow possesses the necessary qualifications to be confirmed. She is a Harvard-educated attorney and a partner in a prestigious California law firm. She is the first woman to serve as the president of the California Bar Association. She is a well-respected attorney and a role model for women in the legal profession.

Yet action on her nomination has been delayed—like nine other nominees who have been waiting for more than 18 months—because the Republicans are playing politics and preventing needed judicial positions from being filled.

When even a Republican Chief Justice criticizes the Republican Congress for refusing to move more quickly to confirm judges, you know something's wrong. The Chief Justice is deeply concerned about the large number of judicial vacancies on the federal courts. There are too few judges to handle the workload.

The bottleneck in the Senate is jeopardizing the court system and undermining the quality of justice. Fewer than half of President Clinton's nominees have been confirmed.

We owe it to Americans across the country to give these nominees a vote. If our Republican colleagues don't like them, vote against them. But give them a vote.

The distinguished majority leader has rightly noted that the process of confirming judges is time-consuming. The Senate should take care to ensure that only individuals acceptable to both the President and the Senate are confirmed. The President and the Senate do not always agree. But it should not take longer to consider women than it does to consider men.

Some Republicans claim they have slowed the confirmation process to protect the federal courts from "judicial activism." But this argument is a smokescreen. If President Clinton is actually nominating judicial activists, then why is it that these nominees are approved overwhelmingly when the Senate is finally allowed to vote on them? The closest vote that we have had on any nominee in this Congress was the 76 to 30 vote in favor of Ann Aiken last week.

The claim that Clinton judges are activist judges is a transparent ruse being used to slow down the confirmation process. The reason is obvious. The Republican majority in Congress is doing all it can to prevent a Democratic President from naming judges to the federal courts. The courts are suffering, and so is the nation.

In some areas of the country, people have to wait years to have their cases even heard in court. And then they have to wait years more for overburdened judges to find time to issue their decisions. Families, workers, small businesses, women and minorities have traditionally looked to the courts to resolve disputes. The lack of federal judges makes the swift resolution of their cases impossible.

The number of cases filed in the federal appeals courts has grown by 11 percent over the last six years. The average time between filing and disposition has also increased. Courts with long-standing vacancies are in even worse shape.

In California's Central District Court, the Court to which both Carlos Moreno and Margaret Morrow have been nominated, the caseload has grown by 15 percent since 1994. The time people have to wait for their civil cases to be resolved has increased by 11 percent. In that district, over 300 pending civil cases are more than three years old.

Across the country, real people are being hurt. In the Central District of Illinois, a disabled Vietnam veteran who was fired after enduring harassment from his co-workers has been waiting over three and a half years for a resolution to his case.

In the Southern District of Texas, 4,000 victims of a student loan fraud are waiting for the outcome of a class action suit that has been pending for almost eight years.

In the District Court of South Carolina, there is still no decision in a suit filed more than six years ago against the state's apportionment laws. The outcome of this case will affect hundreds of thousands of citizens. It goes to the heart of whether the basic constitutional principle of "one person, one vote" is being fairly applied. The last communication the lead plaintiff received from the Court was in June of last year.

In the Southern District of Florida, Julio Vasquez—a U.S. citizen migrant worker—broke his leg in 1989 in a boarding house provided by his em-

ployer. To this day, nearly nine years later, Mr. Vasquez has never received sufficient medical attention, and his injury affects his ability to work. He is still waiting for the judge's ruling in his case.

These are typical victims of the vacancy crisis in the federal courts. They are hard-working Americans injured on the job—citizens seeking to exercise their right to vote—students trying to get an education—disabled veterans searching for justice.

I commend my colleagues for bringing two distinguished nominees to a vote today. I hope with this new year we will see a new day in moving ahead to fill the vacancies in our courts and end these unconscionable delays.

Mr. HATCH. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. LEAHY. Madam President, on these judges today, I learned long ago, and certainly have had it reiterated during my 23 years in the Senate, that it is not always wise to predict the outcome of votes. I have been surprised before both pleasantly and unpleasantly. I have been surprised at some I thought might pass and failed to pass, and other times have had a very pleasant surprise to find something did pass when I didn't expect it to.

I think it is safe to say—and I believe there will be bipartisan consensus on this—that these judges' nominations will pass overwhelmingly, which is usually what happens with a judgeship.

Starting this year we have proceeded on more judicial nominations in the first couple of weeks this session than we did over the course of the first months last year.

I hope that we have strong bipartisan votes on these judgeships today. It will signal that the Senate is moving forward and that we will make progress to help fill the vacancies that plague the Federal judiciary. Today, there are 86 vacancies on the Federal courts. After these favorable votes, we will have 54 nominees pending before the Senate in need of our prompt attention. I have spoken with President Clinton on a couple of occasions recently, urging the White House to move quickly in sending up further nominations, and they are. We saw that on the first day that we came back when a dozen new nominations came up. We have 55 nominees pending. Almost two-thirds of the current vacancies have nominees pending to fill them.

Now I think it is time to say that for whatever reasons—political, ideological or otherwise, for whatever reasons—the Senate went slowly last year on nominations. The distinguished chairman and I want to be allowed by

our respective caucuses to move forward, fulfilling our roles as chairman and ranking member of the Judiciary Committee, to move nominations forward.

I do not question the integrity of the chairman of the Judiciary Committee, who has worked very hard on this, and has on more than one occasion strongly supported somebody who would not have been his nominee had he been the one appointing; in the same way, I have strongly supported nominees of past Presidents who would not have been mine had I been the person making the nominations. But in both instances, the Senator from Utah and I looked at a man or a woman of high qualifications, of good legal background, perhaps of a different background than our own, but somebody who would serve the interests of justice well, and we have pushed forward for their confirmation.

I hope, so that the U.S. Senate does not send the wrong image to the Judiciary and to the American people, that we would be able to move forward in the way the Senator from Utah and I have preferred to work in the past and move these judges, vote them in or vote them down.

I am not suggesting to any Senator how he or she should vote. If they do not like a nominee, vote against that nominee. Give us a chance to vote on them, vote them up or vote them down, but keep the Federal Judiciary out of politics.

It is, after all, one of the linchpins of our democracy, this great democracy. We are the third most populous country in the world, the most powerful nation on Earth, the most powerful democracy history has ever known. We maintain that power as a democracy and not a totalitarian society. We maintain it largely because of the integrity and independence of our Federal Judiciary. They act as a break on a runaway Executive or a runaway Congress because what they hold is their great shield and great bulwark. The Constitution of the United States is something that stands above all of us, whether as Members of the Congress, the Executive Branch or the Judiciary itself.

We need their integrity and we need their independence. With it, we guarantee the diversity of thought and the diversity of action that protects our freedoms and our democracy—in this case, the greatest democracy on Earth.

Madam President, I yield the floor.

Mr. HATCH. Madam President, I ask for the yeas and nays on each of the nominations.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

VOTE ON NOMINATION OF CARLOS R. MORENO

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Carlos R. Moreno, of California, to be United States District Judge for the Central District of California.

The clerk will call the roll on the first nomination.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Indiana (Mr. COATS) is necessarily absent.

Mr. FORD. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from New Mexico (Mr. BINGAMAN), and the Senator from New York (Mr. MOYNIHAN) are necessarily absent.

I further announce that, if present and voting, the Senator from New York (Mr. MOYNIHAN) would vote "aye".

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

The result was announced—yeas 96, nays 0, as follows:

[Rollcall Vote No. 2 Ex.]

YEAS—96

Abraham	Feinstein	Lott
Akaka	Ford	Lugar
Allard	Frist	Mack
Ashcroft	Glenn	McCain
Baucus	Gorton	McConnell
Bennett	Graham	Mikulski
Bond	Gramm	Moseley-Braun
Boxer	Grams	Murkowski
Breaux	Grassley	Murray
Brownback	Gregg	Nickles
Bryan	Hagel	Reed
Bumpers	Harkin	Reid
Burns	Hatch	Robb
Byrd	Helms	Roberts
Campbell	Hollings	Rockefeller
Chafee	Hutchinson	Roth
Cleland	Hutchison	Santorum
Cochran	Inhofe	Sarbanes
Collins	Inouye	Sessions
Conrad	Jeffords	Shelby
Coverdell	Johnson	Smith (NH)
Craig	Kempthorne	Smith (OR)
D'Amato	Kennedy	Snowe
Daschle	Kerrey	Specter
DeWine	Kerry	Stevens
Dodd	Kohl	Thomas
Domenici	Kyl	Thompson
Dorgan	Landrieu	Thurmond
Durbin	Lautenberg	Torricelli
Enzi	Leahy	Warner
Faircloth	Levin	Wellstone
Feingold	Lieberman	Wyden

NOT VOTING—4

Biden	Coats
Bingaman	Moynihan

The nomination was confirmed.

VOTE ON THE NOMINATION OF JUDGE CHRISTINE O. C. MILLER

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Christine O. C. Miller, of the District of Columbia, to be a Judge of the United States Court of Federal Claims? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Indiana (Mr. COATS) is necessarily absent.

Mr. FORD. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from New Mexico (Mr. BINGAMAN), and the Senator from New York (Mr. MOYNIHAN) are necessarily absent.

I further announce that, if present and voting, the Senator from New York (Mr. MOYNIHAN) would vote aye.

The result was announced—yeas 96, nays 0, as follows:

[Rollcall Vote No. 3 Ex.]

YEAS—96

Abraham	Feinstein	Lott
Akaka	Ford	Lugar
Allard	Frist	Mack
Ashcroft	Glenn	McCain
Baucus	Gorton	McConnell
Bennett	Graham	Mikulski
Bond	Gramm	Moseley-Braun
Boxer	Grams	Murkowski
Breaux	Grassley	Murray
Brownback	Gregg	Nickles
Bryan	Hagel	Reed
Bumpers	Harkin	Reid
Burns	Hatch	Robb
Byrd	Helms	Roberts
Campbell	Hollings	Rockefeller
Chafee	Hutchinson	Roth
Cleland	Hutchison	Santorum
Cochran	Inhofe	Sarbanes
Collins	Inouye	Sessions
Conrad	Jeffords	Shelby
Coverdell	Johnson	Smith (NH)
Craig	Kempthorne	Smith (OR)
D'Amato	Kennedy	Snowe
Daschle	Kerrey	Specter
DeWine	Kerry	Stevens
Dodd	Kohl	Thomas
Domenici	Kyl	Thompson
Dorgan	Landrieu	Thurmond
Durbin	Lautenberg	Torricelli
Enzi	Leahy	Warner
Faircloth	Levin	Wellstone
Feingold	Lieberman	Wyden

NOT VOTING—4

Biden	Coats
Bingaman	Moynihan

The nomination was confirmed.

LEGISLATIVE SESSION

The PRESIDING OFFICER (Mr. FAIRCLOTH). Under the previous order, the Senate will resume legislative session.

The Chair recognizes the distinguished Senator from Minnesota.

Mr. GRAMS. Mr. President, I request unanimous consent to be able to speak for up to 10 minutes as in morning business, and also immediately following that Senator HARKIN will be allowed to speak as in morning business for 5 minutes.

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

THE 16TH AMENDMENT: AN IGNOBLE ANNIVERSARY

Mr. GRAMS. Mr. President, 85 years ago today, the 16th Amendment to the United States Constitution was ratified, giving Congress the power to levy an income tax on the people. As we mark this occasion, I rise to call upon Congress to take immediate action to end the federal tax code as we know it, and end 85 years of ever-increasing hardship for America's taxpayers.

Let me focus on how we got here and why we need real tax reform.

Mr. President, this great Nation was born out of a revolt against the abusive taxing powers of its motherland. This tax revolt created a nation of individual liberty. In this land, a person owns himself, his labor, and the fruit of his labor. To protect individual liberty, our founders crafted Clause 4 of Article I, Section 9 of the U.S. Constitution, rejecting all direct income taxes that were not apportioned to each State by its population.

This clause, as originally adopted in the Constitution, clearly reflected the genius, wisdom, and experience of our founders—protecting individual liberty by limiting the Government's power to tax. For more than 100 years following the founding of this nation, the American people enjoyed tax freedom and did not pay any income taxes. Although an income tax was imposed as a temporary measure to finance the Civil War in 1862, it was repealed shortly after the war ended.

In the same period—during the last decade of the 18th, the entire 19th, and first decade of the 20th century—the Supreme Court also defended this freedom and held the income tax to be unconstitutional. However, under the direct influence of the rise of socialism in Europe at that time, on February 3rd, 1913, the 16th Amendment to the Constitution was ratified. The 16th Amendment says:

"The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several States, and without regard to any census or enumeration."

Mr. President, in my view, nothing has been more damaging to America's families than the 16th Amendment. It opened a Pandora's box we have never since been able to contain. A few months after the Amendment was ratified, the Revenue Act of 1913 was enacted, imposing an individual income tax. The ratification of the 16th Amendment and enactment of the first tax code fundamentally eroded individual liberty and created the shadow of servitude that has darkened our Nation since.

Former IRS Commissioner T. Coleman Andrews said the 16th Amendment, in effect, repealed Article Four of the Bill of Rights. The 16th Amendment has empowered tax collectors to invade our citizen's homes, papers, and private affairs. Worse still, it is used for social engineering, redistributing private income, and promoting class warfare.

Initially, the income tax did not apply to individuals with taxable incomes less than \$3,000, which in today's dollars means that people with incomes of \$44,000 or lower would be exempted from paying tax. It only imposed a one-percent tax on the first \$20,000, which equals over \$300,000 in today's dollars. The highest tax rate was up to 7 percent for income above \$500,000, which equals over \$8 million today.

Less than one percent of all Americans paid any income tax in 1913. Only 5 percent of Americans paid any income tax as late as 1939, before World War II. Then came the New Deal, which tripled Government spending, producing a large Federal budget deficit.

It was the Second World War that gave the Government an excuse to enact the first mass income tax increase in U.S. history. The lowest tax rate rose from 4 percent on income over \$4,000 to 23 percent on income over \$2,000. Higher taxes were accompanied