

not be timid. The people, as my colleague from Georgia said, all across this country, whether they are down in Cajun country in Louisiana, whether they are in Florida, whether they are in the Black Hills of South Dakota, or whether they are in the Shenandoah Valley of Virginia, expect action on judges. As much as people care about less taxation and energy security for this country and wanting us to be leaders in innovation, they really expect the Senate to act on judges. It is a values issue. It is a good government issue. It is a responsibility-in-governing issue that needs to be addressed.

AMENDMENT NO. 356

I would like to turn my attention to the amendment pending on the supplemental, one submitted by Senators DURBIN, MIKULSKI, and me. This amendment will eliminate the pay gap that many of our Federal employees who serve in either the National Guard or the Reserves suffer when they are called up for active duty. We need to do everything we can within reason to recruit and retain those who serve in the Guard and Reserves. We, as a Federal Government, and I, as a Senator, encourage private businesses to make up that pay gap.

Many times, when people get called up, their Active-Duty pay is less than they would be getting in the primary job. That is what the pay gap is. It is one of the key factors, top five factors in people not re-upping. It does have an impact on their families. On average, the pay-gap loss is about \$368 a month. They still have housing payments, they still have food. Many of those who serve in the Guard and Reserve have families, and those expenses go on.

Out of the 1.2 million members of the National Guard and Reserves, 120,000 are also employees of the Federal Government. As of January 2005, 43,000 Federal employees have been activated since September 11, 2001, and are serving courageously and beneficially for our freedom and our security. Right now there are more than 17,000 on active duty.

There are those firms in the private sector who have made up this pay gap. There are over 900 companies, such as IBM, Sears, General Motors, UPS, Ford, that make up the pay differential. In fact, 23 States have enacted similar legislation to make up the pay difference. I am proud to say one of them is the Commonwealth of Virginia.

The Senate has supported this in the past. I think it makes a great deal of sense that we support not only the members of the Guard and Reserves who are called up to active duty who serve in the Federal Government, but also support their families. I think this amendment, which I am sponsoring along with Senators DURBIN and MIKULSKI, makes a great deal of sense. It is one I hope, when we get to voting on it sometime today, will enjoy the support of all the Members of the Senate. It is very important we do what we can, within reason, to help in the re-

cruitment and retention of those who are serving our country, who are disrupting their lives and, in fact, are being called up more frequently and for longer duration than ever before.

I hope we will see that agreed to on the supplemental some time today. I also hope we will get back to the 200-year history of the Senate on consideration, treatment, and actual voting on outstanding judicial nominees who have come out of the Judiciary Committee with a favorable recommendation.

I yield the floor.

The PRESIDING OFFICER. The Senator from Florida.

Mr. NELSON of Florida. Mr. President, am I correct that we are in morning business and it is appropriate to address the Senate in morning business?

The PRESIDING OFFICER. The Senate is in a period of morning business. The minority side controls 30 minutes. The Senator is recognized.

#### THE NOMINATION PROCESS

Mr. NELSON of Florida. Mr. President, yesterday it live the nomination and confirmation process as envisioned by our Constitution with regard to two nominees. The Constitution, of course, provides that it is a two-step process: the President nominates and the Senate then confirms or rejects. In this case, there was quite a contrast between the two nominees.

In one of my committees, the Foreign Relations Committee, we have a highly contentious, highly divisive debate raging over the nominee of the President, Mr. John Bolton, to be the Permanent Representative of the United States to the United Nations. It is a very significant post representing the wishes of the American people, of the U.S. Government, to the world body, the United Nations.

While at the same time those confirmation hearings were occurring in the Senate Foreign Relations Committee, another one of my committees, the Commerce Committee, was considering the nomination of Dr. Michael Griffin to be administrator of NASA. Dr. Griffin's nomination is quite a contrast to Mr. Bolton's nomination, for it is embraced almost unanimously in a bipartisan way. The extraordinary support is shown even to the point that the chair of the Science and Space Subcommittee, Senator HUTCHISON of Texas, and I, the ranking member of that subcommittee, both requested that the chairman of the full committee, Senator STEVENS, accelerate the confirmation process. So that Dr. Griffin could be confirmed by the committee and we could get his nomination to the floor of the Senate this week, putting him in place as the administrator next Monday. NASA desperately needs to have a strong leader in place, particularly as we recover from the disaster to Columbia. We are also going to launch an expected flight for recovery somewhere about the mid-

dle of May. That is the contrast between two nominees.

I think one of the things that makes Dr. Griffin so attractive as the head of NASA is not only that he is literally a rocket scientist with six graduate degrees. Not only does he have exceptional experience in the Nation's space program, both the manned and unmanned programs, but he carries with him a demeanor that contains an element of humility, which will serve him well in the NASA family. NASA is a family. We have seen that borne out in the history of our space program in times of tragedy as we have had in the past. The NASA family comes together, and in times of triumph not only with the extraordinary space accomplishments we have had, but in times of extraordinary triumph where in fact it has been said that failure is not an option. The extraordinary success we had with Apollo 13 in which we thought we had three dead men on the way to the Moon when the Apollo module blew up, and how in real time people in a simulator back in Houston, people in mission control, the design engineers—all came together to figure out the fix. Since the main propulsion system had blown up, rapidly losing electricity, and how to design the circumstances which in a trajectory towards outer space they could get back home safely to Earth. And they did that.

That is another illustration of how the NASA family works when it comes together. It wants a leader who has an appreciation of that family, who knows something about the business of that family, and who in fact can comport themselves with humility.

Interestingly, this is a contrast to the other nomination being considered at the same time, on the very same day, in another one of my committees. This is a controversial nomination because of the alleged improprieties which stem not from a sense of humility but from a sense of entitlement, even bordering on arrogance in demanding one's way. Not one's personal beliefs and ideology—we can all debate those because those are differences of issues. But in this particular case, Mr. Bolton is alleged to have berated intelligence analysts and, according to the allegations from some former very high-ranking State Department officials, insisting that they be fired, dismissed, or transferred because their analysis of the intelligence differed with his. Contrast the personalities, the nominee to be NASA administrator and the nominee to be the U.S. Representative to the U.N., contrast of styles, contrast of attitudes, and contrast of capabilities. Thus, it leads to extraordinary differences in the nomination process.

I wish all of the nominations were as Dr. Griffin in NASA, except for one hiccup that I think we are taking care of with the junior Senator from Virginia. It is my hope that today Chairman STEVENS will call the committee, that

we will vote Dr. Griffin out of the Commerce Committee and get his nomination to the floor. At least by tomorrow, so his name can be sent, confirmed, and the President can go ahead and swear him in.

#### INFORMATION DATA BROKERS

If that were not enough to engage one Senator from the State of Florida in activities, we also saw yesterday a day that started to bring out new revelations on a completely different subject. This time we found from the wire reports that the number of names which had been thought to have been missing or stolen from an information data broker, namely one located in my State, a company called Seisint in Boca Raton, FL, owned by LexisNexis. The company is owned by an international conglomerate located in France, which a month ago announced that 30,000 names were missing—that is 30,000 names and Social Security numbers, and who knows how much other sensitive information. These records are compiled in this company for many law enforcement agencies. We were told yesterday the number is now not 30,000, it is 10 times that; it is over 300,000.

This is one of a series of five or six revelations in the last 2 months of information. Data brokers trade and sell this information about us—information that normally we would be so careful in seeing that it's secured and locked up or shredded so somebody can't get that information and go out and steal our identity. We now find these information brokers—in one case called ChoicePoint—have 12 billion records; they have records on virtually every American.

We have seen over the last couple of months a series of these stories where the information is suddenly missing, or they found that somebody hoodwinked them and bought their information under false pretenses. It is now out in the public domain in somebody else's hands.

Members of the Senate, if we don't do something about this, none of us in America will have any privacy left because our personal identities will be taken from us.

I hope Senators have had an opportunity to experience what I have in talking with victims of identification theft. One of the biggest complaints, aside from the harassment and the financial losses, is they can't get their identity back. They do not know where to go. They go to their local law enforcement. We can't help you. They go to their State agencies. We can't help you. They go here, they go there, and they keep getting referred to somebody else, and all the while somebody else has their identity. Maybe they are put on the watch list, or the do-not-fly list, or suddenly they are getting dinged for \$25,000 charges on a credit card, or their driver's license—such as the truck driver's license in Florida which gives the privilege of driving vehicles loaded with hazardous materials. Guess what that would do in the wrong hands.

We find, if we don't do something, that none of us will have any privacy left. It used to be in the old days that we were careful to shred our records, or keep them locked up. Now we know all of this private, personal, and financial information is in the hands of information brokers who have it on computer—billions of bits of information. They are trading it and selling it and buying it. There is something we can do about it. I suggested one way a month ago when I offered a bill that has been referred to the Commerce Committee. Today, Senator SCHUMER of New York and I have taken a number of bills, including mine and his, and we have put them together into a comprehensive package. The bill is being referred to the Commerce Committee, and it is my hope we will get the Senate to start moving on this. As we speak, the Judiciary Committee is having a hearing on this very subject. It is my hope we will get some action so we can protect the personal identity of every American.

I yield the floor.

The PRESIDING OFFICER. The Senator from Washington.

#### NUCLEAR OPTION

Mrs. MURRAY. Mr. President, I imagine that recently it has been pretty difficult to wake up every morning to read the newspaper if you are a Federal judge. Extremists in and out of Washington, DC, have nearly declared war on the judiciary, from demanding retribution for recent decisions that lawmakers disagree with to suggesting impeachment for judges who do not toe the party line. It is discouraging, it is disheartening, and it is downright wrong.

But what is so concerning about this recent rhetorical assault is it is being backed by action that has nothing to do with judges and everything to do with increasing Republican power at the expense of our Constitution.

I am deeply concerned that Republicans are trying to increase their power by ignoring rules dating to our country's founding. They want to push through radical judicial nominees who will serve a lifetime on the bench by eliminating a 200-year-old American rule allowing each Member in the Senate to speak out on behalf of our constituents and to fight for the ideals we hold dear.

We had an election last year, and it is true, Republicans ended up with a majority in this body. But that does not mean half the country lost its voice. That does not mean tens of millions of Americans will have no say in our democracy. That does not mean Republicans have carte blanche to pack the courts and to ignore the rights of the minority.

In reality, this is not about judges. This is not about a Senate procedural change. This is, plainly and simply, a power grab and an effort to dismantle the checks and balances our Founding Fathers created. Without that system,

the Senate would simply become a rubberstamp for the President. It would allow whichever political party is in power, Republican or Democrat, to have the say over our Nation's courts. I will not stand for that.

This is a basic argument about the future of the Senate. It is about how we are going to conduct our business. I believe in giving the people a voice, in standing up for those people who sent me here, and in protecting the rights of minorities everywhere.

One of the first things every child is taught about American Government is the separation of the three branches. This separation and the checks and balances that come with it are fundamental to the greatest system of government ever created. This system is worth protecting. That is exactly what many of my colleagues and I intend to do.

This is not a debate about judicial nominations. It is about increasing the amount of power that is wielded by the majority. We hear a lot about judges in the Senate, so let me put that discussion in context for a minute.

The judges who serve on the Federal bench affect the lives and liberties of every American. These are lifetime appointments. This is not the nomination to a commission or nomination to an ambassadorship; this is a lifetime appointment for a Federal judge whose rulings over the next 30 or 40 or more years will have ramifications for every single American.

As Senators, we are elected to serve our constituents. We are asked to confirm judges whose decisions can change U.S. history and shape the lives of American people for generations to come.

When any citizen, Republican or Democrat, in a blue State or a red State, a man or a woman, no matter what race, color, or creed, comes before a judge, we have a responsibility to ensure they will get a fair shake. That citizen, no matter who or where they are, must know our system will work for them. They have to have confidence in that.

How can we make those assurances to each and every Senator, Republican or Democrat, red or blue State, man or woman, no matter what race, color or creed, if Republicans alone are selecting, considering, and confirming them to the courts? I don't believe we can.

In addition, we expect Federal judges to provide the proper check in our system of checks and balances outlined in our Constitution. Without it, our system does not function properly. We have to ensure each and every nominee for the courts has sufficient experience to sit in judgment of our fellow citizens. We have to ensure every nominee will be fair to everyone who comes before their court. We have to ensure every nominee will be evenhanded in administering justice, and we have to ensure every nominee will protect the rights and the liberties of each and every American.