

In each of these cases, Senator SPECTER not only faced down a deadly disease, but he pushed the limits of physical and mental endurance to remain deeply engaged in his Senate work. Work, for him, was integral to recovery. As he wrote in an inspirational book on his health experiences, "Good health is a precious possession that is often taken for granted. The same is true of the time we have been given to contribute to the world around us. Poor health may limit our time and capacity for achievement, but I firmly believe that vigorous work provides the best way to overcome a health challenge."

Senator SPECTER, thank you for the inspiring example of your determination. Thank you for a long and productive career in this body, a career that has meant much to the Senate, to Pennsylvania, and to the Nation.

#### PORTEOUS IMPEACHMENT

Mr. CARDIN. Mr. President, one of the most solemn obligations of Senators is try impeachments. The Constitution provides that the Senate shall have the "sole power to try all impeachments," and that "all civil officers of the United States shall be removed from office on impeachment" for various offenses. Senators also take a special oath when hearing an impeachment case before the Senate holds an impeachment trial.

I recently heard evidence in the case of Judge Porteous, who would have lifetime tenure under the Constitution unless he resigns or is removed by the Senate. The House of Representatives impeached Judge Porteous on four different articles. After deliberation, I voted to convict Judge Porteous of three of the four articles, but voted against conviction on one of the articles. I rise to explain my not guilty vote on one of the articles.

Article I stated that Judge Porteous engaged in a pattern of conduct that is incompatible with the trust and confidence placed in him as a Federal judge. The Senate voted that Judge Porteous was guilty on this count by a unanimous vote of 96 to 0.

Article IV stated that Judge Porteous knowingly made material false statements about his past both to the U.S. Senate and to the Federal Bureau of Investigation, in order to obtain the office of U.S. district court judge. The Senate voted to convict Judge Porteous on this count by a vote of 90 to 6.

I voted against article IV because, in my view, it was duplicative of article I.

As a member of the Senate Judiciary Committee, I regularly review the questionnaire and nomination materials for Federal judicial nominees who are nominated for lifetime appointments. One question we ask nominees on our committee questionnaire—under oath—is whether there was "any unfavorable information that may affect your nomination." Judicial nomi-

nees also fill out SF-86 personnel forms as part of the executive branch's review of a potential nomination. One question on the form asks—under oath—whether:

There [is] anything in your personal life that could be used by someone to coerce or blackmail you? Is there anything in your life that could cause an embarrassment to you or to the President if publicly known? If so, please provide full details . . .

The FBI also asks potential nominees whether they are concealing any activity or conduct that could be used to influence, pressure, coerce or compromise them in any way or that would impact negatively on their character, reputation, judgment or discretion. Judge Porteous answered no to all of these questions.

I am concerned about the vagueness and catchall nature of these questions and its responses being the basis of an Article of Impeachment. I could understand an Article of Impeachment based on a response that hides information that if discovered later would be the basis of impeachment and where a separate Article of Impeachment using these specific facts was not presented to the Senate by the House of Representatives. Also, I would have understood if the statements in article IV were included as part of article I. Such was not the case here.

For this reason, I voted not guilty on article IV.

#### JUDICIAL NOMINATIONS

Mr. LEAHY. Mr. President, I have been urging Republicans and Democrats in the Senate to come together and take action to begin to end the vacancy crisis that is threatening the administration of justice by our Federal courts. I asked only that Senators follow the Golden Rule. Regrettably that has not happened. Now 38 judicial nominees whose qualifications are well established are being delayed. They should be confirmed before we adjourn.

Adherence to the Golden Rule, a simple step, would help us return to our Senate traditions, and allow the Senate to better fulfill its responsibilities to the American people and the Federal judiciary.

I was encouraged last week when Senator SESSIONS, the Judiciary Committee's ranking Republican, provided assurance that the many judicial nominees who have been stalled for months and months without Senate action will be confirmed before we adjourn. He is in a position to know. As the Republican leader on the committee, he works directly with the Republican leadership that continues to hold up virtually all judicial nominees, just as it has for months and months. At our Judiciary Committee business meeting on December 1, Senator SESSIONS said: "The truth is except for a few nominees, the overwhelming majority have moved with bipartisan unanimous support and will be confirmed on the floor." He went on to predict that a

number "will clear before the session is over." I hope this assurance is true. I look forward to working with Senator SESSIONS to ensure that the Senate acts before adjourning.

He is right: The overwhelming majority of the judicial nominees awaiting final action have strong bipartisan support. This makes the Republican obstruction of their confirmation all the more mystifying. Twenty-nine of the judicial nominees whose confirmations are being stonewalled were not opposed by any Senator, Republican or Democrat, during Judiciary Committee consideration. Two others had only one or two votes in opposition. Committee Republicans voted in lockstep to oppose only 4 of the 38 pending nominations. I believe that if debated by the Senate, those nominations, too, would be confirmed.

Had we adhered to the Golden Rule, the judicial nominees who have been delayed for weeks and months would already be confirmed. That had been our practice and tradition. Democratic Senators did not stall the nominees of President Bush in this way. Senate Republicans should end their across the board blockade of noncontroversial judicial nominees. With 111 vacancies—a historically high number—plaguing our Federal courts today, the American people cannot afford this gamesmanship.

Despite these skyrocketing vacancies, the Senate has not been permitted by Republicans to consider a single judicial nomination since September 13, when we confirmed Jane Stranch of Tennessee to the Sixth Circuit. Only after 10 months of delay was the Senate permitted to act. The Stranch nomination was the only nomination we were permitted to consider that entire work period. In fact, the Republican blockade of judicial nominations has been so complete that the Senate has been permitted to confirm only five Federal circuit and district court nominations since the fourth of July recess. While one in eight Federal judgeships remains vacant, Senate Republicans consented to confirm only a single judicial nomination in July. They consented to consider only four judicial nominations before the August recess, despite 21 nominations then on the calendar. We have considered only the Stranch nomination since returning from that recess. I do not recall a time when one party so thoroughly prevented the Senate from acting on consensus nominees with bipartisan support.

I have been trying to end this obstruction, yet it continues. Democratic Senators have sought agreement on the floor to debate and consider nominations, but the Republican leadership has objected time and time again. The Democratic cloakroom has sought consent from the Republican cloakroom to move nominations, but there has been no consent.

The Judiciary Committee has favorably reported 80 of President Obama's