

Senator EDWARDS. As the father of a 5-year-old, I cannot imagine why they made that decision.

Judge Flanagan, we look forward to hearing from you today. Judge Flanagan, I think you will make a fine judge for the people of North Carolina, and we are proud to have you here.

Mr. Chairman, I would just conclude by asking that my full statement be made part of the record.

Chairman GRAHAM. Without objection.

[The prepared statement of Senator Edwards appears as a submission for the record.]

Senator GRAHAM. Senator Dole?

PRESENTATION OF ALLYSON K. DUNCAN, NOMINEE TO BE CIRCUIT JUDGE FOR THE FOURTH CIRCUIT, AND LOUISE W. FLANAGAN, NOMINEE TO BE DISTRICT JUDGE FOR THE EASTERN DISTRICT OF NORTH CAROLINA, BY HON. ELIZABETH DOLE, A U.S. SENATOR FROM THE STATE OF NORTH CAROLINA

Senator DOLE. Mr. Chairman, I would like to sincerely thank you for holding this historic hearing today. Our free society is based on the reasoned, dispassionate judgment of men and women in the judicial branch of our Government who share a sense of honor and duty to our country and to our Constitution. I have the privilege of introducing two such individuals today, but before I extol the virtues of these talented and experienced nominees, I hope you will indulge me for a few minutes to recount just why this hearing is historic for North Carolina and the Nation.

As many of you have heard me say, I believe the advise and consent role is one of the Senate's most important constitutional responsibilities and one of the most solemn duties of a U.S. Senator. Judges interpret and apply the laws that govern our Nation, including our fundamental rights and liberties protected in the Constitution. However, there is now a nearly 10 percent vacancy rate in the U.S. courts of appeals and 15 seats have even been declared judicial emergencies by the Judicial Conference of the United States.

On the Fourth Circuit Court of Appeals, which hears Federal appeals from North Carolina, South Carolina, Virginia, West Virginia and Maryland, one North Carolina vacancy is the longest on the entire Federal bench, dating back nearly a decade to July 31, 1994.

In April, the President's counsel, Alberto Gonzales, sent a letter stating that there are currently 4 vacancies on the Fourth Circuit Court. He noted that North Carolina is the largest State in the Fourth Circuit, and historically the number of judges roughly corresponds with population. By this measure, we should have 4 to 5 judges on the court. Right now we have none. In fact, North Carolina has had no representation on the Fourth Circuit Court in nearly 4 years and 2 seats have stood empty on North Carolina's Eastern District Court for 2.5 years and 5.5 years, respectively.

Vacant Federal benches contribute to overcrowded dockets, overburdened judges and understaffed courts. So I am pleased that with this hearing today we are taking steps to fill these vacancies and to address this disparity for North Carolina.

In addition, this hearing represents a number of significant firsts for our State. And if I could just underscore what Senator Edwards had said, Allyson Duncan is the first woman from North Carolina to be nominated to the Fourth Circuit Court of Appeals. She is also the first African-American woman to be nominated to the Fourth Circuit, and Louise Flanagan is the first woman to be nominated to serve as a district court judge for North Carolina's Eastern District.

For these individuals today, and for so many other qualified men and women, being nominated to serve on the Federal bench by the President of the United States marks the pinnacle of a long and remarkable legal career. For those who are confirmed, it represents an opportunity to use their wisdom and legal training to uphold our Constitution and protect the rights and freedoms upon which our Nation was founded.

As I campaigned for the U.S. Senate, I told the people of North Carolina that I believe each and every judicial nominee deserves a hearing and a vote by the full Senate. Judiciary Committee members who object to a nominee should state their reasons and vote their conscience and the Committee should promptly report the nomination to the Senate floor, with a favorable, unfavorable or no recommendation.

I believe in the capability, independence and prudence of the members of this institution, and I have faith that my colleagues in the Senate, though we may disagree on the approach, all seek to do what is right for this country. And if a person has concerns about an issue or a nominee, then I believe that he or she should make a persuasive case to the other members of this body in a forthright, open and honest debate. This process is established in our Constitution, and it is what our representative democracy is all about.

Mr. Chairman, we are here today because the process is working for these two North Carolina nominees. I am pleased to be able to support Allyson Duncan of Raleigh, who has been nominated by the President for the Fourth Circuit Court of Appeals from North Carolina.

Ms. Duncan, I know that this is not an entirely new experience for you, having testified before Congress in the past, but I want to welcome you to the Senate today and tell you how delighted I am that we are here to move forward with your nomination.

Mr. Chairman, Ms. Duncan's resume is most impressive, as you have heard, marked with numerous positions of significant responsibility in both the public and the private sectors.

More importantly, Ms. Duncan's work ethic and the results of her work are highly respected by her peers. Currently, an attorney with the Raleigh law firm of Kilpatrick Stockton, Ms. Duncan is the president, as you have heard, of the North Carolina Bar Association and an active member of the North Carolina Association of Women Attorneys, the North Carolina Center for Public Policy Research, and the Duke University Women's Health Advisory Board.

She previously served by appointment on the North Carolina Utilities Commission, holding several leadership positions on the National Association of Regulatory Utility Commissioners. Prior to

that, she was a judge on the North Carolina Court of Appeals and a professor of law at North Carolina Central University.

Ms. Duncan has also worked as an appellate attorney for the Equal Employment Opportunity Commission here in Washington, arguing employment discrimination cases before the Federal courts of appeals.

Throughout her career, she has received numerous awards, recognizing her contributions to the legal profession and her leadership in business and education. I believe that Ms. Duncan comes extremely well-prepared for this important position, and I am delighted to recommend her to you.

Given the number of vacancies still remaining on the Fourth Circuit Court, I know she will have her work cut out for her from the moment she arrives, and I am confident that she will meet her duties with professionalism, impartiality and competence.

I am also pleased today to support Magistrate Judge Louise Flanagan of Elizabeth City, who has been nominated to serve on the Eastern District Court of North Carolina. Serving as a magistrate judge for the Eastern District since 1995, Louise Flanagan is consistently praised by her colleagues for her integrity and fairness in the courtroom. She has earned their professional and personal respect for her service, commitment and sound judicial temperament.

Hugh Overholt, a former judge advocate general of the Army, writes, "I am of the opinion that Judge Flanagan is in the top 1 percent of the attorneys I have known."

And J. Douglas McCullough, a judge on the North Carolina Court of Appeals, calls Ms. Flanagan, "an honest person with much personal integrity."

Their lofty comments are but an example of the regard in which Judge Flanagan is held.

Whether in previous positions with the law firms of Ward and Smith in Greenville, North Carolina, or Sonnenschein, Nath and Rosenthal in Washington or at the Center for National Security Law, Ms. Flanagan's accomplishments are numerous on behalf of the public and the institutions she has served.

I am certain she will bring excellent judgment, integrity and character to the Federal bench.

Mr. Chairman, today marks the first time in a decade that the Committee has held a hearing on a North Carolina nominee to the Fourth Circuit Court. I am reminded of a quote by Supreme Court Justice Sandra Day O'Connor earlier this year. "The faith that people have in their Government is shaped, in part, by the makeup of it, who is there," she said. How true, indeed.

Today, we have 2 highly qualified judges before us and an amazing opportunity to further demonstrate the diversity that makes our Nation great. Ms. Flanagan, Ms. Duncan, you have my full support throughout this process as you undertake this noble step in your respective careers, and I hope that other well-qualified candidates who have been sent forth might join you soon.

Thank you, Mr. Chairman.

Senator EDWARDS. Mr. Chairman, we would also just like to thank our colleagues for giving us the courtesy of allowing Senator Dole and I to go first.

Senator DOLE. Yes. Thank you very much.

Senator GRAHAM. Thank you. It is very impressive people to hear about, and I am honored to be here to chair the Committee when we are all agreeing on something.

[Laughter.]

Senator GRAHAM. Thank you both. Thank you very much.

If you do not mind, I think we will proceed as follows: Senator Chambliss is going to fill in for me here in a bit, but we would like to have Senators Domenici and Bingaman come up next, if possible. I know you have something to do, and then we will go to Senators Chambliss and Miller next.

PRESENTATION OF ROBERT C. BRACK, NOMINEE TO BE DISTRICT JUDGE FOR THE DISTRICT OF NEW MEXICO, BY HON. PETE DOMENICI, A U.S. SENATOR FROM THE STATE OF NEW MEXICO

Senator DOMENICI. Mr. Chairman, members of the Committee, our nominee is Robert C. Brack. He is accompanied by his wife Sheila, who sits behind him. I would like you to recognize her. Would you please stand, Sheila. This is the judge, and that is his wife.

Thank you very much, Mr. Chairman.

Senator GRAHAM. Welcome. Welcome very much. Thank you for coming.

Senator DOMENICI. First, I am very pleased that Senator Bingaman joins me here today. Both of us support this nominee. It is not an understatement to say that the situation in the District of New Mexico that he is being assigned to is dire—dire from the standpoint of being overcrowded, overloaded and in desperate need of additional judges.

It is particularly bad, fellow Senators, along the Southern border of New Mexico, around the community of Las Cruces, where over 60 percent of the district's, that is, the State, the district's criminal cases are filed, and there is no judge sitting in that community.

Because Judge Brack will be assigned to Las Cruces, I am pleased that the Committee has agreed to my request to move quickly on this nomination. He is desperately needed to fill the vacancy, which is so overcrowded that I believe it ranks among the highest in the Nation, in terms of overcrowding of the criminal docket.

When Congress authorized a temporary judgeship for the District of New Mexico last year, the President asked for suggestions. I was very pleased to submit to him qualified judges, qualified nominees, but I was most pleased that the man that we have with us today was selected as the choice.

He comes from Southern New Mexico, an area that does not very often get nominees to the Federal bench. That side of New Mexico is very thrilled. It is not like an ordinary event. It is a real celebration to have one of their own nominated to the bench. He will have to leave them, but they are very proud and pleased that one of their own will leave them to join the very distinguished bench, at least that is how New Mexicans still see the court, and I am very glad that they do.