

**OPENING STATEMENT OF HON. LINDSEY GRAHAM, A U.S.
SENATOR FROM THE STATE OF SOUTH CAROLINA**

Senator GRAHAM. Thank you very much for coming to our hearing today. We have about an hour of time allotted with a lot of people to hear from on a very important subject, and we are going to have votes coming up pretty quickly too.

With that said, I will enter my opening statement into the record.

Senator GRAHAM. Senator Chambliss, if you have anything you would like to say at this time—

Senator CHAMBLISS. No, sir.

Senator GRAHAM. You defer.

We will get right into it. We are glad to have the panel here of Senator Dole and Senator Edwards, and speak.

**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. JOHN
EDWARDS, A U.S. SENATOR FROM THE STATE OF NORTH
CAROLINA**

Senator EDWARDS. Mr. Chairman, under ordinary circumstances, a hearing like this would not draw a lot of attention. This nominee is a consensus nominee. We are talking about Judge Duncan. She enjoys the support of both Senators from her State, and her nomination is supported by leaders of both political parties.

Under ordinary circumstances, this hearing would hardly be noticed, but, Mr. Chairman, this is no ordinary event for the people of North Carolina. In fact, it is an historic and important milestone for our State, and we believe it calls for celebration. The last time a North Carolina judge joined the Fourth Circuit Court of Appeals was 23 years ago, when Sam Ervin, III, son of Senator Sam, was confirmed.

North Carolina is the only State in the Union with no judges on a Federal appellate court, and we have the longest standing vacancy in the Federal appeals court system. In fact, in the entire 112-year history of the Fourth Circuit, North Carolina has had only 6 judges. Compare that with our neighbor, Virginia, which has 5 current judges on the court.

So you can see, Mr. Chairman, that this hearing is a very special occasion for us.

We are also very proud to be able to introduce Allyson Duncan, a nominee who will restore the voice of North Carolina to a very important Federal court and break a logjam, which has damaged our State for too many years. This historic development is the result of a new approach which I hope will be a model for the future. In this case, President Bush reached out to Senator Dole and to me before he made a decision. He consulted with us. He sought our advice. And in making his decision, the President selected a nominee who represents the mainstream of our State.

I commend the President for consulting with us and for making an excellent nomination. If he takes this approach with respect to future judicial nominations, including nominations to the Supreme

Court, we have a real opportunity to find common ground in the search for excellence on the Federal bench.

I also want to take a moment to commend my colleague from North Carolina. From her very first day in office, Senator Dole and I have pledged that we would work together on behalf of the people of North Carolina. This hearing is a demonstration of that commitment, and I commend her for working with me on this nomination and on all of the issues that are so important to the State of North Carolina.

Mr. Chairman, it is a great pleasure to welcome Allyson Duncan and to introduce her to the Judiciary Committee.

I have a longer statement which describes her extraordinary background and career, and I would like to make that a part of the record. But I will summarize here by saying she has a distinguished record as a lawyer, as a professor of law and as a judge. She is highly regarded in the legal community in our State, and her colleagues recently elected her President of the North Carolina Bar Association, the first African-American and only the third woman to hold that position. She was sworn in just last weekend.

We also have letters, Mr. Chairman, from Evelyn Higginbotham, Mel Watt and A.P. Carlton, ABA president, and I ask now that they included in the record.

Chairman GRAHAM. Without objection.

Senator EDWARDS. I would also recognize, Mr. Chairman, we have a Congressman from North Carolina, Mel Watt and Frank Ballance in attendance for this hearing.

Judge Duncan's wonderful family is also with her. Her husband, Bill Webb, her son, Charles Webb, and her aunt, Helen Blackburn. And I would like for them, if they could, to stand and be recognized at this time

[Applause.]

Chairman GRAHAM. Welcome.

Senator EDWARDS. Mr. Chairman, when the Senate confirms Allyson Duncan, which I hope will happen very soon, her confirmation will make a number of firsts. She will be the first North Carolinian to join the Fourth Circuit in over 20 years. She will be the first African-American woman to serve on that distinguished court, and most important, I hope she will be the first in a series of bipartisan consensus judicial nominations from our State.

Mr. Chairman, I would also like to point out that we have another distinguished North Carolinian before the Committee today, Louise Wood Flanagan, now a U.S. magistrate judge, is the nominee for the U.S. District Court for the Eastern District of North Carolina. Like Allyson Duncan, she brings a record of excellence and achievement, and I am happy to support her nomination.

Judge Flanagan's family, her husband Michael Flanagan and her daughter Kate, are also here, and I would like to ask them to stand and be recognized at this time.

Chairman GRAHAM. Welcome.

[Applause.]

Senator EDWARDS. Missing from this family portrait is Judge Flanagan's 5-year-old little girl, Anna Louise, whom her parents, for their piece of mind, decided not to bring to this proceeding.

[Laughter.]

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.