United States Senate

WASHINGTON, DC 20510

May 24, 2005

The Honorable George W. Bush
The White House
1600 Pennsylvania Avenue
Washington, DC 20500

Dear Mr. President:

As you know, the United States Senate last night narrowly avoided a Constitutional crisis of historic proportions. In a last minute, bipartisan show of good faith and trust, 14 Senators, seven on each side of the aisle, came together to bring the Senate back from the precipice of breakdown. In so doing, the checks and balances that make our democracy so great and so strong were preserved, and the nuclear option was taken off the table.

We reached this now-averted crisis through fault on both sides, over many years. It is now time to move forward in a renewed spirit of bipartisan cooperation, and we are eager to begin that process. In so doing, however, we must not repeat the mistakes of the past.

Indeed, the Memorandum of Understanding signed by 14 Senators last night explicitly urges you to consult – in advance – with Senators of both parties before making future nominations:

> We believe that, under Article II, Section 2, of the United States Constitution, the word "Advice" speaks to consultation between the Senate and the President with regard to the use of the President's power to make nominations. We encourage the Executive branch of government to consult with members of the Senate, both Democratic and Republican, prior to submitting a judicial nomination to the Senate for consideration.

Clearly, a solid majority of the United States Senate is now eager to see true consultation and cooperation in the nomination of future candidates for the federal bench. Such bipartisan consultation, as the agreement notes, is the real path to a fair, reasoned, and cooperative confirmation process.

We urge you to make clear publicly and as soon as possible that, in a renewed spirit of bipartisanship, consultation, and compromise, you intend to engage in real consultation with the Senate on future judicial nominations.

Respectfully,

Harry Reid

Dick Durbin

Chuck Schumer

Debbie Stabenow