

Testimony of

The Honorable Patrick Leahy

December 13, 2001

Opening Statement of Chairman Patrick Leahy
Business Meeting of Senate Judiciary Committee
December 13, 2001

I want to thank all Senators for their participation in the important oversight hearings this Committee and its Subcommittees have been holding over the last few weeks. This week Senator Schumer chaired an important hearing regarding State and local law enforcement and the need for federal authorities to share information with them and work with them. Another important hearing will take place this afternoon when Senator Feinstein chairs a hearing on the National Guard and issues regarding its involvement in homeland security.

I also thank Senator Durbin for chairing a nominations hearing last week for the judicial nominees on the agenda today. This morning our agenda includes another five judicial nominees, another four United States Attorney nominees and the nominee to chair the Foreign Claims Settlement Commission.

The judicial nominees are from Alabama, Colorado, Nevada, Texas and Georgia. With respect to the Texas nominee I would like to insert in the record a letter I recently received from Congressman Silvestre Reyes of Texas strongly endorsing Judge Martinez and noting that the court to which he is nominated is facing a criminal caseload of over 2,000 cases with a single active judge in the El Paso region personally trying to manage over 1,100 criminal cases. I say to Congressman Reyes and Judge Briones, help should be on the way very soon in the person of Judge Martinez. When this group of judicial nominees is reported, the Committee will have reported 32 judicial nominees since July, and 28 nominees since the August recess. That is more reported judicial nominees since the August recess than in any of the last six years..

The U.S. attorneys are for the Western District of New York, New Jersey, the Eastern District of Arkansas and the Southern District of Alabama. Three of those Districts are represented on this Committee, two by Republicans and one by a Democratic Senator. I will urge prompt action on each of them. They are only recently nominated and their files have only been completed since our last business meeting. For example, Mr. Christie of New Jersey was not nominated until December 10, 2001. When these four nominees are reported, the Committee will have reported 61 U.S. attorney nominations since September 13, 2001.

We may still be awaiting almost 30 nominees next year, including nominees for such important Districts as the Southern and Eastern Districts of New York, all four Districts in California, and several others.

Just Tuesday of this week the White House has begun sending nominations to the important United States Marshal positions in districts around the country. I look forward to the files for

such nominations to be completed so that we can examine them and move forward on these nominees as well. Nominations for Marshals have traditionally been matters on which home State Senators and Presidents of both parties have been able to work together. I have encouraged this White House to continue that tradition and work with home State Senators to fill these important law enforcement positions with qualified nominees as soon as possible. Next year we should have scores of Marshal nominees to consider and report.

Although the nomination was received less than 36 hours ago, we have worked up to the last minutes before this meeting to clear at least one Marshal nominee. Dwight MacKay of Montana is someone that Senator Burns and Senator Baucus both support. We received his questionnaire and FBI background materials yesterday and his ethics report has been faxed to us during this meeting at 10:26 this morning. I have reviewed them and am prepared to proceed but do not want to cut short any other Senator's opportunity to review this matter. This nomination is a last minute addition to the agenda. If there is no objection, I am prepared to proceed with the nomination. It would be understandable if anyone wanted the opportunity to review this matter, in which case we would hold the matter over until our next meeting. In addition, it will not go forward in the Senate if anyone raises a concern and I will coordinate with Senator Hatch on that, as well.

With respect to the nomination of Mr. Tamargo to head the Foreign Claims Settlement Commission, I was glad to see him clarify his views of the statute that will govern his work in his written answer to questions. In particular, I am pleased that he was able to answer my question about Congress's intent with respect to claims programs for persons not U.S. nationals at the time of their loss. Mr. Tamargo explained that, "[a] claims program which allows non-citizens at the time of their loss to file claims with the Commission would run contrary to Congressional intent."

In contrast to the fair treatment we have accorded Mr. Tamargo, I note that President Clinton's nominee to head the Foreign Claims Settlement Commission, John Lacey, was nominated in 1999, and waited 400 days only to see his nomination returned to the White House without Senate action. He was not granted a hearing nor consideration by the Committee. So I am glad we are able to improve upon that.

The legislation on the agenda today is, I believe, all ready for Committee action. It includes a bill on the confinement of children on which I have been working with Senator Hatch and Senator Kennedy for some time. We are prepared to accept improvements suggested by Senators Biden and Kohl and would very much like to move forward today.

I have also included six House-passed bills. Four are immigration related. I understand that Senator Kennedy and Senator Brownback are supportive of all four and that Senators Feinstein, Kennedy and Brownback have circulated a perfecting amendment to one of them.

The other two bills were included as a bipartisan gesture to Chairman Sensenbrenner and Congressman Gekas, who requested they be considered. I do not believe that either will be controversial. One calls for a study and report on the State Justice Institute. The other is a bill that has been championed by Congressman Gekas for several years to make technical

amendments and improvements to title 9 of the United States Code having to do with arbitrations.

Finally, we have two resolutions: one is a resolution introduced by Senator Warner that a number of us have cosponsored to confer honorary citizenship on the Marquis de Lafayette and the other, cosponsored by Senator Feinstein, to designate next year as the year of the rose.

With the cooperation of all Senators, we should be able to complete our work before the scheduled floor vote. Before proceeding to roll call votes on the judicial nominations, I turn to Senator Hatch for any brief opening remarks he may have.

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