

Testimony of

The Honorable Patrick Leahy

June 13, 2002

Today we will be considering 14 more of President Bush's nominees, including six additional judicial nominees.

In the 11 months since the Committee was permitted to reorganize last July, we have held hearings for 71 of President Bush's judicial nominees and this afternoon we will be holding our 20th judicial nominations hearing on four nominees. So by the end of today we will have held hearings on 75 judicial nominees. That is more judicial nominees than given hearings in any year of the prior six and one-half years of Republican control of the Senate and the Senate Judiciary Committee. In fact, it is more hearings than Republicans held in 1996 and 1997 combined and includes more judicial nominees than were accorded hearings in 1999 and 2000 combined.

Over the last 11 months, we have had hearings for more judicial nominees than in seven of the eight years President Reagan was in office. With this afternoon's hearing, we will have held hearings for more judicial nominees than in any of the four years of the first President Bush. Thus, as of today, the Democratic-led Senate Judiciary Committee will have had hearings for more district and circuit court nominees in less than a year than received hearings in 20 of the past 22 years.

Unfortunately, one-sixth of President Clinton's judicial nominees - more than 50 - never got a Committee hearing and Committee vote from the Republican majority, which perpetuated longstanding vacancies into this year. If the Republicans had not left more than 50 of President Clinton's nominees without a hearing or a vote, the current number of vacancies might be closer to 37 than 87.

If we are able to report these six judicial nominees, this Committee will have reported to the Senate 69 judicial nominees. That is more judicial nominees reported than in any year of the recent six and one-half years of Republican control. In fact, it is more judicial that the Republicans reported in 1996 and 2000 combined. In addition, I should note that in those years, the Republican majority reported only three Court of Appeals nominees all year. The Republican majority averaged seven Court of Appeals nominees reported a year. We have already voted upon and reported 13 over the last 11 months.

The Senate has already confirmed 57 of this President's judicial nominees. Six more have been voted out of Committee and are awaiting a vote by the full Senate. We have six more on the agenda this morning for reporting to the Senate. If we are able to report these nominees and the Senate takes final action to confirm them, we will have confirmed more judges in this first year of Democratic control than in any of the preceding six and one-half years of Republican control, and we will have confirmed more judges in one year than were confirmed by the Republican majority in the 1996 and 1997 sessions combined.

We are working hard to reduce judicial vacancies and we have moved quickly on these six nominees, as well as many, many others. I have noted how we could have been even more productive with a little cooperation from the White House, but that has not been forthcoming. Moreover, of the current vacancies, 41 do not have a nominee, including 17 vacancies that are judicial emergencies. Of the recently nominated, eight nominees do not have ABA ratings and a dozen do not have the support of their home-state Senators.

Today we are considering two nominees for the District Court in Missouri, Henry Autrey and Richard Dorr. The vacancy to which Judge Autrey has been nominated has been vacant quite a long time - since December 1996, when the late Judge Gunn took senior status. President Clinton nominated Missouri Supreme Court Judge Ronnie White to this vacancy in June of 1997. He had to wait nearly a year for a hearing, until May of 1998. The Committee voted to send his nomination to the Senate floor soon thereafter but his nomination sat waiting for a full Senate vote, and, having never received one, was sent back to President Clinton at the end of the 105th Congress. The President renominated Judge White in January of 1999, and again he waited patiently until July of that year to be voted out of Committee a second time to the Senate floor. On October 5, 1999, the Republican-controlled Senate finally gave Ronnie White a floor vote, but it was not the due process he deserved.

As is by now a well-known story, Ronnie White was the victim of a sneak attack on that day. He was defeated on an unprecedented party-line Senate vote and was branded "pro-criminal." These issues were aired during the confirmation hearing of John Ashcroft last year and, to his credit, Senator Specter offered an apology to Judge White for the way he was treated. I have no wish to revisit Ronnie White's terrible experience here, and what happened to him is certainly not the fault of today's nominees. But I do think it is important to remember, when there is so much unfair criticism of the way this Committee has been handling nominations since the change in Senate control last July, that, in fact, we are treating nominees more fairly and moving them more quickly than has ever been done before. Senator Carnahan was most gracious and effective in working with the Committee to see that Judge Autrey and Mr. Dorr were treated fairly and are being considered expeditiously.

We also have before us the nomination of Timothy Savage for a vacancy on the Eastern District of Pennsylvania, a seat that has been empty since the beginning of 1999. President Clinton had nominated Stephen Lieberman to that seat, but he, along with a large number of the nominees to fill vacancies in Pennsylvania during the years in which the Republican majority controlled the pace of nominations, did not move. In contrast, in the year since the change of control of the Senate, this Judiciary Committee has held hearings for seven nominees to judgeships in Pennsylvania, including Judge Legrome Davis, Judge Michael Baylson and Judge Cynthia Rufe, who were all confirmed last month. This demonstrates the progress being made under Democratic leadership and the fair and expeditious way this President's nominees are being treated.

In addition to the nominees from Missouri and Pennsylvania, we have the following nominees on the agenda today - Henry Hudson from Virginia, Amy St. Eve from Illinois, and David Godbey from Texas.

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Statement Of Senator Patrick Leahy,
Chairman, Senate Judiciary Committee
at Committee Mark-Up of H.R.3375,
the "Embassy Employee Compensation Act"
June 13, 2002

Last fall, I worked to hard to ensure that victims of the September 11 attacks would be eligible for compensation for the horrific and devastating losses they suffered. After intense negotiations with the Bush Administration, we established the September 11 Fund to give victims an alternative to lengthy and potentially unsuccessful battles in court. Since that time, victims of other terrorist attacks have fought to gain access to the same type of compensation. I believe that all victims should be treated equally, and so I have expedited Committee review of H.R.3375, the Embassy Employee Compensation Act.

This bill provides assistance to the victims of the 1998 embassy bombings in Tanzania and Kenya on the same basis as victims of the September 11 attacks. The bill, which passed the House by 391-18, would expand the September 11 Victims Fund to provide funds to the Americans who were killed or injured in those attacks.

I understand that Senator Schumer will offer a substitute amendment to H.R.3375 that expands the fund further to include victims of the 1993 World Trade Center bombing, the 1995 Oklahoma City bombing, and the victims of anthrax exposure last year. Because an anthrax-laden envelope was sent to my office, potentially exposing my staff to grave danger, it is easy to imagine how offended I was by the deaths of those who came into direct contact with anthrax. I was personally outraged by each of these attacks. Just as we aided victims of the heinous attacks of September 11, I believe that victims of the 1993 and 1998 bombing attacks and the 2001 acts of bioterrorism are equally deserving of our support.

I am proud to cosponsor this substitute amendment and hope that Committee members will join me in supporting it.

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