

Testimony of

The Honorable Patrick Leahy

July 22, 2003

Statement of Senator Patrick Leahy
Senate Judiciary Committee
Judicial Nominations Hearing
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Today the Committee will hear from seven judicial nominees, including another nominee to a Court of Appeals. This hearing is the 14th nominations hearing so far this year, including 50 of President Bush's judicial nominees, and the 14th hearing for a Circuit Court nominee this year.

This stands in sharp contrast to the way President Clinton's nominees were treated by the Republican majority. Fourteen hearings are more hearings for judicial nominees than Chairman Hatch allowed in any of his six full years as chairman during the Clinton Administration. In most of those years, there were far fewer hearings and far fewer nominees. Thus, in the first seven months of this year, we have already exceeded the number of hearings held in any of the six years the Republican majority controlled the pace of the handling of President Clinton's judicial nominees.

I recall that, during the entire year of 1996, when the vacancy rate was higher and rising, the Committee held only six hearings all year, and those hearings included only five Circuit Court nominees. During that 1996 session, not a single judge was confirmed to the Circuit Courts -- not one. In all of 1997, the Committee only had nine hearings all year and included only nine Circuit Court nominees. During the entire year of 2000, only eight judicial nominations hearings were held.

In 1999, the Committee did not meet to consider a judicial nominee until June 16th, and during the rest of 1999, it held only seven hearings to consider judicial nominees. That was the third year of President Clinton's second term. Like 1999, 2003 is the third year of this President's term. By contrast, this year we had already held 11 hearings by the time Chairman Hatch held his first hearing in 1999.

This year, with a Republican in the White House, the Senate Republican majority has gone from second gear -- the restrained pace it had said was required for Clinton nominees -- to overdrive for the most controversial of President Bush's nominees.

A good way to see how much faster Republicans are processing judicial nominations for a Republican president is to compare where we are in July of this year to July of any year during the last Democratic administration when the Republicans controlled the Senate. Over the last six and one-half years of Republican control under President Clinton, the Republicans had held five judicial nominations hearings, on average, by July 22. By this date, in 1995, only seven hearings had been held for judicial nominations; in 1996, only four hearings; in 1997, only four hearings;

in 1998, eight hearings; in 1999, only two hearings; and in 2000, only seven judicial nominations hearings were held by July 22. Today, we participate in our 14th hearing this year. The average number of Circuit Court nominees given hearings by July 22 during the years of Republican control under President Clinton was five. The Republican majority, thus, is now moving almost three times faster for President Bush's Circuit Court nominees - many of them, highly controversial nominees.

It was not so long ago, when another nominee to the Eighth Circuit, Bonnie Campbell, did not receive a vote by the Committee following the hearing on her nomination. Neither the nominee nor we were ever told why the Republican majority refused to accord her nomination a Committee vote, despite the support of both of her home-state Senators, one a Democrat and the other a Republican. Bonnie Campbell, the former Attorney General of Iowa and former head of the Violence Against Women Office at the Department of Justice, saw her nomination die without Senate action after more than a year. That nomination was eventually withdrawn by President Bush to make way for the nomination of Judge Melloy, who was confirmed last year by the Democratic-led Senate. For those always accusing Senate Democrats of tit-for-tat, the Iowa vacancy on the Eighth Circuit shows that Democrats have done no such thing. Indeed, we proceed today on Mr. Colloton's nomination despite the still unexplained and shabby treatment of Bonnie Campbell and Mr. Colloton's participation in the Republican's Whitewater investigation.

Today we will also hear from four nominees to the U.S. district courts in New York. These four nominees come to us with bipartisan support, including the support of their two home-state Senators. Justice Feuerstein, nominated to the Eastern District of New York, currently serves as a justice in the New York State Appellate Division and has served as a judge in the New York State court system for approximately 15 years. Mr. Castel, Mr. Holwell and Mr. Robinson, nominated to the U.S. District Court for the Southern District of New York, all have significant litigation experience as well as commendable records of providing legal services to disadvantaged persons. The New York nominees were added to this hearing less than one week ago. The expedited inclusion of these four district court nominees at today's hearing is another example of how the Democratic members of this Committee have cooperated with the President and with the Committee's Republican majority.

We will also hear today from Judge Brent McKnight, nominated to the U.S. District Court for the Western District of North Carolina. Judge McKnight has served as a U.S. Magistrate Judge for the Western District of North Carolina for 10 years, received a unanimous "Well-Qualified" rating from the ABA, and has the support of both of his home-state Senators. Finally, we will hear from Mr. Proctor, a nominee to the U.S. District Court for the Northern District of Alabama. These two nominees are to fill new judgeships that became effective last week.

As I have noted throughout the last three years, the Senate is able to move expeditiously when we have consensus nominees. Unfortunately, far too many of this President's nominees have records that raise serious concerns about whether they will be fair judges to all parties on all issues that may come before them.

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