

Statement of

The Honorable Patrick Leahy

United States Senator
Vermont
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Opening Statement of Senator Patrick Leahy
Executive Business Meeting of the Senate Judiciary Committee
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Two week's ago the Senate Republican leadership scheduled a cloture vote on one of the President's most controversial nominees during our Executive Business meeting. Last week, they decided to begin their multi-day filibuster regarding this President's judicial nominations and to continue it around the clock through the normal time for our business meeting. After two all-night sessions, the Chairman tried to hold a business meeting for an unusual time. Senator Hatch and I attended with a few others, but not enough to make a quorum.

With respect to nominations, the Chairman plans this week for the Committee to hold its 23rd judicial nominations hearing so far this year. This pace stands in sharp contrast to the way President Clinton's nominees were treated by the Republican majority from 1995 through 2000. In those years, there were far fewer hearings for far fewer nominees. For example, I recall that during the entire year of 1996, when the vacancy rate was far higher and rising, the Committee held a mere six hearings all year. During that 1996 session, not a single judge was confirmed to the Circuit Courts -- not one, in contrast to 12 circuit court confirmations this year.

In fact, Republicans have now held more hearings for President Bush's judicial nominees in less than 11 months than they held in all 24 months of 1999 and 2000 -- combined -- for President Clinton's judicial nominees. During the entire year of 2000, only eight judicial nominations hearings were held. In 1999, the Committee did not have a hearing to consider a single 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, this year, 2003, is the third year of this President's term, and Republicans have held more than twice as many hearings for President Bush's judicial nominees as for President Clinton's that year. The Republican double standard is prominently on display.

The number of nominees who have been considered so far this year is at a record high for this Republican leadership, as well. With another four nominees possibly included this week, we will now have held hearings for 85 Article III judicial nominees this year. That is almost 30 more than the highest total in any one year of the Clinton Administration and nearly two times higher than their annual average of 44 nominees considered per year. Of course during the Clinton years, having a hearing was no guarantee of anything. A number of nominees who participated in hearings were never listed on a Committee agenda for Committee attention and were never considered by the Senate. Among those nominees were Bonnie Campbell of Iowa, Allen Snyder of the District of Columbia, Fred Woocher of California, Clarence Sundram of New York and many more.

With a Republican in the White House, the Senate Republican majority has gone from the restrained pace it had insisted was required for reviewing judicial nominations to overdrive for President Bush's judicial nominees. The Committee has already reported 78 judicial nominees this year, which is far in excess of the yearly total and almost double the average during the years 1995 through 2000 when a Democratic President's nominees were being reviewed. Of course, the Senate has already confirmed 168 judges, including 68 this year. That is more confirmations this year than in any year from 1995 through 2000 and, in fact, almost double the annual average during those years.

A handful of the Administration's most divisive and extreme nominees have been denied approval by the Senate. So while 168 judges have been confirmed in less than three years and the Senate has already topped President Reagan's four-year total, a handful of those chosen for ideological and political reasons have not been granted consent.

Three weeks ago a number of us commented that Republicans had listed the nomination of Janice Rogers Brown on our Committee agenda prematurely. She had not answered questions, we had not had the opportunity to review those answers and we had no opportunity to pursue follow up, clarification or responsive answers. That unfortunate practice was repeated with the nomination of Claude Allen, which was listed on the agenda today before he had answered Senators' questions. I recall when the Republican majority was reviewing President Clinton's nominations and sent wave after wave of written questions. I remember the patience shown by the Chairman as our Republican members were given time to study nominations. I remember when any concern by any unnamed Republican member was enough to keep a nomination off the agenda for weeks and months and the numbers of nominees who were never included on an agenda after a hearing.

But now this Committee has its confirmation conveyor belt cracked up to full speed with respect to the nomination of a Republican President as the Republicans' double standard affect their practices and the important work of this Committee. Their rubber stamps are out on the Republican side.

I noted weeks ago that toward the end of the session, traditionally, the Chairman and the Ranking Member consult on what can be accomplished before adjournment and we work together to get as much accomplished as we can. Opportunities for progress are being sacrificed by the Republican majority in their drive to create more opportunities for conflict over controversial nominees. That is unfortunate and unnecessary.

Over the last several weeks I have urged that we follow up on our excellent, bipartisan hearing on anti-competitive concentration in our nation's agricultural markets and, in particular, the problem of monopsony power of processors, by including S.91, a bipartisan bill to apply arbitration in agricultural disputes, on the agenda. That has not happened and that is most unfortunate. I believe a solid bipartisan majority of the Committee would support that measure that was introduced by Senators Grassley and Feingold. .

I had requested that Senator Biden and Senator Specter's seaport security bill be included in the agenda but S. 1587 has not been listed either.

I had suggested that H. Con. Res. 71, a House-passed resolution honoring Ralph Bunche, the first African-American to be awarded the Nobel Peace Prize be listed on the agenda, but that did not occur. I see that the Republicans have listed the NASCAR resolution as if it had only Republican sponsors. Senator Nelson of Florida has been a "driving force" behind that resolution and many Democrats on this Committee and throughout the Senate are cosponsors, but Republican partisanship has broken out all over.

Most disappointing to me and, I believe, to the families of victims of the 9/11 terrorist attacks and the anthrax attacks in the immediate aftermath, I had asked that legislation many of us have cosponsored to recognize and compensate the anthrax victims, S.1740, and legislation to extend the September 11 fund for 9/11 victims, S.1602, be included on the agenda. Last week Congressmen Shays and Fossella, the lead Republican and Democratic sponsors of the companion House measure wrote to the Chairman asking that our 9/11 bill be acted upon. I ask that a copy of that letter be made part of the record. These measures must pass before we adjourn if they are to have their intended effect of extending the time for filing claims, but as this session winds down, this Committee is ignoring these terrorism victims.