

Statement of

# **The Honorable Patrick Leahy**

United States Senator  
Vermont  
November 16, 2005

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Subcommittee on Administrative Oversight and the Courts  
"Creating New Federal Judgeships: The Systematic or Piecemeal Approach"  
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The creation of new lifetime appointments to the Federal bench is a serious matter. I remember a time in the 1990s when we faced a serious crisis in the districts along our southern border. Judges in those southern districts faced crushing caseloads, yet the Republican-led Congress refused to consider creating new judgeships that they viewed as contrary to their political interests. At the very end of President Clinton's second term of office we finally were able to pass legislation creating 10 and then nine additional judgeships. They were created late in President Clinton's second term and many were, in fact, filled by nominees by his successor.

When I was Chairman of this Committee, I set partisanship aside and pushed through a total of 20 new judgeships in several districts facing daunting caseloads. I acted when a Republican President occupied the White House, a Republican President who was refusing to work with the Senate on judicial nominations and who was the most unilateral and aggressive Executive in connection with nominations in recent history. We have already created more judgeships for President Bush than Republicans allowed be created in the eight years of both terms of President Clinton.

The Judicial Conference's most recent proposal to create many more additional judgeships is not unusual. However, it comes at a time when fiscal considerations must also be recognized. Many Senators, on both sides of the aisle, have recently given speeches on the Senate floor and appeared on Sunday morning talk-shows to emphasize the importance of getting our financial house in order. At a time when the Third Branch is undergoing major budget cuts and the nation is coping with the mounting costs of war, rebuilding regions of our nation devastated by natural disasters, and a growing deficit, I find it revealing that Republicans who opposed judgeships during President Clinton's terms are now unconcerned about the substantial costs that would be imposed.

I have been disappointed in the budgetary treatment of the Third Branch, and I have fought against reductions in their pay. I have introduced legislation to restore important cost-of-living adjustments that should have been awarded to federal judges because I am concerned about our ability to retain the judges we have.