

**Statement of Senator Patrick Leahy (D-Vt.),  
Judiciary Committee Hearing on Nominations  
March 13, 2019**

Today marks yet another low point in the history of the Senate Judiciary Committee. While I was chairman of this Committee, I never once held a hearing or advanced a single judicial nominee over the objection of a home-state senator. And I certainly never did so over the objection of a fellow member of this Committee, let alone the four ranking members I served with as chairman. That thought would have never crossed my mind.

But today the Republican majority on this Committee is doing just that. Today Chairman Graham is holding a hearing on two nominees for the Ninth Circuit, Daniel Collins and Kenneth Lee, over the objections of both Ranking Member Feinstein and Senator Harris.

I have shared my concerns about the constant erosion of norms on this Committee on many occasions. I know my warnings have fallen on many deaf ears. But I feel obligated to speak out nonetheless, because I strongly believe the Senate is relinquishing its unique constitutional role with respect to lifetime appointments to our federal courts.

No Democratic chairman of the Judiciary Committee has ever held a hearing on a nominee over the objections of a home-state Republican senator. Ever. Yet, today, the inverse happens regularly, almost as a matter of course. This has already led to Democratic senators being completely sidelined when it comes to the selection of nominees from our own states. It will lead to bipartisan state judicial selection committees becoming irrelevant. It will lead to nominees with fewer or perhaps no ties to the states to which they were nominated. And it is contributing to a complete breakdown of fairness and comity on this once-storied Committee.

The late Chief Justice William Rehnquist described the independent judiciary as “one of the crown jewels of our system of government.” But this independence can no longer be taken for granted. And the threat to the independence of our courts begins here, with the nominations process. Litmus tests are now casually discussed when evaluating a nominee’s fitness to serve. Special interest groups are openly selecting nominees. Nominees are supported or opposed by untold amounts of money spent by undisclosed partisan interests. And nominees either advance or languish dependent on which party maintains control of the Senate. Any remaining consensus or compromise has given way to corrosive hyper-partisanship.

No matter one’s views on any of these issues, I suspect we can all agree that the politicization of the nominations process undermines the integrity and independence of the courts. While I do not pretend to know the solutions to all of these ills, I know there are moments in time when senators can come together and take a stand in defense of the Senate, an institution we all care about dearly. Today’s hearing is such a moment. Sadly, I fear that instead of living up to the moment, we are falling far beneath it.

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