

**Statement of Senator Patrick Leahy (D-Vt.),
Ranking Member, Senate Judiciary Committee,
Executive Business Meeting
March 10, 2016**

Senator Grassley. You and I have both served on this Committee for a long time. We have worked together on legislation and oversight matters as well as nominations. I know you to be a man who embodies the best traditions and courtesies of this body. That is why I was so disappointed two weeks ago when the Majority Leader announced that the “Judiciary Committee has *unanimously* recommended” that the next Supreme Court nominee will not receive any consideration this year. This is our first business meeting to consider anything since the untimely passing of Justice Scalia. Our Committee has not had the opportunity to discuss how to proceed, and we certainly have not recommended or decided anything unanimously.

Mr. Chairman, I want to work with you as all previous Chairs and Ranking Members have on Supreme Court nominations. And I know that you want to conduct the work of this Committee fairly. So will you return to our practice of working together before decisions are made on how to proceed?

It is important that we try to work together, because we are not at the end of the year. We will need to grapple with many matters over the next nine months. You and I were both elected to serve for 6 years, not 5 and a quarter.

When confronted with concerns about shutting down the process for the next Supreme Court nominee, some Senators have pivoted to complaining about how lower court nominees have been treated in the past. We can go back-and-forth with battling statistics about lower court nominees for days. But there can be no dispute that this Committee has always treated Supreme Court nominees differently than other nominees.

Since I have served in the Senate, the Judiciary Committee has always held hearings on Supreme Court nominees and always reported them to the full Senate for consideration. When I became chairman of this Committee in 2001 during the Bush administration, I and Senator Hatch – who was then the Ranking Member – memorialized how this Committee would *continue* to consider Supreme Court nominees. In a letter to all Senators, we wrote, “The Judiciary Committee’s traditional practice has been to report Supreme Court nominees to the Senate once the Committee has completed its considerations. This has been true even in cases where Supreme Court nominees were opposed by a majority of the Judiciary Committee.” The Republican leader at the time – Senator Lott – then read our letter into the Congressional Record to ensure that it was available for all Americans to see. It showed the long understanding of this Committee’s commitment to an open, fair process for Supreme Court nominees. And this has been our Committee’s practice regardless of who held the gavel and who was in the White House.

Last week a distinguished group of scholars wrote:

“The Constitution gives the Senate every right to deny confirmation to a presidential nomination. But denial should come after the Senate deliberates over the nomination, which in contemporary times includes hearings in the Judiciary Committee, and full debate and votes on the Senate floor. Anything less than that, in our view, is a serious and, indeed, unprecedented breach of the Senate’s best practices and noblest traditions for much of our nation’s history.”

I ask unanimous consent to include a copy of this letter in the Record.

Since public confirmation hearings began, the Senate has never denied a Supreme Court nominee a hearing and a vote. Republicans are quick to cite comments from Vice President Biden and others about hypothetical situations. But the fact is that we have taken action every time there has been a Supreme Court vacancy. Our actions will *continue* to speak louder than any words.

The importance of the Supreme Court in our constitutional democracy cannot be overstated. Nor can the responsibility of this Committee to fairly consider the next nominee to serve on that court.

I hope we can return to taking things one step at a time and return to how this Committee has long treated Supreme Court nominees, no matter which President nominated them.

The consideration of a Supreme Court nominee is the constitutional duty of each and every Senator. We all have a job to do here.

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