

Statement of

The Honorable Patrick Leahy

United States Senator
Vermont
March 14, 2006

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Ranking Member, Judiciary Committee
Hearing on Nominations
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Last night the Senate confirmed another lifetime appointment to a district court. That confirmation brought the total number of judicial appointments since January 2001 to 232, including the confirmations of two Supreme Court Justices and 43 circuit court judges. Of course, 100 judges were confirmed in the 17 months there was a Democratic majority in the Senate. In the other 45 months, 132 judges have been confirmed. Ironically, under Democratic leadership, the Senate was almost twice as productive as under Republican leadership.

It is most regrettable that this President has not fulfilled his promise to the American people to be a uniter. Nor has he fulfilled his pledge to complete his work in advance of vacancies and to make nominations promptly. Judicial vacancies have grown to more than 50 and the White House has failed to send nominees for more than half of those. Some of those vacancies have been sitting empty for more than a year. Over and over the White House has missed the deadline the President established for himself, and today, half of the judicial vacancies, 27, are without a nomination. One-third of those vacancies are already more than 180 days old and one-third of the judicial emergency vacancies are without a nominee.

If the White House would eliminate its partisan political and ideological litmus tests from the judicial nominations process and its emphasis on rewarding cronies and focus only on qualifications and consensus, the job of selecting nominees and our job of considering them for confirmation would be much easier. That is what last night's confirmation demonstrated. I look forward to reviewing the nomination of Michael Chagares in this light. Having the support of his home-state Democratic Senators means a good deal and points toward the kind of qualified consensus nominee that can be quickly confirmed.

Recently we have seen the President withdraw a circuit nomination after information became public about that nominee's rulings in a number of cases in which he appears to have had a conflict of interest. Those conflicts were pointed out not by the Administration's screening process or by the ABA, but by online journalists at Slate.com.

At a minimum that case reinforces a point about this White House's poor vetting process for important nominations. A number of nominations by this President have had to be withdrawn. Among the more well known are Bernard Kerik to head Homeland Security and Harriet Miers to the Supreme Court, which were withdrawn for different reasons. It was, as I recall, reporting in a national magazine that doomed the Kerik nomination and opposition within the President's own party that doomed the Miers nomination.

When we are considering lifetime appointments of judicial officers who are entrusted with protecting the rights of Americans and when we are reviewing important law enforcement officials, it is important to be thorough. Unfortunately, this White House seems more interested in rewarding cronies.

I will add one comment with respect to the Bureau of Justice Statistics vacancy. This had traditionally been a bureau within the Department of Justice that was kept out of partisanship and politics. Sadly, that has not remained true

during the Bush-Cheney Administration. Just as it has infused politics into science in other departments, this Administration has undercut the neutrality and credibility of BJS. That needs to be restored.

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