

That is just one of the many political backroom plots being played out in the Senate over control of the nation's courts.

The game begins with GOP payback for the Democrats having changed the filibuster rules in 2013 to allow confirmation with a simple majority vote. That "nuclear option" broke the GOP hold on judicial nominations while Democrats still held the majority and cleared the way for 96 judges to take their seats.

Now the GOP holds the Senate majority and Republicans have slammed the lid on new judges from Obama. This makes judicial nominations a valuable point of leverage in future negotiations with the White House over budget issues, regulation and more.

And with a presidential election next year, the GOP hopes to soon have a president of its own sending over nominations, beginning January 2017. Then, there is the reality that four of the five current Supreme Court justices are over the age of 75—including Justice Anthony Kennedy, the "swing vote." Republicans have little incentive to allow Obama to put more Democrats throughout the nation's judiciary.

The extreme Republican anger at the federal courts is already a big issue in the 2016 presidential race. Last week, Sen. Ted Cruz (R-Texas), chairman of the Judiciary Committee's oversight panel for the federal courts, held a hearing titled: "With Prejudice: Supreme Court Activism and Possible Solutions." He called the hearing to show the depths of his upset with the recent decisions to uphold ObamaCare and grant same-sex couples the right to marry.

Cruz, a former Supreme Court law clerk, used the hearing to trash a court with a majority of five conservatives, led by a conservative—Chief Justice John Roberts—and by all measures a strongly conservative record in rulings on guns, campaign spending, and blocking Environmental Protection Agency regulation of airborne chemicals.

As a candidate for the GOP's 2016 presidential nomination, Cruz knows the high court's standing among Republican voters is low. After the ObamaCare and gay marriage decisions, only 18 percent of Republicans told Gallup last week that they approve of the court. Cruz set the tone for his hearing by saying he wanted to review "options the American people have to rein in judicial tyranny."

Sen. Cruz is a fan of extreme action to deal with this "tyranny." He is proposing having Supreme Court justices stand for retention election every eight years.

Former Arkansas Gov. Mike Huckabee, another candidate for the GOP presidential nomination, favors term limits.

Sen. Jeff Sessions (R-Ala.) declared during the hearing that the current court has a "foreign, unhistorical approach to law."

Between the Senate Republicans' success at clogging the judicial appointment process and the burst of harsh rhetoric, there is a growing risk of a serious erosion of the public trust in the nation's judicial system.

Obama also is playing the dangerous game. He has not nominated anyone to fill 47 of the 63 open seats on the federal bench. No doubt he feels it would be a waste of time to keep pushing good money—in this case judicial nominees—down a hole. The president does have seven judicial nominees before the Senate and three would help with the judicial emergencies.

For both liberals and conservatives, the current roadblock has consequences. According to www.uscourts.gov, 28 federal courts have now declared "judicial emergencies" because they lack enough judges to hear pending cases.

Earlier this month, the Senate confirmed its fifth federal judge for the year, Kara

Stoll. The current Senate is so far behind they have not reached the half-way point to match the previous record low for confirmations, 12, set in President Obama's first year in office.

The number of judges confirmed during President George W. Bush's second term, higher than the current rate for Obama, is still less than the number of judges confirmed in the final two years of Presidents Reagan and Clinton.

But now that Republicans are in charge, the Bush record looks generous.

"It's ridiculous," said Sen. Patrick Leahy (D-Vt.). He chaired the Senate Judiciary Committee with the Democrats in the majority. "They are trying to politicize the courts. And it's irresponsible. I refused to do it with President Reagan. I refused to do that with President [George W.] Bush."

Can the Senate expect better results with a President Hillary Clinton or President Bernie Sanders? How about President Jeb Bush or President Donald Trump? Most likely it will be more of the same—a continuing loss of the bipartisan trust and respect that once made America's courts the gold standard of justice for the world.

[From Pittsburgh Tribune-Review, July 30, 2015]

CONFIRM JUDGE RESTREPO (By Carl Tobias)

Today, as in 2007, a Pennsylvania federal district court judge's unopposed nomination to the Third Circuit requires a final vote in a Senate the president's party does not control. On March 15, 2007, a Democrat Senate confirmed President George W. Bush's nomination of Pittsburgh District Judge Thomas Hardiman one week after his Judiciary Committee approval.

This precedent is one reason Senate Majority Leader Mitch McConnell, R-Ky., must schedule an immediate vote on Judge Luis Felipe Restrepo's nomination, which the committee approved on July 9. Restrepo would fill one of 28 vacancies the courts have declared judicial emergencies.

President Obama nominated the experienced, uncontroversial jurist in November on the strong bipartisan recommendation of Pennsylvania Sens. Bob Casey (D) and Pat Toomey (R). Moreover, on July 1, Third Circuit Judge Marjorie Rendell assumed senior status. This means that Judge Hardiman is one of six active Pennsylvania members on the court, which experiences two vacancies in 14 positions.

Toomey's spokesperson says that the senator has spoken directly with McConnell "to emphasize the importance of getting Judge Restrepo confirmed" but did not indicate Toomey urged a prompt vote. As Senate Minority Leader Harry Reid, D-Nev., said on July 7, if Toomey simply asked "to confirm Judge Restrepo immediately, (I'm confident) we could confirm Judge Restrepo to the Third Circuit next week."

Obama has consulted with Casey and Toomey, who have cooperated in helping to fill one Pennsylvania Third Circuit seat and 14 district court posts since 2011. They have carefully reviewed applicants and proposed excellent individuals whom Obama usually nominates.

However, the Senate slowly processes nominees. Most critical have been Republican delays of floor votes. For example, between November 2013 and late March 2014, the Eastern District faced seven openings. The many prolonged vacancies have slowed federal court litigation, requiring people and businesses to wait interminably for case resolution.

Casey and Toomey suggested Restrepo for the Eastern District, and the Senate ap-

proved him on a June 2013 voice vote. Each assumed credit for proposing Restrepo's Third Circuit nomination in November press releases. Toomey exclaimed that Restrepo would "make a superb addition to the Third Circuit," but the legislator retained his "blue slip"—which permits a nominee to proceed—from Nov. 12 until May 14, even though Casey submitted his in November. The jurist's June 10 hearing was long overdue.

At his hearing, Restrepo comprehensively and candidly answered questions and senators appeared satisfied. For example, Sen. Thom Tillis, R-N.C., who chaired the hearing, observed that Restrepo has been reversed only twice.

McConnell has not publicly stated when he would arrange a floor debate and vote. However, on June 4, he suggested he might not allow ballots for more Obama circuit nominees, although he did finally accord Kara Farnandez Stoll, a Federal Circuit candidate who had waited 10 weeks, July floor consideration.

The Third Circuit needs all its members to deliver justice, and Restrepo has languished over eight months. The Senate must confirm him before the August recess.

NOMINATION OBJECTION

Mr. GRASSLEY. Mr. President, I intend to object to any unanimous consent request at the present time relating to the appointment of Bradley Duane Arsenault, of FL; Bret Thomas Campbell, of TX; Karen Stone Exel, of CA; Gloria Jean Garland, of CA; Michael H. Hryshchshyn, Jr., of VA; Ying X. Hsu, of CA; Stephen S. Kelley, of VA; Mary Catherine Leherr, of VA; Denise G. Manning, of VA; Paul Karlis Markovs, of MI; Scott Currie McNiven, of AZ; Hanh Ngoc Nguyen, of CA; Denise Frances O'Toole, of ME; Marisol E. Perez, of NJ; Ronald F. Savage, of NM; Adam P. Schmidt, of CT; Anna Toness, of TX; Michael J. Torreano, of FL; Nicholas John Vivio, of DC; Jamshed Zuberi, of CA as Foreign Service Officer Class Two, Consular Officer and Secretary in the Diplomatic Service of the United States of America.

I will object because, in addition to the multiple inquiries I have made that are still unanswered, I sent another letter to the State Department today and the Department has failed to confirm receipt, yet again. In addition, my staff placed multiple phone calls to Department personnel to inquire as to the status of the most recent letter. Department personnel have failed even to return phone calls.

I warned the Department that if they failed to change their ways that I would be forced to escalate the scope of my intent to object to unanimous consent requests by including Foreign Service officer candidates. My objection is not intended to question the credentials of the individuals up for appointment. However, the Department must recognize that it has an obligation to respond to congressional inquiries in a timely and reasonable manner.

APPROPRIATIONS

Ms. MIKULSKI. Mr. President, this month the Senate Appropriations Committee completed its work on 12 bills