

Starr since he was one of my students at Duke Law School and I have always known him to be a fair-minded person."

An official with the American Civil Liberties Union said of Starr's appointment, "I'd rather have him investigate me than almost anyone I could think of."

Alan Morrison, the cofounder of Public Citizen Litigation Group told Time magazine last week that the idea of Kenneth Starr as a right-wing avenger is "not the Ken Starr I know."

When Democrats criticized Judge Starr's appointment as politically inspired, five former presidents of the American Bar Association refused to call for his resignation, citing their "Utmost confidence in his integrity and his objectivity."

Just last week, Robert Bork, one of the sternest critics of the independent counsel law, wrote that the Office of the Independent Counsel "requires but does not always get an independent counsel of moral strength and judicial temperament. Kenneth Starr is just such a prosecutor \* \* \* He has conducted himself professionally and without a credible hint of partisanship."

The worlds of Kenneth Starr and the Clinton White House are completely different. The independent counsel has a reputation for integrity and fairness. He is temperate by nature and has been criticized by his own staff as being deliberative to a fault. Kenneth Starr regards justice not as a matter of winning or losing but as a search for the truth.

Madam President, if there is ever a time when we need an impartial independent search for the truth, this is that time. A great deal does hang in the balance. We have important decisions to make relative to foreign policy of this Nation and the domestic policy of this Nation. It is important that we be able to rest credibility and trust in the Office of the Presidency. It is important that we elicit the facts and the truth relative to the allegations swirling around the President and the White House at this particular time.

I can think of no fairer minded nor nonpartisan, capable individual than the current independent prosecutor, Kenneth Starr, and I think it would be appropriate if all of us let him do his job.

I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call.

Mr. NICKLES. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### ATTACKS ON KENNETH STARR

Mr. NICKLES. Madam President, I rise today to make a couple of observations. One is that it is very apparent

that there is a concerted attack on Kenneth Starr, the court-appointed independent counsel investigating several serious allegations against the Clinton administration. Some of those attacks were made today on the floor of the Senate. I believe a previous attack was made earlier in the week in the Senate. And I think Mrs. Clinton joined in the attack on Judge Starr. So, there appears to be a concerted attempt by the President, his staff, his wife, and others to attack Kenneth Starr as the independent counsel. I just think that is inappropriate.

Just for the information of my colleagues, I have known Ken Starr. I understand that he clerked for the Supreme Court for Chief Justice Warren Burger when he got out of law school. I got to know him when he was assistant and chief of staff to Attorney General William French Smith during the Reagan administration. That is the first time I got to know him. And I remember him when he served as Solicitor General of the United States and argued cases on behalf of the United States before the Supreme Court. I happened to sit in on one or two. In one case that I remember in particular, he did a very fine job. He represented the United States very well. I don't remember anybody ever making any allegations that he was a right-wing conspirator at that time.

He served as a judge on the D.C. Circuit Court of Appeals with Justices Scalia and Ginsburg, and he served with distinction. I don't remember hearing one scintilla of negative comments of his service there.

He was chosen—and this is interesting—by the Senate to review Senator Packwood's diaries that dealt with a sex scandal in the Senate. That was a very sensitive issue and not an easy one. And probably not a job that he had any interest in doing either. But it shows that, yes, he handled that, and he handled it very professionally. I think everyone in the Senate would have to acknowledge that.

Judge Starr has taught constitutional law at New York University Law School, a very prestigious law school. He was chosen by the three-judge court to take over as independent counsel and replace Robert Fiske in his investigation of Whitewater and related matters. He was chosen for this job by the court. I don't believe he campaigned for it. He was selected by a three-judge panel.

So he worked for the Senate, he worked in the Attorney General's office, in the Solicitor General's office, he served as a judge, and he taught—all of which he did with distinction.

So I really regret that many people in the administration, and now some of our colleagues, are attacking Ken Starr—impugning his motives, raising charges of conflict of interest, and so on. I think that is really unfortunate.

I happen to also think it is intended as a diversion. I think it is a pattern that we have seen followed by this ad-

ministration time and time again when they are feeling pressure from an investigation or emerging scandal.

It is unfortunate, but this administration has been plagued by scandals since prior to President Clinton's election in 1992. It seems like there is a repetitive pattern of attacking whoever that scandal happens to be involved with—whether it was Gennifer Flowers, when she was attacked; Paula Jones, when she was attacked; the FBI, when investigating the FBI files matter. A couple FBI people lost their jobs over that unfortunate incident. The travel office employees were attacked, when Billy Dale was investigated. The Justice Department was called in to investigate Billy Dale. So time and time again, it seems like there is a pattern that if there is a complaint, we all of a sudden start hearing negative stories.

When it became well known that FBI Director Louis Freeh's recommendation was that an independent counsel should be appointed to investigate possible campaign abuses by the Clinton administration, all of a sudden we start hearing negative stories about Director Freeh and the White House's lack of confidence in his work. There was even some speculation that he would be fired. Well, he could not be fired, he had a 10-year term. I think it is very unfortunate.

Mrs. Clinton was on television talking about a "right-wing conspiracy," and about all these groups spreading stories. I don't think Ken Starr has anything to do with any alleged right-wing conspiracy, nothing whatsoever. I don't think he has ever had that strong of a political philosophy or involvement with partisan issues. He has been a judge, he has been working at the Justice Department and teaching law school. I just don't think that's the case. I certainly don't think that the President's own personal secretary was part of a right-wing conspiracy. So I am just bothered by that.

I think that we see a concerted effort by the administration to have a diversion. Certainly this latest scandal is serious. There were allegations that were brought to Ken Starr's attention, and he took them to the Attorney General for authority to investigate. She gave a recommendation to the three-judge court to expand his authority to investigate. Janet Reno recommended to the three-judge panel that these latest allegations concerning the sex scandal be investigated. That is what Ken Starr is doing.

So I hope that my colleagues will tone down their rhetoric. I hope this administration will tone down the rhetoric and quit attacking Ken Starr and maybe cooperate with the investigation and let the facts be known.

I hope that nothing happened. I hope that there is nothing to this scandal. But I think the President should tell the truth. I think that the American people are entitled to the truth and, hopefully, it will come out very shortly. Then we can go on and do the Nation's business—as the President has

called for. But when there are allegations of perjury, or obstruction of justice, coaching witnesses, or trying to get people to leave town so maybe they would not testify—these are serious charges. I might remind colleagues that President Nixon was on the road to impeachment not because he broke into the Watergate, but because of charges of perjury, tampering with a witness and obstruction of justice.

So these are serious charges, but they don't need to be investigated on the floor of the Senate. It is possible that at some point the Senate will have a role; I don't know. But I don't think it is proper or right to have this campaign of attack and smear on Ken Starr. I think it undermines the judicial process and really undermines those people who are making such charges. Madam President, I hope that our colleagues and others will allow the independent counsel to do his work.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. FAIRCLOTH). Without objection, it is so ordered.

#### EXECUTIVE SESSION

#### NOMINATION OF MARGARET M. MORROW, OF CALIFORNIA, TO BE U.S. DISTRICT JUDGE FOR THE CENTRAL DISTRICT OF CALIFORNIA

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to consider Executive Calendar No. 135, which the clerk will report.

The legislative clerk read the nomination of Margaret M. Morrow, of California, to be United States District Judge for the Central District of California.

The PRESIDING OFFICER. Debate on the nomination is limited to 2 hours equally divided and controlled by the Senator from Utah and the Senator from Missouri.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I rise today to support the nomination of Margaret Morrow to the Federal District bench in California.

Ms. Morrow enjoys broad bipartisan support, and it is no wonder. She graduated magna cum laude from Bryn Mawr College, and cum laude from the Harvard Law School. She is presently a partner at Arnold and Porter in their Los Angeles office where she handles virtually all of that office's appellate litigation.

I plan to outline in greater detail why I intend to support Ms. Morrow's

nomination. But first I would like to discuss the Judiciary Committee's record with respect to the confirmation of President Clinton's judicial nominees.

As chairman of the Senate Judiciary Committee, one of the most important duties I fulfill is in screening judicial nominees. Indeed, the Constitution itself obligates the Senate to provide the President advice concerning his nominees, and to consent to their ultimate confirmation. Although some have complained about the pace at which the committee has moved on judicial nominees, I note that it has undertaken its duty in a deliberate and serious fashion. Indeed, with respect to Ms. Morrow, there were concerns. Her answers to the committee were not entirely responsive. Rather than simply pushing the nomination forward, however, I believed it was important for the committee to ensure that its questions were properly answered. Thus, the committee submitted written questions for Ms. Morrow to clarify some of her additional responses. And, having reviewed Ms. Morrow's answers to the questions posed by the committee, I became satisfied that she would uphold the Constitution and abide by the rule of law.

In fact, we held two hearings in Margaret Morrow's case, as I recall, and the second hearing was, of course, to clarify some of these issues without which we might not have had Ms. Morrow's nomination up even to this day.

Thus, I think it fair to say that the committee has fairly and responsibly dealt with the President's nominees. Indeed, the Judiciary Committee has already held a judicial confirmation hearing, and has another planned for February 25. Thus, the committee will have held two nomination hearings in the first month of the session.

I note that Judiciary Committee processed 47 of the President's nominees last session, including Ms. Morrow. Today there are more sitting judges than there were throughout virtually all of the Reagan and Bush administrations. Currently, there are 756 active Federal judges. In addition, there are 432 senior Federal judges who must by law continue to hear cases. Even in the ninth circuit, which has 10 vacancies, only one judge has actually stopped hearing cases. The others have taken senior status, and are still actively participating in that court's work. I am saying that the other nine judges have taken senior status. Those who have retired, or those who have taken senior status, are still hearing cases. The total pool of Federal judges available to hear cases is 1,188, a near record number.

I have sought to steer the confirmation process in a way that kept it a fair and a principled one, and exercised what I felt was the appropriate degree of deference to the President's judicial appointees.

I would like to personally express my gratitude and compliments to Senator

LEAHY, the ranking Democrat on the Judiciary Committee, for his cooperative efforts this past year. In fact, I would like my colleagues to note that a portrait of Senator LEAHY will be unveiled this very evening in the Agriculture Committee hearing room. This is an honor that I believe my distinguished colleague justly deserves for his efforts on that great committee. I want Senator LEAHY to know that I plan on attending that portrait unveiling itself even though this debate is taking place on the floor between 4 and 6 today.

It is in this spirit of cooperation and fairness that I will vote to confirm Ms. Morrow. Conducting a fair confirmation process, however, does not mean granting the President carte blanche in filling judicial vacancies. It means assuring that those who are confirmed will uphold the Constitution and abide by the rule of law.

Based upon the committee's review of her record, I believe that the evidence demonstrates that Margaret Morrow will be such a person. Ms. Morrow likely would not be my choice if I were sitting in the Oval Office. But the President is sitting there, and he has seen fit to nominate her.

She has the support of the Senators from California. And the review conducted by the Judiciary Committee suggests that she understands the proper role of a judge in our Federal system and will abide by the rule of law. There is no doubt that Ms. Morrow is, in terms of her professional experience and abilities, qualified to serve as a Federal district court judge. I think the only question that may be plaguing some of my colleagues is whether she will abide by the rule of law. As I have stated elsewhere, nominees who are or who are likely to be judicial activists are not qualified to serve as Federal judges, and they should neither be nominated nor confirmed. And I want my colleagues to know that when such individuals come before the Judiciary Committee I will vociferously oppose them. In fact, many of the people that have been suggested by the administration have been stopped before they have been sent up. And that is where most of the battles occur, and that is where most of the work between the White House and myself really occurs. I have to compliment the White House in recognizing that some people that they wish they could have put on the bench were not appropriate persons to put on the bench because of their attitudes towards the rule of law primarily.

While I initially had some concerns that Ms. Morrow might be an activist, I have concluded, based on all the information before the committee, that a compelling case cannot be made against her. While it is often difficult to tell whether a nominee's words before confirmation will match that nominee's deeds after confirmation, I believe that this nominee in particular deserves the benefit of the doubt. And