

occurred after Judge Massiah-Jackson was reversed by the appellate court. Unlike the second judge, who conducted a full trial, Judge Massiah-Jackson threw out evidence on the ground that the police lacked even probable cause to arrest the defendant—despite his proximity to the crime scene and the victim. It is, of course one thing to acquit someone after a trial, but the notion that the police officers did not even have probable cause to arrest the defendant is just shocking. And the appellate court agreed.

OPPOSITION FROM POLICE ORGANIZATIONS

Philadelphia F.O.P.

The Philadelphia Lodge of the Fraternal Order of Police announced its opposition to the confirmation of Massiah-Jackson on January 13. And just yesterday I had the privilege of attending a press conference in which Philadelphia F.O.P. President Richard Costello made his opposition to this nominee unmistakably clear.

National F.O.P.

The national Fraternal Order of Police announced its opposition on January 20th. In coming out against this nominee, National F.O.P. President Gilbert Gallegos stated, "Judge Massiah-Jackson has no business sitting on any bench, let alone a Federal bench." After describing the incident in which Judge Massiah-Jackson pointed out undercover police officers in open court, Mr. Gallegos stated, "I cannot adequately express my outrage." The National F.O.P. President concluded that: "To confirm Judge Massiah-Jackson would be an affront to every law enforcement officer and prosecutor in the nation, all of whom have the herculean task of fighting crime. We shouldn't have to have [both] the judges and criminals against us."

National Association of Police Organizations.

The National Association of Police Organizations announced its opposition on January 22.

OPPOSITION FROM LOCAL LAW ENFORCEMENT

Lynne Abraham, D.A., Philadelphia.

Philadelphia District Attorney Lynne Abraham, a Democrat, at great political cost, came out against the nomination in a letter to Senator ARLEN SPECTER on January 8. She wrote:

My position on this nominee goes well beyond mere differences of opinion, or judicial philosophy. Instead, this nominee's record presents multiple instances of deeply ingrained and pervasive bias against prosecutors and law enforcement officers—and, by extension, an insensitivity to victims of crime. Moreover, the nominee's judicial demeanor and courtroom conduct, in my judgment, undermines respect for the rule of law and, instead, tends to bring the law into disrepute.

This nominee's judicial service is replete with instances of demonstrated leniency towards criminals, an adversarial attitude towards policy and disrespect toward prosecutors unmatched by any other present or former jurist with whom I am familiar.

John Morganelli, D.A., Northampton County.

Northampton County District Attorney John Morganelli, a Democrat announced his all-out opposition to the nomination on January 6, 1998.

Mr. Morganelli provided members of the Committee with a letter detailing the numerous incidents of unprofessional conduct that have marked Judge Massiah-Jackson's tenure on the state trial bench. The concluding paragraphs of that letter are worth quoting at length:

[Judge Massiah-Jackson's] record is one of an unusually adversarial attitude towards the prosecution and police. Much [in her record indicates] personal animosity towards prosecutors and police in general. Other portions of her record indicate a tendency to be lenient with respect to criminal defendants.

This judge sat as a fact finder in the vast majority of her cases because criminal defendants almost always felt it advantageous to waive their right to a jury trial in order to present their case directly to the judge. . . . In addition, she has shown a lack of judicial temperament with respect to vulgar language from the bench on the record and much of it off the record. Also, as indicated above, Judge Massiah-Jackson has attempted to meddle with the appellate process in Pennsylvania by contacting appellate courts and improperly attempting to influence appellate decisions. Her comments, conduct, record and lack of judicial temperament by itself should call into question her stature to serve as a Federal Judge.

Numerous District Attorneys and police organizations in the Commonwealth of Pennsylvania oppose this nomination as a slap in the face to the law enforcement community.

Executive Committee, Pennsylvania District Attorneys' Association.

The Executive Committee of the Pennsylvania District Attorneys' Association, in a unanimous vote, officially opposed the nomination on January 8. The President of the Association wrote a letter on January 26th expressing the Association's opposition.

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

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

NOMINATION OF JUDGE
FREDERICA MASSIAH-JACKSON

Mr. SPECTER. Madam President, I have sought recognition to comment on the nomination of Judge Frederica Massiah-Jackson for the U.S. District Court for the Eastern District of Pennsylvania, and that nomination having been withdrawn this afternoon at the request of Judge Massiah-Jackson. I appreciate and understand the reasons leading to her withdrawal.

I commend Judge Massiah-Jackson for her tenacity and courage and for completing the record on all the new questions which were unexpectedly raised at last week's hearing, on Wednesday, March 11. At the outset, I

want to thank our distinguished majority leader, Senator LOTT, for his courtesies on this matter and to thank my distinguished colleague, Senator SANTORUM, for his strenuous efforts in seeking the second hearing for Judge Massiah-Jackson in an effort to try to do the fair thing with Judge Massiah-Jackson.

I think it is important to future nominations to face up to exactly what happened in this matter to prevent a recurrence and to improve the system for the future. In my judgment, Judge Massiah-Jackson was unfairly treated by her opponents, and in my judgment, Judge Massiah-Jackson was unfairly treated by the Senate Judiciary Committee.

I believe it is important to find out about nominees who are submitted for the Federal bench because that is a very, very important appointment having lifetime tenure. I believe the law is the highest calling and that the courts have been established to adjudicate disputes between the government and the government's citizens and between people and among parties. I have spent my entire adult life as a lawyer, and I consider it a high calling. There are many of those attributes which are important in the course of working as a U.S. Senator, especially on the Judiciary Committee.

In my judgment, Judge Massiah-Jackson's opponents dealt with her unfairly at the outset by seeking to kill her nomination anonymously. If anyone had anything to say about Judge Massiah-Jackson, I believe they should have come forward and should have come forward at an early date. She was nominated for the judgeship on July 31, but it was not until almost 6 months later that her opponents came forward, after there had been two hearings and after the Senate Judiciary Committee had approved her nomination by a vote of 12-6.

When those anonymous complaints were filed—which led some people to say that she was soft on crime, and I thought without any basis to do so from those anonymous complaints—Senator SANTORUM and Senator BIDEN and I held an unusual field hearing in Philadelphia on October 3, and we invited people to come forward. We specifically invited some who later turned out to be among her most vocal critics. But no one came forward at that time. Instead, we had a group of judges who had served with her—I believe five in number—who said she was well within the mainstream. We had representatives of the distinguished mayor of Philadelphia, Edward Rendell, himself a former district attorney. Mayor Rendell said publicly and expressed to me privately, "Stick with the public record; Judge Massiah-Jackson was an excellent nominee for the district court." Mayor Rendell said she had been appealed very little with respect to sentencing, that she had a very, very good record. While Mayor Rendell could not be present at the October 3

hearing, his representative was, as were others.

Then the Judiciary Committee held a hearing in late October, and in early November voted Judge Massiah-Jackson out by a vote of 12-6. It was not until later—I believe in early January—that opponents began to surface. Some of those opponents had previously said directly to Judge Massiah-Jackson that her nomination was applauded, that the celebration on swearing-in was an event to be looked forward to. When these opponents came forward, Senator SANTORUM and I said that we ought to have a full inquiry into what the objections were. Toward that end, on January 23, we met with district attorneys in my office in Philadelphia and heard complaints of a very generalized nature; very few cases were mentioned, with the district attorneys saying that they would file their objections within a week so that we would know what was on the record and we could make a determination as to what to do, because a vote had been scheduled for Judge Massiah-Jackson for January 28.

The vote was put off to give the district attorneys an opportunity to present their objections. They filed them on February 2, which was a Monday, a little late, but OK. Then Judge Massiah-Jackson went to work to respond to quite a number of cases which the district attorneys had raised. It seemed to me that, notwithstanding the fact that the district attorneys were very late in presenting their objections, they ought to be heard, there ought not to be a time limit. If they had not come forward early, let them come forward later and let us find out what their objections were, let us give Judge Massiah-Jackson an opportunity to respond, and then let the Senate make a judgment.

Then the hearing for Judge Massiah-Jackson was set for last Wednesday, March 11. By this time, the district attorneys had created a considerable crescendo of public opposition. They had done that on a selective citation of cases, illustrative of which was a case involving undercover officers who, Judge Massiah-Jackson's critics said, had been exposed in open court. But when that matter was pursued, it was determined that those officers had testified in open court and their identities had been disclosed. So there was hardly anything to be disclosed since it had already occurred in open court.

Another case which was widely publicized was a case where Judge Massiah-Jackson had deferred the imposition of sentence on a case involving a defendant motorist who had struck a pedestrian. When those facts were looked into in some detail, it was determined that the victim had asked for the postponement in order that the defendant could make restitution, that, in fact, the defendant had made restitution. That case was appealed to the Pennsylvania higher courts as to the adequacy of Judge Massiah-Jackson's

opinions, and the appellate court said Judge Massiah-Jackson had acted properly.

In the totality of cases, Judge Massiah-Jackson handled some 4,000 cases between 1984 when she was appointed to the bench and 1991 when she stopped sitting on criminal cases. There were only four appeals taken from her sentences. In one of those appeals she was reversed because she had given too long a sentence. The guidelines had been exceeded, so said the appellate court. She was too tough. She imposed too long a sentence. In the other three cases, she was reversed twice and upheld once. But three appeals by the Commonwealth involving many, many sentences coming out of some 4,000 cases which had been heard—not all resulted in sentences because some were acquittals—is not too bad a record, to say it very, very plainly.

When the district attorneys had submitted, I believe it was 39 cases on February 2, not 50 which they said they would submit, in an analysis of the representations by the district attorneys to what the transcripts showed, there was a wide variance. The district attorneys had taken the facts as they represented them in the light according to the Commonwealth's witnesses but did not take into account witnesses for the defense or the issues of credibility or the other matters in which a judge might make a different finding. In the hearing on March 11, I put a number of those matters into the RECORD.

The hearing of March 11 was really a very extraordinary one, in my opinion. By the time these selective cases had been disseminated to law enforcement agencies, quite understandably, quite a number of law enforcement agencies came forward to object to Judge Massiah-Jackson. That is not surprising because they did not know the entire record.

It ought to be pointed out that this confirmation process for Judge Massiah-Jackson has come on the heels of a very unusual case captioned Commonwealth v. Lambert, a murder case out of Lancaster County, PA, where a judge on the U.S. District Court for the Eastern District of Pennsylvania—the same court to which Judge Massiah-Jackson had been nominated—where a Federal district court judge in Philadelphia had found constitutional error, which is not surprising, but it was surprising that the judge had ordered that there be no retrial in that case involving a conviction for murder. That was an extraordinary ruling, and in my legal research, unprecedented. I joined with Congressman Pitts and others in introducing legislation to clarify that jurisdiction of a district court judge. The finding of constitutional error is well within the purview of the court, the suppression of that evidence is well within the purview of the court, but it is not within the purview of the court to say that the case could not be retried. That is a matter for the State

court in Lancaster County and for the Lancaster County district attorney. The district attorneys who had opposed Judge Massiah-Jackson were very explicit in saying that they were not going to see another judge sent to the district court like the one who had ravaged, they said practically ruined, the district attorney of Lancaster County.

So against that recent backdrop, it was not surprising that when law enforcement agencies saw a limited part of the record without knowing all of the facts, that they would be opposed to Judge Massiah-Jackson.

It is not irrelevant to point out that I was district attorney in Philadelphia for 8 years, from 1966 to 1974, and before that an assistant district attorney for 4 years and, obviously, have had considerable experience in the criminal courts of Philadelphia. The decisions which Judge Massiah-Jackson made were well within the keeping of the Philadelphia criminal courts. I take second place to no one in battling with the judges on the issues of sentencing. When I was district attorney of Philadelphia, I made it a practice to petition for reconsideration of a sentence when I thought the sentence was inadequate. I went right before the court, and on one occasion was so tenacious that I was held in contempt of court when I protested a lenient sentence imposed on someone convicted of selling drugs, 6 ounces of pure, uncut heroin. I was so insistent on battling the judges on the issue of sentencing that procedure was taken away from the district attorneys by a superior court opinion, saying it was double jeopardy and the courts of Pennsylvania had noted my opposition to sentencing. So that was gone.

I also took a common law appeal to try to appeal sentences when I was district attorney from 1966 to 1974. The D.A. did not have a right of appeal, and I drafted legislation to give the district attorney the right of appeal, and ultimately that statute came into existence. But when I was district attorney, I found three very egregious cases and decided to take an appeal to the Pennsylvania Supreme Court to argue a common law right of appeal.

One of the cases, as I recollect, was a motorist who had been convicted of drunken driving and was driving on a revoked license and killed two people and had gotten probation. I thought that was horrendous and thought there ought to be a right of appeal. Another case involved, as I recollect it, the deputy commissioner of licensing inspections, convicted of 40 counts of corrupt practices, and got probation. Another case which I considered an outlandish sentence and thought there ought to be a right of the district attorney to appeal involved a defendant named Arnold Marks. I have referred to the 6 ounces of pure, uncut heroin worth \$280,000, as I recollect it, and 6½ months in jail. The Supreme Court of Pennsylvania disagreed with me, fairly unceremoniously, and said I did not have a right of appeal and dismissed

my effort. As I say, the district attorney's right to file an appeal was later upheld by statute, so if anybody today disagrees with the judge's sentence or anybody disagreed with Judge Massiah-Jackson's sentences, they could take it to appeal. As I say, it only happened three times by the district attorney's office in the handling of some 4,000 cases. There were occasions when I challenged the judges on the findings of the fact. In those days the Commonwealth district attorney had a right to demand a jury trial. We did not have a right of appeal, but we did have a right to demand a jury trial as party to the proceedings. And it was with some frequency that I exercised that right to demand a jury trial—so often that the supreme court changed the rule, and said the district attorney no longer had the right to demand a jury trial.

So I take second place to no one, Madam President, in terms of battling on findings of fact in criminal cases and battling on the issue of sentencing. And I take second place to no one since coming to the Senate, having been elected in 1980, and having authored the armed career criminal bill. This is a very strong statute dealing with 15-years-to-life sentences for career criminals who have three major convictions—not larceny of cookies, I might add, but robbery or burglary or sale of major drugs, and later found in possession of a firearm—to get a life sentence; 15 years to life—15 years is the equivalent of a life sentence in the Federal prisons.

There is legislation which I worked on for the better part of a decade, which abbreviates the amount of time there can be on appeal in the Federal courts from a State conviction with the death penalty from about 15 years, which the cases have taken 2 1/2 years; I have also been in the lead on getting adequate funding for the Federal Bureau of Investigation for a variety of State action and as well as for Bureau of Alcohol, Tobacco, and Firearms.

The March 11 hearing, Madam President, I thought was atrocious, to use a fairly mild word, because Judge Massiah-Jackson was confronted on that morning at 9:30, when the hearing started, with new batches of cases which the district attorneys had submitted by letter dated March 6, which was the Friday before. However, my staff did not get these until 10:40 p.m. on March 10, long after I had retired. I saw these cases at 9 o'clock when I came to my office. I did not have any time to review them, and Judge Massiah-Jackson did not see them at all.

Now, the most fundamental aspect of due process is notice and an opportunity to be heard and then a hearing. But the quintessential point about due process is notice. How can Judge Massiah-Jackson be called upon to respond to cases which she has not seen for a decade, or for 15 years? One of the cases involved a 1994 trial. Other cases involved 1988 and 1989 trials. It was

said—and I think appropriately—that for Judge Massiah-Jackson to salvage her nomination last Wednesday she would have to hit a home run and the bases would have to be loaded. She was facing a very steep, uphill climb. But the reality was that she had no chance to do that because she was confronted with cases which were a decade old, or more. And when she said, "I do not recall," it was taken that she should have recalled.

It may not be a matter that is realized by Senators who are used to attending hearings, but when a witness appears before a hearing in the U.S. Senate, there is a certain amount of trepidation, especially when a judicial nominee appears in a Judiciary Committee hearing. There is a substantial amount of trepidation because that person's appointment to the Federal bench is on the line.

I have seen many highly experienced trial lawyers with 30 years of practice at the bar, nominees who come from Pennsylvania whom I know very well, of great stature, of great aplomb, of great presence, come before the Judiciary Committee frightened like children in school, apprehensive, very, very nervous as to what is happening. And that is when they appeared before just a single Senator who is presiding at the hearing, or perhaps someone chairing the hearing and a ranking member from the minority party. Judge Massiah-Jackson walked into the hearing last Wednesday. The panel was loaded with people who were opposed to her, people who were asking her about cases which she had not had any notice of for a decade or for 15 years.

Then, in an even more astonishing development, some of the Senators had transcripts which had been provided, according to the fax notes—you could see it on the transcripts—the night before at 5 o'clock in the evening. One transcript bore the note of "Philadelphia District Attorney's Office," and another transcript bore the note "Philadelphia DA's Law Division." So they had at least two fax machines, and both were busy turning out these faxes going to selected members of the Judiciary Committee—not to ARLEN SPECTER, not to the chairman of the Judiciary Committee, but going to certain members, and not to Judge Massiah-Jackson, who was then asked questions about them.

It was true that the Senator said, "Well, now, you may not recollect this, and I know you have not seen these cases"—which were submitted with transmittal letters, as I said, on March 6, and as I previously said, which I had not seen until the morning of March 11 and Judge Massiah-Jackson had not seen at all—"but let's see if you could respond to the questions." Well, when she says she doesn't remember, it doesn't look too good for her. When she is confronted with transcripts where the Senator's then say, "Well, maybe this will refresh your recollection," and the transcript is read to her, and

she does not remember, she doesn't look too good.

So when she walked out of the hearing and the comments were she didn't do very well, she didn't remember the cases—how could she remember the cases? How could she do very well? What the district attorneys had done was water torture—drip, drip, drip, drip, drip. It started early on when the materials came in anonymously, drip, drip, drip, leading one member of the Judiciary Committee to say, without any foundation, "Looks like she is soft on crime"—drip, drip, drip. Then a hearing with Senator SANTORUM, Senator BIDEN, and myself in Philadelphia—nobody comes forward. Nobody has the courage to step forward and say, "I am opposed to this nominee," as she had every right to expect, put her on fair notice, and give the Judiciary Committee a chance to evaluate their testimony. Then more anonymous materials—drip, drip, drip. In late October the Judiciary Committee has its hearings; and then drip, drip, drip. And it is true, they alerted some Members, who by last-minute holds deprived the Senate of having a vote at a time when the Senators were absent. Last week the majority leader did not schedule any votes, but materials came in in this matter.

There is an inevitable chilling effect, Madam President, on what has happened, and its repercussions go far beyond Judge Massiah-Jackson.

I said at the hearings that I thought it very unfortunate that Judge Massiah-Jackson should be called upon to answer questions put to her by district attorneys because there are so many State court judges in America who would like to be Federal court judges. I hardly know of any in Pennsylvania who do not want to be Federal court judges. The distinguished Presiding Officer came to see me last week with a member of the Supreme Court of Maine who wanted to be a judge on the First Circuit. That is the aspiration of so many lawyers and so many judges. If trial judges know that when they displease the district attorney who is trying a case before them that their records are likely to be sent anonymously and surreptitiously to the Judiciary Committee, what kind of an effect does that have on the administration of justice? How does a State court judge feel about ruling against a district attorney, or an assistant district attorney, in the context where Judge Massiah-Jackson was the victim of this water torture with people proceeding anonymously and then poisoning the waters in a way in which it was realistically impossible for her to answer?

There was no way that Judge Massiah-Jackson could appear last Wednesday and talk about the cases which the district attorneys had submitted on February 2 when at every question she was confronted with cases, some 15 years old, where she had no notice. There is no way she could respond intelligently. And it was impossible for her to respond in a way which

could convince fairminded people as to what the facts were.

I talked to Members of the Senate who saw only the headlines, who saw only the comments, who saw only two statements which she had made which she shouldn't have made. But if someone is to be disqualified for making two intemperate statements, I don't believe there would be anyone in the U.S. Senate—not just the 100 of us who are here now, but anybody. If somebody is disqualified for a job for two intemperate statements, nobody could hold a job anywhere.

So when you take a look at this record in its totality, what I have sought to do from the outset is to see that Judge Massiah-Jackson receives a fair hearing. It has been said that she is my nominee, which is not true. She is obviously the President's nominee. But she is not somebody who came from the Republican ranks. There is an arrangement which Pennsylvania has with the White House, with the President, that we will have the opportunity to name one Federal district court judge in Pennsylvania—Senator SANTORUM, and I—for every three nominees submitted from the Democratic Party. Pennsylvania is the only State, except for New York, which has had this arrangement, going back to the days of Senator Javits in the late 1970s. I am not obligated to back anybody whom the White House puts up. In fact, one of the nominees from Pittsburgh was rejected and withdrew earlier.

So when people say I have made a deal, it is not true. Judge Bruce Kauffman was sworn in on January 20. He was the nominee submitted by Senator SANTORUM and myself. I have not promoted the nomination of Judge Massiah-Jackson. I did not know her before she was nominated by the President to this position. But it seems to me, know her or not, she was entitled to fairness, and, if there were objections against her, I wanted to hear of them.

I have not begun to detail, Madam President, the lengths to which I went to find out what those objections were. When I heard comments through the grapevine, I called, or had my staff call, everybody who had a comment to make. When people wouldn't come forward, we asked them for the facts, and we proceeded with the objection. I personally made telephone calls to people and returned telephone calls to people to find out exactly what they had in mind, because if she was disqualified, let the chips fall where they may.

But the procedures which have occurred here and really culminated in the hearing on March 11, I think, represent an occurrence which is not the Judiciary Committee's finest hour. I believe that questions should not have been put to her. She should not have been called upon to answer questions on matters that she had not heard about until that morning, matters which are 10 or 15 years old.

There is ample precedent in the committees to exclude inappropriate lines of questions. One which received a great deal of notoriety was the Supreme Court nomination hearing for Justice Clarence Thomas. When someone had asked Justice Thomas about his video selections, the chairman of the Judiciary Committee, a Democrat, overruled his colleagues on that side of the aisle and said those questions were out of line. They may have had some relevancy, some tenuous relevancy. I don't think so, but some might have argued some attenuated relevancy to the issue before the Judiciary Committee at that time.

But certainly they were vastly prejudicial compared to any value which they may have had, and a courageous chairman of the Judiciary Committee excluded that line of questioning. At the hearing I did not mince any words, but the first time I had an opportunity to speak, I referred to these new cases which had just been dropped on me that morning, which Judge Massiah-Jackson had not seen, and made the point that they ought not to be the subject for questioning. And when others on the Judiciary Committee had those transcripts which bore the facts from the Philadelphia district attorney's office the night before, I strenuously questioned the propriety of that and interrupted the chairman to express my views in no uncertain terms.

Madam President, this case will not go away so easily. I agree with those who have said in the Chamber today that there has to be an adequate venting process and we have to find out about judicial nominees. I believe that the people who had objections to Judge Massiah-Jackson should have come forward many, many months ago. They had an opportunity to do so. There were inquiries by the FBI; there were inquiries by the American Bar Association; there were inquiries by the commission which Senator SANTORUM and I have established. They had an opportunity to raise those objections at a very early stage. But I do not deny them an opportunity to present adverse matters, however late they may come in, because a Federal judgeship is so important. But I do not believe that a nominee ought to be asked those questions without any notice and without any opportunity to review those cases. As we speak, there are units within the judicial conference and units within the bar association that are taking a very close look at what happened to Judge Massiah-Jackson.

In concluding, I compliment and congratulate Mark Aronchick and John Morris of the Philadelphia Bar Association for their pro bono work in analyzing the cases which were submitted by the district attorneys, the first batch submitted on February 2, and for their very strenuous efforts in an analysis to find out what the facts were. They supported Judge Massiah-Jackson because she had scored very well on the plebiscites where the members of the Phila-

delphia Bar Association had been questioned. I would also like to thank Charles Bowser, Esquire, who counseled Judge Massiah-Jackson.

I do appreciate and understand the reasons leading to Judge Massiah-Jackson's withdrawal. When she appeared in the hearings, she showed tenacity and courage, and she completed the record last week. But this is a time when the Senate Judiciary Committee has had better days, not a shining example for our Judiciary Committee, and the practices and procedures which were employed in this case need a thorough review so they will not be repeated.

In the presence of no other Senator, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from South Carolina is recognized.

Mr. THURMOND. I thank the Chair. (The remarks of Mr. THURMOND pertaining to the introduction of S. 1764 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. THURMOND. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

NOMINATION OF JUDGE MASSIAH-JACKSON

Mr. SANTORUM. Madam President, I rise today to talk about the issue that was going to be voted on tomorrow, the nomination of Judge Massiah-Jackson to the Eastern District Court of Pennsylvania. As you know, she withdrew her name today from consideration for that position. She did so, I believe, in light of the information that has come forward, the controversy surrounding her nomination, and what looked to be very little hope for that nomination to succeed here on the Senate floor. In fact, it has come to my attention that there would have been very strong bipartisan opposition to her nomination and the chances of it succeeding were not very good. So I think, under those circumstances, she decided to withdraw her name.

For her sake, I think she did the right thing. I think she has acquitted herself, as an individual, very well and was very restrained under this rather arduous process she has gone through. I know it has been a very difficult time for her and her family. For that she has my empathy and my sympathy, for