

Mr. DORGAN. Mr. President, I ask unanimous consent the Senator be recognized for an additional 30 seconds.

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

Mr. LEAHY. I yield to the Senator.

Mr. DORGAN. Mr. President, I am so pleased that the Senate has confirmed Kermit Bye's nomination to the Eighth Circuit Court of Appeals.

Kermit Bye is one of North Dakota's most distinguished and respected attorneys, and a senior partner in one of the top law firms in the Midwest. He has nearly 40 years of trial and appellate experience, he was President of the North Dakota Bar Association, and he's received the North Dakota State Bar Association's Distinguished Service Award.

I won't name every civic and community organization that Kermit Bye has chaired and served on, because the list is too long. Instead, I will say Kermit Bye cares deeply about the law and about the people our laws protect.

He is a man of impeccable integrity and sound judgment, possessing a formidable intellect and a healthy dose of North Dakota common sense. Kermit is temperamentally very well-suited for the bench, and can be counted on as a fair-minded jurist who understands the importance of the rule of law to society, and the judiciary's proper role within our constitutional system.

As many will recall, this seat on the Eighth Circuit Court of Appeals was first vacated in April 1997, and my fellow North Dakotan John Kelly was nominated and confirmed to this seat last summer. Tragically, just a few weeks after taking his oath, Judge Kelly took ill and passed away.

I am pleased today that Kermit Bye has been confirmed to fill this vacancy so that our Federal judiciary can benefit from his wisdom and judgment.

Mr. HATCH. Mr. President, I rise to commend the majority leader, Senator LOTT, for proceeding today with votes for these judicial nominees. As I have stated, we will continue to process the confirmations of nominees who are qualified to be federal judges. In that respect, the Senate Judiciary Committee held its first nominations hearing of this Session on Tuesday, February 22, and I expect to see more judicial nominees moving through the process in the coming months. There is a perception held by some that the confirmation of judges stops in election years. This perception is inaccurate, and I intend to move qualified nominees through the process during this session of Congress.

That said, in moving forward with the confirmations of judicial nominees, we must be mindful of problems we have with certain courts, particularly the Ninth Circuit. It was reported yesterday that the Ninth Circuit has a record of 0-6 this supreme court term. In addition, the President must be mindful of the problems he creates when he nominates individuals who do not have the support of their home-

State Senators. In this regard, I must say that it appears at times as if the President is seeking a confrontation with the Senate on this issue, instead of working with the Senate to see that his nominees are confirmed.

During this Congress, despite partisan rhetoric, the Judiciary Committee has reported 42 judicial nominees, and the full Senate has confirmed 36 of these—a number comparable to the average of 39 confirmations for the first sessions of the past five Congresses when vacancy rates were generally much higher. In total, the Senate has confirmed 340 of President Clinton's judicial nominees since he took office in 1993.

I am disturbed by some of the allegations that have been made that the Senate's treatment of certain nominees differed based on their race or gender. Such allegations are entirely without merit. For noncontroversial nominees who were confirmed in 1997 and 1998, there is little if any difference between the timing of confirmation for minority nominees and non-minority nominees. Only when the President appoints a controversial female or minority nominee does a disparity arise. Moreover, last session, over 50% of the nominees that the Judiciary Committee reported to the full Senate were women and minorities. Even the former Democratic chairman of the Judiciary Committee, Senator JOE BIDEN, stated publicly that the process by which the committee, under my chairmanship, examines and approves judicial nominees "has not a single thing to do with gender or race." That is from the transcript of a Judiciary Committee hearing on judicial nominations on November 10, 1999.

The Senate has conducted the confirmations process in a fair and principled manner, and the process has worked well. The Federal Judiciary is sufficiently staffed to perform its function under article III of the Constitution. Senator LOTT, and the Senate as a whole, are to be commended.

MORNING BUSINESS

The PRESIDING OFFICER. The Senator's time has expired.

Under the previous order, the Senate will now proceed to a period of morning business. The Senator from South Carolina is recognized.

VOLUNTARY CONFESSIONS LAW

Mr. THURMOND. Mr. President, I rise to discuss my concern regarding recent developments in the Dickerson case concerning voluntary confessions. Opponents are using some extreme tactics to encourage the Supreme Court to strike down this law.

For years, members of the Senate Judiciary Committee, including myself, encouraged the Clinton Justice Department to enforce 18 U.S.C. 3501, the law on voluntary confessions. In the Dickerson case, the Department re-

fused to permit career federal prosecutors to rely on the law in their efforts to make sure a serial bank robber did not get away.

When the Supreme Court was deciding whether to hear the case, the Department had the opportunity to defend the statute, as many of us encouraged it to do. While making its decision, the Department consulted with certain federal law enforcement agencies. The Drug Enforcement Administration explained that Miranda in its current form is problematic in some circumstances and encouraged the Department to defend the law.

The Department later wrote in its brief about the views of federal law enforcement in this matter, but that support for the statute and reservation about Miranda is nowhere to be found. Instead, the brief states "federal law enforcement agencies have concluded that the Miranda decision itself generally does not hinder their investigations and the issuance of Miranda warnings at the outset of custodial interrogation is in the best interests of law enforcement as well as the suspect." The brief should recognize that there is disagreement among federal law enforcement agencies about the impact of the Miranda warnings in investigations and the need for reform of the Miranda requirements. The Department should not generalize in a brief before the Supreme Court to the point of misrepresentation. Senator HATCH and I sent a letter to Attorney General Reno and Solicitor General Waxman last week asking for an explanation in this matter, and I look forward to their response.

One of the amicus briefs, which was filed by the House Democratic leadership, takes a very novel approach toward the statute. It seems to suggest that the voluntary confessions law is not really a law after all. It states that the "Congress enacted section 3501 largely for symbolic purposes, to make an election year statement in 1968 about law and order, not to mount a challenge to Miranda."

This statement is not only inaccurate. It is completely inappropriate.

I was in the Senate when the voluntary confessions law was debated and passed over 30 years ago. A bipartisan majority of the Congress supported this law, and Democrats were in the majority at the time.

We did not enact the law to make some vague statement about crime. We passed the voluntary confessions law because we were extremely concerned about the excesses of the Miranda decision allowing an unknown number of defendants who voluntarily confessed their crimes to go free on a technicality. We passed it to be enforced.

For the House Democratic leadership brief to state that the Congress did not intend for a law that it passed to be enforced trivializes the legislative branch at the expense of the executive. It is a dangerous mistake for the legislative branch to defer to the executive regarding what laws to enforce.