

Presidents, 8 of President Bush's first 11 nominations—made on May 9, 2001, almost a year ago—are still pending in committee without so much as a hearing! That's nearly 365 days, and only 3 of the President's first 11 nominees are confirmed. Is this what the Democratic leadership considers a record-breaking pace? It may be record-breaking, all right, but not the record they're talking about. They are confirming with the velocity of molasses.

Now I heard my colleague suggest that some of the first 11 nominees may have been superseded out of courtesy to Republican Senators who requested some later-nominated judges to move first. Well, I know how difficult it is to chair the committee, and such requests do come in. But I would suggest to my friend that he do what I did for President Clinton: consider more than one circuit nominee per hearing. That's what we did, under Republican leadership, no fewer than 10 times. Why not two at a time?

Of course, the pace of confirming a President's first 11 nominees is not the only measure by which the current leadership is falling short. My colleague suggested that kudos should be awarded for bringing the circuit court vacancy rate down to 29. Well, it was never that high at the end of any Congress when Republicans controlled the Senate. And I certainly don't recall that, during my chairmanship, any of our circuit courts were facing the kind of crisis that is going on today in the 6th Circuit Court of Appeals, where the court is operating at half-staff despite the fact that president Bush has nominated seven highly qualified people to serve on that court.

The fact is that, at the close of the 106th Congress, when I was chairman of the Judiciary Committee, there were only 67 vacancies in the federal judiciary. In the space of one Democratic-controlled congressional session last year, that number shot up to nearly 100, where it remains today. Under Republican leadership, the Senate confirmed essentially the same number of judges for President Clinton—377—as it did for President Reagan—382—which proves bipartisan fairness—especially when you consider that President Reagan had six years of his party controlling the Senate, and President Clinton had only two.

So how did we go from 67 vacancies at the end of the Clinton administration to nearly 100 today? There can be only one answer: The current pace of hearings and confirmations is simply not keeping up with the increase in vacancies. We are moving so slowly that we are barely keeping up with natural attrition. President Bush nominated 66 highly qualified individuals to fill judicial vacancies last year. But in the first 4 months of Democratic control of the Senate last year, only 6 Federal judges were confirmed. At several hearings, the Judiciary Committee considered only one or two judges at a time. The committee voted on only 6 of 29

circuit court nominees in 2001, a rate of 21 percent, leaving 23 of them without any action at all.

This leads to my second point, which is that the current situation has nothing whatsoever to do with ideology. I was surprised to hear my friend, the chairman of the Judiciary Committee, address earlier today the question of introducing ideology into the judicial confirmation process. Some of my Democrat colleagues have made no bones about the fact that this is exactly what they are seeking to do. In July, they have even held hearings expressly on how to justify it. We saw what happened to Judge Charles Pickering.

What is now occurring is far beyond the mere tug-of-war politics that unfortunately surrounds Senate judicial confirmation since Robert Bork. Some of my colleagues are out to effect a fundamental change in our constitutional system, as they were instructed to do by noted liberal law professors at a retreat early last year. Rather than seeking to determine the judiciousness of a nominee and whether a nominee will be able to rule on the law or the Constitution without personal bias, they want to guarantee that our judges all think in the same way, a way that is much further to the left of mainstream than most of President Bush's nominees.

In the judiciary that some would create, citizens will have to worry about the personal politics of the judge to whom they come for justice under the law. I strongly object to that result.

The legitimacy of our courts, and especially the Supreme Court, comes from much more than black robes and a high bench. It comes from the people's belief that judges and justices will apply a judicial philosophy without regard to personal politics or bias.

In conclusion, Madam President, it is time for this Senate to examine the real situation in the Judiciary Committee, rather than listen to more inventive ways of spinning it. We have lots of work to do. There are 90 vacancies in the federal judiciary—a vacancy rate of more than 10.5 percent—and we have 50 nominees pending, including 4 nominees for the Court of Federal Claims. Nineteen of the pending nominees are for circuit court positions, yet the Senate has confirmed only nine circuit judges this Congress. This is despite a crisis of 29 vacancies pending in the circuit courts nationwide—virtually the same number of vacancies pending when the Democrats took control of the Senate in June of last year.

Madam President, the American people are disappointed in this process. They want the Senate to help—not hinder—President Bush. I urge my friends across the aisle to focus on this situation, to step up the pace of hearings and votes, and to do what's right for the country.

Thank you, Madam President. I yield the floor.

RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 p.m. having passed, the Senate will now stand in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 12:43 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. CLELAND).

EXECUTIVE SESSION—Continued

NOMINATION OF MICHAEL M. BAYLSON, OF PENNSYLVANIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF PENNSYLVANIA

The PRESIDING OFFICER. The clerk will report the first nomination.

The assistant legislative clerk read the nomination of Michael M. Baylson, of Pennsylvania, to be United States District Judge for the Eastern District of Pennsylvania.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Michael M. Baylson, of Pennsylvania, to be United States District Judge for the Eastern District of Pennsylvania? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from Connecticut (Mr. DODD) is necessarily absent.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) is necessarily absent.

I further announce that if present and voting the Senator from North Carolina (Mr. HELMS) would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 98, nays 0, as follows:

[Rollcall Vote No. 98 Ex.]

YEAS—98

Akaka	Crapo	Johnson
Allard	Daschle	Kennedy
Allen	Dayton	Kerry
Baucus	DeWine	Kohl
Bayh	Domenici	Kyl
Bennett	Dorgan	Landrieu
Biden	Durbin	Leahy
Bingaman	Edwards	Levin
Bond	Ensign	Lieberman
Boxer	Enzi	Lincoln
Breaux	Feingold	Lott
Brownback	Feinstein	Lugar
Bunning	Fitzgerald	McCain
Burns	Frist	McConnell
Byrd	Graham	Mikulski
Campbell	Gramm	Miller
Cantwell	Grassley	Murkowski
Carnahan	Gregg	Murray
Carper	Hagel	Nelson (FL)
Chafee	Harkin	Nelson (NE)
Cleland	Hatch	Nickles
Clinton	Hollings	Reed
Cochran	Hutchinson	Reid
Collins	Hutchison	Roberts
Conrad	Inhofe	Rockefeller
Corzine	Inouye	Santorum
Craig	Jeffords	Sarbanes

Schumer	Specter	Torricelli
Sessions	Stabenow	Voinovich
Shelby	Stevens	Warner
Smith (NH)	Thomas	Wellstone
Smith (OR)	Thompson	Wyden
Snowe	Thurmond	

NOT VOTING—2

Dodd Helms

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the motions to reconsider the votes are laid on the table, and the President will be notified of these actions.

NOT VOTING—2

Dodd Helms

The nomination was confirmed.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

NOMINATION OF CYNTHIA M. RUFÉ, OF PENNSYLVANIA, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF PENNSYLVANIA

The PRESIDING OFFICER. The clerk will report the next nomination.

The assistant legislative clerk read the nomination of Cynthia M. Rufe, of Pennsylvania, to be U.S. District Judge for the Eastern District of Pennsylvania.

The PRESIDING OFFICER. The question is, Shall the Senate advise and consent to the nomination of Cynthia M. Rufe, of Pennsylvania, to be U.S. District Judge for the Eastern District of Pennsylvania? The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from Connecticut (Mr. DODD) is necessarily absent.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) is necessarily absent.

I further announce that if present and voting the Senator from North Carolina (Mr. HELMS) would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 98, nays 0, as follows:

[Rollcall Vote No. 99 Ex.]

YEAS—98

Akaka	Durbin	McCain
Allard	Edwards	McConnell
Allen	Ensign	Mikulski
Baucus	Enzi	Miller
Bayh	Feingold	Murkowski
Bennett	Feinstein	Murray
Biden	Fitzgerald	Nelson (FL)
Bingaman	Frist	Nelson (NE)
Bond	Graham	Nickles
Boxer	Gramm	Reed
Breaux	Grassley	Reid
Brownback	Gregg	Roberts
Bunning	Hagel	Rockefeller
Burns	Harkin	Santorum
Byrd	Hatch	Sarbanes
Campbell	Hollings	Schumer
Cantwell	Hutchinson	Sessions
Carnahan	Hutchison	Shelby
Carper	Inhofe	Smith (NH)
Chafee	Inouye	Smith (OR)
Cleland	Jeffords	Snowe
Clinton	Johnson	Specter
Cochran	Kennedy	Stabenow
Collins	Kerry	Stevens
Conrad	Kohl	Thomas
Corzine	Kyl	Thompson
Craig	Landrieu	Thurmond
Crapo	Leahy	Torricelli
Daschle	Levin	Voinovich
Dayton	Lieberman	Warner
DeWine	Lincoln	Wellstone
Domenici	Lott	Wyden
Dorgan	Lugar	

tractor would face only \$3,700 in tariffs if it were made in Brazil, and there would be none if it were made in Canada.

American businesses, farmers, and ranchers are the best, but they should not have to compete with this kind of disparity. Our inability to negotiate agreements with foreign countries is hurting U.S. industry and limiting economic growth. The TPA offers the United States a chance to reclaim momentum in the global economy by adding foreign markets and expanding our opportunity for American producers and workers.

For 60 years, Presidents and members of both parties in Congress have worked together to open markets around the world. Now, as we launch the next round of global trade negotiations, close cooperation is critical. In Texas, we have experienced the benefits of free trade as a result of NAFTA. Since the agreement was implemented in January 1994, Texas exports have grown much faster than the overall U.S. exports of goods. Texas merchandise exports in 2000 went to more than 200 foreign markets, totaling \$69 billion—an increase of more than 22 percent since 1997.

On the agricultural front, Texas ranks third among the 50 States in exports, with an estimated \$3.3 billion in sales in foreign markets in 2000. We are leading exporters of beef, poultry, feed grain, and wheat. NAFTA has helped us secure the No. 1 cotton exporting State status. Since the agreement took effect, we have increased cotton exports to Mexico from 558,000 bales to 1.5 million bales in 2000.

Some people fear that trade will hurt the United States because they believe we will end up lowering barriers more than our trading partners. This is a legitimate question, but the fact is that the United States is already generally very low in barriers compared to our trading partners. For example, the average U.S. tariff on machinery imports is 1.2 percent, while foreign tariffs on U.S.-made machinery in countries such as Indonesia, India, Argentina, and Brazil are 30 times higher. By negotiating trade agreements, such as Free Trade Area of the Americas, the benefits we will receive by lowering those high barriers to our goods and services far outweigh the effect of lowering our very small tariffs.

Another fear is the extent to which lowering barriers to the U.S. market will cause job losses as companies move manufacturing overseas. This could happen, but we do have superior quality and work ethic—that is undeniable. Beyond that, however, we must consider the extent to which we are already losing jobs to overseas plants because of the high barriers to our goods.

Some countries try to attract manufacturing jobs by raising barriers to imports. This forces companies that would otherwise have production facilities in the United States and then export their products to build plants in

ANDEAN TRADE PREFERENCE ACT—MOTION TO PROCEED—Continued

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I rise to talk about the trade promotion authority legislation that is before the Senate.

America has the most productive, creative workforce in the world. Our industries are diverse. Our products are second to none. Now we must expand our reach to bring more of these goods and services to the global marketplace by passing trade promotion authority legislation.

Trade promotion authority had been used since President Ford's administration to implement trade agreements until it lapsed in 1994. The President has not had this trade promotion authority since 1994. If America is going to increase trade opportunities around the world, Congress needs to pass this legislation so the President has the ability to negotiate trade agreements with the knowledge that, while Congress retains its right to approve or reject a treaty, it will not try to amend or delay it.

Without this legislation, foreign governments may not be willing to sit at the negotiation table with the United States, knowing that they may put all of this time into a negotiation that would then be delayed or changed by Congress.

Ninety-six percent of the world's consumers live outside of the United States, representing a vast potential market for American exports. Unfortunately, other countries are moving forward in promoting trade while we are standing on the sidelines. While we delay, other countries are entering into agreements that exclude us. Our competitors in Europe, Asia, and Latin America have sealed more than 130 free trade compacts. Yet we are party to only three—Jordan, Israel, and NAFTA with Mexico and Canada. Again, there are 130 free trade agreements in the world and the United States is a party to only 3 of those.

A lack of free trade agreements puts American exporters at a significant disadvantage. For example, a \$180,000 tractor made in America and shipped to Chile incurs about \$15,000 in tariffs and duties upon arrival. That same