

President Bush's nominees to the Federal courts in Pennsylvania will have been confirmed, more than for any other State except California.

With this confirmation, President Bush's nominees will make up 16 of the 41 active Federal circuit and district court judges for Pennsylvania—that is more than one third of the Pennsylvania Federal bench. With the additional four Pennsylvania district court nominees pending on the floor and likely to be confirmed soon, nearly half of the district court seats in Pennsylvania will be held by President Bush's appointees. Republican appointees will outnumber Democratic appointees by nearly two to one.

This is in sharp contrast to the way vacancies in Pennsylvania were left unfilled during Republican control of the Senate when President Clinton was in the White House. Although Republicans now decry Democratic filibusters of a mere handful of the most extreme nominees, Republicans denied votes to nine district and one circuit court nominees of President Clinton in Pennsylvania alone. Despite the efforts and diligence of the senior Senator from Pennsylvania, Mr. SPECTER, to secure the confirmation of all of the judicial nominees from every part of his home State, there were ten nominees by President Clinton to Pennsylvania vacancies who never got a vote. Despite how well-qualified these nominees were, many of their nominations sat pending before the Senate for more than a year without being considered. Such obstruction provided President Bush with a significant opportunity to shape the bench according to his partisan and ideological goals.

Recent news articles in Pennsylvania have highlighted the way that President Bush has been able to reshape the Federal bench in Pennsylvania. For example, the Philadelphia Inquirer, on November 27, 2003, said that the significant number of vacancies on the Pennsylvania courts "present Republicans with an opportunity to shape the judicial makeup of the court for years to come."

Democratic support for the confirmation of Franklin Van Antwerpen is yet another example of our extraordinary cooperation despite an uncompromising White House and the record of how President Clinton's Pennsylvania nominees fared under Republican control in the Senate. In contrast to many of President Bush's nominees, Judge Van Antwerpen comes to us with a distinguished and widely acclaimed career on the bench—both on the State and Federal levels. He was rated unanimously well-qualified by the American Bar Association and has the respect of his peers on the bench and of the attorneys who appear before him. He is the kind of nominee this President and my Republican colleagues should be looking for as we fulfill our constitutional duty of appointing members to the Federal judiciary—an independent branch of the government.

I congratulate Judge Van Antwerpen and his family on his confirmation today.

The PRESIDING OFFICER. All time is yielded back.

The question is, Will the Senate advise and consent to the nomination of Franklin S. Van Antwerpen, of Pennsylvania, to be United States Circuit Judge for the Third Circuit?

Mr. LEAHY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second. The clerk will call the roll.

The bill clerk called the roll.

Mr. McCONNELL. I announce that the Senator from Texas (Mrs. HUTCHISON) and the Senator from Alabama (Mr. SESSIONS) are necessarily absent.

Mr. REID. I announce that the Senator from Massachusetts (Mr. KERRY) and the Senator from Georgia (Mr. MILLER) are necessarily absent.

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

The result was announced—yeas 96, nays 0, as follows:

(Rollcall Vote No. 103 Ex.)

YEAS—96

Akaka	DeWine	Lieberman
Alexander	Dodd	Lincoln
Allard	Dole	Lott
Allen	Domenici	Lugar
Baucus	Dorgan	McCain
Bayh	Durbin	McConnell
Bennett	Edwards	Mikulski
Biden	Ensign	Murkowski
Bingaman	Enzi	Murray
Bond	Feingold	Nelson (FL)
Boxer	Feinstein	Nelson (NE)
Breaux	Fitzgerald	Nickles
Brownback	Frist	Pryor
Bunning	Graham (FL)	Reed
Burns	Graham (SC)	Reid
Byrd	Grassley	Roberts
Campbell	Gregg	Rockefeller
Cantwell	Hagel	Santorum
Carper	Harkin	Sarbanes
Chafee	Hatch	Schumer
Chambliss	Hollings	Shelby
Clinton	Inhofe	Smith
Cochran	Inouye	Snowe
Coleman	Jeffords	Specter
Collins	Johnson	Stabenow
Conrad	Kennedy	Stevens
Cornyn	Kohl	Sununu
Corzine	Kyl	Talent
Craig	Landrieu	Thomas
Crapo	Lautenberg	Voinovich
Daschle	Leahy	Warner
Dayton	Levin	Wyden

NOT VOTING—4

Hutchison
Kerry

Miller
Sessions

The nomination was confirmed.

Mr. WARNER. Mr. President, I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

LEGISLATIVE SESSION

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

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2005—Continued

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. I join with my colleague in requesting Senators to send in as many amendments as they possibly can. The Senator from Michigan and I will be here tomorrow in hopes that we can clear amendments. There are days when clearances could be facilitated. I think tomorrow is one of those days.

I say to my good colleague, the Senator from Michigan, Mr. LEVIN, am I correct in that?

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. I say to my good friend from Virginia, he is absolutely not only correct but I would join his plea to our colleagues that we make good use of time tomorrow. If Senators are not here, their staff can deliver amendments so at least we can begin to consider them. We can make good use of tomorrow so when we come back we will have to use up less of the Senate's time.

So I join the chairman's plea that Members on both sides of the aisle, who have not filed amendments or given our staffs amendments, do that tomorrow. Let us try to work through some of them. We could clear them tomorrow and, even if we do not have contested amendments tomorrow, we could make some progress on this bill.

Mr. WARNER. I thank my colleague.

The distinguished Senator from Nevada, the Democratic whip, pointed out that he has a count of over 100-odd amendments with which we have to deal. So there is a formidable task ahead of us.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. GRAHAM of South Carolina. The reason I speak as we close out this evening is to comment on a few things about the amendment pending before the Senate in regard to an effort to do two things: to make sure the \$350 million that is available for the Department of Energy to provide cleanup in the States of Washington, Idaho, and South Carolina can move forward without any strings attached, and to ratify an agreement that the State of South Carolina has entered into with the Department of Energy concerning 51 tanks containing high-level waste.

I really do very much like my colleague from Washington, Senator CANTWELL, but we dramatically disagree on this. I cannot emphasize how dramatically we do disagree about what is at stake and what we are trying to accomplish.

My senior Senator from South Carolina could not have been possibly better to me since I have been in the Senate almost 18 months now. He is going through some accusations that I find not consistent with who Senator HOLLINGS is. I am not going to dwell on that, but I believe that most of us who