

RECESS

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

Thereupon, the Senate, at 12:48 p.m., recessed until 2:16 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. INHOFE).

Mr. HATCH. Mr. President, I rise to address the nomination of Judge Ronnie Lee White, of Missouri, to the United States District Court for the Eastern District of Missouri. We have heard thorough discussions of the nominee by the distinguished Senators from Vermont and from Missouri. In coming to my decision on this nominee, I have considered the fairness of the process under which Judge White has been reviewed, the deference due to the President, and the deference due to the Senators from the nominee's home State. This is a very difficult case.

As chairman of the Judiciary Committee, I have conducted thorough hearings and reviewed nominees in a fair and even-handed manner. As a result, we have seen a hearings process that does not include personal attacks on nominees and that maintains the institutional integrity of the Senate. On numerous occasions, even when several of my Republican colleagues voted against nominees, I maintained a fair process free from personal attacks on nominees. This was the case with Judge White. The committee held a fair and objective hearing on Judge White and thoroughly reviewed his record.

In considering any nomination, I believe that the President, in whom the Constitution vests the nominations power, is due a large degree of deference. Even though there are a large number of the President's nominees that I would not have nominated had I been President, I have supported these nominees in obtaining a floor vote because in my view, the Constitution requires substantial deference to the President.

Of course, the more controversial a nominee is, the longer it takes to garner the consensus necessary to move such a nominee out of committee. Such is the case with Judge White. I supported Judge White coming to the floor on two occasions. In the last vote in committee, no fewer than six of my Republican colleagues voted against reporting Judge White to the floor. At that point, however, I gave the President the deference of allowing a vote on his nominee and voted to report Judge White.

I must say that I am deeply disappointed by the unjust accusations from some that this body intentionally delays nominees, such as Judge White, based on their race. As the administration is well aware, it is not a nominee's race or gender that slows the process down, but rather the controversial nature of a nominee based on his or her record.

Indeed, nominees such as Charles Wilson, Victor Marrero, and Carlos Murguía, minority nominees, and Marryanne Trump Barry, Marsha Pechman, and Karen Schrier, female nominees, had broad support and moved quickly through the committee and were confirmed easily on the floor. And, although the committee does not keep race and gender statistics, a brief review of the committee's record so far this session shows that a large proportion of the nominees reported to the floor and confirmed consists of minorities and women. I categorically reject the allegation that race or gender, as opposed to substantive controversy, has ever played any role whatsoever in slowing down any nominee during my tenure as chairman.

After a fair and thorough review in committee and after paying the deference to the President to obtain a vote on the floor, I consider the position of a nominee's home State Senators. These Senators are in a unique position to evaluate whether a nominee instills the confidence in the people of a State necessary to be a successful Federal judge in that State. This is especially true for a district judge nominee whose jurisdiction, if confirmed, would be wholly limited to that particular State. Thus, there has developed a general custom and practice of my giving weight to the Senators from a nominee's home State.

There have been several instances where—notwithstanding some serious reservations on my part—I voted to confirm district court nominees because the Senators from the nominees home State showed strong, and in some cases, bipartisan support. The nominations of Keith Ellison, Allen Pepper, Anne Aiken, Susan Mollway, and Margaret Morrow are examples of where I supported contested district court nominees and relied on the view of the home-State Senators in reaching my decision.

While I have harbored great concerns on the White nomination, I withheld my final decision until I had the benefit of the view of my colleagues from Missouri. I was under the impression that one of my colleagues might actually support the nomination, so I felt that the process should move forward—and it did.

Since the committee reported Judge White to the floor of the Senate, however, both of the Senators from Missouri have announced their opposition to confirming Judge White. Also, since the committee reported this nominee to the floor, the law enforcement community of Missouri has indicated serious concerns, and in some cases, open opposition to the nomination of Judge Ronnie White. And indeed, I have been informed that the National Sheriffs Association opposes this nomination. Opposition is mounting and it would perhaps be preferable to hold another hearing on the nomination. But if we must move forward today, it is clear to me that Judge White lacks the home-

State support that I feel is necessary for a candidate to the Federal district court in that State.

For me, this case has been a struggle. On the one hand, Judge White is a fine man and the President is due a fair amount of deference. On the other hand, we are faced with the extremely unusual case in which both home State Senators, after having reviewed the record, are opposing this nomination on the floor.

Of course, had the President worked more closely with the two Senators from Missouri and then nominated a less problematic candidate, we would not be in this predicament. But the President did not.

When a nominee has a record of supporting controversial legal positions that call into question his, or her, respect for the rule of law, it takes longer to gain the consensus necessary to move the nominee. When the President has not adequately consulted with the Senate, it takes longer to gain the consensus necessary to move the nominee. And when both home State Senators of a nominee oppose as nominee on the floor of the Senate, it is almost impossible to vote for the confirmation of that nominee.

Regretfully, such is the case with Judge White. Judge White has written some controversial opinions, especially on death penalty cases that have caused some to question his commitment to upholding the rule of law. The President has not garnered broad support for Judge White. And both Senator ASHCROFT and Senator BOND oppose this nomination. It would have been better for all parties concerned—the President, the Senate, the people of Missouri, and Judge White, had we been able to reach this decision earlier. But I cannot rewrite the past.

After a painstaking review of the record and thorough consultation with the nominee's home State Senators, I deeply regret that I must vote against the nomination of Judge White. This is in no way a reflection of Judge White personally. He is a fine man. Instead, my decision is based on the very unusual circumstances in which the President has placed this body. I must defer to my colleagues from Missouri with respect to a nominee whose jurisdiction, if confirmed, would be wholly limited to that State.

I call on the President to nominate another candidate for the Eastern District of Missouri. He should do so, however, only after properly consulting with both Missouri Senators and thus respecting the constitutional advice and consent duties that this body performs in confirming a nominee who will serve as a Federal judge for life.

Mr. BOND. After discussing this difficult decision with Missouri constituents, the Missouri legal community, and the Missouri law enforcement community, I have determined that Ronnie White is not the appropriate candidate to serve in a lifetime capacity as a U.S. district judge for eastern Missouri.

The Missouri law enforcement community, whose views I deeply respect, has expressed grave reservations about Judge White's nomination to the Federal bench. They have indicated to me their concern that Judge White might use the power of the bench to compromise the strength of law enforcement efforts in Missouri.

Given the concerns raised by those in Missouri's law enforcement community, who put their lives on the line on a daily basis, and those in Missouri's legal community, who are charged with protecting our system of jurisprudence, I am compelled to vote against Judge White's confirmation.

Mr. SMITH of New Hampshire. Mr. President, I am opposed to the nominations of Raymond Fisher to the United States Court of Appeals for the Ninth Circuit and Ronnie White to the Eastern District of Missouri.

Our judicial system is supposed to protect the innocent and ensure justice, which is what it has done for the most part for over 200 years. However, there have been glaring exceptions: the Dred Scott decision, which ruled that blacks were not citizens and had no rights which anyone was bound to respect, and Roe versus Wade, which similarly ruled that an entire class of people, the unborn, are not human beings and therefore are undeserving of any legal protection.

Both decisions, made by our Nation's highest court, violated two key constitutional provisions for huge segments of the population. Dred Scott, which legally legitimized slavery, deprived nearly the entire black population of the right to liberty, while Roe has taken away the right to life of 35 million unborn children since 1973. Both created rights, the right to own slaves and the right to an abortion, that were not in the Constitution. Of course, both are morally and legally wrong. Sadly, only Dred has been overturned, by the 13th and 14th amendments. Congress and the courts have yet to reverse Roe.

The only requirement, the only standard that I have for any judicial nominees is that they not view "justice" as the majorities did in Dred Scott and Roe, and that they uphold the standards and timeless principles so clearly stated in our Constitution.

Unfortunately, I do not believe that Mr. White and Mr. Fisher meet those critical standards. During the committee hearings, Mr. Fisher fully indicated to me that he would uphold the constitutional and moral travesties of Roe and Planned Parenthood versus Casey. Mr. White has also given answers which strongly suggest that he believes Roe was correctly decided by the Supreme Court. In addition, Mr. White's dubious actions as chairman of a Missouri House committee when a pro-life bill was before it further proves that he would enthusiastically enforce the pro-abortion judicial decree of Roe versus Wade.

The Framers of our Constitution believed we are endowed by our Creator

with certain unalienable rights. Roe not only violates the 5th and 14th amendments, it violates the first and most fundamental right that we have as human beings and no court, liberal or conservative, can take away that right.

As a U.S. Senator, I recognize the awesome responsibility that we have to confirm, or deny, judicial nominees. I recognize the solemn obligation that we have to make sure that our Federal courts are filled only with judges who uphold and abide by the transcendent ideals explicitly stated in our Constitution and the Bill of Rights. The judges we confirm or deny will be among the greatest and far-reaching of our legacies, and I for one do not ever want my legacy to be that I confirmed pro-abortion judges to our Nation's courts.

This is why I will not support the nominations of Mr. White and Mr. Fisher. I will not support any judges who deny the undeniable connection that must exist, in a free and just civilization, between humanity and personhood. Our judges should be the very embodiment of justice. How can we then approve of those who will deny justice to most defenseless and innocent of us all?

But, further, I would add that these nominees propose a more general concern in that they are liberal activists. In the case of Justice White, who now serves on the Supreme Court in Missouri, he has demonstrated that he is an activist, and has a political slant to his opinions in favor of criminal defendants and against prosecutors. It is my belief that judges should interpret the law, and not impose their own political viewpoints.

He is strongly opposed by the law enforcement community in Missouri, and was directly opposed by the Missouri Association of Police Chiefs due to his activist record.

Senator ASHCROFT spoke in more detail about Justice White's activist record. Coming from the same State, Senator ASHCROFT is in an even better position to comment on Justice White's record. But, he laid out a very disturbing record of judicial activism in Justice White's career, particularly on law and order matters, and I simply do not think that this is the kind of person we need on the U.S. District Court.

With regard to Mr. Fisher, this is a critical slot because of the nature of the Ninth Circuit. This circuit has gained such a bad reputation for its liberal opinions that it has been referred to as a "rogue" circuit. It is controlled by an extreme liberal element and it is important that our appointments to this circuit be people who can restore at least some level of constitutional scrutiny.

In the case of Mr. Fisher, this clearly will not be the case. He is not a judge, and therefore, there is not the kind of judicial paper trail that we have with Justice White. However, he has a long record of liberal political activism for

causes that run contrary to the Constitution. If he is willing to thwart the Constitution in his political activism, what makes us think he will uphold it in his judicial opinions. He took an active role in supporting the passage of proposition 15 in California regarding registration of handguns. This kind of hostility to the second amendment will not make matters any better on the Ninth Circuit. He very actively supported employment benefits for homosexual partners, and I found him to be very evasive in his responses to questions during the Committee hearings. Given the importance of this circuit and its demonstrated bias toward the left, this nominee, who himself is a liberal activist, is not the right person to help restore some constitutionality to this circuit.

So, I would urge my colleagues to vote against these two judges. We have sworn duty to support and defend the Constitution. This is never more critical than when we exercise our advise and consent role for judicial nominees.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

NOMINATION OF RONNIE L. WHITE

The PRESIDING OFFICER. Under the previous order, the hour of 2:15 having arrived, the Senate will now go into executive session and proceed to the vote on Executive Calendar Nos. 172, 215 and 209 which the clerk will report.

The legislative clerk read the nomination of Ronnie L. White, of Missouri, to be United States District Judge for the Eastern District of Missouri.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I ask unanimous consent that it be in order to ask for the yeas and nays on each nomination with one showing of hands.

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

Mr. HATCH. I now ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

The yeas and nays were ordered.

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

The legislative assistant called the roll.

Mr. NICKLES. I announce that the Senator from Florida (Mr. MACK) is necessarily absent.

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

The result was announced—yeas 45, nays 54, as follows: