

out tomorrow—who are going to say we want to have our own little package. We want to have it our way. We can't consider other amendments. We will have it our way or we will pull the bill down.

Tomorrow, when we vote on this—and I expect we will be voting on it at maybe 10:30 or 11:30 tomorrow—I urge our colleagues to vote no on the cloture vote and let us consider these amendments.

We are more than willing on this side to have a limitation on amendments. For anybody on the other side of the aisle to say Republicans are filibustering this bill is totally false. People are entitled to their own opinions, but they are not entitled to their own facts. We are willing to consider these amendments. We are willing to enter into time limits on these amendments. We are willing to pass this bill tomorrow night—tomorrow night. We are willing to finish this package. Let's just allow our colleagues to have votes on their amendments that they believe would stimulate the economy, and we will vote on amendments, as our Democrat friends have offered, to spend more money.

Let's vote on both. Let's vote on these amendments. Let's see how the votes come out and let's pass a bill. Let's pass a bill that would help the economy. Let's pass a bill that would create jobs. I hope we will.

I urge my colleagues to vote no on the cloture vote. Let's allow these amendments to have their fair day in the Senate. People worked hard on these amendments. They may well do some good.

I looked at several of these that were offered on the Republican side, some of which—several of which have Democrat cosponsors—that I think could help the economy. So I would love for our colleagues to get a chance to vote on these amendments.

We will be very cooperative working with the majority leader and others on the Democrat side to limit amendments, to try to see if we cannot get a stimulus bill that would actually help the economy.

I yield the floor.

JUDICIAL CONFIRMATIONS

Mr. HATCH. Madam President, earlier today I spoke with praise for the way in which the Chairman of the Judiciary Committee and the Democratic Leader have been handling judicial nominations in the past few weeks. One of the reasons I did so was that I detected, in a speech 11 days ago, the possibility that the Judiciary Committee may be headed in a new direction as we begin a new Session of Congress. I sensed a chance that, after eight months of Democratic control, the leaders were growing beyond their previous role of critics focused on the past. I perceived that the leaders might now understand the value of looking forward through the windshield rather

than steering a course with their eyes glued to the rear-view mirror.

I have not given up this hope; it is still early enough to start this Session out on the right foot. But I now have some reason to question my optimism. Comments were made here on the floor earlier today that have put me in the position, once again, of having to set the record straight on a number of events that occurred between 84 and 14 months ago. I do not regard this recurring debate over the past as germane to the present or important to our course for the future. Nevertheless, I am compelled to make sure that the historical record is correct.

One comment that particularly surprised me was the attempt to blame the previous, Republican-controlled Senate for the creation of the current number of judicial vacancies. The fact is that the Republican Senate confirmed essentially the same number of judges for President Clinton, 377, as the Republican Senate did for President Reagan, 382, so there is simply no basis for the Democrat's allegations. Interestingly, the Democrats who controlled the Senate during the first President Bush's Administration left more judicial vacancies and allowed more nominees to go without Senate action when the first President Bush left office than the Republicans did when President Clinton left office. The bottom line is that, at the close of the 106th Congress, there were only 67 vacancies in the Federal judiciary. In the space of one Democratic-controlled congressional session, that number had shot up to nearly 100.

How did this happen? The answer is simple: The pace of hearings and confirmations under the Democratic-controlled Senate last year did not keep up with the pace of vacancies. We were moving so slowly that we were actually falling behind. When our friends across the aisle took control of the Senate on June 5 of last year, President Bush had already sent 18 judicial nominees to the Senate. All told for the year, President Bush nominated 66 highly qualified individuals to fill vacancies in the federal judiciary. But rather than focusing on the work ahead, our Democratic colleagues looked back at the year 1993 to mimic the old route taken then. After delaying their first nominations hearing by over a month, during which time they held numerous hearings on other matters, our Democratic colleagues confirmed precisely 28 judges, exactly one more federal judge than President Clinton saw confirmed during his first year in office. This transparent tit-for-tat exchange of confirmations is rear-view-mirror driving at its worst.

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. Eight of the first eleven judges that President Bush nominated on May 9 of last year have still not even had a hearing. In contrast, there were only 2 Circuit Court nominees at the end of President Clinton's first year left in Committee.

If the Democratic leaders can take their eyes off the rear-view-mirror and take a look at what is ahead, they will see the rather obvious need to speed up the pace of hearings and votes on judicial nominees. We have lots of work to do. There are 98 vacancies in the federal judiciary, a vacancy rate of nearly 12 percent. We have 58 nominees pending in the Senate. Twenty-three of those nominees are slated to fill positions which have been declared judicial emergencies by the Administrative Office of the Courts. Of those, 13 are court of appeals nominees. Particularly important are those areas with a high concentration of judicial emergencies, such as the 4th Circuit Court of Appeals with 2 nominees; 5th Circuit Court of Appeals, where 2 nominees are pending; the 6th Circuit Court of Appeals with 7 nominees pending; and the District of Arizona, where 2 nominees are pending. Let's roll up our sleeves and get to work on these.

Another issue that was raised today was the role of the White House in this process. The fact is that the Bush administration has worked more closely with home State senators than any other administration since I have been in the Senate. Now, I know there were a couple of instances very early last year where communication could have been better, but that is bound to happen with a brand new administration. Since that time, the Bush White House has been making unusually great efforts to consult with home State senators prior to making nominations. I do not know exactly from where the complaints, if any, are coming, but I have a suspicion that some of my colleagues are forgetting the difference between the President's power to make nominations, and the Senate's role to provide advice and consent. Some Senators may wish they could exercise the President's constitutional role instead of their own, but there is no reason to blame the White House for sticking with the allocation of power established by the Framers. If there are any real problems, I invite my colleagues to let me know about them, and I pledge to do my utmost to assist in working through them.

Today's comments concerning the need for more "consensus nominees" from the White House are ironic in light of my colleague's discussion of several specific Clinton nominees for the districts in Texas. My colleague rhetorically asked why those nominees did not get a hearing, but he knows full well that at least a couple of the situations he mentioned were caused by serious problems created by the Clinton Administration's lack of consultation with, and failure to obtain the support of, home State senators.

In contrast, President Bush's nominees, with only a couple of early exceptions, as I noted, enjoy the full support of both home State senators. We should hold hearings and votes on those without delay. Let me mention one in particular that means a great deal to me: Michael McConnell, a nominee for the Tenth Circuit Court of Appeals.

Professor McConnell is a consensus pick not only between his home State Senators but also among many others who know his scholarship, his temperament, and his commitment to the rule of law. His nomination has been applauded by legal scholars and lawyers from across the political spectrum. Professors Laurence Tribe, Charles Fried, Cass Sunstein, Akhil Amar, Larry Lessig, Sanford Levinson, Douglas Laycock, and Dean John Sexton are among those who have praised McConnell's integrity, ability, and fairminded approach to legal issues. He enjoys broad support among the bar and the academy in his home State of Utah.

On a broader level, McConnell is regarded as fairminded and nonpartisan. He publicly opposed the impeachment of President Clinton, and wrote in support of the position taken by Justices Souter and Breyer in *Bush v. Gore*. He was part of the volunteer legal team that successfully defended Chicago Mayor Harold Washington, the city's first African American mayor, in a dispute with the Board of Aldermen. McConnell wrote an article in the *Wall Street Journal* suggesting the nomination of Stephen Breyer to the Supreme Court, and supported a number of Clinton judicial nominations. These facts are among the reasons that McConnell's appointment has been praised by a number of former Clinton administration officials, including Acting Solicitor General Walter Dellinger, Deputy White House Counsel William Marshall, Domestic Policy Advisors Bill Galston and Elena Kagan, and Associate Attorney General John Schmidt.

Professor McConnell is best known in academic circles for his scholarship in the area of Free Exercise. He has generally sided with the "liberal" wing of the Supreme Court on this issue, arguing for a vigorous protection for the rights of religious minorities. In one opinion, Supreme Court Justice Antonin Scalia described McConnell as "the most prominent scholarly critic" of Scalia's more limited view of Free Exercise rights. In the related area of Establishment of Religion, McConnell has argued that religious perspectives should be given equal—but not favored—treatment in the public sphere. Thus, he has testified against a School Prayer amendment, while supporting the rights of religious citizens and groups to receive access to public resources on an equal basis. This record indicates a thoughtful and principled approach that is worthy of great respect from all sides. Professor McConnell will be a careful, thoughtful and unquestionably fair judge when he is confirmed to the Tenth Circuit. We

should have voted to confirm him last summer. There is certainly no reason to put off his hearing any further.

As I said at the beginning of my remarks, I am optimistic that the committee will continue the good start we have made in the past 2 weeks. There is no reason not to. We have plenty of work ahead of us. For those who look to the past for guidance, note that in 1994, the second year of President Clinton's first term, the Senate confirmed 100 judicial nominees. I am confident that Republicans and Democrats can work together to achieve, or even hopefully exceed, 100 confirmations in 2002—President Bush's second year in office. I look forward to working together with Chairman LEAHY and my colleagues on both sides of the aisle to accomplish this goal.

THE DISASTER IN NIGERIA

Mr. FEINGOLD. Madam President, I rise to express my concern regarding recent events in Nigeria. On January 27, an armory of the Nigerian military located within the massive city of Lagos erupted in a series of explosions, prompting desperate residents to flee the area. Reports indicate that more than 1,000 Nigerians were killed that night, many trampled to death or drowned in nearby canals as they tried to escape the disaster. Many of those who escaped with their lives lost their possessions and remain displaced. Disturbingly, reports quickly surfaced suggesting that child traffickers attempted to take advantage of the tragedy, raising questions about the fate of the missing. The entire episode, is horrifying, and my deepest sympathies go out to the families of the area.

But, I fear that this incident, whatever its precise cause, is only one more in a series of horrors visited on the Nigerian people. My colleagues have undoubtedly read about soaring levels of communal violence in this critically important African state. Such violence now grips parts of Lagos, adding to the sense of insecurity and fear in a city that just suffered such a terrible series of blasts. Yet sadly, reports of fighting in Lagos sound all too familiar, given recent history in Jos, in Kano, in Nasarawa, in Bauchi, and in the delta region.

In some cases, the government failed to act. For example, Human Rights Watch recently released a report indicating that the Nigerian authorities could have done more to prevent the massacres in Jos in September, where as many as a thousand Nigerians may have been killed in one week.

Yet in other cases, security forces have turned on civilians, as is alleged to have happened in Benue in October. Consistent and reliable reports indicated that many unarmed civilians were killed and a great deal of private property destroyed when members of the armed forces sought revenge for the murder of their fellow soldiers by a local militia group. The facts sur-

rounding this incident are still in dispute, but coming in the wake of the 1999 incident in Odi, where the Nigerian military massacred hundreds of civilians, this incident calls into question the wisdom of continued engagement with the Nigerian military. If that force is truly committed to reform, those responsible for killing civilians in Benue must be held accountable for their actions.

In addition, the manner in which sharia, or Islamic law, is being implemented in parts of northern Nigeria calls into question the country's commitment to fundamental and universal human rights. The case, recently highlighted by the *New York Times*, of a woman sentenced to be stoned to death after having been found guilty of adultery, raises a number of important questions. In her case, her pregnancy was evidence of her guilt in the eyes of the court, although the alleged father of the baby was set free after the same court concluded it lacked sufficient evidence to prosecute him. The relationship between the court's decision, the sentence, and the protections contained in Nigeria's constitution is utterly unclear. The Nigerian government's silence on these pressing issues is baffling.

It is not my intention to encourage pessimism about Africa in this body. And no one wants Nigeria's democracy to succeed more than I do. But all is not well in Nigeria, and we do our Nigerian partners no favors when we pretend that the situation is better than it is. The Nigerian people want what all people want—a chance to improve their lives and the lives of their children. It is no surprise that many are dissatisfied, as it is hard to seize opportunities in a context of violence and corruption. Elections were an important first step in Nigeria's transition from the dark days of military rule. But for too many Nigerians, the days are still quite dark.

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Madam President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of last year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred in March 1996 in La Verne, CA. The president of a gay students' organization was attacked by two men. The assailants, Eric Britton, 20, and David Riffle, 19, were each charged with battery and civil rights violations in connection with the incident.

I believe that government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe