

country than the FARC? Can the military be made to see their oft-times allies, the AUC, as terrorists to be fought as aggressively as the FARC? Should we send an envoy of the caliber of Richard Holbrooke to push for a cease fire, and actively support a much more inclusive negotiating strategy than was pursued previously? What about attacking the security problems that have given rise to the AUC, by strengthening Colombia's National Police, who have a cleaner human rights record and who may be more effective in responding to kidnappings and other terrorist acts?

We want to help Colombia, particularly as the FARC has evolved from a rebel movement with a political ideology to a drug-financed terrorist syndicate. But we and the Colombians need to be clear about our goals and what it would take to achieve them. We should not commit ourselves to a costly policy that is fogged with ambiguity, and we should not subvert our other objectives of promoting the rule of law, protecting human rights, and supporting equitable economic development. Goal-setting should also be coordinated, after the elections in May, with Colombia's new president, who may favor an entirely different approach.

Finally, just as Colombians need to take far more responsibility for their own problems, Colombia cannot solve America's drug problem. Too often, we unfairly blame Colombia, and the other Andean nations, for the epidemic of drug addiction in our own country. Our meager attempts to reduce demand for drugs have failed, and unless we devote far more effort to what we know works—education and treatment—the drugs will keep coming and Americans will keep dying.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SPECTER. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

JUDICIAL NOMINATIONS

Mr. SPECTER. Madam President, I thank the Chair and I thank my colleague from Vermont for awaiting my arrival. We have just been at a news conference on the introduction of legislation on nuclear transplants. There were many questions beyond what we had anticipated. I did want to have an opportunity to appear briefly in support of these two nominees who are from my state.

NOMINATION OF CYNTHIA M. RUFÉ

The nomination of Judge Cynthia Rufe comes to this floor after having been approved unanimously by the Judiciary Committee. She has an excellent educational background: A bachelor's degree from Adelphi University, a J.D. from the State University of

New York. She has extensive experience in the private practice of law. She was in the public defender's office for some 5 years. She has been solicitor in her home county, Bucks County, PA, and has been a judge on the State Court of Common Pleas from 1994 to the present. She presides over the Criminal Court, Juvenile Court and Protection From Abuse cases.

Prior to her election to the position of judge in 1993, she maintained law offices in Newtown, Pennsylvania practicing civil and criminal litigation, family law and specializing in child abuse cases.

Before entering private practice in 1982, Judge Rufe served Bucks County as Deputy Public Defender, coordinating that office's Juvenile Division.

She also served as Solicitor for the Bucks County Children and Youth Social Services Agency for four years.

The Pennsylvania Supreme Court has appointed Judge Rufe to sit on the Appellate Procedural Rules Committee. She also serves the Pennsylvania Conference of State Trial Judges on their Judicial Education, Juvenile Court and Corrections Committees.

In addition, she served on a Federal task force to improve the quality of mental health treatment and services for female inmates in the Bucks County jail system.

Judge Rufe has been an active member of several community agencies related to the improvement of youth, families, and drug and alcohol issues, including serving as a member of the Board of Directors of Youth Services, Inc.; Organization to Prevent Teenage Suicide, Inc.; Reaching-at-Problems, Inc. Group Home; and Prevention and Rehabilitation for Youth and Development, Inc.

Judge Rufe has received countless awards from various women law organizations in the Commonwealth of Pennsylvania.

NOMINATION OF MICHAEL M. BAYLSON

Michael Baylson is a man I have known since 1965. He was one of the first people I appointed as an assistant district attorney when I was elected in 1965. I have known him intimately for the course of the past 37 years. I can attest to his capability.

He is a graduate of the University of Pennsylvania, with both a Bachelor of Science and a law degree. Beyond serving as an assistant district attorney in my office, where he was chief of the homicide division, and he handled some of the most complicated criminal prosecutions known, he later served as a U.S. attorney from 1988 to 1993. He has been a senior partner in the distinguished Philadelphia law firm of Duane, Morris & Heckscher, working on some very tough litigation matters in the areas of commercial and securities litigation and antitrust law.

Mr. Baylson served as United States Attorney for the Eastern District of Pennsylvania from 1988 to 1993. He was heavily involved in the Weed and Seed Program.

From 1966 to 1969, he was an assistant district attorney in the Philadelphia District Attorney's Office, where he served as chief of the Narcotics and Homicide Divisions.

He is the chair of the Specialization Committee and past chair of the State Action Exemption and Noerr Doctrine Committee of the Antitrust Law Section of the American Bar Association, and is a fellow of the American Bar Foundation.

He has also been on the faculty of the University of Pennsylvania Law School.

He received the United States Department of Treasury's U.S. Attorneys award for Distinction in Financial Management, 1993; Attorney General's Special Commendation Award, 1993; Inspector General's Prospective Leadership Award, U.S. Health and Human Services, 1992; and the Distinguished Service to Law Enforcement Award from the County and State Detectives Association of Pennsylvania, 1992.

Baylson has provided pro bono services to prisoners asserting civil rights violations and has represented defendants accused of crimes on a pro bono basis.

Madam President, while my colleague from Vermont is still in the Chamber, I want to make a comment or two about some discussions he and I have had, and which I have had with other members of the Judiciary Committee. It is my hope that we will be able to agree on a protocol of where we can come to an agreement in the Judiciary Committee, and really in the full Senate, as to how we handle judicial nominations.

We have seen recurrent problems when we have a Republican President and a Senate controlled by the Democrats. When the shoe was on the other foot, we had a President who was a Democrat and the Senate was controlled by Republicans. Before that, we had a Republican President and the Senate was controlled by Democrats.

So that in my Senate tenure we have had three situations where the White House and the Senate were controlled by different parties.

When there is debate about what has happened and how long the nominations have taken, although I have been here and followed the situation closely, I get lost in the statistics. I think the American people do too.

I do believe there have been failures on both sides, by both parties. I think the time has come to move beyond re-creation and to try to establish a protocol. Hopefully this protocol will provide for a certain number of days after a nomination has been submitted to be accorded a hearing, so many days later for a markup in an executive session, so many days later to be considered by the full Senate. Delays could occur at the discretion of the chairman of the committee, after consultation with the ranking member—not the concurrence of the ranking member but the consultation—similarly with the

majority leader, with consultation with the minority leader.

I wanted to make those comments because one might say it is hard for the issue to disintegrate further, but I do see it disintegrating further. On May 9, we are going to have a one year anniversary of the submission of eight circuit judges, and I hope we do not have dueling press conferences. I hope we are able to work this out where we will have rules and a protocol established, regardless of who controls what.

Again, I thank the Chair for sitting overtime and I thank my colleague from Vermont for staying overtime.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Madam President, I am always happy for the cooperation of the Senator from Pennsylvania, and I do compliment him on the two judges who will be confirmed today, recommended by him, and his efforts to get a consensus for them. I am well aware we can have dueling press conferences.

I have mentioned a number of courts of appeals judges were heard out of order at the request of Republican Senators, and I am sure if some of those same Senators were then to speak of the fact that some of the judges, their own nominees especially, were heard ahead of others, that they would see delicious irony in that.

I know we are supposed to recess. I yield the floor.

NOMINATION OF MICHAEL BAYLSON

Mr. HATCH. Madam President, I rise in support of the confirmation of Mr. Michael Baylson to the District Court of Eastern Pennsylvania. Mr. Baylson is another fine example of the qualified attorneys President Bush has named to the federal bench, and I am convinced based on his record that he will make an outstanding addition to an already prestigious court.

Mr. Baylson earned his undergraduate degree from the University of Pennsylvania's Wharton School. He then graduated from the University's Law School. After working as a volunteer for the public defender in Philadelphia, he joined the Philadelphia District Attorney's Office. My colleagues will remember that my friend the distinguished senior Senator from Pennsylvania, Senator SPECTER, was the Philadelphia District Attorney at this time. Mr. Baylson was quickly promoted to supervise that office's Narcotics Unit and then its Homicide Unit.

Mr. Baylson worked in private practice at the law firm of Duane Morris and Heckscher. Then, in 1988, he returned to public service as the United States Attorney for the Eastern District of Pennsylvania. There, he became well-known for his aggressive drug prosecutions. Mr. Baylson also was a pioneer in developing the Violent Traffickers Project, a program that uses a different strategy than the traditional tactic of arresting smaller dealers and then "flipping" them in order to convict the leaders of a drug conspiracy.

After leaving the U.S. Attorney's Office, Mr. Baylson returned to Duane Morris and Heckscher as a partner and has specialized in antitrust, federal securities, RICO and white collar crime matters.

Clearly, Mr. Baylson is a very talented attorney with a great deal of experience. I have no doubt that he is an excellent choice to be a judge on the District Court of Eastern Pennsylvania.

NOMINATION OF JUDGE CYNTHIA M. RUFÉ

Madam President, I rise in support of the confirmation of Judge Cynthia Rufe to the U.S. District Court for the Eastern District of Pennsylvania. Judge Rufe's nomination is yet another example of President Bush's effort to enhance our excellent and diverse federal judiciary. Judge Rufe has had a distinguished legal career. She is an outstanding Pennsylvania state judge who will only add to the distinguished federal court in the Eastern District of Pennsylvania.

Judge Rufe graduated with a B.A. in Political Science and Education from Adelphi University in 1970. After receiving her teacher's certificate from Bloomsburg University in 1972 and teaching high school social studies, Judge Rufe graduated from SUNY-Buffalo Law School in 1977.

After law school, and mindful of each attorney's responsibility to "serve the disadvantaged," she joined the Bucks County Public Defenders Office. In this role, her case-load ran the gamut from misdemeanors to homicides. At the Public Defender's Office, Judge Rufe developed an expertise in representing abused and neglected children.

As a result of that expertise, she created and led the Public Defender's Juvenile Division. Later, Judge Rufe rose to the level of Deputy Public Defender. In this position, she was responsible for managing the office's trial caseload.

In 1982, she left the Defender's Office to begin a private practice. Judge Rufe concentrated on litigation, especially criminal and juvenile law. Over the years, the Judge Rufe's practice expanded to include cases on employment, discrimination, personal injury, defamation, contracts, adoptions, estates and family law.

But, during this period, she never forgot about her community, and she served as Solicitor of the Bucks County Children and Youth Social Services Agency.

In 1994, Judge Rufe re-entered public life when she was elected to the Bucks County Court of Common Pleas. For the last eight years, she has developed a well-earned reputation for hard work and fairness.

It is a pleasure and a privilege to support Judge Rufe's nomination to the federal bench.

JUDICIAL CONFIRMATIONS

Madam President, I would like to respond briefly to some comments made earlier today on the topic of judicial confirmations. I had no intention of bringing up this topic today, but now I

find myself with no choice but to set the record straight. I want to make one observation and then two simple points.

Madam President, my observation is this: The American people want this Senate to help—rather than hinder—President Bush. And that is true of every President. Everyone understands that we are living at a time of great national importance. Our government is being put to a test. President Bush is performing extraordinarily well, and he is leading our country and our military in the right direction to achieve prosperity and security for all Americans. The American people support President Bush and his administration, and they correctly believe that the Senate should do the same.

But the people who follow the Judiciary Committee's record on reviewing and approving President Bush's judicial nominations are frustrated—for good reason—with the way in which this body has treated President Bush. They know that President Bush gave great care and attention to finding nominees who are extremely well-qualified, highly talented legal thinkers who hold mainstream American values. There is not an ideologue among them. To the contrary, President Bush's picks for the judiciary are all principled and fair people, from a variety of backgrounds and experiences, who are committed to following precedent, applying the law as it exists, and standing firm against judicial activism. President Bush should not be forced to divert any more of his time and attention away from the war on terrorism and his many domestic priorities in order to persuade this body to do what is right for the American people.

Now, Mr. President, I would like to make two points that directly respond to the comments made earlier today.

Madam President, the current Senate leadership is not doing a better job this Congress than the Senate has done under other Presidents. I listened as my colleague explained that, if looked at through the right looking glass, or examined in the right subsection of the right time period of the right session of the right Congress, then the current numbers are pretty impressive.

The most important measure of performance should be how we are handling the most important courts: the Circuit Court of Appeals. Let's compare the treatment of President Bush's first 11 circuit court nominees to the first 11 of previous presidents. President Reagan, the first President Bush and President Clinton all enjoyed a 100 percent confirmation rate on their first 11 circuit court nominees, and all were confirmed well within a year. President Reagan's first 11 were confirmed in an average of 39 days, the first President Bush's first 11 averaged 88 days, and President Clinton's first 11—only 115 days. The longest any of these individuals were held up in committee was 202 days. In stark contrast to previous

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