

HEARINGS ON SUPREME COURT  
NOMINEE JOHN ROBERTS

Mr. SPECTER. Mr. President, I have sought recognition to outline the scheduling procedures for the confirmation hearings on Judge John Roberts to the Supreme Court of the United States. I will be followed by my colleague, the ranking member of the Judiciary Committee, who will state a joint agreement, which is incorporated in my statement. Senator LEAHY will deal with the joint agreement.

The decision on when to start the confirmation hearings on Judge Roberts depends on what beginning day—whether August 29 or September 6—is most likely to lead to a vote no later than September 29, so that, if confirmed, the nominee can be seated when the Supreme Court begins its term on October 3. I have stated my own preference for September 6 early on, but I emphasized that I was flexible and would be willing to start on August 29.

Our duty to have the nominee in place by October 3 took precedence on my or anyone else's preferences.

In light of the many possibilities for delay, some justified and some tactical, it seemed to me the safer course was the earlier date. At the same time, I was and am mindful that the Senate and the Judiciary Committee can accomplish more in 3 cooperative hours than 3 days or perhaps even 3 weeks of disharmonious activity. If any disgruntled Senator wants to throw a monkey wrench into the proceedings, even with the August 29 starting date, there would be no absolute assurance of meeting the October 3 target.

I acknowledge at the outset that it was unrealistic to obtain a binding unanimous consent agreement specifying an exact timetable with a commitment to vote by September 29. There are too many legitimate issues which could arise which would justify delays where Senators would be compromising their rights by such an agreement. Senator LEAHY and I have had numerous discussions over the past week with his objective to start the hearings on September 6 and my objective to obtain assurances, if not commitments, that the Senate would vote by September 29.

Our discussions at various times included Senator FRIST, Senator REID, and Senator MCCONNELL. We have had many additional discussions in the last 72 hours, too numerous to mention. But in one meeting on Thursday among the five of us—Senator FRIST, Senator REID, Senator MCCONNELL, Senator LEAHY, and myself—we came to an agreement.

No. 1, the hearings would start on September 6.

No. 2, Senators would waive their right to hold over the nomination for 1 week when first on the Judiciary Committee executive agenda, so the committee vote could occur any time after September 12 and, as chairman, I intend to exercise my prerogative to set

the committee vote on our Judiciary Committee agenda for September 15.

No. 3, Democrats and Republicans would waive their right to terminate committee hearings which went past 2 hours after the Senate came into session.

No. 4, all written questions would have to be submitted by September 12, with answers to be submitted in a timely fashion.

No. 5 Senators from both parties would waive their right to submit dissenting or additional or minority views to the committee report.

Beyond these enumerated agreements, the principal basis for the Republicans' willingness to begin the hearing on September 6 was the emphasis by Senator REID and Senator LEAHY of their good faith in moving the nomination process promptly to meet the October 3 date.

All factors considered, it was our judgment that the September 6 starting date was the best alternative for concluding the hearings in time to seat Judge Roberts, if confirmed, on October 3.

I now yield to my distinguished colleague, the ranking member, the Senator from Vermont.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, I thank the distinguished chairman. He and I have spent, I believe, more time with each other than we have with our families in the past couple weeks. I am not sure if that is to the detriment of our families or ourselves or to the benefit of our families or ourselves. In any event, it is a fact we spent an enormous amount of time.

As the distinguished chairman has talked about—and I will in a moment submit this as a joint statement from the two of us—we have agreed to the following:

The hearings will start on Tuesday, September 6. The Judiciary Committee members will waive their right to hold over the nomination for 1 week, when first placed on the Judiciary Committee executive agenda. The vote, of course, then could occur any time after Monday, September 12. The chairman intends to set that vote on the executive agenda on Thursday, September 15.

Senators—and this will require all 100 Senators—will waive their right to invoke the 2-hour rule to terminate Judiciary Committee hearings 2 hours after the Senate comes into session during the time of the nomination hearings on Judge Roberts.

All written questions will be submitted within 24 hours of the conclusion of the hearing, and answers will be provided in a timely fashion.

And we recognize that nothing in the Senate or Judiciary Committee rules precludes the Senate from considering the nomination on the floor without a committee report.

As we know—and I see two of the distinguished leaders of the Senate on the

floor and others will be joining us—I served several times in the majority, several times in the minority, and I have handled many bills on the floor—you can work out every single possible contingency, but there is always something that comes up, and that is why we have chairmen and ranking members.

I have a great deal of respect for Senator SPECTER. He has always been straightforward with me. He has always kept his word to me, as I have to him. We think we have covered all the contingencies. Anything can happen. I suspect the two of us can handle that.

I think of some of the contingencies in the last few years. I remember an important hearing scheduled and we had the disaster of September 11. Obviously, nobody plans or hopes for such events. We have the ability to work out those kinds of situations.

Long before the Supreme Court vacancy, long before this nomination, the chairman and I worked cooperatively to lay the groundwork for full hearings to prepare that committee for when that day will arrive. We have now announced the schedule for the hearings to begin. I know we will continue to work with each other in good faith as the process unfolds, but when we look at this beginning the first week the Senate returns to session after Labor Day, it is a brisk schedule. To meet the schedule, we need the cooperation of the administration.

The Senate only today, Friday, received the President's official nomination of Judge Roberts. The Senate has not received basic background information on the nominee in answer to the Judiciary Committee's questionnaire. The Senate only today received updated background check materials from the FBI. All of these, of course, we need.

In advance of receiving the nomination, Chairman SPECTER and I joined together earlier this week in setting forth additional requests for the information through the Judiciary Committee questionnaire, something worked out by the two of us.

The Democratic members of the committee sent the White House a letter on Tuesday, with a priority of the documents for the nominee's years of work in the Reagan White House with White House counsel Fred Fielding from among the documents the administration had indicated it was making arrangements to provide to the Senate.

Yesterday I shared with the chairman a suggested request for materials in connection with only 16 priority cases from the hundreds considered during the years during which the nominee was Kenneth Starr's political deputy at the Department of Justice. That request has also been expedited and sent to the administration this week, even before the President sent the nomination to the Senate.

The President said he hopes the new Justice can be confirmed by the start of the Court's next session on the first

Monday in October. The Senate has already cooperated in achieving this goal. At this point, there is no reason to believe the goal cannot be met, but we need the full cooperation of the administration. The administration has weighed in heavily with demands regarding the Senate's schedule.

What we need more than the White House telling us how and when to do our job is a White House willing to help us expedite our consideration by making relevant materials available without delay so we can meet the chairman's aggressive schedule.

The President has extolled the nominee's credentials, including his years of work in three senior executive branch posts during the Presidencies of his father and President Reagan.

We are seeking a very small number of the documents evidencing his work in those policy positions. In order for us to fulfill our responsibilities to examine this nomination and report it to the Senate, the Senate Judiciary Committee should be provided these materials without delay so we can perform our due diligence.

The White House this week said the Senate will have wide access to the documents from the Reagan administration, but only after an elaborate screening process. Based on the White House's own statement about the length of time it will take to screen these documents, that will be 4 weeks from now, maybe even longer.

The date the chairman is setting for the beginning of the hearings emphasizes the ability to review the materials before the hearings requires quicker action from the administration than that. One only need glance at the calendar to see 4 weeks from today is only a few days before the hearings, and that includes Labor Day weekend.

This is a nominee who, if confirmed, could be serving on the Supreme Court until 2030 or beyond, well past the term of the President who appointed him and well past the terms or even the lifetimes of Members of the Senate who may make this decision. This is a decision that not only affects every American alive today but also our children and grandchildren.

The Constitution gives the Senate, and only the Senate, the responsibility of considering a President's nominations to a lifetime appointment to the Supreme Court.

The Constitution gives us the duty to make this decision as well as we can, not as fast as we can.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I express my appreciation to the two managers of the Judiciary Committee, the chairman and ranking member. I understand why there is a little distrust on both sides because of all the stuff we have gone through on judges. They have done good work, and there is no reason that anyone should be concerned about the work of the Judiciary Committee.

The waivers that have been made by the Senators as to the 1-week layover and 2-hour meeting time for the committee to meet is something to show we are trying to move forward on this in good faith.

I have no doubt, with the work of these two men, that we will be able to work our way through any hurdles we have. We all know the date the distinguished Senator from Pennsylvania, the chairman of the committee, is shooting for is to make sure Judge Roberts is seated by October 3. We want to make sure that everyone understands that there are no games being played. Nobody is trying to do anything untoward. We are going to do our very best to work toward that date.

The entire Democratic caucus has the utmost faith in our leader, Senator LEAHY. The Judiciary Committee has been, for 7 months, his. He has done extremely good work, as he has always done. I have been on this floor many times when I served in different capacities where I would talk about the Senator from Vermont in the most positive terms.

I feel the same way about the Senator from Pennsylvania. The Senate is fortunate to have the Senator from Pennsylvania leading the Senate in this most complicated, difficult committee, with the most vexatious issues, it seems, all the times.

I have spent quite a bit of time, in the last few days, with them and the majority leader and Senator MCCONNELL. It has been worthwhile. This is going to move forward.

As the Senator from Vermont has stated, materials are needed. We understand the power of a committee chairman in this instance. He has tremendous power. We don't take anything away from the power he has. He can set the markup whenever he wants, within reason. He can call for votes when he wants. But he has, in the past, been very fair, and he will continue to be. I have no doubt that is the case.

I also want the record to reflect that I did not get the floor before the majority leader; he was not here. That is why I grabbed the floor before someone else did. I certainly would not try to speak before the majority leader. Protocol would say that isn't the case. The majority leader was not here, and I did not want somebody else to grab the floor.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. FRIST. Mr. President, we have a bit of business to do before we close down tonight. What we heard from our colleagues reflects the cooperative spirit that is very important as we fulfill our constitutional responsibility in terms of this very important nomination.

As our colleagues can tell, there have been a lot of discussions with the chairman and ranking member and the leadership on both sides of the aisle. What we witnessed is the decision to begin hearings after Labor Day, that

the hearings and the subsequent action, including the workup to the floor, which according to the schedule that has been laid out, implies to me we would be able to be on the floor by September 26, and with that would be able to have the nomination finished by the end of that week, confirmed, and the Justice would be sitting on that first Monday in October.

I do wish to thank all of the people who have been mentioned for bringing us to this point and expect that over August, with civility, we will be able to continue our study of records and background that are provided. We will have a very busy early September as those hearings begin.

In terms of timing, it looks as if we will be able to achieve the objectives from both sides of the aisle. We very much appreciate that leadership in a bipartisan way in the chairman and ranking member.

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

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

Mr. HATCH. Mr. President, I commend the chairman and the ranking member of the Judiciary Committee. These are difficult things to do, and I am glad to see that type of cooperation in what really is a very important set of hearings with regard to the Supreme Court of the United States of America. Above all, I want to see Judge Roberts treated fairly. I believe we are off to a good start, and hopefully that will continue.

#### RETIREMENT OF GENERAL GREGORY S. MARTIN, USAF

Mr. HATCH. Mr. President, today I have the distinct privilege and honor of rising to pay tribute, on the announcement of his retirement, to one of our Nation's greatest generals, and my good friend, Gen. Gregory S. Martin of the U.S. Air Force. When I first met the general over 2 years ago, I knew immediately that his reputation of being an extraordinary leader was true.

From the beginning of his career at the Air Force Academy, where he was named the National Collegiate Parachuting Champion, to his current command of Air Force Materiel Command, excellence has been the defining characteristic of General Martin's career.

As a young fighter pilot, he flew combat missions over Vietnam and served as a mission commander during Operations Linebacker I and Linebacker II. I do not have to remind my colleagues that these two air campaigns were instrumental in securing the release of our prisoners of war from Vietnam.

General Martin has served in a number of capacities including Commander