

United States SenateCOMMITTEE ON THE JUDICIARY
WASHINGTON, DC 20510-6275

January 28, 2003

Dear Chairman Hatch:

We write to protest your intention to convene a Judiciary Committee hearing tomorrow to consider, among others, three controversial nominees to United States Courts of Appeal. The official notice of the agenda for tomorrow's hearing, not delivered until this afternoon at 4:45 p.m., indicates that the nominees will be Jeffrey Sutton and Deborah Cook for the Sixth Circuit, and John Roberts for the D.C. Circuit. As you know, each of these is considered a controversial nomination, and we believe each of these nominees ought to be considered separately.

Since 1985, when Chairman Thurmond and Ranking Member Biden signed an agreement about the pace of hearings and the number of controversial nominees per hearing (which we have attached), there has been a consensus on the Committee that the Members ought to be given ample time to question the nominees before them, and that particularly controversial nominations deserve more time. As far as we know, the Committee has held a hearing for three circuit court nominees only once. That instance was under Senator Biden's chairmanship when non-controversial nominees of a Republican President were being considered.

Your rush to consider these three nominees at once is especially surprising, considering the pace at which you scheduled President Clinton's nominees for hearings. When you were chairman then, you never held a hearing to consider more than two circuit court nominees at once. In fact, while there were several times during your previous chairmanship you did schedule two circuit court nominees at one hearing, it was roughly equal to the number of times you scheduled a judicial nominations hearing which did not include any circuit court nominees at all. And, of course, more than 50 of President Clinton's nominees never received hearings at all.

During the 107th Congress, the Democratic-led Judiciary Committee went at a steady pace, considering one circuit court nominee at a time, and giving ample process to controversial nominees instead of putting off their hearings indefinitely. We were able to schedule a record number of hearings to consider a record number of nominees and still give the Senators on the Committee the time they needed to properly exercise their Constitutional duty to give their advice and consent to the President's lifetime appointments to the federal bench.

We hope you will reconsider your plans for tomorrow's hearing and will schedule only one controversial nominee per hearing, as has been the practice for so many years.

Sincerely,

Patrick Leahy

Charles E. Schumer

Mark Kohl

Joe Biden

Dick Durbin

Manuel D. Feringo

Pat Kennedy

John Edwards