

By Sen. Patrick Leahy

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Last January, as this Congressional session began, I described what the Democratic majority would do this year to undo the damage of the last six years, when a Republican Senate systematically erected new hurdles at every step of the confirmation process for judicial nominees. We have honored that pledge. In January I also asked the White House for good-faith steps of its own to help us make further progress. We are still

waiting for the White House's reply.

We have restored steadiness and openness to the hearing and confirmation process. We have ended the era of secret holds. And we have reversed the trends of the last six years of lengthening court vacancy lists and unexplained lengthy waits for hearings and votes -- as long as four years -- that plagued President Bill Clinton's nominees. More than 50 Clinton nominees were never given hearings and votes at all by the Republican Senate.

To listen to some critics, you would think that the Judiciary Committee today is refusing to grant hearings or committee votes to moderate, qualified nominees -- in short, that we are treating Republican nominees as poorly as Clinton's nominees were treated.

But the facts show the opposite. In fewer than 15 months, the Democratic-led Senate has already confirmed 78 of President Bush's judicial nominees, more than Republicans allowed to be confirmed in their last 30 months in control.

Some point to the Charles Pickering and Priscilla Owen votes as evidence that the confirmation process is broken, but in fact they show that just the opposite is true, that the process is working as the Constitution intended. The facts show that, as Sen. Dianne Feinstein (D-Calif.) said so well a few weeks ago, the Judiciary Committee is alive and well, not acting as a rubber stamp, but instead doing due diligence and examining the records of these nominees to lifetime appointments to the federal bench, and then acting on them. The Framers intended the Senate to be a vital check on the otherwise unlimited power of a president to stack the federal judiciary.

When nominees are selected for their qualifications and fair-mindedness and not mostly for their ideological credentials, they are quickly confirmed -- unanimously, in most cases.

Instead of seeking retribution, the Democratic-led Senate has exceeded the pace of recent

years in approving more than six dozen of this president's judicial nominees -- nearly all of them conservative Republicans. When Bush has worked with home-state Senators to send the Senate nominees with mainstream views, the confirmation process is swift and markedly free of partisan rancor.

We have confirmed far more judicial nominees than were confirmed in the first 15 months of the last three presidents (Ronald Reagan won 54 judicial confirmations; the first George H.W. Bush had 23; and Clinton had 45). Even though Reagan and Clinton had Senates led by their own parties, Democrats still have managed to move more quickly on this Republican president's judicial nominees.

As I pledged in January, the Judiciary Committee has moved away from the legacy of the past six years by holding hearings and votes even on controversial nominees who have divided the American people and the Senate. We recently held a hearing for Michael McConnell and this week we will hold a hearing for Miguel Estrada. And we have proceeded to vote on such other highly contentious nominees as D. Brooks Smith and Paul Cassell.

We are righting the wrongs of the past by filling the vacancies on the federal bench that resulted from years of Republican inaction. Democrats inherited 110 judicial vacancies a little more than a year ago, and despite the 44 additional vacancies that have arisen during the past 15 months, we have cut the vacancies in half. Under Republican control, judicial

vacancies rose by almost 70 percent and the vacancies on the circuit courts by more

than 100 percent. With a Democratic Senate majority for less than 15 months, the vacancies have been reduced by more than 30 percent and circuit court vacancies by almost 20 percent.

We have achieved what we set out to do by treating Bush's nominees more fairly than Clinton's nominees were treated. In fact, 90 out of 100 of Bush's nominees who are eligible for hearings have had hearings since the changeover last year. Another six are being included in hearings this week.

In stark contrast to the treatment of so many moderate Clinton nominees, we have made every effort to fill the many vacancies we inherited and to restore fairness to the confirmation process. With even a modicum of cooperation from the White House we would be even farther along. I hope we will yet find that cooperation as we continue to move forward.

Sen. Patrick Leahy (D-Vt.) is chairman of the Judiciary Committee.