ORDER OF PROCEDURE

Mr. REID. Madam President, I have spoken to my counterpart, Senator NICKLES. He wishes to speak for 15 minutes. That would go past the time set aside for morning business. I ask unanimous consent that the Senator from Oklahoma be recognized for whatever time is left, plus enough time to make it 15 minutes.

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

The Senator from Oklahoma.

NOMINATIONS

Mr. NICKLES. Madam President, I rise today to join my colleagues in expressing real disappointment in the fact that we have eight nominees to the U.S. circuit courts of appeals, who were nominated a year ago, who have yet to have a hearing before the Senate Judiciary Committee.

Nineteen of 30 circuit court nominees have yet to have a hearing—19 out of 30. I have stated to my colleagues—and I state this on the floor of the Senate, just as sincerely as possible—we should treat all judicial nominees fairly.

Some people say: Well, we are having a little retribution because you didn't treat people well in President Clinton's last year.

The tradition of the Senate has always been to give a President his or her nominees pretty good access to the Senate for confirmation purposes in the first 2 or 3 years of their Presidency. The tradition of the Senate, also, is to kind of slow it down in a President's last year.

Certainly, if you look at what happened in the last three Presidencies, that is what has happened. Unfortunately, the current President Bush has not had fair treatment for his judicial nominees, especially circuit court nominees, in his first 2 years. That is just a fact.

The chart I have shows that we have only confirmed 9 out of 30. That is 30 percent. There is another nominee who is pending on the calendar. Hopefully, that will be cleared fairly quickly. That would be 10 out of 30. That is one out of three nominated judges confirmed.

If you look at President Clinton's first 2 years, he got 19 out of 22. If you look at President Bush I, he got 22 out of 23. President Reagan got 19 out of 20. So President Reagan and President Bush I got 95 percent of their circuit court nominees confirmed in their first 2 years. President Clinton got 19 out of 22. That is 86 percent.

We should always be confirming those kinds of percentages unless they nominate people who are totally unqualified and are undeserving of the position. But we are not doing that.

Also, if you look at the total numbers, President Reagan got 98 percent of all the judges that he nominated confirmed in his first 2 years. President Bush I got 93 percent of the judges he nominated confirmed in his first 2 years. And President Clinton had more judges confirmed than either of the two by a considerable amount; he had 129 judges confirmed in his first 2 years, which is 90 percent.

For the current President Bush, we have now done 56 percent. We are moving along, at least now, at 60-some odd percent for district court judges. But the big discrepancy is, we are way behind in circuit court appellate judges—way behind—and these individuals are not being treated fairly. They are eminently qualified. And to think that eight were nominated a year ago.

Somebody said: Why are you making such a fuss now? Because enough is enough. Eight of these outstanding, qualified individuals were nominated a year ago today, and they have not had a hearing. Why? Are they not qualified? Well, let me just look at some of their qualifications.

John Roberts was nominated to the DC Circuit Court of Appeals. He has argued 37 cases before the U.S. Supreme Court. Evidently, the private sector thinks he is eminently qualified. He was unanimously rated ''well qualified'' by the ABA. He is a Harvard Law School graduate, magnum cum laude. He was managing editor of the Harvard Law Review. He was a law clerk to Supreme Court Justice Rehnquist. And he also was the Principal Deputy Solicitor General for the United States from 1989 to 1993.

You will be hard-pressed to find anybody more qualified than John Roberts anywhere in the country to sit on any bench. Yet, he cannot get a hearing, and he was nominated a year ago. I am embarrassed we have not been able to schedule a hearing for John Roberts.

I hope, in the course of this dialog, Senator LEAHY or Senator DASCHLE will join me. I would like to ask the question, why can't we get a hearing for him?

Miguel Estrada is also nominated to the DC Circuit, a partner of the DC firm of Gibson, Dunn & Crutcher. He has argued 15 cases before the U.S. Supreme Court. He was unanimously rated ''well qualified'' by the ABA. He immigrated to the United States as a teenager from Honduras and, at the time, hardly even spoke English. Yet, he graduated from Harvard Law School magnum cum laude. He was an editor of their Harvard Law Review. He was a law clerk to Justice Kennedy. And he is a former Assistant Solicitor General and Assistant U.S. Attorney. He has been a prosecutor. He worked as a law clerk for a Supreme Court Justice. He argued 15 cases before the Supreme Court. He is eminently qualified. He is Hispanic. And we can't get a hearing?

The District of Columbia Circuit Court of Appeals has four vacancies. A year ago, they were saying they really needed at least three judges. And we can't get a hearing for two of the most qualified people anywhere in the country for these two positions. This is unbelievable.

Priscilla Owen was nominated to the Fifth Circuit Court. She has served on the Texas Supreme Court since 1994. She was unanimously rated ''well qualified'' by the ABA. She is a Baylor Law School graduate, with honors, and a member of the Baylor Law Review. She had the highest score on her Texas bar exam, and 17 years of prior experience as a commercial litigator.

Just another example. Why is she not entitled to have a hearing? I think when these individuals have hearings, it is going to be obvious they are well-qualified. There will be no reason whatsoever to attack them or to vote no. So people do not want to have a hearing because they know if they have a hearing, they are going to be confirmed.

Terrence Boyle was nominated to the Fourth Circuit. He is presently the chief judge in the U.S. District Court in the Eastern District for North Carolina, and has been since 1997. He was unanimously rated ''well qualified'' by the ABA. He is a graduate from American University, Washington College of Law. He also served as minority counsel for the House Subcommittee on Housing, Banking, and Currency from 1970 to 1973, and legislative assistant to Senator HELMS.

We usually treat former Senate staffers with a little courtesy. We usually give them a hearing. This is a person who has had a little experience in the Senate working on the Judiciary Committee, in addition to serving as a district court judge from 1984 to 1997. We can't even give him a hearing? I don't think that is right.

Michael McConnell is nominated to the Tenth Circuit Court of Appeals. He is presently a Presidential professor of law at the University of Utah. He was unanimously rated ''well qualified'' by the ABA. He is a renowned constitutional law expert. He has argued 11 cases before the U.S. Supreme Court. He graduated at the top of his class from the Chicago Law School. He was a law clerk for Justice Brennan, and also served as a prior Assistant Solicitor General. Michael McConnell was nominated a year ago and has yet to even have a hearing.

Deborah Cook is nominated to the Sixth Circuit Court of Appeals. She is presently serving as a justice on the Supreme Court of Ohio, and has since 1994. She was unanimously rated ''well qualified'' by the ABA. She is an Akron School of Law graduate, and practiced with Akron's oldest law firm. She sat on the Ohio District Court of Appeals from 1991 to 1995. She also chaired the Commission on Public Legal Education, and has also been a member of the Ohio Commission on Dispute Resolution. She is more than qualified.

Jeffrey Sutton is also nominated to the Sixth Circuit Court.

On the Sixth Circuit, there are 8 vacancies out of the 16. One-half of the circuit court of appeals is vacant, desperately needing some assistance.

Mr. Sutton a partner in the law firm of Jones, Day. He is rated well qualified by the ABA minority and qualified

by the ABA majority. He graduated first in his class from Ohio University College of Law. He is a former law clerk to Supreme Court Justices Powell and Scalia. He has argued 9 cases and over 50 merits and amicus briefs before the U.S. Supreme Court, and he is a prior State solicitor in the State of Ohio.

Dennis Shedd, nominated to the Fourth Circuit Court, is a U.S. district court judge in South Carolina and has been since 1991. He is rated well qualified by the ABA and had 20 years of private practice and public service prior to becoming a district judge. His law degree is from the University of South Carolina, and he has a master of law degree from Georgetown. He is a former chief counsel and staff director of the Senate Judiciary Committee and counsel to the President pro tempore from 1978 to 1988. He is supported by both of South Carolina's Senators. Again, he is a former staffer.

The Senator from Nevada knows, as I mentioned this before—we used to have a tradition that we would give former staffers an expeditious hearing. But Dennis Shedd was nominated a year ago.

These are eight of the most qualified individuals you will find anywhere in the country for any such position. The fact that they have not had a hearing when they were nominated a year ago brings real disrespect and disrepute on this body. Shame on us. Shame on the Senate. We have only confirmed one-third of the district court of appeals judges nominated by President Bush. Eight people have to wait a year for a hearing? We are making these nominees wait around while their friends and associates are asking: When will you be confirmed? I understand you were nominated. You were nominated a year ago. You haven't even had a hearing.

How disrespectful of the judicial process can we be? I am ashamed of this record. I will state for the record now that I believe at various points we may well be back in the majority. I have been in the Senate—majority, minority, majority, minority. I think we will be back in the majority. I am committed to making sure that all judicial nominees are treated fairly regardless of who is in the White House and regardless of who runs the Senate. I think we owe it to the nominees. I think we owe it to the process. We owe it to the division of power between the executive branch, the judicial branch, and the legislative branch.

The legislative branch is wrecking this balance of power by not staffing and not allowing judicial nominations to be heard, to be voted on, to be confirmed. We have checks and balances. I believe the forefathers would be rolling over if they realized how slowly we were going on certain judges, circuit court appellate judges especially.

With all sincerity, there are ways we can go in this body to get people's attention to make sure these individuals get fair consideration. My hope and desire is to give them fair consideration without exhibiting a pattern of ''we will hold this up and hold this up; you will not be able to mark this up; not be able to get a quorum; you will not be able to do business.'' I hope we don't have to resort to that.

Senator REID is one of my very dear friends, Senator DASCHLE, Senator LEAHY. I urge them, give these people a chance. Give these eight people who were nominated to the appellate level a year ago, give them a hearing, and let's vote. There is no question they are eminently qualified. We should be voting. That is our constitutional responsibility. Let's do it. I will commit we will do it in the future as well.

I hope people will hear these comments made by myself and others and listen to us. Let's work together and treat judicial nominees fairly so we don't have to resort to various types of threats and intimidation and lack of cooperation to make our point to get these individuals consideration on the floor of the Senate.

I yield the floor.

Mr. REID. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

ORDER OF PROCEDURE

Mr. REID. Madam President, I was waiting to hear from the two leaders. Senator LOTT and Senator DASCHLE have spoken on a number of occasions. Senator DASCHLE is extremely anxious to get on with some substantive legislation in the Senate. The trade bill is pending. We virtually have been waiting all day for some Senators to come up with a proposal.

I have been told by the Republican leader that that answer will come at 4:15 today. I hope that is the case. I would therefore ask unanimous consent that the Senator from Pennsylvania, Mr. SPECTER, be recognized to speak as in morning business for up to 10 minutes, and then the Senator from Arizona, Mr. MCCAIN, although I think Senator MCCAIN may have been here first.

Mr. MCCAIN. I don't wish to speak as in morning business.

Mr. REID. It is my understanding the Senator from Arizona wishes to be recognized for purposes of a unanimous consent request. I ask that he be recognized for up to 5 minutes to make whatever statement he wishes in regard to that unanimous consent request and that, after that time, morning business be concluded.

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

The Senator from Pennsylvania.

JUDICIAL PROCEDURES

Mr. SPECTER. Madam President, I thank the Senator from Nevada for working this out for morning business. I have sought recognition to comment about two matters.

First, I compliment my colleague from Oklahoma for the comments he has made about the need to move ahead with nominees. It would be my hope that from the current disagreement we might work out a permanent protocol to solve the problem which exists when the White House is controlled by one party and the Senate by another party. The delays in taking up judges has been excessive.

This is the 1-year anniversary where some nine circuit judges, well qualified, have not even had hearings. But in all candor, a similar problem existed when President Clinton, a Democrat, was in the White House and we Republicans controlled the Senate.

I have advocated a protocol. Within a certain number of days after a nomination, the hearing would be held; within a certain number of additional days, there would be action by the Judiciary Committee on a vote; and within another specified time, there would be floor action, all of which could be expanded for cause. And an additional provision, not indispensable, is that if there were a strict party-line vote in committee, the matter would automatically go to the floor.

I thank the Chair.

I yield back the remainder of that time, and I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from Arizona is recognized.

UNANIMOUS CONSENT REQUEST—H.R. 3529 and S. 2485

Mr. MCCAIN. Mr. President, I intend to propose a unanimous consent request that we take up the Andean Trade Promotion and Drug Eradication Act.

It is vital that we address this issue. ATPA expired on December 4 because Congress had not taken action on the legislation. The House of Representatives passed an extension on November 16, and the Senate has failed to do its work on this issue.

These countries need our help. It is in the United States' national interest not to see these countries degenerate into economic, political and, in the case of Colombia, armed chaos. We need to act on this issue. Why it has been tied to TPA and TAA is something I do not understand.

Perhaps the Trade Promotion Act and the Trade Adjustment Assistant Act are important. I think they are of the highest priority, but the Andean Trade Preferences Act—referred to as ATPA—is of time criticality. It expired. There are tariffs that these countries will have to pay.

These are poor countries. They have unemployment rates of 30, 40, 50 percent. Colombia is degenerating into