

on the other side did complain early, loudly, and often.

But the pace today is worse than one-half, worse than one-third, worse even than one-fourth of the historic average.

The current Judiciary Committee hearing pace for appeals court nominees is the worst in decades.

In fact, there is virtually no current pace at all.

It has not been this way in the past, and it does not have to be this way today.

I am pleased that last night the distinguished majority and minority leaders spoke about this here on the floor and the majority leader acknowledged that “we need to make more progress on judges.”

The majority leader said he would do his very best, his utmost as he put it, to confirm three more appeals court nominees by Memorial Day, which is coming in less than 6 weeks.

I would like to point out a few highly qualified nominees who have been waiting a long time and who I hope will be included in this effort.

Yesterday, this editorial appeared in the Washington Post.

It opens with these words: “It is time to stop playing games with judicial nominees.”

The editorial correctly notes that the Senate confirmed more than twice as many appeals court nominees in the final 2 years of the Clinton administration than the Senate has confirmed so far in the 110th Congress.

Even with the three additional appeals court nominees the majority leader has pledged to confirm, we have a lot of ground to make up.

The editorial suggests beginning to make up that ground by confirming Peter Keisler to the U.S. Court of Appeals for the D.C. Circuit and Rod Rosenstein to the Fourth Circuit.

Unlike some other languishing appeals court nominees, Mr. Keisler has at least had a hearing.

But it was 624 days ago.

Mr. Rosenstein has not been waiting that long but is fully as qualified. As the Post editorial points out, he has admirers on both sides of the aisle and is an excellent and principled lawyer.

Two other Fourth Circuit nominees whose consideration by the Judiciary Committee is long overdue are Steven Matthews of South Carolina and Robert Conrad of North Carolina.

My colleagues from those States are speaking in more detail on the floor today, but I want to highlight that these fine nominees have the strong support of their home-State Senators.

Lack of such support can be a reason why a nominee does not get a hearing.

I know, because that is the reason I could not give a hearing to some Clinton judicial nominees when I chaired the Judiciary Committee.

But that is not the case with these nominees.

And in Judge Conrad’s case, this body confirmed him just a few years ago to the U.S. District Court without even a rollcall vote.

I hope that this pledge by the majority to make some much-needed confirmation progress is not just a temporary flash in the pan.

The majority leader last night suggested that there is some kind of rule that the Senate does not confirm judicial nominees after June.

He actually referred to this as the Thurmond doctrine.

I want to say to my colleagues that there is no such thing as a Thurmond doctrine, a Thurmond rule, or even a Thurmond guideline for judicial confirmations in a Presidential election year.

In 2000, the current Judiciary Committee chairman said that while things might, he said might, slow down “within a couple months of a presidential election,” that the best judicial confirmation standard was set in 1992.

Like today, his party was in the majority.

Like today, a President Bush was in the White House.

Senator Thurmond himself was ranking member of the Judiciary Committee.

In that Presidential election year, the Judiciary Committee held hearings on appeals court nominees until September 24 and the Senate confirmed appeals court nominees until October 8.

The Senate confirmed 66 judges, including 11 appeals court judges, in 1992.

So I want to dispel this judicial confirmation myth that there is any kind of rule, let alone a doctrine, that justifies shutting down the confirmation activity which I hope and trust is finally about to begin.

There is no doubt that we are way behind where we should be in the judicial confirmation process.

But it does not have to stay that way, not if we are serious about doing our duty.

As the Washington Post editorial said, the Senate “should at least give every current nominee an up-or-down vote and expeditiously process the nominees to the U.S. Court of Appeals for the Fourth Circuit.”

That would be a great place to start.

#### MORNING BUSINESS

The PRESIDING OFFICER. Morning business is now closed.

#### HIGHWAY TECHNICAL CORRECTIONS ACT OF 2007

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of H.R. 1195, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 1195) to amend the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users, to make technical corrections, and for other purposes.

AMENDMENT NO. 4146

(Purpose: In the nature of a substitute)

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. I have an amendment at the desk, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from California [Mrs. BOXER] proposes an amendment numbered 4146.

(The amendment is printed in the RECORD of March 7, 2008, under “Text of Amendments.”)

Mrs. BOXER. Mr. President, I know my colleague Senator DEMINT is here to offer what will be the first amendment to this bill. I thank him, because I know he initially had several amendments. It looks as though he has boiled it down to one amendment. I know Senator INHOFE and I are glad about that. I thanked him previously for calling me and saying that he was pleased with the way we treated the transparency of this bill.

I have been given a copy of the amendment by the Senator from South Carolina. I will listen carefully to his presentation, and I will have remarks afterward. Senator INHOFE may also have some remarks prior to Senator DEMINT being recognized.

Senator INHOFE and I are hopeful we can get this completed. This is a bill that overall creates not one more penny of new spending. It will unleash into our economy, however, a billion dollars already budgeted for. That is why so many people are supporting this in real life: Construction companies, workers, transit operators. All of them have written to us. I will put those names in the RECORD. We are hopeful, if everybody cooperates today, we can get this finished. This bill isn’t rocket science. It is very simply making technical corrections to SAFETEA-LU and in places where some projects simply couldn’t go forward, replacing those projects without adding a penny of new spending. There is full transparency.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I agree with the comments made by the chairman. It is my understanding we are down to maybe three amendments. I have talked to Senator COBURN, who has an amendment, as well as Senator BOND. It is my hope that Senator DEMINT will be able to present his amendment. Then it is my understanding we will hold votes until early this afternoon and maybe try to get some of the others out of the way. Being a conservative, I want to make sure everybody understands: A technical corrections bill is always necessary when we have a major reauthorization of transportation. There are some things in here that are borderline. One case, in my State of Oklahoma, in Durant, I mistakenly said 200 yesterday, but it is \$300,000 on a road program that the Department of Transportation came back and said: We thought we were ready for this, but we