

its history when there was a color test on nominations.

The reason why I say rule XVIII was not violated in that case, I believe, although the Senator from Vermont may have walked up to the line—he did not cross it—is because he said “I am hopping.” I, therefore, will not make any contest at this point on that.

It concerned me deeply that those comments were made. I want to say for the record, and it is interesting because I spoke to at least a dozen colleagues who voted the same way I did, in opposition to this nominee—not that it matters—who did not even know what race Mr. White was. I didn't know. I had no idea, and I had numerous conversations about this nominee over the course of several weeks and months, as his nomination was pending. I never knew what his race was nor would I care because I wouldn't want to look, frankly. What difference does it make? It doesn't make any difference to me.

This went further than the Senate floor, which is quite disturbing. In the Washington Post today is in an article, “Deepening Rift Over Judge Vote, Minorities Confirmed At a Lower Rate.” That was the Washington Post story. Very prominently pictured in the article is a picture of Ronnie White, and in addition, Senators ASHCROFT and BOND. There is an implication there that I don't like.

In the article, we have Governor Mel Carnahan, who happens to be the opponent of Senator ASHCROFT in the election in Missouri for the Senate, who said:

“Judge White is a highly qualified lawyer and judge and the [death penalty] figures were manipulated by Senator Ashcroft to undermine him,” Carnahan said.

Then it got a little worse from the Chief Executive of the United States of America. I want to point out, if President Bill Clinton were Senator Bill Clinton, and he said what I am about to read, in my view, he would have violated rule XVIII. That is why I bring it up. Here is what the President said about all of us who voted against Mr. White's nomination:

Yesterday's defeat of Ronnie White's nomination for the federal district court judgeship in Missouri was a disgraceful act of partisan politics. The Republican-controlled Senate is adding credence to the perception that they treat minority and women judicial nominees unfairly and unequally.

That basically is a direct attack on all of us and our motives, basically accusing us of being—the implication is that we are racists, that we do not treat minorities fairly, and that we discriminate against women as well.

That came from the President of the United States.

I will also quote from an article in the Washington Times today in relation to J.C. Watts, the most prominent African American Republican in the Congress of the United States, who was

also deeply offended, as he should have been, by these remarks. It is interesting what Chairman Watts of the House Republican Conference said. This is J.C. Watts talking:

“It is fascinating to me that racism often is defined, not by your skin color, but by your ideology,” said Mr. Watts, the lone black Republican in the House, in a luncheon with editors and reporters at The Washington Times.

He said further:

Unless you're a Democrat. It's OK to do it to black Republicans, black conservatives. But don't do it to a black Democrat.

Then it is racial.

It really is troublesome to me that we create these barriers between us.

President Clinton said:

[By voting down] the first African American judge to serve on the Missouri State Supreme Court, the Republican-controlled Senate is adding credence to the perceptions that they treat minority and women judicial nominees unfairly and unequally.

But anyway, it is troubling to me that these kinds of things happen. I voted against the nominee because of his views on some issues. I spoke to this on the Senate floor on the same day. I am quoting myself now:

In the case of Justice White, who now serves on the Supreme Court in Missouri, he has demonstrated that he is an activist, and has a political slant to his opinions in favor of criminal defendants and against prosecutors. It is my belief that judges should interpret the law, and not impose their own political viewpoints.

That is why I voted against Ronnie White.

Prominent law enforcement people in Missouri were also opposed to him, and said so, as Senator ASHCROFT made very clear.

It is troubling to me that this issue raises its ugly head when somebody happens to be African American. I thought really we would get beyond this. It would have been nice if the President of the United States had said: Ninety-two percent of the minority nominations that have come through this Senate have been confirmed, most of them unanimously without even a recorded vote. It would have been nice if the President said that was pretty good on the part of this Senate, instead of singling out one who had not been confirmed for, I believe, good reason.

One of the things you find out in the Senate, if you stay here long enough, is that you probably have said something somewhere along the line you would like to take back. I am going to say up front regarding my colleague from Vermont, I do not impugn his motives, but it is interesting that Senator LEAHY did not vote to confirm Clarence Thomas. He voted against Clarence Thomas, a very prominent member of the Supreme Court who happens to be African American—a man I was proud to support. I did not hear the President mention any of us who voted for Clar-

ence Thomas, an African American. The reason is very simple: Clarence Thomas is a conservative. That is the reason.

I would never impugn my colleague's motives for voting against Clarence Thomas. I assume he voted against Clarence Thomas because he was a conservative, he did not like his politics, did not like his views on abortion and other issues. I believe that.

I say, without any hesitation, if my colleague were here on the floor now, I would look at him and say: Absolutely, I believe you, that that is your motive, and no other motive.

There was also another vote in 1989 in committee, for a gentleman by the name of William Lucas. Lucas was President Bush's pick for Assistant Attorney General for Civil Rights. He happens to be African American. Lucas's nomination never got to the Senate floor. The vote in Judiciary was 7-7. The Senator from Vermont voted no. Again, I would never use the issue of race to say that was the reason for his vote. I would not even imply it.

So I think it is important that we move beyond this, stop this divisiveness, and give people the benefit of the doubt, and particularly Senator HATCH who so many times has brought nominees whom you and I—I would say to the Senator in the Chair, I myself have often disagreed with Senator HATCH on some of the nominations he has brought, but he has brought them forth I think probably more fairly than he should have in terms of the nominations he brings forth.

So to throw that blanket over 54 individuals who voted the way they did, or even to imply it, is unfortunate.

So I say, to set the record straight, I am going to vote against a person who I think is an activist, who does not represent the views that I believe should be on the court, no matter what the color, and, most frankly, without knowing the color if I can help it because I do not think it matters. It is unfortunate in this case that we came to that.

Mr. President, I want to touch on one other issue before we close up the Senate.

THE PANAMA CANAL

Mr. SMITH of New Hampshire. A few days ago, on October 4, I indicated that there were 88 days until the Panama Canal would be turned over to the Chinese—to the Panamanians and ultimately into the hands of the Chinese Communists. That was October 4.

Today is the 7th, so we have 87, 86, 85—we are down to 85 days before the canal is closed, will be turned over to the Chinese. I have a chart here on which I will put some stickers to cross those days off. The days go fast. I point out that we are going to see this canal in the hands of a nation that does not

have positive feelings toward the United States—to put it as nicely as I can. So this is the flag of Communist China. So now 3 more days have gone by.

I recently addressed this issue of Panama and the impending turnover on October 4, a few days ago. Again, 3 more days have passed. The countdown continues. On December 31, this canal leaves the control of the United States and will come into the hands of the Chinese Communists.

In his book, "The Path Between the Seas," David McCullough's history of the canal reminds us of its historic importance:

The creation of the Panama Canal was far more than a vast, unprecedented feat of engineering. It was a profoundly important historic event and a sweeping human drama not unlike that of war. . . .

Great reputations were made and destroyed. For numbers of men and women, it was the venture of a lifetime. . . . Because of it, one nation, France, was rocked to its foundations. Another, Colombia, lost its most prized possession, the Isthmus of Panama. . . . The Republic of Panama was born. The United States was embarked on a role of global involvement.

So while the United States has no assurances it may remain in Panama after December 31, despite overwhelming public opinion in Panama in support of a continued U.S. presence—we are going to be leaving—the Chinese firm of Hutchison Whampoa will be there in the ports of Cristobal and Balboa on both sides of the canal, having won, through what was widely regarded as a corrupt bidding practice, the right to lease the ports for 25 years and beyond. Both sides of the canal will now be in the control of the Chinese.

After the United States withdraws from Panama, December 31, there is no doubt that a security vacuum will be created. Who is going to fill it? We have less than 3 months, 85 days, a very short window of time to try to work out a solution that is mutually acceptable to us and to the Panamanians.

Let us look at the status of the transition. What bothers me is that this administration is doing nothing to try to renegotiate those leases or to somehow talk with the Panamanians to try to get us to remain there. To date, we have transferred to the Government of Panama 57,000 acres—remember, we spent \$32 billion building that canal—57,000 acres and 3,000 buildings controlled by our military, including schools, hospitals, houses, airports, seaports, roads, and bridges. It represents about 62 percent of the total property.

As of July 1 of this year, U.S. troop strength was down from 10,000 in February 1994 to a little over 1,200, so we are just about finished. All U.S. presence on the Atlantic side was terminated on 30 June with the transfer of Fort Sherman and Pina Range. The remaining 36,000 acres and 1,900 facilities

will be transferred to the Government of Panama as follows: On the 28th of July, the Empire Range for the Army and the Balboa West Range for the Air Force will go. On the 13th of August, the U.S. Army mortuary—these are what has already happened—on the 17th of August, the Curundu Middle School; on the 1st of November, Fort Kobbe, Howard Air Force base, Farfan housing and radio site will go; Curundu Laundry; Fort Clayton, West and East Corozal; Building 1501, Balboa, and Ancon Hill communications site; and on December 31, the grand enchilada, the big prize, the Panama Canal itself, gone, without a whimper.

It troubles me this issue has not even entered the Presidential debate in this country. There is no one at the State Department or in the Defense Department or in the White House talking to the Panamanians about reopening the bidding process or renegotiating leases to try to get in there ahead of the Chinese company. As if to rub it in, to rub salt in the wound even more, the actual turnover is going to take place on December 10. Perhaps they advanced the date so it wouldn't interfere with our Christmas or New Year's Eve parties or maybe they were afraid of Y2K. Maybe they were afraid we would get stuck there.

The bottom line is, on December 10 we will turn it over, which is about 21 days earlier than we should. So I want to elaborate, again, on the significance of the canal to seapower, to our Navy, and to the importance of preserving both the spirit and the letter of the neutrality treaty.

I will now discuss the background of a controversial law in Panama known as Law 5.

President Teddy Roosevelt was a reader and admirer of Alfred Thayer Mahan, a gentleman regarded by many as the father of the modern American Navy. Mahan's book, "The Influence of Sea Power," had a profound impact on Theodore Roosevelt. Mahan traced the rise and decline of past maritime powers and concluded that supremacy at sea translated into national greatness and commercial success. We are essentially an island or, more specifically, a peninsula nation. The Navy is very important to us.

Roosevelt, whose first published work was "The Naval War of 1812," had read Mahan's book and understood its importance. It prompted him to be a strong advocate of constructing the canal, to be sure the United States would have easy access through the isthmus of Panama and into the Pacific from the Atlantic and vice versa.

In World War II, damage to the canal could have and would have delayed the buildup of our war efforts in the Pacific big time. I can't imagine what it would be like to not have been able to use the canal. It would have delayed the flow of supplies to Great Britain, the Soviet

Union, the dispatch of essential war materials from South America to the United States, and on and on.

I am concerned that some officials in Panama might be somewhat naive about the canal's security and about world history. In June, the then Panamanian Foreign Minister disagreed sharply with General Wilhelm, head of SOUTHCOM, who had testified before the Senate Foreign Relations Committee that Panamanian security forces were undermanned and ill equipped to deal with growing threats from Colombian guerrilla incursions and drug traffickers. Panama's Foreign Minister at that time, Jorge Ritter, said the general's statements were inadmissible and argued that "never have the U.S. military forces been here to guard our borders, and they have even less to do with the security of Panama, nor do they have anything to do with the security of the canal."

Even more surprisingly, the Foreign Minister alleged that the growth of drugs in Panama did not begin with withdrawal of U.S. troops but, instead, grew while there were military bases in Panama.

Perhaps this gentleman, with all due respect, has forgotten what happened in 1989. During questioning before the Senate Foreign Relations Committee, Adm. Thomas Moorer, former Chairman of the Joint Chiefs of Staff, was asked if the 1977 treaty had been more helpful or more harmful to U.S. interests. Moorer's immediate response was that 26 soldiers had died in Operation Just Cause in 1989. Among the reasons for the military intervention—to thwart drug trafficking, to preserve democracy in Panama, and to defend the canal—26 Americans gave their lives. To have Mr. Ritter make those kinds of statements is outrageous.

Part of the Senate Foreign Relations Committee hearing testimony includes some interesting commentary on the background of Mr. Ritter. He was the president of the Panama Canal Authority. He was also the chief Panamanian negotiator who reportedly torpedoed the base talks in Panama. He was tied by the Panamanian press and outside press to the highest levels of drug cartels and served as Panama's ambassador to Colombia during the time that Manuel Noriega was doing business with the drug cartels in Colombia. He was Noriega's point man, bottom line.

It was also reported to the press that Ritter had issued a Panamanian ID card for Jorge Escobar, which was found on him when he died in Colombia in a shoot-out with law enforcement. I am not surprised that Mr. Ritter downplayed the importance of the canal and U.S. military base rights. It doesn't surprise me at all.

Hopefully, with the recent inauguration of President Moscoso, that attitude, as expressed by the former Foreign Minister, has changed. I hope it

has. I am told that the new Panamanian President was planning to visit but, for whatever reason, I am not sure, canceled her trip. I had hoped to have the opportunity to meet with her. Hopefully, we will be able to do that at some point in the future.

I have been informed that, unlike her predecessor, President Moscoso would like to do business with the United States and would like to be above board with the negotiations. I wish her much success. I hope she realizes how important her actions are. It would be nice if some in the State Department and the administration would talk with her and encourage her in the next few weeks and months.

I also hope that it is not too late for her to weigh in on the decision about the leases at Cristobal and Balboa. I realize that would take a lot of political courage for her, but I hope she will give a thorough review of the bidding process, its known irregularities, and its compliance with both the spirit and the letter of the canal and neutrality treaty.

In conclusion, this Law 5 reportedly does the following: It gives responsibility for hiring new pilots for the canal who control the ships passing through the canal. It gives Hutchison Whampoa, the Chinese company, the right to possess Rodman Naval Station when it reverts to Panama this year. It gives the authority to control the order of ships utilizing the entrance to the canal and to deny ships access to the ports and entrances of the canal, if they are deemed to be interfering with Hutchinson's business operations. Contrast this with the explicit grant of expeditious passage in the 1977 treaty, which the Panama Canal treaty gave to the U.S. Navy.

Now we are seeing the Chinese Communists—and there are thousands of Chinese now in Panama. People say: Well, it is private business. There is no private business in China. It is all controlled by the government, whatever they do. So this is government business in China. It is Chinese Communist government in Panama by the Chinese. Law 5 gives the right to transfer unilaterally its rights to a third party to any company or any country they select. This ought to be troublesome, and yet it is not even on the radar screen in the political debates around our country today.

Certain public roads could become private in a hurry, which could impact canal access.

This Hutchison Whampoa deal includes U.S. Naval Station Rodman, as mentioned previously; U.S. Air Station Albrook; Diablo; Balboa, a Pacific U.S.-built port; Cristobal, an Atlantic U.S.-built port; the island of Telfers, strategically located adjacent to Galeto Island, a critical communication center.

Telfers Island is said to be the future home of a Chinese work in progress, an

export zone, called the "Great Wall of China" project.

I cannot understand how we can ignore this presence into the Western Hemisphere. Monroe would turn over in his grave. The Monroe Doctrine said that foreign European nations, and other nations around the world, should stay out of the Western Hemisphere. Yet, here they are.

Law 5 is subservient to the 1977 treaty. But if we fail to notice the discrepancies and fail to act upon those discrepancies, or to point out there are potential compliance problems, then we lose the opportunity to respond.

As I said before, I don't have the easel here now, but it's 84 more days. We will come back next week, and I will come back with the chart and it will be 79 days, or whatever it happens to be. But as each day ticks off, another day goes by—another day we haven't talked to President Moscoso and we haven't tried to reopen the negotiations, and we are another day closer to turning the Panama Canal not over to the Panamanians, but to the Chinese Communists—and not a whimper from anybody in the State Department, or the President, the Defense Department, Presidential campaigns, or anywhere. So the days are getting short. I think that I have an obligation to tell the American people, on a day-to-day basis—remind them—about what is going on.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on October 7, 1999, he had presented to the President of the United States, the following enrolled bill:

S. 559. An act to designate the Federal building located at 300 East 8th Street in Austin, Texas, as the "J.J. 'Jake' Pickle Federal Building."

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-5528. A communication from the Deputy General Counsel, Federal Bureau of Investigation, Department of Justice, transmitting, pursuant to law, the report of a rule entitled "Federal Bureau of Investigation, Criminal Justice Information Services Division Systems and Procedures" (RIN1105-AA63), received October 4, 1999; to the Committee on the Judiciary.

EC-5529. A communication from the General Counsel, Federal Emergency Management Agency, transmitting, pursuant to law, the report of a rule entitled "National Flood Insurance Program; Procedures and Fees for Processing Map Changes; 64 FR 51461; 09/23/99", received September 30, 1999; to the Committee on Banking, Housing, and Urban Affairs.

EC-5530. A communication from the Chairman, Federal Deposit Insurance Corporation,

transmitting, pursuant to law, the annual report for calendar year 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC-5531. A communication from the Assistant General Counsel for Regulatory Law, Department of Energy, transmitting, pursuant to law, the report of a rule entitled "Safety of Nuclear Explosive Operations" (AL 452.2A), received October 4, 1999; to the Committee on Energy and Natural Resources.

EC-5532. A communication from the Principal Deputy Assistant Secretary for Congressional Affairs transmitting a draft of proposed legislation entitled "Veterans Programs Improvement Act of 1999"; to the Committee on Veteran's Affairs.

EC-5533. A communication from the Director, Office of Regulations Management, Department of Veterans Affairs, transmitting, pursuant to law, the report of a rule entitled "Enrollment-Provision of Hospital and Outpatient Care to Veterans" (RIN2900-AJ18), received October 4, 1999; to the Committee on Veteran's Affairs.

EC-5534. A communication from the Director, National Science Foundation, transmitting, pursuant to law, the 1998 biennial report of the Committee on Equal Opportunities in Science and Engineering; to the Committee on Health, Education, Labor, and Pensions.

EC-5535. A communication from the Commissioner of Social Security transmitting a draft of proposed legislation entitled "Civil Monetary Penalty Extension Act of 1999"; to the Committee on Finance.

EC-5536. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Weighted Average Interest Rate Update" (Notice 99-49), received September 27, 1999; to the Committee on Finance.

EC-5537. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Appeals Customer Service Program" (Announcement 99-98, 1999-412 I.R.B.—, dated October 18, 1999), received October 4, 1999; to the Committee on Finance.

EC-5538. A communication from the Director, Office of Regulatory Management and Information, Office of Policy, Planning and Evaluation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Ethalfuralin; Reestablishment of Tolerance for Emergency Exemptions" (FRL #6383-2), received October 4, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC-5539. A communication from the Director, Office of Regulatory Management and Information, Office of Policy, Planning and Evaluation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Tebuconazole; Extension of Tolerance for Emergency Exemptions" (FRL #6386-4), received October 4, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC-5540. A communication from the Director, Office of Procurement and Property Management, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Agriculture Acquisition Regulation: Part 415 Reorganization; Contracting by Negotiation" (RIN0599-AA07), received September 30, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC-5541. A communication from the Administrator, Agricultural Marketing Service, Marketing and Regulatory Programs, Department of Agriculture, transmitting,