

Kermit Bye's nomination to the Eighth Circuit Court of Appeals.

Kermit Bye is one of North Dakota's most distinguished and respected attorneys, and a senior partner in one of the top law firms in the Midwest. He has nearly 40 years of trial and appellate experience, he was President of the North Dakota Bar Association, and he's received the North Dakota State Bar Association's Distinguished Service Award.

I won't name every civic and community organization that Kermit Bye has chaired and served on, because the list is too long. Instead, I will say Kermit Bye cares deeply about the law and about the people our laws protect.

He is a man of impeccable integrity and sound judgment, possessing a formidable intellect and a healthy dose of North Dakota common sense. Kermit is temperamentally very well-suited for the bench, and can be counted on as a fair-minded jurist who understands the importance of the rule of law to society, and the judiciary's proper role within our constitutional system.

As many will recall, this seat on the Eighth Circuit Court of Appeals was first vacated in April 1997, and my fellow North Dakotan John Kelly was nominated and confirmed to this seat last summer. Tragically, just a few weeks after taking his oath, Judge Kelly took ill and passed away.

I am pleased today that Kermit Bye has been confirmed to fill this vacancy so that our Federal judiciary can benefit from his wisdom and judgment.

Mr. HATCH. Mr. President, I rise to commend the majority leader, Senator LOTT, for proceeding today with votes for these judicial nominees. As I have stated, we will continue to process the confirmations of nominees who are qualified to be federal judges. In that respect, the Senate Judiciary Committee held its first nominations hearing of this Session on Tuesday, February 22, and I expect to see more judicial nominees moving through the process in the coming months. There is a perception held by some that the confirmation of judges stops in election years. This perception is inaccurate, and I intend to move qualified nominees through the process during this session of Congress.

That said, in moving forward with the confirmations of judicial nominees, we must be mindful of problems we have with certain courts, particularly the Ninth Circuit. It was reported yesterday that the Ninth Circuit has a record of 0-6 this supreme court term. In addition, the President must be mindful of the problems he creates when he nominates individuals who do not have the support of their home-State Senators. In this regard, I must say that it appears at times as if the President is seeking a confrontation with the Senate on this issue, instead of working with the Senate to see that his nominees are confirmed.

During this Congress, despite partisan rhetoric, the Judiciary Committee has reported 42 judicial nominees, and the full Senate has confirmed 36 of these—a number comparable to the average of 39 confirmations for the first sessions of the past five Congresses when vacancy rates were generally much higher. In total, the Senate has confirmed 340 of President Clinton's judicial nominees since he took office in 1993.

I am disturbed by some of the allegations that have been made that the Senate's treatment of certain nominees differed based on their race or gender. Such allegations are entirely without merit. For noncontroversial nominees who were confirmed in 1997 and 1998, there is little if any difference between the timing of confirmation for minority nominees and non-minority nominees. Only when the President appoints a controversial female or minority nominee does a disparity arise. Moreover, last session, over 50% of the nominees that the Judiciary Committee reported to the full Senate were women and minorities. Even the former Democratic chairman of the Judiciary Committee, Senator JOE BIDEN, stated publicly that the process by which the committee, under my chairmanship, examines and approves judicial nominees "has not a single thing to do with gender or race." That is from the transcript of a Judiciary Committee hearing on judicial nominations on November 10, 1999.

The Senate has conducted the confirmations process in a fair and principled manner, and the process has worked well. The Federal Judiciary is sufficiently staffed to perform its function under article III of the Constitution. Senator LOTT, and the Senate as a whole, are to be commended.

MORNING BUSINESS

The PRESIDING OFFICER. The Senator's time has expired.

Under the previous order, the Senate will now proceed to a period of morning business. The Senator from South Carolina is recognized.

VOLUNTARY CONFESSIONS LAW

Mr. THURMOND. Mr. President, I rise to discuss my concern regarding recent developments in the Dickerson case concerning voluntary confessions. Opponents are using some extreme tactics to encourage the Supreme Court to strike down this law.

For years, members of the Senate Judiciary Committee, including myself, encouraged the Clinton Justice Department to enforce 18 U.S.C. 3501, the law on voluntary confessions. In the Dickerson case, the Department refused to permit career federal prosecutors to rely on the law in their efforts to make sure a serial bank robber did not get away.

When the Supreme Court was deciding whether to hear the case, the Department had the opportunity to defend the statute, as many of us encouraged it to do. While making its decision, the Department consulted with certain federal law enforcement agencies. The Drug Enforcement Administration explained that Miranda in its current form is problematic in some circumstances and encouraged the Department to defend the law.

The Department later wrote in its brief about the views of federal law enforcement in this matter, but that support for the statute and reservation about Miranda is nowhere to be found. Instead, the brief states "federal law enforcement agencies have concluded that the Miranda decision itself generally does not hinder their investigations and the issuance of Miranda warnings at the outset of custodial interrogation is in the best interests of law enforcement as well as the suspect." The brief should recognize that there is disagreement among federal law enforcement agencies about the impact of the Miranda warnings in investigations and the need for reform of the Miranda requirements. The Department should not generalize in a brief before the Supreme Court to the point of misrepresentation. Senator HATCH and I sent a letter to Attorney General Reno and Solicitor General Waxman last week asking for an explanation in this matter, and I look forward to their response.

One of the amicus briefs, which was filed by the House Democratic leadership, takes a very novel approach toward the statute. It seems to suggest that the voluntary confessions law is not really a law after all. It states that the "Congress enacted section 3501 largely for symbolic purposes, to make an election year statement in 1968 about law and order, not to mount a challenge to Miranda."

This statement is not only inaccurate. It is completely inappropriate.

I was in the Senate when the voluntary confessions law was debated and passed over 30 years ago. A bipartisan majority of the Congress supported this law, and Democrats were in the majority at the time.

We did not enact the law to make some vague statement about crime. We passed the voluntary confessions law because we were extremely concerned about the excesses of the Miranda decision allowing an unknown number of defendants who voluntarily confessed their crimes to go free on a technicality. We passed it to be enforced.

For the House Democratic leadership brief to state that the Congress did not intend for a law that it passed to be enforced trivializes the legislative branch at the expense of the executive. It is a dangerous mistake for the legislative branch to defer to the executive regarding what laws to enforce.

The executive branch has a constitutional duty to enforce the laws, unless they are clearly unconstitutional. Contrary to what is happening today, the executive branch is not free to ignore acts of Congress simply because it does not support them, and the legislative branch should not support this approach.

In this matter, the Justice Department has refused to abide by its duty to faithfully execute the laws, and has instead chosen to side with criminals and defense attorneys over prosecutors and law enforcement. It is unfortunate that, in this case, the Department will be making arguments on behalf of criminals before the Supreme Court. No arguments about the law will change this sad fact.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

(The remarks of Mr. SPECTER and Mr. TORRICELLI pertaining to the introduction of S. 2089 are printed in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Senator from Colorado.

Mr. CAMPBELL. Mr. President, I ask unanimous consent I be allowed to speak for 8 minutes as in morning business for the introduction of a bill.

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

(The remarks of Mr. CAMPBELL pertaining to the introduction of S. 2090 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER (Mr. VOINOVICH). The Senator from Georgia.

U.S. FOREIGN POLICY

Mr. CLELAND. Mr. President, it is an honor to be here today with my distinguished colleague from Kansas, Senator PAT ROBERTS. We want to institute a process by which this body can increasingly come to grips with some of the challenges that persist in our foreign policy and continue to be, in terms of our defense, a challenge to us and to the young men and women of America.

It is an opportunity for us to continue our dialog which we started in the Armed Services Committee over the last 3 years as we have encountered difficulties in the Middle East, southwest Asia, and as we see problems around the world. He and I have more and more come to an understanding that we have more in common than we do in disagreement.

One of the things we have in common is that we asked some very important pertinent questions about our foreign policy and our defense as we go into the 21st century. We are delighted today to kick off, not so much a debate on American foreign policy but a dialog which we hope will develop a con-

sensus of some basic first principles by which we ought to engage the world.

We have the post-cold-war world, as it is called. I was with Madeleine Albright today, our distinguished Secretary of State, and she said it is probably not the post anything; it is just a new era. We have gone through the cold war and the terrors of that period, but we are certainly in a new era, and it does not even really have a name.

We hope to provide for our colleagues in the Senate—and we hope they will join us—over the course of this year, an understanding of key national security issues and begin building the building blocks of a bipartisan consensus on the most appropriate priorities and approaches for our country in today's international environment.

In launching this endeavor, I am very mindful of both the enormity of the undertaking and of my own limitations in addressing such a subject. Having been only 3 years, beginning my fourth year in the Senate, I certainly do not claim to have a solution to these problems about which we are going to talk, but I hope to ask some pertinent questions.

American foreign policy is challenged because of the end of the cold war, and Senator ROBERTS and I approach these questions on the road to the future with great humility and certainly with far more questions of our own than answers. Yet I believe this dialog is one the Senate must have. We owe it to the other nations of the world, including those that look to America for leadership, as well as those that make themselves our competitors, and certainly we owe it to those that make us their adversaries. Even more, we owe it to those who serve our country in the Armed Forces and in the Foreign Service, whose careers and sometimes very lives can be at stake. Perhaps most of all, we owe it to our children and our grandchildren.

I was with Senator Nunn last night at the State Department. He was being honored by the State Department. I always learn something from him whenever I am with him. We were talking about a particular country, a particular challenge in American foreign policy. He said: Yes, what happens there will affect our children and our grandchildren.

It is astounding that the consequences of the decisions we make today will, indeed, affect future generations, so we must make these decisions wisely.

Uncertainty, disunity, partisanship, and overstatesmanship will not serve this country well. We need to seriously consider what our global role in the 21st century is and what it should be. That decision will affect future generations more than we can possibly understand.

One more point: I do believe a meaningful, bipartisan dialog on the U.S. role, which many believe is vital to our

national interest, is also imminently doable even in this election year. While the subject matter is very important to our country and our future, it is not an issue of great use on the campaign trail. This great body is the place to discuss these great and momentous issues where we can lay it all out and talk about it in a way that does not impinge on anybody's particular partisan views. Simply put, neither the Presidential race nor the elections for the Congress will be determined by who has the partisan upper hand on foreign policy.

Over the course of the year, Senator ROBERTS and I—and we hope a number of other Senators—will be engaging in a series of floor dialogs relating to the general direction of U.S. foreign policy and national security policy in the 21st century.

We have actually chosen to sit together. We are on different sides of the aisle, but we chose to come from our back-bench positions to show that we stand actually shoulder to shoulder in this regard. We are all Americans, and we hope we can do something good for our country.

Our current game plan is to begin today by considering frameworks for the U.S. global role with respect to priorities and approaches. In the weeks to come, this will be followed by sessions on U.S. national interests. Of course, the first question about American engagement in the world should be: Is it in our vital strategic national interest? That is question No. 1. The next session will be on U.S. national interests, what are they.

Another phase of our discussion will be the use of our military forces. Quite frankly, this should be question No. 2 because if we do not have a military objective following America's strategic vital interests, why commit the military?

Next is we want to engage the question of our relationship with multilateral organizations. We realize the United States is the world's foremost military and economic power, but that does not necessarily mean we can go it on our own everywhere. The issue of multilateral organizations and our relationship to them is an important one.

After multilateral organizations is the foreign policy roles of the executive and legislative branches. One of the first things that came to my attention when I came to the Senate 3 years ago was something called the U.S. Constitution. Senator BYRD was kind enough to give me an autographed copy of the U.S. Constitution and the Declaration of Independence, which I proudly carry with me. Quite frankly, if you read the Constitution carefully, it gives the Congress the power to declare war, to raise and support armies, and to provide and maintain a navy. That is a responsibility we have, along with a unique role in the Senate of advising and consenting, particularly on