

SENATE JUDICIARY COMMITTEE
SENATOR PATRICK LEAHY, D-Vt.
CHAIRMAN



Judicial Nominations Background
Table of Contents

Background

Reaction Of Senator Patrick Leahy To President Bush's Speech On The Federal Judiciary (10/6/08)

Nominations, General Statistics (as of 10/6/08)

Judicial Nominations: The Facts (as of 10/6/08)

Bush Presidency Arrow Chart (as of 10/6/08)

Judicial Vacancies: The Clinton and Bush Years (as of 10/6/08)

Circuit Court Vacancies: The Clinton and Bush Years (as of 10/6/08)

Previous Statements

Senate Confirms Ten Lifetime Judicial Appointments (09/26/08)

<http://leahy.senate.gov/press/200809/092608d.html>

Statement Of Senator Patrick Leahy, On Judicial Nominations (09/26/08)

<http://leahy.senate.gov/press/200809/092608f.html>

Judiciary Committee Reports Thirteen Nominations (09/25/08)

<http://leahy.senate.gov/press/200809/092508a.html>

Leahy Chairs Rare, Late-Year Nominations Hearing (9/23/08)

<http://leahy.senate.gov/press/200809/092308b.html>

Statement Of Senator Patrick Leahy, Hearing On Judicial and Executive Nominations (09/09/08)

<http://leahy.senate.gov/press/200809/090908.html>

Senate Confirms Two Judicial Nominations (7/23/08)

<http://leahy.senate.gov/press/200807/072308b.html>

Two More Lifetime Judicial Appointments Confirmed (7/17/08)

<http://leahy.senate.gov/press/200807/071708a.html>

Comment Of Sen. Patrick Leahy (D-Vt.) On Consideration Of Judicial Nominations (7/14/08)

<http://leahy.senate.gov/press/200807/071508a.html>

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For Background

Nominations Stats

Judges Confirmed Under President Bush (as of 10/6/08)

Chairman	Circuit	District	Totals
Leahy 1st Tenure (17 months)	17	83	100
Leahy 2nd Tenure (20 months)	10	48	68
Leahy total (37 months)	27	141	168
Hatch (2 years)	18	85	104
Specter (2 years)	16	35	54
Total Bush Article III Nominees Confirmed (Including CIT and SCOTUS)	61	261	326

Judicial Vacancies

At the end of Clinton administration (January 21, 2001)

Total vacancies: 84 (This rose to 100 with retirements early in Bush administration)

Circuit vacancies: 25 (This rose to 32 with retirements early in Bush administration)

District vacancies: 59

Currently under Chairman Leahy (October 6, 2008)

Total vacancies: 34 (8 with no nominee)

Circuit vacancies: 11 (1 with no nominee)

District vacancies: 23 (7 with no nominees)

Election Year Comparison:

October 6, 2000

Total Vacancies: 63 (37 nominees pending)

Circuit vacancies: 23 (16 nominees pending)

District vacancies: 40 (21 nominees pending)

October 6, 2008

Total vacancies: 34 (26 nominees pending)

Circuit vacancies: 11 (10 nominees pending)

District vacancies: 23 (16 nominees pending)

Judicial Nominations: The Facts

*As prepared by the office of
Senator Patrick Leahy, Chairman, Senate Judiciary Committee*



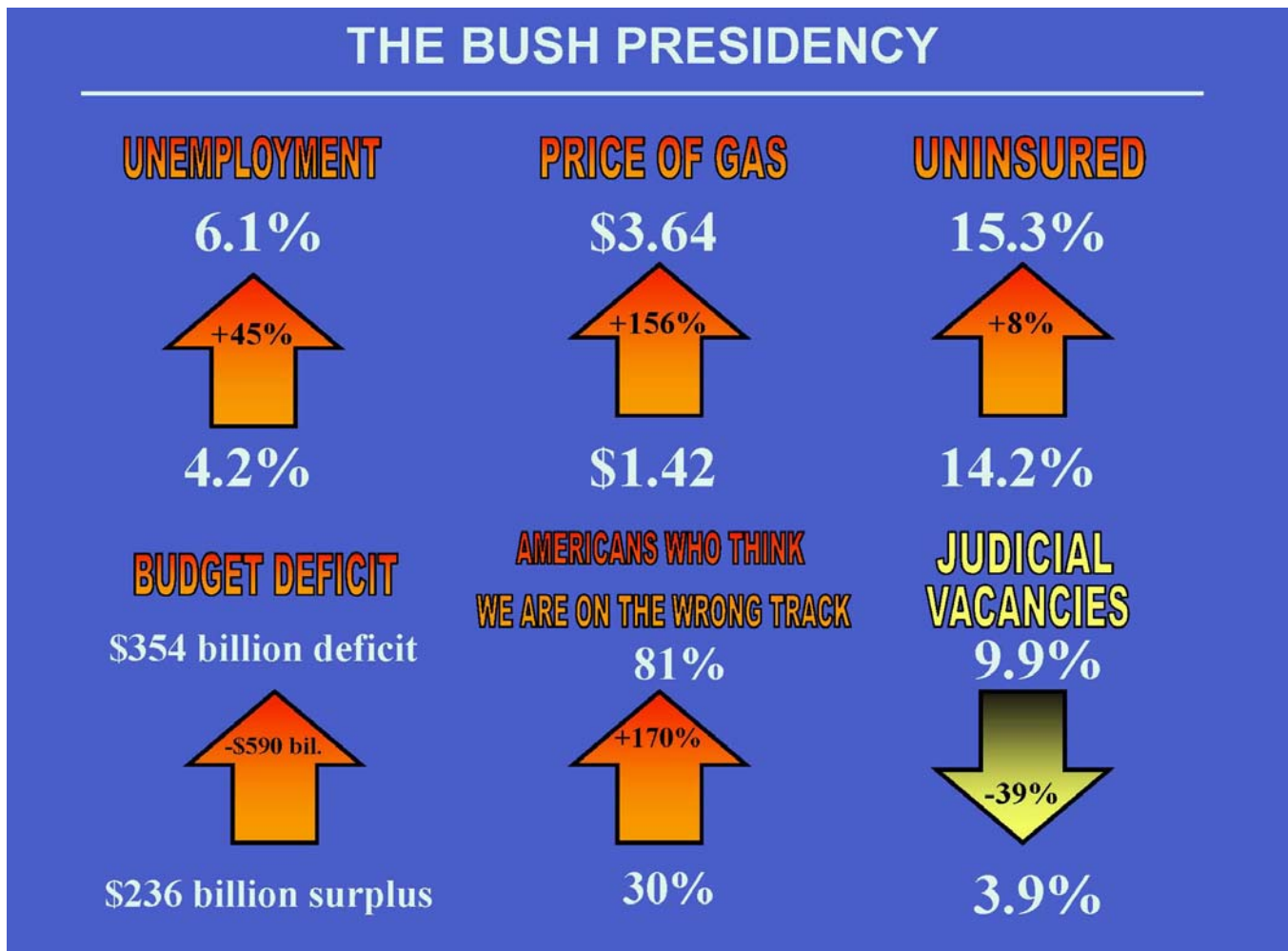
- At a time when Americans are most concerned about skyrocketing gas prices, steep declines in home values, and rising unemployment, Republicans in the Senate are intent on making a partisan election year issue of judicial confirmations. Meanwhile, the price of gas has risen from \$1.42 a gallon when President Bush took office to over \$4.00 earlier this year. There is a 6.1 percent unemployment rate, and the U.S. economy lost 159,000 jobs in September. Consumer confidence is at its lowest level in more than two decades. **These** are the numbers that Americans care about.
- The inundation of bad economic news is nothing new for Americans under the Bush administration. During his administration, President Bush and all Americans have seen unemployment rise more than 30 percent and trillions of dollars in budget surplus have been turned into trillions of dollars of debt, with an annual budget deficit of hundreds of millions of dollars. There is no question this deficit is on the rise. **These are the REAL issues facing the American people.**
- The pace of confirmation of President Bush's nominations has been faster with a Democratic majority than with a Republican majority.
 - **The Senate has confirmed 168 nominees in just over three and one half years of Democratic leadership.** Democrats have matched in a shorter time the total confirmed in four full years of Republican leadership.
 - With 40 judicial confirmations last year and another 28 this year, the Democratic Senate majority has **already exceeded the confirmation total for the entire last Congress,** two full years with a Republican chairman and a Republican Senate majority working to confirm the judicial nominees of a Republican President.
- Under a Democratic Majority, the Senate has dramatically cut judicial vacancies under President Bush, in stark contrast to the Republican Majority that doubled judicial vacancies under President Clinton.
 - On October 6, 2000, when a Republican Senate majority was considering the judicial nominees of a Democratic President in a presidential election year, there were **63 judicial vacancies.** Twenty-three were circuit court vacancies. In contrast, as of October 6, 2008, **there were just 34 total judicial vacancies throughout the country,** and circuit court vacancies **totaled just 11.**
 - **By pocket filibustering more than 60 of President Clinton's nominees, the Republican majority doubled the number of judicial vacancies. Democrats have cut them more than in half**

Judicial Nominations: The Facts

*As prepared by the office of
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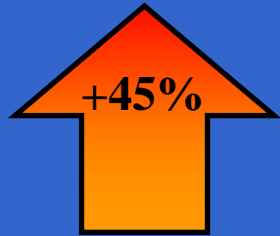
- In fact, as the presidential elections in 2000 drew closer, and when the judicial vacancy rate stood at 7.2 percent, then-Judiciary Committee Chairman Orrin Hatch declared that “There is and has been no judicial vacancy crisis” and that 7.2 percent was a “rather low percentage of vacancies that shows the judiciary is not suffering from an overwhelming number of vacancies.” [Congressional Record, October 11, 2000.] **The current vacancy rate is 3.9 percent.**
- In July of 2000, then-Chairman Hatch stated, “In presidential election years, the confirmation of appellate court nominees historically has slowed.” [Executive Business Meeting, July 20, 2000.] In fact, in that year, under Chairman Hatch, nearly 80 percent of confirmations of judicial nominees occurred before July 16. In 2000, there were no nominations hearings after July 25; the Judiciary Committee has held two nominations hearings in September.
- **During the 1996 Congressional session, during a presidential election year, the Republican Senate majority confirmed no circuit court nominees all year** and no nominees at all after August 2. The average number of circuit court confirmations in 1996 and 2000, with a Republican Senate majority considering President Clinton’s nominees, was **four, the same number of circuit court nominees the Democratic Senate majority has confirmed this year**, with a much lower vacancy rate.



THE BUSH PRESIDENCY

UNEMPLOYMENT

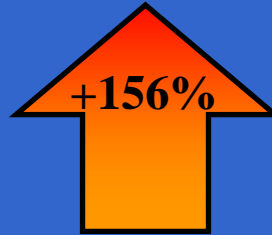
6.1%



4.2%

PRICE OF GAS

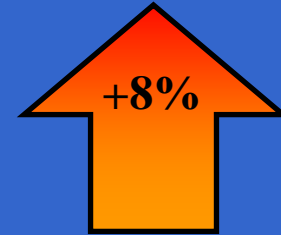
\$3.64



\$1.42

UNINSURED

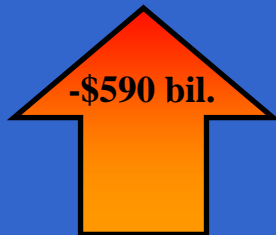
15.3%



14.2%

BUDGET DEFICIT

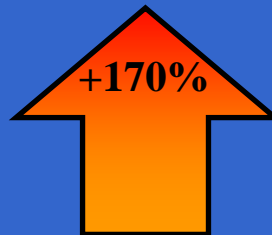
\$354 billion deficit



\$236 billion surplus

AMERICANS WHO THINK WE ARE ON THE WRONG TRACK

81%



30%

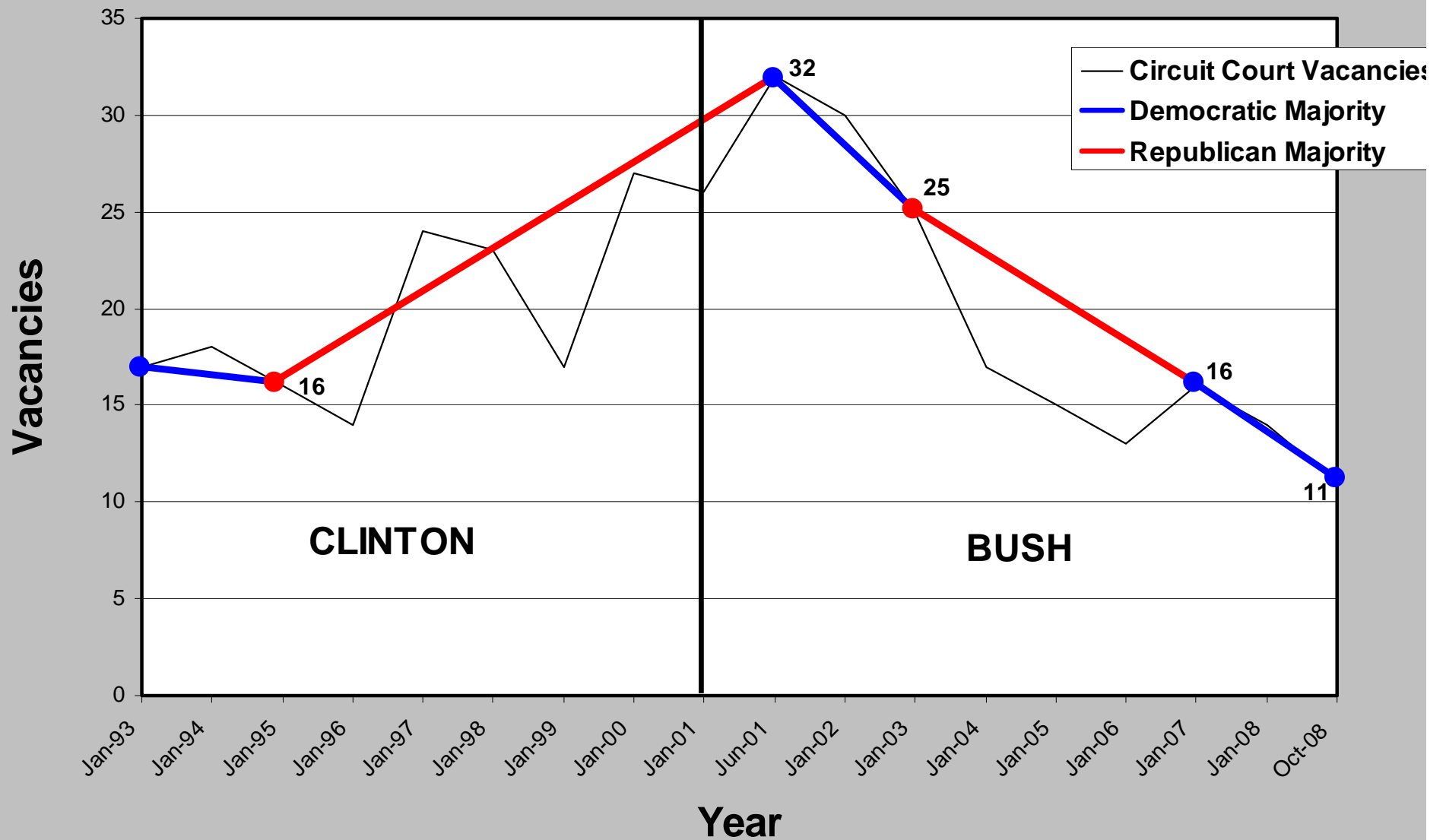
JUDICIAL VACANCIES

9.9%

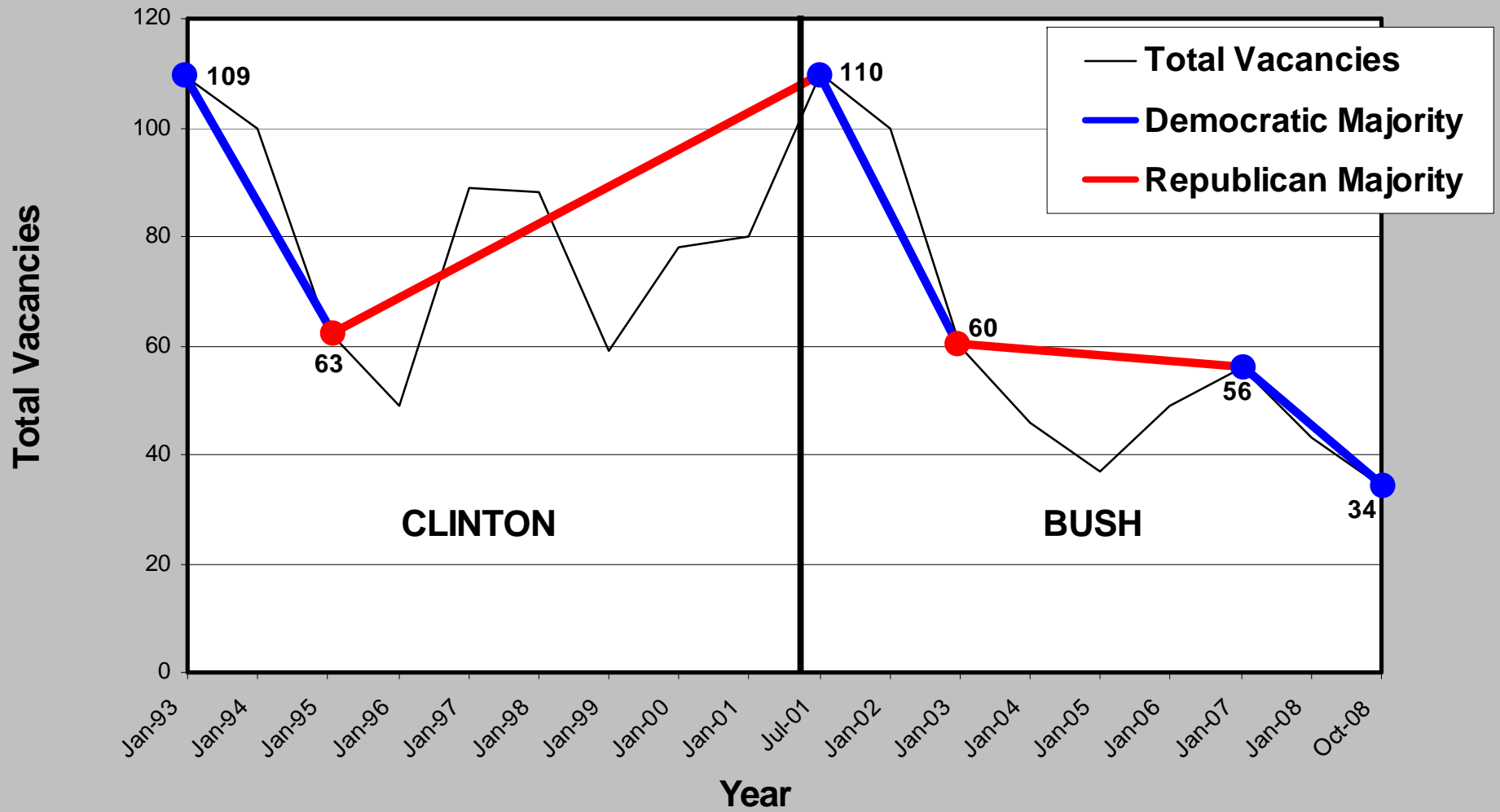


3.9%

Circuit Court Vacancies: The Clinton and Bush Years



Judicial Vacancies: The Clinton and Bush Years



U.S. SENATOR PATRICK LEAHY

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VERMONT

Reaction Of Senator Patrick Leahy (D-Vt.), Chairman, Senate Judiciary Committee, To President Bush's Speech On The Federal Judiciary October 6, 2008

“The balance on our nation’s federal courts is precarious, with seven out of the nine Supreme Court Justices and 60 percent of all Federal judges appointed by Republican Presidents. The impact of President Bush’s appointments is being harshly felt by ordinary Americans who are being denied their day in court and denied the protection that federal and state laws designed to help them were intended to provide. We cannot afford more of the same if Americans’ rights and liberties are to be preserved. Just as the Bush administration placed partisan politics ahead of sound law enforcement at the Department of Justice, it has elevated its partisan political agenda over the rule of law in its appointments to our federal courts.

“During the Bush-Cheney administration, the Supreme Court has been siding with big corporations at the expense of workers, consumers, injured Americans and investors. Recent decisions by the Supreme Court, like *Ledbetter*, *Exxon*, and *Riegel* have left countless Americans without redress for corporate misconduct. Justices Scalia and Thomas, along with the Bush appointees, have been on the wrong side of these decisions. Their shielding of big business from accountability has contributed to the corruption and greed that is requiring massive taxpayer investments to shore up the shaky credit markets and financial institutions.

“Hardworking Americans are no longer able to obtain justice in our courts when decisions like that in the *Ledbetter* case leave them without effective recourse. Lilly Ledbetter, a supervisor at Goodyear Tire, was paid significantly less than her male counterparts for two decades. Her jury verdict was thrown out when the Supreme Court agreed with the Bush administration to bar her claim from being considered. The result is that working women are denied equal pay for equal work so long as their employee can hide the wrongdoing for a few months. Older workers can be discriminated against with impunity. And when Congress tried to reinstate the anti-discrimination laws as intended, Senate Republicans filibustered.

“In so many other recent decisions in the federal courts, the Bush administration and the judges it has appointed have been wrong. They are quick to grant enormous power to the President and intent on rolling back personal freedoms and rights. Their wrong decisions have undercut voting rights, human rights, workers rights, civil rights and the environment. I have urged, and will continue to urge, this President and the next President to nominate men and women to the federal bench who reflect the diversity of America. Diversity on the bench helps ensure that the words ‘equal justice under law,’ inscribed in Vermont marble over the entrance to the Supreme Court, is a reality and that justice is rendered fairly and impartially. We must work to restore balance to the federal courts and ensure that the Federal judiciary is once again removed from politics and independent, so that our courts are able to provide justice to all Americans.”

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