

of Appeals, in large measure because the recent Republican majority was not willing to hold hearings or vote on more than half—56 percent—of President Clinton's Courts of Appeals nominees in 1999 and 2000 and was not willing to confirm a single judge to the Courts of Appeals during the entire 1996 session.

From the time the Republicans took over majority control of the Senate in 1995 until the reorganization of the Committee last July, circuit vacancies increased from 16 to 33, more than doubling.

Democrats have broken with that recent history of inaction. During our first year in control of the Judiciary Committee, we held 16 hearings for circuit court nominees. That is almost the same number of circuit court nominees, 17, who were never given a Committee vote by Republicans in 2000.

Democrats are working hard to reduce judicial vacancies and we have moved quickly on these nominees, as well as many, many others. I have noted that we could have been even more productive with a little cooperation from the White House, but that has not been forthcoming.

Moreover, of the current vacancies, more than half do not have a nominee. We are almost out of district court nominees ready to be included at hearings, because the President has been so slow to nominate district court nominees and insists on delaying the ABA peer review process until after the nominations are made.

Today's vote on the nomination of Lavenski Smith to the United States Court of Appeals for the Eighth Circuit is the third Eighth Circuit nominee the committee has considered in the past year. This is in sharp contrast to the treatment of Eighth Circuit nominee Bonnie Campbell by Republicans.

Ms. Campbell is now a partner at the distinguished Washington law firm of Arent Fox Kintner Plotkin & Kahn, where she acts as an adviser, negotiator, advocate, and litigator, representing employers in personnel, labor relations, employment discrimination, benefits, and other employment-related matters. A graduate of Drake University and Drake's law school, Ms. Campbell has an outstanding record of public service.

She was nominated by President Clinton early in 2000 to serve on the U.S. Court of Appeals for the Eighth Circuit.

She was supported by both of her Senators, Democrat TOM HARKIN and Republican CHUCK GRASSLEY, given a "Qualified" rating by the ABA, and afforded a hearing before the Judiciary Committee a few months later, in May of 2000. However, despite a non-controversial hearing, Ms. Campbell was never scheduled for a committee vote. No explanation for this failure to give her a vote was ever given, and her nomination was eventually returned at the end of the 106th Congress. Other individuals nominated after Ms. Camp-

bell were given committee hearings and votes and were confirmed later that year, while Ms. Campbell's nomination languished.

She seems to have been the victim of the Republican practice of anonymous, indefinite holds. In January of 2001, President Clinton re-nominated Ms. Campbell, but President Bush failed to seize the opportunity for bipartisanship, and withdrew her nomination shortly thereafter.

At the time of her nomination Ms. Campbell was nearing the end of a distinguished term at the U.S. Department of Justice, where she served as Director of the Violence Against Women Office, a position to which she was appointed by President Clinton in 1995.

In that capacity, she oversaw a \$1.6 billion program to provide funding to States to strengthen their efforts in the areas of domestic violence and sexual abuse. She also directed the Federal Government's efforts to implement the new criminal statutes created by the 1994 Violence Against Women Act. Ms. Campbell oversaw the Justice Department's efforts to combine tough new Federal criminal laws with assistance to states and localities to fight against violence against women.

Bonnie Campbell had, before coming to Washington, served as the Attorney General of Iowa, the first woman ever elected to that position. During her tenure in office, she was instrumental in pushing the State legislature to strengthen Iowa's domestic abuse statute, and in 1992 she authored one of the Nation's first anti-stalking laws. In 1997 Bonnie Campbell was named by Time magazine as one of the 25 most influential people in America.

Ms. Campbell's record of distinguished public service and her experience in private practice combined to make an excellent nominee to the Court of Appeals for the Eighth Circuit, a fact with which both of her Senators obviously agreed. Yet once afforded a hearing, Bonnie Campbell was left to linger in an indefensible limbo. She was not granted a committee vote, but neither was she confronted with any objections to her nomination to the Eighth Circuit proceeding.

Contrasting the treatment of the nominations of Bonnie Campbell and Lavenski Smith to the Eighth Circuit evidences the difference in how the Republican majority and the current Democratic majority have handled judicial nominations and highlights the fairness that has been restored to the confirmation process.

#### LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will return to legislative session.

The question is, Will the Senate advise and consent to the nomination of Lavenski R. Smith, of Arkansas, to be United States Circuit Judge for the Eighth Circuit?

The nomination was confirmed.

Mr. HUTCHINSON. Mr. President, I rise to speak about Judge Lavenski Smith who has been confirmed this evening for the eighth circuit court of appeals. This is a great evening for him and his family. He is going to be a great jurist. I congratulate Judge Smith tonight.

I thank President Bush for making an excellent choice, a choice that I think Arkansas can feel good about, the Eighth Circuit can feel good about, and, indeed, the country can feel good about. Judge Smith is an excellent choice. He is the first African American to represent the State of Arkansas in the Eighth Circuit Court of Appeals. He will do so with great distinction.

I will speak, very briefly, about his career. But the hallmark of Judge Smith's entire career has been one of service. It has been a storybook tale.

He is a native of Hope, AR. He earned both his bachelor's degree and his law degree from the University of Arkansas in Fayetteville. He worked his way through college. Following law school, he clerked for 3 years, and then he served the poorest citizens of Arkansas as the staff attorney for Ozark Legal Services, representing abused and neglected children.

After working with Ozark Legal Services, he opened the first minority-owned firm in Springdale, AR, handling primarily civil cases. He then taught business law at John Brown University and took several positions in public service, including Regulatory Liaison for Governor Huckabee. Currently Judge Smith serves as the commissioner of the Arkansas Public Service Commission.

In 1999, he was appointed to the Arkansas supreme court and served on the Arkansas supreme court with distinction for 2 years. As a supreme court justice, he presided over hundreds of cases and authored several dozen majority opinions. He was highly praised by all his colleagues in the Arkansas supreme court.

In June of 2001, the American Bar Association reviewed Justice Smith's qualifications and made a "unanimous qualified" determination.

Beyond all of his obvious legal qualifications, I want to point out that he has had a long history of community service. Whether it was as a board member of the Northwest Arkansas Christian Justice Center, a nonprofit organization dedicated to providing mediation and conciliation services, working with the Partners for Family Training, a group that recruits and trains foster parents, or whether it was raising funds for the School of Hope, a school for handicapped children in Hope, AR, at every stage of his life there has been this hallmark of service.

This outstanding record of service is the most outwardly visible sign of something the people in Arkansas know well; that he is a good and honorable man who will serve his country well. We can all be proud of the vote that occurred this evening.

It is a storybook tale, but it is a storybook tale that has not yet had the last chapters written. There are going to be a lot of wonderful chapters in the years ahead as he, as a young man, has a long time to serve on the Federal bench.

It will be a wonderful culmination to what has already been a great story and a great career. I stand with Arkansas this evening in pride.

I thank Senator BLANCHE LINCOLN for her cooperation, for her support, and all that she has done over the last year to make tonight's vote possible.

With that, Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Arkansas.

Mrs. LINCOLN. Mr. President, I thank my colleague from Arkansas for those kind words.

I rise to express my gratitude to all of my colleagues tonight for their support of the cloture motion before the Senate this evening of the nomination of Judge Lavinski Smith of Arkansas to fill a vacancy on the Eighth Circuit Court of Appeals.

I am certainly pleased that the majority leader has taken a step which demonstrates a commitment of the Democratic leadership in the Senate to move the nomination process forward and to fulfill our obligation under the Constitution.

As one of those who signed the cloture motion to bring forward Judge Smith's nomination, I am proud of my colleagues for joining in with an excellent vote in supporting this fine Arkansan to the bench.

I want to say a special thanks to the chairman of the Judiciary Committee for his hard work over the last year to reduce the number of judicial vacancies which will ensure our Federal courts can operate efficiently. He has tirelessly worked in the Judiciary Committee to be fair and to be expeditious.

There has certainly been a good deal of heated debate surrounding the pace of judicial confirmations in recent months. However, I can say from personal experience that the chairman has been highly responsive to my inquiries regarding this nomination. I am grateful for his efforts and those of the committee staff in trying to move the process forward expeditiously and fairly.

I also thank my colleague, Senator HUTCHINSON from Arkansas, for his work in this arena.

For the benefit of my colleagues who are not familiar with Judge Smith, I am pleased to offer a few words of introduction.

As my colleague from Arkansas mentioned, Lavinski Smith is a lifelong resident of Hope, Arkansas, as many people from Arkansas have been recognized being from Hope. After graduating from high school, Judge Smith moved north to Fayetteville, where he received both his BA and JD from the University of Arkansas in Fayetteville.

Since that time, Judge Smith has enjoyed an impressive career as a prac-

ticing attorney, as my colleague mentioned, with great service through the legal services to the indigent, a State supreme court judge, a professor, and, most recently, a member of the Arkansas Public Service Commission.

This would be an impressive list of accomplishments for anyone, but at the age of 43, Judge Smith's record is a good indication that he has many years of productive service in his future.

Since President Bush announced the appointment of Judge Smith last year, I have heard from dozens of Arkansans from across the political spectrum who support his nomination. In fact, my support for Judge Smith's nomination is based in large part on the enthusiastic endorsement he has received from those who know him the best: his colleagues and friends who have firsthand knowledge of his professional and personal attributes, those who have worked with him in the legal field who have sent their recommendations to me.

Those who have indicated strong support for Judge Smith in Arkansas include Arkansas supreme court chief justice "Dub" Arnold and Arkansas NAACP president Dale Charles. In addition, I believe it is important to note that Judge Smith received a unanimous "qualified" rating for this position by the ABA Standing Committee on the Federal Judiciary.

Even though Judge Smith and I may not agree on every issue, that is not the test I apply to determine an individual's fitness for the Federal judiciary. I evaluate judicial nominees based on skill, experience, and ability to understand and apply established precedent, not on any one particular point of view a nominee may hold. Fundamentally, I am interested in knowing that a nominee can fulfill his responsibility under the Constitution in a court of law.

I am satisfied that Judge Smith has met that standard, and I, therefore, thank my colleagues for supporting his nomination and the cloture motion to move that forward.

The PRESIDING OFFICER. The majority leader.

PASSAGE OF S. 2673

Mr. DASCHLE. I thank all of my colleagues for the tremendous work done in the past week. I especially compliment the distinguished Senator from Maryland, the chairman of the Banking Committee, for the extraordinary leadership he has shown in getting us to this point. I am sure there were few who have ever guessed this could have passed so overwhelmingly as it did tonight.

That is the accounting legislation. I am very grateful to all who had a significant role to play. I thank the staff of the Banking Committee and so many of my colleagues. I also acknowledge the fine work done by Senator LEAHY on the enforcement aspects of this legislation.

The combination of the contribution made by the Judiciary Committee,

along with the Banking Committee, makes this a historic moment for the Senate, a historic moment for corporate governance, and a real recognition that at long last we are going to be rebuilding the confidence and trust we need in our free enterprise system.

We made a contribution in that regard today. I am very hopeful we can get this work done very soon.

It would be my hope, given the President's support for the Sarbanes bill, and Speaker HASTERT's support, as he indicated just last week, that the House consider taking up the Sarbanes bill and passing it free-standing so we could send it directly to the President in time to afford the President the opportunity to sign it very quickly. That would be the quickest way, and given the broad bipartisan support this legislation now enjoys, and given Speaker HASTERT's support for the legislation, I would think this would be a tremendous opportunity to demonstrate in a bipartisan way how quickly we can respond as we did today. But more than how quickly, how effectively we can respond to the needs of our Nation when it comes to restoring that confidence.

#### GREATER ACCESS TO AFFORDABLE PHARMACEUTICALS ACT OF 2001—Motion To Proceed

Mr. DASCHLE. Having disposed of the banking legislation, it is now our intent to turn to the whole issue of prescription drugs. We will deal with both cost containment as well as Medicare benefits. The bill passed out of the Labor Committee, S. 812, Calendar No. 491, will be the vehicle for our debate.

It is my intention now to ask unanimous consent the Senate proceed to the consideration of Calendar No. 491, S. 812, to provide greater access to affordable pharmaceuticals at 10:30 a.m., Tuesday, July 16.

Mr. GREGG. This bill was reported out of the committee on which I am ranking member. At the time it was reported out, which was last Thursday—so it has been a very quick turnaround and no report has been filed on the bill—there was an understanding within the committee that there would be two issues resolved before it came to the floor. One involved bioequivalency and the other involved the 45-day rule.

There are other issues with the bill. There are other issues which may require further work, but those two issues need to be resolved before this bill comes to the floor. As I believe was the understanding when the bill was passed out of committee, it would be passed with those being resolved before it got to the floor.

I understand it is being moved to the floor quickly to be the vehicle addressing the other issues involved in drug coverage.

The bill itself has some very strong points in it; I have drafted a fair amount of it so I recognize that. But at this time I have to object to the motion to proceed.