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By Fax: 212-556-3622  
7 pages

February 24, 1997

Letters to the Editor  
The New York Times  
229 West 43rd Street  
New York, New York 10036

Att: George Gustines

Dear George:

Thanks for reconsidering publication on the important issue about the process by which our federal judges are nominated and confirmed. It would be a disservice to the public if Chairman Hatch had "the last word"!

Enclosed is our Letter to the Editor (3rd version), for publication under my mother's name as Director of the Center for Judicial Accountability, Inc. Just as you entitled our previous letter "On Choosing Judges, Pataki Creates Problems" (2/16/96), this one might well be entitled "On Confirming Judges, the Senate Creates Problems"!

For your convenience, enclosed is a copy of Senate Judiciary Committee Chairman Hatch's Letter to the Editor, which The Times published last Wednesday, February 19th, as well as the Times article about him and the ABA, which appeared on the same day.

Also enclosed is the Times editorial of February 14th "Too Many Federal Court Vacancies".

Yours for a quality judiciary,



ELENA RUTH SASSOWER, COORDINATOR  
Center for Judicial Accountability, Inc.

Enclosure

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229 West 43rd Street  
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Dear Editor:

In his Feb. 19 letter, Republican Senate Judiciary Chairman Hatch proclaims he will "continue to oversee a fair confirmation process", filling our federal courts with "qualified judges". In a separate Feb. 19 article, he repeats his recurrent assertion "that the time has come...to decide what role, if any [the American Bar Association] should play in the Senate judicial confirmation process."


This is rhetorical hype. Except in the rarest cases, Senate confirmation of our judicial nominees is not about qualifications. It is about political trading between the Senators. It is the Senators, after all, who are responsible for recommending the nominee to the President in the first place--not necessarily for reasons having to do with professional qualifications. In "I'll scratch your back, you scratch mine" fashion, Senators go to great lengths to avoid scrutinizing the qualifications of other Senator-sponsored nominees, lest the qualifications of the nominees they have sponsored be

scrutinized. Besides, their votes on judicial confirmations are an easy barter for votes of other Senators on more concrete projects and issues for their constituents back home. Thus, the Senate leadership, both Republican and Democratic, nail down judicial confirmations in "unanimous consent" agreements, hammered out behind-closed-doors. The result, evident in the second session of the 104th Congress, is that all of the 17 judicial confirmations were without any debate or vote on the Senate floor.

Last year, before even one of the 17 judicial nominees were confirmed, our non-partisan citizens organization made a written presentation to Chairman Hatch and the Republican and Democratic Senate leadership. It documented the breakdown of pre-nomination ABA screening and post-nomination Senate Judiciary Committee screening of federal judicial nominees. Such breakdown, we demonstrated, was not accidental or in good-faith, but knowing and deliberate. This included the wilful conduct of Chairman Hatch in subverting the integrity of the confirmation process, including any semblance of fairness, proper procedure, and democratic participation, and in covering up for the ABA.

Based upon that documentary presentation, the public was entitled to a moratorium of all judicial confirmations, pending an official investigation. This is what we called for.

The response? We never heard from the Chairman Hatch or the Senate leadership, from either side of the aisle. It's hard to address concrete evidence -- and they were busy with their closed-door judicial confirmation agreements.

*Doris L. Sassower* 

DORIS L. SASSOWER, DIRECTOR  
Center for Judicial Accountability, Inc.