being asked about his deeply held religious beliefs as somehow a disqualifier; somehow if you hold beliefs deeply you are no longer eligible to hold a position of public trust in the judiciary.

I argue this country was founded on religious pluralism; that is, people with shallowly held religious beliefs, deeply held religious beliefs, no religious beliefs, all are eligible and welcome to serve in this country in positions of importance, whether it is in the judiciary, whether in the legislature, or in the Executive Office.

We are finding a litmus test that should be very disturbing to people of faith, to people of no faith. It has no place in the Senate.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from the great State of Massachusetts.

Mr. KENNEDY. I thank the Republican leader and Senator MURKOWSKI and Senator BENNETT as well for their courtesy this morning.

CLOTURE VOTE ON CLASS ACTION

Mr. KENNEDY. Mr. President, what we are being asked to do on this class action bill is a travesty. We are not only being asked to throw the baby out with the bathwater; we are being asked to throw out the bathtub and buy a new one that no sensible parents would even want to put the baby in.

We all know what is going on here. Corporate giants and giant insurance companies do not want to be held accountable in class action cases, and they want to make it as hard as possible for injured citizens to obtain relief. They are powerful special interests. They know that the heavier the burden they impose on the courts, on consumers, and on those with legitimate civil rights and environmental claims, the less likely they are to be held accountable.

All of us agree that class action procedures are far from satisfactory, especially in large nationwide cases, and reasonable reforms are long overdue.

If we vote for cloture today we are giving a blank check to those who would like class actions to disappear entirely, so that injured citizens do not have to be paid at all. If we vote against cloture, we will give new leverage and needed time to those who are serious about reforming class actions and just as serious about protecting citizens' rights.

Today we are presented, virtually on a take it or leave it basis, with what can only be called a radical shift in Federal law, a bill that calls itself the Class Action Reform Act. If we want truth in labeling, we should call it the Class Action Destruction and Federal Court Disruption Act.

In its present form, this bill is a shoddy patchwork of different ideas and different approaches grafted together with no concern for its overall impact, as long as it shields defendants. Key provisions have never been the subject of any hearings or any careful analysis by impartial experts in the field.

Yet the bill makes massive changes in the basic rules of the road on jurisdiction of the courts.

It suddenly abandons 200 years of evolutionary change in Federal jurisdiction and substitutes a totally new road that no one has traveled and no one can map. It does so in the interest of purported problems that, if they exist at all, are not emergencies and certainly are not so urgent that we need to move ahead so blindly.

If we enact this bill, we will have confusion and conflict in the Nation's courts for years, as they wrestle to untangle the mess which this law produces. Its most visible initial impact will be to add an entire new layer of legal jousting, litigation burden and higher costs to already complex cases.

If the hopes of its sponsors are realized at all, the law will force a very large number of complex and important cases off the dockets of tens of thousands of State judges and onto the dockets of less than 2,000 Federal judges, who already face massive backlogs.

We can also expect that the law as now proposed will do serious harm to the ability of citizens in civil rights cases to obtain the relief they are entitled to under State law.

There are no legitimate complaints about class actions on civil rights. Yet this bill would severely and adversely affect such cases.

The bill will make the most pressing and legitimate class action cases more burdensome and more expensive. It will reduce the ability of courts to improve the efficiency of justice by dealing with large numbers of small but similar cases in groups, instead of one at a time.

To the extent that plaintiffs need additional safeguards for the class plaintiffs in class actions, this legislation promises a ''Bill of Rights,'' but it does not produce what it promises. It does not seriously address the problem of worthless and collusive settlements, which produce substantial benefits for attorneys and defendants, but little or nothing for injured plaintiffs.

The basic purpose of court actions in general, and class actions in particular, is to enable injured people to get relief—sometimes monetary relief and sometimes other relief such as injunctions against discrimination or restoration of employment.

If citizens know that reliable relief is possible at reasonable expense and within a reasonable time, they will initiate the court actions that our judicial system allows them to bring.

That kind of relief tells those who might discriminate: don't discriminate. It tells those who might bring hazardous products to markets: don't hurt consumers. It tells those who might harm the environment: even if no individual person is harmed enough to be able to sue, you will be brought to justice, so stop polluting.

The Chief Justice of the United States has told us not to pass this bill. The National Association of State Chief Justices has told us not to pass this bill. Dozens of organizations with no interest to protect except the right of people to obtain a remedy when they are wronged, have pleaded with us not to pass this bill.

A vote for cloture is a vote to deprive our constituents of an important and realistic remedy for the vindication of their rights. When we deprive the people of remedies, we deprive them of their rights.

That is not what they sent us here to do. That is not what the founders created the Senate to do. We offend our people and we offend our history if we fail them today.

The ACTING PRESIDENT pro tempore. The Senator from the great State of Utah.

IRAQ

Mr. BENNETT. Mr. President, we have a continual drumbeat going on in this Chamber. It came to a crescendo during the debate over the Iraq supplemental, but it goes on even when there is no legislation on the floor dealing with Iraq. There are several themes of this drumbeat that I would like to address this morning.

The first theme we hear over and over and over again is the theme of faulty intelligence. How could the President have been so stupid as to have acted on faulty intelligence? Occasionally, the enthusiasm for this theme gets carried away to levels that are inappropriate, as we have the accusation that the President was not just misled by faulty intelligence, he deliberately lied. We hear this again and again, particularly in the media: The President is a liar; he deliberately misled the country.

I would like to address that theme for a moment and then another theme we hear over and over which is that the President has made a terrible mistake when he has endorsed the concept of preemptive war. We have these two themes: No. 1, the President is either stupid or a liar because he mishandled the intelligence; and No. 2, he has embraced a historically repugnant doctrine, the doctrine of preemptive war.

On the issue of intelligence, let us understand something about intelligence. It is never hard and fast. It is always an estimate. It is also a guess. It is also the best view of the people who are making intelligence decisions and assessments. And it is often wrong.

Let me give you an example of a President who acted on intelligence that turned out to be wrong. No, let me back away from that, not necessarily a President who acted, a commander who acted on intelligence that turned out to be wrong that had significant international effect.

I was traveling in China with the then-senior Senator from Texas, Phil Gramm, and we met with the Prime