the mobilization process to provide for rear-detachment elements staffed by National Guard personnel. These elements are designed to provide stateside oversight and support to National Guard personnel and units deployed overseas. Had they been present it is possible the conditions described herein might have been identified and rectified before they reached a crisis point.

MEDICAL READINESS OF THE GUARD AND RESERVES

It is clear that part of the situation was created by the fact that some of the mobilized reservists were not as healthy as possible. Almost ten percent of Guard/Reserve personnel mobilized for duty at Ft. Steward could not deploy because of a medical condition and were put on medical hold status for some period of time.

In the barracks visits, there were also troubling indications that a handful of Reservists were knowingly activated and sent to mobilize with medical conditions that would preclude them from actually deploying. Such an unjustified deployment might have been designed to take advantage of the fact that once soldiers are activated (put on active duty orders) they become the full-scale responsibility of the U.S. Army. The service is then charged with their care and feeding to include medical care and medical evaluations.

The hundreds of Reservists who could not deploy because they were medically unready raises a number of larger questions, which the caucus has already begun to address through its effort to ensure every member of the Guard and Reserves has adequate health insurance. The caucus will continue to address the issue in detail during its ongoing investigation of the medical readiness and mobilizations, examining questions like whether the resources and process for screening at the unit level within the National Guard and Army Reserve ranks are sufficient, and how to explain the recall of soldiers to active duty who are not fit for duty.

RECOMMENDATIONS

There are a number of actions that the Army must take to address this situation at Ft. Stewart and the larger issue of ''medical holds,'' which will continue to arise as the country pursues the war against terrorism and sustains operations in Iraq, Afghanistan and other areas where military forces are operating.

In the short term, the Army National Guard and the Army Reserve must jointly provide for the leadership, guidance and medical care our Reservists require to operate at maximum proficiency. These dedicated and loyal soldiers need to know what to expect in the medical review process. They need to understand thoroughly the Army's health care system, warts and all. This strong, steady leadership must have the goal of reaffirming the Army's seamless support for the ''Army of One'' and the country's gratitude for their service and sacrifice, reassuring them that they are not forgotten despite the fact they are separated from their units.

To move the Reservists along to a Medical Evaluation Board if required, many more doctors need to be assigned to Ft. Stewart and, specifically, to these cases. The biggest delay in getting the Reservists off medical hold is the wait to optimize care. Many soldiers are seeing a different doctor every time they enter the hospital, each of whom may prescribe a different remedy. Additional doctors and specialists, who could help coordinate care, would provide greater continuity-of-care, one of the central reasons to keep them at their mobilization station in the first place.

It is unacceptable to have these citizen-soldiers—every one of whom answered the call-to-duty—living in such inadequate housing. However, more adequate barracks cannot be completed quickly because it will take almost three months to complete any upgrades. Other 3rd Infantry Division barracks are unlikely to become available soon.

It would be far better to send these troops back home. They could be assigned to another Military Treatment Facility (MTF), a State Area Command (STARC) or possibly a VHA medical facility closer to their families. Liaisons from the TRICARE management authority could ensure that they are receiving adequate care and that they would be available to return to Ft. Stewart if they get better and can return to duty. The benefit to morale among the medically held Reservists would far outweigh any of the unlikely risks that might go along with moving troops away from their mobilization station. Current Army Regulation 40–501 directs medically held soldiers to remain near their mobilization post, but there is no statutory restriction against assigning them to another facility close to home.

In the longer-term, the Army, working together with the leadership of the National Guard and the Army Reserve, must ensure that our citizen-soldiers who are identified for activation are medically ready to deploy. Enactment of the cost-share TRICARE proposal for Reservists, currently attached to the Senate version of the Fiscal Year 2004 Supplemental Spending Bill for Iraq and Afghanistan, would ensure that every member of the Reserves has access to health insurance and would increase the likelihood that citizen-soldiers are medically and physically ready for duty.

Currently, reservists are required to complete a physical once every five years. The high percentage of reservists found to be physically unable to deploy raises the questions of whether this five-year interval is too long. Another question the Caucus may want to raise, is the Army's mobilization and demobilization policy sufficient in providing a housing standard for soldiers on medical hold? Furthermore, is the working relationship between the Army's medical department and the Veterans Health Administration (VHA) structured to allow for the transfer of soldiers on medical hold from Army military facilities to VHA facilities? Also, new medical case management software included in the second version of the military's Composite Health Care System (CHCS II) will permit continuity-of-care wherever a soldier accesses care. Guard and Reserve units across the country could assign liaisons to help manage a Reservist's care and maintain contact with their mobilization base at any point.

Lastly, it has been reported that architectural hardware and software exist that will allow the Army to equip its hospitals, dining halls, and commissaries with scanners that could read an ID that can show whether a member of the service is from the active component or the Reserves. Perhaps the Caucus should look at such systems as a means of addressing the perceived bias that exists when reservists are queried about their service status.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Madam President, I thank Senator BOND for his leadership on veterans issues throughout this Congress, as he always does. I have been over to Walter Reed Army Hospital on three different occasions. Families tell me they are being treated extremely well. The soldiers are very complimentary of the health care they have received, but there have been some problems.

It is important we make sure every soldier injured in the service of the United States of America be given the best medical care, wherever he or she is in this country.

I salute Senator BOND for his work in that regard. We want to make sure that happens. I believe it is happening, at least in the areas I have personally examined. We will continue to monitor them.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

EXECUTIVE SESSION

NOMINATION OF WILLIAM H. PRYOR, JR., TO BE UNITED STATES CIRCUIT JUDGE

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session to consider Calendar No. 310, which the clerk will report.

The assistant legislative clerk read the nomination of William H. Pryor, Jr., of Alabama, to be United States Circuit Judge for the Eleventh Circuit.

The PRESIDING OFFICER. Under the previous order, there will be 60 minutes equally divided for debate on the nomination prior to the vote on the motion to invoke cloture.

The Senator from Alabama.

Mr. SESSIONS. Madam President, I am pleased to be here today to seek an up-or-down vote on the attorney general of Alabama, Bill Pryor, who has been nominated to the Eleventh Circuit Court of Appeals of the United States of America. Chairman HATCH is, at this moment, chairing the Senate Judiciary Committee. He is not able to be here at this moment, but he wants to make a statement because he feels very strongly that Bill Pryor is an extraordinarily qualified individual, as I do.

I had the honor of having Bill Pryor work for me. I had not known him until shortly before I was elected attorney general of Alabama in 1994. I talked with him about coming to work with me. He had been with two of the best law firms in Birmingham. He was a partner in a highly successful law firm. He knew financially it would be a cut for him and his family, but he decided to come to Montgomery to be chief of constitutional and special litigation and to help improve the legal system in America.

As I have said before, I have not known a single individual in my history of practicing law who is more committed, more dedicated, has more integrity about the issues that are important to the legal system of America, a man who is more committed to improving the rule of law in America. Bill

Pryor is that kind of person. He is a decent family man. He is a principled church man. He is a person who believes the law is something that ought to be followed.

In fact, right now, he has found himself, as is his duty as attorney general, to bring the case brought by the judicial inquiry commission in Alabama against Judge Moore, the chief justice of the Alabama Supreme Court, whom the judicial inquiry commission charged with not complying with a Federal court order. Here he is doing his duty again, as he has done time and again, even when it was not politically popular to do so. Even when conservative friends and Republican friends very much disapproved, he has tried to identify what the law is. He is committed to doing what the law says, and he has proven it time and again.

Bill Pryor grew up in Mobile, AL. His father was band director at McGill-Toolen High School, a wonderful Catholic high school in Mobile.

He was raised in the church. His mother taught at an African-American school. His family considered themselves Kennedy Democrats in the 1960s. That is the way he was raised. He went to law school at Tulane University, one of America's great law schools. He graduated magna cum laude at that fine law school, at the top of his class, and his fellow members of the Tulane Law Review elected him editor in chief, the finest honor any graduating senior in a law school can obtain, to be named editor in chief of the Law Review. He did an extraordinary job with that.

Upon his graduation, he applied for and was hired to be a law clerk for the Fifth Circuit Court of Appeals, the sister circuit to the Eleventh Circuit Court of Appeals, which he would sit on when he is confirmed. He clerked for one of the legends of the Fifth Circuit, Judge John Minor Wisdom, who was probably, more than any other judge—Judge Rives, Judge Tuttle, and Judge Wisdom are the judges who have been credited with changing and breaking down the rules of segregation in the South during a very difficult period.

Judge Wisdom has always had the most superior law clerks. They come from all over the country, and yet he selected Bill Pryor, and Attorney General Pryor remained a great admirer of Judge Wisdom.

I say that to say the charges that have been brought against him just do not ring true. The things that are said about Bill Pryor do not reflect the man we know in Alabama, do not reflect the qualities of the individual known in this State of Alabama by Democrats, Republicans, African Americans, Whites, everybody in the State. They know him. They know the quality of his integrity. They know his commitment to law. Of that, they have no doubt. There is no doubt about this.

So what do we have? We have a group Senator HATCH often calls the ''usual suspects.'' We have groups that are attack groups. They go into people's records and backgrounds and they seek any way they can to distort a person's record, caricature them as something they are not, and then come up to this Senate and ask us, based on distorted and dishonest information, to vote them down. That is not right.

What has been done to Bill Pryor and several other nominees who have been sent up here is not right. What we have been seeing is once these groups all come together and they make their appeals to the leadership on the other side, they have been given support on these nominations. They have stuck together and blocked them. The minority leader, Senator DASCHLE, has led the Democratic Senators and they have blocked a series of highly qualified, superb nominees. That is very frustrating. I believe it is unfair.

I will share a few things that are relevant to this issue. The People for the American Way is the group that has raised most of the issues. They refer to him as a rightwing zealot, unfit to judge. How about this line: He personally has been involved in key Supreme Court cases that by narrow 5-to-4 majorities have hobbled Congress's ability to protect Americans' rights.

If one reads that carefully, what they will see is that he, as attorney general of the State of Alabama, has been involved in litigation in the United States Supreme Court that he prevailed on, that he won. He has won a number of cases in the Supreme Court defending interests of States, and States do have interests. A lot of time we forget the interests of the States in America. We just willy-nilly pass legislation and then when somebody defends a State, as an attorney general is sworn to do—he is sworn to defend the laws of the State of Alabama, the constitution of the State of Alabama. And when the Congress of the United States passes laws that abrogate those rules, if he has a legitimate case in court, he has not only a choice, he has a duty to defend those laws against erosion by the national Government.

One law they have complained about and complained about incredibly was that under the Americans with Disabilities Act, this Congress allowed people to sue the employer, but the historic document of sovereign immunity says one cannot sue States unless they authorize the suit. The power to sue is the power to destroy a government. Governments, since before our founding, have understood that doctrine. It is a part of the law of every State in America, and Attorney General Pryor said in that small number of cases that amount to 4 percent of the complaints under the Americans with Disabilities Act, one could not sue the State of Alabama for damages. A person could sue to get their job back, they could sue to get promoted, but they just could not get damages because of the doctrine of sovereign immunity. He took it to the Supreme Court and the Supreme Court agreed with him. When Senator MARK PRYOR from Arkansas was attorney general in Arkansas, he joined on the brief. So this was not an extreme view; it was a prevailing view.

They said he was against disability rights. How disturbing that is. To say Bill Pryor, who had a sworn obligation and did it to defend the State of Alabama legal rights, was somehow against the disabled is stunning to hear.

I want to mention a couple of things in regard to the type of bipartisan support he has gotten in Alabama. I mentioned earlier last night the support he has gotten from a number of individuals of real prominence in the State. Dr. Joe Reed, the chairman of the Alabama Democratic Conference, an arm of the Democratic Party of Alabama, has strongly endorsed Mr. Pryor. Dr. Reed is a partisan Democrat. He sits on the Democratic National Committee. I assure my colleagues all Democratic candidates who seek to win a primary in Alabama, including Presidential candidates, call Dr. Reed when they are thinking about coming to Alabama. They seek his support, because when he speaks, a lot of voters follow.

He said this about Mr. Pryor: A first-class public official, will be a credit to the judiciary and a guardian of justice.

Mr. Alvin Holmes, probably the most outspoken African American in the legislature, said this about Mr. Pryor:

> I am a black member of the Alabama House of Representatives having served for 28 years. During my time of service in the Alabama House of Representatives I have led most of the fights for civil rights of blacks, women, lesbians and gays and other minorities. I consider Bill Pryor as a moderate on the race issue.

He concludes:

> Finally, as one of the key civil rights leaders in Alabama who has participated in basically every civil rights demonstration in America, who has been arrested for civil rights causes on many occasions, as one who was a field staff member of Dr. Martin Luther King's SCLC, as one who has been brutally beaten by vicious police officers for participating in civil rights marches and demonstrations, as one who has had crosses burned in his front yard by the KKK and other hate groups, as one who has lived under constant threats day in and day out because of his stand fighting for the rights of blacks and other minorities, I request your swift confirmation of Bill Pryor to the 11th Circuit because of his constant efforts to help the causes of blacks in Alabama.

He noted his help with the church bombing case, and he noted Bill Pryor's early commitment that he would eliminate an old provision in the Alabama constitution that prohibited interracial marriage. It had been there, been declared unconstitutional, but it was still in the constitution. Bill Pryor believed it ought not to be in the constitution. According to Mr. Alvin Holmes:

> Every prominent white political leader in Alabama (both Republican and Democrats) opposed my bill or remained silent except Bill Pryor who openly and publicly asked the white and black citizens of Alabama to vote and repeal such racist law. He gives Bill Pryor all the credit for that.

Mr. President, I see the distinguished ranking member of the Judiciary Committee is here. He knows how much I love and respect and admire Bill Pryor. I believe he has broad bipartisan support. He is a brilliant lawyer, committed to the highest principles of justice in America, committed to giving every American an equal right in court, committed to high ideals. He is a man of faith, a man who takes his faith seriously, who is thoughtful but who has demonstrated that he will follow the law even if it conflicts with his deepest and most sincere opinions.

I yield the floor and reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Madam President, how much time is available to each side?

The PRESIDING OFFICER. Thirty minutes was available to each side at the beginning of the debate. The majority has 16½ minutes remaining.

Mr. LEAHY. How many?

The PRESIDING OFFICER. Sixteen and a half minutes on the majority side.

Mr. LEAHY. Our side has 30 minutes?

The PRESIDING OFFICER. That is correct.

Mr. LEAHY. Madam President, I understand there is a request on the Republican side to accommodate the scheduling, then, to have this vote at noon. One of the things I have learned in 29 years here is to always try to accommodate other Senators on scheduling, for both parties.

I ask unanimous consent that the vote be at 12, with the additional time to be equally divided.

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

Mr. LEAHY. Madam President, only the Republican leadership can answer why it refuses to proceed on what all of us know are the real priorities—not hollow priorities—of the American people in these waning days of the legislative session. We have a number of annual appropriations bills on which the Senate has yet to act. We do know the law requires us to finish those by September 30. We are now well into November and we have yet to act on them.

We should look at the purpose of some of these appropriations bills that are being held up while we are wasting time trying to do things for political points. We are holding up the appropriations for America's veterans. What a bad time to send that signal, when our veterans, and many who are about to become our veterans, are serving so bravely in Iraq and Afghanistan.

We are holding up appropriations for law enforcement. As one who served for 8½ years in law enforcement, I know how much our law enforcement people rely on those funds. We are holding up appropriations for the State Department. We are holding up appropriations for the Federal judiciary. We are holding up appropriations for housing. We are holding up appropriations for many other things. But we will talk and talk and talk about three or four judges.

There is unfinished business of providing a real prescription drug benefit for seniors, but we will instead talk and try to make political points. We have the Nation's unemployment, having seen for 8 years adding a million jobs a year, having seen in the last 2½ years losing more than a million jobs a year. We talk about the economy improving. Tell that to the American families who can't find a job, or find two or three jobs because they are so low paying they are working 80 hours a week and not having time to be with their children or their families.

We see the corporate and Wall Street scandals, the mutual funds, and others. Those concern those of us who have invested and placed our trust and financial security at risk in the securities market. I think of a number of people in Vermont who are approaching retirement time and see these scandals where their money is being taken away and they see a Senate unwilling or unable to move legislation addressing that.

Of course, we are not doing oversight on the war in Iraq. We are signing blank checks, but we are not doing oversight.

Lowest Vacancy Rate in 13 Years: I mention this only because, instead of considering these very important matters—matters that seem to be neglected by both the White House and the Congress—Republican leadership insists on rehashing the debate on one of a tiny handful of judicial nominees in which further Senate action is unlikely. Certainly, when the Republican leadership was considering the judicial nominees of a Democratic President in the years 1995 to the year 2000, they showed no concern about stranding more than 60—let me repeat that, more than 60—of President Clinton's judicial nominees without hearings or votes. They did not demand an up-or-down vote on every nominee. They were content to use anonymous holds to scuttle scores of nominees.

This is not a question of having a filibuster or a cloture vote. If one member, just one member of the Republican caucus objected to one of President Clinton's nominees, they didn't have to stand up here and say so. They could just let their side know and the person was never given a hearing, never given a vote.

There were numerous extraordinarily well-qualified people. In fact, they stood by while vacancies rose from 65 in January 1995 when the Republicans took over the majority, to 110 when Democrats assumed Senate leadership in the summer of 2001. Republicans presided over the doubling of circuit court vacancies from 16 to 33 during that time by simply refusing to allow President Clinton's nominees to have a vote. As I said, over 60 of them were never allowed to have a vote.

McCarthyite Smears: So why do they insist that the Senate now consume this precious floor time to rehash the debate on one of the President's most controversial nominees to the independent Federal judiciary, the nomination of William Pryor? Perhaps it is to give some on the Republican side another chance to continue to make false arguments about judicial nominations. Perhaps it is to give some platform for baseless and McCarthyite accusations that Senators oppose Mr. Pryor because of his religion.

This is the worst of religious McCarthyism I have heard, although there are aspects that are actually amusing. We had one of these Republicans go on a Sunday morning show, I guess, to accuse me of being anti-Catholic. When asked about it, we responded I didn't see it because my wife and I were at Mass, as we are on every Sunday morning, and that was when the program was on. But I suspect it is to distract from the real concerns that affect Americans every day.

The facts show the Senate has made progress on judicial vacancies in those areas where the administration has been willing to work with the Senate. Yesterday, the Senate confirmed the 168th of President Bush's judicial nominees.

Incidentally, I should point out, of that 168, 100 of them were confirmed during the 17 months the Democrats controlled the Senate, and I was chairman; 68 of them during the 17 months the Republicans controlled the Senate.

It is kind of hard to say we are partisan on this when in 17 months we confirmed 100 of the President's nominees and in the 17 months the Republicans confirmed 60. Actually, we could have confirmed several more had the Republican leadership just scheduled votes on these noncontroversial nominations. The truth is, in less than 3 years' time the number of President Bush's judicial nominees the Senate has confirmed has exceeded the number of judicial nominees confirmed for President Reagan, who was the all-time champ to get judges confirmed in the first 4 years in office. Everybody acknowledges that President Reagan had more judges confirmed in his first 4 years than any President ever had in the Republican-controlled Congress and Republican-controlled Senate. He confirmed more judges in 4 years than anybody else until President Bush, who has had 7 more Federal judges confirmed in less than 3 years than President Reagan did in 4.

To give you some idea, here are the Clinton nominees over a period of, actually, 5 years: 248 were confirmed, and 63 of them were blocked by the Republicans—63. Some are ones where we had cloture votes and we won on the cloture votes and got them through. Twenty percent of President Clinton's nominees were blocked by the Republican-controlled Senate.

Between 2001 and 2003, President Bush sent 16 through, and 4 were blocked; or 2 percent were blocked. Actually, 2 percent is pretty darned good.

Look at what has happened on vacancies when the Republicans were in the majority. Look at how vacancies skyrocketed because they were blocking usually by a one-person anonymous filibuster. President Clinton's nominee vacancies skyrocketed. During the 17 months when I was chairman and the Democrats were in the majority, look at how we quickly brought down those vacancies of all of President Bush's nominees. Ironically, President Bush nominated people to fill vacancies created because the Republicans refused to allow President Clinton's nominees to go through. Of course, they continue to go down.

If debates like this are staged to give some a platform for repulsive smears that Democrats are opposing Mr. Pryor because of his religion, they will have to enter a realm of demagoguery, repeating false allegations and innuendo often enough to hope that some of their mud will stick.

Senate Democrats oppose the nomination of William Pryor to the Eleventh Circuit because of his extreme some, with good reason, use the word ''radical''—ideas about what the Constitution says about federalism, criminal justice and the death penalty, violence against women, the Americans with Disabilities Act, and the Government's ability to protect the environment on behalf of the American people. Of course, those substantive concerns will not do much to help raise money for the Republican Party or seem provocative in a flyer placed on windshields late on the day before an election and hardly get a mention on the evening news. So some Republican partisans will be putting the truth to one side. They dismiss the views of Democratic Senators doing their duty under the Constitution to examine the fitness of every nominee to a lifetime position on the Federal bench and choose, instead, to use smears and the ugliest accusations they could dream up.

This started in the aftermath of the first rejection of the Pickering nomination in the Judiciary Committee. After the committee voted not to recommend him to the full Senate, insinuations were made on this Senate floor that Democrats opposed him because he is a Baptist. From that time to now, I have waited patiently for Republican Senators to disavow such charges which they know to be untrue.

Just a few weeks ago, Republican Senators on the Judiciary Committee trotted out an offensive cartoon targeting a nominee, and asked us to denounce it. Even though it was taken off a website run by two private individuals, of whom I had never heard before and who have no connection to Democratic Senators, we appropriately denounced it without hesitation.

Abusing Religion For Wedge Politics: But when slanderous accusations were made by Republican Senators, and ads run by a group headed by the President's father's former White House counsel and a group whose funding includes money raised by Republican Senators and even by the President's family, no apologies or denunciations were heard. Other Republican members of the Judiciary Committee and of the Senate have either stood mute in the face of these McCarthyite charges, or, worse, have fed the flames.

These accusations are harmful to the Senate and to the Nation and have no place in this debate or anywhere else. Just a few weeks ago, President Bush rightly told the Prime Minister of Malaysia that his inflammatory remarks about religion were ''wrong and divisive.'' He should say the same to members of his own party. Today, Republican Senators have another chance to do what they have not yet done and what this Administration has not yet done: Disavow this campaign of division waged by those who would misuse religion by playing wedge politics with it. I hope that the Republican leadership of the Senate will finally disavow the contention that any Senator is being motivated in any way by religious bigotry.

An Extreme and Divisive Nominee: Let us take William Pryor. Many of us opposed his nomination to the Eleventh Circuit because of his extreme—in fact, some would view radical—ideas about what the Constitution says about federalism and what the Constitution says about criminal justice and the death penalty, his views about violence against women, or the Americans With Disabilities Act, or the Government's ability to protect the environment on behalf of all American people—not just the environment to protect just Republicans or just Democrats but all Americans.

I am stunned as I read and reread reports. Just to see how radical his ideas are, just today I learned of the sworn affidavits made under oath by the former Republican Governor of Alabama, Bob James and his son. They explained the circumstances under which Governor James came to appoint Mr. Pryor as attorney general. We keep hearing about how Attorney General Pryor just looks at the law, he will just stand by the law, and he will call them as he sees them. In sworn affidavits, the Governor who appointed him said Mr. Pryor was only hired after making explicit promises—explicit promises—that he would defy court orders up through and including orders of the Supreme Court of the United States.

This is a man we want to give a lifetime tenure on the court of appeals, which is one step below the United States Supreme Court; somebody who would take a job where he has made promises that he would defy court orders, including the Supreme Court of the United States; a person who takes an oath to uphold the Constitution but says give me the job and don't worry about that oath, I promise I will defy them.

These statements were made under the penalty of perjury by a former Republican Governor of Alabama. He recounts how Mr. Pryor persuaded him that he was right for the job by showing them research papers from his time in law school about nonacquiescence in court orders. Indeed, the Governor and his son say that Mr. Pryor's position on defying court orders changed only when he decided he wanted to become a Federal judge.

I have been here 29 years. I don't remember any President, Republican or Democratic, who would think of sending up a nominee who has told people he will get his job with a promise that he will defy courts. This is so violative of even what Mr. Pryor said in sworn statements before the Senate Judiciary Committee.

Assuming that the sworn statement of the former Republican Governor of Alabama and his son are true, this information is consistent with extremism.

Elsewhere, Mr. Pryor's record is shocking. I cannot imagine any President—I have been here with six Presidents, Republican and Democrat—who would send somebody up here with that kind of a record.

I pride myself in voting for nominees of Presidents. President Ford, President Carter, President Reagan, former President Bush, President Clinton, and even the current President Bush, I probably have voted for 98 or 99 percent of all the nominations. But this is one that never should even have come to us. It is not a question of whether to vote it up or down—it shouldn't even be here. In fact, the President ought to withdraw this nomination because, if this affidavit of Governor James is true—and he did make it under pain of penalty of perjury—that means Mr. Pryor sat with Governor James and promised to undermine the very basis of the stability of the United States Government and its legal system.

I don't understand how any Senator, Republican or Democrat, can continue to support this nomination.

There are a whole lot of other reasons.

Again, I cannot believe any President would send a nominee here who has done this.

There are some other reasons he shouldn't be a judge on the Eleventh Circuit. These reasons have prompted a chorus of opposition of individuals and organizations and editorial pages across the Nation, the South, the East, and the West. Organizations and individuals concerned about justice before the Federal courts include Log Cabin Republicans, Leadership Conference on Civil Rights, Alliance for Justice, and many others have provided the committee with their concerns and bases for their opposition. We have received letters of opposition from organizations that rarely take positions on nominations who feel strongly about this one and are compelled to write, including the National Senior Citizens Law Center, Anti-Defamation League, Sierra Club, and others.

I ask unanimous consent that a list of all of the letters that have been sent

in opposition to Mr. Pryor's confirmation be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

LETTERS OF OPPOSITION TO THE NOMINATION OF BILL PRYOR, TO THE 11TH CIRCUIT COURTS OF APPEAL

ELECTED OFFICIALS

Congressional Black Caucus

CIVIL RIGHTS MOVEMENT VETERANS

Rev. Fred Shuttlesworth, Leader, Birmingham Movement
Rev. C.T. Vivian, Executive Staff for Dr. Martin Luther King, Jr.
Dr. Bernard LaFayette, Executive Staff for Dr. Martin Luther King, Jr.
Rev. Jim Lawson, Jr., Advisor to Dr. Martin Luther King, Jr., President of Southern Christian Leadership Conference (Los Angeles)
Rev. James Bevel, Executive Staff for Dr. Martin Luther King, Jr.
Rev. James Orange, Organizer for National Southern Christian Leadership Conference
Claud Young, M.D., National Chair, Southern Christian Leadership Conference
Rev. E. Randel T. Osbourne, Executive Director, Southern Christian Leadership Foundation
Rev. James Ellwanger, Alabama Movement Activist and Organizer
Dorothy Cotton, Executive Staff for Dr. Martin Luther King, Jr.
Rev. Abraham Woods, Southern Christian Leadership Conference
Thomas Wrenn, Chair, Civil Rights Activist Committee, 40th Year Reunion
Sherrill Marcus, Chair, Student Committee for Human Rights (Birmingham Movement, 1963)
Dick Gregory, Humorist and Civil Rights Activist
Martin Luther King III, National President, Southern Christian Leadership Conference
Mrs. Johnnie Carr, President, Montgomery Improvement Association (1967-Present) (Martin Luther King, Jr. was the Association's first President. The Association was established in December, 1955 in response to Rosa Park's arrest.)

LETTERS FROM THE ELEVENTH CIRCUIT

Alabama Hispanic Democratic Caucus
Hispanic Interest Coalition of Alabama
Jefferson County Progressive Democratic Council, Inc.
Latinos Unidos De Alabama
NAACP, Alabama State Conference
National Council of Jewish Women Chapter in Florida, Alabama and Georgia
The People United, Birmingham, AL
Petitioners' Alliance
Tricia Benefield, Cordova, AL
Patricia Cleveland, Munford, AL
Hobson Cox, Montgomery, AL
Judy Collins Cumbee, Lanett, AL
Larry Darby, Montgomery, AL
B. Ilyana Dees, Birmingham, AL
Morris Dees; Co-Founder and Chief Trial Counsel, Southern Poverty Law Center
Martin E. DeRamus, Pleasant Grove, AL
Bryan K. Fair, Professor of Constitutional Law at University of Alabama
Joseph E. Lowery, Georgia Coalition for the Peoples' Agenda
Michael and Becky Pardue, Mobile, AL
James V. Rasp
Helen Hamilton Rivas
William Alfred Rose, Mountain Brook, AL
Terry A. Smith (USMC Ret.), Decatur, AL
Harold Sorenson, Rutledge, AL
Carolyn Robinson, Semmes, AL
Sisters of Mercy letter signed by Sister Dominica Hyde, Sister Alice Lovette, Sister Suzanne Gwynn, Ms. Cecilia Street and Sister Magdala Thompson, Mobile, AL

GROUPS

The Ability Center of Defiance, Defiance, OH
Ability Center of Greater Toledo
Access for America
Access Now, Inc.
The ADA Committee
ADA Watch
AFL–CIO
AFSCME
Alliance for Justice
Americans for Democratic Action
American Association of University Women
American Jewish Congress
Americans United for Separation of Church and State
Anti-Defamation League
B'nai B'rith International
California Council of the Blind
California Foundation for Independent Living Centers
Center for Independent Living of South Florida
Citizens for Consumer Justice of Pennsylvania letter also signed by: NARAL-Pennsylvania, National Women's Political Caucus, PA, PennFuture, Sierra Club, and United Pennsylvanians
Coalition for Independent Living Options, Inc.
Coalition to Stop Gun Violence
Disabled Action Committee
Disability Resource Agency for Independent Living, Stockton, CA
Disability Resource Center, North Charleston, SC
Earthjustice
Eastern Paralyzed Veterans Association, Jackson Heights, NY
Eastern Shore Center for Independent Living, Cambridge, MD
Environmental Coalition Letter signed by: American Planning Association, Clean Water Action, Coast Alliance, Community Rights Counsel, Defenders of Wildlife, EarthJustice, Endangered Species Coalition, Friends of the Earth, League of Conservation Voters, National Resources Defense Council, The Ocean Conservancy, Oceana, Physicians for Social Responsibility, Sierra Club, U.S. Public Interest Research Group, The Wilderness Society, Alabama Environmental Council, Alliance for Affordable Energy, American Lands Alliance, Buckeye Forest Council, California Native Plant Society, Capitol Area Greens, Center for Biological Diversity, Citizens Coal Council, Citizens of Lee Environmental Action Network, Clean Air Council, The Clinch Coalition, Committee for the Preservation of the Lake Purdy Area, Connecticut Public Interest Research Group, Devil's Fork Trail Club, Dogwood Alliance, Environment Colorado, Environmental Law Foundation, Florida Consumer Action Network, Florida League of Conservation Voters, Florida Public Interest Research Group, Foundation for Global Sustainability, Friends of Hurricane Creek, Friends of Rural Alabama, Kentucky Resources Council, Inc., Landwatch Monterey County, Native Plant Conservation Campaign, North Carolina Public Interest Research Group, Oilfield Waste Policy Institute, Patrick Environmental Awareness Group, Public Interest Research Group in Michigan, Rhode Island Public Interest Research Group, Sand Mountain Concerned Citizens, Save Our Cumberland Mountains, Sitka Conservation Society, Southern Appalachian Biodiversity Project, Taking Responsibility for the Earth and Environment, Tennessee Environmental Enforcement Fund, Texas Public Interest Research Group, Valley Watch, Inc., Virginia Forest Watch, Waterkeepers Northern California, and Wisconsin Forest Conservation Task Force,
Equality Alabama
Feminist Majority
The Freedom Center
Heightened Independence & Progress
Houston Areas Rehabilitation Association
Human Rights Campaign
Illinois-Iowa Center for Independent Living
Independent Living Center of Southern California, Inc.
Independent Living Resource Center, San Francisco, CA
Justice for All Project, letter signed by the following California organizations: Americans United for Separation of Church and State, Los Angeles, California National Organization for Women, Committee for Judicial Independence, Democrats. Com of Orange County, CA, Feminist Majority Foundation, National Center for Lesbian Rights, National Council of Jewish Women/California, National Council of Jewish Women/Los Angeles, National Employment Lawyers' Association, San Diego County National Organization of Women, National Women's Political Caucus, Noe Valley Ministry, Planned Parenthood of San Diego and Riverside Counties, Progressive Jewish Alliance, Rock the Vote, Stonewall Democratic Club of Los Angeles, Unitarian Universalist Project Freedom of Religion, and Women's Leadership Alliance
Lake County Center for Independent Living, IL
Leadership Conference on Civil Rights
Log Cabin Republicans
MALDEF
NAACP
NARAL Pro-Choice America
National Abortion Federation
National Association of Criminal Defense Lawyers
National Association of the Deaf
National Council of Jewish Women letter signed by B'nai B'rith International, Central Conference of American Rabbis, and Union of American Hebrew Congregations
National Disabled Students Union
National Employment Lawyers Association
National Family Planning & Reproductive Health Association
National Organization for Women Legal Defense and Education Fund
National Partnership for Women & Families
National Resources Defense Council
National Senior Citizens Law Center, letter also signed by AFCSME Retirees Program, Center for Medicare Advocacy, Families USA, and Gray Panthers
National Women's Law Center
New Mexico Center on Law and Poverty
Parents, Families, and Friends of Lesbians and Gays
People for the American Way
Pennsylvania Council of the Blind
Placer Independent Resource Services
Planned Parenthood Federation of America
Planned Parenthood of Northern New England
Protect All Children's Environment, Marion, NC
Religious Action Center of Reform Judaism
Religious Coalition for Reproductive Choice
SEIU
Sierra Club
Society of American Law Teachers
Summit Independent Living Center, Inc., Missoula, MT
Tennessee Disability Coalition, Nashville, TN
Vermont Coalition for Disability Rights

CITIZENS

Carol Baizer, Santa Barbara, CA
Daily Dupre, Jr., Lafayette, LA
Don Beryl Fago, Evansville, WI
Barry S. Gridley, Santa Barbara, CA
Greg Jones, Parsons, KS
Catherine Koliha, Boulder, CO
Donald R. Mitchell, Bourbonnais, IL
Patricia Murphy, Juneau, AK
Elizabeth A. Patience, Watertown, NY
Jason Torpy, Marietta, OH
Randy Wagoner, New England
Rabbi Zev-Hayyim Feyer, Murrieta, CA
Joan Claybrook, President, Public Citizen
Nick Nyhart, Executive Director, Public Campaign
John Bonifaz, Executive Director, National Voting Rights Institute

LETTERS OF SERIOUS CONCERN

The Interfaith Alliance

Mr. LEAHY. Madam President, the ABA indicates concern about this nomination. The Standing Committee of the Federal Judiciary gave Mr. Pryor a partial rating of not qualified to sit on the Federal bench. And indications from these peer reviews have been enough to raise red flags in the confirmation process.

Let me talk about some more of the reasons we oppose William Pryor. Like Jeffrey Sutton, Mr. Pryor has been a crusader for the federalist revolution, but Mr. Pryor has taken an even more prominent role. Having hired Mr. Sutton to argue several key federalism cases in the Supreme Court, Mr. Pryor is the principal leader of the federalist movement, promoting state power over the Federal Government. A leading proponent of what he refers to as the ''federalism revolution,'' Mr. Pryor seeks to revitalize state power at the expense of Federal protections, seeking opportunities to attack Federal laws and programs designed to guarantee civil rights protections. He has urged that Federal laws on behalf of the disabled, the aged, women, minorities, and the environment all be limited.

Limiting Worker And Environmental Protections: He has argued that the Federal courts should cut back on the protections of important and well-supported Federal laws including the Age Discrimination in Employment Act, the Americans with Disabilities Act, the Civil Rights Act of 1964, the Clean Water Act, the Violence Against Women Act, and the Family and Medical Leave Act. He has repudiated decades of legal precedents that permitted individuals to sue states to prevent violations of Federal civil rights regulations. Mr. Pryor's aggressive involvement in this ''federalist revolution'' shows that he is a goal-oriented, activist conservative who has used his official position to advance his ''cause.'' Alabama was the only state to file an amicus brief arguing that Congress lacked authority to enforce the Clean Water Act. He argued that the Constitution's Commerce Clause does not grant the Federal Government authority to prevent destruction of waters and wetlands that serve as a critical habitat for migratory birds. The Supreme Court did not adopt his narrow view of the Commerce Clause powers of Congress. While his advocacy in this case is a sign to most people of the extremism, Mr. Pryor trumpets his involvement in this case. He is unabashedly proud of his repeated work to limit Congressional authority to promote the health, safety and welfare of all Americans.

Mr. Pryor's passion is not some obscure legal theory but a legal crusade that has driven his actions since he was a student and something that guides his actions as a lawyer. Mr. Pryor's speeches and testimony before Congress demonstrate just how rooted his views are, how much he seeks to effect a fundamental change in the country, and how far outside the mainstream his views are.

Mr. Pryor is candid about the fact that his view of federalism is different from the current operation of the Federal Government and that he is on a mission to change the Government to fit his vision. His goal is to continue to limit Congress's authority to enact laws under the Fourteenth Amendment and the Commerce Clause—laws that protect women, ethnic and racial minorities, senior citizens, the disabled, and the environment—in the name of sovereign immunity. Is there any question that he would pursue his agenda as a judge on the Eleventh Circuit Court of Appeals—reversing equal rights progress and affecting the lives of millions of Americans for decades to come?

Mr. Pryor's comments have revealed insensitivity to the barriers that disadvantaged persons and members of minority groups and women continue to face in the criminal justice system.

Attacking the Voting Rights Act: In testimony before Congress, Mr. Pryor has urged repeal of Section 5 of the Voting Rights Act—the centerpiece of that landmark statute—because, he says, it ''is an affront to federalism and an expensive burden that has far outlived its usefulness.'' That testimony demonstrates that Mr. Pryor is more concerned with preventing an ''affront'' to the states' dignity than with guaranteeing all citizens the right to cast an equal vote. It also reflects a long-discredited view of the Voting Rights Act. Since the enactment of the statute in 1965, every Supreme Court case to address the question has rejected the claim that Section 5 is an ''affront'' to our system of federalism. Whether under Earl Warren, Warren Burger, or William Rehnquist, the United States Supreme Court has recognized that guaranteeing all citizens the right to cast an equal vote is essential to our democracy—not a ''burden'' that has ''outlived its usefulness.''

His strong views against providing counsel and fair procedures for death row inmates have led Mr. Pryor to doomsday predictions about the relatively modest reforms in the Innocence Protection Act to create a system to ensure competent counsel in death penalty cases. When the United States Supreme Court questioned the constitutionality of Alabama's method of execution in 2000, Mr. Pryor lashed out at the Supreme Court, saying, ''[T]his issue should not be decided by nine octogenarian lawyers who happen to sit on the U.S. Supreme Court.''

Aside from the obvious disrespect this comment shows for the Nation's highest court, it shows again how results-oriented Mr. Pryor is in his approach to the law and to the Constitution. Of course, an issue about cruel and unusual punishment ought to be decided by the Supreme Court. It is addressed in the Eighth Amendment, and whether or not we agree on the ruling, it is an elementary principle of constitutional law that it be decided by the Supreme Court, no matter how old its members.

Mr. Pryor has also vigorously opposed an exemption for persons with mental retardation from receiving the death penalty, exhibiting more certainty than understanding or sober reflection. He authored an amicus curiae brief to the Supreme Court arguing that the Court should not declare that executing mentally retarded persons violated the Eighth Amendment. After losing on that issue, Mr. Pryor made an unsuccessful argument to the Eleventh Circuit that an Alabama death-row defendant is not mentally retarded.

Mr. Pryor has spoken harshly about the moratorium imposed by former Illinois Governor George Ryan, calling it a ''spectacle.'' Can someone so dismissive of evidence that challenges his views be expected to hear these cases fairly? Over the last few years, many prominent Americans have begun raising concerns about the death penalty, including current and former supporters of capital punishment. For example, Justice O'Connor recently said there were ''serious questions'' about whether the death penalty is fairly administered in the United States, and added: ''[T]he system may well be allowing some innocent defendants to be executed.'' In response to this uncertainty, Mr. Pryor offers us nothing but his obstinate view that there is no problem with the application of the death penalty. This is a position that is not likely to afford a fair hearing to a defendant on death row.

Mr. Pryor's troubling views on the criminal justice system are not limited to capital punishment. He has advocated that counsel need not be provided to indigent defendants charged with an offense that carries a sentence of imprisonment if the offense is classified as a misdemeanor. The Supreme Court nonetheless ruled that it was a violation of the Sixth Amendment to impose a sentence that included a possibility of imprisonment if indigent persons were not afforded counsel.

Like Carolyn Kuhl, Priscilla Owen and Charles Pickering, Mr. Pryor is hostile to a woman's right to choose. There is every indication from his record and statements that he is committed to reversing Roe v. Wade. Mr.

Pryor describes the Supreme Court's decision in Roe v. Wade as the creation ''out of thin air [of] a constitutional right,'' and opposes abortion even in cases of rape or incest.

Mr. Pryor does not believe Roe is sound law, neither does he give credence to Planned Parenthood v. Casey. He has said that ''Roe is not constitutional law,'' and that in Casey, ''the court preserved the worst abomination of constitutional law in our history.'' When Mr. Pryor appeared before the Committee, he repeated the mantra suggested by White House coaches that he would ''follow the law.'' But his willingness to circumvent established Supreme Court precedent that protects fundamental privacy rights seems much more likely.

Mr. PRYOR has expressed his opposition to fair treatment of all people regardless of their sexual orientation. The positions he took in a brief he filed in the recent Supreme Court case of Lawrence v. Texas were entirely repudiated by the Supreme Court majority just a few months ago when it declared that: ''The petitioners are entitled to respect for their private lives. The State cannot demean their existence or control their destiny by making their private conduct a crime.'' Mr. Pryor's view is the opposite. He would deny certain Americans the equal protection of the laws, and would subject the most private of their behaviors to public regulation.

A record of activism: On all of these issues—the environment, voting rights, women's rights, gay rights, federalism, and more—William Pryor's record of activism and advocacy is clear. That is his right as an American citizen, but it does not make him qualified to be a judge. As a judge it would be his duty to impartially hear and weigh the evidence and to impart just and fair decisions to all who come before the court. In their hands, we entrust to the judges in our independent Federal judiciary the rights that all of us are entitled to enjoy through our birthright as Americans.

The President has said he is against what he calls ''judicial activism.'' How ironic, then, that he has chosen several of the most committed and opinionated judicial activists ever to be nominated to our courts.

The question posed by this controversial nomination is not whether Mr. Pryor is a skilled and capable politician and advocate. He certainly is. The question is whether—not for a 2-year term, or a 6-year term, but for a lifetime—he would be a fair and impartial judge. Could every person whose rights or whose life, liberty or livelihood were at issue before his court, have faith in being fairly heard? Could every person rightly have faith in receiving a just verdict, a verdict not swayed by or yoked to the legal philosophy of a self-described legal crusader? To read Mr. Pryor's record and his extreme views about the law is to answer that question.

The President has chosen to divide the American people, the people of the Eleventh Circuit, and the Senate with this highly controversial nomination. He should clean the slate and choose a nominee who can unite the American people.

I see the distinguished senior Senator from New York on the Senate floor. Would he seek time?

I yield the floor. How much time is remaining?

The PRESIDING OFFICER (Mrs. DOLE). Twenty-three minutes 11 seconds.

Mr. LEAHY. I thank the Chair. I yield 10 minutes to the distinguished Senator from New York.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Thank you, Madam President. I thank our great leader of the Judiciary Committee, PAT LEAHY, leader on our side, for his stalwart defense of having a mainstream Judiciary and for his leadership on so many other issues.

I will note what we all start by noting: We have now confirmed 168 of the President's nominees and opposed 4. The President is getting his way 98 percent of the time on judicial nominations. To say that is obstructionism is to rewrite Webster's Dictionary. We have bent over backwards to be fair.

In fact, in many of our States, including my own State of New York, when the President and the White House ask for an agreement, we do agree; we are in the process of filling every vacancy in New York. I don't agree with many of the judges we are nominating on particular issues but they meet the fundamental test. The only litmus test I have is not on any one issue but, rather, will the judge interpret the law, not make it. That is what the Founding Fathers wanted judges to do in their infinite wisdom. I say ''infinite'' because my hair stands on edge; the longer I am around, the more I respect the wisdom of our Founding Fathers. In their infinite wisdom, they wanted judges to interpret law, not make it; they wanted the Senate, in its infinite wisdom, to be a check—a real check, not a rubberstamp—on the President's power to nominate. The Senate is a cooling saucer.

The other side says, let the majority rule. We know what will happen. Every single one of the President's nominees, so many chosen through ideological prisms, will be approved. I don't think we have had a situation, since the President has nominated anyone—I may be wrong—where a single Republican opposed any of the President's nominees. Is that the open, grand debate the Founding Fathers envisioned? I may be off by an instance here and an instance there, but I am sure if you tabulate all the votes taken by Republicans on all of the nominees, the number of ''no'' votes, the percentage of ''no'' votes, is infinitesimal.

Yes, we are blocking judges by filibuster. That is part of the hallowed process around here of the Founding Fathers saying the Senate is the cooling saucer. We do not work as quickly as the House. We are not as restricted as the House. That is how it was intended to be. I don't believe in tit for tat. This is not a tit-for-tat comment, but the other side did not even let 50 judges come up for a vote in committee. They blocked a far higher percentage of President Clinton's judges than we have blocked of President Bush's judges.

The means is not the issue here; it is the end. So that is how it is. We have been very careful when we have opposed nominees. We have tried to give the President—it makes sense to do it—the benefit of the doubt. But some nominees are so far out of the mainstream, it is so clear they are going to make law, not interpret law, that we believe it is our constitutional obligation to our country and to the next generation of Americans to oppose them. Mr. Pryor is one of those nominees.

What the other side has tried to do is two types of things. One, they say we are opposing someone because of their race or sex, his or her religion. Those are cheap shots. We are opposing people because they are ideologically out of the mainstream, without any discrimination. If they are Black and out of the mainstream, or a woman and out of the mainstream, or Protestant, Catholic, or Jewish and out of the mainstream, we are going to oppose them.

The second thing they try to do is say it is because of one particular issue. There is a litmus test on Justice Brown; they are saying it is on affirmative action. On Attorney General Pryor, they are saying it is because of the issue of abortion.

Let's look at the record. I, myself, Senator LEAHY, and just about every Democrat have voted for a majority of judges who disagree with our views on affirmative action and abortion. The number of judges I have voted for who are pro-life in the last 2 years far exceeds the number I have voted for who are pro-choice. That demolishes any argument of a litmus test. I have not asked too many judges their views on affirmative action, but my guess is, how ideologically driven the President's nominees are, that I have voted for a large number of nominees who disagree with my view on affirmative action as well. But it is not a litmus test. It is again a question, Will they make law or will they interpret law?

If we look at Attorney General Pryor's record, he is not a mainstream conservative. He is far out of the mainstream. Let me give some examples.

On criminal justice issues, I tend to be conservative. I tend to agree often with my Republican colleagues on criminal justice and other such issues. But, again, there are limits. He defended his State's practice of handcuffing prisoners to hitching posts in the hot Alabama summer for 7 hours

without giving them a drop of water to drink, and when the conservative supreme court said this violated the 8th amendment ban on cruel and unusual punishment, he criticized the court's decision, saying they were applying their ''own subjective views on the appropriate methods of prison discipline.''

How about States rights? Attorney General Pryor has been one of the staunchest advocates of the Reagan court's efforts to roll back the clock not just to the 1930s but to the 1890s. He is an ardent supporter of an activist Supreme Court agenda cutting back Congress's power to protect women, workers, consumers, the environment, and civil rights.

As Alabama attorney general, why was he the only one of 50 attorneys general urging the Supreme Court to undo significant portions of the Violence Against Women Act? The Violence Against Women Act is not out of the mainstream. In fact, it has overwhelming support from both parties. But here is Pryor, way beyond.

How about on the case of child welfare? At the same time he was conceding that Alabama had failed to fulfill the requirements of a Federal consent decree regarding the operation of the State's child welfare system, he was demanding that the State be let out of the deal. It is not so much the position he took but the comments he made afterward. Attorney General Pryor said:

> My job is to make sure the State of Alabama isn't run by federal courts. . . . My job isn't to come here and help children.

I wonder how many Alabamians would agree with that statement.

When it comes to the environment, more of the same concerns. We have had a consensus for 40 years that the Constitution allows the Federal Government to regulate interstate waters. Not Attorney General Pryor—again, the lone attorney general to file an amicus brief arguing the Constitution does not give the Federal Government the power to regulate interstate waters. He took this position despite decades of precedent and the Federal Clean Water Act, standing for the contrary position.

He has been probably the staunchest advocate of States rights of all the attorneys general, of the ability of the States to do what they want and the Federal Government cannot tell them what to do. But then, all of a sudden, when the Supreme Court in Bush v. Gore made a decision that overruled the State of Florida, only one attorney general intervened on behalf of either side; 49 attorneys general, whatever their views, had the good sense not to intervene in that highly charged case. Not Attorney General Pryor. It is so contrary to everything he believed in, everything else, that when he says, I will interpret the law—which he has stated before us; every nominee does, and some do, and some don't, and we have to make a judgment whether, when they say it to us, it will actually happen. As we all know, once we appoint them, the horse is out of the barn—lifetime appointment; they are there forever. But when he goes through a pretzel-like contortion—

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

Mr. SCHUMER. Madam President, I ask my colleague to yield me another 2 minutes.

Mr. LEAHY. I yield the Senator 2 minutes.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. But when he goes through such a contortion to advocate against States rights on Bush v. Gore, you say this is not a man interpreting law; this is a man who is outcome determinative. He comes to the result he wants and then takes the law in that direction.

I do not have an easel here, so I thank my staff aide for helping me hold up this very heavy sign. It is heavy in its words.

Here is what Grant Woods, a former Republican attorney general of Arizona, said:

> I would have great question of whether Mr. Pryor has an ability to be nonpartisan. I would say he was probably the most doctrinaire and most partisan of any attorney general I dealt with in 8 years. So I think people would be wise to question whether or not he's the right person to be nonpartisan on the bench.

That did not come from some wild-eyed, crazy, liberal Democrat. It came from the attorney general—a Republican—of a conservative State, Arizona. He makes the case as good as anybody.

Let me say, in conclusion, Bill Pryor is a proud and distinguished ideological warrior. I respect him for it. But ideological warriors, whether from the left or from the right, are bad news for the bench. They want to make law, not interpret it. That is not what the Founding Fathers wanted and that is not what the American people want from their judges. I oppose the nomination.

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

Who yields time?

Mr. SESSIONS. Madam President, I ask unanimous consent for 3 minutes and then I will yield to the Senator from Texas.

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

The Senator from Alabama.

Mr. SESSIONS. I would like to respond briefly to Senator SCHUMER's comments.

There have been a lot of words used: ''extreme views,'' ''radical views,'' words of that nature, ''way outside the mainstream of legal thought.'' Then you listen. Show me what happened, what positions he has taken that are outside the mainstream.

He cited this hitching post case and said people were held without water, which was very much disputed, and I submit was not the truth. But, at any rate, the State had stopped that procedure. The case the attorney general defended was whether or not guards could be sued personally and made personally liable for carrying out what at one time had been the established policy of the prison system. That is what went before the Supreme Court. He did the right thing.

He was criticized for certain States rights issues on the Violence Against Women Act. He challenged a small part of that act that violated a State's procedures and rights of immunity and won that case in the Supreme Court.

He is recognized for the Children's First Program in Alabama that was to put large amounts of money into improving procedures for children in Alabama. He was one of the leaders in the State in promoting and working for that.

Time and time again, he has proven to be a powerful, effective lawyer. Thurbert Baker—the Senator talked about an attorney general from Arizona, who only knew Mr. Pryor, I am sure, only at attorneys general meetings. But Thurbert Baker, the Democratic attorney general of Georgia, an African American, knows him. This is what Thurbert Baker, an attorney general, an African American, said about Bill Pryor:

> [He] has always done what he thought was best for the people of Alabama.

And Mr. Baker said:

> [He] know[s] that his work on the bench will continue to serve as an example of how the public trust should be upheld.

Former Democratic Alabama Governor Don Seigelman said:

> Bill Pryor is an incredibly talented, intellectually honest attorney general. He calls them like he sees them. He's got a lot of courage, and he will stand up and fight when he believes he's right.

Madam President, I yield the floor and reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. Madam President, I want to say a few words about the nomination of Bill Pryor to serve on the Eleventh Circuit Court of Appeals. I come to this debate with some personal knowledge of the nominee, having served as attorney general of Texas for 4 years during the time Bill Pryor served as attorney general of Alabama.

Before I get to the specific comments about this outstanding nominee and distinguished law enforcement official, I want to say a little bit about the process.

The process of confirming judicial nominees in the Senate is broken, and it cries out for reform and a fresh start. Since I have been in the Senate, I have heard those who have attempted to justify the poor treatment of President Bush's judicial nominees based upon alleged poor treatment of President Clinton's judicial nominees. We have somehow gotten involved in this game of tit for tat, of recrimination, that does not serve the best interests of the American people. We have gotten into unprecedented obstruction of

judicial nominees by filibuster, which has never in the history of this great Nation happened until recently, and it is a tragedy.

As some of my colleagues on this side of the aisle observed, if a minority of Democrats are successful in blocking a bipartisan majority in the Senate from an up-or-down vote on a judicial nominee, when the roles are reversed, which at some time in the future they may be, and a Democrat is in the White House, Republicans are going to want to use the same tactic on nominees of a Democratic President—something I believe would be wrong, but my views do not necessarily control what happens in this body.

The point is, we are on a downward spiral of destruction not only of this great institution, but damaging in the process the fine reputations of these individuals who have come forward to offer to serve the American people. We are treating them as common criminals. We are mischaracterizing their resumes, their reputations in the process, and I believe doing great harm in the process.

I want to say our colleagues on the other side of the aisle, who claim to be—in the words of Thomas Jefferson, supposedly, when he was asking Washington about the role of the Senate in our form of Government, he called the Senate the cooling saucer. But the truth is, rather than a cooling saucer when it comes to judicial confirmation, the Senate has become a stone wall, not a cooling saucer, particularly as it pertains to these nominees the minority Democrat leadership has decided to obstruct and prevent from an up-or-down vote.

I realize they are grasping at straws, but somehow they have grasped on to this notion that since they have not blocked 168 of President Bush's nominees, they should be congratulated for blocking only 4. Well, we learned this morning in the Judiciary Committee that that four may soon become five, and then possibly six.

My point is they simply cannot be congratulated for an unconstitutional, unprecedented filibuster and preventing up-or-down votes, which is democracy in action.

There is another thing. For example, the Senator from New York, who just spoke a few moments ago, who also serves on the Judiciary Committee, said something which I think bears some scrutiny. This morning he repeated an allegation he and others have made that somehow President Bush has hijacked the judiciary by nominating a narrow band of people who he claims are ideologically driven to overturn the law and run roughshod once they get on the courts.

They really need to make a decision what they believe. They either believe President Bush's nominees are all ideologically driven and determined to reach a particular result regardless of what the Congress says, regardless of their oath of office, where they put their hand on the Bible and agreed to serve as a judge and interpret the law, not make law, or this argument about being congratulated for somehow confirming 168 of these people, which simply does not stand up.

They have to make a choice. The truth is, they want it both ways. They really can't have it both ways.

Bill Pryor is simply an outstanding human being and a great attorney general. I believe he will be an outstanding judge. He is a deeply religious man. Some have criticized him for his deeply held beliefs. Unfortunately, sometimes in this debate, I worry that by criticizing somebody for their deeply held beliefs, which happen to be founded in their religious beliefs, we are setting a bar or perhaps building a wall against the opportunity for these people to participate in our government, particularly on the bench. That should not be the case. Our Constitution bars religious tests from service in public office.

General Pryor has demonstrated his ability to enforce the law as written, which is what he would do on the bench, interpret the law as written and not elevate his personal agenda or his personal beliefs above what the law says. Time and time again, he has done so.

I worry about two things in this process. One is obstruction, preventing a bipartisan majority from voting, and destruction of good human beings and their reputations they have worked a lifetime to achieve. They come here, honored to receive the nomination of our President to serve in these positions of great honor, and then they are placed in the dock where they become an accused and are expected to defend themselves against unwarranted and unjustified charges.

I wish we could see a fresh start to a process that does not serve either the nominees or this body or the American people well. I do not believe anyone should be congratulated for an unconstitutional obstruction of the democratic process going forward, when a bipartisan majority is ready to confirm these outstanding nominees, such as Bill Pryor. But that is what we have seen, obstruction and destruction of these fine individuals.

I see the distinguished chairman of the Judiciary Committee. I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Madam President, I thank my colleagues for their excellent remarks for and on behalf of Attorney General Pryor who is one of the best nominees I have seen in a long time, a person of great character.

Today we will again vote for cloture on the nomination of William Pryor for the Eleventh Circuit Court of Appeals. Denying undisputedly well-qualified nominees the up or down vote they deserve does not fulfill our Senatorial duties—it abdicates them. This filibuster not only damages our accountability to the people who elect us, but it erodes the credibility of the Senate itself.

Today, let me take a few moments to explain why every single Member of this body should vote to invoke cloture, and end debate, on the Pryor nomination so that he is afforded the dignity of an up-or-down vote that is all we are asking for.

Not even those most vigorously opposed to Bill Pryor's nomination contend that his record is insufficient. He has been a bold, vocal, and successful advocate for his state as Attorney General, an elected office in Alabama. Prior to and during his campaigns seeking re-election to the attorney general position in 1998 and 2002, he made his positions on the contentious issues of the day crystal clear—and he won his most recent election with almost 60 percent of the vote. Rarely has the Judiciary Committee reviewed such a full and unmistakably clear record for an appellate nominee; rarely has a nominee at his hearing been so honest, intelligent and forthright in his answers to every Senator's questions, even though he surely knew that his legal and policy positions on many, if not most, issues, clashed head-on with the positions of the liberal Democrats who questioned him.

The problem that those opposed to giving Bill Pryor an up-or-down vote in the Senate have is that they cannot credibly make any substantive arguments against him. So they oppose him based on what he has stated he personally believes. They cannot cast aspersions on his legal ability—the undisputed quality of his legal work as Attorney General of Alabama is reflected in several major cases in which Supreme Court majorities have agreed with his arguments. They cannot say he is only a one-party horse because so many Democrats, and many prominent African-American Democrats, in Alabama support him even though they disagree with him politically. They cannot really find anything substantive that might reflect poorly on his qualifications to sit on the federal bench.

Therefore, their accusations against General Pryor have relied on an all-too familiar script: he is a so-called states' rights fanatic; he is anti-environment; anti-disability rights; anti-women; opposes minority voting rights; and wants to turn America into a Christian theocracy. These sound bites are easy to make, but General Pryor's record speaks with far more authority than the fulminations against him. So his opponents attack his personal beliefs, even though in every instance in which a conflict between those beliefs and the law has arisen in Bill Pryor's career, he has unfailingly put the law first.

The most recent example is his response to Chief Justice Roy Moore's refusal to comply with the Federal injunction ordering removal of the Ten Commandments monument from the rotunda of the Alabama Supreme Court

building. General Pryor said, ''Although I believe the Ten Commandments are the cornerstone of our legal heritage and that they can be displayed constitutionally as they are in the U.S. Supreme Court building, I will not violate nor assist any person in the violation of this injunction. . . . We have a government of laws, not of men. I will exercise any authority provided to me, under Alabama law, to bring the State into compliance with the injunction of the federal court. . . .''

In fact, the committee received a letter from Justice Douglas Johnstone, the only Democrat on the Alabama Supreme Court, praising General Pryor's actions during this high-profile dispute in Alabama. He writes, ''General Pryor immediately offered us all appropriate support of his office and fostered public support by announcing publicly that the injunction was due to be obeyed in the absence of a stay. . . . Before the Monument crises, General Pryor's political prospects, irrespective of any federal appointment, were brighter than most I have observed in my decades in politics. Now he is as full of political bullet holes as Fearless Fosdick. My personal acquaintance with him and observation of him over his years in office satisfy me that he fully expected the damage but did his duty, and is doing his duty and a splendid job of it regardless of the consequences. I am endorsing General Pryor because over the years he has proven his honesty and intelligence. I do not pretend to agree with him on all issues. I would rather have the honesty and intelligence than the agreement.''

On the issue of abortion, General Pryor's record provides another example of his commitment to following the law even when it conflicts with his deeply held personal beliefs. After the Alabama legislature passed a partial-birth abortion ban in 1997, General Pryor issued guidance to State law enforcement officials to ensure that the law was enforced consistent with the Supreme Court's 1992 decision in Planned Parenthood v. Casey. Although there was considerable outcry against his decision from the pro-life community, the ACLU praised General Pryor's decision, emphasizing that his order had ''[s]everely [l]imited'' Alabama's ban. He issued similar guidance after the Supreme Court's 2000 ruling in Stenberg v. Carhart, which struck down another State's ban on partial-birth abortion. Again, the dictates of the law trumped his personal beliefs. He stuck with the law even though he totally disagreed with it.

The President has nominated a good and honest man with a sterling legal career, a bipartisan reputation for enforcing the law impartially as attorney general, and an enviable record of success before the nation's highest Court. At General Pryor's inauguration as Attorney General, he opened with the statement: ''Equal under law today, equal under law tomorrow, equal under law forever.'' Despite the distortions, half-truths, and outright falsehoods we have heard about him, General Pryor is a diligent, honorable man whose loyalty as a public servant has been to the law and its impartial administration. He has told us under oath that he will continue to follow the law, just as he has demonstrated during his distinguished career in Alabama. Quoting again from Justice Johnstone's letter—Justice Johnstone is a Democrat—to our Committee: ''The crucial question in judging a judicial candidate or nominees is not what sides of legal issues he or she has advocated but whether he or she has enough reverence for the rule of law, enough humility, and enough self-control to follow the law whether he or she likes it or not. My observation tells me General Pryor does.''

A minority of the Senate is again attempting to prevent us from voting on Attorney General Pryor despite his outstanding record. Such an attempt is profoundly at odds with what the Constitution demands of us as Senators. The President and the American people have a right to an up or down vote on judicial nominees. Playing politics or political games with judicial nominees must stop and we must do our duty and vote on this excellent nominee, Bill Pryor.

Accordingly, I urge my colleagues not to deny Bill Pryor the courtesy of an up or down vote on the Senate floor. He deserves better, the President deserves better, and the majority of the Senate that stands ready to confirm him deserves better. Most importantly, the American people deserve the opportunity to hold their Senators accountable for the votes they cast on the President's judicial nominees. We must invoke cloture on Bill Pryor's nomination.

I reserve the remainder of my time and yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Illinois is recognized.

Mr. DURBIN. Madam President, how much time remains on the Democratic side?

The PRESIDING OFFICER. There are 11 minutes 30 seconds remaining.

Mr. DURBIN. In the absence of the chairman, I will say a word or two about the nomination.

At the outset, I will say this may be the toughest part of this job—standing in judgment of other people. It is easy to deal with issues and abstractions and numbers and policy. But when you stand in judgment of another person, I think it is one of our most solemn responsibilities, complicated even more by the fact that many of the people who are in controversy here have very close friends in the Senate among my colleagues. In this case, my friend and colleague, Senator SESSIONS of Alabama, I believe counts William Pryor as one of his close friends. They have worked together for many years.

I can tell you, from his statements in committee and on the floor, he is totally committed to him and believes he would be a fine circuit court judge. That is why opposition to his nomination is all that much more difficult.

I come here today to oppose his nomination because, frankly, as I listened carefully to Attorney General Pryor's positions on the issues in the Judiciary Committee, it struck me that on issue after issue he has not only taken an extreme position but has been unashamed, unabashed, and unembarrassed to express it in some of the clearest language we have had before us. You have to ask yourself, if he is that strident, if he is that committed to these extreme positions, can he possibly perform his responsibilities as a member of the circuit court of appeals—a lifetime appointment—in the way that we expect?

We don't want judges to make laws but, rather, to interpret them. When somebody comes to this position with a long history and pedigree of taking these strongly held, extreme positions on the law, is it reasonable for us to believe they will cast them aside once taking the oath of office and then be dispassionate in the way they rule? I think that really strains credulity.

There are some who believe that if a nominee comes before us and says, ''I will just apply the law,'' that is all we need to hear; that we can ignore what they have done beforehand. You cannot do that. You have to make an honest assessment.

We find time and again that nominees for the Federal circuit court—the second level before the Supreme Court—are those nominees with the strong ideological backgrounds. They are the ones who have run into controversy and trouble on the Senate floor.

I believe that this White House, if it wanted to, could focus more on finding common ground between Republicans and Democrats. We expect to receive conservative Republican nominees for all of these vacancies. That is a reflection of the President's philosophy.

In the case of Attorney General William Pryor, this goes beyond mainstream conservatism. Some of the things he has said relative to issues relating to judicial activism and the like are difficult for us to reconcile with the person who we want to be fair and dispassionate in his rulings.

Mr. Pryor stated:

> Our real last hope for federalism is the election of Governor George W. Bush as President of the United States, who has said his favorite justices are Antonin Scalia and Clarence Thomas.

He went on to say:

> Although the ACLU would argue that it is unconstitutional for me as a public official to do this in a Government building, let alone a football game, I will end my prayer for the next administration, ''Please, God, no more Souters.''

That is a reference to Supreme Court Justice Souter. These remarks don't lend themselves to the argument that Attorney General Pryor is going to be

measured and moderate and fair if he is given this lifetime appointment to the circuit bench.

I have looked at his record on a variety of issues and I can tell you that, time and time again, what I have seen is a position that is hard to reconcile with the standard we should set for all judges to this position.

I yield the floor.

Mr. FEINGOLD. Mr. President, much of the debate on this nomination has focused on the views and qualifications of this nominee. I want to call the attention of the Senate to the violation of the rules of the Judiciary Committee that occurred when Mr. Pryor was considered in the committee. I will vote no on cloture because I believe that the committee rules were violated in reporting the nomination to the floor and that, before the Senate acts on this nomination, more investigation is needed of Mr. Pryor's involvement with the Republican Attorneys General Association and the truthfulness of his testimony on that topic.

We faced a similar procedural problem early this year in the committee. I thought we had reached a resolution of that dispute. A number of us lifted our objection to proceeding with floor votes on John Roberts and Justice Deborah Cook after we received assurances that the committee's rule IV would be reinstated and abided by from that time forward. That agreement was put to the test during consideration of the Pryor nomination, and I'm sorry to say that the Committee failed that test.

Just as we did in connection with the Roberts and Cook nominations in late February, in July, Democrats on the committee invoked rule IV and asked that a vote on the Pryor nomination not be taken. But once again, the rule was violated.

The interpretation of rule IV that the chairman of the Judiciary Committee followed in connection with the Pryor nomination conflicts with the text of the rule, the practice of the committee for 24 years under five separate chairmen, and the history of the adoption of the rule. It was as wrong in July as it was in February when the chairman first expressed it. I won't repeat those arguments today, but I ask unanimous consent that a copy of my statement in the Judiciary Committee from March 27 be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SENATOR RUSS FEINGOLD—STATEMENT ON JUDICIARY RULES

Mr. Chairman, last week we readopted the Committee's rules. I had no problem with us taking that action, although as I said at our meeting, I think we need to have an opportunity to discuss that agenda item rather than acting off the floor without anytime for consideration. But with the understanding that we would have the opportunity to have a discussion and debate, I was fine with readopting the rules for this Congress.

As I understand it, the rules have been in effect throughout the year. I have no problem readopting those rules, which as I understand it, have been in effect this year in the debates we have had so far. But having done that, I want to make some comments on what happened in our meeting on February 27. I believe that a clear violation of the committee rules occurred on that day, and we really need to discuss this as a committee before proceeding with further business.

What happened on February 27 was a sad moment for our Committee and does not bode well for the harmonious functioning of the Committee this year. Indeed, since that day we have been in a free fall it seems to me. Communications have broken down among us and among our staffs. On the Democratic side, we feel unfairly taken advantage of, and I know there are bad feelings on your side as well. I am very sorry about this because we have much work to do for the country, and we can do that work much more efficiently and much more successfully if we work together with respect and good will than if we are constantly fighting with each other.

Mr. Chairman, you have the votes in this Committee to do pretty much whatever you want. But that does not mean that you should ignore the rights of those who disagree with you. That is what occurred at the February 27 meeting.

Let me quickly review the background of this dispute. The Chairman sought to have votes on circuit court nominees Justice Deborah Cook and Mr. John Roberts. A number of us on the Democratic side believed that those votes should not occur because those two nominees had not received an adequate hearing in this Committee. I'm not going to take the time to review our position on that score in any detail, but I do want to point out that we have not engaged in a policy of blanket obstruction of nominees in this Committee. We voted on Miguel Estrada. We voted on Jeffrey Sutton. We voted on Jay Bybee. We voted on Timothy Tymkovich. We will soon vote on Priscilla Owen.

Many of us voted against some or all of those nominations, but we agreed to have a vote because we thought that the Committee's consideration of the nominees had been sufficient for us to make up our minds. We have not sought to use Rule IV to obstruct the functioning of the Committee.

In the case of Justice Cook and Mr. Roberts, however, we had asked repeatedly for another hearing. We had asked, as an alternative, for a public meeting with the nominees. Having been rebuffed at every turn, we simply did not feel ready to proceed with votes on their nominations. We did not believe the Committee has been given adequate opportunity to assess the qualifications and examine the record of Justice Cook and Mr. Roberts.

But when we objected to a vote on February 27, the Chairman overruled the objection and forced a vote, in clear violation of Rule IV. This was an astonishing act in a body that functions in large because all members respect the rules and abide by them.

When an objection to proceeding to a vote was made, the proper course under our Committee's longstanding Rule IV was to hold a vote on a motion to end debate on the matter. The Rule provides that debate will be ended if that motion carries by a majority vote, including one member of the minority. In this case, our side was united in opposing ending debate, so the motion would have failed. It is, in effect, as the Chairman himself recognized in 1997 when the Rule was invoked in connection with the Bill Lann Lee nomination, a kind of filibuster rule in the Committee. The vote to end debate is like a cloture vote, and it cannot succeed unless at least one member of the minority assents.

Now Mr. Chairman, I have read your letter to Senator Daschle in which you attempt to justify your actions. With respect, Mr. Chairman, your interpretation of the rule is erroneous. In fact, it is clearly erroneous, and I don't use that term lightly.

Your position is that the Chairman of this Committee has unfettered power to call for a vote on a matter and that Rule IV is only designed to allow a majority of the committee to force what you call an ''obstreperous Chairman'' to hold a vote on a matter on the agenda when he doesn't want to. That interpretation conflicts with the text of the rule, the practice of the Committee for 24 years under five separate Chairmen, including the current Chairman, and with the history of the rule itself.

I want to start with the history because I think it so plainly shows what the rule is designed to do. The rule was adopted in 1979 when Sen. Kennedy chaired the Committee. The Committee at that time had 10 Democrats and 7 Republicans. You were on the Committee at the time, as was Senator Leahy.

At that time, there was no way at all to end debate in Committee if even one member wanted to continue debate. Senator Thurmond, who was the ranking member at the time, stated during the committee meeting: ''The present rule is the Senator can talk as long as he wants to.''

Recent years had seen controversial matters such as the Equal Rights Amendment stalled for long periods of time in Committee. The Civil Rights era had seen the Committee headed by a segregationist Chairman block civil rights legislation. Chairman Kennedy sought a new committee rule to allow him to bring a matter to a vote. His original proposal was simply to let the Chairman call a vote when he believed there had been sufficient debate. This is how the original proposal read, from the transcript of the Committee's meeting on January 24, 1979: ''If the Chairman determines that a motion or amendment has been adequately debated, he may call for a vote on such motion or amendment, and the vote shall then be taken, unless the Committee votes to continue debate on such motion or amendment, as the case may be. The vote on a motion to continue debate on any motion or amendment shall be taken without debate.''

That was the original proposal to change the right of unlimited debate. And if that rule had been adopted, and remained in effect until the present, what happened on February 27 would have been just fine because a majority of the committee would not have supported our request to continue debate.

But Chairman Kennedy's proposed rule was not adopted. Sen. Thurmond noted that the minority on the committee were opposed to the change. He stated: ''We feel it would be a mistake, if there is going to be a change we do think there ought to be some compromise between the unlimited debate maybe and a majority. That is what I was discussing with Senator DeConcini. I felt maybe 12 members could cut off debate. Senator DeConcini suggested 11.''

Mr. Chairman, during this 1979 markup—and I have to say that the transcript makes for fascinating reading—Democratic members like Sen. Howard Metzenbaum, Sen. Kennedy, and even Sen. Biden spoke about the need for the Committee to be able to conduct business and not be thwarted by what Sen. Metzenbaum called a ''talkathon.'' On the other hand, Republican members of the Committee were wary of a rule change. And Mr. Chairman, you spoke against the rule that Sen. Kennedy proposed. You said the following: ''I would be personally upset. There are not a lot of rights that each individual Senator has, but at least two of them

are that he can present any amendments which he wants and receive a vote on it and number two, he can talk as long as he wants to as long as he can stand, as long as he feels strongly about an issue. I think these rights are far superior to the right of this Committee to rubber stamp legislation out on the floor.

Later you continued: I think it is a real mistake, Joe, and Mr. Chairman. I see the advantages of being able to expedite legislation and try to balance that. I think it is a real mistake to take away these rights.

Senator Thad Cochran was then a member of the committee and at the end of the meeting, he, echoing Sen. Thurmond, suggested a compromise. He said: ''Mr. Chairman, I don't have anything to add other than except I do support writing into the rule the requirement that there be an extraordinary majority to shut off debate in our Committee. I think we can arrive at some number agreeable to everyone.

There was quite a lengthy discussion of the proposed rule change. One particularly significant remark was made by Senator Bob Dole, who was then on the Committee said: ''[A]t least you could require the vote of one minority member to terminate debate. I'm sure you could always secure one vote over here.''

The next week, the Committee reached agreement and adopted Rule IV, which has been in effect ever since. The transcript of the Committee's meeting indicates only that the rule change was acceptable to both sides. There is no further discussion or debate.

The text of the rule takes up Sen. Dole's idea, requiring at least one member of the minority to vote to end debate. The compromise ended the ability of one or a few Senators to tie up the Committee indefinitely. But it gave the majority the power to end debate over an objection if it could convince one member of the minority to agree. The Committee didn't adopt Sen. Thurmond's or Sen. Cochran's suggestion precisely, but it specified a super-majority to end debate, 10 out of the 17 member of the committee. Because ten of the 17 members of the Committee at the time were democrats, the new rule made it even more difficult for the majority to end debate by taking up Sen. Dole's suggestion and specifying that at least one member of the minority had to agree. That was the compromise reached, and that is the rule we have had for over two decades.

Mr. Chairman, the argument that the rule places no limit on the Chairman's ability to end debate is clearly answered by this history. It is clearly wrong. The committee rule was violated when Justice Cook and Mr. Roberts were reported over the objection of some members without a vote in the Committee to end the debate. There is simply no question about this.

You have mentioned a number of times that the Parliamentarian agreed with your interpretation of the Committee's rules. I do not believe that is accurate. What the Parliamentarian has told us is that if a point of order is made on the floor he would only look to make sure the Senate rules were followed. Those rules simply require a majority vote of the committee when a quorum is present. No Senate rule was violated on February 27, but a Committee rule, Rule IV, clearly was.

During the February 27 meeting, a new member of our Committee, the Senator from South Carolina, stated that if our intention of Rule IV prevailed, ''you could not ever do any business, have any votes, unless the other side totally agreed.'' I just want to point out that that is not the result we seek at all. There is a big difference between the other side ''totally agreeing'' and having one member of the minority voting to end debate. The Senator from South Carolina actually described the situation in this Committee before Rule IV was adopted, but not after.

I do want to point out to my colleagues once again that it is hardly the case that we on the Democratic side have tried to block all action on judges using Rule IV. We voted on Miguel Estrada. We voted on Jeffrey Sutton. We voted on Jay Bybee. We voted on Timothy Tymkovich. We will vote on Priscilla Owen. In the last Congress we approved 100 of President Bush's nominees. I voted against a few of them, but I never tried to hold up a vote.

We tried to invoke Rule IV on February 27 only because of the special circumstances surrounding the Cook and Roberts nominations. We felt, and we still feel, that the Committee's consideration of these two nominees was inadequate. That's why we objected to the votes.

Now Mr. Chairman, this might seem like a petty matter. But is isn't. Honoring the rules of the Senate and the rules of the committees gives credibility and legitimacy to the work we do here. Rules that survive changing tides of political power are the hallmark of a democracy. In may ways our committee rules are analogous to the rule of law in our society. We have to respect those rules or we have nothing left.

Mr. Chairman, it is clear from the history of Rule IV that it we insisted on in 1979 by Republican Senators then in the minority to preserve their rights in Committee to debate matters fully and not just, in your own words at that time, ''rubber stamp legislation out to the floor.'' The justification for ignoring the rule given in the letter to Sen. Daschle simply doesn't hold water when you look at the history and practice in this Committee. This kind of results-oriented approach to the rules of the Committee does not serve us well. The rules of this body, like the laws of this country, protect all of us. We must stand up to efforts to ignore them.

What happened in the Committee on February 27 with respect to Rule IV did not reflect well on the Committee or the Senate. I sincerely hope that these rulings will be reconsidered. The Committee must enforce its rules, not run roughshod over them. And if that means that we consider and discuss certain nominations a little longer before reporting them to the floor, so be it. That is what happens in a deliberative body governed by rules not fiat.

Thank you Mr. Chairman.

Mr. FEINGOLD. I want to emphasize that we have never sought to use rule IV to indefinitely delay a nomination in committee. With respect to Mr. Roberts and Justice Cook, we only wanted adequate hearings so that we could properly exercise our constitutional responsibility to advise and consent on the nomination. With respect to Mr. Pryor, we only wanted to complete an investigation that was well underway already. We have never tried to kill a nomination in committee by never voting on it, even though that was done dozens of times to President Clinton's nominees. But we should not be forced to vote on a nomination before we have all of the information that we feel is needed to make an informed recommendation to our colleagues in the full Senate.

We needed more time to investigate the issues raised by records from the Republican Attorneys General Association, RAGA, that the committee received. The documents raise what seem to me to be serious questions about the accuracy of Mr. Pryor's testimony before the Judiciary Committee and the answers he provided to written questions. We needed more time to contact the people who know about Mr. Pryor's activities as the Treasurer of RAGA and ask them questions. And we should have called Mr. Pryor back to ask him further questions in person and under oath. I don't know where this investigation might have led, but I do know that it was not nearly completed when the committee voted in July.

It was the committee's duty and responsibility to provide the full Senate with a complete record about a nominee. But, as we expected, once the committee voted, the investigation stopped. So there are still many unanswered questions.

Let me just cite a few examples of the questions that the RAGA documents raise. In answer to one of my written questions about who administered RAGA and who might have records of its activities, Mr. Pryor stated that RAGA was administered by the RNC and that to his knowledge all records were maintained by the RNC. He also stated that all solicitations for membership in RAGA were made by the staff of the RNC or the 5 State attorneys general who served on RAGA's executive committee. He failed to identify a single individual who worked for RAGA or raised money for RAGA.

The documents we received indicate that RAGA was administered for over a year by an individual who had previously been Mr. Pryor's campaign manager. She served as RAGA's finance director. That person did not work for the RNC. They also identify an RNC employee who previously had worked for Mr. Pryor on his campaign. Both of these individuals maintained records of RAGA at some point. But Mr. Pryor did not identify these individuals, even though our questions clearly sought that information.

The documents also show that solicitations were made by a finance committee of lobbyists and political fundraisers, in addition to RNC and RAGA staff and the attorneys general. The documents seem to indicate that Mr. Pryor was familiar with the finance committee and even participated in conference calls with them. Yet he failed to discuss the finance committee in his answers, even though, again, the questions specifically sought that information.

The documents also suggest that Mr. Pryor received reports specifying the companies that had contributed to RAGA. This is inconsistent with Mr. Pryor's testimony that he received only e-mail and oral reports of overall fundraising totals.

These are just a few examples. There may be good explanations for Mr. Pryor's testimony and answers, but we don't have them yet. And we should get

them before we vote on the nomination. I will therefore vote no on cloture.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Madam President, how much time remains?

The PRESIDING OFFICER. On the Republican side, 7 minutes 41 seconds remain. Five minutes two seconds remain on the other side.

Mr. HATCH. I yield time to the Senator from Alabama.

Mr. SESSIONS. Madam President, there has been a repeated suggestion that somehow Alabama's brilliant, principled, courageous attorney general, who has stood firm time and again in serious types of disputes within the State legally, is extreme or radical or out of the mainstream. When you ask why and say show me something he has done that indicates that, they say, well, he struck down the Americans with Disabilities Act.

As I explained earlier, he appealed a portion of that act that dealt with 4 percent of the cases, cases against States; and the Supreme Court agreed with him and struck down that small portion of the act.

He was not against the disabled. He has great compassion for the disabled. It was a legal action taken by this Congress that upset and struck down legitimate States rights issues, and the Supreme Court, when reviewing it, agreed with Attorney General Pryor.

This is the kind of argument that has been raised. There is no basis to say this man is extreme. He stood firm on a matter of reapportionment in Alabama, which benefited the Democrats. He took complaints from the Republicans. He declared that the State reapportionment plan dictated by the Democratic majority that favored the Democrats was legally done and he defended it. He lost it in the court of appeals and he won it on behalf of the Democrats in the Supreme Court. At least their provision prevailed.

What Bill Pryor said and what he believed was it was his duty to defend Alabama law if it was constitutional. He found that it was, so he defended it, even though he personally would not have agreed with it.

In one of the affidavits that Senator LEAHY quoted Bob James III is complaining about Attorney General Pryor. In his affidavit, he said:

> The last conversation I recall with Bill Pryor occurred late in Governor James' last term after the Governor signed Alabama's ''partial-birth'' abortion law. When the law passed, Mr. Pryor instructed Alabama district attorneys not to enforce the law as to previable fetuses. In my review, this gutted the law and defeated its very purpose. An equivalent to Pryor's action would be for Attorney General Ashcroft to instruct U.S. attorneys not to enforce an act of Congress.

Everybody knows Bill Pryor is prolife. Everybody knows Bill Pryor personally abhors partial-birth abortion. Why did he do this?

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

Mr. SESSIONS. Because he was following the law.

I yield the floor and reserve the remainder of the time.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time? The assistant Democratic leader.

Mr. REID. Madam President, I ask permission of the distinguished manager of this matter, Senator LEAHY, if I may direct some questions to him.

Mr. LEAHY. Madam President, I understand I still have almost 5 minutes left. Of course.

Mr. REID. Through the Chair to the distinguished ranking member of the Judiciary Committee, is this the same William Pryor the Senate spent a great deal of time on previously and there was an attempt by the majority to invoke cloture and that failed? Is this the same person?

Mr. LEAHY. Madam President, I answer the distinguished senior Senator from Nevada by saying, yes, it is. I answer further, although he didn't ask this question, I am not aware of any votes that have changed since that time.

Mr. REID. Madam President, I direct a further question to my friend. Is he telling me then, in the waning days of this legislative session of the National Legislature that we are spending time on a vote that has already been taken—there will not be a single vote changed—when we have appropriations bills to complete, we have Internet taxation, and many other items we are trying to complete in a matter of days; that we are, for lack of a better description, wasting the Senate's time on a nomination that has already been rejected by the Senate?

Mr. LEAHY. Madam President, the senior Senator from Nevada is absolutely right. In fact, of those appropriations, we have held up the appropriations for our veterans, and we can't find time to vote on the floor. Appropriations for our law enforcement people are being held up and we can't find time to vote on the floor. Appropriations for the Federal judiciary, for the State Department, for housing, and a number of others are being held up, and we can't seem to find time to vote on the floor. But we are doing this revote when everybody knows the result will be precisely what it was the last time.

Mr. REID. Madam President, I further direct the Senator's attention to an article—I am not confident he has had time to read it because it is from a western newspaper, the L.A. Times. Is it true the vacancy rate on the Federal bench is at a 13-year low, as indicated in the headlines of today's L.A. Times?

Mr. LEAHY. Madam President, the Senator is absolutely right. The vacancy rate in the judiciary is at a 13-year low. It was at a high at the end of President Clinton's term because the Republican majority in the Senate had blocked over 60 of President Clinton's nominees, usually by either threatening filibusters or not even allowing them to have a vote.

In the 17 months that the Democrats were in charge of the Senate, we confirmed 100 of President Bush's nominees, which brought down that rate. In the 17 months the Republicans have been in charge, they have confirmed another 68. So the vacancy rate is at a 13-year low. In fact, I say to my friend from Nevada, President Bush, in less than 3 years, has seen more of his nominees confirmed than President Reagan did in his first 4 years, with a Republican majority in those 4 years, and he was the all-time champ.

Mr. REID. Madam President, I further direct a question to my friend, it is true, then, that this article written by David Savage states that experts who track Federal judgeships say Republican complaints about a Democratic filibuster has skewed the larger picture. The article further goes on to say, and I ask the Senator if he is aware of this, that 168 Federal judges have been approved and 4 turned down—168 to 4; is that the record as the Senator understands it?

Mr. LEAHY. Madam President, it is. As a good friend of mine in the Republican Party said the other day: Pat, I know this whole argument is bogus. I guess we are making it for fundraising letters. But I do know President Bush has had far more of his nominees confirmed with both Democrats and Republicans in the Senate than anybody has in decades.

Yes, it is true, and I do agree with my Republican friend that the argument is bogus. But the only objection I have to the bogus argument being made is that we should be voting on the money for our veterans. We should be voting on the money for our law enforcement. We should be voting on the money for housing. And, we should be passing those bills that, by law, we were supposed to have passed way back in September.

I ask unanimous consent that the entire L.A. Times article that has been referred to by the distinguished Senator from Nevada be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Los Angeles Times, Nov. 6, 2003]

VACANCY RATE ON FEDERAL BENCH IS AT A 13-YEAR LOW

(By David G. Savage)

WASHINGTON.—The vacancy rate on the federal bench is at is lowest point in 13 years, because of a recent surge of judges nominated by President Bush and confirmed by the Senate.

The intense partisan battle over a handful of judges aside, Bush has already won approval of 168 judges, more than President Reagan achieved in his first term in the White House. And with 68 of his nominees winning confirmation in 2003 as of Wednesday, President Bush has had a better record this year than President Clinton achieved in seven of his eight year in office.

Experts who track federal judgeships say Republican complaints about Democratic filibuster of four judges have obscured the larger picture.

''The Bush administration has been spectacularly successful in getting the overwhelming proportion of its judicial nominations confirmed,'' said political scientist Sheldon Goldman at the University of Massachusetts, Amherst. ''There are only a relative handful being filibustered and held up. And this contrasts with the dozens of Clinton nominees who were held up by the Republicans in the last six years of the Clinton administration. The truth is the Republicans have had an outstanding record so far.''

The Republican-controlled Senate Judiciary Committee lists 39 vacancies among the 859 seats on the U.S. district courts and the U.S. courts of appeal—a 4.5% vacancy rate.

This is the fewest number of vacancies since 1990. During Clinton's term in office, the number of vacancies on the federal bench was never fewer than 50, according to the Administrative Office of the U.S. Courts.

Today, the Senate committee is set to vote on four more judicial nominees, including California Supreme Court Justice Janice Rogers Brown. She is likely to be opposed by almost all of the panel's Democrats, one of whom called her a ''right-wing judicial activist'' during a hearing two weeks ago.

If confirmed by the full Senate, Brown would fill a seat on the U.S. Court of Appeals in the District of Columbia that is vacant in part because Republicans blocked two candidates that Clinton nominated in 1999.

Washington lawyer Allen Snyder, a former clerk to U.S. Supreme Court Chief Justice William H. Rehnquist, had a hearing in the committee, but despite a lack of opposition, he failed to gain a confirmation vote in the Senate. White House lawyer Elena Kagan was denied even a hearing in the GOP-controlled Judiciary Committee. She has since become a dean of Harvard Law School.

Upon taking office, President Bush named Washington lawyers John Roberts and Miguel A. Estrada to the same appeals court. Roberts, also a former clerk to Rehnquist, won confirmation this year and is now the junior judge on the U.S. Court of Appeals for the District of Columbia. Democrats filibustered and blocked a final vote on Estrada, who subsequently withdrew.

In July, President Bush chose Brown to fill the vacancy.

Even if she wins a narrow approval today, the minority Democrats may block her from a final vote in the Senate. Besides Estrada, they have blocked votes on Mississippi Judge Charles W. Pickering Sr., Texas Supreme Court Justice Priscilla R. Owen and Alabama Atty. Gen. William H. Pryor Jr. Also waiting a final confirmation vote is Los Angeles Superior Court Judge Carolyn B. Kuhl, Bush's nominee to the U.S. 9th Circuit Court of Appeals.

Administration officials concede that most of Bush's judges are being approved, but they point to the blocking of the appeals court nominees as extraordinary.

The vacancy rate ''has been getting lower, but the real problem is the showdown at the circuit courts. We have seen an unprecedented obstruction campaign against the president's nominees for the circuit courts,'' said John Nowacki, a Justice Department spokesman. The department's Web site says there are 41 vacancies on the federal bench, if the U.S. Court of Claims and the International Trade Court are included in the total.

The administration says Bush has made 46 nominations to the appeals court, but only 29 have won confirmation. ''That's a 63% confirmation rate.

Clinton had an 80 percent confirmation rate at the same time,'' Nowacki said. ''There is something different going on here. It's an obstruction at entirely different level.''

Goldman, the University of Massachusetts professor, said both parties have blocked prospective judges they viewed as extreme, but they have done it in different ways.

''The Republicans obstructed quietly in the committee,'' Goldman said. ''If they didn't want to approve you, you just didn't get a hearing. The Democrats have obstructed through the use of the filibuster, which is very open and visible.''

During Clinton's final six years in office, Republicans controlled the Senate, and they refused to confirm more than 60 of his judicial nominees.

BENCH STRENGTH

Here's how President bush's confirmed nominations to Federal judgeships compares with his three predecessors:

President George W. Bush: 2003: 68; 2002: 72; and 2001: 28**.

President Bill Clinton: 2000: 40*; 1999: 33*; 1998: 65*; 1997: 36*; 1996: 20*; 1995; 55*; 1994: 101; 1993: 28; and 1992: 66*.

President George H. W. Bush: 1991: 56*; 1990: 55*; and 1989: 15*.

President Ronald Reagan: 1988: 41*; 1987: 43*; 1986: 44; 1985: 84; 1984: 43; 1983: 32; 1982: 47; and 1981: 41.

* Senate controlled by opposition.

** Senate evenly divided until Sen. James M. Jeffords of Vermont left the Republican Party to become an independent.

Sources: Administrative Office of the U.S. Courts.

Mr. LEAHY. How much time is remaining?

The PRESIDING OFFICER. Ten seconds.

Mr. LEAHY. I will yield back my 10 seconds.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. I yield 1 minute to the distinguished Senator from Alabama.

Mr. SESSIONS. Madam President, I wish to respond to some comments that were just made. The distinguished assistant Democratic leader asserts Mr. Pryor has been rejected before. He has not been rejected before. He has not been given an up-or-down vote. He has not been given a vote. We have a majority of Senators who supported him previously. A majority will support him, and it is absolutely wrong to say he has been rejected. He has not been given a vote.

For the first time in the history of this country, we are facing a filibuster of judges, and it is not right. It is time to deal with this situation. I hope our colleagues on the other side will yield. If not, I hope they hear from the American people.

I yield time back to the distinguished chairman of the Judiciary Committee.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Madam President, I couldn't agree more with the distinguished Senator from Alabama. What is happening here is a very fine man, an excellent lawyer, an excellent attorney general in this country, one who has always stood for upholding the law even when he disagreed with it, which is the ultimate in judicial nominees, is being deprived of the dignity of an up-or-down vote, which has never been done before, other than in these four filibusters that the Democrats have waged in this body.

This is dangerous stuff. I admit during the Clinton years there were a few of our Republicans who wanted to filibuster some of their liberal judges, and we stopped it. Senator LOTT and I made it very clear that was not going to happen because not only is that a dangerous situation, politically it is a terrible situation, and it is something that should not happen in this body.

One of the Democrats' favorite tactics, which they used again before last week's failed cloture vote on Judge Pickering's nomination, is to try to excuse their indefensible treatment of the President's nominee by citing the raw number of President Bush's nominees confirmed by the Senate. That number now stands at 168. They trumpet this number, and then note they have blocked only 4. We know it will be a lot more than that. We already know the future nominations they are going to block, but the Democrats believe this sounds reasonable to the American people who hear it.

The more the real story gets out, the less acceptable it is to the American people. First, there are more Federal appellate vacancies today, 18, during President Bush's third year in office than there were at the end of President Clinton's second year in office, 15. Over half of President Bush's appeals court nominees have not been confirmed. There are 41 total vacancies on the Federal district and appellate benches, 22 of which are classified as judicial emergencies by the nonpartisan Administrative Office of the U.S. Courts. A staggering 67 percent of the vacant appeals court slots are judicial emergencies.

Here is the point. No raw number of confirmations means anything in and of itself, while there are not one but three filibusters—exemplary nominees going on now. We just voted out Janice Rogers Brown from the committee on a straight party-line vote, and it is clear they are going to filibuster this fine African-American justice who wrote the most majority decisions issued by the California Supreme Court last year. Their argument is: She is outside the mainstream. That is always the argument they bring up because she does not conform to the liberal ideology they demand.

Just think, one nominee, Miguel Estrada, has withdrawn after more than 2 years of a filibuster against him.

The Democrats are virtually certain to filibuster Justice Janice Rogers Brown, another DC Circuit nominee; and emergency vacancies continue to exist on our Federal courts.

Are we supposed to be grateful that only a small handful of President Bush's nominees are being filibustered? Is there an acceptable filibuster percentage the Democratic leadership has in mind? The mere fact that we have to ask these questions makes it crystal

clear we have a broken process. Even one filibuster of a judicial nominee is one too many, and we are now up to four, and I might add there are others they have made very clear they are going to filibuster. These are appellate nominees. For the first time in history, these filibusters are occurring. I think it is shameful.

I yield the floor.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on Executive Calendar No. 310, the nomination of William H. Pryor, Jr., to be United States Circuit Judge for the Eleventh Circuit.

Bill Frist, Rick Santorum, Ben Nighthorse Campbell, Lindsey Graham, Norm Coleman, John Sununu, Jon Kyl, Mike DeWine, Wayne Allard, Elizabeth Dole, Pete Domenici, Mitch McConnell, Robert F. Bennett, Jeff Sessions, Michael B. Enzi, John Ensign, and John Cornyn.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on Executive Calendar No. 310, the nomination of William Pryor, of Alabama, to be United States Circuit Judge for the Eleventh Circuit, shall be brought to a close?

The yeas and nays are required under the rule.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Colorado (Mr. CAMPBELL) and the Senator from New Hampshire (Mr. SUNUNU) are necessarily absent.

I further announce that if present and voting the Senator from New Hampshire (Mr. SUNUNU) would vote ''yes.''

Mr. REID. I announce that the Senator from Massachusetts (Mr. DAYTON), the Senator from North Carolina (Mr. EDWARDS), the Senator from Massachusetts (Mr. KERRY), and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote ''nay.''

The PRESIDING OFFICER (Mr. GRAHAM of South Carolina). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 51, nays 43, as follows:

[Rollcall Vote No. 441 Ex.]

YEAS—51

Alexander	Bennett	Bunning
Allard	Bond	Burns
Allen	Brownback	Chafee
Chambliss	Graham (SC)	Nelson (NE)
Cochran	Grassley	Nickles
Coleman	Gregg	Roberts
Collins	Hagel	Santorum
Cornyn	Hatch	Sessions
Craig	Hutchison	Shelby
Crapo	Inhofe	Smith
DeWine	Kyl	Snowe
Dole	Lott	Specter
Domenici	Lugar	Stevens
Ensign	McCain	Talent
Enzi	McConnell	Thomas
Fitzgerald	Miller	Voinovich
Frist	Murkowski	Warner

NAYS—43

Akaka	Dorgan	Levin
Baucus	Durbin	Lincoln
Bayh	Feingold	Mikulski
Biden	Feinstein	Murray
Bingaman	Graham (FL)	Nelson (FL)
Boxer	Harkin	Pryor
Breaux	Hollings	Reed
Byrd	Inouye	Reid
Cantwell	Jeffords	Rockefeller
Carper	Johnson	Sarbanes
Clinton	Kennedy	Schumer
Conrad	Kohl	Stabenow
Corzine	Landrieu	Wyden
Daschle	Lautenberg	
Dodd	Leahy	

NOT VOTING—6

Campbell	Edwards	Lieberman
Dayton	Kerry	Sununu

LEGISLATIVE SESSION

Mr. BENNETT. I ask unanimous consent that the Senate now return to legislative session.

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

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2004

Mr. BENNETT. I ask unanimous consent that we resume consideration of H.R. 2673.

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

Pending:

Bennett/Kohl amendment No. 2073, of a technical nature.

Specter amendment No. 2080, to limit the use of funds to allocate the rate of price support between the purchase prices for nonfat dry milk and butter in a manner that does not support the price of milk at the rate prescribed by law.

Mr. BENNETT. I understand there are a number of amendments to be offered. Senator DORGAN has approached me about one he would like to offer. I have no particular preference as to the order in which the amendments come. I understand some Senators wish to make comments before we get into the amending process. I do not see the Senators in the Chamber who told me they planned to make some kind of a statement.

Senator KOHL and I are open for business.

Mr. REID. If the Senator has given up the floor, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

AMENDMENT NO. 2115

Mr. BINGAMAN. I send an amendment to the desk.

The PRESIDING OFFICER. Without objection, the pending amendments are laid aside.

The clerk will report.

The assistant legislative clerk read as follows:

Senator from New Mexico [Mr. BINGAMAN] proposes an amendment numbered 2115.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To provide funds to implement and administer Team Nutrition programs, with an offset)

On page 5, line 1, strike ''$188,022,000'' and insert ''$183,022,000''.

On page 48, line 24, strike ''$11,418,441,000'' and insert ''$11,423,441,000''.

On page 48, line 26, strike ''$6,718,780,000'' and insert ''$6,723,780,000''.

On page 49, line 7, before the period, insert the following: '': *Provided further,* That not less than $15,025,000 shall be available to implement and administer Team Nutrition programs of the Department of Agriculture''.

Mr. BINGAMAN. Mr. President, this amendment is very straightforward. It would provide $5 million in additional funding to the nutrition education and training section of the School Lunch Program. The funds would serve to develop new programs and to implement existing programs in the Department of Agriculture Team Nutrition Program. Nutrition education programs are being chronically underfunded and have been for a great many years.

We have authorized in current law—the law about to expire, as I understand it—50 cents to be spent for every public school student to be served in this country. That is 50 cents per year. This is not 50 cents per day; this is 50 cents per year.

I was speaking to Senator BYRD from West Virginia and he said for nutrition education we ought to at least give them as much money as it costs to buy a candy bar. That is not an unreasonable goal to set for this great country. Last year, we did not begin to reach the 50 cents per student per year. Last year, we provided $10 million.

This chart shows the funding level beginning in 1996. In 1996, we provided $23.5 million. This is for the combined funding of the nutrition education training and the team nutrition. As I understand, this nutrition education training is essentially money that goes as grants to the States to help them provide some kind of nutrition instruction in their schools. We provided $23.5 million in 1996, $14.25 million in 1997, $11.75 million in 1998, and down to $10 million in 1999.

We are again, in the current fiscal year, being presented with an appropriations bill that calls for $10 million.