NOMINATION OF DAVID HAMILTON

Ms. MURKOWSKI. Madam President, when the Senate considers the nomination of David Hamilton to the Seventh Circuit U.S. Court of Appeals later this afternoon, I intend to vote no. Some may regard this as perhaps inconsistent with my vote yesterday when I joined with a number of my colleagues on this side of the aisle in voting for cloture on the nomination. I certainly do not regard the two positions as inconsistent.

While I do not believe this nominee should be confirmed, I do believe judicial nominees deserve a straight up-or-down vote. I have come to the Chamber today to explain my views on the Hamilton nomination and expand upon why I voted as I did yesterday.

Our process for consideration of judicial nominees is broken. It has been broken since I came to the Senate in 2003. In fact, on April 30, 2003, I was among 10 freshman Senators, bipartisan, who wrote our respective leaders to say the confirmation process needed to be fixed. For reasons I can't fathom, we still seem to be light-years away from a process in which a President's judicial nominees come to the floor expeditiously for a straight up-or-down vote. This is a far cry from the process I am told the Senate adhered to prior to 2001 when there existed a strong presumption against the filibuster of judicial nominees. A cloture vote on a nomination was virtually unprecedented.

I understand all of that changed in February of 2001 when our colleagues on the other side of the aisle decided they would engage in the regular practice of blocking the confirmation of courts of appeals nominees with whom they had ideological disagreements through the use of the filibuster process.

Miguel Estrada, deemed ''well-qualified'' by a unanimous vote of the American Bar Association, had to suffer through seven failed cloture votes. This was in his bid to serve on the DC Circuit. Finally, he decided to move on with his life.

Priscilla Owen, also a recipient of a unanimous ''well-qualified'' rating by the ABA, suffered through four failed cloture votes before ultimately being confirmed to the Fifth Circuit.

David McKeague, a Sixth Circuit nominee, unanimously deemed ''well-qualified'' by the ABA was filibustered. I could go on.

In the 2003 letter, my cosigners and I noted that in some instances when a well-qualified nominee for the Federal bench is denied a vote, the obstruction is justified on the ground of how prior nominees, typically the nominees of a previous President, were treated.

Without doubt, a number of President Bush's nominees to the U.S. court of appeals were treated unfairly by this body. Off the top of my head, I can probably count 11 nominees to the courts of appeals, each of whom was deemed qualified to serve by the American Bar Association raters, many ''well-qualified'' in that rating, who had to suffer the filibuster.

It would not be my place to venture an opinion whether this entered into the cloture debate yesterday. However, I wish to make clear this is not how I evaluate judges for confirmation. In voting to end debate on the nomination of Judge Hamilton, I wanted to make the point that the qualified nominees of a President to the Federal bench deserve a straight up-or-down vote. This is what I believe the Constitution expects of this body in most cases.

Having said that, I have substantial concerns about the elevation of Judge Hamilton. I have considered his record on the Federal district court in Indiana as well as criticisms of his record. I regard it as my personal responsibility to consider these matters. My confirmation votes reflect my personal judgment as to the qualifications of the nominee.

As a Senator and as a mother, I have grave concerns about Judge Hamilton's judgment in recommending executive clemency for a 32-year-old police officer who was convicted of violating Federal child pornography laws. The defendant pled guilty to Federal charges that he photographed in one case and videotaped in the other sexual encounters with two women, one age 16 and the other age 17. Although it may have been lawful for the defendant to engage in these encounters under the laws of Indiana, it is not lawful to photograph them under the laws of the United States.

Judge Hamilton went out of his way to argue that the 15-year mandatory minimum sentence imposed by Congress for such violations was a miscarriage of justice in this case. He argued vociferously that executive clemency is warranted. This Senator does not understand why Judge Hamilton would choose this cause to champion. While I understand Judge Hamilton has imposed substantial sentences in other child pornography cases, I do not agree with his reasoning in this matter and cannot, in good conscience, support his confirmation.

With that, Madam President, I appreciate the attention of the Chair. I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

ORDER OF PROCEDURE

Mr. INHOFE. Madam President, it is my understanding—and I wish to reaffirm this with a unanimous consent request—that I will be recognized at the hour of 1:30 for, let's say, 1 hour 10 minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

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

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

HEALTH CARE REFORM

Mr. CASEY. Thank you very much, Madam President.

I rise this afternoon to speak about health care. We all have been concentrating on this issue for many months, and we are now into a period of time when we will be getting a bill very soon to the floor. That is our hope and our expectation.

One of the parts of the Health, Education, Labor, and Pensions Committee bill that I voted on, as did the Presiding Officer this summer back in July when we passed our bill out of committee, one of the real priorities in that bill, and what I believe will continue to be a priority in the final legislation before the Senate, is children and what happens to children as a result of health care reform. We have a lot to be positive about in terms of legislation over the last decade or more as it relates to children, and I will speak about that.

In terms of that guiding principle, I have a very strong belief—and I think it is the belief of a lot of people in this Chamber and across the country—that every child in America—every child in America—is born with a light inside them. For some children, that light is limited by circumstances or their own personal limitations, but no matter what that light is, we have to make sure the light for their potential burns as brightly as we can possibly ensure. For some children, of course, that light is almost boundless. You almost can't measure it because the child has advantages other children don't have or they have a family circumstance that allows them to grow and to develop and, therefore, to learn and to be very successful. But I believe every child in America is born with a light, and whatever the potential is for that child, we have to make sure he or she realizes it. We have a direct role to play. Those of us who are legislators, those of us who are working on the health care bill have an obligation, I believe, to make sure that light shines ever brightly.

One of the other themes under this effort to expand health care for Americans is to focus on children who happen to be either poor or who have special needs. I believe the goal of this legislation, as it relates to those children, those who are poor or children with special needs, is four words: ''No child worse off.'' We need to ensure that a