

reverse the lower court and grant the exception outright two times. She voted twice to just flat reverse the lower court and say the young person is entitled to an exception—on 2 of those 14 cases. And on 2 cases she did not believe the lower court had done it correctly, had not heard the case fairly, and sent it back down for further hearings on the facts.

In my experience as a litigator who has been involved in trying a lot of cases, that is about the percentage you would expect. You would expect that by the time a case has gone through two levels that the lower courts are probably right most of the time.

So I just don't think that is an extreme record at all. I cannot believe they continue to persist in arguing she is somehow a judicial activist. As Senator CORNYN has pointed out, that was a reference to another judge's dissent; not her opinion even. It was unfair to say Judge Gonzales has said she was an activist. It is not so.

As a matter of fact, I would add this: They say this lady is an extremist. She is not fit for the Federal court because she has not voted right on these parental notification cases. It is almost humorous to think about it. But she voted with the majority of the Texas Supreme Court in 11 of the 14 cases before that court. The full court voted to require parental notice in 7 cases and to grant the exception outright in 3 cases and to remand 4 cases.

These are just excuses, for some reason, that are out there that have been used to block her. They do not withstand rigorous analysis.

One more thing. Let's say she made a mistake. I don't know how many hundreds of cases she has heard on the supreme court. But the American Bar Association and the legal community in Texas, they know her. After a while you form an opinion of a judge and a lawyer. You have an opinion as to whether or not they have good judgment, whether they are capable, whether they work hard, whether they have integrity. Even if they make a mistake somewhere along the line in a case, that is not disqualifying. Any judge who ruled on thousands of cases is not going to be mistake free.

I would say she has done extraordinarily well. We ought to listen to the opinions of those who know her, like Senator—Judge—CORNYN, her former colleague on the court; like all the major newspapers of Texas; like the American Bar Association; like her colleagues on the bench; and like President Bush, who knew her in Texas. She is qualified to an extraordinary degree and would make a magnificent circuit court judge and should be confirmed. We ought not to be in the midst of a historic filibuster on any nominee, really, but particularly this one.

I thank the Chair and yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

NATO EXPANSION

Mr. SESSIONS. Mr. President, we are waiting for wrap-up. I would like to make a few brief remarks in support of the provision offered by Senator WARNER and Senator LEVIN and others that deal with the expansion of NATO, and in particular, the rule of consensus in NATO.

NATO is now 26 countries. It is a group that has provided a bulwark for freedom and liberty against the totalitarian Communists of the Soviet Union and their footstools they dominated in Eastern Europe. They stood firm for a half century, and we have lived to see the collapse of the wall, collapse of the Soviet Union, and freedom spread across Eastern Europe. It is one of the great events in all of history, maybe the highlight of the 20th century.

The NATO alliance has a rule called the consensus rule. It says:

In making their joint decisionmaking process dependent on consensus and common consent, the members of the alliance safeguard the role of each country's individual experience and outlook while at the same time availing themselves of the machinery and procedures which allow them jointly to act rapidly and decisively if circumstances require them to do so.

That is the rule. We have gone up in numbers. We are going to add more members now. We are probably going to go over 30 members. As a result, we have to ask ourselves what is this unanimous group? What happens if a country goes bad? What if the Communists take back over one of their former footstools they ran over in Eastern Europe? What if a Milosevic takes over a country and rejects the ideals of NATO? What if some radical religious party takes over a country and leads it on the wrong road? What if a Saddam Hussein, a fascist-type government, takes over one of these countries? We are not able to act anymore? We have to sit here and stop all of NATO's legitimate actions?

What this amendment would do is ask the NATO alliance to talk openly and honestly about this problem. It does not require anything. What it requires and asks is the NATO ministers meet and discuss this rule and see if they want to keep this rule.

It focuses on a couple of questions. One is should you always have to have a unanimous vote? I remember very distinctly after the Kosovo effort, which was mainly driven by our air power, the commander of the American Air Force who directed our air campaign against Kosovo, answered some questions I asked him.

I asked him if the unanimous rule and consent requirement hinder his selection of targets.

He said: Yes.

I said: Did that hindrance delay the successful outcome of the war? Did it cost more lives of Kosovo citizens and Serbian citizens? And did it endanger American lives?

Yes.

Why did this happen? The NATO group approved even the targets our Air Force were selecting before they committed their flights over Kosovo. This is not healthy. This is not a good way to run a war. Now we are going to have 30-plus nations, some of which may have ethnic or political or weird ideas, and they may object to targets. They may object to tactics.

We had an incredible 11 days to figure out a way to get NATO to vote to support Turkey, in case Saddam Hussein attacked Turkey. Some have said that was a good record. Eventually they did get the agreement, but they had to move outside the political NATO to the military NATO. That means France is not in it. You know France is not even a part of the military NATO compact. So they got out of the political NATO and finally got our people all to agree to defend a NATO member against Saddam Hussein. It took 11 days to do so.

I would say to my friends in the NATO alliance, we are so proud of this alliance and what it has achieved. We are proud of the commitment and high ideals that NATO has set for that region and throughout the whole world. But we are a little nervous. We think it is about time to think through this consensus rule.

I don't want to stir up anything. I don't want to say that we don't respect any one nation's vote in NATO nor give it great respect. But I do think that a mutual respect to the United States' overwhelming majority of NATO would be to ask questions: Wait a minute. What kind of mechanism could we do that would protect small nations, and that would protect the minority of nations but allow NATO to act legitimately even without an absolute unanimous vote?

I think Senator WARNER, Senator LEVIN, Senator ROBERTS, and others who have offered this are on the right track. I have asked about it for some time. In fact, when the matter came up several years ago to expand NATO, I asked a number of the witnesses from President Bush's administration some tough questions about it. They were forward. I asked about the rule of consensus. They defended it. They said, Well, we think it is going to be OK. Senator LEVIN, likewise, took the same position. When we had the recent hearing on the further expansion, we dealt with this same issue.

I quoted some of Senator LEVIN's remarks previously. I think this is a good time for us to move forward to bring this to a head. Let us talk about it openly. I don't think a discussion without any requirement to act could upset anybody. Let us talk about it and maybe we can make some progress.