

RECOGNITION OF THE ACTING
MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Nevada is recognized.

Mr. REID. Mr. President, as we discussed yesterday on the floor, there is a need to do appropriations bills. As the leader knows, he has spoken to the Democratic leader and there is an opportunity I believe in the next week or so to move a couple of appropriations bills. If there is anything we can do to narrow the size of the omnibus package, the country will be well served. I hope the distinguished Senator from Tennessee will continue to work to see if we can move some of these appropriations bills.

As has been indicated, I think we can do that with a reasonable number of amendments and in a reasonable period of time. It would surely be helpful to the country.

Mr. FRIST. Mr. President, in response, through the Chair, the appropriations bills are critical and we continue to work aggressively. I am in wholehearted agreement. Bringing these bills to the floor one by one is a much preferred route to take. We continue to work aggressively in that regard.

WOMEN'S RIGHTS CENTER IN IRAQ

Mr. FRIST. Mr. President, I wish to take 2 or 3 minutes to make a comment on another issue.

Earlier this month, the Fatima Zehran Center for Women's Rights opened in Hillah in the Babil Province in Iraq. This center is the first of its kind to be established since the liberation of Iraq. It is also one of the many such planned across the country in Iraq. It oversees classes and workshops on women's issues and even broader issues in nutrition, in health, democracy, empowerment and leadership, literacy, computer and Internet skills, and entrepreneurship in local markets.

As we all know, the last 35 years in Iraq have been a period of injustice for and oppression of Iraqi women. They were deprived of their civil and political rights.

This is just another example of tremendous progress being made in Iraq. New programs are being developed and implemented throughout the country to raise the educational standard of Iraqi women. A few employment opportunities are occurring throughout the country. The Baghdad City Council has begun a major project to establish women's institutes throughout the city.

It is clear that the time has come for Iraqi women to occupy their natural position in society and in leading their nation. Now they have the opportunity to play an active role in the decision-making processes of the political and economic development of a free Iraq. I am delighted that such progress is being made, and I look forward to the

full participation of Iraqi women who have been oppressed for so long—for almost three decades now.

I yield the floor.

RESERVATION OF LEADERSHIP
TIME

The ACTING PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business until 11:30 a.m., with the time equally divided between the two leaders or their designees. The first 30 minutes will be under the control of the Senator from Texas, Mrs. HUTCHISON, or her designee, and the second 30 minutes will be under the control of the Democratic leader or his designee.

ORDER OF PROCEDURE

Mr. REID. Mr. President, I have spoken to the Senator from Utah, the Senator from Pennsylvania, and the Senator from Alaska. They have been gracious enough to allow Senator KENNEDY to follow Senator SANTORUM out of order for 5 minutes. We understand that. Senator KENNEDY has no other time. I ask unanimous consent that the Senator from Pennsylvania be recognized for 5 minutes, followed by the Senator from Massachusetts for 5 minutes. I express my appreciation especially to the Senator from Alaska for allowing this to take place.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

The Senator from the great State of Pennsylvania.

NOMINATION OF WILLIAM H.
PRYOR, JR.

Mr. SANTORUM. Mr. President, thank you.

I rise today to voice my support for the nominee who is before this body. There was debate on this nomination last night by many Members on our side of the aisle who are concerned about the treatment of this qualified individual for the circuit court, Attorney General Bill Pryor of Alabama.

I wish to make three points with respect to Attorney General Pryor.

No. 1, his qualifications.

As we heard last night and have heard repeatedly both in the Judiciary Committee and here, there is no question as to the man's qualification, his skills, his experience, his record of accomplishment, his educational background. They are all exemplary, extraordinary. This man, without question, is qualified for this position. I daresay that most, even those who oppose him, have not questioned his innate qualifications for the job.

We set aside the issue of qualifications and take it as a given that he is surely qualified for this position.

The question that has been raised is whether General Pryor would follow the law. That is a question that Members on both sides of the aisle ask of judicial nominees from both parties: Will you follow the law? Will you exercise your own judgment and be creative on the bench?

I daresay if you look at the history—certainly recent history—of the courts, many who have come through this Chamber who said they would follow the law have not done so. I argue that the vast preponderance of those have been nominees of Democratic Presidents who have taken an activist approach on the bench, as well as, unfortunately, some Republican nominees who have taken an activist approach on the bench, an activist approach in the direction that would be contrary to where I would like to see the judiciary go. We have not seen that evidence as much by nominees taking a more conservative approach as opposed to the liberal court approach we have seen in the courts over the years.

Nevertheless, it is a legitimate question for Members on the other side of the aisle to ask if a conservative would adopt their own agenda—probably given the experience of so many liberals adopting their agenda, and they want to make sure, while they are comfortable with that, they would be uncomfortable with conservatives doing the same thing.

In the case of Attorney General Pryor, we have someone who has shown at least on two high profile occasions, most recently just a few months ago, that he would strictly adhere to the law even when he disagrees with the rulings of the court.

In the most famous case of the Ten Commandments in the courthouse in Alabama, Supreme Court Justice Moore wanted a display of the Ten Commandments in the middle of the courthouse, and Attorney General Pryor complied with the removal order even though it is fairly clear he had no problem with this display. Nevertheless, he showed his integrity and followed the law.

In previous cases, in an abortion-related partial-birth abortion decision—we just had a vote on the issue—he followed the law. The Alabama courts, the Supreme Court, issued a ruling and he followed that ruling. This is a man who has integrity and has a record of following the law.

What is the third issue? The third issue has to do with "deeply held beliefs." This was a question asked by several members on the Democratic side at the hearing about his deeply held beliefs. Attorney General Pryor happens to be Catholic. His deeply held religious beliefs dictate to him a position on issues which happen to be antithetical to some on the Democratic side on the Judiciary Committee. I frankly took offense to the question

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

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

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

I yield the floor.

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

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

CLOTURE VOTE ON CLASS ACTION

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

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

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

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

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

In its present form, this bill is a shoddy patchwork of different ideas and different approaches grafted together with no concern for its overall impact, as long as it shields defendants. Key provisions have never been

the subject of any hearings or any careful analysis by impartial experts in the field.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

IRAQ

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

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

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

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

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

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