

and balances were. I am watching commercials today that talk about the effort of the Democrats to block judicial appointees is somehow applying the concept of checks and balances. I have to gather my 15-year-old daughter Sarah and tell her that is not what checks and balances are about. The concept of checks and balances has to do with the wisdom of our Founders to balance the power of the executive branch against the power of the legislative branch and the power of the judicial branch. That is checks and balances—a magnificent concept.

But checks and balances does not mean, and has never meant, that somehow the minority can block the majority from governing in an Executive Calendar, where the President has the authority to appoint individuals who he thinks are qualified, and then we measure that qualification—not politics, not their views on certain political issues, but their competence, their integrity, their capacity to do the job—and we then advise and consent, we give the up-or-down vote.

But checks and balances have nothing to do with the attempt of the minority, right here, to block the majority from simply confirming Presidential appointees. We are not talking about changing the legislative calendar. We are not talking about interfering with the right to filibuster on legislative issues. We are talking about upholding the Constitution.

It is interesting, if you go back—and like the Presiding Officer, I have been here only a few years—we have learned from some of our colleagues about the history of what went on before. In the past, the Senate did not filibuster judicial nominees. There were times when you had very liberal judges coming up for confirmation by Democratic Presidents, and you had Republicans controlling the process, and you had majority leaders such as Trent Lott supporting cloture for liberal nominees who, on the basis of ideology, they would not support.

Judge Paez, in the Ninth Circuit, I believe was one of the judges involved in the decision that you cannot say “one Nation under God.” I know many of my colleagues felt Judge Paez’s views were extreme. But they respected the power of the President to make an appointee, and they respected the history and tradition of this institution that says: Give nominees an up-or-down vote. Paez got that up or down vote and was confirmed.

So my deep concern is somehow we are involved in almost this Orwellian doublespeak today that we are talking about checks and balances in a process that has no relationship to what checks and balances have always meant. Again, our young people should understand that.

We have bent over backward to protect minority views in this Senate. When it comes to appointments, the majority has a right and a responsibility to act. Then all of us have the

right to vote yes or no. Let’s do the right thing. Let’s uphold the tradition of this institution. Give people the right to get an up-or-down vote when they are nominated for a judicial office.

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

Mr. COLEMAN. Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Colorado.

#### JUDICIAL NOMINATIONS

Mr. SALAZAR. Madam President, I come to this Chamber this morning to make a few comments in response to my colleagues from Minnesota, South Dakota, and Louisiana, concerning the judicial nomination process.

Let me say at the outset, I believe the work of this body and this Congress should be getting about the people’s business. I believe this issue concerning the filibuster rule is something that is distracting this country and this Congress from doing what we should be working on.

In the Washington Post this morning, the headline story talks about the economic worries of America. The first two paragraphs of the article in the Washington Post read as follows:

Inflation and interest rates are rising, stock values have plunged, a tank of gas induces sticker shock, and for nearly a year, wages have failed to keep up with the cost of living.

Yet in Washington, the political class has been consumed with the death of a brain-damaged woman in Florida, the ethics of the House majority leader, and the fate of the Senate filibuster.

I would submit that we as a body have a responsibility to address the issues the people of this country care about. Those issues are about passing a transportation bill for America. Those issues are about getting an energy bill passed for the people of America that helps us get rid of our overdependence on foreign oil. Those issues are about making sure we address the most crippling issue affecting America today—and that is business and people alike—the issue of health care, which is bankrupting this country and many families throughout our States.

We get into this discussion here about what is happening with respect to judges. The fact is, what the majority is attempting to do is to simply break the rules. They are simply attempting to break the rules because they have the power.

Now, I live in an America that strongly supports the fact we have a power that was created by our Founding Fathers, distributed between the executive, with checks and balances, and the Congress, and different rules for the Senate. Part of that is assuring a guarantee when we make decisions for the American people, especially with respect to judges who have lifetime appointments, that we are appointing the very best people to those

positions. The debate that is underway today concerning the so-called filibuster rule, from my point of view, is an effort to try to change the rules in midstream. It also is reflective of the abuse of power we see in Washington today. To be sure, when you look at the history of what has happened with judicial appointments in the last decade and a half or so, there have been 60 Democratic nominees from President Clinton who were rejected by this Senate. On the other hand, if you look at what has happened with President Bush’s nominees, we have had over 96 percent of all of his appointees confirmed by the Senate.

Now, under anybody’s scorecard, if you get a 96-percent success rate, I think you have done pretty well. You can ask my daughters, who are stellar students in their school; getting a 96-percent grade is pretty good. That is a much higher rating for President Bush’s appointees than we had for prior Presidents.

So I would say this is not about these particular nominees. I have not yet taken my own position with respect to what I will do with these seven nominees. I will study their records, and I will make my decision based on those records. But, at the end of the day, this is whether we will uphold the cherished traditions of this Senate that have provided the kinds of checks and balances that have been important for this Senate to be able to function.

In my view, those rules force us, as Republicans and Democrats, to come together to work through the issues that are most important for our country. I believe the way this issue has been presented to this body and to the American people has been destructive not only to this body but also destructive to the real agenda on which we as the elected representatives of the people should be working.

That real agenda is about roads. It is about transportation. It is about energy. It is about health care. It is about the issues that affect every person every day. They are the kinds of issues that affect people when they get out of bed in the morning and wonder what is going to happen to their families, their children, and their parents. Those are the kinds of issues we should be working on as opposed to working on these kinds of very divisive issues.

#### AFGHAN SECURITY FORCES STANDARDS AMENDMENT

Mr. SALAZAR. Madam President, I would like to speak a little bit about amendment No. 454, which was adopted unanimously by the Senate last night. I appreciate and thank Senators COCHRAN and BYRD for the time they have spent working with me on this amendment. I also note and appreciate the work of Senators MCCONNELL and LEAHY on this matter. Their staff members, Paul Grove and Tim Rieser, were very helpful.

It is clear that success in Iraq and Afghanistan is dependent on how well