

we will vote Dr. Griffin out of the Commerce Committee and get his nomination to the floor. At least by tomorrow, so his name can be sent, confirmed, and the President can go ahead and swear him in.

#### INFORMATION DATA BROKERS

If that were not enough to engage one Senator from the State of Florida in activities, we also saw yesterday a day that started to bring out new revelations on a completely different subject. This time we found from the wire reports that the number of names which had been thought to have been missing or stolen from an information data broker, namely one located in my State, a company called Seisint in Boca Raton, FL, owned by LexisNexis. The company is owned by an international conglomerate located in France, which a month ago announced that 30,000 names were missing—that is 30,000 names and Social Security numbers, and who knows how much other sensitive information. These records are compiled in this company for many law enforcement agencies. We were told yesterday the number is now not 30,000, it is 10 times that; it is over 300,000.

This is one of a series of five or six revelations in the last 2 months of information. Data brokers trade and sell this information about us—information that normally we would be so careful in seeing that it's secured and locked up or shredded so somebody can't get that information and go out and steal our identity. We now find these information brokers—in one case called ChoicePoint—have 12 billion records; they have records on virtually every American.

We have seen over the last couple of months a series of these stories where the information is suddenly missing, or they found that somebody hoodwinked them and bought their information under false pretenses. It is now out in the public domain in somebody else's hands.

Members of the Senate, if we don't do something about this, none of us in America will have any privacy left because our personal identities will be taken from us.

I hope Senators have had an opportunity to experience what I have in talking with victims of identification theft. One of the biggest complaints, aside from the harassment and the financial losses, is they can't get their identity back. They do not know where to go. They go to their local law enforcement. We can't help you. They go to their State agencies. We can't help you. They go here, they go there, and they keep getting referred to somebody else, and all the while somebody else has their identity. Maybe they are put on the watch list, or the do-not-fly list, or suddenly they are getting dinged for \$25,000 charges on a credit card, or their driver's license—such as the truck driver's license in Florida which gives the privilege of driving vehicles loaded with hazardous materials. Guess what that would do in the wrong hands.

We find, if we don't do something, that none of us will have any privacy left. It used to be in the old days that we were careful to shred our records, or keep them locked up. Now we know all of this private, personal, and financial information is in the hands of information brokers who have it on computer—billions of bits of information. They are trading it and selling it and buying it. There is something we can do about it. I suggested one way a month ago when I offered a bill that has been referred to the Commerce Committee. Today, Senator SCHUMER of New York and I have taken a number of bills, including mine and his, and we have put them together into a comprehensive package. The bill is being referred to the Commerce Committee, and it is my hope we will get the Senate to start moving on this. As we speak, the Judiciary Committee is having a hearing on this very subject. It is my hope we will get some action so we can protect the personal identity of every American.

I yield the floor.

The PRESIDING OFFICER. The Senator from Washington.

#### NUCLEAR OPTION

Mrs. MURRAY. Mr. President, I imagine that recently it has been pretty difficult to wake up every morning to read the newspaper if you are a Federal judge. Extremists in and out of Washington, DC, have nearly declared war on the judiciary, from demanding retribution for recent decisions that lawmakers disagree with to suggesting impeachment for judges who do not toe the party line. It is discouraging, it is disheartening, and it is downright wrong.

But what is so concerning about this recent rhetorical assault is it is being backed by action that has nothing to do with judges and everything to do with increasing Republican power at the expense of our Constitution.

I am deeply concerned that Republicans are trying to increase their power by ignoring rules dating to our country's founding. They want to push through radical judicial nominees who will serve a lifetime on the bench by eliminating a 200-year-old American rule allowing each Member in the Senate to speak out on behalf of our constituents and to fight for the ideals we hold dear.

We had an election last year, and it is true, Republicans ended up with a majority in this body. But that does not mean half the country lost its voice. That does not mean tens of millions of Americans will have no say in our democracy. That does not mean Republicans have carte blanche to pack the courts and to ignore the rights of the minority.

In reality, this is not about judges. This is not about a Senate procedural change. This is, plainly and simply, a power grab and an effort to dismantle the checks and balances our Founding Fathers created. Without that system,

the Senate would simply become a rubberstamp for the President. It would allow whichever political party is in power, Republican or Democrat, to have the say over our Nation's courts. I will not stand for that.

This is a basic argument about the future of the Senate. It is about how we are going to conduct our business. I believe in giving the people a voice, in standing up for those people who sent me here, and in protecting the rights of minorities everywhere.

One of the first things every child is taught about American Government is the separation of the three branches. This separation and the checks and balances that come with it are fundamental to the greatest system of government ever created. This system is worth protecting. That is exactly what many of my colleagues and I intend to do.

This is not a debate about judicial nominations. It is about increasing the amount of power that is wielded by the majority. We hear a lot about judges in the Senate, so let me put that discussion in context for a minute.

The judges who serve on the Federal bench affect the lives and liberties of every American. These are lifetime appointments. This is not the nomination to a commission or nomination to an ambassadorship; this is a lifetime appointment for a Federal judge whose rulings over the next 30 or 40 or more years will have ramifications for every single American.

As Senators, we are elected to serve our constituents. We are asked to confirm judges whose decisions can change U.S. history and shape the lives of American people for generations to come.

When any citizen, Republican or Democrat, in a blue State or a red State, a man or a woman, no matter what race, color, or creed, comes before a judge, we have a responsibility to ensure they will get a fair shake. That citizen, no matter who or where they are, must know our system will work for them. They have to have confidence in that.

How can we make those assurances to each and every Senator, Republican or Democrat, red or blue State, man or woman, no matter what race, color or creed, if Republicans alone are selecting, considering, and confirming them to the courts? I don't believe we can.

In addition, we expect Federal judges to provide the proper check in our system of checks and balances outlined in our Constitution. Without it, our system does not function properly. We have to ensure each and every nominee for the courts has sufficient experience to sit in judgment of our fellow citizens. We have to ensure every nominee will be fair to everyone who comes before their court. We have to ensure every nominee will be evenhanded in administering justice, and we have to ensure every nominee will protect the rights and the liberties of each and every American.

To determine if a nominee meets those standards, we have to explore their record, we have to ask them questions, we need to weigh their responses. That is a tremendous responsibility of each and every Senator. It is one I take very seriously.

In the Senate we have made a lot of progress in confirming the judges President Bush has nominated. Look at the figures. The Senate has now confirmed 205 judicial nominees of President Bush. In 3 years we have stopped 10 of those whose records raised the highest questions about their abilities to meet the standard of fairness every American expects. Let me repeat that: We have confirmed 205 judicial nominees. That is a confirmation of 95 percent. We have confirmed 205 judges, the best confirmation rate since President Reagan. Today, 95 percent of Federal judicial seats are filled. This is the lowest number of vacancies in 13 years. There are now more Federal judges than ever before.

I have to point out while the majority is complaining today about our confirmation rate, it was a different story during the Clinton administration. Back then, Republicans used many roadblocks to stop or block the confirmation of judges who were nominated by President Clinton. During Clinton's second term, 175 of his nominees were confirmed and 55 were blocked from getting votes. During those years, the majority used the committee process to ensure nominees they disagreed with never came to a vote in the Senate and 55 never received consideration.

The Senate has an impressive record of confirming judges. That is clear in the 98-percent confirmation rate, the 95 percent of Federal judicial seats that are filled, and today the lowest number of vacancies in 13 years.

I will talk about the process we have used in my home State of Washington to confirm judges. We have worked out a system to ensure that Washington judges are nominated and confirmed even when different political parties hold Senate seats or control the White House. For many years I worked with a Republican Senator and a Democratic President to nominate and confirm Federal judges from my State. Today, with a Republican President I am working with my colleague from Washington State on a bipartisan process to recommend judicial candidates. We developed a bipartisan commission process that forwards names to the White House. It has worked very well. Both sides had equal representation on the commission. The commission interviews and vets the candidates.

It worked for Senator Gorton and me when we forwarded names to President Clinton and it is working well for Senator Maria Cantwell and me as we recommend names to President Bush. I am very proud that during President Bush's first term we worked together to confirm five excellent judges through this bipartisan commission.

We, in fact, confirmed Ron Leighton, a distinguished trial lawyer in Tacoma who is now a U.S. district court judge for the western district of Washington in Tacoma.

We confirmed Lonny Suko as a district court judge for the eastern district of my State. He is a distinguished lawyer and a U.S. magistrate judge who has earned the respect of many in his work on some of eastern Washington's most difficult cases.

We also confirmed Judge Ricardo Martinez for a vacancy on the U.S. district court for the western district of Washington State. He, in fact, holds the distinction of becoming the first Latino district judge in the history of our State. For over 5 years he has served as magistrate judge for the U.S. District Court in the western district. Before that, he was a superior court judge for 8 years and a King County prosecutor for 10 years. I will never forget calling him from the Senate floor after we completed his vote on the confirmation. I could hear the cheers in the background from a truly overjoyed, deserving family.

Also during the first term we confirmed Judges Richard Tallman and James Robart. Both of them are now serving lifetime appointments with dignity.

In Washington State, we are making genuine bipartisan progress confirming judges. It is a process that serves the people of my home State well. Our record of bipartisanship makes this current Republican power grab all the more outrageous. The record proves it is not about judges at all. This procedure is about destroying the checks and balances our Founding Fathers created to prevent the abuse of Governmental power and to protect the rights and freedoms of all Americans. Now we are hearing the Republicans want to destroy the independence in Federal judges by rewriting the rules so they can ram through appointment of Federal judges, especially a Supreme Court Justice, who will overreach and roll back the rights of American people.

Recent comments by advocates on the other side and even by some elected officials have left me very worried about the future of the independent judiciary. It seems many in this country are intent on running roughshod over the Constitution, bent on misusing their power to destroy fundamental principles of our great democracy. That is not how America works. It is not what our Founding Fathers intended. In our democracy, no single person and no single political party may impose extreme views on the Nation. The constitutional system of checks and balances was set up for a reason. It has worked for two centuries. There is no reason to destroy this fundamental principle now.

My colleagues and I are standing up to these abuses. We are fighting to protect the historic power of this body to make sure it is not a rubberstamp for sectarian, partisan, special interests. We will continue to do so.

I yield back the remainder of the time on this side and I suggest the absence of a quorum.

The PRESIDING OFFICER. Without objection, all time is yielded back.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. GRAHAM). Without objection, it is so ordered.

Mr. OBAMA. Mr. President, I ask unanimous consent to speak as in morning business.

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

Mr. OBAMA. Mr. President, I rise today to urge my colleagues to think about the implications of what has been called the nuclear option and what effect that might have on this Chamber and on this country. I urge all of us to think not just about winning every debate but about protecting free and democratic debate.

During my Senate campaign, I had the privilege and opportunity to meet Americans from all walks of life and both ends of the political spectrum. They told me about their lives, about their hopes, about the issues that matter to them, and they also told me what they think about Washington.

Because my colleagues have heard it themselves, I know it will not surprise many of them to learn that a lot of people do not think much gets done around here on issues about which they care the most. They think the atmosphere has become too partisan, the arguments have become too nasty, and the political agendas have become too petty.

While I have not been here too long, I have noticed that partisan debate is sharp, and dissent is not always well received. Honest differences of opinion and principled compromise often seem to be the victim of a determination to score points against one's opponents.

But the American people sent us here to be their voice. They understand that those voices can at times become loud and argumentative, but they also hope we can disagree without being disagreeable. At the end of the day, they expect both parties to work together to get the people's business done.

What they do not expect is for one party, be it Republican or Democrat, to change the rules in the middle of the game so they can make all the decisions while the other party is told to sit down and keep quiet.

The American people want less partisanship in this town, but everyone in this Chamber knows that if the majority chooses to end the filibuster, if they choose to change the rules and put an end to democratic debate, then the fighting, the bitterness, and the gridlock will only get worse.

I understand that Republicans are getting a lot of pressure to do this from factions outside the Chamber, but we

need to rise above "the ends justify the means" mentality because we are here to answer to the people—all of the people, not just the ones who are wearing our particular party label.

The fact is that both parties have worked together to confirm 95 percent of this President's judicial nominees. The Senate has accepted 205 of his 214 selections. In fact, we just confirmed another one of the President's judges this week by a vote of 95 to 0. Overall, this is a better record than any President has had in the last 25 years. For a President who received 51 percent of the vote and a Senate Chamber made up of 55 percent of the President's party, I would say that confirming 95 percent of their judicial nominations is a record to be proud of.

Again, I urge my Republican colleagues not to go through with changing these rules. In the long run, it is not a good result for either party. One day Democrats will be in the majority again, and this rule change will be no fairer to a Republican minority than it is to a Democratic minority.

I sense that talk of the nuclear option is more about power than about fairness. I believe some of my colleagues propose this rule change because they can get away with it rather than because they know it is good for our democracy.

Right now we are faced with rising gas prices, skyrocketing tuition costs, a record number of uninsured Americans, and some of the most serious national security threats we have ever had, while our bravest young men and women are risking their lives halfway around the world to keep us safe. These are challenges we all want to meet and problems we all want to solve, even if we do not always agree on how to do it. But if the right of free and open debate is taken away from the minority party and the millions of Americans who ask us to be their voice, I fear the partisan atmosphere in Washington will be poisoned to the point where no one will be able to agree on anything. That does not serve anybody's best interest, and it certainly is not what the patriots who founded this democracy had in mind. We owe the people who sent us here more than that. We owe them much more.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant journal clerk proceeded to call the roll.

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

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

Mr. DURBIN. Mr. President, if I am not mistaken, the pending business is the Durbin amendment which I offered yesterday.

The PRESIDING OFFICER. I have been informed the Senate has not laid down that measure yet.

Mr. DURBIN. I ask unanimous consent to be recognized as in morning business.

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

#### AMENDMENT NO. 356 TO H.R. 1268

Mr. DURBIN. Mr. President, I ask unanimous consent that the following Senators be added as cosponsors to my amendment: Senators KERRY, LANDRIEU, SARBANES, LEAHY, LINCOLN and LAUTENBERG.

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

Mr. DURBIN. Mr. President, for those who are following the business of the Senate, after morning business we hope to move to closure of debate on my amendment. It is my understanding that Senator STEVENS is returning from the White House and would like to speak on the amendment, and we will have a formal unanimous consent request but it is my intent to protect his right to speak for up to 5 minutes and to protect my right to close for up to 5 minutes. Otherwise, our goal is to try to have a vote at 12:15 on this amendment. I say that even though there has not been a formal consent agreed to, but that is what the discussion leads to.

For those who are following this debate, this is an important bill that is before us. It is the supplemental appropriations bill. The President has come to Congress and asked for money to wage the war in Iraq and Afghanistan. What we find curious is that this amount is not being included in the President's budget. In fact, he is arguing he is moving toward a balanced budget but fails to include the cost of the war.

It is my understanding, and I think I am close on this number, with this additional \$81 billion, we will have allocated and spent \$210 billion on the war in Iraq and Afghanistan. The President refuses to include this in his budget. If he did, we would have a much deeper deficit than currently stated.

Those of us who believe in at least honesty in accounting cannot understand why we are doing this separately. Why do we have a supplemental bill for this war in Iraq and Afghanistan when we are clearly going to be there for a period of time? I hope for a short period of time but at least for some period of time.

That budget argument aside, I will go to the merits of what we are discussing. The \$81 billion for the war in Iraq and Afghanistan is a figure that I will support. I was one of the Senators who joined my great friend and leader Senator ROBERT BYRD in voting against the resolution to authorize the President to use force in this war in Iraq.

Mr. BYRD. Right.

Mr. DURBIN. There were 23 of us on the Senate floor who did that. I believe it was the right vote not because I am making any excuses for Saddam Hussein, a tyrant, a dictator, a man I am glad is out of power, but many of us, particularly those of us sitting on the Intelligence Committee at the time,

felt there were representations being made to the American people about the nature of this threat that were just plain wrong.

I listened in the Intelligence Committee as they described the evidence of weapons of mass destruction and was puzzled. I could not understand the statements from the administration which were coming out about all of these weapons of mass destruction in Iraq that threatened us in the Middle East and around the world; the evidence was not there. The people that we needed on the ground to confirm the evidence were not there.

In addition, there was a lot of speculation about nuclear weapons that Saddam Hussein was developing with aluminum tubes to be used in centrifuges. As we listened to the agencies of our own Government in hot debate over whether or not these tubes had anything to do with nuclear weapons, I was puzzled as to how some of the leaders in this administration could be talking about mushroom clouds because Saddam Hussein is going to detonate a nuclear weapon. They talked about some connection between the terrible tragedy of 9/11 on America and Saddam Hussein, and yet there was no evidence—and there still is absolutely no evidence—connecting Saddam Hussein to that terrible tragedy that occurred on 9/11.

As this evidence accumulated, Senator BYRD, myself, and many others said the case that the administration is making for the invasion of Iraq is not there. The evidence is not there. I personally feel one of the worst things that can happen in a democracy is when the leadership of a democratic government misleads the American people into believing there is a threat that does not exist.

I am not arguing that they deliberately misled us. It could have been a sin of omission. I do not know the answer to that. But the fact is those of us who voted against the use of force had serious questions as to the justification for the war, and I might add serious questions about our readiness for that war. Trust me and other Senators, if we needed to call on any military force in the world to perform a mission, I want to dial 911 and find the United States on the other end of the line. We have the very best military in the world. I knew they would acquit themselves very well once the invasion was under way, and I knew they would be successful.

I could not predict how long it would take, and thank goodness it was short-lived. But the military aspects of the war and the success notwithstanding, it is clear that this administration was not prepared for waging the peace that followed. They were unprepared in terms of the number of men and women on the field, in terms of the equipment that is available, such as armor for humvees and body armor for soldiers. We were not prepared for it. Here we are, more than 2 years later in Iraq, in