

These officials also noted, however, that forcing military action in Iraq without prior consultation with, if not outright support from, the international community risks a potentially even more threatening set of circumstances in the Gulf with negative impacts on energy security as well as the security of Israel.

THE RETIREMENT OF ALEX LEWIS

Mr. DASCHLE. Mr. President, today the Senate loses one of its most valued employees to retirement. After 35 years of dedicated service, Alex Lewis of the Recording Studio is stepping down.

Alex began work for the Architect of the Capitol in 1967 at the ripe old age of 20. He started work here as an electrician's helper. By the 1970s he was running and maintaining the Senate and House audio systems, moving to the Senate full time in 1991.

In 1994, he helped bring the Senate into the computer age, working tirelessly over many late nights and weekends and under a tight deadline to replace the old Senate sound system with the state-of-the-art digital system we use today.

That can-do attitude, his friendliness and cooperativeness was respected by everyone who worked with him. And, in the last 3 years as studio supervisor, Alex was respected for his caring, consideration, and fairness by everyone here in this body.

Alex said that having the opportunity to be witness to more than three decades of historical events at the Capitol is something he will always treasure. Today, all of us in the Senate family want to express how much we treasure his service to this institution. We thank him and we wish him well.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

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

The Senator from Maine is recognized.

(The remarks of Ms. COLLINS, Mr. BOND, and Mr. SMITH of Oregon pertaining to the introduction of S. 2023 are printed in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

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

EXTENSION OF MORNING BUSINESS

Mr. REID. I ask unanimous consent the Senate extend morning business until 1 o'clock today.

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

NOMINATION OF CHARLES PICKERING, SR.

Mr. HATCH. Mr. President, I rise today to express my deepest-felt disappointment in the decision of the Judiciary Committee yesterday against the nomination of Judge Charles Pickering, a jurist of the highest character and proven dedication to public service.

Mr. President, I will not repeat my defense of Judge Pickering's record, which I addressed here yesterday.

There are particular reasons why I am disappointed and saddened. First, certainly, is the unfairness with which the Judiciary Committee treated Judge Pickering's record.

I feel awful for Judge Pickering and his family for the way that the special interest groups and the liberal activists have distorted his record.

It has come to the point that men and women who put themselves up for public service and the Senate confirmation process are heroes, willing to sacrifice their good name and peace of mind.

I also feel terribly for the people of Mississippi, and about what this decision says to them after the long distance they have traveled to correct past wrongs. I feel terribly for the African Americans from Mississippi who stood by Judge Pickering, at risk to their own reputations.

Opponents have made much of the meager 26 reversals that Judge Pickering has had, an attempt to open old and painful wounds by using the all-too-familiar race card and suggesting that Judge Pickering has a poor record in civil rights cases.

They claim that Judge has a poor record on voting rights. In fact, he has had only four voting rights cases—only four—and he has been appealed on the merits in none of them. My staff has counted almost 200 decisions, and there may be more, in which Judge Pickering has applied the various civil rights laws of the United States with neither an appeal nor a reversal.

Opponents sought desperately to find aggrieved litigants with an ax to grind. They have found almost none. That is amazing for somebody who is in the Federal and State courts for much of a legal career. The African American parties who were involved in one of the four voting rights cases have even written to support the confirmation of Judge Pickering—the same judge who ruled against them.

Many of my colleagues are lawyers. They know full well, as did these African American parties who support Judge Pickering that just ruling one

way or another in a case does not mean you are against the underlying law. With this, does it mean that every judge who has overturned a drug sentence is pro-drugs? Obviously not. We all know better than that.

The judge's record is clear and distinguished. But I venture to say that the opponents of Judge Pickering are not interested in accentuating the positive record, to say the least. It is not politically expedient to do so.

Take the case of little Jeffrey Hill. His parents believed that their son was entitled to receive a free appropriate education under the Individuals with Disabilities Education Act.

Jeffrey's parents sued and stood alone against the State of Mississippi. Judge Pickering, as he has done in cases involving homosexuals, African-Americans and others, appropriately found that the law in that case required Mississippi to educate handicapped children. Judge Pickering gave little Jeffrey Hill his day in court. He ruled on the law.

Yesterday Senators on the Judiciary Committee received a letter from three dozen members of the House of Representatives, including the former chairman of the House Judiciary Committee, Mr. HYDE.

House Members asked that the Judiciary Committee repudiate extreme liberal, left-of-mainstream special interest groups that have raised Judge Pickering's religious views as an issue, going so far as to attack Judge Pickering for a speech he gave on the Bible when he was president of the Mississippi Southern Baptist Convention.

I ask unanimous consent that the House letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

REPUBLICAN STUDY COMMITTEE,
Washington, DC, March 13, 2002.

HOUSE MEMBERS URGE SENATORS TO
REPUDIATE RELIGIOUS TESTS FOR JUDGES
Outside Groups Attempting to Create a Religious Test in Order to Defeat the Nomination of Judge Pickering

WASHINGTON, D.C.—Over three dozen Members of the House of Representatives today sent a letter to Members of the Senate Judiciary Committee asking them to repudiate attempts by groups such as the People for the American Way to establish a defacto religious test preventing persons of faith from serving as federal judges.

Rep. Walter Jones (R-NC), stated, "In their campaign against the nomination of Judge Charles Pickering to the Court of Appeals, a number of outside interest groups have asserted that Judge Pickering is unfit because he 'promotes religion from the bench.' A close examination of these allegations and Judge Pickering's record clearly indicate that what opponents of his nomination are really objecting to is the fact Judge Pickering is personally a man of religious faith."

Rep. Joe Pitts (R-PA) added, "The failure of the Senate Democrats to repudiate the charge that Judge Pickering is unfit for the Judiciary because of his religious faith sends a very clear message: 'So long as Democrats control the Senate, religious people will be prohibited from serving as judges.'"

The text of the letter sent to Senate Judiciary Committee Members is reset on the next page:

MARCH 13, 2002.

Members of the Senate Judiciary Committee.

DEAR SENATORS: We write to express our grave concern regarding the attempts by some organizations to have the Senate impose what amounts to a religious test on judicial nominees. As you are aware, Article VI of the Constitution specifically forbids the imposition of a religious test.

Groups such as People for the American Way have been leading a campaign in opposition to the nomination of Judge Charles Pickering to the U.S. Court of Appeals for the 5th Circuit. Opponents of Judge Pickering have argued that he is unfit because he "promotes religion from the bench." In support of this charge opponents cite a speech Judge Pickering delivered in 1984 when he was President of the Mississippi Baptist Convention and comments made by Judge Pickering from the bench referencing biblical principles and other religious literature.

Judge Pickering has made clear that he will follow the law and not his particular religious beliefs in the exercise of his judicial duties. Indeed, his record over the past decade as a District Judge clearly indicates that he practiced in the best traditions of the U.S. judicial system, even when making reference to religious literature. Indeed, Chief Justice Earl Warren, Justice Thurgood Marshall, and Justice William Brennan have all made explicit references to the Bible or biblical principles when delivering the opinion of the Supreme Court in cases covering such disparate issues as the Fifth Amendment right against self-incrimination, and the forfeiture and seizure of vessels used for unlawful purposes.

Many of those opposing Judge Pickering's nomination are in effect arguing that a religious person is unqualified to serve in the federal judiciary because he cannot be trusted to separate his personal religious beliefs from his official duties. This is nothing more than a religious test barring any person of faith from holding a judicial office.

We request that you join us in publicly repudiating those who argue that people of faith are unsuited for the federal judiciary. Such arguments run counter to our Constitution and the best practices of the American judiciary.

Sincerely,

Walter Jones, Henry Hyde, Frank Wolf, J.C. Watts, Ernie Fletcher, Ed Whitfield, John Hostettler, John Cooksey, Henry Brown, Charles Taylor, Joe Pitts, Virgil Goode, Dave Weldon, Chris Cox, Steve Chabot, John Shadegg, Pete Hoekstra, Jeff Flake, Sue Myrick, Mike Pence.

John Sullivan, Todd Tiahrt, John Doolittle, Melissa Hart, Jim DeMint, Bob Schaffer, Robert Aderholt, Todd Akin, Kevin Brady, David Vitter, Jo Ann Davis, Bob Barr, Joe Barton, Chris Cannon, Roscoe Bartlett, John Linder, Lee Terry, John Shimkus, Tom Tancredo.

Mr. HATCH. I think that is wrong. Being a member of the Church of Jesus Christ of the Latter Day Saints myself, the only church in the history of this Nation that had an extermination order out against it by the Governor of Missouri at the time, I fully understand terrible religious prejudice. So I decry anybody on the right, or anybody supporting Judge Pickering, calling Senator LEAHY or any other Democrat or any other Member of this body, to criticize their religious perspective or view.

But it certainly was wrong to criticize Judge Pickering's religion and his

religious perspective. He is a religious, righteous man, the type of person you would want to have on the bench. And thank goodness he still will be on the bench in the district court, but he won't be able to lend his expertise and talents to the circuit court of appeals.

I join with the concern expressed by my colleagues here and in the House, including Democrats. The fact that an impression has been created that the Senate Judiciary Committee would impose any test, whether a religious test or an abortion litmus test, concerns me greatly.

Republicans refused to establish an abortion litmus test in either direction when we controlled this committee. We confirmed 377 of President Clinton's judicial nominees without imposing such a test.

Maybe this has something to do with the make up of the Judiciary Committee: all the members on one side of the aisle share a single view, but on the Republican side, both views are welcomed.

I might also add, I believe that underlying these attacks on conservative judicial nominees is the issue of abortion. If we had chosen to use that as a litmus test issue, President Clinton would have had very few judges confirmed. If that is going to be the rule, then that is a very bad thing and bad precedent to start. I was told by some of the outside groups that they do not believe anybody should serve on any court in this land who is not pro-abortion.

That is an extreme view. Hopefully that view will never have that much influence on this body, but, unfortunately, I think it does have an influence. I will not ever agree that the Judiciary Committee or the Senate should exercise its advice and consent responsibility in a way that makes an absolutely lock-step demand that nominees think in a particular way on any single issue. Of course, as long as the Democrats are in the majority, I cannot stop them from doing so.

But I can promise this: a decision to impose a litmus test will offend everyone in this country who understands and appreciates the rule of law, the independent judiciary, and the great tradition of debate and acceptance of diversity that have made our country the strong democracy it is today.

Although some Senators on this committee prize diversity as a standard for the confirmation process. It concerns me that some people's definition of diversity includes only those with diverse skin color or ethnicity, and then only if they agree with their liberal views.

Take Miguel Angel Estrada, who the President nominated 310 days ago, almost a year, Mr. President.

Mr. Estrada, an immigrant from Honduras with a distinguished career, would be the first Hispanic on the prestigious Court of Appeals for the District of Columbia Circuit, and yet I read on the front page of the Wall

Street Journal today that Democrats are gearing up to do to him what they did to Judge Pickering.

He may be a minority, but he is the wrong kind of a minority, apparently, in the eyes of some of these people. I think that is awful.

Clarence Thomas was a minority, but he was the wrong kind of a minority in the eyes of some of these people. That is awful.

Diversity appears not to include intellectual diversity—diversity of personal viewpoints or religious conviction, that have nothing to do with ability to follow the law.

Some of my Democrat colleagues have openly sought to introduce ideology into the judicial confirmation process, something which I repudiate. I am now concerned that the abortion litmus test would have the same effect as a religious test.

Indeed, most people who are pro-choice hold their position as a matter of ideology. Some even allow their chosen ideology to trump the tenets of their religion. They do so in good conscience no doubt, and I respect that.

But the great majority of people who are pro-life come to their positions as a result of their religious convictions. We view unborn life as sacred. We believe in the words of the Declaration of Independence that we are "endowed by our Creator with certain inalienable rights" and that among these is "life." Many Americans hold this view as a religious tenet, but this view does not affect their ability to interpret the law and precedent, just as skin color does not.

In effect, what is ideology to my Democrat friends is a matter of religious conviction to a large portion of the American people.

When one Senator asked Judge Pickering about Roe versus Wade, Judge Pickering's response was unequivocally that he viewed it as the law of the land and would follow it as a judge, without regard to his private views. Surely, this should be enough. Otherwise, this will mean that no judges with private pro-life views, who derive these views from religious conviction, will ever again be confirmed in a Democrat-led Senate.

To impose an abortion litmus test on private views—call it ideological if you want to—is to exclude from our judiciary a large number of people of religious conviction, who are perfectly prepared to follow the law.

I fear this is the door this Democrat-led Senate could be opening. I can understand why people would believe that a religious test is being imposed.

Certainly, as a former president of the Mississippi Southern Baptist Convention, Judge Pickering's nomination makes concern over a religious test understandable. The recorded attacks of the extreme left, special interest groups based on Judge Pickering's religious views are repugnant, and I do hope that my Democrat colleagues will indeed repudiate such tactics.

Judge Pickering's record on the bench shows that he, in good faith, does understand the difference between the law and private views, and that he has followed the law regardless of personal beliefs.

Judge Pickering has never had an abortion case during his 11 years on the bench, but he has ruled on cases in which the issue of sexual privacy was involved.

Conveniently, opponents ignore Judge Pickering's record on gay issues. It is not surprising that Log Cabin Republicans, the largest, national gay Republican organization, recently issued a press release calling on this Committee to approve the nomination of Judge Pickering and to send it to the floor of the U.S. Senate.

Let me quote from the release. According to Rich Tafel, the executive director of Log Cabin Republicans:

Judge Pickering reiterated to me his strong belief that all Americans should be treated equally under the law, including gay and lesbian Americans, and his record as a federal judge clearly demonstrates it.

They go on to say:

Among several cases he has heard, two key cases from 1991 and 1994 demonstrated Pickering has followed the principle of equality under the law for gay Americans going back over a decade.

In 1991, Pickering sharply rebuked an attorney who tried to use a plaintiff's homosexuality in a fraud trial. "Homosexuals are as much entitled to be protected from fraud as any other human beings," Pickering instructed the jury. "The fact that the alleged victims in this case are homosexuals shall not affect your verdict in any way whatsoever."

In 1994, an anti-gay citizens group in the town of Ovett, Mississippi launched a crusade of intimidation and threats to drive out Camp Sister Spirit, a lesbian community being built by a lesbian couple. When the group took Camp Sister Spirit to court, Judge Pickering threw their case out.

They go on:

His civil rights record is long and distinguished. In 1967, Judge Pickering testified for the prosecution in a criminal hate-murder case against Ku Klux Klan Imperial Wizard Sam Bowers in the death of an African American civil rights worker. When Jones County, Mississippi schools were racially integrated in the 1970's, Judge Pickering and his wife kept their children in the public school system when other white families removed their children. He was a featured speaker at Mississippi NAACP meetings as far back as 1976, when he was chairman of the Mississippi GOP.

In 1981, he defended an African American man who was falsely accused of robbing a white girl at knife point, forcing the case to a second trial after a hung jury and an eventual acquittal. In 1988, he convened and chaired a bipartisan, biracial committee to promote better race relations in Jones County, Mississippi.

And then remarkably Tafel says:

The judge who threw out the anti-Camp Sister Spirit case and rebuked homophobia from the bench in the Deep South over ten years ago deserves a promotion, not a rebuke.

That is what Tafel said.

I fear that the Judiciary Committee was not as fair to Judge Pickering's

record. I am greatly disappointed and profoundly concerned for our country.

What is now occurring is far beyond the mere tug-of-war politics that unfortunately surrounds Senate judicial confirmation since Robert Bork. My Democrat colleagues are out to effect a fundamental change in our constitutional system. Rather than seeking to determine the judiciousness of a nominee and whether a nominee will be able to rule on the law or the Constitution without personal bias, my Democrat colleagues are out to guarantee that our judges are in fact biased. And certainly no person who holds certain religious convictions need apply.

In the America that the Senate Democrats would reshape, citizens will have to worry about the personal politics of the judge to whom they come for justice under the law.

The legitimacy of our courts, and especially the Supreme Court, comes from much more than black robes and a high bench. It comes from the people's belief that judges and justices will apply a judicial philosophy without regard to personal politics or bias.

What my Democrat colleagues are pursuing is an end to the independence of our judiciary with unforeseeable, unintended consequences to the strength of the Republic.

Today is the Ides of March. I would call on my Senate colleagues to "Beware." The fight they started with Judge Pickering is one that others may end. I hope, however, to quote Shakespeare further, that they have not crossed the Rubicon, that the die is not cast.

I yield the floor. 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. REID. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

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

COMMENDING SENATOR LEAHY AND THE JUDICIARY COMMITTEE

Mr. REID. Mr. President, I have sat in the Chamber for several hours, all last night and this morning, and when I have not been right here physically in the Chamber, I have listened to some of the statements that have been made regarding what the Judiciary Committee did yesterday; that is, do their job.

The main reason I am here—and it is coincidental my friend is in the building someplace; I saw him just a few minutes ago, Senator LEAHY, the chairman of the Judiciary Committee—during all this process, when the minority has been criticizing the committee, there has not been a word said about Senator LEAHY positive in nature.

I personally believe, speaking on behalf of 50 other Democrats—and if the truth were known, many of the Repub-

licans—that there is not a Senator in this body who is held in higher regard than Senator LEAHY. But even if every Senator in the Senate had no regard for Senator LEAHY, the people of Vermont and the people of America hold him in high regard.

Here is a man who started talking about landmines and how bad they were before it became popular to do so. He was the first to speak out against landmines.

It is hard for me to get out of my mind a trip I took to Africa, Angola. Every place you go there, people are missing arms and legs. The No. 1 business is fixing people with prostheses, mainly women and children, because they are the ones who go out in the fields.

Senator LEAHY has spoken about landmines and our need to do something about them. And we have done things about them.

As to nutrition programs for children—principally children but also people less fortunate than everyone in this Chamber today—Senator LEAHY led the charge with Senators Dole and LUGAR to do something about nutrition programs so that this land of plenty should not have hungry children and people.

In talking about constitutional rights, there is no one—no one—who has been more protective of our Constitution than Senator LEAHY. The first amendment is something he is known for protecting.

Who was the one who slowed down the antiterrorism bill? It was done by Senator LEAHY. And after the bill was written, people gave him accolades for doing that. It was a good bill, and it was as good a bill as it was because Senator LEAHY had the guts—for lack of a better word—after September 11, to say: Whoa. This is the United States. We have a Constitution.

Probably the leading exponent of the Internet, other than Senator LEAHY, is the Presiding Officer, but Senator LEAHY was using his computer before I even knew what one was. He really was one of the first to use, in a modern way, the computer.

Now, the two of you—I am referring to Senator LEAHY and the Presiding Officer, Senator WYDEN—have done wonderful things as the co-leaders of a task force, assigned by Senator DASCHLE, to bring the Senate Democrats up to snuff on the new technology around the country. And a good job has been done there.

One of the really thankless jobs in the Senate is to be a chairman of the Foreign Operations Subcommittee of Appropriations. Senator LEAHY is a person who has a lot of seniority and would have his pick of many different subcommittees. There are 13 of them on Appropriations in the Senate. But he has taken the Foreign Operations Subcommittee because he believes it renders a service to this body, to the country, and the world. It is difficult, but he has been judicious in his leadership of that subcommittee.