

out of 100 Senators—to do that. When we try to look down the road at alternative ways, where is most of our energy consumed? It is consumed in the transportation sector. In transportation, where is most of our energy consumed in this country? It is in our personal vehicles. Today, we have vehicles made by Honda and Toyota that are getting in excess of 50 miles per gallon; they are called hybrid vehicles. It is a computer that runs between an electric motor and a gasoline engine, and they get over 50 miles per gallon. They cannot make enough of these for the demand of the American consumer. Yet we do not have a lot of these hybrid cars that are offered to the public.

What are we doing for the future? We could wean ourselves from dependence on foreign oil if we started a crash course to develop a hydrogen engine that was cheap enough and efficient enough for the American people. Years ago, in the early sixties, when this Nation made up its mind, after the President declared we were going to develop the technology and the American ingenuity to go to the Moon and return safely within that decade, don't you think that with that kind of perseverance and will, we could have ended up with an engine that would have been an alternative to oil and we would have started to wean ourselves from our dependence on this foreign oil that leaves this country all the more vulnerable defensewise?

Indeed, we could, but it takes leadership. It takes the will of the American people to say there is going to be a different way.

I have discussed this issue in terms of defense. I have discussed this issue in terms of economic vitality as well as defensewise, and certainly environmentally it would make a significant difference as well.

#### SENATOR BOB GRAHAM

Mr. NELSON of Florida. Madam President, in the minute I have remaining, I wish to say that, of course, the junior Senator from Florida was sad to hear the announcement of the senior Senator from Florida announcing his retirement.

Senator BOB GRAHAM is one of the most distinguished public servants who has ever come out of the State of Florida: a two-term Governor, a former State legislator, and now a many-term Senator who has given great leadership to our State.

I will have more to say about this later, but I am proud to stand to thank my friend for his years and years—a lifetime—of public service for the United States and the people of Florida.

I thank the Chair.

The PRESIDING OFFICER. Who yields time?

The Senator from Georgia.

Mr. CHAMBLISS. Madam President, I join with the now-junior Senator from Florida—a border State with

Georgia—soon to be senior Senator, in commending the now-senior Senator from Florida, BOB GRAHAM. I, too, saw his announcement yesterday.

Senator GRAHAM and I have had the opportunity to work on many issues together since our States border each other. He has been a great public servant for this Senate, his State, and for America. He is one of those folks we greatly admire, and we will miss him.

I have great respect for Senator GRAHAM. I certainly respect his decision to go back to Florida and enjoy his family. He has a farm in Albany, GA, which is close to my home. We are going to get him over there more often because he and I enjoy bird hunting together. I, too, join with Senator NELSON in commending Senator GRAHAM.

#### JUDICIAL NOMINATIONS

Mr. CHAMBLISS. Madam President, I rise this morning to speak about a grave injustice that has befallen this Chamber, and that is the denial by a minority of Senators of the right to an up-or-down vote on four of the President's judicial nominees.

Last week, the Senate voted 54 to 43 to move forward with a vote on Judge Charles Pickering who now serves on the District Court for the Southern District of Mississippi and who was selected by the President as one of his nominees for the Fifth Circuit Court of Appeals. Fifty-four Senators—a majority, in other words—voted to allow Judge Pickering's nomination to proceed to a vote, and yet because of the way the Senate rules are presently being misapplied, a majority of Senators cannot even bring about a vote on the merits of a judge. That is wrong, and it is unconstitutional.

There is nothing in the Constitution that requires a supermajority—that is, three-fifths, two-thirds, or anything more than a simple majority of Senators—to give advice and consent. The Constitution spells out only five instances where a supermajority is required. Those five instances are: the ratification of a treaty, impeachment, expulsion of a Senator, the override of a Presidential veto, and adoption of a constitutional amendment. These five situations should occur infrequently, which is why the Framers of the Constitution made them difficult to achieve.

In contrast, the approval of Federal judges should occur frequently; I dare say 100 percent of the time, when you have qualified nominees. That is why there is no requirement in the Constitution for more than a simple majority to confirm these nominees. Advice and consent often requires debate, always requires deliberation, and always requires a decision. Each Senator should decide how to vote on a given nominee. Vote yes, vote no, but vote.

For the first time in our country's history, the filibuster is now being used by a minority of Senators to block the President's nominees to the

Federal bench. By shirking their duty to make a decision on the merits of the President's nominees—Priscilla Owen, Bill Pryor, Caroline Kuhl, and now Charles Pickering—a minority of this Chamber keeps the Senate as a whole from performing its duties under the Constitution.

It is not as though the Senators who are blocking an up-or-down vote can object to the qualifications of these nominees. Let's go down the list. Let's start with Priscilla Owen who, like Judge Pickering, is nominated to the Fifth Circuit Court of Appeals, which hears appeals on Federal cases in Texas, Louisiana, and Mississippi.

Justice Owen graduated cum laude from Baylor Law School and then proceeded to earn the highest score on the Texas bar exam that year. She practiced law for 17 years before being elected to the Supreme Court of Texas in 1994. Justice Priscilla Owen was elected by the people of Texas, the second most populous State in this country, to its highest court. In her last reelection in the year 2000, she was reelected with 84 percent of the vote, along with the endorsement of every major newspaper in the State of Texas.

When the opponents of a fair vote on the merits cannot attack a nominee's qualifications, they come up with excuses: She is not in the "mainstream of legal reasoning." Out of the mainstream? The people of Texas obviously don't think she is out of the mainstream. She received 84 percent of the vote in her reelection in 2000.

Next we have Caroline Kuhl who is one of President Bush's nominees to the Ninth Circuit Court of Appeals, which handles Federal appeals in many of the States out west. Caroline Kuhl has been a State trial judge in California since 1995. Judge Kuhl is another well-qualified nominee who is being denied an up-or-down vote on her nomination. But you don't have to take my word on her qualifications. The American Bar Association, the gold standard, has rated her as "Well Qualified." Yet, despite her credentials, Judge Kuhl has also been branded as "outside the mainstream."

Then there is Bill Pryor, the attorney general for the State of Alabama, a dedicated public servant who has shown time and again that he can separate his personal beliefs from his professional duties. Again, "outside of the mainstream." That is, sadly, what you will hear about Bill Pryor.

It doesn't matter that Thurbert Baker, the attorney general for my State of Georgia, Mr. Pryor's counterpart in my State, an elected Democrat, has said that Bill Pryor possesses the qualities and experience needed to serve the people of Georgia on the Eleventh Circuit.

Earlier this year, Attorney General Baker wrote a letter to Senators SHELBY and SESSIONS of Alabama to express his support for Bill Pryor. In support of Bill Pryor, Thurbert Baker wrote, and I quote:

Bill has distinguished himself time and again with the legal acumen that he brings to issues of national or regional concern as well as with his commitment to furthering the prospects of good and responsive government. Close quotation.

Across State lines and across party lines comes this endorsement of Bill Pryor. Again, you will hear the same, lame excuse: "He's out of the mainstream."

I mentioned earlier Judge Charles Pickering, who is nominated to the U.S. Circuit Court of Appeals for the Fifth Circuit. A few weeks ago, in our last Judiciary Committee hearing on Judge Pickering's nomination, Senator KENNEDY spoke of the important role the Fifth Circuit has played during the civil rights struggle, and he is absolutely correct in that. As a lawyer from Georgia who once was a proud member of the old Fifth Circuit bar, before that circuit was split in half in 1980 to create the Eleventh Circuit, I am well aware of the tremendous role the Fifth Circuit played in the civil rights struggle.

It is with a deep and abiding respect for the tradition of the Fifth Circuit that I support Judge Charles Pickering's nomination to that bench as one who deserves the honor of this service.

While Judge Pickering's critics have and will continue to unfairly label him as a racist and segregationist and, again, "out of the mainstream," nothing could be further from the truth. Charles Pickering has worked to eliminate racial disparities in Mississippi. Judge Pickering has not just talked about improving race relations, he has backed up his words with a lifetime of action. For example, in Mississippi during the 1960s, he testified and helped prosecute Sam Bowers, the imperial wizard of the Klu Klux Klan, for the murder of a civil rights activist, Vernon Dahmer. He served as a leader in his community to integrate the public schools. In 1976, he hired James King as the first African-American political staffer for the Mississippi Republican Party. He represented an African-American man falsely accused of robbing a 16-year-old girl in 1981. He chaired the Race Relations Committee for Jones County, MS, in 1988. He helped establish a group to work with at-risk African-American youths in Laurel, MS, and he serves on the board of the Institute of Racial Reconciliation at the University of Mississippi.

Now, I grew up in the South, and for those who did not grow up in the South, to criticize this man, during a very difficult time in the history of our country, is not only unfair and unjust, it is almost un-American. This man made a commitment to ensure that race relations in Mississippi would improve every single day of his life, and unless one has walked in the shoes of somebody like Judge Pickering and looked race in the eye as he did, they cannot understand the principle, the integrity, and the character of this man.

What he did says a lot about Charles Pickering in and of itself, outside of the decisions he has made on the bench as a district court judge.

Judge Charles Pickering has tremendous bipartisan support from the people back home who know him best, including the top Democratic elected officials of Mississippi. This shows that he is well within the mainstream of legal thinking in Mississippi today and in the Fifth Circuit, just as Priscilla Owen's reelection by the people of Texas, with 84 percent of the vote, shows that she is in the mainstream in Texas and in the Fifth Circuit.

In September, Miguel Estrada withdrew his nomination after a minority of Senators prevented him from getting a vote for 28 months. This is a man who came to the United States from Honduras as a teenager, graduated from Columbia undergrad and then Harvard Law School, worked in the Justice Department for two administrations, including the Clinton administration, and was rated "Well Qualified" by the American Bar Association. So I guess we should not forget Miguel Estrada when we tally these filibusters. It is really not four, it is five. I suspect it is about to be six because we have another nomination that will likely come out of the Judiciary Committee on Thursday of this week, and that is the nomination of California Supreme Court Justice Janice Rogers Brown.

The American people will not continue to stand for this inaction, and they will not forget this obstructionist game playing. While we can still try to maintain the dignity and tradition of the Senate, I ask my colleagues to vote to give each of these qualified nominees an up-or-down vote. I ask my colleagues to make up their minds. Their constituents deserve it. Let us move forward on the merits.

I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. On behalf of the Senator from Texas, I claim 9 minutes of the time that has been reserved for her and ask that the Chair notify me after 8 minutes.

The PRESIDING OFFICER. The Chair will do so.

#### SUPPORT OF AMERICAN TROOPS

Mr. BOND. Madam President, I rise this morning in support of the U.S. forces in Iraq and all our forces engaged in the war on terrorism. I am delighted and very pleased that the vast majority of this body voted overwhelmingly in support of the supplemental and our ongoing efforts to protect our troops to finish the job so we can bring our troops home.

Last week, I had the honor of going out to Walter Reed to visit a number of our wounded soldiers recently returned from Iraq. The spirit and enthusiasm of our service men and women serving in the war on terror is inspiring. It should remind all of us that our warfighters

have the will to win as long as the American people have the will to win.

We cannot be defeated by Saddam Hussein or Osama bin Laden militarily. They are engaged in a psychological war to break our will. This past weekend brought news of the tragic loss of 16 soldiers in a Chinook helicopter mishap. No one in this body takes that current conflict lightly. Any loss of life is difficult to bear, particularly this tragic situation. Yet we must not forget the losses incurred in the United States on 9/11, and the loss of innocent lives in other terrorist attacks, from the marine barracks in Lebanon to the disco bombing in Bali.

The message we must send, if we are to avoid future catastrophic attacks, is that no price is too great for the freedoms we and other freedom-loving peoples now hold dear. The message we need to send our enemies is that we will not cut and run.

There are critics of U.S. foreign policy who now want us to pull out. They are just dead wrong. Do they think Saddam Hussein was not really evil, was not really a threat?

Last week, I talked a little bit about the unclassified report released by Dr. David Kay, the head of the Iraqi Survey Group, who has been over there looking. He has found a tremendous record of denial, deception, and destruction, which among other things is likely the reason we have not found the storehouses of weapons of mass destruction.

Dr. Kay believes that people have been distorting his record. I will submit for the record a copy of his November 1, 2003, piece in the Washington Post. It begins:

The October 26 front-page article "Search in Iraq Fails to Find Nuclear Threat," is wildly off the mark.

I ask unanimous consent that this be printed in the RECORD after my remarks.

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

(See exhibit 1.)

Mr. BOND. I am going to quote from just pieces of his report, because apparently a lot of my colleagues who are saying it confirms that there were no weapons of mass destruction have not read the report.

Here is what Dr. Kay said:

With regard to biological warfare activities, which has been one of our two initial areas of focus, ISG teams are uncovering significant information, including research and development of BW-applicable organisms, the involvement of Iraqi intelligence service in possible BW activities, and deliberate concealment activities. All of this suggests Iraq, after 1996, further compartmentalized its program and focused on maintaining smaller, covert capabilities that could be activated quickly to surge the production of BW agents. Debriefings of IIS officials and site visits have begun to unravel a clandestine network of laboratories and facilities within the security service apparatus. This network was never declared to the U.N. and was previously unknown.

Again, he said two key former BW scientists confirmed that Iraq, under