

2. In 2001 and 2002, Bill Pryor sided with the Legislature when it redrew districts for Congress, the Legislature, and State Board of Education. Mark Montiel filed lawsuits in federal court (Montiel v. Davis) challenging the black districts as racial gerrymanders. Pryor won every lawsuit. Pryor came under heavy pressure from other white Republicans in Alabama for fighting to protect black Legislative seats.

3. Bill Pryor worked with U.S. Attorney Doug Jones to prosecute KKK murderers Blanton and Cherry for the September 14, 1963, bombing of Sixteenth Street Baptist Church that killed four little girls. Bill Pryor personally argued to uphold Blanton's conviction before the Alabama Court of Criminal Appeals on May 20, 2003.

4. Bill Pryor drafted the law (Ala. Code §12-25-2(a)(2)) that created the Alabama Sentencing Commission with the stated purpose of ending racial disparities in criminal punishments.

5. In 2000, Bill Pryor started Mentor Alabama—a program to recruit positive adult role models for thousands of at-risk youth which were 99% black. For the last three years, Bill Pryor has worked every week as a reading tutor for black children in a Montgomery public school.

6. In 2002, I introduced a bill in the Alabama Legislature to amend the Alabama Constitution repealing Alabama's racist ban on interracial marriage. Every prominent white political leader in Alabama (both Republican and Democrat) opposed my bill or remained silent except Bill Pryor who openly and publicly asked the white and black citizens of Alabama to vote and repeal such racist law. It was passed with a slim majority among the voters and Bill Pryor later successfully defended that repeal when the leader of a racist group called the "Confederate Heritage" sued the State to challenge it.

7. I sponsored HB534 this Legislative Session establishing cross burning as a felony. Said bill passed the Alabama House of Representatives on May 15th 2003. That bill was written by Bill Pryor and he was the only white leader in Alabama that openly and publicly supported it.

Finally, as one of the key civil rights leaders in Alabama who has participated in basically every major civil rights demonstration in America, who has been arrested for civil rights causes on many occasions, as one who was a field staff member of Dr. Martin Luther King's SCLC, as one who has been brutally beaten by vicious police officers for participating in civil rights marches and demonstrations, as one who has had crosses burned in his front yard by the KKK and other hate groups, as one who has lived under constant threats day in and day out because of his stand fighting for the rights of blacks and other minorities, I request your swift confirmation of Bill Pryor to the 11th Circuit because of his constant efforts to help the causes of blacks in Alabama.

Thanks for your consideration.

Sincerely,

ALVIN HOLMES,  
State Representative.

HERC LEVINE,  
Birmingham, AL, June 5, 2003.

Hon. ORRIN HATCH,  
Chairman, Committee on the Judiciary, Dirksen  
Building, Washington, DC.

DEAR CHAIRMAN HATCH: As an active and proud member of the Birmingham Jewish Community, I was disappointed by the decision of the National Council of Jewish Women and the Religious Action Center of Reform Judaism to oppose the nomination of Attorney General Bill Pryor to the 11th Circuit Court of Appeals bench. While I doubt

that these groups have taken the time to sit down and talk with Attorney General Pryor, I am proud to say that he has my support and the support of many in the Alabama Jewish Community because of his personal integrity and commitment to insure that all of our citizens are treated fairly and receive equal justice under the law. He has been a true friend to the Alabama Jewish Community on many important issues.

Attorney General Pryor has a distinguished career as a public servant, practicing attorney and law professor, and is highly qualified to serve on the Federal bench. He has a well deserved reputation for fairness and competency that cuts across party lines and which has resulted in overwhelming support from Alabamians of all political parties and segments of our society. His distinguished record as Attorney General affirms my belief that he will serve with great distinction as a Federal judge.

Very truly yours,

HERC LEVINE.

#### FAIRNESS IN THE CONSIDERATION OF JUDICIAL NOMINATIONS

Mr. HATCH. Mr. President, on Wednesday the Judiciary Committee favorably reported to the full Senate the nomination of Alabama Attorney General William Pryor for the Eleventh Circuit Court of Appeals. It has been more than 6 weeks since General Pryor's confirmation hearing, and I am pleased that the full Senate will now have the opportunity to consider his nomination.

Nevertheless, we will no doubt hear over the course of this debate many allegations from some of our Democratic colleagues as to why they believe that Bill Pryor's nomination does not deserve an up or down vote by the full Senate. I want to make perfectly clear right now that there is no valid reason to delay this body's consideration of the Pryor nomination.

All we ask is that there be an up-or-down vote. Vote against him if you don't like the man personally—although there is little room to vote against him because of his record.

Despite these efforts by committee Democrats to erect a procedural roadblock to voting on the Pryor nomination in spite of fact that I had set five markups, I finally was able to have a markup on his nomination. They wanted to revive a debate over the interpretation of committee rule IV. This rule, entitled "Bringing a Matter to a Vote", was clearly intended to serve as a tool by which a determined majority of the committee could force a recalcitrant chairman to bring a matter to vote. In fact, the rule provides, "The Chairman shall entertain a non-debatable motion to bring a matter before the Committee to a vote."

Clearly, it was a rule by which you could force a chairman to have a vote. All you had to do was get a majority of the Senators on the committee with one from the minority side and you could force a chairman to call for a vote.

On Wednesday there was no motion to bring the matter before the com-

mittee to a vote. In fact, there was an objection to voting, which I overruled. Thus, on its face, rule IV was inapplicable to the Pryor nomination.

Despite claims to the contrary, there has been no inconsistency in my interpretation of this rule. First of all, I have checked with two Parliamentarians, and both said I could interpret the rule. I believe I have interpreted it correctly.

During the Clinton administration, in an effort to prevent the defeat in committee of a controversial Justice Department nominee, I was chairman and I wanted to bring the nomination to a vote. We had enough votes to defeat the nominee in committee. It would have been a 9-9 tie, and the nominee would have gone down to defeat. The Democrats then started to filibuster their own nominee. In deference to them, I chose not to exercise the inherent powers I and all committee chairmen have to bring a matter to a vote.

I have been condemned for that ever since as though I acknowledged that you should just have filibusters in the committee any time you want to. President Clinton ultimately made a recess appointment of their nominee. In retrospect, my reliance on rule IV to accomplish this was admittedly not the best course of action. I was wrong to say they could filibuster. But I was trying to be gracious to my colleagues on the other side who clearly did not want to vote on the record defeating their nominee. Since I respected and liked the nominee himself, but not for the particular position he was nominated for, I would have supported him for any other position. And I had good reason to be against him for this position. I agreed to allow their filibuster to cause me to pull down his nomination rather than to have a vote that would have been embarrassing to him and to the Democrats. And that is why they were filibustering their own nominee. Now they cite that as the reason why I am wrong here. But there is no reason for that.

I nevertheless believed then, and I do now, that I had the power to bring that matter to a vote, and that I used the discretion of the chairman to decide not to do so. It was a matter of showing decency and kindness to my colleagues on the other side and to the nominee so he would not have a vote that defeated him in committee.

The fact of the matter is I don't believe there should be filibusters in the Judiciary Committee. We have had at least two instances now where my colleagues on the other side have tried to filibuster. In addition, the Democrats now complain they weren't given enough time to do an investigation. We have given them all kinds of time to do an investigation. Since their investigation was proving to be fruitless because they couldn't find one thing to criticize Attorney General Pryor on, they wanted to have a fishing expedition to do further investigation.

I want to make clear that at no time did I agree to modify my interpretation of rule IV in connection with the Cook, Roberts, or Sutton nominations, which is the last context in which this debate arose. I did agree to bring Roberts back in to the committee and have one more day of hearing. I did not agree to bring Cook back or Sutton back. But at no time did I agree my interpretation of rule IV which I made at that time was in error. It certainly was not.

I can't imagine any committee chairman agreeing to give up his or her right to call for a vote in committee after there has been a sufficient debate. No chairman is going to give up that right because that means the minority could control the committee any time they wanted to. The argument which they make on this is ridiculous.

But, be that as may, at no time did I agree to modify my interpretation of rule IV in connection with the Cook, Roberts, or Sutton nominations, which is the last context in which this debate arose. To have adopted the interpretation my Democratic colleagues advanced both then and now would have constituted an unprecedented curtailment of the chairman's inherent authority to bring a matter to vote, and would have given the authority to control the committee to the minority. I don't think they would want that when they are in the majority, and I certainly don't want it now that we are in the majority. No other chairman I know of who has any brains at all would have allowed that type of interpretation. Yet you hear all of the screaming and shouting that they were mistreated.

In short, there was no violation of committee rules or process in bringing the Pryor nomination to a vote on Wednesday, and any argument to the contrary is merely a last-ditch effort to prevent the full Senate from considering that nomination.

Another complaint we will hear is there was an open investigation into General Pryor's activities on behalf of the Republican Attorneys General Association at the time of the vote. Here are the facts:

When our Democratic colleagues brought to our attention documents they obtained pertaining to RAGA, we joined with them to conduct a bipartisan investigation to determine the authenticity of the documents, whether they reflected any wrongdoing on the part of General Pryor. Committee staff interviewed several witnesses in connection with this investigation, with two notable exceptions. First, the Democrats' source of these documents has not answered key questions about when the documents were drafted, who drafted them, and who has had access to them. Second, Democratic staff asked General Pryor no questions about the documents, despite his willingness to answer whatever questions they may have had.

Nevertheless, our Democratic colleagues have insisted on pressing for-

ward with an investigation, over Republican objection, based on unauthenticated and unreliable documents provided to them by a source who refuses to talk to Republican staff, whose former employer stated under oath that she stole the documents, and who has yet to disclose the details of when and how she first provided the documents to Democratic staff.

Some on our side wanted the committee to conduct an investigation of Democratic staff. I am certainly not going to do that. Frankly, Democratic staff, I think, have an obligation if they get documents to look at them and to present them to us. However, these documents weren't presented to us until the last minute.

Frankly, it is just another pattern of practice of delaying as long as they can and making it miserable for people like Bill Pryor to get a vote up or down. All we want is a vote up and down.

Democratic staffers have interviewed 20 persons but have found nothing inconsistent with General Pryor's testimony. There is simply nothing to indicate General Pryor was anything less than truthful about the material facts of his participation in the Republican Attorneys General Association. What is going on here is a classic game of "beltway gotcha." That is no reason to delay consideration of General Pryor's nomination.

We even had members say we want to have another hearing for General Pryor after all that we have had. His was one of the longest hearings I can recall having in my 27 years on the Judiciary Committee. It was a very difficult hearing with a lot of moaning and groaning and screaming and shouting. Frankly, it was one in which I don't think he was treated as fairly as he should have been treated, nor do I think he has been treated fairly since. I think there are reasons for that. One of them is he is so forthright about his testimony and that he has conservative beliefs that I think some on the other side are afraid that even though his whole record is one of following the law, he might not follow the law if he gets on the Eleventh Circuit Court of Appeals—even though he is an honest man and said he will follow the law regardless of his personal viewpoint.

That is all you can ask of these people. When you have a person of the integrity and the ability and the capacity of William Pryor who says he will follow the law, you had better believe it, in my opinion. If we get to the point where we have to second-guess people who have an impeccably honest reputation around here, it is going to get to where nobody who has any views is going to be able to serve on the Federal courts of this land. That is wrong.

I felt like I needed to come here today and say some of these things, because in all honesty I think we have had too many of these type of ridiculous battles in the Senate Judiciary Committee.

I am trying to bring some decency to the committee. I have tried to work as

closely with my colleagues who differ with us on our side as I possibly can, and I am going to continue to do that, and try to work in a decent, honorable, good way with my colleagues. But I do personally resent some of the accusations that have been made, some of the mischaracterizations that have been made, some of the things that have been done to besmirch some of these excellent people whom the President of the United States has nominated, and a continuation of filibustering on the floor of the Senate.

Having said that, I am going to conclude with these remarks: Never in the history of the Senate—before Miguel Estrada, Priscilla Owen; and now there is some indication there is going to be a filibuster of William Pryor, the attorney general of the State of Alabama—never has there been a filibuster, a true filibuster against anyone.

Now, I thought—and I have said it on the floor—I thought there was a filibuster of the Fortas nomination, but I was corrected by none other than the Senator who led the fight against Fortas—and that was Robert Griffin of Michigan—in a Republican policy meeting, where he said: I only need to correct Senator HATCH on one statement that he made; and that is, that having led the fight against Fortas—for a variety of what he believed were appropriate reasons; and apparently a majority of the Senate did—he said: We were never filibustering Abe Fortas. And the reason we were not is because we had the votes to defeat him up and down.

But the Democrats called for a cloture vote, which was narrowly won by Fortas, with 12 Members absent at the time, many of whom would have voted against Abe Fortas.

So never in the history of this body has there been a filibuster against any Federal judicial nominees until this year. And now we have two—and a potential of three. And I hope they are not going to filibuster Kuhl. And I hope they are not going to filibuster Holmes. And I hope they are not going to filibuster Judge Pickering when he comes out of the committee, and others.

It is a dangerous thing to do. It is a wrong thing to do. It flies in the face of senatorial history. In the end, this body is going to be very saddened if that is the way all of these nominations wind up, without an up-and-down vote on the floor of the Senate.

What is wrong with having up-and-down votes on the floor of the Senate for these nominees? Whether it is a Democrat President or a Republican President, once they are brought to the Senate floor, they deserve an up-and-down vote. That is all we are asking for.

I yield the floor.

The PRESIDING OFFICER (Ms. MURKOWSKI). The Senator from Nevada.

Mr. REID. Madam President, I am not going to speak at any great length regarding the statement made by my

friend, the distinguished senior Senator from Utah, regarding this particular judge, Judge Pryor. I don't know much about him, but I am sure in the near future we will learn more about him because, as indicated by my distinguished friend from Utah, the chairman of the Judiciary Committee, the nomination, at the time of the hearing, was very disputed and it took a long time. So I am sure I will learn more about this man.

But the one statement I want to comment on, made by my friend from Utah, is that the Democrats are looking for ways to oppose President Bush's judicial appointments.

Madam President, there is an order in effect that on Monday night we will vote on two judges, a man by the name of Earl Leroy Yeakel of Texas and a woman by the name of Kathleen Cardone of Texas, both to be Federal District Judges for the United States. Both of those judges will be approved by large margins.

These 2 judges will bring the total to 140 judges who will have been approved by this Senate during the administration of this President—140. How many have we turned down? How many have the Democrats—who, as my friend indicated, are looking for ways to oppose President Bush's judicial nominees—turned down? We have turned down two. The count on Monday night will be 140 to 2.

Does it mean that it has to be every judge he gives us? I think not. Any reasonable person, looking at these numbers, would acknowledge there has been no witch hunt by the Democrats. Madam President, 140 to 2 is a pretty good average.

#### HONORING OUR ARMED FORCES

Mr. REID. Madam President, today, this afternoon, here in the Senate, I stand, for lack of a better description, with a sad heart. I am sorrowful.

Almost every day we see news reports about casualties sustained by our brave men and women in Iraq. In the last 2 days we have lost five soldiers. These reports are always troubling, but when they involve another young person from my State, they really hit home.

Josh Byers of Sparks, NV, was the kind of young man any of us would be proud to call son. He graduated from Reed High School in Sparks/Reno, NV. Kids come from both Sparks and Reno to go to Reed High School.

For many years, the Nevada congressional delegation has been holding an event that was first started by Senator Hecht, who was a Senator from Nevada. And this Senator—we started holding what we call Academy Night where we have a meeting in Reno and one in Las Vegas. We bring young men and young women from Nevada who are now in the academies back to Nevada. We have music, and we have presentations made by all the academies, including the Merchant Marine Academy,

about what there is at the academies for these high school students.

They draw large crowds. Hundreds and hundreds of people come to these events in Reno and Las Vegas. And now Senator Hecht and I don't do it alone; now the entire congressional delegation joins us: Senator ENSIGN and I, Congressman GIBBONS, Congressman PORTER, and Congresswoman BERKLEY. These are wonderful occasions.

Josh Byers of Sparks, NV, came more than 1 year. He loved Academy Night. He wanted to go to one of our military academies. He worked hard. He was student body president at Reed High School. He was nominated to the Naval Academy by me. He was nominated to the U.S. Military Academy at West Point by Senator Bryan.

Josh's best friend, Beau Elsfelder, in being interviewed by the press last night, referred to Josh as "The Man." That is how he referred to him. He was an A student. As I indicated, he was president of the student body. They had a military cadet unit there. He was the leader of that unit.

He always told his friends he wanted to be an officer in the Army or the Navy. The entire Nevada delegation was supportive of this dream.

As I indicated, I nominated him to the Naval Academy. Senator Bryan nominated him to West Point where he graduated. He went on to become a company commander in the 3rd Armored Cavalry Regiment. This past April he was shipped off to Iraq to defend our country and our interests in that part of the world. A little more than 24 hours ago he was riding in a vehicle. Two men hiding beside the road triggered an explosive device, killing him and injuring seven other comrades of Josh's.

Tragically, Josh's mother, on this same date he was killed, was observing her birthday. But mothers, as they are, seem to know. Even before the tragic news about her son she had worried about him a lot, was extremely worried this day. His parents are wonderful people. His father came to Nevada to set up a church. They left northern Nevada and went back to South Carolina to set up a church. His parents just arrived back in this country on the day he was killed, coming back from Guam where they are missionaries.

To show you the outstanding young man Josh was, you only need to look at what his high school counselor Bob White said. He said:

He's the second one we have lost in Iraq.

White, who kept a picture of Josh on his office bulletin board, remembered his second day on the job at Reed High School as a new counselor, during the 1990-91 school year when he met a junior who wanted to attend a military academy. It was Josh Byers. White said:

He came into the office and introduced himself. He said, "My goal is to go to an academy. I'm a junior. I need your help."

White said Josh Byers, as a senior, was accepted into all three major mili-

tary academies, Army, Navy, and Air Force. I don't know who nominated him to the Air Force. Back then it could have been Senator ENSIGN when he was in the House. I really don't know who it was. We know who nominated him to the Army and Navy.

White said Josh Byers selected West Point because he thought its rules of conduct were the strictest. White said:

He said, "Even though I want to go into the Navy, I'm going into the Army. Their honor code is better."

Before he left to go to Iraq and after he was there, Josh tried to comfort his mother by telling her the worst fighting was over and it would be finished by the time he got to Iraq. But as she learned, as we learn almost every day from the news, the worst is not over. In fact, Josh kept saying:

Mom, the worst will be over when I get there. We will be doing peacekeeping, setting up the government and providing aid to the people of Iraq.

Our young men and women in Iraq are still dying almost every day. My office spoke to Mrs. Byers today. I called and the phone was tied up. I was not able to do that. I wanted to give these remarks prior to the Senate recessing. I left a message for the parents saying I was going to give a speech on the Senate floor today. There is nothing I can do, that we can do, to erase the loss of the parents, but the one thing we can do is never forget the sacrifice made by Josh Byers. I know everyone in the Senate family, whether it is our Chaplain or the individual Senators, offers our condolences for Josh's widow, his parents, and the entire family.

I know we all join in hoping for the safe return of the other 150,000 men and women from America who serve in Iraq today. We wish their safe return, and offer our condolences once again to the Byers family.

The PRESIDING OFFICER. The Senator from Utah.

#### CONFIRMATION OF JUDGES

Mr. HATCH. Madam President, I would like to correct the distinguished minority whip on one thing. It is true we have had about 140 judges go through and only two so far have been filibustered. The third is on its way, maybe fourth, fifth, and sixth. Stopping, through a filibuster, anybody, even one judge, is unacceptable. It has never been done before, especially judges for the circuit court of appeals. But it has never been done even for district court judges and certainly not for Supreme Court judges.

All we want is an up-or-down vote on these people. That is all we want. If they are defeated, we can live with it. If they pass, I hope the other side can live with that. But I don't think it is too much to ask for the President's nominees who are brought to the floor of the Senate to have an up-or-down vote. I don't think that is too much to ask, and I don't think the American people believe that is too much to ask.