not only well-spoken, he's tactful, amicable and focused'' and ''projects a temperament that should serve a Chief Justice well.''

I ask unanimous consent to have the full September 17 article printed in the RECORD.

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

[From the Rocky Mountain News, Sept. 17, 2005]

ROBERTS RISES TO THE OCCASION

When Chief Justice John Roberts finished his testimony Thursday before the Senate Judiciary Committee—oops! we're getting ahead of ourselves. When the next chief justice finished his testimony, some senators complained they knew little more about him than when the hearings started because he'd dodged so many questions.

Weren't they listening? Most of us know a lot more about Roberts today than we did a week ago—even though he did, yes, dodge questions about issues that will come before the court. Every one of the current justices once dodged such questions, too.

We learned, for example, that Roberts is quick on his feet and able to respond with aplomb to questions that in some cases were asinine. Wisconsin Sen. Herb Kohl actually wanted Roberts to explain what role he'd play ''in making right the wrongs revealed by Katrina.'' Roberts politely reminded him that courts are ''passive institutions'' that ''decide the cases that are presented.''

We learned that Roberts is not only well-spoken, he's tactful, amicable and focused—that he projects a temperament that should serve a chief justice well.

No, we still don't know how he'll rule on cases related to abortion or the regulatory powers of government under the commerce clause, to cite issues that exercised senators. But learning his views on such matters was never realistically in the cards.

Our favorite part of his testimony was when he was pressed to explore his analogy between being a judge and a baseball umpire. He said he believed balls and strikes were objective facts even if an umpire isn't always correct in calling them.

''I do think there are right answers,'' he explained. ''I know that it's fashionable in some places to suggest that there are no right answers and that judges are motivated by a constellation of different considerations . . . That's not the view of the law that I subscribe to.

''I think when you folks legislate, you do have something in mid . . . and you expect judges not to put in their own preferences, not to substitute their judgment for you, but to implement your view of what you are accomplishing in that statute. I think, when the framers framed the Constitution, it was the same thing. . . . And I think there is meaning there and I think there is meaning in your legislation. And the job of a good judge is to do as good a job as possible to get the right answer.''

That's not a complete judicial philosophy, of course, but it's the start of a good one. And despite the scattered complaints, we suspect a majority of senators recognize it, too.

Mr. ALLARD. Mr. President, another Colorado newspaper, the Pueblo Chieftain, offered its praise for Judge Roberts stating that ''Judge Roberts looks like the kind of justice who would apply the Constitution as it is written,'' adding ''that's as it should be.''

I ask unanimous consent to have the full September 8 editorial printed in the RECORD.

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

[From the Pueblo Chieftain]

ALTERED CALCULUS

The death of Chief Justice William Rehnquist over the weekend has altered the calculus of Supreme Court nominations.

President Bush, who had named Circuit Court Judge John Roberts to fill the seat of retiring Associate Justice Sandra Day O'Connor, withdrew that nomination and renominated him to succeed Justice Rehnquist. It was a logical decision.

The American Bar Association already has given Judge Roberts, 50, its highest rating. He is well-regarded in legal circles. He's been under a microscope by senators and the media and found to be top-notch. Colorado's own Democratic Sen. Ken Salazar gives Judge Roberts high marks.

So the Beltway oddsmakers are calling Judge Roberts' confirmation in the Senate a sure bet. That brings into question, then, the president's choice to replace Justice O'Connor, who says she will remain on the bench until here replacement is confirmed.

During both of his presidential campaigns, Mr. Bush made as one of his key planks restoring the balance on the court away from the liberal, activist mode which became de rigueur when President Eisenhower named Earl Warren (''the biggest damn fool mistake I've ever made'') as chief justice.

Credit Justice Rehniquist for slowly tipping the balance back during his tenure. But that balance is precarious.

President Bush will face an unrelenting deluge from liberals saying he should nominate someone from the ''mainstream,'' meaning left of center. These groups would like to derail any Supreme Court nominee who has a conservative bone in his or her body, because it has been only through the liberal courts, not the legislative process, where they have been able to influence public policy.

Funny, though, but recent elections have shown that the mainstream is not over there in the Beltway/Hollywood liberals' bailiwick.

And elections mean something. President Clinton named Ruth Bader Ginsburg to the high court, and most Republicans in the Senate voted to confirm her. If President Bush names someone in the judicial philosophical mold of an Antonin Scalia and Clarence Thomas, he would be fulfilling a campaign pledge and helping return the court to its rightful role, not as a de facto legislature but as arbiter of the law and the Constitution.

Judge Roberts looks like the kind of justice who would apply the Constitution as it is written. And we urge President Bush to nominate another justice with the same inclination.

That's as it should be.

Mr. ALLARD. Mr. President, I believe Judge Roberts will be an advocate and practitioner of judicial restraint, a Justice who focuses on a narrow interpretation of the Constitution as the Framers intended. In his own words:

My obligation is to the Constitution. That's the oath.

I believe he is temperamentally and intellectually inclined to stick to the facts and the law in cases that will come before him on the High Court, and that he will refrain from attempting to legislate from the bench. In his own words, Judge Roberts says:

The role of the judge is limited . . . [j]udges are to decide the cases before them. They're not to legislate, they're not to execute the laws.

I also believe Judge Roberts' personal views will not determine the outcome of cases before him. In his own words, the ''American justice system is epitomized by the fact that judges . . . wear . . . black robes. And that is meant to symbolize the fact that they're not individuals promoting their own particular views, but they are supposed to be doing their best to interpret the law, to interpret the Constitution, according to the rules of law—not their own preferences, not their own personal beliefs.''

Judge Roberts recognizes the importance of property rights and the role of the legislature in drawing the line in cases of eminent domain. Commenting on the Court's recent decision in Kelo, Judge Roberts explained:

What the Court was saying is there is this power, and then it's up to the legislature to determine whether it wants that to be available—whether it wants it to be available in limited circumstances, or whether it wants to go back to an understanding as reflected in the dissent, that this is not an appropriate public use.

President Bush has sent forward the name of an excellent nominee. His qualifications to serve as Chief Justice of the United States are even more apparent after his remarkable testimony before the Senate Judiciary Committee. Judge Roberts testified for approximately 22 hours, 10 hours longer than William Rehnquist when he became Chief Justice, 5 hours longer than Ruth Bader Ginsburg, and 4 hours longer than Stephen Breyer.

During the course of his testimony, Judge Roberts demonstrated an impressive command of the law and understanding of a myriad of legal issues. He provided thoughtful and thorough answers to over 500 challenging questions asked by Senators of both parties.

Personally, I admire his commitment to maintaining his judicial independence and ability to rule fairly by choosing not to prejudge cases that are likely to come before him. It is indicative of his undying and lifelong commitment to equal protection under the law.

I strongly urge my colleagues to give him a final vote in support of his nomination.

Thank you, Mr. President.

I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceed to call the roll.

Mrs. MURRAY. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

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

ORDER OF PROCEDURE

Mrs. MURRAY. Mr. President, I understand there is some time remaining

on the Republican side. I ask unanimous consent to hold that remaining time, for me to begin with the Democratic side, and use such time as I shall need.

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

AN INDEPENDENT FDA

Mrs. MURRAY. Mr. President, I rise today to address a matter of extreme importance, women's health, public safety, and the independence and credibility of one of our Nation's most revered Federal agencies, the FDA.

I am very concerned. American women are concerned, and consumers all across this country should be concerned that the FDA is letting politics trump science in the way it approves medicine for American consumers.

I have always supported a strong and independent Food and Drug Administration. It is the only way in which the FDA can truly operate effectively and with the confidence of American consumers and health care providers.

Americans must have faith when they walk into the local grocery store or local pharmacy that the products they purchase are safe, that they are effective, and that their approval has been based on sound science, not on political pressure or pandering to interest groups. By allowing politics to play a role in the decisionmaking, the FDA is now opening a Pandora's box that could have profound consequences in determining the safety and efficacy of the drug approval process.

Unfortunately, recent decisions and delays at the FDA have now called into question the agency's independence and allegiance to science-based decisions, and plan B is exhibit A. But don't take my word for it. Listen to Dr. Susan Wood, the former director of the FDA's Office of Women's Health. In resigning in protest, Dr. Wood wrote:

> I have spent the last 15 years working to ensure that science informs good health policy decisions. I can no longer serve a staff when scientific and clinical evidence fully evaluated and recommended by the professional staff here has been overruled.

In later comments to the Associated Press she said:

> There's fairly widespread concern about FDA's credibility among agency veterans as a result of the Plan B process.

Those are the words of a health care professional who worked for years within the FDA to improve women's health. Her resignation is a huge loss to the agency, to those in Congress who have championed women's health and, most importantly, her resignation is a loss to the millions of American women who rely on the FDA to make choices based on sound science.

Let me take a step back and explain what plan B is and why the FDA's actions are such a threat to the public's health. Plan B is a form of contraception. Plan B contains a specific concentrated dose of ordinary birth control pills that prevent pregnancy. Emergency contraception cannot interrupt or disrupt an established pregnancy. In fact, plan B has the potential to reduce the incidence of abortions, something I think every one of us can agree on. It is an important goal.

Raising the awareness and use of emergency contraceptives such as plan B is an important component to reducing the rate of abortion in the United States. An analysis conducted by the Alan Guttmacher Institute estimates that 51,000 abortions were prevented by emergency contraceptive use in 2000 and that increased use of emergency contraceptives accounted for up to 43 percent of the total decline in abortion rates between 1994 and 2000. Plan B has already been approved by the FDA for prescription use and it is available over the counter in seven States, including my home State of Washington. However, it is not available nationwide.

When it comes to emergency contraceptives, every hour counts. The effectiveness of plan B declines by 50 percent every 12 hours. The longer a woman must wait to see a doctor, get a prescription, and then find a pharmacy that will fill the prescription, the less effective plan B becomes. Even privately insured women with regular access to a health care provider have to overcome significant barriers to obtain a prescription for emergency contraceptives, including finding a pharmacy that stocks plan B within a short timeframe. For many uninsured women and teens, the barriers are often insurmountable.

Back in December of 2003, almost 2 years ago, the FDA's own scientific advisory board overwhelmingly recommended approval of plan B over-the-counter application by a vote of 23 to 4. However, the FDA has not adhered to its own guidelines for drug approval and continues to drag its heels.

In fact, Alastair Wood, who is a member of the advisory panel, told USA Today:

> What's disturbing is that the science was overwhelmingly here, and the FDA is supposed to make decisions on science.

At a HELP Committee hearing in April of this year, I pressed the President's nominee to head the FDA, Dr. Lester Crawford, to answer questions about this long-pending application for nationwide over-the-counter approval of plan B. When Dr. Crawford informed me that he couldn't answer my questions in a public forum, I invited him to my office to discuss the process in a private meeting. My colleagues Senator KENNEDY and Senator CLINTON joined me for a very frustrating meeting in which Dr. Crawford failed to provide any timeline or specific reasons for the FDA's highly unusual foot dragging on the plan B application. It was very clear to me after this disappointing meeting that politics had trumped science, and the public health mission of the FDA had been compromised.

For this reason, Senator CLINTON and I joined to place a hold on Dr. Crawford's nomination to head the FDA on June 15, 2005. We placed that hold saying we want a determination on the application. We did not advocate for a particular outcome. All we asked was that the FDA abide by its own rules and regulations. That is a very important point. Senator CLINTON and I did not demand approval. We simply called on the FDA to follow its own procedures. In the end, apparently, even that was asking too much.

The administration and the chairman of the HELP Committee understandably wanted Dr. Crawford confirmed. We began what I consider to be a very productive conversation about restoring integrity to the FDA's process and getting Dr. Crawford confirmed. I thank the chairman for his responsiveness and good-faith efforts. Our discussions culminated in a July 13 letter to the HELP Committee and cochair, to Senator ENZI and to Senator KENNEDY, from Health and Human Services Secretary Michael Leavitt.

This chart shows the letter from Secretary Leavitt:

> I have spoken to the FDA, and based on the feedback I have received, the FDA will act on this application by September 1, 2005.

Based on this letter, based on his personal assurance, Senator CLINTON and I then dropped our hold on Dr. Crawford and subsequently his nomination passed the Senate.

Now, unfortunately for the American people and especially for the integrity of the FDA, Secretary Leavitt and the FDA broke their promise. The FDA had a chance to restore the confidence of American consumers in promoting safe and effective treatments, but it failed in its mission.

A delay is not a decision. For over 6 months, Senator CLINTON and I asked for a simple answer, yes or no. It is a breach of faith to have had this administration give us their word that a decision would be made and have that promise violated. Now the FDA is claiming there are ''unanswered'' questions about plan B's effect on girls under 17. The fact is the pending application does not apply to that group. Today, girls under 17 may only receive this drug with a prescription. That would remain the case if the FDA were to approve plan B's application. The FDA's argument is highly suspect because the Government already regulates products with age restrictions. They do it with tobacco, nicotine gum, and alcohol.

The administration gave us their word, and then they pulled the rug out at the last minute. This continued delay goes against everything the FDA's own advisory panel found nearly 2 years ago, that plan B is safe, it is effective, and it should be available over the counter. There is no credible scientific reason to continue to deny increased access to this safe health care option. In fact, in his statement of further delay, Dr. Crawford acknowledged that the application has scientific merit, but he still refused to approve it.