

perished in those deadly blasts. Indonesian officials are on the hunt for the masterminds of this and the October 12, 2002, attacks.

America stands ready to assist in whatever way we possibly can. Our hearts go out to the families of the people of Indonesia who, once again, have suffered at the hands of deranged killers. We know all too well the pain and anguish caused by the terrorist enemies.

Today, the Senate intends to pass a resolution expressing our deep sympathies and condolences. I will come back to the Chamber later today to pass that resolution with unanimous consent. We stand shoulder to shoulder with the Indonesian people as they bring justice to the killers.

We are at war with a barbarous and implacable foe. The killers strike in the name of Islam, but their religion is not to be found in the pages of the Koran. Their religion is found in their corrupted and blackened hearts and in their twisted and hateful minds.

Indonesia, a Muslim country, has been the target of multiple attacks. The killers seek power, squalid and absolute. Their war is on the civilized world.

Istanbul, Turkey, 2003: 56 people killed, more than 450 people injured.

Madrid, Spain, 2004: 190 people killed, 1,500 injured.

Beslan, Russia, September that year: 344 people killed, 186 of them school-children.

London, UK, July 7, this summer: 52 people killed, 700 injured.

The attacks continue on the Iraqi people and the people of Afghanistan. The United States calls on the international community to renew and strengthen our efforts to defeat the killers by dismantling their network and exposing the nihilism and perversion of their aims. We urge the international community to increase the global effort to advance freedom, liberty, and prosperity, and to root out the social injustice that feeds the violence.

These are daunting challenges, to be sure. But just as surely, we have no other choice. The gauntlet was thrown for America on September 11. The enemy offers death. We must offer hope. We must shine the light of freedom wherever they live, wherever they hide, a light so dazzling that not even their shadow remains.

I yield the floor and suggest the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

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

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will be a pe-

riod for the transaction of morning business for up to 60 minutes, with the last 30 minutes now under the control of the majority leader or his designee.

The Senator from Texas.

HARRIET MIERS

Mr. CORNYN. Mr. President, I rise to commend the President on his selection of Harriet Miers to be associate justice of the Supreme Court. I have had the pleasure of knowing both Ms. Miers and the President for a number of years, from our days in Texas in State Government in particular. In Texas, President Bush had the reputation of being a uniter. Literally, we had divided government, with Democrats controlling the House and the Senate. He worked on a daily basis with Lt. Gov. Bob Bullock and Speaker Pete Laney, who were of the other party. When he came to Washington, he hoped he would find a Bob Bullock or a Pete Laney on the other side of the aisle so he could continue in that tradition, doing what he believed was best for the people who had sent him here—all the people. Unfortunately, we know that Washington's political environment is way too partisan and even poisonous.

The President has chosen wisely with this nominee. He has chosen a nominee who should, and I believe will, unite us.

I am proud to say that Harriet Miers is a fellow Texan. She was born and raised in Dallas and attended Southern Methodist University, where she received her bachelor's degree in mathematics and her law degree. That is kind of an unusual combination for lawyers. Most lawyers eschew mathematics, but she nevertheless has a bachelor's degree in mathematics. Following law school, she clerked for a Federal judge and then joined one of the finest law firms in our State, where she practiced for a number of years before she came to the attention of a Governor who would then become our current President.

As proud as I am to say that Harriet is a fellow Texan, I am even more proud to say she is a friend. I have known her for about 15 years. I have come to know her as a fine and decent human being, someone who has dedicated her life to serving others, from the clients in her law firm to the people of Texas, and now to offering herself to serve all of us in this great country.

It is especially fitting that Harriet Miers be nominated to the seat being vacated by another trailblazer, Justice Sandra Day O'Connor. Justice O'Connor was the first woman to serve on the Supreme Court of the United States. But Harriet has blazed a few trails of her own. She was the first woman hired by her law firm. She was the first woman to serve as the president or co-managing partner of that firm. She was the first woman to serve as the president of the Dallas Bar Association, and then she was later selected to be the

first woman to serve as president of the State Bar of Texas, which is the association encompassing all members of the legal profession in Texas.

As these accomplishments make clear, she has had a long and distinguished professional career. Her dedication to her clients, to her community, and to the rule of law has made her a leader in my State.

Her accomplishments do not end at the border of Texas. Over the last 25 years, she has worked at the highest levels of our national Government in the White House, including serving as the President's closest legal adviser. Moreover, before she came to Washington, she was known and respected nationally for her legal skills and her advocacy for legal services being provided and available to all Americans. She was very active in the American Bar Association, and she is well known by lawyers throughout the country. We will hear increasingly more and more of them come forward to speak, without regard to partisan affiliation or other considerations.

This long and distinguished career has made Harriet well qualified to serve as an associate justice on the U.S. Supreme Court. I am not alone. She has received praise from Senators on both sides of the aisle, including the Democratic leader, the senior Senator from Nevada. She has also received praise from this side of the aisle, from our majority leader, as well as the senior Senator from Kentucky, our deputy majority leader. She is without question a consensus nominee.

I know that makes some people nervous in a body where we have become so accustomed to locking horns and fighting over so many things, some of which are important. There are contests on principle, but sometimes there are those who would pick a fight to keep that partisanship and bitterness going. The President has chosen well by choosing a consensus nominee. It is not surprising because this President has engaged in an unprecedented act of consultation on the two nominations to the Supreme Court: First, now-Chief Justice John Roberts and now soon-to-be Associate Justice Harriet Miers.

One thing you will not find in Harriet's long and distinguished career is service as a judge. I want to talk about that because some have said that that is actually a weakness. I suggest that it is not a bad thing, nor is it unprecedented. Forty-one of the one hundred and nine Justices who have served on the U.S. Supreme Court had no previous judicial experience. These 41 included some of our Nation's most influential and best-known justices—William Rehnquist, Lewis Powell, Byron White, Robert Jackson, Felix Frankfurter, Lewis Brandeis, Joseph Story, and John Marshall. Indeed, a little bit of diversity of background and experience is important to have on the Supreme Court. The Supreme Court is full of Justices who have served either as

academics or as court of appeals justice judges before they have been nominated to the Supreme Court bench. Certainly, while they are a distinguished body of jurists, what the Court is actually missing is someone who has had practical legal experience, someone who will understand the real-world consequences of the Court's decisions for the American people.

I have been one who has been concerned about the fact that the Supreme Court sometimes seems out of touch with America. When you have the Supreme Court decide that the Ten Commandments is legal in Austin but illegal in Kentucky and you have 10 different opinions for 9 Justices to explain it, clearly there is something amiss. Harriet Miers will provide a strong dose of common sense and reconnect the Court with the American people in an important way.

It is also important to have someone who has actually been elected to office, as Harriet Miers has been. She has been elected to city council in Dallas, perhaps not high national office but nevertheless an important one. Once Justice O'Connor leaves the Court, there will be no one left on the Court, but for this nominee, who has ever held elected office. There is already no one there who has ever served at the highest levels of the executive branch of Government. If it were not for newly confirmed Chief Justice John Roberts, none of the Justices would have been actively engaged in law practice in the past 35 years. Even the Chief Justice himself was primarily focused on appeals. A Justice Harriet Miers fills these gaps.

She was elected city councilwoman in Dallas. She served at the highest levels of this administration, now as White House counsel, and she has spent her entire professional career representing clients in courtrooms across the State of Texas and even across the Nation.

I am not the only one who believes practical, real-world experience is important for a nominee. The senior Senator from Nevada, the Democratic leader, yesterday said that he thought this was actually a plus, not a minus. The senior Senator from New York echoed this view, stating that the fact she hasn't been a judge before is actually a positive, not a negative. I think those sentiments are much as I have explained. Certainly, they can speak for themselves.

I know there are many Americans who are unfamiliar with Harriet Miers. This is understandable. She has been working outside of the limelight her entire career, always serving others. I have been fortunate enough to know her for about the last 15 years. I have a good feel for who she is as a person and as a highly competent practitioner. I know that she believes, as I do, that judges should not legislate from the bench. I know she believes, as I do, that judges are not some sort of elite, appointed to impose their will on the rest of us. Rather, I know she un-

derstands that unelected judges who serve in a democracy have a necessarily limited but important role—to apply the law as it was written.

Harriet aptly described this judicial philosophy yesterday when she said:

It is the responsibility of every generation to be true to the founders' vision of the proper role of the courts in our society. If confirmed, I recognize that I will have a tremendous responsibility to keep our judicial system strong and to help ensure that the courts meet their obligations to strictly apply the laws and the Constitution.

I am confident, when the American people get to know Harriet Miers, as I have had the pleasure, they will be as supportive as I am today of this nomination. I believe the President has chosen wisely. Now it is up to us in the Senate to go forward with the confirmation process. That is not to say that her confirmation is preordained by any means but that we now have the obligation to undertake this confirmation process in a civil and dignified and respectful manner.

I would say the Senate did itself proud in the way it handled the confirmation of Chief Justice John G. Roberts. We have not always, in recent memory, done ourselves proud in the judicial confirmation process, and I am speaking specifically of the filibusters that were previously unprecedented. But hopefully this is a new day and we have learned from those lessons of the past, and we will continue in the tradition that I think we have now reestablished with John G. Roberts.

I think we can even do better this time around. For example, the last time around, some of my colleagues insisted that Chief Justice Roberts answer questions about issues and cases that were likely to come before the Court. Indeed, some of my colleagues stated they voted against his confirmation precisely because he refused to precommit on some of the hot-button issues of the day. As I said, I hope we can do even better this time.

My colleagues know that, as was Chief Justice Roberts, Harriet Miers is ethically forbidden from pledging to rule a certain way on these issues or any issues that are likely to come before the Supreme Court. It is simply unfair to her, and I think it is a threat to judicial independence to insist that any nominee pledge a certain performance when confirmed in judicial office. I think it is unfair to her to ask her a question that my colleagues know she simply cannot ethically answer.

Every nominee who has come before the Senate has followed these ethical rules and resisted making promises to politicians during the confirmation process. This tradition has come to be known as the Ginsburg standard, named for Justice Ginsburg nominated in 1993 by President Clinton. Justice Ginsburg was so steadfast and articulate in defending the right of judicial nominees declining to prejudge cases on issues that might come before them once they get on the bench that we

have come to call this the Ginsburg standard.

Some of my colleagues on the other side of the aisle expressed displeasure with the Ginsburg standard during the confirmation process for Chief Justice Roberts. The one person who did not express displeasure was Justice Ginsburg. Indeed, in remarks just last week to students at Wake Forest University, Justice Ginsburg reaffirmed the Justice Ginsburg standard, and she affirmed Chief Justice Roberts' refusal to answer questions about issues that will likely come before the Court.

She said:

Judge Roberts was unquestionably right. My rule was I will not answer a question that attempts to project how I will rule in a case that might come before the court. . . . A judge on a collegial court should never forecast how he or she would vote on particular issues. . . .

Nor, I might interject, should we want a judge who would be willing to trade a confirmation vote for a pledge of performance in office. It would threaten judicial independence, it would violate the rules of ethics, and I think it would be fundamentally unfair to people who look to the Supreme Court as the last bastion of justice in America today.

My hope is that Justice Ginsburg's endorsement of Chief Justice Roberts' confirmation conduct will persuade my Democratic colleagues to change their minds on how we ought to treat judicial nominees, including Harriet Miers. We should not treat this nominee or any nominee unfairly and demand that they inappropriately make commitments on how they will rule on hot-button issues of the day, no matter how curious we are.

I must confess I am as curious as the next person, but I recognize there is a higher duty than merely satisfying my curiosity, or anyone else's for that matter: judicial independence, judicial ethics, and the importance of not prejudging cases so that there will not only be the reality of justice being disseminated on a fair and equal basis, there will be the perception that judges have not prejudged issues or cases.

This is an important nomination for our country. The nomination of any person to serve on the Supreme Court of the United States is a celebration of our Constitution and of our Nation's commitment to the rule of law, perhaps our most important export.

It is all the more important today because this is the nomination of only the third woman to serve on our Nation's highest Court. I look forward to a dignified, civil, and respectful confirmation process in the Senate.

Mr. President, I yield the floor and 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. ALEXANDER. 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. ALEXANDER. Mr. President, I ask unanimous consent that I be allowed to speak for up to 20 minutes as in morning business.

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

The Senator from Tennessee is recognized.

Mr. ALEXANDER. I thank the Chair. (The remarks of Mr. ALEXANDER pertaining to the introduction of S. 1815 are printed in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. ALEXANDER. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. SUNUNU). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Without objection, under the previous order, morning business is closed.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2006

The PRESIDING OFFICER. The Senate will resume consideration of H.R. 2863, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 2863) making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. BAYH. I thank the Chair.

Mr. President, I come to the Chamber today to discuss amendments to promote our success in Iraq as quickly as possible, consistent with accomplishing our mission there, to hold those in charge for implementing our strategy in Iraq accountable for its success, and to do right by those bearing the burden of that conflict on our behalf, our brave military personnel and their loving families.

These amendments are designed to increase the number of armored vehicles for our troops in the field and to promote and to protect their families financially at home but, even more important, to provide a clear picture of what we are doing in Iraq and a way to measure our progress there so that we can bring our troops home with their mission accomplished.

Last week, Generals Casey and Abizaid came to Congress to inform us that the administration had finally heeded bipartisan calls from this body to develop a plan for success, a plan that goes way beyond merely asking the American people to stay the course.

During their testimony before the Armed Services Committee and in private briefings for Senators, the generals talked about the plan and how it was developed jointly with Iraqi leadership. Essentially, if the plan is to be successful, it will lead to a reduction of American forces starting next year.

In a discussion with Senator McCAIN, General Casey had the following to say:

Senator McCain: Are you planning on troop withdrawals for next year?

General Casey: I just said that, Senator. Yes. This is a bipartisan goal that we all support. Creating a stable Iraq and bringing American men and women home safely as soon as possible consistent with success is something that we all embrace.

The generals also said that they had developed specific guidelines to allow them to measure the success of this plan. I am pleased that a plan has been developed and measurements created to gauge its success, although belatedly so. But I also know that having a plan is not nearly enough. It is the effective implementation of a strategy that will determine our ultimate success and establishing benchmarks that allow us to determine the progress that is being made. Regrettably, we have had far more of the development of a strategy and far less of the accountability for implementing the strategy so far in the Iraqi conflict. The time for changing that has come.

Successful execution of any plan includes two things that have been lacking so far—accountability and candor. My amendment brings both of these elements into the administration's war effort.

The amendment requires the Pentagon and the CIA to report to Congress and to the American people once a month on the progress they are making with regard to their own strategy and how it is faring on the measurements they have outlined to determine our success. It is their strategy, their benchmarks. If they are not being met, the administration should explain to the American people why. If no adequate explanation exists, those responsible must be held accountable. That is the way you run any business or any State, and that is the least we can expect when waging war.

These benchmarks are crucial to gauging our progress and are vital to achieving our success. They were included in an unclassified document provided to the Congress this last week, the title of which is "Transitional Readiness Assessment." It provides seven different measurements to determine how we are doing in Iraq: first, overall readiness; second, the number of Iraqi personnel; third, their command and control capability; fourth, the level and effectiveness of their training; fifth, the sustainment and logistics of those Iraqi units; sixth, the level of their equipment; and seventh, the quality of their leadership.

It is vitally important that we share our progress or lack thereof in meeting these objectives with the American

people. The American people are paying for this conflict with their money and their blood. They deserve to know how we are doing.

One of the challenges of any military effort is to build and maintain public support. To date, the administration has provided rosy assessments that conflict so clearly with the reports from Iraq and the images on television. It is no surprise that the public's patience is growing thin.

The American people can withstand adversity. What they won't stand for—and rightfully so—is being kept in the dark or being misled. That is why it is so critical that we provide the American people with an accurate assessment of our current situation, to plan for our success and let our people know and let them evaluate the progress we are achieving toward making that success.

I hope this amendment can be a bipartisan one. It seeks to achieve the twin goals of accountability and candor that I have heard embraced by our colleagues from both sides of the aisle.

In addition to this amendment, I have also introduced an amendment to provide our troops fighting in Iraq with the equipment they need in the field and the support their families deserve at home.

The Army has chronically underestimated—nine consecutive times, in fact—the need for up-armored vehicles in the Iraqi theater. Nine consecutive times they have gotten it wrong. They no longer deserve the benefit of the doubt. Regrettably, Walter Reed Hospital and our other military hospitals in this Nation are filled with too many of the young men and women who have paid the consequence for these errors. We must do everything humanly possible to make sure no further errors take place.

My armor amendment will provide enough funding to rebuild the Army stocks of up-armored HMMWVs as well as the armored vehicles used for cargo and troop transportation. With it, the military's depleted stock of armored vehicles will be made whole, ensuring that all of our troops have the protection they need while serving in both Iraq and Afghanistan—no more pleas to end hillbilly armor. One of the lessons learned in Iraq, along with the tragic Hurricane Katrina, is that when lives are at stake, it is incumbent upon us to err on the side of doing more rather than less. Let us get it right this time.

For the families of our loved ones serving in harm's way, we must ensure that no one faces financial hardship because of their service overseas. Yet there is a growing body of evidence suggesting that the financial rights of service men and women are being abused or ignored. That must stop.

Guard members who are called to active duty often face what I call a patriot penalty—a pay cut representing the difference between their civilian and Active-Duty pay. As a result, many families struggle to meet their mortgage payments or pay their heating