

ALITO NOMINATION FILIBUSTER

Mr. HATCH. Mr. President, on Monday United Press International reported the good news that our Democratic colleagues do not plan to filibuster the Supreme Court nomination of Judge Samuel Alito.

I hope that UPI report is true, because this body needs to return to our constitutional and commonsense tradition of fully and fairly evaluating and debating judicial nominations.

Senators may, of course, vote for or against a judicial nominee for any reason, or no reason at all. Our constitutional role of advice and consent, however, requires that after vigorous floor debate, we must vote.

UPI quoted a spokesman for the Democratic leader saying that talk of an Alito filibuster is, in his words, silly and unhelpful.

I can only assume that he was speaking for the Democratic leader and, while I agree with his statement, I am afraid the situation is not quite what he would have our fellow citizens believe.

In fact, not 24 hours earlier, this very same spokesman was himself engaging in some silly and unhelpful filibuster talk of his own, telling the Associated Press that all procedural options are on the table for handling the Alito nomination.

We all know what that means.

The list of all procedural options includes the filibuster, by which those who cannot defeat a judicial nomination on the merits try to do so by preventing any confirmation vote at all.

Before the Democratic spin machine cranks out a press release accusing me of silly and unhelpful filibuster talk, let me remind everyone of some possibly inconvenient facts.

I know that my friend, the distinguished Senator from West Virginia, was on the floor Monday claiming that no Democratic Senator had talked about filibustering the Alito nomination.

With all due respect to him, that is simply not accurate and the public record speaks for itself.

On November 1, for example, the Senator from New York, Mr. SCHUMER, told The Hill newspaper that nothing is off the table.

That same day, the Senator from California, Mrs. BOXER, was more specific, telling the Associated Press that, in her words, the filibuster's on the table.

The next day, the Senator from Iowa, my friend Senator HARKIN, went even further.

The Baltimore Sun quotes him saying that he believes Democrats will indeed filibuster the Alito nomination.

Other Democrats, some of them my colleagues on the Judiciary Committee, have also engaged in what their party's spokesman has branded silly and unhelpful filibuster talk.

The distinguished assistant Democratic leader, Senator DURBIN, said the Democrats' decision whether to allow

the nomination to go forward at all will be made after next month's hearing.

Again, we all know what that means. It means the filibuster is still on the table.

On November 20, the Senator from Delaware, Mr. BIDEN, a former Judiciary Committee chairman, not only suggested a filibuster was possible, but said its prospects had actually increased.

Democratic National Committee Chairman Howard Dean said last month that Senate Democrats should, in his words, absolutely keep the filibuster option on the table.

And finally, the Democratic leader, Senator REID, himself said back on November 1 that an Alito filibuster is possible.

This record is public and very consistent. And this record makes the statement on Monday by the senior Senator from Massachusetts, Mr. KENNEDY, that he does not know a single Democratic Senator who has talked about an Alito filibuster absolutely baffling.

My Democratic colleagues have certainly done so, early and often.

Some Senators, well-meaning Senators, have said that the judicial nomination filibuster issue is really about freedom of speech. The distinguished Senator from West Virginia made that point on Monday here on the Senate floor.

We all believe in freedom of speech. We all believe in full, fair, and vigorous debate. When it comes to the legislation over which this legislative body has complete authority, debate can become an end in itself. That is, after all, the definition of a filibuster, when ending debate proves impossible.

The filibuster has long been, and I believe should remain, part of the legislative process.

Judicial appointments, however, are different than legislation. The Constitution assigns the power to nominate and appoint judges to the President.

And judicial, as opposed to executive, appointments also dramatically affect the third branch of government.

When it comes to judicial nominations, therefore, debate should be a means to an end.

The end of the judicial confirmation process must be an up-or-down vote for nominations reaching the Senate floor.

The Senate can vote to withhold consent to a judicial nomination, and we have done so in the past.

But refusing to vote at all, especially when a judicial nomination clearly has majority support, goes beyond exercising our advice and consent role and attempts to hijack the President's appointment power altogether.

When Republicans were in the minority, we respected President Clinton's primary role in judicial appointments.

This body confirmed his Supreme Court nominee Judge Ruth Bader Ginsburg in 1993 by an overwhelming vote of 96 to 3.

We confirmed his nominee Judge Stephen Breyer in 1994 by a margin of 90 to 9.

Judicial nomination filibusters, then, are not about freedom of speech.

When it comes to the judicial confirmation process, our freedom of speech must be shaped and balanced by the separation of powers, by the Constitution's assignment of authority in that process.

Until recently, the Senate refused to transfer the powerful tool of the filibuster from the legislative process to the judicial confirmation process.

We refused to go down that road and I believe we should put up a permanent roadblock.

With all due respect to my Democratic colleagues, they cannot have it both ways.

They cannot, as they have been doing now for more than 6 weeks, keep filibuster hopes alive by suggestions and hints, and then claim their political hands are clean when Senators on this side of the aisle respond.

I believe that UPI reported the Democratic spokesman's statement accurately, but I am not as confident that his statement is accurate or operative.

Does it mean that Democratic Senators have abandoned their earlier statements and decided that the Senate should indeed debate and then vote on the Alito nomination?

I believe that is what the American people expect us to do, but is that what Democratic Senators will do?

I hope they do.

I hope we can fully and vigorously debate the Alito nomination, and then vote on it.

I also believe that when the Senate and American people get to know Judge Alito, his experience, his character, and his traditional mainstream views of the law and the Constitution at his confirmation hearing, they will like what they hear.

Judge Alito is a good man and a great judge.

My Democratic colleagues can help sort out the confusion their earlier statements have created.

If they mean what they now say, that talk of filibustering the Alito nomination is indeed silly and unhelpful, then let us take the divisive and politicizing option of a filibuster off the table.

Let us agree, right here and now, that this body will do its duty of fully debating the Alito nomination and then voting on it.

The Constitution, Senate tradition, and the American people demand no less.

(At the request of Mr. REID, the following statement was ordered to be printed in the RECORD.)

VOTE EXPLANATION

● Mr. LIEBERMAN. Mr. President, because of a severe head cold I decided, after a telephone discussion with the minority leader, not to attempt to

travel on a so-called redeye flight last night from the west coast to arrive this morning back in Washington to vote on 3 motions to instruct conferees. Had I been present, I would like the record to indicate that I would have voted for the motions by Senators HARKIN, CARPER, and BAUCUS. I note that on none of these votes would my vote have affected the outcome; all passed by substantial margins. I want to inform my colleagues that I plan to return by another redeye flight leaving tonight for votes Thursday.●

ADDITIONAL STATEMENTS

HONORING THE LIFE OF PETER H. SORUM

● Mr. KERRY. Mr. President, I would like to take this time to honor the life and accomplishments of Peter H. Sorum, Acting National Ombudsman at the U.S. Small Business Administration. Mr. Sorum passed away at the age of 58, leaving behind an impressive legacy through his work in small business, government, entrepreneurship, publishing, and political fundraising.

In his 4-year tenure at the Small Business Administration, Mr. Sorum served as the Deputy Director of Intergovernmental Affairs, working closely with State and local officials to foster open communication and strong working relationships among Federal, State, and local government officials. Following this, Mr. Sorum became a senior adviser in the agency's Office of the National Ombudsman. In that post, he served a number of roles, including the regulatory fairness board coordinator, trade association coordinator, and Federal agency liaison. Most recently, Mr. Sorum was the Small Business Administration's Acting National Ombudsman where he worked to ensure that small business owners, nonprofit organizations, and small government entities were not faced with unfair Federal regulatory enforcement actions.

Prior to his service in the Small Business Administration, Mr. Sorum, a small business owner himself, was the founder and manager of the software and telecommunications company, Maple Eagle International. Additionally, he published *The Word*, a Marine Corps Reserve Officers' magazine from 1985–1987 as well as *Japan Now* from its inception in 1992 until 1994.

Mr. Sorum's commitment to public service and small business lasted until his death. His career spanned several decades, including five Presidential administrations. Mr. Sorum's family, friends, and coworkers should take pride in his service to our Nation.

I offer my condolences to his wife Mary Claire, and to his mother, siblings, and children during this difficult time.●

TRIBUTE TO BILL CARSON

● Mr. LUGAR. Mr. President, I rise today to congratulate a distinguished

Hoosier and friend, Mr. Bill Carson, as he steps down at the end of the year after 42 years of dedicated leadership as chief executive of the Indiana Builders Association.

During those 42 years, Bill has overseen the remarkable transformation of the organization to which he dedicated so much time and energy. In that time, the IBA has grown from 12 locals spread across the State to 33 today. Much of the success Bill has enjoyed can be attributed to his ability to work closely with all parties affected by the building industry. I continue to be grateful for the generous counsel and support he has offered to me throughout my career.

Many Hoosiers also know Bill as an accomplished author, having written a best selling pamphlet entitled "Diary of a Mad Home Builder", and a book about the building industry entitled "High Pitches and Other Tall Tales."

Bill has been recognized by his many friends across Indiana and the Nation for the remarkable contributions he has made to the building industry. He has been awarded Indiana's highest housing award, the John C. Hart Presidential Award, and is a recipient of the Seldon Hale Award for Excellence in Association Management from the National Association of Home Builders. Bill has been recognized by three different Governors as a Sagamore of the Wabash, Indiana's highest honor.

From my days as mayor of Indianapolis through today, Bill has been a trusted friend. I look forward to his continued work across Indiana, even as he attempts retirement.●

TRIBUTE TO GENERAL LEON J. LAPORTE

● Mr. WARNER. Mr. President, I would like to recognize the professional dedication, vision and military service of GEN Leon J. LaPorte who is retiring from the U.S. Army after 37 years of dedicated service. It is a privilege for me to recognize the many outstanding achievements General LaPorte has provided the Army, and our great Nation.

General LaPorte was commissioned a second lieutenant in 1968 upon graduation from the University of Rhode Island. He was commissioned an armor officer and served in numerous positions of increasing responsibility to include the position from which he will retire. General LaPorte's contributions throughout his career have made an historic impact and greatly improved our Nation's security.

General LaPorte assumed command of the United Nations Command, Republic of Korea/United States Combined Forces Command, and United States Forces Korea on May 1, 2002. On October 1, 2005, General LaPorte became the longest serving U.S. commander in Korea. Earning this distinction is a tribute to his performance and the excellent relationships he fostered with our Korean allies. General LaPorte's tenure has been highlighted

by several very crucial periods in the alliance. During his time in command, we have witnessed multiple North Korean maritime violations and numerous DMZ and airspace incursions. These threats to the security and sovereignty of Korea led General LaPorte to develop deterrent options and force enhancements that provided increased deterrence against aggression. Despite the tremendous implications involved, General LaPorte remained unflappable and skillfully designed military force packages that could be deployed against anticipated threat scenarios to address the uncertain political-military situations.

General LaPorte has been a principal participant in the fast-paced bilateral military and political discussions. General LaPorte earned the reputation as a well-respected ambassador for the United States. He developed and maintained close ties with the military and civilian leadership of the Republic of Korea in partnership with the U.S. Ambassador to Korea. He is credited with fusing a lasting bond between the two nations.

General LaPorte is a soldier's soldier. Throughout his career foremost in his thoughts and his actions have been initiatives in the best interest of the soldiers, civilians, and family members. These priorities are reflected in every decision he makes. He expects those serving below him to do the same. This was never more evident than when he deployed with the 1st Cavalry Division, Fort Hood, TX as the Chief of Staff in October 1990 during Operations Desert Shield and Desert Storm and more recently during the deployment of one of his battalions to Iraq in support of OIF. General LaPorte was tireless in ensuring that each soldier was properly prepared, trained and equipped for the mission and that every family was cared for by a Family Readiness Group. The reenlistment rates in his units demonstrate the love, loyalty and dedication of those who served under General LaPorte.

During his illustrious career in the Army General LaPorte has been nothing less than brilliant. General LaPorte is a great credit to the Army and the Nation. As he now departs to share his experience and expertise with the private sector, I call upon my colleagues on both sides of the aisle to recognize his service and wish him and his wife Judy well in their new endeavors.●

TRIBUTE TO FRANK M. "MARK" NEWTON

● Mr. VITTER. Mr. President, I rise today to recognize Frank M. "Mark" Newton, assessor of Grant Parish. Mr. Newton retired on October 31, 2005, after 45 years of service to Grant Parish. Today, I want to take a moment to offer warm thanks for his years of service to the State of Louisiana and Grant Parish and thank him for all of his endeavors.