

need to rise above “the ends justify the means” mentality because we are here to answer to the people—all of the people, not just the ones who are wearing our particular party label.

The fact is that both parties have worked together to confirm 95 percent of this President’s judicial nominees. The Senate has accepted 205 of his 214 selections. In fact, we just confirmed another one of the President’s judges this week by a vote of 95 to 0. Overall, this is a better record than any President has had in the last 25 years. For a President who received 51 percent of the vote and a Senate Chamber made up of 55 percent of the President’s party, I would say that confirming 95 percent of their judicial nominations is a record to be proud of.

Again, I urge my Republican colleagues not to go through with changing these rules. In the long run, it is not a good result for either party. One day Democrats will be in the majority again, and this rule change will be no fairer to a Republican minority than it is to a Democratic minority.

I sense that talk of the nuclear option is more about power than about fairness. I believe some of my colleagues propose this rule change because they can get away with it rather than because they know it is good for our democracy.

Right now we are faced with rising gas prices, skyrocketing tuition costs, a record number of uninsured Americans, and some of the most serious national security threats we have ever had, while our bravest young men and women are risking their lives halfway around the world to keep us safe. These are challenges we all want to meet and problems we all want to solve, even if we do not always agree on how to do it. But if the right of free and open debate is taken away from the minority party and the millions of Americans who ask us to be their voice, I fear the partisan atmosphere in Washington will be poisoned to the point where no one will be able to agree on anything. That does not serve anybody’s best interest, and it certainly is not what the patriots who founded this democracy had in mind. We owe the people who sent us here more than that. We owe them much more.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant journal clerk proceeded to call the roll.

Mr. DURBIN. 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 President, I ask unanimous consent that the order for the quorum call be rescinded.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. DURBIN. Mr. President, if I am not mistaken, the pending business is the Durbin amendment which I offered yesterday.

The PRESIDING OFFICER. I have been informed the Senate has not laid down that measure yet.

Mr. DURBIN. I ask unanimous consent to be recognized as in morning business.

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

AMENDMENT NO. 356 TO H.R. 1268

Mr. DURBIN. Mr. President, I ask unanimous consent that the following Senators be added as cosponsors to my amendment: Senators KERRY, LANDRIEU, SARBANES, LEAHY, LINCOLN and LAUTENBERG.

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

Mr. DURBIN. Mr. President, for those who are following the business of the Senate, after morning business we hope to move to closure of debate on my amendment. It is my understanding that Senator STEVENS is returning from the White House and would like to speak on the amendment, and we will have a formal unanimous consent request but it is my intent to protect his right to speak for up to 5 minutes and to protect my right to close for up to 5 minutes. Otherwise, our goal is to try to have a vote at 12:15 on this amendment. I say that even though there has not been a formal consent agreed to, but that is what the discussion leads to.

For those who are following this debate, this is an important bill that is before us. It is the supplemental appropriations bill. The President has come to Congress and asked for money to wage the war in Iraq and Afghanistan. What we find curious is that this amount is not being included in the President’s budget. In fact, he is arguing he is moving toward a balanced budget but fails to include the cost of the war.

It is my understanding, and I think I am close on this number, with this additional \$81 billion, we will have allocated and spent \$210 billion on the war in Iraq and Afghanistan. The President refuses to include this in his budget. If he did, we would have a much deeper deficit than currently stated.

Those of us who believe in at least honesty in accounting cannot understand why we are doing this separately. Why do we have a supplemental bill for this war in Iraq and Afghanistan when we are clearly going to be there for a period of time? I hope for a short period of time but at least for some period of time.

That budget argument aside, I will go to the merits of what we are discussing. The \$81 billion for the war in Iraq and Afghanistan is a figure that I will support. I was one of the Senators who joined my great friend and leader Senator ROBERT BYRD in voting against the resolution to authorize the President to use force in this war in Iraq.

Mr. BYRD. Right.

Mr. DURBIN. There were 23 of us on the Senate floor who did that. I believe it was the right vote not because I am making any excuses for Saddam Hussein, a tyrant, a dictator, a man I am glad is out of power, but many of us, particularly those of us sitting on the Intelligence Committee at the time,

felt there were representations being made to the American people about the nature of this threat that were just plain wrong.

I listened in the Intelligence Committee as they described the evidence of weapons of mass destruction and was puzzled. I could not understand the statements from the administration which were coming out about all of these weapons of mass destruction in Iraq that threatened us in the Middle East and around the world; the evidence was not there. The people that we needed on the ground to confirm the evidence were not there.

In addition, there was a lot of speculation about nuclear weapons that Saddam Hussein was developing with aluminum tubes to be used in centrifuges. As we listened to the agencies of our own Government in hot debate over whether or not these tubes had anything to do with nuclear weapons, I was puzzled as to how some of the leaders in this administration could be talking about mushroom clouds because Saddam Hussein is going to detonate a nuclear weapon. They talked about some connection between the terrible tragedy of 9/11 on America and Saddam Hussein, and yet there was no evidence—and there still is absolutely no evidence—connecting Saddam Hussein to that terrible tragedy that occurred on 9/11.

As this evidence accumulated, Senator BYRD, myself, and many others said the case that the administration is making for the invasion of Iraq is not there. The evidence is not there. I personally feel one of the worst things that can happen in a democracy is when the leadership of a democratic government misleads the American people into believing there is a threat that does not exist.

I am not arguing that they deliberately misled us. It could have been a sin of omission. I do not know the answer to that. But the fact is those of us who voted against the use of force had serious questions as to the justification for the war, and I might add serious questions about our readiness for that war. Trust me and other Senators, if we needed to call on any military force in the world to perform a mission, I want to dial 911 and find the United States on the other end of the line. We have the very best military in the world. I knew they would acquit themselves very well once the invasion was under way, and I knew they would be successful.

I could not predict how long it would take, and thank goodness it was short-lived. But the military aspects of the war and the success notwithstanding, it is clear that this administration was not prepared for waging the peace that followed. They were unprepared in terms of the number of men and women on the field, in terms of the equipment that is available, such as armor for humvees and body armor for soldiers. We were not prepared for it. Here we are, more than 2 years later in Iraq, in

a position where we need to stay and finish, and we are still arguing over the basics.

I visited Iraq 3 weeks ago, went there after first going to Kuwait and visiting with our troops. I met with the 1644th Illinois National Guard unit, a transport unit that moves humvees and trucks back and forth between Baghdad and Kuwait City every single day at great danger to the men and women driving those vehicles. The first thing they wanted to show me was: get in the truck, sit here and look how cramped it is as we sit here for hours and look around. There is no armored protection for us as we are driving back and forth through these dangerous zones. Two years after the invasion, we still do not have the adequate equipment that our troops need.

This bill will come before us, and I will support it. I had misgivings, and still do, about the initiation of the invasion of Iraq but I do not have any misgivings about providing our soldiers, our marines, our airmen and our sailors the very best equipment and all the resources they need to perform their mission and come home safely.

Look at some other aspect of this war that is equally important. This is a different war than we have ever waged. This is a war that depends on an American fighting force that is largely, or at least to a great extent, composed of men and women in the National Guard and Reserves. We have not done this before, but we have to do it now. Were it not for the 40 percent of the 157,000 or 160,000 men and women in Iraq from Guard and Reserve units, we would not be able to send our soldiers in the field to fight. Thank goodness those Guard and Reserve units are there.

Understand that unlike the Active-Duty military, the Guard and Reserve military come in under different personal and family circumstances. Here is a man or woman in a Guard unit in Illinois or virtually any State who signed up to serve his or her country looking for perhaps some scholarship assistance to go to school, ready to respond to a natural disaster or to be called up for a few weeks at a time, and they are being activated for lengthy periods, for a year to a year and a half and sometimes more. It is creating a terrible hardship for the families of these Guard and Reserve unit members.

The amendment that is pending before us is very basic. We have said to employers across America, if one of their employees is in the Guard or Reserve, and that employee is activated, do your best to stand behind that employee and his family; make certain, if they can, they keep their health insurance in place, if necessary; try to make up the differential in pay between what the military pays and what they were making in the private sector so that soldier who is off risking his life is not worried about the family back home.

And guess what. Almost 1,000 American businesses have stepped forward

and said: We accept the challenge. We believe in these men and women. We believe in America. We are going to stand behind them. So when they are activated, these companies step up, as well as units of local government, and make up the difference in pay, giving them the peace of mind to know that even though they are separated from their family while away overseas, they are going to have enough money coming in to make the mortgage payments, pay the utility bills, and all the basics of life.

When it comes to employers, there is one employer that does not meet that obligation; there is one employer in America, the largest single employer of Guard and Reserve soldiers in America, that refuses to make up the difference in pay. There is one employer in America which has said for 2 straight years now, We will not protect the Guard and Reserve soldiers' families while they are overseas fighting. There is one employer in America that coincidentally is praising all of these private-sector employers for standing behind their soldiers and yet refusing to cover their own employees. What is that employer? It is the United States Government. Our Federal Government refuses to make up the pay differential for activated Federal employees who go into the Guard and Reserve. It turns out that some 51 percent of those who are serving overseas today have seen a dramatic cutback in their pay. How can we have Web sites and speeches praising all of the employers across America, the businesses that stand behind their soldiers, while the Federal Government does not?

So for the third time since the invasion of Iraq, I am offering this amendment. It is called the Reservist Pay Security Act, and it says the Federal Government will meet the obligation private sector employers are meeting every day and make up the pay differential for Federal employees who go overseas in the Guard and Reserve. It is not a radical suggestion. It is a commonsense suggestion that we would stand behind these employees and soldiers as we ask others to do.

I see some of my other colleagues are in the Chamber, and I am going to yield the floor at this moment. We are hoping for a vote at around 12:15 or so, but we are going to accommodate the schedules of the Senators and try to ask for a unanimous consent.

I yield the floor.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

EMERGENCY SUPPLEMENTAL APPROPRIATIONS ACT, 2005

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of H.R. 1268 which the clerk will report.

The assistant journal clerk read as follows:

A bill (H.R. 1268) making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes.

Pending:

Kerry amendment No. 333, to extend the period of temporary continuation of basic allowance for housing for dependents of members of the Armed Forces who die on active duty.

Kerry amendment No. 334, to increase the military death gratuity to \$100,000, effective with respect to any deaths of members of the Armed Forces on active duty after October 7, 2001.

Durbin amendment No. 356, to ensure that a Federal employee who takes leave without pay in order to perform service as a member of the uniformed services or member of the National Guard shall continue to receive pay in an amount which, when taken together with the pay and allowances such individual is receiving for such service, will be no less than the basic pay such individual would then be receiving if no interruption in employment had occurred.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, do I have the floor?

The PRESIDING OFFICER. The Senator has the floor.

Mr. BYRD. I ask unanimous consent that I may yield to the distinguished Senator from Massachusetts, Mr. KERRY, for not to exceed 10 minutes, without losing my right to the floor.

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

The Senator from Massachusetts.

Mr. KERRY. Mr. President, I thank the distinguished Senator from West Virginia for his courtesy.

Mr. President, I ask unanimous consent to add Senator LAUTENBERG as a cosponsor to Senate amendment No. 333 and Senate amendment No. 334.

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

AMENDMENTS NOS. 333 AND 334

Mr. KERRY. Mr. President, yesterday I introduced two amendments to help our military families to be able to contend with the death of a loved one and the problems that flow to these families when one of America's service people are lost either in combat or in the course of duty. The disruptions are obviously enormous and unimaginable in many ways, but one of those disruptions is that after a period of 180 days, even in the middle of a school year, a widow would have to move off the base notwithstanding the kids are in the middle of a school year. I can give the names of people I have met in a number of instances over the course of the last couple of years traveling the country, people who talked about the incredible disruption to their family because of this.