ORDER FOR ADJOURNMENT

Mr. MCCONNELL. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order, following the remarks of the Senator from Illinois

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

EMERGENCY SUPPLEMENTAL APPROPRIATIONS

AMENDMENT NO. 452

(Purpose: To provide for the adjustment of status of certain nationals of Liberia to that of lawful permanent residence)

Mr. REID. Mr. President, I ask unanimous consent that notwithstanding the fact that H.R. 1268 is not pending, to call up amendment No. 452 by Senator REED of Rhode Island, and then it be set aside.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

The PRESIDING OFFICER (Mr. ROBERTS). On this lovely Friday afternoon, the distinguished Senator from Illinois is recognized.

Mr. DURBIN. Mr. President, thank you for observing how beautiful it is outside and how wonderful it is to serve the Senate. Like yourself, I feel honored to represent the fine people of my State.

I also am honored to ask unanimous consent that when I finish my remarks, the senior Senator from West Virginia, Mr BYRD, be recognized to take the floor.

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

THE NUCLEAR OPTION

Mr. DURBIN. Mr. President, I would like to address two issues that are related. The first issue is the so-called nuclear option. I think many people have read about it and heard about it. I would like to explain, from my point of view, the merits of that issue. Then I would like to address an article which appeared this morning on the front page of the New York Times relative to a meeting which will take place on April 24, sponsored by the Family Research Council, a meeting at which the majority leader of the Senate, Senator BILL FRIST, is reported to be scheduled to speak. I would like to address both of those issues and try to make this as direct and concise as I can.

First, let me say there is one thing that binds every Member of the Senate, Republican or Democrat or Independent. There is one thing that brings us together in this Chamber. It is an oath of office. That oath of office, where we stand solemnly before the Nation, before our colleagues, is an oath where we swear to uphold and defend the Constitution of the United States, this tiny little publication which has guided our Nation and our values for over two centuries.

Though we may disagree on almost everything else, we swear to uphold this document. We swear that at the end of the day we will be loyal to this Constitution of the United States. That, I think, is where this debate should begin, because this Constitution makes it very clear that when it comes to the rules of the Senate, it is the responsibility and authority of the Senate itself to make its rules. I refer specifically to article I, section 5. I quote from the Constitution:

Each House may determine the rules of its proceedings. . . .

Because of that, most courts take a hands-off attitude. It is their belief that we decide how we conduct business in this Chamber, as the House of Representatives will decide about theirs. That is our constitutional right.

When this Constitution was written, there was a question about whether we could bring together 13 different colonies and they would agree to have one Federal Government. The first suggestion was that we create a House of Representatives with one Congressman for each American person who will be counted. There was, of course, a different system for counting those of color. But when the smaller States took a look at the House of Representatives, they were concerned. They understood in the House of Representatives the larger States would be a dominant voice because they had more people, more Congressmen. The Great Compromise said let us resolve this by creating a Senate which will give to every State, large and small, the same number of Senators—two Senators from each State. So today the State of Rhode Island has the same number of Senators as the State of New York; the State of South Dakota, the same number of Senators as the State of California—the Great Compromise, so the Senate would observe the rights of the minority, the smaller populated States, and give them an equal voice on the floor of the Senate.

The Senate rules were written to reflect that unique and peculiar institutional decision. We said within the Senate, following this same value and principle, that our rules would be written so the minority within the Senate would always be respected. We created something called a filibuster, a filibuster which is unique to the Senate but is consistent with the reason for its creation.

Some of you may remember the filibuster if you saw the movie ''Mr. Smith Goes to Washington.'' Jimmy Stewart, a brand new Senator, full of idealism, comes to the floor of the Senate and runs smack dab into this establishment of power in the Senate. He decides it is worth a fight and he stands at his Senate desk and starts to speak, and he continues to speak hour after hour until clearly he is about to collapse. But he holds the Senate floor because it was his right to do it as a Senator. As long as his throat would hold up, and other bodily functions, he continued.

We all remember that movie. It spoke to the idealism of the Senate and it spoke to its core values—the filibuster. That is because it was part of checks and balances. It said we are saying to the legislative branch of Government: You are independent, you have your own power, and within that legislative branch you make your own rules. You define who you will be and how you will conduct your business.

We said to the executive branch: We respect you, but you are separate. You don't make our rules; the legislature makes its own rules. The Senate makes its own rules. The House makes its own rules. It is because of that difference, because each branch—the executive with the President, the congressional branch of Government and the judicial branch of Government—is separate and coequal, that we have this great Nation we have today.

It was an amazing stroke of genius that in this tiny publication these Founding Fathers understood how to create a government that would endure.

Think of all the governments in the world that have come and gone since those men sat down in Philadelphia and wrote these words. We have endured. Each and every one of us comes to this floor before we can cast our first vote and we swear to uphold and defend this document and what it contains.

The reason I tell you this is because at this moment there are those who are planning what I consider to be an assault on the very principles of this Constitution. There are those who wish to change the rules of the Senate and in changing the rules of the Senate, defy tradition, change the rules in the middle of the game, and have a full frontal assault on the unique nature of this institution. That, I think, is an abuse of power. I think it goes way too far. It ignores our Founding Fathers. This nuclear option ignores the Constitution. It ignores the rules of the Senate. For what? So the President of the United States can have every single judicial nominee approved by the Senate.

What is the scorecard? How has President Bush done in sending judicial nominees to the Senate? I can tell you the score as of this moment. Since he was elected President, he has had 215 nominees on the floor for a vote in the Senate and 205 have been approved. That is 205 to 10; over 95 percent of President Bush's judicial nominees have come to the floor and been approved. Only 10 have not been approved. They have been subject to a filibuster, part of the Senate rules.

But this White House and majority party in the Senate have decided 95 percent is not enough. They want it all. They want every nominee. Sadly,

they are about to assault this Constitution and the rules of the Senate to try to achieve that goal.

This so-called nuclear option is a power grab. It is an attempt to change the rules of the Senate. It is an assault on the principle and value of checks and balances. It is an attempt by the majority party in the Senate to ram through nominees who will not pledge to protect the most important rights of the American people. It is an attempt to say we cannot demand of the President's nominees that each person be balanced and moderate and committed to the goals of ordinary Americans. The fact that the President has had 205 nominees approved and only 10 rejected is not good enough. He wants them all.

This is not the first President in history who has decided in his second term to take on the courts of our country, to say he wanted to put into that court system men and women who agreed with him politically at any cost. The first was one of our greatest Americans, Thomas Jefferson. Full of victory in his second term, he decided to attempt to impeach a Supreme Court Justice who disagreed with him politically, to show he had the political power, having just been re-elected. His efforts were rejected. They were rejected by his own party, his own party in the Senate, who said: Mr. President, we may be part of your party, but we disagree with this power grab.

We are going to protect the constitutional rights and power of our institution of the Senate.

More recently, President Franklin Delano Roosevelt—one of the greatest in our history—as his second term began, became so frustrated by a Supreme Court that would not agree with him, that he sent to the Senate a proposal to change the composition of the Court to make certain that we filled the bench across the street in the Supreme Court with people who were sympathetic to his political agenda. He sent that legislative proposal to a Congress dominated by his political party, by his Democratic Party. What was their response? They rejected it. They said we stood by you in the election, we will stand by your policies, but we will not allow you to abuse this Constitution. We will not allow you to change the rules so you can have more power over our judges. That was the principle at issue. Frankly, Roosevelt lost the debate when men and women of his own party stood up and opposed him in the Congress.

Thomas Jefferson lost the same debate.

Here we go, again. For the third time in our Nation's history, a President, as he begins his second term, is attempting to change the rules of the Senate to defy the Constitution and to give the Office of the President more power to push through judges, to defy the checks and balances in our Constitution.

I don't believe I was elected to the Senate to be a rubber stamp. I believe I was elected and took the oath of office to uphold this Constitution, to stand up for the precedents and values of Congress and our Nation. We need to have, in our judiciary, independence and fairness. We need to have men and women on the bench who will work to protect our individual rights, despite the intimidation of special interest groups, despite the intimidation of Members of Congress. They need to have the courage to stand up for what they believe, in good conscience, to be the rights and freedoms of Americans.

I speak, as a Senator on the Democratic side, and tell you that our 45 Members will not be intimidated. We will stand together. We understand these lifetime appointments to the bench should be subject to close scrutiny, to evaluation, and to a decision as to why they are prepared to serve and serve in a way to protect the rights and aspirations of ordinary Americans.

The filibuster, which requires that 60 Senators come together to resolve the most controversial issues, that rule in the Senate, forces compromise. It forces the Republicans to reach across the aisle and bring in some Democrats when they have very controversial legislation or controversial nominees. It forces bipartisanship—something that tells us, at the end of the day, we will have more moderate men and women who will serve us in the judiciary. Those who would attack and destroy the institution of the filibuster are attacking the very force within the Senate that creates compromise and bipartisanship.

Those who are forcing this nuclear option on the Senate are not just breaking the rules to win, but they want to break the rules to win every time.

Despite the fact that President Clinton had over 60 judicial nominees who never received a hearing and vote when the Republicans were in control of the Senate, this President has only been denied 10 nominees out of 215. We have one of the lowest vacancy rates in the Federal court in modern memory. Yet, they are prepared to push through this unconstitutional and unreasonable change in the Senate rules. It is the first time in the history of the Senate, it is the first time in the history of the United States, that a majority party is breaking the rules of the Senate, to change the rules of the Senate in the middle of the game. I think that is truly unfortunate.

I only hope that some Republican Senators, who value their oath of office and who value this institution, will have the same courage the Democratic Party had when it said to President Franklin Roosevelt: You have gone too far. We cannot allow you to impose your political will on the Supreme Court. They stood up to their President and said our first obligation is to the Constitution, our first obligation is to the Senate.

We will be Democrats after that, but first we must stand behind the Constitution.

I am only hoping that six Republican Senators will stand up, as Thomas Jefferson's party stood up and told him—one of our Founding Fathers—that he was wrong in trying to impose his political will on the Supreme Court and the Federal courts of the land. They had the courage to do it to their President.

How many Republican Senators will stand up to this Constitution and for the values and traditions of this great Senate?

I have a document which I ask unanimous consent be printed in the RECORD.

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

HISTORY OF FILIBUSTERS AND JUDGES

Prior to the start of the George W. Bush administration in 2001, the following 11 judicial nominations needed 60 (or more) votes—cloture—in order to end a filibuster:

1881: Stanley Matthews to be a Supreme Court Justice.

1968: Abe Fortas to be Chief Justice of the Supreme Court (cloture required ⅔ of those voting).

1971: William Rehnquist to be a Supreme Court Justice (cloture required ⅔ of those voting).

1980: Stephen Breyer to be a Judge on the First Circuit Court of Appeals.

1984: J. Harvie Wilkinson to be a Judge on the Fourth Circuit Court of Appeals.

1986: Sidney Fitzwater to be a Judge for the Northern District of Texas.

1986: William Rehnquist to be Chief Justice of the Supreme Court.

1992: Edward Earl Carnes, Jr., to be a Judge on the Eleventh Circuit Court of Appeals.

1994: H. Lee Sarokin to be a Judge on the Third Circuit Court of Appeals.

1999: Brian Theadore Stewart to be a Judge for the District of Utah.

2000: Richard Paez, to be a Judge on the Ninth Circuit Court of Appeals.

2000: Marsha Berzon to be a Judge on the Ninth Circuit Court of Appeals.

Because of a filibuster, cloture was filed on the following two judicial nominations, but was later withdrawn:

1986: Daniel Manion to be a Judge on the Seventh Circuit Court of Appeals Senator Biden told then Majority Leader Bob Dole that ''he was ready to call off an expected filibuster and vote immediately on Manion's nomination.''—Congressional Quarterly Almanac, 1986.

1994: Rosemary Barkett to be a Judge on the Eleventh Circuit Court of Appeals ''... lacking the votes to sustain a filibuster, Republicans agreed to proceed to a confirmation vote after Democrats agreed to a day-long debate on the nomination.''—Congressional Quarterly Almanac, 1994.

Following are comments by Republicans during the filibuster on the Paez and Berzon nominations in 2000, confirming that there was, in fact, a filibuster:

''. . . It is no secret that I have been the person who has filibustered these two nominations, Judge Berzon and Judge Paez.''—Senator Bob Smith, March 9, 2000.

''So don't tell me we haven't filibustered judges and that we don't have the right to filibuster judges on the floor of the Senate. Of course we do. That is our constitutional role.''—Senator Bob Smith, March 7, 2000.

''Indeed, I must confess to being some what baffled that, after a filibuster is cut off by cloture, the Senate could still delay final vote on the nomination.''—Senator Orrin Hatch, March 9, 2000, when a Senator offered a motion to indefinitely postpone the Paez nomination after cloture has been invoked.

In 2000, during consideration of the Paez nomination, the following Senator was among those who voted to continue the filibuster:

Senator Bill Frist —Vote #37, 106th Congress, Second Session, March 8, 2000.

Mr. DURBIN. Mr. President, to give credit to the authorship, my colleague, Senator BOXER of California, put her staff to work. She asked them to research how many times, in the history of the Senate, a filibuster had been used to slow down or deny a Federal judgeship. You see Senator FRIST and others have stood before the press and said it has never been done. These Democrats have dreamed up something that has never been done. Using a filibuster to stop the judicial nominee has never occurred. I have seen those quotes. Unfortunately, they are wrong.

Prior to the start of President Bush's administration in 2001, at least 12 judicial nominations needed 60 votes for cloture to end a filibuster: the first, 1881, Stanley Matthews to be a Supreme Court Justice; 1968, Abe Fortas to be the Chief Justice of the Supreme Court; and the list goes on. Twelve different judicial nominees that have been subject to filibuster, and they are not all in the distant past.

The most recent occurred during the Clinton administration. Two nominees that he sent, Richard Paez and Marsha Berzon to the Ninth Circuit Court of Appeals, were filibustered by the same Republican Senate side that now argues this has never happened.

We have seen this happen because of the filibuster—cloture—which is the way to close down the debate, close down the filibuster. Cloture motions were filed on two judicial nominations. It was done in 1986, Daniel Manion; in 1994, Rosemary Barkett.

Some of the comments made by Republican Senators in the last few years about the filibusters on Clinton judicial nominees tell the story.

Senator Bob Smith of New Hampshire, in March of 2000, said, as follows, on the floor of the Senate in the official RECORD, the CONGRESSIONAL RECORD of the Senate. Here is what he said:

. . . it is no secret that I have been the person who has filibustered these two nominations, Judge Berzon and Judge Paez.

He also said:

So don't tell me we haven't filibustered judges and that we don't have the right to filibuster judges on the floor of the Senate. Of course we do. That is our constitutional role.

I hear Senators now saying, on the Republican side, it has never been done, no one has ever considered it. In fact, it has happened—and repeatedly—in our history.

In fact, in the year 2000, during consideration of the Paez nomination, there was one Senator who voted to continue the filibuster against Judge Paez. Who was that Senator? Senator BILL FRIST, the majority leader of U.S. Senate. His own action speaks volumes. He understood then there was a filibuster on a Democratic nominee, and he joined them in filibustering it. It is a matter of record, vote number 37, 106th Congress, second session, March 8, the year 2000. This is all in the CONGRESSIONAL RECORD.

So there is no question we have used the filibuster on judicial nominees. It is not an extraordinary thing in terms of our rules. It is extraordinary in terms of the number of occurrences. But I think it tells us, if you look at the history and precedent of the Senate and the use of this Constitution, that the right of the filibuster on a judicial nominee is protected by this Constitution.

So now comes the Republican majority. They say they are going to break the rules of the Senate to eliminate this filibuster of judicial nominees; to change the rules in the middle of the game; to stop the checks and balances which are an integral part of our legacy in this democratic form of government.

It is bad enough that this constitutional assault is being planned and discussed. But this morning a new element was introduced into it which is very troubling.

On the front page of the New York Times this morning is an article by David Kirkpatrick entitled, ''Frist Set to Use Religious Stage on Judicial Issue.''

This article, which I will read from, says as follows:

As the Senate heads toward a showdown over the rules governing judicial confirmations, Senator Bill Frist, the majority leader, has agreed to join a handful of prominent Christian conservatives in a telecast portraying Democrats as ''against people of faith,'' for blocking President Bush's nominees.

Fliers for the telecast organized by the Family Research Council and scheduled to originate at a Kentucky megachurch the evening of April 24, call the day ''Justice Sunday'' and depict a young man holding a Bible in one hand and a gavel in the other. The flier does not name participants, but under the heading ''the filibuster against people of faith,'' it reads: ''The filibuster was once abused to protect racial bias, and it is now being used against people of faith.''

Mr. President, this is a delicate issue—the role of religion in America in a democratic society. It is one our Nation has struggled with—not as much as the issue of race and slavery, but close to it since our founding.

The men who wrote this Constitution said that we should be guided by three rules when it comes to religion in America. The three rules were embodied in the first article of the Bill of Rights. It says each of us shall have freedom of religious belief. What does that mean? We can rely on our own conscience to make decisions when it comes to religion. We can decide whether we will believe or not believe, whether we will go to church or not go to church, whether we will be a member of one religion or another. It is our individual conscience that will make that decision.

In addition to that, of course, the Bill of Rights says that this Government shall not establish any church; there will not be an official church of America. There is a church of England. There may be religions of other countries, but there will not be a church of America—not a Christian church, not a Jewish synagogue, not a Muslim mosque. There will not be a church of America, according to the Constitution.

The third thing it says, and this is especially important in this aspect of the debate, and this is article VI of the Constitution, is that no religious test shall ever be required as a qualification to any office or public trust under the United States. It couldn't be clearer. We cannot legally or constitutionally even ask a person aspiring to a judicial nomination to what religion they belong. They can volunteer it, they may give us some evidence to suggest what their religious affiliation might be, but we cannot ask it of them, nor can we use it as a test to whether they qualify for office. That is not my decision; it is a decision which I respect in this Constitution, and I have sworn to uphold it.

Now come these judicial nominees, some of whom are controversial, 10 of whom have been subject to a filibuster. They hold a variety of different positions on a variety of different issues. Some of them are purely governmental issues and secular issues, but some are issues which transcend—they are issues of government which are also issues of values and religion.

A person's position on the death penalty is an important question to ask. It is an important part of our criminal justice system. It is also a question of religious belief. Some feel it is permissible in their religion; others do not. So when you ask a nominee for a judgeship, for example, What is your position on the death penalty, you are asking about a provision of our law, but you are also asking a question that may reach a religious conclusion, too. The lines blur.

It isn't just a matter of the issue of abortion. It relates to family planning, to medical research, to the issue of divorce—all sorts of issues cross those lines between government and religion.

I have been on the Committee on the Judiciary for several years. We have tried to be careful never to cross that line to ask a question of religious belief, knowing full well that most of the nominees sent to us had some religious convictions. Our Constitution tells us there is no religious test for public office in America, nor should there be if you follow that Constitution.

So this event, April 24, in Kentucky, by the Family Research Council, suggests the real motive for the filibuster against judicial nominees is because those engaged in the filibuster are against people of faith. They could not be more mistaken. The leader on the Democratic side of the aisle is Senator HARRY REID of Nevada. Senator REID and I have been friends and served together in Congress for over 20 years. I

know him. I know his wife Landra. I know the family he is so proud of. I told him I was going to come to the Senate to speak for a few minutes about this issue. I said: HARRY, do you mind if I talk about your religious belief, since you are the Democratic leader? He said: I never talk about religion. To me, it is a personal and private matter; have you ever heard me bring up the issue of religion? And I said: Never, in any of the time I have known you. But, he said, you can say this: You can say that HARRY REID said, I am a person of religious conviction. It guides my life.

So those on the side of the filibuster against 10 nominees out of 215—many come to this debate on a personal basis with religious conviction and religious beliefs. We are not in the business of discriminating against anyone for their religious belief. I will fight for a person to have their protection under our Bill of Rights to believe what they want to believe, that our Government will not impose religious beliefs on anyone. That freedom, that right, is sacred and needs to be protected. What we find, unfortunately, is that those who are staging this rally have decided to make the issue of the filibuster a religious issue. It is not and never should be.

Americans value religious tolerance and respect. Those who would use religion to stir up partisanship or political anger do a great disservice to this country and to this Constitution. We need to be mindful of our responsibilities now more than ever.

Witness what has occurred in America in the last several weeks. The contentious national debate over the tragic story of Terri Schiavo, a woman who survived for 15 years, and after numerous court appeals involving statements by her husband as to her intentions, statements by her parents as to their beliefs and values, the courts ruled in Florida that ultimately her decision to not have extraordinary means to prolong her life would be respected. There were those in the House of Representatives, Congressman TOM DELAY of Texas and others, who would not accept the decision of the Florida courts. They wanted special legislation to give others, including those who were not members of her family, the right to go to court and to fight the family's wishes, to fight her husband's wishes, to fight the Florida court decisions.

That matter came to the Senate. What we did here was the more responsible course of action. We said, yes, in this particular case they may appeal the Florida court decisions on the Schiavo matter to the Federal courts so long as the person who initiates the appeal is a person in interest, a member of her family, someone who has her best interests in mind, and ultimately the Federal court will decide whether it should be reviewed. That ultimately was enacted, and in a matter of 7 days the Federal courts, from the lowest court to the highest court, said it has been decided; we are not going to intervene.

What happened after that with the Schiavo case? Congressman DELAY and many others from organizations said: That's it, you cannot trust the Federal Judiciary. We have to impeach the judges who reach these decisions. They have decided that the independence of the judiciary needs to be attacked by our branch of government.

Is that new? Of course it is not. Many are unhappy with decisions involving Federal courts from time to time. But to call for the impeachment of Federal judges—and some have suggested even worse—crosses that line.

Those who are holding some of these rallies have suggested—and I am reading directly from the Family Research Council release of April 15. Let me read the entire first paragraph, in fairness.

This is from the Family Research Council:

> A day of decision is upon us. Whether it was the legalization of abortion, the banning of school prayer, the expulsion of the 10 Commandments from public spaces, or the starvation of Terri Schiavo, decisions by the courts have not only changed our nation's course, but even led to the taking of human lives. As the liberal, anti-Christian dogma of the left has been repudiated in almost every recent election, the courts have become the last great bastion for liberalism.

They go on to say:

> We must stop this unprecedented filibuster of people of faith.

They call on people to join them on Sunday, April 24, for their so-called Justice Sunday. It is reported in newspapers today that the majority leader of the Senate will be among those at their gathering. I do not dispute Senator FRIST's right to speak his mind. I will fight for his right for free speech and for those who have written this publication. But I ask Americans to step back for a moment and ask, Is this what you want? Do you want to have a Federal judiciary and a Congress that intervenes in the most private aspects of your life and the life of your family? Do you believe, as most do in America, that we want to be left alone when it comes to our Government, that we want to face these critical life-and-death decisions as a family, understanding the wishes of the person involved, praying for the right way to go, but making the ultimate choice in that hospital room, not in a courtroom?

Make no mistake, these decisions are made time and time again every day, hundreds of times, maybe thousands of times. Doctors, family members, ministers, and others, gather in the quiet of a hospital corridor and have to answer the most basic questions.

It has happened in my family. It has happened in most.

The first thing we ask is, What would my brother want? What would my mother want? It is a private, personal, and family decision. But some believe it should not be. They believe anyone should be able to go to court to overturn that family decision and to inject themselves into the most intimate decisions of our personal lives. Sadly, that is what part of this debate has disintegrated to.

Let me close by saying this. I see my colleague and friend Senator BYRD has come to the floor. I do not need to ask him, I can guarantee you, without fear of contradiction, that in his suit pocket he carries the U.S. Constitution. There is no Member of the Congress, certainly no Member of the Senate, who honors this document more every day that he serves. And it has been my privilege and high honor to serve with him.

I think he understands, as we do, that this nuclear option is a full-scale assault on our Constitution. It is an assault on the checks and balances which make America different, the checks and balances in our Government which have led to the survival of this Nation for over two centuries.

This nuclear option, sadly, is an attempt to break the rules of the Senate in order to change the rules of the Senate so this President and his majority party can have any judicial nominee they want. And, sadly, if they prevail, it will make it easier for them to appoint judges to the bench who are not in touch with the ordinary lives of the American people, who are not moderate and balanced in their approach, but, sadly, go too far.

This is not an issue of religion. I cannot tell you the religious beliefs of any of the 10 nominees we have filibustered. By the Constitution, and by law, we cannot even ask that question, nor would I. But it is fair to ask those men and women, as we have, whether they will follow this Constitution, whether they will set out to make law or respect law, whether they will honor the rights and freedoms of the American people. In 10 cases out of 215, it has been the decision of at least 41 Members of the Senate or more that the nominees did not meet that test.

We need to work together to respect the rights of the American people and to respect the Constitution which we have sworn to uphold and defend.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. SUNUNU). The Senator from West Virginia.

Mr. BYRD. Mr. President, I thank the Chair.

Mr. President, I thank the distinguished Senator from Illinois, Mr. DURBIN, for his kind and overly charitable comments concerning me.

AgJOBS AMNESTY

Mr. BYRD. Mr. President, today, I oppose the AgJOBS amnesty. I oppose it. I oppose it unequivocally. I oppose it absolutely.

The Senate has already heard a great number of euphemisms about the AgJOBS bill, but let's be clear from the start about what we are discussing. AgJOBS is an amnesty for 3 million illegal aliens. It is amnesty for aliens employed unlawfully in the agricultural sector, and it is amnesty for the businesses that hire and exploit them as cheap labor.