

and how fast we train security forces and police there. It is also clear that the faster and better we train these forces, the sooner our troops can come home.

This amendment is designed to ensure that the training in Afghanistan—for which this bill dedicates more than \$600 million, including \$44.5 million which is to be available only for the establishment of a pilot program to train local Afghan police forces—is handled well and is handled in an accountable fashion.

We have seen what happens when training is rushed or when accountability is ignored. The Haitian National Police, for which we spent hundreds of millions of dollars training in the 1990s, is all but disbanded. We are all familiar with the stories of mismanagement of police training in the Balkans. And just last week, Secretary Rumsfeld took an emergency trip to Baghdad to try to salvage some of the training we have done there as Shiite political leaders threaten to purge Sunni officials from the forces.

This amendment is meant to ensure that training in Afghanistan benefits from lessons learned and the mistakes of the past. It adds commonsense provisions to the \$660 million appropriated for police and counternarcotics programs in Afghanistan. We need to take this step because the challenges we face in training a capable security and police force in Afghanistan are perhaps even more daunting than in Iraq.

First, Afghanistan is the world's largest producer of poppy, the raw material for heroine. It produces 80 percent of the world's heroine and, according to the United Nations, is currently producing dramatically more than it did under the control of the Taliban. Keep in mind that heroine use not only fuels crime throughout Europe and in the United States, but it funds terrorist organizations and is responsible for the looming AIDS crisis throughout eastern Europe.

Second, there are already several countries and organizations training forces in Afghanistan, including for the vitally important effort of counternarcotics. In fact, this difficult task of building a capable law enforcement system in that formerly ruler-less country is divided among the United States, Italy, Great Britain and several different international organizations.

And third, the way the administration has structured this program lends itself to confusion and competition among American agencies. The funding in the bill goes to the Department of Defense, but much of the police training will be handled by the State Department.

This amendment is an effort to make sure we can get the accountability our taxpayers deserve as well as the success that our national security demands.

I recognize good training will not be easy. I also understand that in post-conflict societies, it is often difficult to

find good personnel. But I also recognize that we simply have to get better at how we train other people to take over security in their own countries.

The stress on our Armed Forces demands no less. The challenges facing U.S. taxpayers demand no less. And success in post-conflict societies demands no less.

Before coming to the U.S. Senate, I had the honor of serving our great State of Colorado as attorney general. In that job, I made homeland security my highest priority.

One of the responsibilities I had as attorney general was being chairman of the Peace Officers Standards and Training Board, POST. Given all that our police officers and their families give for us and for our State, the least I could do was to fight for additional training and support resources.

In 2003, we did that, and in exchange we asked for greater accountability. We did that, too, and the result has been a better trained and more accountable police force, not to mention a safer Colorado.

It has worked in Colorado and across this country. I believe with the adoption of this amendment we can start to make it happen in our police training overseas as well.

Madam 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. SALAZAR. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

POPE BENEDICT XVI

Mr. SALAZAR. Madam President, I want to take a moment this morning to discuss the election of Pope Benedict XVI as the leader of my church and the leader of the 1 billion Catholics in our world. I pray for him as he assumes this awesome responsibility for our church and for our world.

I have also been comforted by the comments we have heard from Pope Benedict XVI. We know we face some difficult challenges in the Catholic Church in the days and years ahead. We also know we as Catholics are not united on every issue. As I said on this floor after the passing of Pope John Paul the Great, we as Catholics are both comforted by our church's teachings and challenged by its demands. That will continue to be the case. And that is as it should be.

What is also true is what Pope Benedict XVI said yesterday. He said: Catholics "look serenely at the past and do not fear the future."

I was also touched by another thing the Pope said yesterday. In relation to John Paul the Great's efforts to reach out to other Christian faiths, Pope Benedict XVI said:

I am fully determined to accept every initiative that seems opportune to promote contact and understanding.

"I am fully determined to accept every initiative that seems opportune to promote contact and understanding."

I am praying for those kinds of efforts. I hope each of us will take a moment this Sunday, the very day of the Pope's inaugural mass, to pause and reflect on how we can best live up to this challenge from Pope Benedict XVI.

Madam 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. JOHNSON. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

JUDICIAL NOMINATIONS

Mr. JOHNSON. Madam President, as a Senator who has served in both the House of Representatives and the Senate, in both the majority and the minority in the House and both in the majority and the minority in the Senate, I am distressed at some of the rhetoric and debate that has gone forward relative to the role of the so-called filibuster rule or the nuclear option, as some people refer to it. It is my hope the debate can go forward in a more civil and thoughtful manner than has sometimes been the case up until now.

I have served—and it has been an honor to serve—in both bodies. Each of the bodies, the House and the Senate, has a respective and important role to play. One of the factors, however, that most distinguishes the Senate from the other body is the existence of the 60-vote rule, the so-called filibuster rule, which has the consequence of requiring both political parties to come to the center, to have some at least modicum of bipartisanship in the proposals they pursue, the nominees who are considered.

That is one of the great strengths of the Senate. I know it frustrates some who would like to see the Senate operate more as the other body does, where a one-vote margin is all that is essentially ever necessary. A rules committee further streamlines things. As a consequence, the other body tends to be and has been over the years most often a far more partisan body than the Senate.

The Founders designed the Senate with 6-year terms and a differing basis for selection as a body that would be the more thoughtful, more deliberative, would take the longer view of initiatives that are before the Congress. The Senate plays a very important role.

There is too much partisanship in Congress. I have the honor of representing South Dakota, a State some would describe as a dark red State that President Bush won by a large margin this last time. I am very proud of the

Republican support that has been extended to me over the years I have had the honor of serving in the House and the Senate. The people of South Dakota are tired and grow weary of the intensity of the partisanship that too often exists in Washington, DC. The people of South Dakota want to see both sides brought together to govern as Americans rather than as Republicans or Democrats. That is not asking too much, for the traditions and the historic rules that have existed in this body that encourage bipartisanship should remain.

This notion that somehow in the midst of Congress rules that have been in place for generations should be eliminated and the bipartisan mandate they allow for should be eliminated is a step in the wrong direction.

One of the consequences of the 60-vote rule is it takes both parties by the scruff of the neck, brings them together and says: You will have to reach across the aisle and cooperate, coordinate with your colleagues from the other political party, whether or not you like it. That has been a very valuable asset to the Senate and, again, one of the things that distinguishes the debate and deliberation and progress of legislation in the Senate from what transpires with our colleagues in the other body.

There is too much division in America today. There is too much partisanship. The rhetoric has grown far too bitter. It has grown far too extreme. What America wants, and what I believe my constituents want, is more governing from the center. Most South Dakotans and most Americans recognize neither party has all the answers, neither party has all the good or bad ideas, and we are governing best when we come together in the political center. That will leave the far left and the far right unhappy. They are unhappy most of the time, anyway. But I do think governing from the center, which the 60-vote rule requires, is one of the great strengths of the Senate.

It would be a horrible mistake for this body to discard that bipartisan mandate that rule imposes on this body. A loss of bipartisanship would not only affect the consideration of judges, but the precedent would certainly be in place to affect consideration of all other legislation as well.

Keeping in mind that this body, even with that rule in place, has approved some 205 Federal judges nominated by President Bush, has rejected roughly 10, and that we have one of the lowest judicial vacancy rates in American history right now—in fact, about 60 percent of all Federal appellate judges are appointees of Republican administrations over the last number of years—to suggest somehow there is a crisis with judges is a fabrication, frankly. It is simply untrue.

Judges are being considered, voted on, approved at a record rate. In fact, all of these judges have had up-or-down votes as opposed, sadly, to the experi-

ence during the Clinton administration where some 60 of his nominees never received a hearing or a vote. In this case every nominee has received a vote in committee and on the floor, albeit that vote on the floor is consistent with the 60-vote parliamentary rule of the Senate which does require both sides to come together in the center.

Clearly, President Bush can have the approval of 100 percent of his judges. All he has to do is to nominate conservative Republican judges who are part of the conservative mainstream of America, a very broad range of discretion that he has. Those judges will be confirmed, as have the 200 plus who have routinely been confirmed by this body.

The Senate does have a constitutional obligation of advice and consent on these lifetime appointments. That is one of the reasons why this issue is so profoundly important, because this is not simply a legislative matter that will come and go and be reconsidered at another time. We are considering the appointments of people to high office for a lifetime. It is imperative the Senate insist that each of these individuals, men and women, be part of the political and judicial mainstream of America, albeit we have a Republican President, and certainly he will nominate conservative Republican judges, as well he ought, and they will be approved in a routine manner as over 200 have already.

But there is an importance that the nominees do fall within the political mainstream, and the one test to see to it that is the case is the 60-vote margin rule where no judge, regardless of what their political background or judicial background might be, can be approved unless, in fact, there is some modest bipartisan support, not an overwhelming consensus.

Nobody is suggesting a 90-percent rule or 75-percent rule or even the 66-percent rule which used to be the case for filibusters some years ago but that there be a 60-vote margin. I don't think that is asking too much in the name of bipartisanship, in the name of requiring both parties to come together, and in the name of diminishing the level of partisan hardball that characterizes the other body and to some degree has infected the debate and the rhetoric even here in the Senate.

Having witnessed the political dynamic in both bodies, having had the honor to serve in both bodies, having been in both the majority and minority, because the rule we are talking about of bipartisanship should prevail regardless of whether Republicans or Democrats are in the majority or the minority, having witnessed all of that and knowing where my constituents come from in terms of growing weary of the partisanship and the political efforts in Washington, DC, to jam one idea past another without the need for deliberation, without the need for give and take between the two parties, I have to believe we ought to reject the

strategies that will play into the hands of the far left or the far right and continue the historic rules that have been in place for the Senate which, in fact, not only encourage but require at least a modest level of bipartisanship and deliberative thinking when we consider legislation or lifetime appointments to the U.S. courts.

It is my hope cooler heads will prevail, that the historic rules of this body will prevail, and that the Senate will continue to play the incredibly important and unique role it has throughout 200 years of American history. That is a body where the hot rhetoric of the day is set aside and the two political parties are required to come together, to approach issues in a more thoughtful, more deliberative and bipartisan fashion. We would be a poorer nation, indeed, were it not for that kind of bipartisan mandate that the current rules of the Senate insist upon.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Madam President, how much time is remaining?

The PRESIDING OFFICER. There is 4 minutes remaining.

Mr. DURBIN. Madam President, I ask unanimous consent for an additional 6 minutes—I believe the majority party had about that added to their morning business—if there is no objection.

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

Mr. DURBIN. Madam President, I thank my colleague from South Dakota who just spoke. I just left the Senate Judiciary Committee of which I have been a member for a number of years. It is not just an ordinary meeting of the committee today; it is a historic meeting. It is a meeting I am sure, when they chronicle this episode in the history of the Senate, they will point to as a catalyst for a constitutional confrontation, the likes of which the Senate has never seen in its history. Let me tell you what is going on.

Many times in the history of this country, a President with a popular mandate comes to Washington in their second term unhappy with the judiciary, unhappy with judges who do not see the world as they do. These Presidents come to the conclusion that with their popular mandate, with their majorities in Congress, they can change the Constitution, they can change the courts.

It is happening with President Bush, but he is not the first President who has been through this experience. President Thomas Jefferson, in the beginning of his second term, so angry over the opposition party that controlled judgeships, tried to impeach a member of the U.S. Supreme Court. He brought the issue to the floor of the Senate, to a floor that was dominated by his own political party, and said: Give me the power to get rid of these outrageous judges. His party turned on him and said: No, the Constitution, Mr. President, is more important than your

power. We reject your notion that you can pack the Supreme Court with friendly judges.

Thomas Jefferson was not the last. A President whom I honor and venerate, Franklin Delano Roosevelt, in the beginning of his second term came to the White House with this large popular mandate and, in frustration, said: I am sick and tired of the ideas of the New Deal being killed in that Supreme Court. Give me the power as President, Franklin Roosevelt said, and I will replace and add to the membership of that Supreme Court until we get Justices who think like I do.

He came to this Senate, this Chamber, dominated by Members of his own political party, and said: Stand with me. You voted for the New Deal, now stand with me. We are going to make sure the Supreme Court goes along. And his party said no. They said: Franklin Roosevelt, the Constitution is more important than your power as President. We will stand by the Constitution. You are wrong, Mr. President.

But look what is happening today. President Bush, not content to have 95 percent of his judicial nominees approved by this Senate, has now said: This Republican Party is going to change the rules of the Senate, change the constitutional principles that have guided us so that President Bush can have every single judicial nominee approved by the Senate, bar none.

So what will happen in a Senate dominated by the President's party? Will they rise in the tradition of Thomas Jefferson's Senate? Will they rise in the tradition of Franklin Delano Roosevelt's Senate? Will they, as the President's party, stand up and say: The Constitution is more important than the power of any President? Sadly, it appears they will not. They are lapdogs as the President is demanding this power. They will come to the Senate with the so-called nuclear option. It is a good name. It is a good name because it signifies the importance and gravity of what they will do.

The first thing they have to do is break the rules of the Senate. If you want to change a Senate rule, you need 67 votes. They do not have 67 votes to give President Bush this unbridled power, so they will break the rules of the Senate with a so-called point of order to change the rules of the Senate and to say that this President, unlike any other President in history, will not have his judicial nominees subject to the rules of the Senate as we know them.

Oh, they argue, this opposition to President Bush's nominees is unprecedented. Nobody has ever used the filibuster on a judicial nominee. That is what they say. But they are wrong. It has happened 11 times. Most recently the Republicans used the filibuster against President Clinton's nominees. They have done it. They have done it because the rules allowed them to do it. And now, in the middle of the game,

they want to change the rules and diminish the power of the Senate and attack the principle of checks and balances.

The reason this great democracy has survived longer than any in history is that we have this tension between the branches of Government—the power of the Presidency checked by the power of Congress checked by the power of the judiciary—and this tension among the three branches of Government has given us this democracy that has survived while others have failed. Yet the majority party, the Republican Party in the Senate, would walk away from that fundamental principle, for what? For what? So that this President can have every single judicial nominee without fail? Madam President, 95 percent is not enough? And 205 out of 215 is not enough?

I have stood with my colleagues and voted against some of these nominees. I will do it again. These are men and women far outside the mainstream of American political thought. They have been pushed to the forefront by special interest groups demanding they get lifetime appointment on a court in America to make decisions that will affect everyone—every family, every worker, the air we breathe, and the privacy we revere.

What is the agenda? We hear this agenda. It is spelled out in detail by Congressman TOM DELAY of Texas. He threatens the judiciary: We are going to dismantle them if they don't agree with me, he says. TOM DELAY is going to set the standard for judges in America? This man who was pushing through the Terry Schiavo case, defying 15 years of court decisions, defying the wishes of that poor woman's family? He was so angry when the Federal judges did not agree with him, he said: We will get even with you. That is what this is about.

So judicial nominees will come to the floor who will be approved who will follow the TOM DELAY school of thinking, who will follow something far outside the mainstream of America.

We need to have bipartisanship. We need balance. We need fairness. We need to say to a President of any political party: As powerful as you may be, you are never more powerful than our Constitution. The Constitution, which is the one commonality in the Senate, of all the things we argue about and all the things on which we disagree, we—each and every one of us—stand proudly next to that well, raise our hands, and swear to uphold and defend the Constitution of the United States.

To my colleagues and friends who are following this debate, the constitutional crisis we are facing is unnecessary. If the President's own party has the courage that Thomas Jefferson's party had, that Franklin Roosevelt's party had, they would say to the President: You have gone too far. The Constitution is more important than any President. But, sadly, we are on a path to this crisis.

If it occurs—and I hope it does not—it is going to change this body. It is going to change it dramatically. The Senate is so much different from the House. The Senate is successful because each and every day you will hear said over and over, "I ask unanimous consent." Unanimous consent is just as the phrase suggests—any Senator can object. But it seldom occurs because we agree to move forward together—Democrats on this side, Republicans on the other side—move forward with the people's business. But if the Republican majority pushes through this constitutional confrontation, destroys this tradition of the Senate, assaults the principle of checks and balances, then the courtesy, the comity, and the cooperation which makes this such a unique institution is in danger.

I hope that cooler minds will prevail. I am heartened by the fact that Senator JOHN MCCAIN, a leading Republican, has stood up and begged his fellow Republican colleagues: Don't do this. The Senate and its traditions and the Constitution, Senator MCCAIN says, are more important than any President or any party.

I am confident the Judiciary Committee will send this nomination of Priscilla Owen of Texas to the floor. I hope that once it reaches the calendar, cooler minds will prevail and all of us who have sworn to uphold this Constitution will honor it by our actions on the floor of the Senate.

EXTENSION OF MORNING BUSINESS

Mr. DURBIN. Madam President, I ask unanimous consent that the period for morning business be extended until 12 noon, with 45 minutes under the control of Senator SPECTER.

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

Mr. DURBIN. I 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. SPECTER. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. SPECTER. Mr. President, I thank the floor schedulers for reserving time for me this morning. I had hoped to be here at 11:15, but I have been chairing an executive business meeting of the Judiciary Committee where we voted on the nominations of Justice Owen and Justice Brown. Not unexpectedly, it went over the planned 11:15 conclusion, but I do appreciate the allocation of time. I asked for 45 minutes for a presentation, which I am about to make.

Mr. SPECTER. Mr. President, I seek recognition today to address the subject of Senators' independence and dissent. As members of political parties,