

Richard Kleindienst. On October 22, 1971 President Richard Nixon, nominated him to serve as an Associate Justice on the Supreme Court. He was confirmed less than 2 months later, which would be record speed for this body by today's standard.

During his time on the Supreme Court, Chief Justice Rehnquist has defended the original text of the Constitution. To a number of people that may seem like a simple task. After all, it is the Constitution. It is the basic law of the land. What is there to defend? The law speaks for itself. It is a set of plain words on a clear document that has such a significant historical place in our hearts and minds. Yet he comes along on a Court at a point in time when a number of people are saying: It is a living document, it can move with the culture, and we can interpret the words more broadly. We can interpret it not by what it says, but by what we would like it to say.

Chief Justice Rehnquist fought against that and fought for the original text of the Constitution and said it is as it is. This is a textural document. If we want to change it, that is fine, but it is changed by two-thirds of the House and two-thirds of the Senate and three-fourths of the States, not by five people on the Court. Those are not his words, but they are the principles he stood for.

The role of a Justice on the Supreme Court is to look at the plain meaning and the original text of the Constitution, not at your own cultural bias of the moment and what you believe America may need and therefore may be willing to move to.

The problem with a living document is that you don't have the rule of law. You are more of a rule of man. So he defended this proposition of the original text of the Constitution, the intent of the Framers.

Certainly, he was a promoter of life. It was in the 1973 dissent in *Roe v. Wade* that then-Associate Justice Rehnquist wrote, "To reach its result, the Court necessarily has had to find within the scope of the Fourteenth Amendment a right that was apparently completely unknown to the drafters of the Amendment."

These are the Associate Justice Rehnquist's words. In his early years of lonely dissents in cases like *Roe*, Rehnquist made his mark by standing for constitutional principle over the political preferences of an unelected judiciary. With the retirement of Chief Justice Warren Burger in 1986, President Reagan then elevated Associate Justice Rehnquist to the Court's top post, where he served with distinction until his death.

The last 19 years have shown that Chief Justice Rehnquist was a terrific choice to lead the Supreme Court. He authored countless landmark decisions and thought-provoking dissents. In carefully reasoned opinions, he insisted that the principle of federalism is an integral part of our nation's constitu-

tional structure. He recognized that our Government is one of enumerated rights and dual sovereignty, with certain functions and powers properly left to the States.

One example of Chief Justice Rehnquist's commitment to the laws is his opinion in *Dickerson v. United States*. Although a long-time critic of *Miranda v. Arizona*, Rehnquist nevertheless placed his past position aside and wrote the opinion in *Dickerson*, effectively affirming the holding of *Miranda*. He served well. He served nobly, and he served with courage. I might note that even during his recent sickness, he found the strength to do his duty and to serve in office. He found the strength to administer the oath of office to President Bush, to consider the challenging cases that came before the Court.

Peggy Noonan wrote of President Bush's inauguration, "the most poignant moment was the manful William Rehnquist, unable to wear a tie and making his way down the long marble steps to swear in the president. The continuation of democracy is made possible by such gallantry."

While some of his colleagues on the Court disagreed with him at times, there will there can be no doubt that they admired his strong leadership, his likable personality, and his ability to build consensus. That is the noteworthy quality of a gentleman. He served with distinction. He served us well. He carried his course out, and he is now at rest.

I yield the floor.

The PRESIDING OFFICER (Mr. COBURN). The Senator from North Dakota is recognized.

#### RECONCILIATION INSTRUCTIONS

Mr. CONRAD. Mr. President, I rise today to talk about the proposal that a number of us have made—Leader REID in the Senate, myself, the ranking member of the Budget Committee, Leader PELOSI in the House, Congressman SPRATT, the ranking member of the Budget Committee—to put off the reconciliation proposals that flow from the budget resolution.

We have just been hit by perhaps the greatest natural calamity in our Nation's history. We don't know yet how it will rank, but there is certainly a possibility this will be one of the greatest calamities in our Nation's history. And that is the reason we sent the letter this morning to Majority Leader FRIST and Speaker HASTERT, as well as the chairmen of the Budget Committees in both the House and the Senate recommending that we suspend those reconciliation instructions that are part of the budget resolution.

We did that because we don't think what was written then fits the facts now. We have just had a massive disaster. It makes no sense to pursue the priorities that were part of that budget resolution.

This is not a time to be cutting services to the most needy among us. This

is not the time to cut food stamps, to cut medical care for the indigent, to cut student loans. That is what is in the reconciliation process. Are we really going to cut Medicaid \$10 billion when we have hundreds of thousands of people homeless and don't have medical care and don't have a home? Are we really going to cut Medicaid in that context? Are we really going to cut food stamps when there are tens of thousands of people displaced, hundreds of thousands of people have had to leave their homes, and we are going to cut services for the most needy and, at the same time, cut taxes for the most fortunate among us?

Frankly, I did not think the budget resolution made much sense when we passed it. The budget resolution's reconciliation instructions cut spending \$35 billion and cut taxes \$70 billion, so it increased the deficit, on balance, \$35 billion when we are facing massive budget shortfalls—among the biggest in our history.

In fact, the budget that was passed here will increase the debt of the country every year by \$600 billion. That is stunning. It is going to increase the debt \$600 billion. That is before Katrina. Now are we really going to continue down that path? Are we going to continue down a path that says on an emergency basis cut services to the least among us, cut taxes for the wealthiest among us, and run up the debt even more? What sense does this make?

It makes no sense to consider those legislative proposals in light of this new reality. It seems to me very clear none of us can know yet the cost to the Federal budget of the response to Hurricane Katrina. We should not be rushing through a further reduction in resources the Federal Government has available to respond to our Nation's challenges.

Katrina is a body blow of stunning proportion. We already passed \$10 billion of aid, which we obviously should have done. We are told that we are going to be asked to immediately consider another \$51 billion of aid, which clearly we should do. But that is just the beginning.

I have been told that the cost of this disaster to the Federal Government may well reach \$150 billion. So for us to go forward with a budget plan that was written before this catastrophe, and for some to come to the floor of the Senate and say, Steady as she goes, just keep on with that plan, does not make a whole lot of sense.

We have just seen a dramatic disaster, a catastrophic disaster. You don't stick with the same old plan when something of this consequence occurs. We have to respond, and we do not just respond by doing what we were getting ready to do when we faced a totally different set of facts. Frankly, I don't think it made much sense before this disaster. It makes absolutely no sense after this disaster.

Again, let me say to my colleagues, are we really going to cut Medicaid

when we have hundreds of thousands of people displaced? Are we really going to cut student loans when we have a whole group of colleges that have been wiped out? Are we really going to cut food stamps when every night we can see on television what is happening to people who have lost everything? Are we going to say to them, Sorry, there is no help for you because we had a plan, a reconciliation plan up in Washington, and we had to stick to it? Is that really going to be the answer? I hope not because the facts have changed. The facts have changed, and the facts require that we change. The facts require that the plan changes, and the facts require we have a new plan and a new approach.

I submit to my colleagues this is not the time to cut assistance for those who are the least among us and to cut taxes for those who are the wealthiest among us. This is a time for all of us to come together as a nation and respond to this disaster with a generous heart. That is my belief of what is required of us at this moment. That is the moral imperative at this moment—to respond to this disaster, to help those in need, to assist in the rebuilding, to help the sick, to feed the hungry. Goodness knows, we can see on our television screens every moment of every day that there are tens of thousands of our fellow citizens who deserve a helping hand. The notion that we just go forward with the plan as written makes absolutely no sense.

Here are the images. We can all see them. Here are the homes flooded—an absolute unmitigated disaster.

I have been asked by the news media about an incident that occurred in 2002 before the Senate Budget Committee. I want a chance to review that for the record. I have been asked repeatedly about a series of questions that I asked in 2002 of Mr. Parker.

I asked a question in a Budget Committee hearing on February 26, 2002, of one of the witnesses, Mr. Mike Parker, the Assistant Secretary of the Army for Civil Works. He said at that hearing:

If the corps is limited in what it does for the American people, we will see a negative impact on the people of this country.

He was talking in testimony that he provided the Budget Committee and in response to a series of questions that I asked him.

Here is how that conversation went. Assistant Secretary Parker said: “That figure we came up with was around \$6.4 billion [for Army Corps funding] . . .”

I asked him:

That is what you requested?

Assistant Secretary PARKER: Yes.

My question back to him:

\$6.4 billion?

Assistant Secretary PARKER: Right.

Senator CONRAD: And you got, on a comparison basis, \$4 billion . . . Well, did you think \$4 billion was the right number to come to?

Assistant Secretary PARKER: No. I would have offered that number if I thought it was the right number.

In other words, what happened was I asked Assistant Secretary Parker if the amount of money being requested by the administration for the Army Corps of Engineers was sufficient to deal with the challenges they were facing. He told me, no, they were not sufficient, that they had estimated \$6.4 billion was needed, but the administration would only ask for \$4 billion. And that is after the previous year's budget was \$4.6 billion.

I also addressed questions to Lieutenant General Robert Flowers, Chief of Engineers for the Army Corps, who came to testify with Assistant Secretary Parker. Here is how that conversation went.

Let me ask you this. Last year, there was \$4.6 billion [in Army Corps funding]. The President cut that by \$600 million on a fair comparison basis to \$4 billion. What are the implications of those reductions? What will it mean? . . .

LTG Robert Flowers said:

With the budget as it stands, we would in fact have to terminate projects . . .

Senator CONRAD: So you would have no choice but to terminate contracts?

Lieutenant General FLOWERS: Yes, sir. That's correct . . .

Senator CONRAD: It doesn't sound like it makes much sense to me. Does it make much sense to you, General Flowers, knowing what those projects are? Would it make any sense to you to terminate these projects?

Lieutenant General FLOWERS: Sir, it doesn't.

Lieutenant General Flowers went on to say:

. . . I would submit that in combating the war on terrorism and providing homeland security, the work we do in maintaining strategic ports is very vital to the military effort as well as the economy, because 98 percent of our foreign commerce is seaborne.

My rejoinder:

. . . So this has got a security issue attached to it.

Lieutenant General Flowers:

Sir, I believe it does. We have traditionally, in the U.S. Army Corps of Engineers, I think, contributed to the national defense.

What happened in these exchanges is very clear. I asked Mr. Parker, the civilian head of the Corps of Engineers, if he was asking for enough money. He said he was not. He said the administration had sent up a request for \$4 billion. He determined what was needed was \$6.4 billion, but the administration would not allow him to make that request.

Because of that testimony, Mr. Parker was then fired by the administration. He lost his job.

Senator TRENT LOTT said:

“Mike Parker told the truth that the Corps of Engineers budget, as proposed, is insufficient,” said Senate Minority Leader Trent Lott.

Newspaper headlines on the firing of the Army Corps Chief in 2002 ran the gamut from the New York Times that said:

Official Forced to Step Down after Testimony on Budget Cut.

The Washington Post:

Corps of Engineers' Civilian Chief Ousted; Parker Resigns after Openly Questioning Bush's Proposed Spending Cuts.

The Wall Street Journal:

Head of Corps of Engineers is Forced Out after Criticizing Budget Cuts for Agency.

The Sun Herald of Biloxi, MS:

Parker Let Go as Army Corps Chief; Honesty Got Him Fired, Some Say.

The fact is, the funding for the Corps of Engineers was deficient to do the job necessary to protect New Orleans and other cities. It was clear at the time. It was testified to by the man who was the head of the Agency, and because he was honest and forthright in questions that I put to him, he was removed from his job.

That is the factual history of what occurred. And those who removed him because he was honest and forthright about the needs bear serious responsibility, I believe, for what has occurred.

All of us now have a special responsibility to reach out and assist those who have been devastated. It should never have happened. None of us can know if these funds had been forthcoming at the time that they were clearly needed, and that need was made clear by an appointee of this administration, who was then removed from his position because he said the funding was inadequate.

This calamity requires a response, and the notion that we stick with the plan I do not think will withstand much scrutiny. We are going to have to have a new plan, and as part of that plan we should not be cutting the least fortunate among us. We should not be cutting food stamps. We should not be cutting the other life lines, whether it is medical assistance or any of the other programs that are now in place to assist these people who have been so badly hurt.

I do not believe it makes any sense at this moment to cut the resources of the Federal Government when we already cannot come close to paying our bills.

The PRESIDING OFFICER. The Senator from Florida is recognized.

#### HURRICANE KATRINA

Mr. MARTINEZ. Mr. President, I rise today to reach out to my colleagues in the Gulf States and to all of the residents of Louisiana, Alabama, and Mississippi. The devastation and destruction experienced by Florida's neighbors is like nothing this country has ever experienced from a natural disaster.

The great State of Florida has had its own recent struggles to recover not only from the four hurricanes we experienced last year but from two already this year, Dennis, which hit Florida's panhandle, and Katrina, which first made landfall in Miami and Dade County before making its way over the Gulf of Mexico to continue on its path of destruction. As Floridians, we all know well the pain and destruction wrought by hurricanes, and we feel a special kinship for our brothers and sisters in Louisiana, Mississippi, and Alabama. We have a great sense of duty to help