

country and all the people, all of the people who live in this great United States of America.

One conservative activist is quoted in the Post story:

You finally get a Republican President a real Republican majority in the Senate and then you don't move the country to the right? It would be totally demoralizing to the President's supporters.

First of all, this notion that the U.S. Supreme Court is some liberal bastion is itself bizarre and wrong. Seven of the nine Justices on the current Court were named by Republican Presidents. Chief Justice Rehnquist and three Associate Justices were nominated by President Reagan, two by former President George W. Bush, one by President Ford and two by a Democratic President, President Clinton. But that composition of the Court, 7 of 9 nominees by Republican Presidents, that is not enough for the activist zealots. They believe that some of those Republican judicial nominees had become too moderate, once they were safely confirmed and placed on the Supreme Court.

Too moderate for them is a judge who has independent views. Too moderate is a judge who has sworn to uphold the Constitution and not to impose his or her views on that process of legislation and enactment into law as prescribed by the U.S. Constitution. Too moderate for them means refraining from judicial activism, which they profess to oppose but in fact oppose only when they disagree with the Court's findings.

Government is not a Burger King. You are not supposed to all "have it your way." People who think getting their own way all the time, especially from the U.S. Supreme Court, is somehow a measure of Presidential greatness are seriously wrong. People who are demoralized if they do not get it all their own way, especially from the U.S. Supreme Court, are dangerously misguided. I implore President Bush to rise above his base, as it is described in the article. If it is not to be Attorney General Gonzales, then someone else who is moderate and who is therefore suitable, who is therefore qualified to serve in this highest Court of the land. It may not serve the perceived interests of some of his misguided supporters, but it will serve the best interests of all of his supporters, who are all of us—all of the American people. He is the President of all of us. He was elected through our process to represent all of us, to be supported when we can, and ultimately, in the office he serves, by all Americans. It is the process for him to nominate and for this body to confirm a U.S. Supreme Court Associate Justice who will also serve, look out for and serve all Americans.

I yield the floor and suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

NOMINATION OF JOHN ROBERTS

Mr. REID. Mr. President, the Senate Judiciary Committee, as we know, has started hearings on the nomination of John Roberts to be the Chief Justice of the United States. I am confident that Chairman SPECTER, Ranking Member LEAHY, and the other committee members will do a good job exploring the nominee's qualifications for the job and thoroughly explore his judicial philosophy.

There is much at stake in these hearings. If confirmed, Judge Roberts will serve as Chief Justice for the next several decades. He will be the head of the third branch of the Federal Government and the most prominent judge in the world.

The Senate's duty to render advice and consent, with respect to his nomination, is one of the most critical tasks we will face in this Congress. I am very happy that no Democrat has prejudged the Roberts nomination. Not a single Democratic Senator has stated how they will vote on this nomination. Some may be leaning toward supporting him; others may be leaning against him. But every Democrat knows that we need to wait for these hearings, the questions and answers, the statements by Mr. Roberts and the independent witnesses before making a final decision. That is the responsible way to approach a nomination such as this.

I look forward to hearings, hearings that I know will be respectful, dignified, and thorough. I, personally, have encouraged Judge Roberts to answer questions fully and forthrightly. I, for one, am enormously impressed with Judge Roberts' career and his obvious legal skills. I met him in my office right across the hall.

I said: How many trials have you had, Judge?

He said: None.

This man is an appellate advocate. He has argued nearly two score cases before the U.S. Supreme Court and many others at various appellate levels. I enjoyed meeting with him. It was soon after he was nominated. I saw him last week at the funeral for Justice Rehnquist. The only thing that I am troubled about, and I am troubled, is some of the memos he wrote during the Reagan administration regarding women's rights and other civil rights issues. In more recent years, he appears to have been a thoughtful, mainstream judge on the DC Circuit. I want to give Judge Roberts an opportunity to convince the Senate, the American people and myself that, as a Supreme Court Justice, he could continue to be a fair, evenhanded judge and not revert to his ideological roots that we saw during the Reagan years. If he can meet that test, I can support him. If he doesn't, if he is not persuasive on that point, I

cannot support him. The burden is on John Roberts.

The Supreme Court hearings are likely to dominate the news today, but let's all remember, these hearings are about whether one man is qualified to fill one job. While we carefully weigh that important decision, I remind all my colleagues that, as we speak, there are hundreds of thousands of Americans without jobs, without homes, and they are losing hope as a result of our inaction. These are the people in the Gulf Coast region. We must get our priorities in line. It has been nearly 2 weeks since flood waters poured into Louisiana, Mississippi, and Alabama, and the terrible windstorms hit them. That is 2 weeks. Thousands of families have gone without shelter, schools for their kids, health care for their injuries and the resources they need to pick up and move on with their lives.

In the Senate, we passed two supplemental appropriations bills. That is good. It is a start, but it is not nearly enough. Along with Senator LANDRIEU, my colleagues and I introduced the Katrina Emergency Relief Act last week. The act would make changes in law that we need to give survivors health care, housing, education, and personal financial relief. We are trying to add these provisions to the Commerce, Justice, and Science appropriations bill. We had hoped the Senate would act on these items promptly, but it appears the majority will use procedural devices to prevent them from passing or even allowing votes on them. That is unfortunate. Thousands of survivors still are living on cots in the Astrodome and other places, makeshift shelters all across the country. These victims do not care about Senate procedures. They know that they need help now, not more red tape.

I believe America can do better, and we Democrats will continue to press for action on these items in the days ahead. The Government turned its backs on Katrina's victims once. We can't let it happen again.

In addition to votes on the four amendments to the Commerce appropriations bill that we want, we should help victims and help our troops by bringing to this floor the Defense authorization bill. Unlike the Commerce bill, the Defense bill is an amendable vehicle. Through this bill, the Senate would be able to get legislation here now and act on it. The Katrina relief emergency matter could be brought before the Senate and we could vote on it to help Katrina victims now.

But just as importantly, we need to act on the Defense authorization bill so we can get to our troops serving in Iraq and Afghanistan and their families the resources and support they deserve. The Defense bill delivers a better quality of life, state-of-the-art equipment, new housing for our troops, and relief for their families. This bill provides critical health care benefits for guardsmen and veterans. It also increases the

end strength of the reservists, Army and Marine Corps, so we can begin to take steps to relieve the stress of these overstretched Active military personnel.

This bill should be at the top of our Senate agenda, but I am sorry to say it is not. It is hard to comprehend that since May this bill has been literally languishing. It was reported out of the Armed Services Committee in May. We worked for a couple of days on it here on the floor. The Senate was not permitted to complete action on this important measure. We were working on this bill for a short time in July before the leader decided to set it aside in favor of the gun liability legislation. The gun liability legislation is the law. It has been signed by the President. The Defense authorization bill should be the law so our troops who are on the ground in Iraq and Afghanistan can get the help they need and give the families of the approximately 2,000 men and women who have been killed in Iraq the knowledge that we are doing something to help the people on the ground and to help the hundreds of thousands of veterans who have been spawned as a result of this war. This doesn't take into consideration the tens of thousands who have been injured and wounded in this war. Those fighting in Iraq deserve it. Those fighting in Afghanistan deserve it. Our veterans deserve it.

Americans can do better than this. The Defense bill should be taken off the back burner and placed on the front burner right now.

Our troops—I repeat—and the victims of Katrina are literally crying for our help. In the days ahead, we will owe the victims of Katrina and all the American people something in addition to relief. We will owe them answers. Four years after 9/11, the Government was supposed to be prepared for a crisis such as Katrina. Yet, as we all saw, the Federal Government was not, and we owe it to the American people to find out why.

Today on public radio, they had a number of pieces on Katrina, but the one that stands out in my mind was the story of St. Bernard Parish President Henry “Junior” Rodriguez who told of how it took 5 days before anybody came to help his parish of some 80,000 people. And the fifth day, did we see FEMA coming to help them, or American troops? No. His first sign of help was the Royal Canadian Mounted Police. “Junior” Rodriguez deserves to know why it took so long to get his parish help. All Americans should know.

Americans can do better. When we searched for answers following 9/11, Democrats and Republicans came together and established an independent blue ribbon commission that was a great success. Too bad we didn't follow all the recommendations. But Democrats, Republicans and, most importantly, the American people embraced its answers. Senator CLINTON has pro-

posed that we need another independent commission, and we need it now.

I close by reminding everyone that times have changed. Times are different today than they were 2 weeks ago. We now have different priorities after Katrina, and our actions in the weeks ahead should reflect these new priorities. It is not business as usual for the families along the Gulf, and it should not be business as usual for us here.

Nowhere is this more clear than in the budget that is before this body. I spoke about that budget the night it came before us. I read a letter written to me by the mainline Protestant churches in America. They said please tell everyone this budget which you are about to pass is immoral. This is certainly worse than it was then.

I point out to everyone the results of the recent Census Bureau report which show that poverty rose for the fourth year in a row. Incomes dropped again, and more Americans are going without health care than the year before—almost a million more than the past year without health care.

Combine these facts and figures with the images of Katrina—images of the poorest and neediest among us bearing the brunt of a national tragedy—and ask yourself this question: Should we proceed with this budget that was immoral the night it was passed and even more so now, that cuts taxes for the rich and cuts Medicaid by \$10 billion, cuts food stamps, student loans, and other programs for the neediest among us? The answer, of course, is no. We must revisit these priorities in the budget resolution.

America can do better. We can't change the past, but we can change the future. We can put the Senate's priorities in line with the American people, and there is no excuse not to do that.

I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BENNETT). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DORGAN. 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. DORGAN. Are we in morning business?

The PRESIDING OFFICER. The Senate is in morning business. The previous order provided morning business between 2 and 3 equally between the majority and minority. The minority has consumed 30 minutes in morning business. So the Senator, if he wishes to speak, would have to ask unanimous consent to be allowed to speak on the majority's time.

Mr. DORGAN. Mr. President, I ask consent to speak for 10 minutes in morning business.

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

NUCLEAR STRIKE PLAN

Mr. DORGAN. Mr. President, I read an item on the front page of the Washington Post yesterday which was both surprising to me and also extraordinarily disappointing: “Pentagon Revises Nuclear Strike Plan.” The strategy includes preemptive use of nuclear weapons. Let me read a portion of this and describe why I am so dismayed.

The Pentagon has drafted a revised doctrine for the use of nuclear weapons that envisions commanders requesting presidential approval to use them to preempt an attack by a nation or a terrorist group using weapons of mass destruction. The draft also includes the option of using nuclear arms to destroy known enemy stockpiles of nuclear, biological or chemical weapons.

The draft Pentagon document is titled “Doctrine for Joint Nuclear Operations.” It is written under the direction of Air Force GEN Richard Myers, Chairman of the Joint Chiefs of Staff. According to the article in the Post, the document is currently available on the Pentagon Web site. It describes new circumstances might call for preemptive use of nuclear weapons by this country.

We saw what has happened with respect to a natural disaster in the Gulf Coast of this country. We saw the devastation of that. Yet that would perhaps be a fraction of the devastation if we have a nuclear device go off in one of America's cities, a terrorist acquiring a nuclear weapon and detonating it in one of America's cities. This country has a responsibility to stop the spread of nuclear weapons, to preach to the world that nuclear weapons must never again be used. Yet this country is now developing policies and putting them on the Web that say here is a new approach in which we might use a preemptive strike of a nuclear weapon.

If we get the Defense authorization bill back in the Senate soon, we will have a debate about the development of a new kind of nuclear weapon, a bunker buster nuclear weapon, an Earth-penetrating bunker buster nuclear weapon. Why? Because this Administration thinks we need a new designer nuclear weapon to bust bunkers.

We ought not be building nuclear weapons. We ought not build new nuclear weapons. We have stockpiles of thousands of nuclear weapons, the detonation of one of which by a terrorist group would kill thousands, perhaps hundreds of thousands, maybe millions of people.

The role for this country is to provide world leadership to stop the spread of nuclear weapons, not to be talking to the world about conditions under which we might use nuclear weapons preemptively. It is stark raving nuts to be doing this. I cannot understand what they can possibly be thinking about.

The fact is we have American soldiers fighting in the country of Iraq. This Senate authorized the President to initiate hostile actions against Iraq based on a substantial body of intelligence given to us by our intelligence