

Vermont and one from the very heavily populated State of Pennsylvania—it all worked out. They trusted each other and the members of the Judiciary Committee trusted them, and after a few weeks of this process, which went on for months, by the way, every Member of the Senate saw that this was going to be a civil proceeding, and it was. It has been. I commend and applaud the dignity of these hearings.

Each Democrat considered the nomination on the merits and approached the vote as a matter of conscience. Democrats were not told how to vote, not by me, not by the chairman of the Judiciary Committee, not by the senior Member of the Senate, Senator BYRD. They will vote their conscience.

Democrats have not employed any procedural tactics that we might have otherwise considered. As Senator SPECTER and Senator LEAHY have said to the President himself—I have been there when they said it—we want the next nominee not to be extreme.

The fact that some Democrats will vote no on this nomination is hardly unfair. We are simply doing our duty under the Constitution that we hold so dearly. The Constitution—that is what this is all about, this little document. We have a role, a constitutional role, of giving advice and consent to the President. The consent will come in a few minutes. The advice has been long in coming.

In the fullness of time, John Roberts may well prove to be a fine Supreme Court Justice. I hope that he is. If so, I will happily admit that I was wrong in voting against his confirmation. But I have reluctantly concluded that this nominee has not satisfied the high burden that would justify my voting for his confirmation based on the current record.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. I wonder if the senior Senator from Nevada will yield to me. I wish to make a comment. I know he still has a couple of minutes left.

Mr. REID. The time is yours.

Mr. LEAHY. Mr. President, I want to compliment the senior Senator from Nevada, the Democratic leader. I supported him for assistant leader, and I supported him for leader, and I have never regretted, nor doubted, that support.

I have been here 31 years. He is a fine leader. I have been here for 12 nominations to the Supreme Court, 2 of them for Chief Justice. I am one of only a handful of Senators who can say that. I know, throughout all this process, the Senator from Nevada, Senator REID, dealt with us evenhandedly and fairly. Never at any time did he try to twist any arms on this side of the aisle. Throughout it all he said: Keep your powder dry—his expression which I picked up—until the hearings were over. That is the sort of thing we should do. Hear the evidence first. Hear the evidence, and then reach a verdict. I am extremely proud of him.

We have reached different conclusions on this, but we remain friends and respectful to each other throughout. His praise of Senator SPECTER and of myself means so much to me. But I think, more importantly, what he has done means so much to the Senate. Senator REID has worked with both sides of the aisle to make sure that we were going to have a hearing for the Chief Justice of the United States that reflected what was best in this country.

When I finished my speech, I spoke directly to Judge John Roberts, and I will do so again: Please, remember there are 280 million Americans. Be a Chief Justice for all of us.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

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

The majority leader is recognized.

Mr. FRIST. Mr. President, the duty before us today to provide advice and consent on John Roberts' nomination as Chief Justice of the United States is perhaps the most significant responsibility we will undertake as elected leaders. It is a duty decreed to us by the Constitution and an obligation the American people have entrusted us to fulfill.

In this Chamber today, we are seated at the drafting table of history. We are prepared to write a new chapter in the history of our Nation. Our words and our actions will be judged not only by the American people today but by the eyes of history forever.

As we prepare to pick up the pen to write these words that will shape the course of our highest Court, I ask that we think hard about the words we will write. I ask that we think hard about the question we must answer: Is Judge Roberts qualified to lead the highest Court in the land? I believe the answer to this question is yes.

Judge Roberts possesses the qualities Americans expect in the Chief Justice of its highest Court and the qualifications that America deserves. Without a doubt, he is the brightest of the bright. His understanding of constitutional law is unquestionable. Judge Roberts has proven through his tenure on the District of Columbia Circuit Court of Appeals and in his testimony before the Judiciary Committee that he is committed to upholding the rule of law and the Constitution. He has demonstrated that he won't let personal opinions sway his fairminded approach. He will check political views at the door to the Court, for he respects the role of the judiciary and recognizes the importance of separation of powers.

As he so eloquently stated before the committee: "Judges are like umpires. Umpires don't make the rules, they

apply them . . . They make sure everybody plays by the rules, but it is a limited role."

Judge Roberts will be a great umpire on the High Court. He will be fair and openminded. He will stand on principle and lead by example. He will be respectful of the judicial colleagues and litigants who come before the Court. And above all, he will be a faithful steward of the Constitution.

This is what we know about John Roberts: In the last few weeks, he has provided us information and answered our questions. John Roberts has fulfilled his obligation to the Senate.

Now it is time to fulfill our obligation to the American people. It is time for each Member to answer, Is John Roberts the right person for the job of Chief Justice of the United States? It is my belief that the answer is yes. It is my belief that the chapter we write should begin with his name. It is my hope that today Members will join me in writing the words; that Members will join me in writing "yes" for John Roberts' nomination as our Nation's 17th Chief Justice.

I ask for the yeas and nays.

The PRESIDENT pro tempore. Is there a sufficient second?

There is a sufficient second.

The question is, Will the Senate advise and consent to the nomination of John G. Roberts, Jr., of Maryland, to be the Chief Justice of the United States?

Under Resolution 480, the standing orders of the Senate, during the yeas and nays votes of the Senate, each Senator shall vote from the assigned desk of the Senator.

The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 78, nays 22, as follows:

[Rollcall Vote No. 245 Ex.]

YEAS—78

Alexander	Dole	Martinez
Allard	Domenici	McCain
Allen	Dorgan	McConnell
Baucus	Ensign	Murkowski
Bennett	Enzi	Murray
Bingaman	Feingold	Nelson (FL)
Bond	Frist	Nelson (NE)
Brownback	Graham	Pryor
Bunning	Grassley	Roberts
Burns	Gregg	Rockefeller
Burr	Hagel	Salazar
Byrd	Hatch	Santorum
Carper	Hutchison	Sessions
Chafee	Inhofe	Shelby
Chambliss	Isakson	Smith
Coburn	Jeffords	Snowe
Cochran	Johnson	Specter
Coleman	Kohl	Stevens
Collins	Kyl	Sununu
Conrad	Landrieu	Talent
Cornyn	Leahy	Thomas
Craig	Levin	Thune
Crapo	Lieberman	Vitter
DeMint	Lincoln	Voinovich
DeWine	Lott	Warner
Dodd	Lugar	Wyden

NAYS—22

Akaka	Corzine	Kennedy
Bayh	Dayton	Kerry
Biden	Durbin	Lautenberg
Boxer	Feinstein	Mikulski
Cantwell	Harkin	
Clinton	Inouye	

Obama Reid Schumer
Reed Sarbanes Stabenow

The nomination was confirmed.

Mr. FRIST. I move to reconsider the vote.

Mr. REID. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. FRIST. I ask that the President be immediately notified of the Senate's action.

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

LEGISLATIVE SESSION

Mr. FRIST. I ask that the Senate resume legislative session.

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

Mr. FRIST. I suggest the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. THUNE). Without objection, it is so ordered.

IRAQ

Mr. FEINGOLD. Mr. President, I rise once again today to comment on the deeply disturbing consequences of the President's misguided policies in Iraq. I have spoken before about my grave concern that the administration's Iraq policies are actually strengthening the hand of our enemies, fueling the insurgency's recruitment of foreign fighters, and unifying elements of the insurgency that might otherwise turn on each other.

But today I want to focus on a different and equally alarming issue, which is that the Bush administration's policies in Iraq are making America weaker. None of us should stand by and allow this to continue.

It is shocking to me this Senate has not found the time and the energy to take up the Defense authorization bill and give that bill the full debate and attention it deserves. Our men and women in uniform and our military families continue to make real sacrifices every day in service to this country. They perform their duties with skill and honor, sometimes in the most difficult of circumstances. But the Senate has not performed its duties, and the state of the U.S. military desperately needs our attention.

The administration's policies in Iraq are breaking the U.S. Army. As soldiers confront the prospect of a third tour in the extremely difficult theater of Iraq, it would be understandable if they began to wonder why all of the sacrifice undertaken by our country in wartime seems to be falling on their shoulders. It would be understandable if they and their brothers and sisters in

the Marine Corps began to feel some skepticism about whether essential resources, such as adequately armored vehicles, will be there when they need them. It would be understandable if they came to grieve information about deployment schedules with cynicism because reliable information has been hard to come by for our military families in recent years. And it would be understandable if they asked themselves whether their numbers will be great enough—great enough—to hold hard-won territory, and whether properly vetted translators will be available to help them distinguish friend from foe.

At some point, the sense of solidarity and commitment that helps maintain strong retention rates can give way to a sense of frustration with the status quo. I fear we may be very close to that tipping point today. It is possible we may not see the men and women of the Army continue to volunteer for more of the same. It is not reasonable to expect that current retention problems will improve rather than worsen. We should not bet our national security on that kind of wishful thinking.

Make no mistake, our military readiness is already suffering. According to a recent RAND study, the Army has been stretched so thin that active-duty soldiers are now spending 1 of every 2 years abroad, leaving little of the Army left in any appropriate condition to respond to crises that may emerge elsewhere in the world. In an era in which we confront a globally networked enemy, and at a time when nuclear weapons proliferation is an urgent threat, continuing on our present course is irresponsible at best.

We are not just wearing out the troops; we are also wearing out equipment much faster than it is being replaced or refurbished. Days ago, the chief of the National Guard, GEN H. Steven Blum, told a group of Senate staffers that the National Guard had approximately 75 percent of the equipment it needed on 9/11, 2001. Today, the National Guard has only 34 percent of the equipment it needs. The response to Hurricane Katrina exposed some of the dangerous gaps in the Guard's communications systems.

What we are asking of the Army is not sustainable, and the burden and the toll it is taking on our military families is unacceptable. This cannot go on.

Many of my colleagues, often led by Senator REED of Rhode Island, have taken stock of where we stand and have joined to support efforts to expand the size of our standing Army. But this effort, which I support, is a solution for the long term, because it depends on new recruits to address our problems. We cannot suddenly increase the numbers of experienced soldiers so essential to providing leadership in the field. It takes years to grow a new crop of such leaders. But the annual resignation rate of Army lieutenants and captains rose last year to its highest rate since the attacks of September 11,

2001. We are heading toward crisis right now.

Growing the all-volunteer Army can only happen if qualified new recruits sign up for duty. But all indications suggest that at the end of this month the Army will fall thousands short—thousands short—of its annual recruiting goal. Barring some sudden and dramatic change, the Army National Guard and Army Reserve too will miss their annual targets by about 20 percent, missing their targets this year by 20 percent in terms of recruitment. GEN Peter Schoomaker, the Army's Chief of Staff, told Congress recently that 2006 "may be the toughest recruiting environment ever."

Too often, too many of us are reluctant to criticize the administration's policies in Iraq for fear that anything other than staying the course set by the President will somehow appear weak. But the President's course is misguided, and it is doing grave damage to our extraordinarily professional and globally admired all-volunteer U.S. Army. To stand by—to stand by—while this damage is done is not patriotic. It is not supportive. It is not tough on terrorism, nor is it strong on national security. Because I am proud of our men and women in uniform, and because I am committed to working with all of my colleagues to make this country more secure, I am convinced we must change our course.

As some of my colleagues know, I have introduced a resolution calling for the President to provide a public report clarifying the mission the United States military is being asked to accomplish in Iraq, and laying out a plan and a timeframe for accomplishing that mission and subsequently bringing our troops home. It is in our interest to provide some clarity about our intentions and restore confidence at home and abroad that U.S. troops will not be in Iraq indefinitely. I have tried to jump-start this discussion by proposing a date for U.S. troop withdrawal: December 31, 2006.

We need to start working with a realistic set of plans and benchmarks if we are to gain control of our Iraq policy, instead of simply letting it dominate our security strategy and drain vital resources for an unlimited amount of time.

So this brings me to another facet of this administration's misguided approach to Iraq, another front on which our great country is growing weaker rather than stronger as a result of the administration's policy choices, and that is the tremendously serious fiscal consequences of the President's decision to put the entire Iraq war on our national tab. How much longer can the elected representatives of the American people in this Congress allow the President to rack up over \$1 billion a week in new debts? This war is draining, by one estimate, \$5.6 billion every month from our economy—funds that might be used to help the victims of Hurricane Katrina recover, or to help