

I hope those opposed to the President's nominees will be given the opportunity to vote against them and that they will speak their mind about it.

But I also hope that we will be allowed to provide the guidance we are required to provide under the Constitution.

The basic decision the Senate must make is this: Either constitutional advice and consent prevails or the filibuster is allowed to change the Constitution. I believe in the Constitution. I believe we should vote on the nominations.

As I have said so many times before, "vote them up, or vote them down, but just vote.

Mr. President, I yield the floor and suggest the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

Mr. BENNETT. 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 President, I ask unanimous consent the order for the quorum call be rescinded.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. BENNETT. Mr. President, I ask unanimous consent that I be allowed to continue in morning business for 20 minutes.

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

#### JUDICIAL NOMINATIONS

Mr. BENNETT. Mr. President, the Senator from Colorado talked about the ongoing conversation with respect to the filibuster in the Senate. If I may, I would like to reminisce for a little while because I have something of a history in the Senate. I have clearly not been here nearly as long as many of my colleagues, but I first came into this Chamber when I was a teenager. My father was a Senator. I was a summer intern in his office. I suppose there was something strange about me as a teenager because I was more interested in the Senate than I was in sports or cars, the two subjects that young boys are supposed to be paying attention to.

I remember sitting in the family gallery one evening listening to the debates. In those days, there were debates. There was not the situation we find now where Senators come to the floor to posture for the television cameras. They came to the floor to have a clash of ideas. I remember a particular debate where a Senator on the Democratic side of the aisle was holding forth. He seemed to be winning the argument and the Senators on the Republican side of the aisle sent up the call for the chairman of the Finance Committee, who entered the back of the Chamber. I remember the Democratic Senator saying, I see the Republicans have brought up their heavy artillery. Then there was an exchange be-

tween these two Senators which the chairman of the Finance Committee clearly won.

The Democratic Senator got a little flustered and a little angry at being bested in the debate and so he started to complain about the fact that Colorado, a small State, had as many Senators as Illinois, the big State, which he represented. Whereupon the chairman of the Finance Committee from Colorado then said, the Senator is no longer opposed to the bill. He is now opposed to the Constitution. I must say, I am not surprised. And he turned on his heel and walked out and the debate was over. It was an exciting thing to watch for those of us who were political junkies.

We have come a long way from that. I don't think it is a long way forward. We have come a long way from the give and take of debate into an atmosphere where this Senate has become the platform for people to express harsh views, strong political rhetoric, and occasionally, in my view, go over the line of that which is appropriate. We have become a sounding board for partisanship rather than a deliberative body for debate.

I am not quite sure when we started in that direction or what brought us from that old time to this present time. One of the moments might have been the debate over the nomination of Robert Bork to the Supreme Court. Robert Bork is the only nominee I know of whose name has turned into a verb. We now hear groups, as they talk about a nominee, say "we're going to Bork him." Look back at what was done with respect to the nomination of Robert Bork and it was nothing short of character assassination; or, to use a phrase that was popular in the last administration, the politics of personal destruction.

We have seen that activity poison the comity of the Senate on both sides of the aisle because when it was done to Robert Bork on behalf of those who were opposed to the nomination made by President Reagan, those who were Reagan supporters began to say, we will do the same thing. When Democratic Presidents came along, their nominees began to be attacked on a personal basis rather than on the merits of the situation, much as Robert Bork had been. Now it becomes a standard tactic on both sides of the aisle.

Why do I raise that with respect to the controversy over whether the Senate has the right by majority vote to change its rules? I raise it because too much of the current debate over that question has gone in the direction of "Borking"—Senators on both sides of the aisle, the process on both sides of the aisle and, if you will, the institution itself.

I have great reverence for this institution and I am distressed at what I see as I look over the landscape with respect to this particular debate. I see on one side e-mails and press releases

saying we must stop George W. Bush from packing the courts with right-wing whackos. That is what this debate is about. The filibuster is our tool to prevent right-wing whackos from getting on the court.

The first circuit court judge ever prevented from gaining a vote by virtue of the filibuster in the history of the American Republic was a man named Miguel Estrada. Miguel Estrada is an immigrant to this country. He came here not speaking English. He graduated from the Harvard Law School as the editor of the Harvard Law Review. He served in the Justice Department under the first President Bush in the Solicitor's Office and received glowing recommendations and reports from every one of his superiors. Indeed, his performance was sufficiently outstanding that he remained in the Justice Department in the Solicitor's Office for 2 years while Janet Reno was the Attorney General. Janet Reno is not known for harboring right-wing whackos.

The American Bar Association gave him their highest recommendation for this position and they are not known for harboring right-wing whackos.

Yet the level of debate has followed to the point that those who decided they must oppose Miguel Estrada for whatever reason stand mute while he and others like him are attacked as right-wing whackos. Unfortunately, this kind of attack does not stay on one side or the other. Today there are radio ads being run in the home states of Senators who have still not made up their mind how they are going to vote, radio ads that attack these Senators' integrity and suggest if they do not vote as the majority leader would like them to vote, they are not people of faith. They are attacking their integrity and their religion. To me, that is as repugnant as attacking the President's nominees as right-wing whackos.

This kind of vilification must stop, but I don't know how to stop it. The first amendment gives us all a right to say whatever we want to say, however ridiculous it may be, however offensive it may be. But it is ridiculous and it is offensive to have the kind of debate going on over this issue. This is a legitimate issue on which Senators can have legitimately differing views. It should not become a vehicle for practicing the politics of personal destruction. But it is going on.

I simply raise my voice in the hope that on both sides, the temperature of the rhetoric can come down, and we can discuss the issue on its merits. Let me do my best to discuss the issue on its merits in the time I have.

First, what are we talking about? We are talking about changing a Senate tradition. We are also talking about changing a Senate rule. I want people to understand the two are not the same. Indeed, we have formal rules in the Senate governing the way we do business. We have created traditions

and, quite frankly, the tradition trumps the rule. If somebody invokes the rule, they can overturn the tradition, but the tradition that has taken hold trumps the rule.

I will give an example of which I am sure the Presiding Officer is aware. The rule says the Presiding Officer is required to recognize whichever Senator addresses the Chair first. The tradition is that the Presiding Officer recognizes the majority leader first, even if he is not the first one in a jump-ball situation to shout out the name of the Presiding Officer. The tradition says the Presiding Officer recognizes the minority leader second, recognizes the majority manager of the bill third, the minority manager of the bill fourth, and then those Senators who ask for recognition are recognized according to the rule.

We honor that tradition for a variety of good reasons. We have not written it into the rules, but it does not matter because the tradition trumps the rule and it helps the Senate move forward.

I make a point of this difference for this reason: those who say the filibuster being used to stop judicial nominees are acting in accordance with the rule, are exactly right. The rule has always been there and those who used the rule to stop the nomination to prevent an up-or-down vote on Miguel Estrada were entirely within their rights and acting absolutely in compliance with the rules. Let's not demonize them for using the rules.

However, those who say it is a violation of the Senate tradition to use the filibuster to block a circuit court judge are also exactly right. By tradition, we have always held in the Senate that a nominee who gets out of committee and comes to the Senate is entitled to an up-or-down vote. By invoking the rule in the last Congress, the then-Democrat leader overturned the tradition. By talking about changing the rule now, the Republican leader, the majority leader, is entirely within his rights. Neither one should be demonized for the position they took.

Let's look at why the tradition held for so many years. It held because the spirit of comity ruled in the Senate and each party recognized the time would come when the other party would control the Presidency. Indeed, if you look at history, it is almost inevitable that the other party will control the Presidency. Since the end of World War II through the election of 2004, we have had 15 Presidential elections. The party in power has won eight and the party out of party has won seven. You cannot get any closer than that. There has been only one time in that entire run where a single party won three consecutive elections, Reagan in 1980, Reagan in 1984, and Bush in 1988. Every other time the longest run either party has been able to have has been 8 years, so the historic norm says there will be a Democratic president after 2008. I hope that is not the case, but that is what history suggests will happen.

Each side has recognized that their side will have a President within a relatively short period of time—since the end of World War II, within less than 8 years. So each side has said, let us not invoke the rule that says you can filibuster judges. Instead, let us abide by the tradition that says every nominee is entitled to an up-or-down vote. That way, when we get the Presidency, our President will have the same courtesy we are now extending to their President.

I remember very clearly when President Clinton sent some nominees to this body which members of my conference decided were left-wing whackos, if I might use that phrase. They, fortunately, did not use that phrase in public as it is being used now. And I do not think they should. But they felt these nominees were too extreme to be on the bench.

When it was clear we did not have the votes to prevent them from going on the bench, there were those in the conference who said: We have to filibuster. Let's use the filibuster to prevent them. We can muster 41 votes.

The chairman of the Senate Judiciary Committee, my colleague from Utah, ORRIN HATCH, and the then-majority leader, the Senator from Mississippi, TRENT LOTT, both pled with us: Don't do it. Don't start down that road. We have never done it before. And we shouldn't do it now.

And why not? Because, they said: After 2000, we are going to have the Presidency, and we want our President to have the same courtesy we are begging with you to extend to President Clinton. They carried the day. There was no Republican filibuster on the floor of any circuit court judge.

Now we find ourselves in a situation where the tradition has been changed, and the question is, will we now change the rule to reestablish the tradition? It is a legitimate debate. I have respect for those who hold positions on both sides.

I do make this comment. If the rule change does not go through, and the rule that now holds that says judicial nominees are fair game, I guarantee the next time the Democratic Party has a President who sends up a nominee that 41 Senators on the Republican side decide they do not like, the Republicans will abide by the rule that has changed the tradition, and they will filibuster the nominee.

Now, I have many of my colleagues who say: No, no, we would never do that. We honor the tradition, and we would go back to that tradition.

I do not believe them. I do not say they are lying to us. I think they believe what they are saying now. But I believe, in the heat of the battle that would come with a Republican minority in the Senate and a Democratic President, the Republicans, in the present atmosphere, would say: Let's use the filibuster. Let's give them a taste of their own medicine. The level of political dialogue would continue to

go down. The level of personal destruction would continue to go up.

The other question I raise for speculation: Suppose nothing happens in this Congress, Democrats win the Presidency in 2008, the Republicans do use the filibuster to stop judges a Democratic President sends forward, but the Democrats are in control of the Senate. Will those who are standing here saying this is a disaster for the Senate give a pledge that they will not, when they are in the majority, suggest using 51 votes to get rid of the filibuster on judicial nominees?

I suggest they would be tempted to do the same thing the Republicans are trying to do now in order to take care of their Democratic President. Indeed, the record shows they have done that.

These quotations have already been given on the floor, but I want to repeat them in this context.

Senator BYRD, in 1979, said:

Now we are at the beginning of Congress. This Congress is not obliged to be bound by the dead hand of the past . . . [I]t is my belief—which has been supported by rulings of Vice Presidents of both parties and by votes of the Senate—in essence upholding the power and right of a majority of the Senate to change the rules of the Senate at the beginning of a new Congress.

Senator BYRD now disavows that position. And I respect that. Each one of us is entitled to change our mind. I have changed my mind. He is entitled to change his. Will he make a pledge he will not change it back when the Democrats are in the majority and say: "We want to prevent filibusters of our President's judicial nominees"?

Senator KENNEDY said in 1975:

By what logic can the Senate of 1917 or 1949 or 1959 bind the Senate of 1975? As Senator Walsh of Montana said during the Senate debate in 1917 on the enactment of the original rule XXII: "A majority may adopt the rules in the first place. It is preposterous to assert that they may deny future majorities the right to change them."

Senator KENNEDY has obviously changed his mind. And I respect the Senator's right to change his mind. But I ask again, What assurance do we have he will not change his mind back if the Democrats get the majority and are seeking to protect a President of their own?

In 1995, there were nine Senators who voted in favor of eliminating all filibusters, not just judicial filibusters, all filibusters—nine Senators still serving, Senator BINGAMAN, Senator BOXER, Senator FEINGOLD, Senator HARKIN, Senator KENNEDY, Senator KERRY, Senator LAUTENBERG, Senator LIEBERMAN, and Senator SARBANES. They voted in favor of eliminating all filibusters. They have now changed their minds. They have the right to change their minds. And I respect that. What indication do we have they will not change their minds back if we do not get this thing settled in this Congress?

Going back to the newspaper that sometimes acts as the house organ for the Democratic Party, the New York Times, this is what they had to say in

1995, when Senator HARKIN introduced the legislation to eliminate filibusters.

Mr. President, I ask unanimous consent that editorials of the New York Times be printed in the RECORD at the conclusion of my statement.

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

(See exhibit 1.)

Mr. BENNETT. The New York Times said: "Time to Retire the Filibuster." That is the headline on the editorial. It says:

The U.S. Senate likes to call itself the world's greatest deliberative body. The greatest obstructive body is more like it.

And they go on to attack filibusters and give a little of the history. And then this is their summary of the filibuster, four paragraphs down:

One unpleasant and unforeseen consequence has been to make the filibuster easy to invoke and painless to pursue. Once a rarely used tactic reserved for issues on which senators held passionate convictions, the filibuster has become the tool of the sore loser, dooming any measure that cannot command the 60 required votes.

Well, you would think, then, that when the Republicans are saying, "Well, we don't want to eliminate the legislative filibuster, but we do want to re-enthronize the Senate tradition that the filibuster is not used on circuit court judges," the first cheerleader would be the New York Times. Having labeled the filibuster "the tool of the sore loser," and saying that it is obstructionist, the New York Times ought to be cheering the idea that finally a majority is about to follow their advice offered in their editorial pages.

But, no, this is what the New York Times now says: "The Senate on the Brink." This is an editorial of March 6, 2005:

The White House's insistence on choosing only far-right judicial nominees—

There is the politics of personal destruction I was referring to earlier—"only far-right judicial nominees" has already damaged the federal courts. Now it threatens to do grave harm to the Senate. If Republicans fulfill their threat to overturn the historic role of the filibuster in order to ram the Bush administration's nominees through, they will be inviting all-out warfare and perhaps an effective shutdown of Congress.

Interesting what 10 years' time and a change of administrations can do. The filibuster that was "the tool of sore losers" suddenly has become "the historic role," even though they cannot point to a single case in history where the filibuster has been used to prevent an up-or-down vote on a circuit court nominee who made it to the floor.

How they can call that a "historic role" is something I will leave to the editorial writers of the New York Times.

I hope we will not see any more press releases attacking the President's nominees as "right-wing whackos,"

that we will not see any more radio ads attacking Senators who are examining this matter as being people of no faith, that we will stop the politics of personal destruction on both sides of this issue, and we will look at it in its historic pattern.

What we do or do not do on this issue will set the tone of where the Senate and future Presidents go for decades to come. The Republic survived for over 200 years without the minority of either party exercising its right to filibuster judges. I think we should be very careful about enshrining in tradition the rule that says it is time to change.

I yield the floor.

#### EXHIBIT 1

[From the New York Times, Jan. 1, 1995]

#### TIME TO RETIRE THE FILIBUSTER

The U.S. Senate likes to call itself the world's greatest deliberative body. The greatest obstructive body is more like it. In the last session of Congress, the Republican minority invoked an endless string of filibusters to frustrate the will of the majority. This relentless abuse of a time-honored Senate tradition so disgusted Senator Tom Harkin, a Democrat from Iowa, that he is now willing to forgo easy retribution and drastically limit the filibuster. Hooray for him.

For years Senate filibusters—when they weren't conjuring up romantic images of Jimmy Stewart as Mr. Smith, passing out from exhaustion on the Senate floor—consisted mainly of negative feats of endurance. Senator Sam Ervin once spoke for 22 hours straight. Outrage over these tactics and their ability to bring Senate business to a halt led to the current so-called two-track system, whereby a senator can hold up one piece of legislation while other business goes on as usual.

The two-track system has been nearly as obstructive as the old rules. Under those rules, if the Senate could not muster the 60 votes necessary to end debate and bring a bill to a vote, someone had to be willing to continue the debate, in person, on the floor. That is no longer required. Even if the 60 votes are not achieved, debate stops and the Senate proceeds with other business. The measure is simply put on hold until the next cloture vote. In this way a bill can be stymied at any number of points along its legislative journey.

One unpleasant and unforeseen consequence has been to make the filibuster easy to invoke and painless to pursue. Once a rarely used tactic reserved for issues on which senators held passionate convictions, the filibuster has become the tool of the sore loser, dooming any measure that cannot command the 60 required votes.

Mr. Harkin, along with Senator Joseph Lieberman, a Connecticut Democrat, now proposes to make such obstruction harder. Mr. Harkin says reasonably that there must come a point in the process where the majority rules. This may not sit well with some of his Democratic colleagues. They are now perfectly positioned to exact revenge by frustrating the Republican agenda as efficiently as Republicans frustrated Democrats in 1994.

Admirably, Mr. Harkin says he does not want to do that. He proposes to change the rules so that if a vote for cloture fails to attract the necessary 60 votes, the number of votes needed to close off debate would be reduced by three in each subsequent vote. By the time the measure came to a fourth vote—with votes occurring no more fre-

quently than every second day—cloture could be invoked with only a simple majority. Under the Harkin plan, minority members who feel passionately about a given measure could still hold it up, but not indefinitely.

Another set of reforms, more incremental but also useful, is proposed by George Mitchell, who is retiring as the Democratic majority leader. He wants to eat away at some of the more annoying kinds of brakes that can be applied to a measure along its legislative journey.

One example is the procedure for sending a measure to a conference committee with the House. Under current rules, unless the Senate consents unanimously to send a measure to conference, three separate motions can be required to move it along. This gives one senator the power to hold up a measure almost indefinitely. Mr. Mitchell would like to reduce the number of motions to one.

He would also like to limit the debate on a motion to two hours and count the time consumed by quorum calls against the debate time of a senator, thus encouraging senators to save their time for debating the substance of a measure rather than in obstruction. All of his suggestions seem reasonable, but his reforms would leave the filibuster essentially intact.

The Harkin plan, along with some of Mr. Mitchell's proposals, would go a long way toward making the Senate a more productive place to conduct the nation's business. Republicans surely dread the kind of obstructionism they themselves practiced during the last Congress. Now is the perfect moment for them to unite with likeminded Democrats to get rid of an archaic rule that frustrates democracy and serves no useful purpose.

[From the New York Times, March 6, 2005]

#### THE SENATE ON THE BRINK

The White House's insistence on choosing only far-right judicial nominees has already damaged the federal courts. Now it threatens to do grave harm to the Senate. If Republicans fulfill their threat to overturn the historic role of the filibuster in order to ram the Bush administration's nominees through, they will be inviting all-out warfare and perhaps an effective shutdown of Congress. The Republicans are claiming that 51 votes should be enough to win confirmation of the White House's judicial nominees. This flies in the face of Senate history. Republicans and Democrats should tone down their rhetoric, then sit down and negotiate.

President Bush likes to complain about the divisive atmosphere in Washington. But he has contributed to it mightily by choosing federal judges from the far right of the ideological spectrum. He started his second term with a particularly aggressive move: resubmitting seven nominees whom the Democrats blocked last year by filibuster.

The Senate has confirmed the vast majority of President Bush's choices. But Democrats have rightly balked at a handful. One of the seven renominated judges is William Myers, a former lobbyist for the mining and ranching industries who demonstrated at his hearing last week that he is an anti-environmental extremist who lacks the evenhandedness necessary to be a federal judge. Another is Janice Rogers Brown, who has disparaged the New Deal as "our socialist revolution."

To block the nominees, the Democrats' weapon of choice has been the filibuster, a time-honored Senate procedure that prevents a bare majority of senators from running roughshod. Republican leaders now claim that judicial nominees are entitled to

an up-or-down vote. This is rank hypocrisy. When the tables were turned, Republicans filibustered President Bill Clinton's choice for surgeon general, forcing him to choose another. And Bill Frist, the Senate majority leader, who now finds judicial filibusters so offensive, himself joined one against Richard Paez, a Clinton appeals court nominee.

Yet these very same Republicans are threatening to have Vice President Dick Cheney rule from the chair that a simple majority can confirm a judicial nominee rather than the 60 votes necessary to stop a filibuster. This is known as the "nuclear option" because in all likelihood it would blow up the Senate's operations. The Senate does much of its work by unanimous consent, which keeps things moving along and prevents ordinary day-to-day business from drowning in procedural votes. But if Republicans change the filibuster rules, Democrats could respond by ignoring the tradition of unanimous consent and making it difficult if not impossible to get anything done. Arlen Specter, the Pennsylvania Republican who is chairman of the Judiciary Committee, has warned that "the Senate will be in turmoil and the Judiciary Committee will be hell."

Despite his party's Senate majority, however, Mr. Frist may not have the votes to go nuclear. A sizable number of Republicans—including John McCain, Olympia Snowe, Susan Collins, Lincoln Chafee and John Warner—could break away. For them, the value of confirming a few extreme nominees may be outweighed by the lasting damage to the Senate. Besides, majorities are temporary, and they may want to filibuster one day.

There is one way to avert a showdown. The White House should meet with Senate leaders of both parties and come up with a list of nominees who will not be filibustered. This means that Mr. Bush—like Presidents Bill Clinton, Ronald Reagan and George H.W. Bush before him—would agree to submit nominees from the broad mainstream of legal thought, with a commitment to judging cases, not promoting a political agenda.

The Bush administration likes to call itself "conservative," but there is nothing conservative about endangering one of the great institutions of American democracy, the United States Senate, for the sake of an ideological crusade.

The ACTING PRESIDENT pro tempore. The Senator yields back.

The Senator from Vermont.

Mr. LEAHY. Mr. President, in light of the speech of my distinguished colleague from Utah, I have a few comments I think I will make about this issue.

The ACTING PRESIDENT pro tempore. The Senator is recognized.

Mr. LEAHY. What is the parliamentary situation, Mr. President? Are we in morning business?

The ACTING PRESIDENT pro tempore. Morning business, with a 10-minute time limit.

Mr. LEAHY. Thank you.

Mr. BENNETT. Mr. President, I ask unanimous consent that the Senator from Vermont be allowed to speak for more than 10 minutes. I certainly did. I want to be sure he has the same courtesy.

The ACTING PRESIDENT pro tempore. Is there objection?

Hearing none, it is so ordered.

#### RELIGIOUS MCCARTHYISM

Mr. LEAHY. Mr. President, I thank my friend from Utah for his usual cour-

tesy. After all, he has in his lineage a Senator. His father, as does he, served as a Senator. He knows, as did his father, the normal courtesies that make this place run so much more smoothly. So I appreciate it.

I spoke at the beginning of the week about the alarming rise of religious McCarthyism. I hoped that by drawing attention to this situation the majority leader and other Republican leaders would speak out against any campaign that improperly characterizes Senators as being "against people of faith." That demonizing of Senators and their motives has no place in this country, and absolutely none in debate among Senators. It is a slur. It is a smear. It is untrue. Every Senator, Republican and Democratic, knows it. The Republicans should denounce a campaign based on bigotry and demagoguery.

With rare exceptions, they have refused to do so. And even the majority leader will apparently act in support of such a campaign this weekend.

Mr. BENNETT. Mr. President, will the Senator yield for a question?

Mr. LEAHY. Mr. President, I will yield for one, but I would prefer—

Mr. BENNETT. It is only one.

I wonder if the Senator heard my denunciation of that kind of thing when I gave my speech?

Mr. LEAHY. I was about to refer to that. So I now do refer to the fact that the Senator from Utah said people should not be demonized as being against people of faith if they oppose somebody.

I appreciate it. It is the first time I have heard that said on his side of the aisle. Unfortunately, many others have been saying just the opposite. That is why I wish the majority leader would not act in support of such a campaign this weekend.

The upcoming telecast to incite congregants with the false charge that those who oppose judicial activists are anti-Christian or anti-faith is wrong. It is divisive and it is destructive. That Republican officials will lend support to that effort through their silence, rather than denounce it, is disturbing and disappointing. I appreciate the Senator from Utah, Mr. BENNETT, finally speaking out, or having a voice finally speak out from that side of the aisle denouncing it.

To divide the American people along religious lines is wrong. It has always been wrong. Smearing political opponents as anti-faith is despicable. Apparently, some will stop at nothing and stoop to any level. No scurrilous charge is too coarse; no baseless accusation is too outlandish. When a few of us had the honor of attending the funeral of Pope John Paul II in Rome as part of the official Senate delegation recently, guess what happened. Democrats, but not Republicans, were castigated for not being present in Washington. There were, of course, seven Republicans and seven Democrats. The same people who make these charges castigated the Democrats for being in Rome.

When we explain in public session the basis on which we have decided to oppose a nomination of somebody we believe does not merit a lifetime appointment to the Federal bench, the judicial activism we detail is ignored and we are smeared as anti this or anti that. So I thank the many religious leaders who have come forward this week to uphold America's great traditions of respecting faith, honoring faith, and ensuring that the constitutional prohibition against any religious test for public office be strictly observed.

Christian leaders from a variety of denominations, Muslim leaders, and Jewish leaders, have joined to reject these disgraceful efforts of a few partisans injecting religion into the discussion of judicial nominations. They have publicly denounced the efforts of the religious demagogues making slanderous charges in a win-at-all-costs bid to rile the passions and to further divide Americans one from another. I am grateful for the voices of these religious leaders. We need less division, not more. We need to work together more, not less. We need to unite, not divide.

I share the disappointment of the more than 400 religious leaders who have written to Majority Leader FRIST urging him to "repudiate those who misuse religion for political purposes and who impugn the faith of any who disagree with them."

All of us need to repudiate the message of divisiveness and religious manipulation.

The Reverend Dr. Weldon Gaddy, president of the Interfaith Alliance, recently wrote to Senator FRIST to warn against transforming "religion by baptizing it as a disciple of partisan politics."

Abraham Foxman, national director of the Anti-Defamation League, reminded Senator FRIST:

Religious liberty has flourished in our nation precisely because Americans have been steadfast in their commitment against sowing religious discord as a means to achieve political success.

My Irish and my Italian grandparents, like so many others, came to this country seeking a better life for their families, not just a better job but the freedoms that have always been so much a part of America's great attraction. But it has taken time and pain for us to realize as a nation that dream of religious freedom and tolerance.

I remember my parents talking about days I thought were long past, when Irish Catholics were greeted with signs that told them they need not apply for jobs. Italian Catholics were told that they and their religious ways were not wanted. That is what my grandparents experienced and my parents saw. The smears we are seeing today mock the pain and injustice that so many American Catholics endured. We have come too far to turn back to the darkness of intolerance.

Partisans these days are seeking to rekindle the flames of bigotry for