where exposed Iraqi troops are routed in the open desert, overwhelmed by American airpower.

This war will be waged in Baghdad, in Tikrit, and in other cities. It will be waged from house to house and palace to palace, from street to street and school to school and hospital to hospital.

We will certainly kill many Iraqis, and how many of our own will be killed? And will we stay the course once the body bags start coming back to Dover? Will Americans stand up and say, ''More''? I think not.

Then there are the thousands of innocent Iraqi civilians civilians already brutalized by the last 12 years—who will become casualties in this war.

America has never been an aggressor nation unless attacked, as we were at Pearl Harbor and on September 11, or our interests and our allies were attacked. We have never initiated a major invasion against another nation-state, which leads to the question of whether a preemptive war is the morally right, legally right, or the politically right way for the United States to proceed.

Lastly, there is the immensely complicated question of the Iraqi nation Saddam Hussein now has and what will happen if he is overthrown. Have we really thought out our options here? Have we taken into account the deep tribal factionalism and divisions, the bitter and often bloody rivalries among the Shia majority, the ruling Sunni minority, and the Kurds, that lie at the very root of Iraq? Will we protect the Kurds from possible genocide? How long will we stay to secure a new government? And who would replace Saddam Hussein?

Let's be realistic. A democracy is not likely to emerge. One must look closely at the history of Iraq to draw such a conclusion, and I have.

Madam President, I would like to quote from the recently published book, ''The Reckoning: Iraq and the Legacy of Saddam Hussein'' by Sandra Mackey. She writes:

When [Saddam Hussein] finally loses his grip on power either politically or physically, he will leave Iraq much as it was when the British created it—torn by tribalism and uncertain in its identity. It is this Iraq that threatens to inflict its communal grievances, its decades of non-cooperation, and its festering suspicions and entrenched hatreds on the Persian Gulf, the lifeline of our global economy.

In light of such conditions, is the United States ready to be an occupational force? It could take many years for the seeds of a stable pluralist society to flourish in Iraq. Are we really ready to spend a generation there?

Given what is at stake here—American lives, American prestige, and America's respect for the rule of law—we find ourselves at a critical crossroad.

Again, according to Sandra Mackey:

. . . the time is fast approaching when the United States, for a series of perilous reasons, will be forced to look beyond Hussein to Iraq itself. That is when all Americans will pay the price for what has been a long night of ignorance about the land between the rivers.

In closing, I am very happy to see that President Bush will now seek congressional approval regarding military action. So this debate has just begun.

I look forward to working with my colleagues in the Congress to ensure we not only ask the questions but see that the answers are moral, see that they are legal, see that they are befitting the greatest democracy on Earth, and see whether they are worth, for the first time, the United States of America making a unilateral attack on another nation-state.

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

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

The legislative clerk proceeded to call the roll.

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

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

DEPARTMENT OF HOMELAND SECURITY

Mrs. CARNAHAN. Mr. President, the attacks of September 11 changed us as individuals and as a nation. They changed the way we think about our personal security, and they challenged our assumptions about the threats posed by groups and organizations hostile to our values and our way of life.

The events of the past year have also bolstered our resolve. We have come a long way since that terrible day, but much more needs to be done. We have toppled the Taliban and severely disrupted the al-Qaida network, but our military is still working around the clock to destroy al-Qaida elements around the world.

We have dramatically improved security at our airports, but we have much to do to protect our aviation system, our ports, and our borders. We have spent billions to recover from the attacks, but unfortunately we must spend more to protect our homeland from threats ranging from bioterrorism to dirty bombs.

Today, we are focused on reorganizing our Federal Government to meet these new security challenges. I believe creating a new Federal Department of Homeland Security is the right thing to do. We need one agency whose exclusive focus is controlling our borders and protecting our homeland. That is why I support the bill before the Senate.

I commend Senator LIEBERMAN for the leadership and tenacity he has shown in getting us to this point. We began hearings last year on this proposal, and now we have brought the Senate a well-designed, comprehensive bill, approved on a bipartisan basis by the Governmental Affairs Committee. I was proud to vote for that bill.

I also commend President Bush for his decision to support the creation of a Homeland Security Department.

I believe now is the time for Congress and the President to work together to create a strong, effective, and well-equipped department—a robust department. The American people rightly demand that the first duty of the Federal Government is to provide security. So we need to make sure we give the new Department the structure and the tools it needs to do the job.

The committee-approved homeland security bill creates an agency that will improve coordination, cooperation, and communication among all the Government organizations that will work at this new effort. It will bring together information and expertise from Federal, State, and local government and the private sector. Such efforts are key to preventing and containing further attacks.

Our States are on the front line of this battle. Missouri recognized this and was the first State to hire a homeland security director. In recognition of the strong bonds needed between Federal, State, and local government, the committee bill includes an office of State and local government Coordination. This office will assure that the Federal Government reaches out to the State and local levels with training, tools, and a coordinated strategy.

It will take more than this bill to prepare communities to respond to an attack, however. There must be the resources to do the job. I am already concerned because Federal funding for homeland security still has not made its way to the local level in Missouri. In the aftermath of 9/11, the staffing needs of many fire departments have increased dramatically across our Nation. Two-thirds of all fire departments, large and small, operate with inadequate staff. The International Association of Fire Chiefs estimates that 75,000 additional firefighters are needed to meet minimal acceptable levels for safety and effective response.

I offered an amendment with Senator COLLINS that will begin to address this. It will establish a program to enable local fire departments in Missouri and across the country to hire 10,000 new firefighters. I am pleased the amendment passed unanimously in committee. This amendment is an effort to strengthen the ranks of those who protect us and did so on September 11, and who risk their lives daily to keep our communities safe.

I urge my colleagues to support this provision when the Senate bill is conferenced with the House bill. We not only need to make sure our first responders have sufficient resources, but we will need to make sure they have adequate training. I sponsored an amendment in committee that requires the new Department to coordinate with the Secretary of Defense for training on how to respond to chemical and biological attacks. This is a logical step because the Defense Department is the

primary Government agency supporting the training of military and nonmilitary personnel to respond to chemical and biological attacks.

Just last January, the Coast Guard sent 30 national strike force members to the Army's chemical school in Fort Leonard Wood, MO. They learned how to spot nerve agents, scan people for radiation, and respond in other ways to terrorist attacks. From their DOD schooling, some went straight to the Olympic Games in Salt Lake City for duty.

My amendment, which the committee also accepted unanimously, makes sure that the new Department of Homeland Security has access to the Defense Department's expertise.

We will consider a number of amendments in the coming days and hopefully have a thorough debate. But let's not lose sight of the fact we have a very solid proposal before the Senate. It implements the President's call for the creation of a strong, robust Department of Homeland Security. It does so in a careful and constructive way. In the end, it will preserve, protect, and defend the United States of America.

The PRESIDING OFFICER. The Senator from Arizona.

JUDGE PRISCILLA OWEN

Mr. KYL. Mr. President, I regret to say this day is a very dark day in the history of the Senate. The Senate Judiciary Committee, of which I am a member, has just rejected, on a purely partisan party line vote, the nomination of one of President Bush's finest nominees to the U.S. Circuit Court, Justice Priscilla to the Fifth Circuit Court of Appeals.

First, there was a vote to reject her 10 to 9. Then, Senator HATCH asked she be reported to the full Senate without recommendation so that all of our colleagues could have an opportunity to cast their vote on her nomination. That was rejected 10 to 9. Finally, he said, all right, then, I will move that we report her out unfavorably since the majority of the committee, 10 to 9, does not support her confirmation. That, too, was rejected on a party-line vote.

The full body of the Senate will not have an opportunity to vote on the confirmation of Justice Priscilla Owen.

The reason this is so distressing today is because it marks a new era in the judicial confirmation process. That much was made clear by the Democratic members of the committee today. It is clear now that there is a new test to be applied to the President's nominees. It is no longer enough that the nominee be well qualified and above reproach in terms of judicial ethics. It is now necessary that the candidate be committed to actively pursuing the political agenda of the majority of the members of the committee. If not, they will characterize the nominee as ''extremist,'' as ''right wing,'' as Justice Owen was characterized today.

Now, some time ago the chairman of the committee said the American Bar Association, which had historically rated the qualifications of nominees, was 6really the gold standard because they were very careful in how they considered the qualifications of nominees and their recommendations were not made lightly. The highest recommendation that the American Bar Association can give to a nominee is ''well qualified.'' Justice Owen received the recommendation of ''well qualified'' not by a majority of the members of the ABA who decide these matters, but unanimously. Every single person involved in the ABA who rated the nominee, rated her well qualified. In other words, she could not have gotten a higher rating from the American Bar Association.

As I said, the chairman of the committee characterized this process as the gold standard for nominees. I said today that I guess the Senate has now gone off the gold standard; that is no longer enough.

The Senator from New York was quite candid in articulating again, as he has on numerous occasions, what he believes the new standard should be. And central to the application of the new standard is a determination by the members of the committee of the purported ideology, political ideology, of the nominee with the right to determine whether the nominee is within the mainstream, as they identify it, and then the right to vote down any nominee considered to be outside the mainstream.

Never mind that our great and distinguished colleagues, such as Senator KENNEDY of Massachusetts, Senator SCHUMER of New York, Senator LEAHY of Vermont, in my opinion, are not necessarily the most qualified to describe what is mainstream in American politics—as least not as qualified as a person who has been elected by all of the people of the country, the President of the United States. Apart from the fact that I think President Bush probably has a better handle on what is mainstream in the country than my colleagues on the committee, myself included, the rejection of the previous standard and the insertion of this new political standard into the Judiciary Committee deliberations is a breach of tradition, highly dangerous to the continuation of the rule of law in the United States, and itself an exercise in blatant, political activity.

When the Senator from New York suggested this new standard, he held a hearing. Among the people who testified were Lloyd Cutler, counselor to several Democratic Presidents. Lloyd Cutler is a man of great distinction in the bar with a long history of activity in the judicial nomination process. He said it would be a grave mistake to insert politics into the nonpolitical branch of Government, the third branch, the judicial branch. He said if an ideological litmus test ever became the Senate's reason for confirming or rejecting a nominee, that it would have injected politics into the third branch, and the citizenry could then well conclude that the third branch of Government was merely an extension of the other two, subject to political decision making, and that the public could then rightly lose faith; that the designates of the third branch of Government would be devoid of political influence, that they would be fair and honest. And I would just add in my own words that it would be pretty hard to believe anymore that when you went into a court and you expected to receive blind justice, as we are all accustomed to, that you might well be faced with the decision of a political judge who would not base the case on the law or the Constitution, but rather on political ideology.

That is wrong. It is dangerous. It is unprecedented. That is why I say this was a black mark in the history of the Senate because today we had a committee that made a decision that I can only characterize as applying a political litmus test to the nominee—and a faulty one at that.

If my colleagues can characterize Justice Priscilla Owen as a right-wing extremist, an ideologue, an activist judge—as they did—then anyone can be so characterized. Senator GRAMM made the point a few minutes ago. He said: I know a political ideologue when I see one because I am. Most of us in the Senate, in fact, are political ideologues in the finest sense of that word. We believe in a political ideology and we care enough, no matter what other occupation we might have had, to try to advance our political philosophy in the U.S. Senate on behalf of our constituents. That is in the great tradition of the United States and applied to the second branch of Government, the legislative branch.

But it has never been appropriate to apply that to the third branch of Government, our judges. As I said, if Priscilla Owen can be so characterized, then anyone can be. She is about as far from being an ideologue or an extremist or an activist as anybody I have ever seen nominated to the court.

A bit about her: She has earned the support of Texas Democrats and Republicans. She has been three times elected to the Texas Supreme Court. She had the endorsement of every major Texas paper in her last race. She is not a partisan.

She is brilliant. She had the highest score on the Texas bar exam when she took it. As I said, the American Bar Association rated her unanimously with their highest rating of ''well qualified.''

Everything that was said about her in the committee deliberations this morning was considered by the bar association in making that recommendation. I suggest the charges that those outside the Senate have made are trumped up charges that bear no resemblance to the truth.

In characterizing her as somehow outside the mainstream, these groups