

confirmation vote on the Paez nomination was 59 to 39. Obviously, the opponents of Paez could have killed that nominee by a filibuster if they had chosen to do so. Both times we approached the filibuster level of 41 votes. I know how to count votes, and if we had wanted to filibuster the Paez and Berzon nominations, I suspect we could have and probably stopped them both. But the Republican leadership did not whip our caucus to filibuster these two nominations. In fact, it did the opposite. To his great credit, Senator LOTT urged our colleagues not to filibuster these two nominations despite the strong opposition to them within our conference.

That is why Judge Paez and Judge Berzon have been sitting on the ninth circuit for the last 5 years. In fact, today is the fifth anniversary of their confirmation. They were confirmed on March 9, 2000. And for those who point to the Paez and Berzon nominations to try to justify their filibusters, I emphasize again we are talking about Judge Paez and Judge Berzon. So given that many of my Republican colleagues and I opposed both the Berzon and Paez nominations as shown by our votes against the nominations themselves, why did we vote for cloture? We did so because we were mindful of a long-standing Senate norm and precedent that the Senate does not filibuster judicial nominations. That is an unwritten Senate rule. Even if one strongly disagrees with the nomination, the proper course of action under Senate norms and traditions, as they have consistently been understood and applied, is not to filibuster the nominee but to vote against him or her. That is precisely what a supermajority of my conference and I did on the Paez and Berzon nominations, who were two of the most controversial—these were extraordinarily controversial judges that President Clinton had named to the ninth circuit. My Republican colleagues and I honored Senate tradition. We followed the constitutional directive set forth in article II, section 12, that the Senate as an institution as reflected by the will of the majority of its Members, render its advice and consent on the President's nominees. We put propriety over partisanship.

But that precedent has now been changed. Those norms and traditions have been upset.

Therefore, I ask my colleagues to consider the ramifications of continuing down this path of institutionalizing this use of the judicial filibuster as a tool of obstruction. For more than 200 years we have recognized the careful balance our Founding Fathers struck among our three branches of Government. Judicial filibusters pose a danger to this constitutionally required separation of powers.

I believe it is not too late to turn back. It is in the best interests of both great parties and the Senate itself that we restore the norms, traditions, and precedents of the past 200 years that

have served this country so well. It is extraordinarily shortsighted. Our friends on the other side of the aisle will have the White House again one day, and the shoe will be on the other foot. They will rue the day, if this precedent is allowed to prevail, that they set this precedent. I think it is time we stood back, took a breath and thought about this institution and respected its norms and traditions.

Mr. President, I yield the floor.

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EXPRESSING THE SENSE OF THE
SENATE ON TERRORIST AT-
TACKS AGAINST THE PEOPLE OF
SPAIN

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 76, submitted earlier today by Senators LIEBERMAN, ALLEN, and DODD.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 76) expressing the sense of the Senate on the anniversary of the terrorist attacks launched against the people of Spain on March 11, 2004.

There being no objection, the Senate proceeded to consider the resolution.

Mr. MCCONNELL. I ask unanimous consent that the resolution and preamble be agreed to en bloc, the motions to reconsider be laid upon the table en bloc, and that any statements related to the resolution be printed in the RECORD, without intervening action or debate.

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

The resolution (S. Res. 76) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 76

Whereas on March 11, 2004, terrorists associated with the al Qaeda network detonated a total of 10 bombs at 6 train stations in and around Madrid, Spain, during morning rush hour, killing 191 people and injuring 2,000 others;

Whereas like the terrorist attack on the United States on September 11, 2001, the March 11, 2004, attacks in Madrid were an attack on freedom and democracy by an international network of terrorists;

Whereas the Senate immediately condemned the attacks in Madrid, joining with the President in expressing its deepest condolences to the people of Spain and pledging to remain shoulder to shoulder with them in the fight against terrorism;

Whereas the United States Government has continued to work closely with the Spanish Government to pursue and bring to justice those who were responsible for the March 11, 2004, attacks in Madrid;

Whereas the European Union, in honor of the victims of terrorism in Spain and around the world, has designated March 11 an annual European Day of Civic and Democratic Dialogue;

Whereas the people of Spain continue to suffer from attacks by other terrorist organizations, including the Basque Fatherland and Liberty Organization (ETA);

Whereas the Club of Madrid, an independent organization of democratic former heads of state and government dedicated to strengthening democracy around the world, is convening an International Summit on Democracy, Terrorism, and Security to commemorate the anniversary of the March 11, 2004, attacks in Madrid; and

Whereas the purpose of the International Summit on Democracy, Terrorism, and Security is to build a common agenda on how the community of democratic nations can most effectively confront terrorism, in memory of victims of terrorism around the world: Now, therefore, be it

Resolved, That the Senate—

(1) expresses solidarity with the people of Spain as they commemorate the victims of the despicable acts of terrorism that took place in Madrid on March 11, 2004;

(2) condemns the March 11, 2004, attacks in Madrid and all other terrorist acts against innocent civilians;

(3) welcomes the decision of the European Union to mark the anniversary of the worst terrorist attack on European soil with a Day of Civic and Democratic Dialogue;

(4) calls upon the United States and all nations to continue to work together to identify and prosecute the perpetrators of the March 11, 2004, attacks in Madrid;

(5) welcomes the initiative of the Club of Madrid in bringing together leaders and experts from around the world to develop an agenda for fighting terrorism and strengthening democracy; and

(6) looks forward to receiving and considering the recommendations of the International Summit on Democracy, Terrorism, and Security for strengthening international cooperation against terrorism in all of its forms through democratic means.

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SUPPORTING THE PEOPLE OF
LEBANON

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of S. Res. 77 which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 77) condemning all acts of terrorism in Lebanon and calling for removal of Syrian troops from Lebanon and supporting the people of Lebanon in their quest for a truly democratic form of government.

There being no objection, the Senate proceeded to consider the resolution.

Mr. MCCONNELL. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

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

The resolution (S. Res. 77) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 77

Whereas since December 29, 1979, Syria has been designated a state sponsor of terrorism by the Secretary of State;

Whereas on December 12, 2003, the President signed the Syria Accountability and Lebanese Sovereignty Restoration Act of