

Judge Mukasey is an outstanding nominee, highly qualified by anybody's definition, a consensus nominee who has now drawn fire. It strikes me as a situation of ignoring the forest for a tree. I want to talk about the specific tree that is here in the way, but I want to also point out the forest we have.

Judge Mukasey is an outstanding, qualified nominee, strongly supported, warmly put forward by Republicans and Democrats alike. He is not an ideologue by any means.

Senator SCHUMER said, at the outset:

[H]e could get a unanimous vote out of this committee.

Senator SCHUMER had previously discussed Judge Mukasey as a possible appointee to the U.S. Supreme Court—a lifetime appointment to the U.S. Supreme Court.

Here again, Senator SCHUMER's words:

Let me say, if the president were to nominate somebody, albeit a conservative, but somebody who put the rule of law first, someone like a . . . Mike Mukasey, my guess is that they would get through the Senate very, very quickly.

Well, it has now been 41 days that the nomination has been pending. That is longer than any other nominee for Attorney General in over 20 years. He is a consensus nominee.

I have my problems with Judge Mukasey on narrow issues. But if we look at the central issue of our day, which is the war on terrorism, the war we are having with militant Islamists that we are likely to be in for a generation, you could not ask for a more qualified Attorney General nominee than Judge Mukasey.

He is a gentleman who, as a judge, has handled some of the most difficult terrorism cases we have had in the country. He is an outstanding jurist. He is highly qualified. He handled the blind sheik case that came in front of his court. He has handled others. This is a nominee who is going to be in position for, well, the rest of this year and next year, and that is it, as Attorney General. I think he is so highly qualified he could well proceed into a next administration if he could get in in this administration. Yet he is not being put forward.

I want to quote—and this is an extraordinary quote. This is the Second Circuit Court of Appeals praising his work as a trial court judge in some of these difficult cases. I have not read before where a circuit court has praised the work of a trial court judge to such an extraordinary degree as they did of Judge Mukasey where they noted this. This is the Second Circuit saying this about him: "extraordinary skill and patience." Further continuing to quote: "outstanding achievement in the face of challenges far beyond those normally endured by a trial judge." That is the Second Circuit Court of Appeals about Judge Mukasey. This is an outstanding individual.

Now, he was sailing along, doing well as a nominee, going through a tough

confirmation process, handling the hearings well, dealing with the issues, and then an issue came up about torture, and waterboarding in particular. Then there seemed to be some confusion being declared about this, so he has cleared up the record on that issue.

I want to read what he has stated on the record about this particular issue. And I want to say at the outset, it cannot be clearer that Judge Mukasey does not approve of waterboarding. He does not approve of it. He has called the procedure "repugnant to me." He wrote to the Judiciary Committee Democrats that "nothing . . . in my testimony should be read as an approval of the interrogation techniques presented to me at the hearing or in your letter, or any comparable technique."

"[N]othing . . . in my testimony should be read as an approval of [this] interrogation technique. . . ."

He has pledged, if confirmed, he will examine interrogation programs thoroughly, and he has promised that "if, after such a review, [he] determine[s] that any technique is unlawful, [he] will not hesitate to so advise the President and . . . rescind or correct any legal opinion of the Department of Justice that supports use of the technique."

Now, do my colleagues doubt Judge Mukasey, whom they roundly praised just weeks ago, is a man of his word? Do they believe he would permit an illegal program to go forward? I do not think so. He will not. This is a straight-shooter. He is not a yes-man. He is not a yes-man to anybody. He has been on the bench for years. He has handled tough terrorism cases. He recognizes the threat terrorism is to this country. He also recognizes that the United States must stand for what is right. If we don't, that will be used against us in other places around the world, and it doesn't flow to the best image and it doesn't flow to the heart of what America is: a rule-of-law nation that stands up for what is right. He is going to do that. He has done that. He will do that.

He is not a yes-man to anybody. He is not a yes-man to people who would oppose him in this body. He is not a yes-man to the President. He has far too distinguished a career to be a yes-man, with less than 14 months left in an administration, for him to say: OK, I am just going to roll over and approve something I disagree with, in the final 14 months of an administration.

We need an Attorney General. We need an Attorney General in this country. This one has been pending far too long. I ask my colleagues who are seeking to oppose him—I think primarily on the grounds that they just want to oppose the Attorney General nominee of the United States or oppose the President—to back up and to take a second look at this gentleman and his great qualifications, his integrity he has conducted his entire life with, what he has specifically said about

waterboarding, and find it in themselves to do the right thing and support him. This is an outstanding nominee who doesn't deserve this sort of treatment. We need to get this vote up and approved.

I believe the chairman of the Judiciary Committee, whom I have worked with a great deal and whom I have a great deal of respect and admiration for, is going to hold hearings on Judge Mukasey on Tuesday, and a vote. I am hopeful we can vote him out of committee and vote him through the Senate, clearly before the Thanksgiving Day break. We need to. We need an Attorney General. This is the right man at the right time for this job.

I thank you very much, and I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The majority leader is recognized.

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

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

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#### SCHIP

Mr. REID. Mr. President, in my remarks dealing with the CHIP bill, I spoke profusely about the cooperation of the distinguished Speaker. She has been wonderful on this issue.

Sometimes, you leave out your friends. Steny Hoyer and I have known each other for many years. We have served in Congress together for 25 years. I failed to mention his work on this bill. He has been vigilant and with us every step of the way, and I should have mentioned his name.

I also want to say that in speaking—my staff, frankly, has spoken to him; I have not in the last hour or so. One of the things that very well could happen is that the House may not send the bill to the President for a while—the bill he says he is going to veto—to give the negotiators more time to see if they can come up with something. That is certainly something I think would be a wise thing for the House to do. Since we got the suggestion from Steny Hoyer, I am sure it is very wise. So that is one thing the House may do.

Again, everyone has cooperated. I appreciate very much the work and the stage where we are.

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#### MORNING BUSINESS

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#### FURTHER CHANGES TO S. CON. RES. 21

Mr. CONRAD. Mr. President, section 301 of S. Con. Res. 21, the 2008 budget resolution, permits the chairman of the Senate Budget Committee to revise the allocations, aggregates, and other appropriate levels for legislation that reauthorizes the State Children's Health