

this obviously qualified nominee. Mr. Ogden was favorably reported by the Judiciary Committee by a vote of 14-5, so it seems clear he will be confirmed. But apparently some far-right advocates have made this nomination more controversial than it should be.

As I understand it, those who oppose this nominee disagree with positions he took on behalf of some of his clients, including media organizations. In my view, that is a very unfair basis for opposing a nominee. As a former practicing lawyer, I feel strongly that a lawyer should not be held personally responsible for the views of his clients.

President Obama deserves to have his advisors, especially members of his national security team, in place as quickly as possible. I urge confirmation of this outstanding nominee.

Mr. LEAHY. Madam President, even after abandoning their the ill-conceived filibuster of President Obama's nomination of David Ogden to be Deputy Attorney General, we still hear Republican Senators making scurrilous attacks against Mr. Ogden, launched by some on the extreme right.

As I said on the Senate Floor earlier, David Ogden is a good lawyer and a good man. He is a husband and a father. Yet, regrettably and unbelievably, we still hear chants that he is a pedophile and a pornographer. Those charges are false and they are wrong. Senators know better than that.

Special interests on the far right have distorted Mr. Ogden's record by focusing only on a narrow sliver of his diverse practice as a litigator spanning over three decades. Dating back to the 1980s, Mr. Ogden's practice has included, for example, major antitrust litigation, counseling, representation and authorship of a book on the law of trade and professional associations, international litigation and dispute resolution, False Claims Act and Export Controls Act investigations, and a significant practice in administrative law. In other words, he has been a lawyer, representing clients. For the last 8 years, since leaving Government service, Mr. Ogden has represented corporate clients in a range of industries, including transportation clients like Amtrak and Lufthansa, insurance and financial institutions like Citibank and Fireman's Fund, petrochemical companies like Shell and BP and pharmaceutical concerns like PhRMA and Merck.

Here are the facts that underlie the overheated rhetoric: As a young lawyer in a small firm with a constitutional practice, along with other lawyers in that respected DC law firm, Mr. Ogden represented a range of media clients. He represented the American Library Association, the American Booksellers Association, and Playboy Enterprises.

In the early 1990s, while at the respected firm of Jenner & Block, Mr. Ogden represented a Los Angeles County firefighter. The firefighter was being prohibited from possessing or reading Playboy magazine at the firehouse,

even when on down time between responding to fires. The Federal Court reviewing the matter held that the first amendment protected the firefighter's right to possess and read the magazine. That representation does not make Mr. Ogden a pornographer, a pedophile or justify any of the other epithets that have been thrown his way.

He also challenged a prosecution strategy that threatened simultaneous indictments in multiple jurisdictions with the goal of negotiating plea agreements that put companies out of business without ever having to prove that the materials they were distributing were obscene. That sounds like the kind of overreaching prosecution strategy that Senator SPECTER and other Republican Senators would condemn, just as they have the excesses of the "Thompson memo" pressuring investigative targets to waive their attorney-client privilege.

Those who have argued that Mr. Ogden has consistently taken positions against laws to protect children ignore Mr. Ogden's record and his testimony. What these critics leave out of their caricature is the fact that Mr. Ogden also aggressively defended the constitutionality of the Child Online Protection Act and the Child Pornography Prevention Act of 1996 while previously serving at the Justice Department. This work has led to support and praise from the National Center for Missing and Exploited Children. He has the support of the Boys and Girls Clubs of America. In private practice he wrote a brief for the American Psychological Association in *Maryland v. Craig* in which he argued for protection of child victims of sexual abuse. In his personal life, he has volunteered time serving the Chesapeake Institute, a clinic for sexually abused children.

Nominees from both Republican and Democratic administrations and Senators from both sides of the aisle have cautioned against opposing nominees based on their legal representations on behalf of clients. When asked about this point in connection with his own nomination, Chief Justice Roberts testified, "it has not been my general view that I sit in judgment on clients when they come" and, "it was my view that lawyers don't stand in the shoes of their clients, and that good lawyers can give advice and argue any side of a case." Part of the double standard being applied is that the rule Republican Senators urge for Republican nominees—that their clients not be held against them—is turned on its head under a Democratic President.

As recently as just over 1 year ago, every Senate Republican voted to confirm Michael Mukasey to be Attorney General of the United States. That showed no concern that one of his clients, and one of his most significant cases in private practice as identified in the bipartisan committee questionnaire he filed, was his representation of Carlin Communications, a company that specialized in what are sometimes

called "dial-a-porn" services. It is more evidence of a double standard.

Senators should reject the partisan tactics and double standards from the extreme right and support David Ogden's nomination. The last Deputy Attorney nominee to be delayed by such a double standard was Eric Holder, whose nomination to be Deputy Attorney General in 1997 was delayed for three weeks by an anonymous Republican hold after being reported favorably by the Judiciary Committee before being confirmed unanimously. Like now Attorney General Holder, Mr. Ogden is an immensely qualified nominee whose priorities will be the safety and security of the American people and reinvigorating the traditional work of the Justice Department in protecting the rights of Americans.

Mr. CARDIN. Mr. President, I ask unanimous consent that on Thursday, March 12, the Senate resume consideration of the Ogden nomination at 12 noon and that it be considered under the parameters of the order of March 10; that the vote on the confirmation of the nomination occur at 2 p.m.; further, that upon confirmation of the Ogden nomination, the Senate remain in executive session and consider Calendar No. 23, the nomination of Thomas John Perrelli to be Associate Attorney General; that debate on the nomination be limited to 90 minutes equally divided and controlled between the leaders or their designees; that upon the use or yielding back of time, the Senate proceed to a vote on confirmation of the nomination; that upon confirmation, the motion to reconsider be laid upon the table, no further motions be in order; that the President be immediately notified of the Senate's action; and that the Senate then resume legislative session.

The PRESIDING OFFICER (Mr. NELSON of Florida). Without objection, it is so ordered.

MORNING BUSINESS

Mr. CARDIN. Mr. President, I ask unanimous consent that the Senate proceed to a period for the transaction of morning business, with Senators permitted to speak for up to 10 minutes each.

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

OMNIBUS APPROPRIATIONS ACT

Mrs. BOXER. Mr. President, during consideration of the Omnibus Appropriations Act, members of the minority party attempted to attach amendments in an effort to delay passage of this important bill. Because further delay in passing this bill could have resulted in the shutdown of the Federal Government, I voted against all amendments to the bill.

I believe that this omnibus bill is important for job growth and will help revitalize our economy. That must be our concern at this critical time.