

# With the help of the Democrats, Alito to be confirmed as US Supreme Court Justice

By Joe Kay  
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The Senate voted by a 72-25 margin on Monday afternoon to close debate on the Supreme Court nomination of Samuel Alito. The number voting for cloture was well above the 60 required to halt a filibuster. The 44 Democrats were divided nearly evenly, with 19 voting to close debate, while 25 voted to allow it to continue.

The final vote on Alito is scheduled for Tuesday morning, in time for him to be approved before Bush's State of the Union address in the evening. Alito is assured to pass, as he requires approval from only a majority of the senators. A preliminary vote tally indicates that he has the support of 54 Republicans, in addition to at least four Democrats.

Support for the filibuster among a few Democrats reflected a combination of cynical calculation and disarray. Since Alito has always had the support of over 50 of the Republican senators, a filibuster would have been the only way that the nomination could be halted. As late as last week, the possibility was being dismissed. Late on Thursday, however, Senator John Kerry initiated a filibuster campaign while he was attending an economic summit in Switzerland.

The move by Kerry came in response to concern within sections of the party that it was necessary to make a show of a filibuster attempt in order to shore up their liberal credentials and lesson the appearance of abject capitulation to the right-wing nominee. The Democrats have come under attack from within their own supporters, including from various liberal blogs and in town hall meetings, for refusing to put up even the shadow of a fight against the Republicans and Alito. Kerry's announcement that he would support a filibuster came on the evening of a *New York Times* editorial, which warned of the dangers for the party that would come with a strategy of "rolling over and playing dead."

Kerry and a few other senators responded by calling for a filibuster. From the beginning, however, Kerry's campaign was a complete farce—a flailing attempt to make a gesture that was doomed to impotence. Kerry's initiative only came after it was clear that it would not succeed. By the middle of last week, several Democrats had already announced that they would oppose a filibuster. This included a majority of

members of the so-called "Gang of 14," the bipartisan group that forged an agreement last year in which the Democrats pledged not to filibuster judicial nominations except under "extraordinary circumstances."

That agreement gave the president a green light to appoint anyone of his choosing to the Supreme Court, with assurance that they would receive no serious opposition from the Democrats. Democratic senators who voted for closure of debate on Monday included all of the Democrats from the "Gang of 14"—Kent Conrad, Tim Johnson, Ben Nelson, Robert Byrd, Mark Pryor, Joseph Lieberman and Mary Landrieu—as well as 12 others.

The division within the Democratic Party on this issue was between a section that wanted to allow Alito through easily, voting for closure of debate while giving only a meaningless "no" during an up-or-down vote, and a section that felt this would not be a sufficient show of opposition. Both sections were quite assured that regardless of what they did, Alito would go through and there would be no confrontation with the Republicans over the nomination.

The attitude of the Democrats was aptly summed up by Senator Harry Reid, the minority leader. Reid noted before the vote that "everyone knows there are not enough votes to support a filibuster." While he decided to vote for the filibuster, he made no secret of the fact that he opposed that the possibility was even raised. A *Washington Post* article from January 27 noted that Reid had "told colleagues this week that he wanted to avoid a filibuster" and that after Kerry's intervention, "he looked frustrated ...as he told [Senate Majority Leader Bill] Frist he could not avert the parliamentary tactic." He said he hoped "this matter will be resolved without too much more talking, but ... everyone has the right to talk."

Wolf Blitzer, on CNN's "Late Edition" Sunday, asked Senator Joseph Biden whether his decision to support the filibuster was "simply a symbolic statement." Biden admitted, "On my part, quite frankly, yes.... I think filibusters make sense when you have a prospect of actually succeeding." And Senator Dick Durbin, the Democratic whip in the Senate, whose job is to enforce party discipline on votes such as this one, simply acknowledged before the vote that "it is highly unlikely that a filibuster would succeed."

Kerry's intervention led some Democrats to reverse their previous statements opposing a filibuster, including Reid

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and California Senator Dianne Feinstein. Senator Hilary Clinton had previously maintained her silence on the issue and has moved to the right as she prepares for a presidential campaign in 2008. Clinton felt it was necessary to support the filibuster vote, however, as she has sought to present herself as an advocate of women's rights. Alito has the strong support of the Christian fundamentalist right, who hope that he will work quickly to overturn *Roe v. Wade*.

The nomination of Alito is being hailed as a great victory on the part of conservatives, who have long sought to shift the Supreme Court sharply to the right on questions of social policy, democratic rights and executive power. A *New York Times* article on Monday quoted Spencer Abraham, one of the founders of the right-wing legal group, the Federalist Society, as saying that the confirmation of both Roberts and Alito to the highest court in the country "would have been beyond our best expectations." Abraham was expressing the amazement of members of this right-wing judicial organization—which played a leading role in the Clinton impeachment and in the theft of the 2000 presidential election—at the completeness of the collapse of Democratic Party opposition.

Roberts and Alito were both on the short list of justices that met the requirements of these right-wing legal groups. When Bush first selected Harriet Miers to replace Sandra Day O'Connor, she was rejected, both by the Christian fundamentalists for her shaky positions on abortion, and by the Federalist Society lawyers.

What are the aims of the Federalist Society and the various right-wing groups that have helped pushed the Alito and Roberts nominations? They include the rollback of the welfare state, the elimination of corporate regulations, the repudiation of international law, the expansion of executive power, and the elimination of the separation of church and state. The elevation of Alito to the Supreme Court poses a serious threat to the democratic rights and social interests of the American people.

These and the policies of the Bush administration as a whole are deeply unpopular, and Bush's poll numbers are falling again. A recent poll conducted by ABC News and the

*Washington Post* found that Bush's approval rating stands at 42 percent, which, except for Nixon during the Watergate scandal, is the worst for a president entering his sixth year in half a century. Sixty percent of the population disapproves of the war in Iraq and the same percentage thinks that Bush does not understand their problems.

If the Democrats were serious about opposing Alito and his extreme right-wing agenda, they would mount a political campaign among broad masses of the population. However, this is the last thing they want, for this would pose a threat to the interests the Democrats themselves support.

In spite of the declining support for the administration, the popular opposition to the war and the assault on democratic rights, the anger that has been generated due to declining living standards and growing inequality, the ballooning corruption scandal surrounding lobbyist Jack Abramoff, and the indictment of several administration officials—the Republicans are able to carry their programs through the Senate with virtually no opposition from the Democrats.

The Democratic Congressional leadership has sought to apologize for its spineless surrender by citing the Republicans' 55-45 majority in the upper house. But there is no question that if the roles were reversed the Republicans would be far more aggressive and provocative in the minority than the Democrats have been in relationship to Bush's agenda. Moreover, the last major action carried out by the Democrats when they did control a similarly narrow majority in the Senate was the infamous vote in October 2002 to authorize Bush to wage war on Iraq, which passed overwhelmingly by a vote of 77 to 23, a margin tellingly similar to the margin by which the Alito nomination was cleared for a final vote.

This can be explained only by the fact that the Democrats have no real opposition to the policies of war, attacks on democratic rights, the assault on social programs, and, in general, the entire policy of the American ruling class. Indeed, on all of these questions, the Democrats have facilitated the Republicans in carrying out a right-wing agenda.

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