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House of Representatives

The House was not in session today. Its next meeting will be held on Tuesday, June 7, 2005, at 2 p.m.

Senate

MONDAY, JUNE 6, 2005

EXECUTIVE SESSION

The Senate met at 2 p.m. and was called to order by the President pro tempore (Mr. STEVENS).

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Almighty God, creator and sustainer of the universe, take the misshapen clay of our lives and remake us into vessels fit for Your use. Remind us that we may make plans, but You have the final word.

Help us to remember that even when we think we are right, You judge our motives. Give us the wisdom to share our plans with You so that You will order our steps.

Today, bless all who labor in the legislative branch of Government. Deliver us from pride and help us to avoid evil paths. Remind us that our No. 1 priority should be to please You. Empower each Senator to embrace honesty and truth as he or she seeks to keep America strong. We pray this in Your holy Name.

Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

NOMINATION OF JANICE ROGERS BROWN TO BE UNITED STATES CIRCUIT JUDGE FOR THE DISTRICT OF COLUMBIA CIRCUIT

The PRESIDENT pro tempore. Under the previous order, the Senate will proceed to executive session to resume consideration of Calendar No. 72, which the clerk will report.

The assistant legislative clerk read the nomination of Janice Rogers Brown, of California, to be United States Circuit Judge for the District of Columbia Circuit.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

Mr. FRIST. Mr. President, I have just a few announcements and then I will have a short statement. We will have a full day of debate today on the nomination of Janice Rogers Brown. To allow for an orderly debate, I now ask unanimous consent that following the remarks of myself and the Democratic leader, the chairman of the Judiciary Committee be recognized to speak. Further, I ask that the time from 3 to 4 be under the control of the Democratic leader or his designee, and the time from 4 to 5 be under the control of the majority leader or his designee. I further ask that the time from 5 to 5:30 be under the control of the other side of the aisle, and the time from 5:30 to 6 be under the control of the majority.

The PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

Mr. FRIST. Mr. President, as a reminder to our colleagues, the cloture vote on the Brown nomination is scheduled for noon tomorrow. I hope and expect that cloture will be invoked at that time and that we will be able to move quickly to an up-or-down vote on her nomination. The Democratic leader and I will be talking shortly this afternoon and will make more specific plans in terms of voting times and give some idea of how quickly we can move with other nominations.

We do have another cloture vote on the Pryor nomination, which would immediately follow the up-or-down vote on Janice Rogers Brown.

In addition to those judicial nominations, we have agreements to debate and vote on of two Sixth Circuit judicial nominations, as well as one DC Circuit Court nominee. This week, we may also reconsider the vote with respect to the Bolton nomination. As you can tell, we have a very busy week as we return from recess. I thank our colleagues in advance as we move through these issues.

Mr. President, I will have a brief opening statement as well, but I now yield to the Democratic leader.

Mr. REID. Mr. President, I thank the majority leader. We do have our week cut out for us. I think the Republican leader and I will get together later today to try to make a decision as to what we are going to do later. If we get through this block of judges that the leader talked about, we should be in pretty good shape to move on to other things and take the judges on a more regular basis, not eating up so much

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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time. This is something the leader and I will discuss.

We have a work period of 4 weeks, so there is much we have to do because, as the Presiding Officer knows, we are entering the appropriations process time, which is always very hectic. We need to turn to that as soon as we can. I hope we can move through the appropriations bills one at a time and not have to do an omnibus or a continuing resolution. That would be better for individual Senators, our States, and our country.

As I have said, we have devoted a lot of time to this situation on judges. After this week, we should be able to move on to other items. I hope so.

The PRESIDENT pro tempore. The majority leader is recognized.

Mr. FRIST. Mr. President, I welcome our colleagues back from the Memorial Day recess. I know everybody enjoyed spending time with family and friends and constituents, reconnecting with the people we serve. It is always a very busy time during a recess period, and this particular recess period, because it was the Memorial Day recess, where everybody did take that day—or several days or moments on several days—to pause and honor the brave Americans who made the ultimate sacrifice in the course of their service to our Nation and in the cause of liberty.

In addition to Memorial Day, it was a time of graduations, a time of commencements for students, whether it be from elementary school, middle school, high school, college, or graduate school. A number of our colleagues participated—I am sure most colleagues participated in graduation ceremonies at all of those levels over the last couple of weeks.

I also hope that last week was a time when people rested and recharged their batteries because, as was just implied in the remarks of the Democratic leader and myself, we have a very busy 4 weeks ahead of us. We have a lot of work to do in a very short period of time before we have the Fourth of July recess.

Today, we will continue, shortly, to debate the nomination of Janice Rogers Brown to the DC Circuit Court of Appeals. After having been delayed for 2 years by partisan obstruction, she will finally receive a fair up-or-down vote—something she deserves. It will be this week on the floor of the Senate. So I am very pleased because that demonstrates real progress in this body. So after 2 years of partisan obstruction, she is going to receive an up-or-down vote.

The President made a great choice in selecting Judge Brown to serve on the Federal bench. I have had the opportunity to meet and spend time with Judge Brown personally and have studied her record. She is a woman of great accomplishment and talent. She is tough, smart, and principled. Her story is nothing short of remarkable.

From humble beginnings as a sharecropper's daughter in segregated Ala-

bama, Janice Rogers Brown has climbed to the peaks of the legal profession. She was educated in segregated schools and worked her way through college and law school. She went on to serve in prominent positions in California State government.

Today, Janice Rogers Brown is a justice on the California Supreme Court, the first African-American woman to serve on California's highest court. Her fellow California judges, both Democrat and Republican, have called her a "superb judge" who "applies the law without favor, without bias, and with an even hand."

The people of California believe she is doing a great job. They reelected her with 76 percent of the vote, the highest voting percentage of all of the justices on the ballot.

The Senate will have a spirited debate on Justice Brown's nomination, but I hope Senators will remember that this is about treating nominees with fairness. Nominees deserve not only a fair up-or-down vote but to be treated fairly during the debate. Civility is more than a word. It is a value we must all work to uphold in our deliberations, and may that be respected on the floor of the Senate.

Before the recess, the Senate voted up or down on Justice Priscilla Owen and she was confirmed. I hope this progress will continue with Justice Brown this week and with Judge Pryor this week, as well as future nominees. We should have a very positive week on judges. As long as that progress continues, a process that continues to give these up-or-down votes, gives these nominees the consideration they deserve, not blind obstruction of the Constitution, the constitutional option, of course, will not be needed.

Our job as Senators is to govern with meaningful solutions, and we must always remain focused on that larger picture of making America safer and stronger and more secure. That is why it is imperative that we address matters such as America's intolerable dependence upon foreign oil. We have gone on for more than a decade without a comprehensive national energy policy. It is time now to change that. As a result, we have become dependent on foreign sources of oil, putting our security and our economy at risk. That is too long. It is time for us to act now—not just talk about it—for families worried about gas prices as they anticipate summer driving, for families who have to sacrifice next winter to pay their heating bills. They expect us to act, and we will in this body on the floor of the Senate and deliver for the American people.

We must diversify our sources of energy and balance new production with conservation and development of renewable resources.

We must do so in a way that reduces our reliance on foreign sources—by increasing America's domestic production of clean coal, oil, and gas, nuclear, solar, ethanol, and other renewable en-

ergy sources—a comprehensive energy plan that will make America safer and more secure and will inject much needed jobs into the economy.

I thank Chairman DOMENICI and Senator BINGAMAN for their hard work and for working together to get this bill out of committee and ready for the floor on a strong, bipartisan vote.

I am confident that we can move forward in the same bipartisan spirit on the Senate floor to move this bill quickly and get it to conference with the House and have it on the President's desk for his signature.

America needs an energy policy that reflects our modern economic and security challenges.

In the days ahead, we will address the Energy bill and we will complete action on the highway bill, which is currently in conference. As soon as that conference completes its action, we will bring it to the floor. We will address the President's nominees and a host of other issues.

As we do so, I am determined to work with my colleagues on both sides of the aisle to take whatever action is necessary—that bold action to move America forward.

We have made great progress in the 109th Congress thus far. We passed fair and thoughtful legislation to end class action and bankruptcy abuse. We took quick and decisive action to support our troops in the field and to give relief for the victims of the tsunami disaster. We passed the Genetic Nondiscrimination Act, a victory that will provide protections against genetic discrimination in health insurance. And we are now finally giving judges the votes they deserve.

We passed a budget in the fifth fastest time in Senate history.

We are leading today on tomorrow's challenges. We can be proud of our efforts to expand freedom here at home and across the globe.

With mutual trust and civility and a sharp focus on our ultimate goals, we can continue to deliver to the American people the solutions they need and the leadership our Nation deserves.

Mr. President, I yield the floor.

The PRESIDENT pro tempore. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, I have sought recognition to support the proceeding to invoke cloture, cut off debate, on California State Supreme Court Justice Janice Rogers Brown, and to bring her to a vote for confirmation to the Court of Appeals for the District of Columbia Circuit. Justice Brown comes to this body with a truly outstanding academic and professional record. She is a graduate of the California State University-Sacramento in 1974. She received her law degree from the University of California at Los Angeles in 1977 and then has had an illustrious career in government in the practice of law and on the bench. She has served in very important legislative roles with the California Legislative Counsel Bureau where she was deputy legislative counsel. She was deputy

attorney general for some 8 years; deputy secretary and general counsel for the State of California Business, Transportation and Housing Agency for 3 years, and then came to the court of appeals, which is an intermediate appellate court in California, for 3 years before becoming a justice on the Supreme Court of California, where she has sat since 1996 until the present time.

During the midst of her career, she has gone on to get a master's degree at the University of Virginia School of Law in the year 2004 which, I would say, is quite an achievement for someone who has been in the California court to take on that kind of academic endeavor and to earn a master's degree.

Beyond her professional work, she has been very active in the community, working with the Youth for Citizenship which serves young people, high school students, teaching them history, civics, reasoning, and debating skills.

She is a participant in a program called "Playing by the Rules" sponsored by a local baseball team, which brings together lawyers, judges, baseball, and elementary and junior high school students to explore life lessons, good citizenship, and the rule of law.

She is a founding board member of Rio Americano High School's Academy Civitas, a 3-year program which specializes in history and political philosophy and seeks to encourage civic virtue by having students participate in internships with Government agencies.

She is the first African-American woman to serve on California's highest court. She is the daughter of sharecroppers, having been born in Greenville, AL, in 1949, 5 years before *Brown v. Board of Education*. She attended segregated schools and came of age in the midst of Jim Crow policies in the South, which is not easy to do.

With all of that, she has had an extraordinary and really illustrious career.

I suggest to my colleagues in the Senate that the confirmation process of Justice Janice Rogers Brown would not be nearly so complicated if it were not set in a timeframe where, for the past two decades, virtually, there has been an exacerbation of the issue of confirmation of judges when one party held the White House and the other political party held the Senate and the Judiciary Committee.

I have served on the Judiciary Committee since my election in 1980. I personally observed, in the last 2 years of President Reagan's administration, after Democrats won control of the Senate in the 1986 election, that the process was slowed down, and the process was further slowed down during the full 4 years of the administration of President George Herbert Walker Bush. I have detailed these in previous floor statements and will not now reiterate them.

Then, in the last 6 years of President Clinton's administration, nearly 70 nominees by President Clinton were

held up in committee, and that was payback, in effect, for what had happened for the last 2 years of President Reagan's administration and the 4 years of the administration of the first President Bush.

When the Republicans won control of the Senate, the Democrats then resorted to the filibuster, which was the first systematic use of the filibuster against judicial nominees in the history of this country. That was followed by President Bush's use of the interim appointment power, the first time in history that the interim appointment power had been used for a judicial nominee after a rejection by the Senate, albeit by the filibuster route. That stopped when there was a commitment made not to use it any more, and the nomination process went forward.

Let us take a look at the record of Justice Janice Rogers Brown and take a look at the record of Justice Owen, now Judge Owen confirmed to the Fifth Circuit Court of Appeals, or Judge Pryor, whose nomination will be before the Senate hopefully in the next several days. We have confirmed many circuit judges during my tenure since my election in 1980, all which I have spent in the service of the Judiciary Committee, who had records not as good as those of Justice Brown or Justice Owen or Judge Pryor. Had we had not been in this situation of holding up judges when one party controlled the White House and the other controlled the Senate and the exacerbation of this situation, we would not have reached the critical stage in which the Senate has been in the immediate past.

We have seen a situation where the filibuster went on and, in my own personal opinion—and I have expressed this at some length in prior floor statements—Democrats were not really pleased with this systematic filibuster. That led to the potential retaliation of the Constitution or nuclear option. I do not think many, if not most, of the Republicans were pleased with that sort of an alternative. But the whole situation had spiraled out of control.

As Senators, we do have a fundamental constitutional obligation to consent, if we choose to do so, to the President's nominees to the bench. This is an advice and consent function under the United States Constitution. That does specify—I think it is more than implication, I think it is really specification—that there be independent judgment used by Senators in coming to that decision. Just as there is a requirement of independence, if there is to be separation of power, then the party which controls the White House ought not to be an automatic rubberstamp for the President. Similarly, the party out of power ought not to be an automatic filibustering machine; there ought to be independent judgment. And that is why I had urged the leaders, again in extended floor statements which I shall not now repeat, to liberate their Members from the straight party-line, straitjacket

vote and allow them to exercise their independence. I think if the 100 Senators were left to our own judgments as to what kind of a nominee ought to be filibustered, Justice Janice Rogers Brown would never have been filibustered. Similarly, if we Senators—Republicans on the situation of the constitutional or nuclear option—had been left to our own judgment, we would have rejected the idea of having the constitutional or nuclear option.

So we have come to a situation now where at least we have moved to confirm Justice Owen, and we are on the brink of the confirmation process of Justice Brown with, as we all know, the agreement of some 14 Senators that there would not be a filibuster as to Justice Brown.

It is true that if you take a look at some of Justice Brown's statements in a context of diplomacy, they might have been left better unsaid, but if everybody in public life—and that would even include Senators—were held to every last syllable that each of us uttered, it would not be a very difficult matter to go through the tracks of speeches each of us has made and find some items on which to be highly critical.

Justice Brown has been criticized for a comment which she made criticizing Justice Holmes' dissent in *Lochner*, where she referred to the "triumph of our own socialist revolution" in 1937. But if we take a look at Justice Brown's decisions, we find her decisions are not in line with that kind of a loose condemnatory statement.

In *Lochyer v. Shamrock Foods*, Justice Brown joined the court's opinion upholding California's stringent standards, which exceeded Federal standards, for identifying and labeling milk and milk products. That is hardly an inactive government.

In the case of *Lungren v. Superior Court*, she joined the court's opinion, broadly construing the phrase "source of drinking water" in the State's clean water statute so that plaintiffs could proceed with their case. Again, not exactly denial of governmental authority.

In the case of *Ramirez v. Yosemite Water Co.*, she joined the court in upholding State regulations regarding overtime pay that applied greater protection to workers than Federal law. Here, again, that is active State regulation.

In *Pearl v. Worker's Compensation Appeals Board*, she joined the court's opinion, upholding the Worker's Compensation Board's stringent standards for ensuring the safety of workers, awarding the plaintiff, an injured police officer, higher benefits; again, sound judicial thinking and not exactly denial of the authority of the State to legislate and look after the common welfare.

She made a statement with respect to discrimination saying it is not ". . . based on age is not . . . like race and sex discrimination. It does not mark

its victim with a 'stigma of inferiority and second class citizenship'; it is the unavoidable consequence of that universal leveler: time.'

That is perhaps an effort to be scholarly, perhaps to be poetic, but hardly disqualifying.

If we take a look at her opinions on the bench, they demonstrate a very distinctive regard for civil rights. In *People v. McKay*, hers was the lone dissent, arguing for the exclusion of evidence of drug possession that was discovered after the defendant was arrested for riding his bicycle the wrong way on a residential street. Her dissent pointedly suggested that the defendant was the victim of racial profiling and included an impassioned critique of that practice.

In *Kasky v. Nike*, the court held that Nike's statements denying mistreatment of overseas workers constituted commercial speech subject to the State truth in advertising laws. Justice Brown dissented saying that Nike's speech constituted noncommercial speech worthy of more strict first amendment protection. Upon appeal, the Supreme Court denied certiorari, but in opinions issued by Justices Breyer and Stevens, there were strong suggestions that if the Court had taken the appeal, Justice Brown's position might well have been upheld, in a very difficult case, where it is hard to draw the line as to what constitutes commercial speech or what is noncommercial speech entitled to more stringent protections under the first amendment.

In this case, as in so many others, Justice Brown demonstrated a real concern for constitutional protections.

In *re Brown*, she wrote the court's opinion reversing a verdict and death sentence on grounds that the prosecutor deprived the defendant of a fair trial by failing to discover and disclose an arguably exculpatory blood test.

In *Visciotti*, she dissented from the majority opinion, arguing that a defendant's death sentence should be set aside on grounds of ineffective assistance of counsel.

In the interest of time, I am not going to delineate any more of Justice Brown's opinions, but I would like to put into the RECORD some summaries of criticism of Justice Brown where she has been criticized for her attitude toward big Government, where she has been criticized for some rulings on civil rights, where she has been criticized for rulings on the first amendment, and where she has been criticized for rulings on criminal law.

I ask unanimous consent that these summaries be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

OPPOSITION—BROWN'S CRITICISMS OF BIG GOVERNMENT

JUSTICE BROWN'S CRITICS OVERLOOK A RECORD ON THE BENCH OF MODERATION

Much of the criticism of Justice Brown centers on speeches she made off the bench, but does not hold up next to her judicial opinions

Most notably, Justice Brown criticized the demise of the Lochner era and the rise of the New Deal in a speech before the Federalist Society. While her speech was indeed critical of Justice Holmes' dissent in *Lochner*, her judicial opinion on the subject in *Santa Monica Beach, Ltd. v. Superior Court* criticized Lochner in terms echoing the United States Supreme Court.

Justice Brown also has been attacked for speeches that criticize government as profligate in creating new rights and privileges and redistributing wealth. Again, the attack loses force when the focus turns to her judicial opinions, which are untainted by personal ideology. To give just a few examples, she has voted to employ an expansive interpretation of a state clean water statute so that plaintiffs could proceed with their case; upheld the right of a plaintiff to sue for exposure to toxic chemicals using the government's environmental regulations; upheld state regulations regarding overtime pay; and upheld a workers compensation board's stringent standard for ensuring the safety of workers.

In a recent column, law professor Jonathan Turley, a self-described "pro-choice social liberal," points out that "Brown's legal opinions show a willingness to vote against conservative views . . . when justice demands it" and that Democrats should confirm her. The attempt to brand her as an extremist, derived from a combination of half-truths and the extremism of her critics, is demagoguery of the first order, and should not be permitted to obstruct the confirmation of a jurist who has been a credit to the bench.

OPPOSITION—BROWN'S RULINGS ON CIVIL RIGHTS

Justice Brown's rulings on racial bias have been distorted

In *Peatros v. Bank of America*, she dissented on grounds that a state law-based discrimination claim was preempted by the National Bank Act. The dissent in fact deferred to federal jurisdiction under the Supremacy Clause and notably pointed to Title VII as the appropriate civil rights provision to invoke in an area governed by federal law—a far cry from an ideologue who appreciates neither federal authority nor civil rights laws.

Another subject of attack was her dissent from *Aguilar v. Avis Rent A Car System*, a decision upholding an injunction against the use of racial slurs in the workplace. Unmentioned in the attack is that her dissent was based on well established First Amendment prohibitions on prior restraint and that she was joined by the court's late liberal icon, Justice Mosk.

In *Hi-Voltage Wire Works v. City of San Jose*, Justice Brown deferred to precedent in her court opinion invalidating a minority contracting program under Proposition 209. That issue was so straightforward that every judge who reviewed it from the trial court on up reached the same result—including every member of the state supreme court.

Justice Brown's opinion asserted that "discrimination on the basis of race is illegal, immoral, unconstitutional, inherently wrong, and destructive of democratic society."

Justice Brown further acknowledged that "equal protection does not preclude race-conscious programs."

The innuendo that this jurist is insensitive to racial bias disparages her firm commitment to civil rights

Consider Justice Brown's lone dissent in *People v. McKay*. There she argued for the exclusion of evidence of drug possession that was discovered after the defendant was arrested for riding his bicycle the wrong way on a residential street.

Justice Brown had this to say: "In the spring of 1963, civil rights protests in Birmingham united this country in a new way. Seeing peaceful protesters jabbed with cattle prods, held at bay by snarling police dogs, and flattened by powerful streams of water from fire hoses galvanized the nation. Without being constitutional scholars, we understood violence, coercion, and oppression. We understood what constitutional limits are designed to restrain. We reclaimed our constitutional aspirations. What is happening now is more subtle, more diffuse, and less visible, but it is only a difference in degree. If harm is still being done to people because they are black, or brown, or poor, the oppression is not lessened by the absence of television cameras."

Justice Brown criticized what she called "the disparate impact of stop-and-search procedures of the California Highway Patrol. The practice is so prevalent, it has a name: 'Driving While Black.'"

When you read such powerful statements, you have to wonder whether this judge, far from being too conservative, may not in fact be a bit too liberal for some of my friends who have opposed her.

OPPOSITION—BROWN'S RULINGS ON THE FIRST AMENDMENT

Justice Brown's First Amendment opinions have been distorted

When she is cognizant of First Amendment rights in a discrimination case, she receives no credit. Her critics simply turn to three other First Amendment cases to spin an attack that she gives broad protection to corporate speech while shortchanging individual free speech.

In one case, Justice Brown wrote a plurality opinion upholding an injunction against gang members congregating in a specified area in San Jose, a position supported by the Democratic mayor of the city at the time, the Los Angeles Times, and the San Francisco Examiner.

In another, Justice Mosk, the California Supreme Court's late, liberal icon, joined Justice Brown in a dissent that would have upheld an injunction against a disgruntled former employee sending disruptive mass emails.

In the third case, *Kasky v. Nike*, Justice Brown dissented on grounds that Nike's speech deserved more stringent protection than was provided by a California law. This third case provides the hook for her detractors' spin, but the baselessness of the critique is underscored by strong evidence that a majority of the United States Supreme Court would have taken her position had it considered the merits.

In dismissing the writ of certiorari, Justice Stevens, joined by Justices Ginsburg and Souter, noted in the same vein as Justice Brown that the case involved "novel First Amendment questions."

Justice Breyer, joined by Justice O'Connor, stated in a dissent to the dismissal of certiorari in *Kasky* that "it is likely, if not highly probable" that the law violated the First Amendment.

OPPOSITION—BROWN'S RULINGS ON CRIMINAL
LAW

Justice Brown has demonstrated her respect of Fourth Amendment rights and has argued for reversing verdicts or sentences for capital defendants

In addition to the dissent in *People v. McKay* that I cited, she wrote the court's opinion in *In re Brown* reversing a verdict and death sentence in a case where the prosecutor deprived the defendant of a fair trial by failing to discover and disclose an arguably exculpatory blood test.

In *In re Visciotti*, she dissented from the majority opinion, arguing that a defendant's death sentence should be set aside on grounds of ineffective assistance of counsel.

Mr. SPECTER. I ask unanimous consent that quotations from certain of Justice Brown's supporters be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

QUOTES FROM SUPPORTERS—WHAT THOSE
WHO KNOW HER BEST ARE SAYING ABOUT
JUSTICE BROWN

Letter from a bi-partisan group of 12 of Justice Brown's current and former judicial colleagues (including all of her former colleagues on the Court of Appeal, Third Appellate District and four current members of the California Supreme Court) to the Honorable Orrin G. Hatch, October 16, 2003:

"Much has been written about Justice Brown's humble beginnings, and the story of her rise to the California Supreme Court is truly compelling. But that alone would not be enough to gain our endorsement for a seat on the federal bench. We believe that Justice Brown is qualified because she is a superb judge. We who have worked with her on a daily basis know her to be extremely intelligent, keenly analytical, and very hard working. We know that she is a jurist who applies the law without favor, without bias, and with an even hand."

Statement of former senator and governor Pete Wilson, for whom Justice Brown served between 1991 and 1994:

"She served as my legal affairs secretary for three years because a number of excellent lawyers in the state, whose judgment I trust, said, 'You will not do better.' They were right. She was not only a legal scholar—so that I could rely upon her judgment as to what the law was—she was an excellent guide when I was trying to decide what the law ought to be. . . . I would simply say to you that, by intellect and by character, by experience, by capability, Justice Brown deserves not only a vote, but deserves a seat on the District Court of Appeals, where I predict she will, if seated, be a brilliant addition."

Letter from a bi-partisan group of 15 California law professors to the Honorable Orrin G. Hatch, October 15, 2003:

"We know Justice Brown to be a person of high intelligence, unquestioned integrity, and even-handedness. Since we are of differing political beliefs and perspectives, Democratic, Republican and Independent, we wish especially to emphasize what we believe is Justice Brown's strongest credential for appointment to this important seat on the D.C. Circuit: her open-minded and thorough appraisal of legal argumentation, even when her personal views may conflict with those arguments."

Letter from 18 members of the California delegation in the House of Representatives to the Chairman and Ranking Member of this committee, April 14, 2005:

"Janice Rogers Brown is an outstanding jurist with more than eight years of experi-

ence on the California appellate bench. She is well-regarded by her colleagues and known to be a person of great intellect, integrity and dedication. Moreover, Justice Brown is a first-rate judge respected by many for her even-handed and unbiased application of the law."

Letter from Ellis Horvitz, a Democrat and one of the deans of the appellate bar in California, to the Honorable Orrin G. Hatch, September 29, 2003:

"In my opinion, Justice Brown [possesses] those qualities an appellate justice should have. She is extremely intelligent, very conscientious and hard working, refreshingly articulate, and possessing great common sense and integrity. She is courteous and gracious to the litigants and counsel who appear before her."

Undated Letter from Regis Lane, Director of Minorities in Law Enforcement, a coalition of ethnic minority law enforcement officers in California, to Chairman Orrin G. Hatch.

"We recommend the confirmation of Justice Brown based on her broad range of experience, personal integrity, good standing in the community and dedication to public service. . . . In many conversations with Justice Brown, I have discovered that she is very passionate about the plight of racial minorities in America, based on her upbringing in the south. Justice Brown's views that all individuals who desire the American dream, regardless of their race or creed, can and should succeed in this country are consistent with MILE's mission to ensure brighter futures for disadvantaged youth of color."

Mr. SPECTER. One of the cases which I studied in law school was the famous dissent by Justice Oliver Wendell Holmes, who argued for dissent and for freedom of speech, saying what I think is, if not the most famous quotation in Supreme Court history—that is pretty hard to categorize—certainly one of the most famous where he said that "time has upset many fighting faiths."

That is why we encourage independent thought. That is why we encourage dissent. There are many dissents which have become the law of the land. *Dred Scott* was overturned. *Plessy v. Ferguson* on segregation was overturned. *Brown v. Mississippi* established the rule of due process of law for State court criminal proceedings, and dissenting opinions of Brandeis and Holmes and Cardozo have become the law of the land.

So when one sees someone who might not conform exactly to the kind of thought or might be a little more colorful in phraseology, it is not necessarily something to be discouraged. If one takes a close reading as to what Justice Brown has had to say, she is worthy of confirmation by this Senate. As we analyze nominees for the Federal court, as we analyze nominees for any important position, we ought not to discourage individualism, independence, and free thought. The phrase that "time has upset many fighting faiths," encouraging independence and free thought has been a great bulwark for the progress of this country.

I yield the floor, and in the absence of any other Senators seeking recognition, I suggest the absence of a quorum.

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

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. FRIST. Mr. President, we are in the midst of debate on Janice Rogers Brown. I know we have the time divided from 3 to about 6 tonight. I ask to speak for about 7 minutes as in morning business.

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

The majority leader is recognized.

FIRST ANNIVERSARY OF RONALD REAGAN'S
DEATH

Mr. FRIST. Mr. President, yesterday marked the first anniversary of the passing of President Ronald Wilson Reagan, the 40th President of the United States. I will take a moment to reflect very briefly on his extraordinary life and on his leadership that changed history.

Ronald Reagan was raised in a small town, and it was those small-town roots that never, ever left him. As he explained when he grew up in a small town, reflecting on those small-town roots, in his words:

You get to know people as individuals, not as blocs or members of special interest groups. You discover that despite their differences, most people have a lot in common: . . . [W]e all want freedom and liberty, peace, love and security, a good home, and a chance to worship God in our own way; we all want the chance to get ahead and make our children's lives better than our own.

Ronald Reagan believed that the Government should serve the people. He believed that America's strength came from creativity, ingenuity, and productivity of the people, not the plans of Government bureaucrats or the theories of intellectual elites. This core belief guided everything he did, everything he said.

When he came to office, the American economy was in shambles. Inflation was in double digits. Interest rates were soaring. The American worker was demoralized. He set about slashing Federal income taxes and cutting burdensome regulations. It was his mission to free the American worker and unleash the American entrepreneur. His sweeping tax reforms overhauled the Tax Code and removed 6 million taxpayers from the tax rolls. By the time he left, it was morning in America. President Reagan believed in the aspirations and dignity of the individual. As he said in his second inaugural address, there are no limits to growth in human progress when men and women are free to follow their dreams.

He reminded the American people that economic liberty and human freedom were two sides of the same coin. He reminded the world that freedom is the birthright of all peoples. Some call it the Reagan Revolution. Others call

it the Reagan Restoration. I prefer the latter.

The man from Dixon—lifeguard, radio announcer, actor, Governor, father, adoring husband, President of the United States—restored not only our confidence but our fundamental understanding of the source of America's greatness: each and every one of us striving to realize the American dream.

In his 1982 State of the Union Address, President Reagan told the Nation:

We do not have to turn to our history books for heroes. They're all around us.

To the freedom fighters in the former Soviet Union to his fellow citizens here at home, Ronald Wilson Reagan was one of those real life heroes who brought hope, freedom, and opportunity to millions.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

I ask unanimous consent to speak in morning business for up to 20 minutes.

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

REAUTHORIZING THE USA-PATRIOT ACT

Mr. WYDEN. Mr. President, tomorrow the Senate Select Committee on Intelligence gets back on the national security high wire as the committee continues to work on legislation reauthorizing the USA PATRIOT Act. I described this process as a high-wire act because success means striking a balance, an equilibrium, between fiercely protecting our country from terrorism while still preserving the privacy and civil liberties that make our democracy so precious.

Chairman PAT ROBERTS, to his credit, has held several open hearings on this issue. I gladly participated because I believed the open hearings would help to address some of the skepticism about why the PATRIOT Act has almost totally been debated in secret.

Unfortunately, the most important part of the debate, the part where the committee must actually discuss how to walk that high wire, is still going to be done behind closed doors. In my view, this secrecy in going forward will undermine any public confidence that open hearings helped to create.

I have repeatedly and vigorously opposed making these decisions out of public view. Holding the decision-making process in secret is a mistake because it makes it harder for citizens to hold elected officials accountable. Holding the decisionmaking process in secret is unnecessary because it is not difficult for the committee to go behind closed doors, certainly, briefly, when necessary, to discuss any PATRIOT Act-related issue that requires secrecy. Holding the decisionmaking process in secret gratuitously feeds the cynicism that citizens have about the

Government's true intentions with respect to this law. Keeping these proceedings secret fuels concerns that the committee is making choices that will not stand up to public scrutiny—deciding, for example, that you can only have security if you sacrifice privacy. In my view, that is a false choice. I simply do not believe that protecting our country from terrorism and securing the privacy rights of our citizens are mutually exclusive objectives.

So here is my bottom line: Give law enforcement and intelligence officials the tools they need to protect our country, but stay away from the fishing expeditions. I do not think anybody will argue with me when I say that Congress passed the PATRIOT Act shortly after September 11, 2001, because it was necessary to move in a hurry. It was clear no one could have conceived of the way in which our country was exposed to attack. It was clear that the Federal Government needed to make major changes in how it fought terrorism, and those were needed immediately.

The best parts of the law tore down the unnecessary walls that had grown up between law enforcement and the intelligence agencies. Today, if you go out to the National Counterterrorism Center, the people on the ground there will tell you that those walls have been torn down, and they have stayed down. So the men and women on the front lines in the fight against terror are, in my view, more effective than they were.

However, other provisions of the law have sparked serious concerns. Giving Federal authorities broad powers of investigation has raised the specter that the rights of law-abiding citizens might be severely compromised, accidentally or even intentionally. In moving forward, I want to make sure that the right of our citizens to privacy is certainly not compromised intentionally.

I am not suggesting our national intelligence or law enforcement agencies are currently being misused the way they have been during our history—such as in the Watergate scandal. But it is important for us to make sure that appropriate safeguards are in place to prevent unintentional abuses and prevent future even darker episodes in our country's history.

In my view, a proposed addition to the PATRIOT Act, one that certainly warrants open debate, is the administrative subpoena which, in my view, raises the risk of real abuse. I want to make it clear on this subject today, I believe reauthorization of the PATRIOT Act should simply not include new administrative subpoena authority for the FBI.

I am opposed to giving the FBI this authority to write their own administrative subpoenas for foreign intelligence investigations for a number of reasons. Doing so would give the FBI the authority to demand just about anything from just about anybody, with no independent check, simply by

claiming that it is relevant to a national security investigation. The FBI already has access to the waterfront of personal information through the FISA warrant process. All they have to do is go before a judge and explain why it is relevant in the most general terms. By giving the FBI the authority to write their own administrative subpoenas, the Congress would be removing this even last modest safeguard.

Administrative subpoenas are currently used by many Federal agencies in many contexts. But, except in a very few limited cases, they are not used for national security investigations. National security investigations are simply different than criminal investigations. They, of course, are conducted in secret and do not require evidence of a crime. This is why there are different rules for the two types of investigations. It is not enough, in my view, to say what is good for the goose is good for the gander. The question here is, What is good for the American people? The answer is not administrative subpoenas.

As proposed, these subpoenas would be extraordinarily broad in their scope. They could be used to gain access to your credit records, your video rentals, your medical records, your gun purchases. They could be used to obtain just about anything. These subpoenas would only be seen by a judge if the recipient of the subpoena decided to challenge it. Even if the recipient was properly notified of his or her right to challenge, they might not be in the position to have the time or the resources to even make that challenge.

For example, there are 56 FBI field offices, one in just about every major American city. The head of the local field office could issue an administrative subpoena to a hospital director and ask for all the hospital's medical records simply by claiming they were relevant to an investigation. If the hospital director was busy or did not have the resources to make a challenge, then no judge—no judge would ever see this administrative subpoena. The patients would not even know that their records had been seized. They would be totally in the dark.

Even the FBI acknowledges that the agency can get all the information they could possibly need with the investigative powers they currently have. The only reason they have suggested for supporting this judge-free administrative subpoena is speed. They say that the FISA warrant process is simply too slow for time-sensitive, emergency situations.

This afternoon I would like to propose on the floor of the Senate an alternative. In this year's reauthorization of the PATRIOT Act, Congress can balance protection for the public with the right of privacy by creating an emergency use provision to the FISA business records authority. This way, under the proposal I make today, if the FBI needs information right away, the FBI could notify a judge that they

were going to get it—send an e-mail, leave a voice message—and then go get it without waiting for a response. Then they would have 72 hours to apply for the warrant so they could do it after the emergency had been addressed. If the judge felt the FBI had acted inappropriately and decided not to grant the warrant, then the Agency would not be able to use whatever information they had gathered. The idea of adding an emergency use provision along the lines I have described would address the FBI's concern for speed without creating a broad new authority that would remove all the independent checks, even in situations where there were not emergencies.

Although time was not taken in 2001 to thoroughly discuss the privacy issues related to the PATRIOT Act, most of the law's more controversial provisions were made subject to sunset. This was done in hopes of a more thoughtful, informed debate during the reauthorization. The sunsets, in my view, have had an unanticipated benefit. They have made the agency very careful about how it uses the powers that have been granted.

In addition to the proposal that I am making today to give the FBI more authority to deal with emergencies, I believe the Senate should also focus its attention on sharper scrutiny for the sunset provisions in the act. Some of the sunset provisions that have existed have not attracted any controversy. Others have not only attracted controversy, serious questions have been raised about their use and possible misuse. I want to consider some of these provisions in detail today and, in addition to the proposal I have made with respect to giving the FBI emergency authority, I urge firm action to safeguard the American people as the sunset provisions are considered in the PATRIOT Act's renewal.

The provision that has attracted the most attention is probably section 215 of the PATRIOT Act. It is commonly referred to as the library records provision, but in fact it ought to be called the business records provision. Suffice it to say, it is a sweeping one. This provision gives law enforcement access to all types of information from video rentals and gun purchases to tax and medical records. In a nutshell, here is how it works.

Under the Foreign Intelligence Surveillance Act, FISA—which I have referred to several times already—it is possible for FBI agents to go to a judge and request a secret warrant to obtain business records. The person to whom the records pertain is not informed. This means that if the FBI serves a FISA warrant on a bank or hospital, the bank president or hospital director would know about it, but the customers or patients whose records had been seized would know nothing at all.

Before the PATRIOT Act, if the FBI wanted to get one of these warrants, they had to show a judge specific and articulable facts that the records per-

tained to a terrorist or a spy. The PATRIOT Act lowered the standard, so now the FBI simply has to assert that the records are, in their view, relevant to a terrorism inquiry. To protect innocent Americans, the business records provision needs to be modified in several ways.

First, the Congress should require that the application for a FISA warrant include a statement of facts explaining why the records are relevant to an investigation. Congress should also raise the standard for the most sensitive type of records. The "relevance" standard may be appropriate for a hotel or car rental record, but it may be necessary to require the FBI to show hard evidence before giving access to more sensitive records such as medical records.

Finally, there must be an increase in the reporting that is done in this area. Congress's duty to look out for abuses of the PATRIOT Act is often a challenging one. Little reporting is required on the use of some provisions. Details regarding the use of the PATRIOT Act are reported, even when reporting is not required. When there is a report, the information is often classified. National security investigations often need to be conducted in secret, but revealing how often particular techniques are used does not make them less effective. Congress needs this information to perform its constitutional responsibilities, and the fact is too often Congress has been doing oversight over the intelligence community in the dark.

The Intelligence reform bill that passed a few months ago tried to fill several of the reporting gaps, but there are others that need to be closed as the PATRIOT Act is reauthorized. These reports should also be made public, to the maximum extent possible so that the American people can know all that is safely to be known about FBI activity under the law.

One of the major reporting gaps I am concerned about involves what the FBI calls discreet inquiries that the agency uses to obtain library records. The FBI Director, Mr. Mueller, has testified before several Senate committees that, while FISA warrants could be used to obtain people's library records, this has never been done. But the FBI director went on to say that the Agency does obtain library records through what he called discreet inquiries. So I think that the American people deserve to know what a discreet inquiry is. The American people deserve to know how often they are used. And I have asked the FBI to get me this information.

Over a month later, despite multiple requests by the staff of the Intelligence Committee, the FBI has still not provided an answer to the question. Suffice it to say, the longer the Agency waits, in terms of answering the question of how they obtain library records, the more Americans believe that the Agency is stepping over the line and into the lives of law-abiding citizens.

Those most directly affected by the library records provision have been expressing strong concerns. The American Library Association recently wrote me:

"[D]iscreet inquiries" by the FBI put our librarians at risk of breaking state laws if agents approach them for information without subpoenas or other properly executed legal documents and intimidate them into complying with the request.

I ask unanimous consent the letter from the American Library Association be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AMERICAN LIBRARY ASSOCIATION,

Washington, DC, May 25, 2005.

Hon. RON WYDEN,

U.S. Senate,

Washington, DC.

DEAR SENATOR WYDEN: On behalf of the over 65,000 members of the American Library Association (ALA) I am writing to express our appreciation for your efforts to seek further information about the nature and scope of FBI investigations into library records. We thank you for your hard work examining law enforcement activity in libraries under Section 215 of the USA PATRIOT Act, national security letters, and "discreet inquiries" without, apparently, warrants or subpoenas.

Librarians across the country, in all kinds of libraries, take their jobs as public servants very seriously. We are as concerned about our Nation's security as any other sector of the American public. At the same time, the issue of privacy and the confidentiality of library records is a long-held and deep principle of our profession. The American public values this principle as well: forty-eight States have laws protecting the confidentiality of library records, and the other two States have attorney general opinions doing so.

As you know, both the FBI and the Department of Justice have reported that there has been "zero" use of Section 215 in libraries. However, our office is aware, at least anecdotally, of FBI inquiries made using other methods in what do not appear to be normal criminal or civil investigations. To determine the extent of these inquiries ALA has begun its own research regarding the scope of law enforcement investigations of library patrons and their reading records.

Leaders of ALA have met with Attorney General Gonzales and FBI Director Mueller to discuss our concerns about these library-related investigations as well as to discuss our ongoing research. We are seeking aggregated data to understand better the breadth of FBI investigations and the impact the investigations have on library users.

We very much appreciate your questions seeking further information from Director Mueller about these inquiries. Specifically, we would like to know:

What exactly is a "discreet inquiry?"

Do these inquiries require a subpoena and are they subject to any judicial oversight?

How many "discreet inquiries" have been made in the last four years? 1 year? In general, what kind of evidence was uncovered?

Have these inquiries been related only to foreign intelligence investigations or have they been used in non-intelligence investigations?

What are the procedures and authorization for such inquiries?

Are there pertinent FBI guidelines and related oversight procedures for assessing "discreet inquiries" and if so, are there aggregated public reports on this type of inquiry?

The American Library Association holds that privacy is essential to the exercise of free speech, free thought, and free association and that, in a library, the subject of users' interests should not be examined or scrutinized by others. Whether there has been one F.B.I. inquiry at libraries on the reading habits of patrons or thousands, the threat to the confidentiality of library records chills library use by the public and threatens confidentiality in other venues where privacy is the essence of the service/relationship.

Thank you again for all your work on issues surrounding law enforcement investigations in libraries and on the other important provisions of the USA PATRIOT Act and related regulations that affect the privacy and civil liberties of the public. We support your efforts to address both the need for effective law enforcement and the civil liberties of the American public in an appropriate and proportional manner.

Sincerely,

LYNNE E. BRADLEY,

Director of OGR, ALA—Washington Office.

Mr. WYDEN. Mr. President, no one is saying the FBI should not be allowed to conduct voluntary interviews. A voluntary interview is certainly a legitimate and often nonintrusive investigative technique. But the FBI agents must not be out there in effect demanding the records of our citizens without following proper legal procedures. Since the FBI has been so reluctant to discuss the activities relating to these discreet inquiries of libraries, the PATRIOT Act should require the Bureau to report on this topic. At a minimum, they should be required to tell the Congress how this information is being used so the Congress can determine whether the FBI's use of this provision is appropriate.

In several other areas of the PATRIOT Act there should be modifications. A major problem area, for example, is section 505 that deals with national security letters. National security letters are another way for FBI agents to obtain records. Unlike FISA warrants, national security letters do not require the approval of a judge. The FBI has said the national security letters can be appealed, but the current PATRIOT Act does not specifically discuss this. It is often difficult for recipients to learn more about the requests in their letters and their right to refuse since they are usually barred from discussing the letter with anyone, including a lawyer.

In the recent case of *Doe v. Ashcroft*, the Federal judge found that the FBI had abused this authority by using a national security letter to demand records from an Internet service provider without telling the provider that the letter could be challenged or even that it could be discussed with a lawyer. Congress should reform the national security letter statute to make it clear that national security letters can be challenged, that they can be discussed with a lawyer, and that anyone who receives one has the right to be informed as to their rights. Congress certainly ought to consider adding sunset to this provision.

Section 206 authorizes the FBI to use roving wiretaps in national security in-

vestigations. The roving wiretap authority allows the FBI to tap not just a particular phone but any phone the person being targeted might use. Unlike criminal investigations, there is not even a requirement for the FBI to make sure that the person being investigated is using a line. If a suspected terrorist worked in a warehouse, roving wiretap authority could be used to tap a pay phone in that warehouse, and every person who used that phone could have their conversations secretly recorded. This provision, in my view, again, should be modified, and the sunset should definitely be renewed so the Congress has more time to investigate how it has been used.

Finally, some of the tricky wording in several places of the PATRIOT Act needs to be clarified. A provision that looks like a safeguard for civil liberties may expose Americans to unfair scrutiny when they exercise their rights. In several places, the PATRIOT Act prevents the use of various investigative techniques when the investigation is based solely on the first amendment activities of U.S. persons. Our colleague, Senator LEVIN, has pointed out that simply saying "solely" without clarification can create problems and seems to indicate that it is acceptable to investigate Americans largely or even primarily on the basis of their first amendment activities. I am not convinced this safeguard is actually a safeguard. I hope it will be clarified and strengthened throughout the consideration of the PATRIOT Act.

The Intelligence Committee may finish drafting a reauthorization of the PATRIOT Act in the near future. My sense is the Judiciary Committee will move shortly afterward. It is possible other committees may wish to weigh in on these portions of the PATRIOT Act that fall under their jurisdiction. As we go forward in this debate, as the Congress proceeds to try to walk on that high wire, striking a balance between fighting terrorists ferociously while protecting our civil liberties, I simply say to the Senate this afternoon that the Senate can do better. It is possible, for example, to give the FBI additional emergency power, power that should address the concerns they have raised in the open hearings, without removing the independent checks so necessary in circumstances that are not emergencies.

The bottom line is, let's make sure law enforcement has the tools that are necessary to fight terrorism, to protect the people of our country, but not hang up a sign on this PATRIOT Act reauthorization that says: You hereby have a right to go on any fishing expedition you desire.

The Senate can do better. The job of creating a more balanced protector of security and civil liberties still has work ahead of us. I look forward to working with our colleagues on a bipartisan basis to achieve those ends.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mrs. BOXER. Mr. President, as I understand, the Democrats have until 4 p.m. to speak as in morning business.

The PRESIDING OFFICER. The Senator is correct. The time is to speak on the nomination.

Mrs. BOXER. Excellent. Mr. President, I am going to speak about the nomination of Janice Rogers Brown. Before I go into the reason I hope the Senate will reject this nomination—and the "reasons" because there are many—I wish to put into context for my colleagues, and for anyone watching this debate, why the Senate has spent so much time looking at the rules surrounding the nomination and confirmation of Federal judges.

It is very clear when you vote to confirm a Federal judge that it is a very important vote. Why is that? It is because these judges really vote on so many issues of importance to us, whether it is our right to vote, our right to a safe workplace, our right to privacy, our consumer rights—it goes on and on—our victims' rights. The fact is, these issues are crucial, and who winds up on the bench on Federal courts is very important to the American people.

This is not an abstract debate about Senate rules and procedures; it is really about who sits on the courts, and why is it that for 200-plus years the minority party has had the right to filibuster or delay the vote on nominees who they believe are outside the mainstream—whether that means they are to the far right of the mainstream, as in this particular case, or to the far left of the mainstream.

Presidents who have tried to pack the courts in the past, have tried to twist the arms of the court, have been rebuffed, from Thomas Jefferson, once, to Franklin Delano Roosevelt, another time, when FDR had 74 Democrats in this Chamber. He could do anything he wanted, if they agreed. He had won his election by 60 percent of the votes. He decided he did not like what the courts were doing, so he said: Well, I want to double the size of the courts. He had the votes. But the Democrats in the Senate said: Mr. President, we like you. We love you. We think you are a great President. But we will not allow you to pack the courts because the bottom line is that our Founders did not want a ruler, they wanted someone to govern. They did not want a ruler, they wanted someone to govern. Therefore, they believed very strongly in checks and balances and the rights of the minority so that we do not have a court system that has on it people who would be so far out of the mainstream as to disrupt the very fabric of our country.

Now, this President did his own move to pack the courts. Let's face it, that is

what happened. He had the agreement and acquiescence of almost a majority of the Senate, until a few brave Republicans came over to our side and said: Look, let's step back from this precipice. Let's not do away with the filibuster. These are lifetime appointments. These judges get good pay, and they are never up for election. This is the only check and balance we have, when their names are brought before us.

So I was so appreciative of my colleagues on the other side for standing up and saying: We are not going to change the rules of the game in the middle of the game because some President wants to pack the courts with people who are so far out of the mainstream that it could set our country back for generations. That is what really happened.

Now, in order to get that deal they came up with, they said to our side: You are going to have to give. You are going to have to give on three judges whom you have stopped. This 10 on the chart represents the number of judges Democrats have stopped. They said: In order to get this deal, you have to give up on three. One of those three judges is Janice Rogers Brown, a nominee way out of the mainstream, to the extreme, which I will explain.

But we have to remember this deal only involves the vote to end the filibuster. We said: OK, enough of our colleagues will join with you to end the filibuster. But the deal did not say: Therefore, she would get automatically voted in. We still have the up-or-down vote on Janice Rogers Brown. A lot of us believe very strongly that 51 of us should oppose this nomination. I think we might well get those 51 noes, or close to it, but, obviously, we are pushing for 51.

Now, again, I want to focus your attention on these numbers: 208 to 10. It is actually 209 to 10 with the Priscilla Owen judgeship approved. We have stopped 10. We have approved 209. And this President and the Republicans here have been crying every morning that they do not get 100 percent of what they want. They have gotten 95 percent of what they want. It is not good enough. When you want all the power, it is not good enough.

When I go home and look in the eyes of my constituency, I ask: If you got 95 percent in your course, would you be happy? Oh, yes. If you got 95 percent of what you wanted from your spouse, would you be happy? Oh, ecstatic. If you wrote a list down of everything you wanted in your life—where you wanted to go for a vacation, where you wanted to be educated, the kind of car you wanted—and at the end of the day you got 95 percent of what you wanted, you would be thrilled, except if you believe you deserve 100 percent, by God, and nothing less will do. That is what we are facing with this Republican power grab. That is what we are facing.

Remember those numbers: 209 to 10. When you are out somewhere and

somebody says: Well, aren't the Democrats blocking all these judges? No, no, no. Ten; and we approved 209.

Now, I am going to show you in just a moment the list of the groups that oppose Janice Rogers Brown to be put on the DC Circuit Court of Appeals. Now, when you see these groups, you will be shocked because I think everybody knows by now that Janice Rogers Brown is the daughter of a sharecropper. We have heard that over and over again, and that is remarkable. We have a lot of remarkable stories in America.

My own mother never even went to high school. I am in the Senate. She had to drop out to support her family. There are lots of stories like that. But I do not expect people to automatically support me because in my family I went to the Senate and my mother never graduated from high school. It is interesting and it is important, and it certainly says a lot about our country and the opportunity our country affords people such as Janice Rogers Brown and BARBARA BOXER, and particularly people of color, women of color who have even a harder time.

It is a miraculous country we live in. That is why I oppose her nomination, because she would set it back. It is not her life that I attack when I say I am not for Janice Rogers Brown; it is what she will do to your life. If you look at her record, you will see why the things she will do to your life are things you would not want.

So I want you to listen to the groups that are opposed to Janice Rogers Brown:

ADA Watch/National Coalition for Disability Rights; Advocates for the West; AFL-CIO; Alliance for Justice; Alliance for Retired Americans; American Association of University Women. I want you to think about why these groups are opposed to her. Every one of them is opposed to her because they have read her list of cases and they understand that she will hurt them. Retired Americans, when you hear about what she thinks about seniors, you will understand that.

American Federation of State, County, and Municipal Employees; American Lands Alliance; American Planning Association; American Rivers; Americans for Democratic Action; Americans United for Separation of Church and State; Amigos Bravos; Bazelon Center for Mental Health Law; Center for Biological Diversity; Center for Medicare Advocacy; Citizens Coal Council; Clean Water Council; Clean Water Action; Clean Water Action Council; Black Women Lawyers of Los Angeles; California Abortion and Reproductive Rights Action League; California Association of Black Lawyers; Californians for Fair and Independent Judges; California Federation of Labor, AFL-CIO; California League of Conservation Voters; California National Organization for Women.

Do we have more here?

California Native Plant Society; California Women's Law Center; Cali-

fornians for Alternatives to Toxics; Chinese for Affirmative Action; Environmental Defense Center; Environmental Law Foundation; Equality California; John Muir Project; Coalition of Labor Union Women; Coast Alliance; Committee for Judicial Independence; Community Rights Counsel; Congressional Black Caucus; Defenders of Wildlife; Delta Sigma Theta Sorority; Disability Rights Education and Defense Fund; Earthjustice; Earth WINS; Endangered Species Coalition; Equal Justice Society; Families USA; Feminist Majority; Friends of the Earth; Georgia Center for Law in the Public Interest; Gray Panthers; Great Rivers Environmental Law Center; Leadership Conference on Civil Rights; Legal Momentum, formerly the NOW Legal Defense and Education Fund; Northwest Environmental Advocates; NOW Legal Defense and Education Fund; Oil Field Waste Policy Institute; People for the American Way; Planned Parenthood Federation of America; Progressive Jewish Alliance; Religious Coalition for Reproductive Choice; Service Employees International Union; the Sierra Club; Southern Appalachian Biodiversity Project; the Foundation for Global Sustainability.

And I have some more to share with you. It is very rare to see such an outpouring of opposition to a court nominee.

Planned Parenthood Golden Gate; Planned Parenthood of Los Angeles; San Bruno Mountain Watch; San Francisco La Raza Lawyers; SEIU Local 99; Stonewall Democratic Club of Los Angeles; Unitarian Universalist Project Freedom of Religion; Western Law Center for Disability Rights; Women Lawyers Association of Los Angeles; Women's Reproductive Rights Assistance Project; Lawyers Committee for Civil Rights of the Bay Area, NARAL Pro-Choice California; National Association of Women Business Owners, San Francisco Chapter; National Council of Jewish Women, California; National Council of Jewish Women, Los Angeles; National Women's Political Caucus of California, which is a bipartisan organization; Pacific Institute for Women's Health; Mexican American Legal Defense and Educational Fund; Mineral Policy Center; NAACP Legal Defense and Educational Fund; NARAL Pro-Choice America; National Abortion Federation; National Asian Pacific American Legal Consortium; National Association for the Advancement of Colored People, the NAACP; National Bar Association.

And there are more. This is remarkable. I needed this time to go through this extraordinary list, representing millions and millions of Americans who are saying no to Janice Rogers Brown.

National Council of Jewish Women; National Council of Women's Organizations; National Employment Lawyers Association; National Committee to Preserve Social Security and Medicare—folks, when you hear what she

says about Social Security, you will understand it, and senior citizens—National Fair Housing Alliance; National Family Planning and Reproductive Health Association; National Health Law Program; National Organization for Women; National Partnership for Women and Families; National Senior Citizens Law Center; National Urban League; National Women's Law Center; Natural Heritage Institute; Natural Resources Defense Council; New Mexico Environmental Law Center; the Wilderness Society; Union for Reform Judaism; Unitarian Universalist Association; USAction; Valley Watch, Inc.; Washington Environmental Council; Western Land Exchange Project.

So that is a long list. That is a long list. There is a reason why these organizations—many of which are non-profit, many of which are bipartisan, many of which represent women, represent minorities, represent families, represent seniors, represent the environment, represent fairness in the judicial system—there are many reasons why they oppose Janice Rogers Brown.

I hope if this debate on Janice Rogers Brown does nothing else, it sends a message to the American people that when the Democrats stood up and said no to 10 people—and, by the way, said yes to 209—said no to 10 people—actually, now it is 9 people—they are people like this. They are people like Janice Rogers Brown who are opposed by mainstream America.

At the end, I will read the editorials that are coming out across the country against Janice Rogers Brown. Packing the courts with people like this will set our country back, and these organizations that have worked for so many years for fairness, for justice, for equality, for fairness in the workplace, for equal pay for equal work, for good treatment in the workplace, to protect the air and water, know what they are talking about.

Let's see some of the things that she has said in her lifetime on the bench. She said:

Where government moves in, community retreats, civil society disintegrates, and our ability to control our own destiny atrophies. The result is: Families under siege—

This is Janice Rogers Brown. This is what she thinks of America. This is what she thinks of the greatest country in the world—

families under siege; war in the streets; unapologetic expropriation of property—

As someone who owns property, no one has ever tried to take it away from me. I don't know what her problem is—the precipitous decline of the rule of law; the rapid rise of corruption; the loss of civility; and the triumph of deceit.

She must hang out with some pretty tough people.

The result is a debased, debauched culture which finds moral depravity entertaining and virtue contemptible.

This is Janice Rogers Brown's view of life in America. I didn't know, when we passed the seatbelt law or legislation to help the victims of domestic vio-

lence, that our society disintegrated. But she thinks so.

She calls Supreme Court decisions upholding New Deal protections such as the minimum wage and the 40-hour workweek “the triumph of our own socialist revolution.” I didn't know it was socialism to say that people ought to work 40 hours, basically.

She accuses senior citizens of “blithely cannibalizing their grandchildren because they have a ‘right’ to get as much free stuff as the political system permits them to have.”

So she looks at grandparents like me as cannibalizing our grandchildren. I ask every grandmother and grandfather in America to oppose this woman getting on the bench. How can someone look at grandparents as cannibals because they may think it is important to get the Social Security and Medicare for which they paid into the system? It is outrageous.

She declares:

Big government is . . . [t]he drug of choice—

Here she goes after everybody—for multinational corporations, single moms, regulated industries, rugged Midwestern farmers, and militant senior citizens.

Every time I read that I think of the senior citizens I know getting dressed up in a military uniform and taking over the country. OK everybody, it is 12 o'clock, let's play bingo now.

She declares:

Big government is . . . [t]he drug of choice for militant senior citizens, for single moms, for rugged Midwestern farmers.

She takes them on, too. What is she thinking? I don't know any farmers who believe big government is what they want in their lives.

She is bad on first amendment rights of individuals. She argued that e-mail messages sent by a former employee to coworkers criticizing a company's employment practices were not protected by the first amendment. This was a young man who sent out a few e-mails during a very long time period, and she said he had no right to free speech. He couldn't do it. But the corporation could do it all day long.

This is showing you some of her decisions and her statements. She said a manager could use racial slurs against his Latino employees. Can you imagine that? Using racial slurs in the workplace? That was fine with Janice Rogers Brown.

She is way outside the mainstream. She argued that a city's rent control ordinance was unconstitutional as a result of the revolution of 1937. Believe me, most of the people who passed that ordinance weren't alive in 1937, so that is her other attack on the New Deal. She is way back. She has this thing about the New Deal, as if the New Deal is what we are talking about today. Everyone agrees that what has survived of the New Deal is very important wage and hour laws and protections and Social Security. She is after it all.

She argued that a law that provided housing assistance to displaced elderly,

disabled, and low-income people was unconstitutional. This is very interesting because having been in local government myself, one of the things that we try to do is help get housing for people who are so vulnerable. This is a law in San Francisco for the elderly, disabled, and low-income people. Who could you find who was more compelling to help than, say, an elderly woman, whom she calls a militant senior citizen, who can barely stand up or look up from her walker?

She said San Francisco was “turning into a kleptocracy” and that “private property is now entirely extinct in San Francisco.”

This woman absolutely lives in a dream world to say something like this. If you try to buy a home in San Francisco, you can buy it, if you have \$1 million. So I don't know what she is talking about. She makes things up that fit her ideology. Imagine saying that providing housing assistance to displaced elderly, disabled, and low-income people has no chance of succeeding because it is unconstitutional. Her views stand alone as being so out of the mainstream.

Speaking of standing alone, I wanted to tell you about Janice Rogers Brown. She sits on the California Supreme Court where she has been since 1996. She is on a court that has six Republicans and one Democrat. She is a Republican. Follow this: She sits on a court that is made up of six Republicans and one Democrat. You would think she would be happy as a clam. No, she is not because those other Republicans, not to mention the one Democrat, don't see life through her eyes. She is so outside of the mainstream that she stood alone on court decisions 31 times. I am going to tell you of some of these cases where she stood alone.

She was the only member of the court to vote to overturn the conviction of the rapist of a 17-year-old girl because she believed the victim gave mixed messages to the rapist. She was the only one on the court who stood on the side of the rapist. This is who George Bush wants to put on the bench so she can stand against your daughter? I don't think we should do that. We should stand up and be counted on this vote. We should not be standing with someone who supports a rapist. It is as simple as it gets.

She was the only member of the court to find that a 40-year-old woman who was fired from her hospital job could not continue with her lawsuit. I want you to think for a moment of a 60-year-old woman with a great employment record—and I have to tell you, maybe it is my age, but you are still going pretty strong at 60—and she was fired based on age discrimination. This is Janice Rogers Brown:

Discrimination based on age does not mark its victims with a stigma of inferiority and second-class citizenship.

Really? The woman was fully employed, did a great job, was doing her

work, was getting rewarded with a salary, and the next day she wakes up, and for no reason, she is fired. And Janice Rogers Brown says: That is not a stigma. That is no reason to feel bad. That is not a reason to feel like a second-class citizen.

I beg your pardon. Six others on that court—five Republicans and one Democrat—thought Janice Rogers Brown was off the wall. Her position saying that age discrimination is not a stigma and, in fact, was really not discrimination at all is contrary to State and Federal law. So George Bush wants to elevate a woman who says essentially there is no such thing as age discrimination. Let's face it, that is the bottom line.

Someone can ask: Well, Senator, where did she say that? That is the result of her ruling. She stood alone 31 times, and now George Bush wants to elevate her.

There were other times that she stood alone. This is how far out of the mainstream she is. She was the only member of the court to oppose an effort to stop the sale of cigarettes to children. I say to every parent in America who may be listening to the debate, you don't want your 10-year-old or 9-year-old or 11-year-old or 12-year-old to walk into a supermarket to start smoking, which we know is devastating, which we know is addictive, which we do everything we can to stop our kids from doing. If you want your kid protected, then you tell George Bush Janice Rogers Brown doesn't deserve to be elevated for that kind of decision.

This isn't the 1950s. I remember the 1950s where they used to say cigarettes are great for you. They are relaxing. They are wonderful. We gave them out free to people to tell them: Calm yourselves. This is terrific. You will live a long time.

The leading cause of cancer death among women is not breast cancer, it is lung cancer. In the meantime, she is saying: No, you can't stop the sale of cigarettes to children in this particular case, which was the case that came before her.

She was the only member of the court—remember, five Republicans and one Democrat—who voted to strike down a State antidiscrimination law that provided a contraceptive drug benefit to women. In the old days in this country getting a contraceptive was illegal. It was the Supreme Court eventually—and there is actually a 40th anniversary of this tomorrow, the Griswold case. Until the Griswold case, it was illegal to use contraception in this country. The bottom line is, this case of the Supreme Court turned it around and said you can't stop something. So here you have a situation where the State is saying you can't discriminate against women. You need to allow them to be covered with this prescription drug contraception. Janice Rogers Brown says: Wait a minute. I am standing alone.

She was the only member of the court who said women can be discriminated against and their contraception does not have to be protected.

Talk about going back. We are going back with this woman. She stood alone.

The only member of the court to find that a county could not sue a utility company for illegal price fixing that had substantially increased the county's costs for natural gas.

Where has this woman been? Does she think about things like Enron? The scams that went on in California and on the west coast? Maybe she should go see that movie, "The Smartest Guy in the Room," I think is the name of it. It is a story about Enron and their manipulation of the market. Here you had a situation where a county was being run into bankruptcy because of the utility bills they were getting from a private utility. Every single justice on that court in California said absolutely the county has a right to sue that utility company. They ran up the price of natural gas. They hurt consumers. They hurt the county. But not Janice Rogers Brown. She stood with the utility company.

Are you getting the picture here of someone who deserves a promotion? I hope not because I don't think she does. I hope that what I am doing today is making the record clear that when we stood up against these 10 judges—although in essence now 9—she was one of them for a reason. It is not happy for me to have to go against someone from my own State. It is not enjoyable for me to have to go against somebody who is a woman whose life story is remarkable. It is not easy for me to have to take a stand against a minority woman, and it is not easy for every civil rights organization in this country to do the same. But we need to know what we are doing.

This President has to get a message. This could have been avoided if he had sent his people to see the Senators, which is the way it used to be done. Do you think it is OK to give this woman a promotion? No. Let's talk. Can we talk? Can I show you this research? Can I show you how many times she stood alone, how she is bad for families, how she is horrific for senior citizens, how she has ruled against consumers, how she stood with the rapist? Can I show you? We never got the chance.

This President doesn't believe in advice and consent. He does not believe in it. He looks at it as an annoyance. He should read the Constitution. Senators are supposed to be giving advice and consent—advice at the front end, consent when we have the vote. But, no, they want 100 percent. They want to pack the courts. They want to pack the courts with people who will hurt average Americans and stand up for the special interests and the far rightwing of this country.

That is not what this President said he was going to do. I remember the day when he declared victory in 1992 and

the Supreme Court gave him his seat. He came out in a most humble way, he said: I will govern from the center.

I believed him at that point; I honestly did. And then you have a nomination like this, and you just wonder were those empty words? I have to say they were because you have to judge people not by their words, but by their deeds. You have to judge this judge by her decisions. She was standing alone 36 times in a court of 6 Republicans and 1 Democrat. We have some more.

The only member of the court to find that a State fair housing commission could not award certain damages to housing discrimination victims.

Imagine that. This is a minority woman, and she doesn't understand in her heart how it must feel to be discriminated against when you are looking for housing simply because of the color of your skin or perhaps your religion. It is stunning. It is absolutely stunning to me. The only one to stand alone on this court.

So I am going to close with—wait, there is more. We have a few more of these "only times to stand alone."

The only member of the court to find that a jury should not hear expert testimony in domestic violence cases about battered women's syndrome.

You all know what battered women's syndrome is. It is a situation where a woman has been beaten and beaten and abused and abused—sometimes to a pulp. And it impacts her actions toward her abuser. She was the only member of the court to find that a jury should not hear expert testimony dealing with Battered Women's Syndrome.

Well, to me, that says she stands with the batterer against the woman, against the victim. I have colleagues here who want, and support, an amendment to the Constitution to give rights to victims. Yet, they are going to vote for this woman who stood with a rapist and who stood on the side of batterers. It doesn't make sense.

This woman does not deserve to be promoted for standing against the victims of violence and with the perpetrators of violence, and she stood alone.

The only member of the court who dissented from a decision that a standard worker's compensation claim did not bar her civil claim for sexual harassment.

That makes absolutely no sense. You go to work and you sign documents. One of them is a workers' comp release form. They are forms. Then this person finds out there is sexual harassment in the workplace, and she brings a lawsuit to stop it, and Janice Rogers Brown says: Well, the day you came to work and filled out all your forms, you said you would not file a workers' comp claim.

Workers' comp is not a civil remedy for sexual harassment, in my opinion. Workers' comp is getting hurt on the job; it is not sexual harassment. She stood alone. I am sure her colleagues on the court were stunned, but that is Janice Rogers Brown. She stands alone against victims and with the perpetrators of violence and harassment.

The only member of the court to find nothing improper about requiring a criminal defendant to wear a 50,000 volt stun belt while testifying.

This is amazing. She thought: Oh, no, wear a 50,000-volt stun belt. And every other judge on the court said: No, no, no, this is America. We don't do that here. But not Janice Rogers Brown because she is so out of the mainstream.

The only member of the court to find that a disabled worker who was the victim of employment discrimination did not have the right to raise past instances of discrimination that had occurred.

So here you have a disabled victim. She had multiple sclerosis. So I say to those who have a disability or to those who have compassion in their heart, you have a string of examples of how you were discriminated against. Janice Rogers Brown said: Oh, no, that is not admissible. We don't want to know about it. She stood alone. She is bad for workers, for victims, and the disabled. That, I think, completes our work on when she stood alone. I am going to close, in the few minutes I have remaining, with some editorials to show the broad range of comments about Janice Rogers Brown. I am going to lead off with George Will, a very conservative columnist, as I think most of my colleagues know. He talks about the deal that was cut on the filibuster, and he says:

Janice Rogers Brown is out of that mainstream.

It is a fact, he is calling her out of the mainstream. This is George Will, and there is not much room on his right. So that is interesting.

The MercuryNews:

As an appellate judge who would hear the bulk of challenges of Federal laws coming out of Washington, her appointment would be disastrous.

I want you to know, the MercuryNews is in Silicon Valley. The MercuryNews is very balanced. The MercuryNews is very moderate. They say her appointment would be disastrous.

She'd be likely to strike down critical environmental, labor laws, and antidiscrimination protections. Brown, though, has infused her legal opinions with her ideology, ignoring higher court rulings that should temper her judgment.

That is a scathing editorial of this nominee.

The issue isn't Brown's qualifications—

The Sacramento Bee says—

it's her judicial philosophy.

This is the Sacramento Bee. This is California speaking to the rest of the country. We should be proud, but we are not. We are upset about this appointment. The issue is not her qualifications, it is her philosophy.

The minority in the Senate certainly is justified in filibustering a lifetime appointment of Brown. The Court of Appeals for the District of Columbia Circuit is the last place we need a judge who would impose 19th century economic theory on the Constitution and 21st century problems.

How far back are we going to go?

I have to say to my colleagues who may be watching this or may be coming back to the Hill today, we have an opportunity here to stand up for the people of the United States of America. We have an opportunity to say no to someone—not that they do not have a wonderful life story, but in spite of that life story because this appointment is not about her life, it is about our life, it is about your life, it is about the lives of your children, your grandchildren, your grandmother, your grandfather.

This is an appointment that is out of the mainstream, so stated by George Will. This is a woman who stood alone 31 times. You will hear my colleagues on the other side say: Don't listen to Senator BOXER, her explanation of these cases is inaccurate. But I have to tell you, it is accurate. When you have a woman who is a Republican who stood alone against five other Republican mainstream judges 31 times, who dissented more than a third of the time in a courtroom such as this, you know you are looking at someone who does not deserve a promotion.

I am going to keep talking about this nomination. We are going to have a press conference with all of these groups that we can manage to muster, and we are going to be very strong to our colleagues in saying, yes, we are not filibustering Janice Rogers Brown—we gave that up as part of the deal we made so that we would not see filibusters outlawed—but we are going to fight to see that she does not get the 51 required votes.

I thank the Chair, and I yield the floor.

THE PRESIDING OFFICER. The Senator from Alabama.

MR. SESSIONS. Mr. President, I ask the question: How did a wonderful person and a wonderful nominee, such as Judge Janice Rogers Brown, become so controversial? What is it that is going on here?

She served 8 years on the California Supreme Court. She has served on the Third Appellate District Court of Appeals of California. Every member of that court of appeals with whom she has served has written in support of her nomination. She was reelected to the California Supreme Court with 76 percent of the vote. I think there were four other judges on the ballot. She had the highest vote of any of those judges. California is certainly not a right-wing State.

She grew up in my home State of Alabama, not too far away from my hometown in a small town area of Greenville, AL. She is the daughter of a sharecropper. A sharecropper is a person who does not own land but farms a part of somebody else's property. He pays the landowner with some of the produce and keeps a little of the produce for himself and his family. That is how she grew up. Somehow, as a teenager, she moved off to California, worked her way through college and then law school.

She then worked for the attorney general's office of the State of California in which she represented the State on appeals of criminal cases. She wrote the briefs, she argued the legal questions, she participated in the trials of criminal cases, but I think most of her time was spent writing the appellate briefs to the court of appeals.

By the way, of course, supreme court justices, like appellate judges, do not try cases, like the big cases we see in the newspapers. They simply review the trial record of cases that have been tried.

They determine whether a fair trial occurred and whether the judgment should be affirmed or reversed and a new trial held, that sort of thing. That is what she has been doing on the California Supreme Court. That is exactly what she would do if she were appointed to the court of appeals in the DC Circuit.

Her judicial philosophy is absolutely mainstream. She agrees with the President of the United States, President George W. Bush. She is in harmony with his view of the role of courts and the rule of law in America. Make no mistake, this is a big question. He campaigned on that issue around the country. President Bush talked about the courts and about the role of courts in America. He talked about what we should do to strengthen the rule of law in this country, how important it was to him, and he promised to appoint judges who would show restraint and not utilize their opportunity on an appellate bench to redefine the meaning of words, to have it say what they want it to say so they can impose their political views through a court ruling.

He said, I do not believe in that kind of jurisprudence. In fact, it has not been the heritage of our country for 200 years, but in recent years it has become the vogue in law schools and in certain areas of the country, California being one of them, frankly, to have an activist judiciary.

Judges are praised for being bold and stepping out. We had one judge under President Clinton who was confirmed to the court of appeals from California. He had been in the court system and he said, well, it is the duty of a judge to act when the legislature would not act. That is what the definition of activism is, a judge who believes he has a duty to do something if he thinks the politically accountable bodies in our country do not; that it is perfectly all right for a judge to act if the legislature does not act.

I will tell America, and this is important, when a legislature does not act, it made a decision not to act, and those legislators are responsible to the people. If they are irresponsibly failing to deal with a problem, they will be removed from office eventually.

A Federal judge is given a lifetime appointment. They are not accountable to the public. We cannot cut their salary. So what we need is judges who understand the role of the judiciary in

the American system. We need judges who show restraint and who understand that America is built on a political system and a constitution that should be faithfully followed and the political decisions ought to be made by those people in rooms such as this, in the State legislatures and in the Congress. We are accountable to the people who elect us.

Make no mistake about it, empowering judges to carry out political agendas is an anti-democratic act. It undermines the power of the people of our country. Many of the complaints made against Janice Rogers Brown are because she adopted and does believe in the view of a judiciary that the American people value, that President Bush values and that was affirmed in this past election when he won. That is what she believes.

Now, the Court of Appeals in the Ninth Circuit Federal court in California a few years ago was reversed by the U.S. Supreme Court 27 out of 28 times. They reviewed 28 cases from that court and reversed it 27 times. The New York Times said a majority of the members of the U.S. Supreme Court considered the California court to be a rogue circuit.

So this is not an itty-bitty matter. People have been saying, oh, this is politics, this is Democrats and Republicans fussing and it is a little political discussion which does not amount to much, and what does it have to do with us.

Well, the truth is, the issue is simple, but it is far more important than party politics. I am sure some in this body vote for political reasons and have not given a lot of thought to the judiciary and what is important, but we are dealing with the role of the judiciary in America.

As a Senate, when we deal with confirmations, it is all right to ask somebody about their political views or to look at their political views, but we do not vote for and against nominees based on that. I voted for 95 percent of President Clinton's nominees. I did not agree with their political views on many things. I felt most of them who came through, certainly the ones I voted for, were committed enough to the rule of law that I could vote for them. Some I had doubts about, but I gave the President the benefit of the doubt and voted for them. A few I opposed.

What was the deal? It is not their politics that counts. It is their judicial philosophy. That is what counts. What is their view of the role of a judge? What is their understanding of what law means in this country?

There are people who are teaching postmodernism in our law schools today. Some of them have been called advocates of the critical legal studies idea. And what do they say? Nothing is really true; one cannot look at a statute and interpret it. One can look at that statute and they can make it say whatever they want it to say and justify that.

It is a dangerous philosophy. People have fought for our country, died for our country, and in large part they died to preserve the rule of law. Maybe they did not even believe in the war, but they were called to go and they went and served their country because they were legally called to serve. They did their duty. It has been the cornerstone of this country's strength since its founding.

As I travel the world, as I have the opportunity to do as a Senator on occasion, I am more and more convinced that our legal system, our respect for law, is what makes this country great. If someone signs a contract, they can expect it to be enforced. If they do not pay their house note, someone will come and take the house. But because of that, a person can borrow \$200,000, a middle-class working American, and pay it back at 6 percent interest over 30 years. Now, tell me where that happens in another place in the world?

It is part of the legal system that is so important, and we have a dangerous trend in this country. We have members of the U.S. Supreme Court quoting the European Union as if that would affect how they interpret a statute passed by a State legislature or the Congress or the Constitution ratified in 1789. What possible value could that have? This is a dangerous trend.

Judges are getting to the point where they feel they have to solve difficult questions; that the legislatures cannot get them figured out quick enough to satisfy them so they want to solve them. It is not good. It erodes public respect for the courts because more and more they realize they are not deciding these cases on what the law says or what the Constitution says but what they think.

Who cares what they think? We do not pay judges to think. We pay judges to rule on the law.

It is a big deal and this is what it is all about. Do not make any mistake. The left understands it. They understand this absolutely, and the courts have been the one branch of Government they have been utilizing to advance agendas the American people are not supportive of—in fact, oppose. But if someone can get a judge to say the Constitution says a marriage can be a union among whatever, then that is it. What does one do then? What does it take to have a constitutional amendment? It takes a two-thirds vote of both Houses of Congress and three-fourths of the State legislatures. So judges have great power. If they abuse it, it is a big deal. I think that is why we are seeing the attack on a number of our nominees that I think is not fair. It goes beyond what is right. In fact, they have sort of become pawns in this battle over the nature of our judiciary.

I have watched these groups closely over the years, and I have to tell you some of these leftwing groups that create these attack ads and attack pieces on these nominees ought to be ashamed

of themselves. It is not legitimate or fair what they do. They dig into their records, every statement they have ever made, their personal history, the cases they have had, the speeches they have made, and they try to find anything they can. They will take one sentence. Maybe there are two paragraphs of qualifying explanation and they will take one sentence out of context and say that represents a certain thing and therefore this nominee should be voted down.

But we are Members of the Senate. We are the ones who took an oath to do our duty to enforce the Constitution, to fairly judge nominees the President sends up here. That is our responsibility. We cannot pass that off to some group, some polling data, some newspaper editorial. So they take a bit here, a bit there, a statement, a word, a case, a circumstance—they take it out of context and distort it, many times dishonestly; dishonestly, many times deliberately doing so, to try to create a caricature of this nominee.

Then they ask the people of the Senate to vote against them. Vote against them. But we should not do that. That is not what the Senate should be about.

Janice Rogers Brown sees things different from some people; particularly, I guess, in California. She has a more classical understanding. She made a speech one time in which she questioned the validity of the welfare state and whether it helps people. So they say she is against all poor people and welfare. She questioned overreaching regulations. They say she is against all regulations. She is a throwback. She doesn't believe in any government regulation. Whereas she has ruled on hundreds of cases affirming government regulations, for Heaven's sake.

But some regulations do overreach. Is there any doubt about that? One of them dealt with rental property in California. The owner had long-term leases and decided to convert them to short-term hotel work. He wanted to convert the building to a full-fledged hotel. Do you know what they told him in California? Well, we know this is your property, Mr. Owner, but, you know, we want to help poor people and we want you to pay money to create low-income housing before you can do that. Before you can do that you have to pay this money or create some other housing. What kind of thing is this in America?

They say she doesn't believe in government regulations. That doesn't sound like a decent regulation to me. So she opposed that, citing Supreme Court precedent. I am going to tell you, the Constitution of the United States provides someone's property cannot be taken from them without just compensation having first been paid. That is what the law is and what it ought to be. Private property is protected in our Constitution as much as free speech. The left talks about free speech, but we will talk about a case or two that they have accused Justice

Brown of acting improperly on and all she was doing was affirming clearly and unequivocally the right of free speech in America. But the left doesn't really believe in free speech. They have an agenda they want to promote. It is big government in domination of our lives in any number of different ways.

I think this lady is a superb justice. She writes beautifully. She cares about America. She grew up in a land of segregation. They have accused her of not favoring civil rights. She has been discriminated against herself. She is an African American who was raised in segregated Alabama and went off to California and had a tremendous success story. The judges who write about her or lawyers who write about her say she is brilliant, intellectually honest, always thinking to do the right thing. She speaks with clarity and integrity. She is highly qualified. She doesn't agree with the leftwing agenda politically and she said so, but that doesn't impact her legal decisions. That is what is important: How do you rule in cases?

A judicial philosophy that shows restraint, let me say, is far less dangerous than a judicial philosophy that justifies expanding power. I think this nominee, with her experience as a prosecutor and understanding criminal law will do an excellent job on the federal bench.

Some critics complain about her sole dissents. She was a sole dissenter in a death penalty case, saying that the lawyer was inadequate. No other person complained about her dissents, presumably because she was some rightwing person, but she believed this defendant had not been properly defended by his lawyer, so she was the sole dissenter in that case.

She dissented in another case, a criminal case, in which a person was stopped because he was riding his bicycle the wrong way on a street, and she believed it was a racial profile stop. They didn't have a basis to stop that person to begin the search that resulted in the discovery of illegal drugs. That was a dissent, also. So what are these dissents about? You don't dissent in America? Judges dissent all the time. Every time you have a 5-to-4 decision of the U.S. Supreme Court you have four dissenters. There are many 8-to-1 decisions and one judge dissents. That is nothing unusual.

Some of these dissents she participated in were joined in by liberal members of the California Supreme Court. Also, I think it is important for us to note that in 2002 she was called on to write the majority opinion for the California Supreme Court more often than any other member of that court. So how is she such an out-of-the-mainstream person? She wrote more majority opinions in 2002 than any other member of the court. What happens is, when a court gets together and discusses a case before they finally vote and make their opinion, they see how the judges analyze the case. If it is a

majority or a unanimous decision one way, someone is selected to write the opinion for the majority. If it is 5 to 4, someone is selected to write the opinion for the five, the majority. Sometimes there will be four different dissents, maybe one dissent with all the rest joining in. Judges can do it any number of different ways.

This idea that she is out of the mainstream because she has dissented on cases is a total mischaracterization of her record. They have gone back and dug through her records and tried to find numbers and ideas and concepts that put her in a bad light. They ignore the fact she wrote the majority opinion in 2002 in more cases than any other of the nine justices on the California Supreme Court.

There are a lot of different cases in which she has been criticized. A lot of great dissents have been issued in this country. There is the dissent of Justice Harlan in the separate but equal case of *Plessy v. Ferguson*. Was that a good dissent? I think it was a good dissent.

By the way, in the zoning case her critics talk about, alleging that she was taking an extreme position on that case, that vote in the California Supreme Court was 4 to 3. Only four judges were for it; three were against it. She wrote the dissent. I thought it was a great dissent.

Several times, Senator BOXER and others have said Justice Janice Rogers Brown said it was okay for Latinos to have racial slurs uttered against them in the workplace. That is a terrible charge. That is not true. Sometimes we wonder if there is a lawyer in this whole building. Is there anyone who knows how the legal system actually works? The case they referenced was the Aguilar case. A court injunction or court order barred a manager from using racial epithets in the future, raising grave first amendment concerns to tell someone in our country, you cannot say something in the future. You can say what you said in the past was wrong and you can be sued for it, you can be put in jail, perhaps, if it amounts to a criminal action; but the courts in this country have always, as a result of free speech concerns, been very reluctant to enter into prior restraint, as the judges call it, to stop someone from saying something in the future. You pay a price if you say the wrong thing in the future, but to order them never to say something is a very dangerous thing.

The court split on that case, 4 to 3. Yes, she was a dissenter, but also dissenting with her in that case was the liberal icon of California jurisprudence, Stanley Mosk, her colleague on the bench. This was a 4-to-3 decision representing a very important idea. She specifically condemned the language. She said people could be sued, they could have penalties imposed. She was concerned about a court injunction saying to somebody, they could not say certain words in the future. That is what the question was. Any legal

scholar in this country would agree that is a difficult matter. We ought to be careful before we pass injunctions saying people cannot say something. A prominent liberal jurist, Justice Mosk agreed with her on that point, as did three of the justices on that court.

One of the things one of the groups has attacked her about, and I don't know if the Senators have raised it yet—I wouldn't be surprised, is the use of stun belt on a criminal defendant in court.

We are familiar with the recent case in the Atlanta, GA, courthouse, where a violent defendant overpowered the guard, took a gun, shot a bunch of people, ran off. There was a national uproar over what to do about it, why that shouldn't have happened, and how we ought to take steps to prevent this in the future. That was a good, healthy debate.

There is a device called a stun belt that can be placed on a defendant. Simply by pushing a button, apparently, one can immobilize a subject wearing a stun belt.

In recent years, we cannot bring criminals into the courtroom in prison garb. You cannot bring a prisoner in a courtroom and sit them before a jury in handcuffs. That would bias the jury, the courts have said, in their effort to be fair to defendants.

I was a prosecutor; I remember when that started happening. So we had to sit them up there in the witness box without any chains or handcuffs. You never knew what they were going to do. There were marshals and sheriff's deputies standing on alert to see if this guy was going to make a break.

They came up with this idea to put a stun belt around a defendant, under their clothes, that could not be seen. This guy was referred to as being psychotic, violent, dangerous in any number of ways and the California Supreme Court said, you cannot make him wear it. It made him nervous.

I hate to say that was a silly opinion, but it was, in my view. I bet if the decision was made after the Atlanta courtroom incident, they may not have ruled the same way. But one justice on that court saw it correctly: Janice Rogers Brown. She dissented from that decision. That was the right thing to do. Absolutely the right thing to do. I salute her for it. She should not be voted down for those issues.

There are many of these examples of distortions of her record we could talk about. One interesting case in which Justice Brown authored a majority opinion deals with the question of affirmative action. It is the kind of case that gets someone in trouble with certain leftwing groups in this country but is consistent with the law of America and the law of the State. She did the only thing appropriate. It is the High-Voltage Wireworks case. In this case, the California Supreme Court unanimously concurred in Justice Brown's opinion.

They say she does not believe in affirmative action, quotas, and things of

that nature. This is one of the cases they cite. It was a unanimous supreme court decision case. It demonstrates her ability to follow the Constitution and Federal law.

California proposition 209 was passed by the people of California. It added a provision to the California Constitution that provided:

The states shall not discriminate against or grant preferential treatment to any individual or group on the basis of race, sex, color, ethnicity, or national origin in the operation of public employment, public education or public contract.

The people from California passed that.

There was a minority contracting program in San Jose that said contractors bidding on city projects must utilize a specified percentage of minority and women contractors or document efforts to include minority and women contractors in their bids. Every judge who reviewed the case, including the trial, appellate, and supreme court, agreed that the San Jose program constituted preferential treatment within the meaning of proposition 209. Why, certainly it did.

Justice Brown's opinion demonstrates her firm commitment to the bedrock principles of civil rights. She noted:

Discrimination on the basis of race—

Remember, she is an African American.

Discrimination on the basis of race is illegal, immoral, unconstitutional, inherently wrong, and destructive of democratic society.

Contrary to the assertions of liberal smear groups, Judge Brown is not opposed flatly to all affirmative action programs in all circumstances. She has specifically acknowledged that "equal protection does not preclude race-conscious programs." Certain race-conscious programs can be approved under the law. And she favorably cites Supreme Court decisions establishing the affirmative duty to desegregate where there has been a showing of a prior discrimination, that you can issue orders, then, if there has been a proof of discrimination.

She provided a historical discussion of all of American equal protection law. It was part of an extremely well-reasoned opinion. But it has made some of those on the left unhappy, you see, because she is not in lockstep for all these items, she is not in agreement with everything. She thinks there are limits to what the Government can do in this area, and should do, consistent with the Constitution of the United States.

There are many other cases she has ruled on. I will simply add this, in conclusion, that she has been a sterling justice, a justice who believes in law. She has approached each case she has dealt with from a perspective of trying to find out what the law is and how to do the right thing about it. She has courage and had the courage to stand up in the face of a legal system that

has not been supportive of classical understandings of how we interpret statutes, how we enforce the law, and what the law means. She has been in an agenda-driven environment where judicial activism is more prominent in certain areas of the country. The fact she has dissented and has raised questions to defend private property and to question turning criminals loose on a rapid basis, as some have, and those kinds of things, speak well of her.

What is important mostly is that she has a judicial philosophy that is consistent with the judicial philosophy our country has had, our heritage of law. That is what she believes in. That is what she has given her life and career to. She loves the law, and she cares about it. She cares about it enough to speak out if she thinks things are going wrong. Her views are consistent with the American people. President Bush campaigned on these issues aggressively in this last election. He won 52 percent of the vote. It is the first time in many years a Presidential candidate received over half the votes in this country. I think if you took on the question of judicial activism and the feeling of the American people with regard to judges who exceed their bounds of power and start legislating from the bench rather than making decisions, he would have had much higher support.

Senators who joined this body defeating incumbents or winning open seats—the winners of those seats—consistently have been Senators who have talked to the people of their States about the problem of an overreaching judiciary and the need to make sure the judges we have are talented, smart, proven men and women of integrity and ability, but men and women who will show restraint on the bench, who will follow the law as written, even if they may not personally agree with it. Because if they want to write the laws, they ought to run for office and see if they can get elected. Maybe the reason people who got elected did not pass a law they wanted is because the American people did not want that law, their constituents did not want it, and that is why they did not pass it. So they are not empowered to impose their personal views by subtly manipulating words and language and phrases and other things to make the case come out the way they want it to come out. That is not what they are empowered to do.

I think Janice Rogers Brown represents the classical view of law, the mainstream view of law, which I will admit is under attack today in this country. It was a big issue in the campaign. President Bush took his case to the American people, and he was re-elected on it. That was a big issue in his election. There is no doubt about it. The American people want judges with the philosophy of Justice Rogers Brown, her legal philosophy. What she says politically somewhere in a speech is not important, as long as her judicial philosophy is such that she shows

and has demonstrated she will be faithful to the Constitution and to the law, whether or not she agrees with it.

That is what we in the Senate need to be doing in our confirmation process. We need to ask ourselves: This may be a view by a nominee I agree with or I do not agree with, but will they enforce the law? Because we cannot expect every nominee to agree with us on our religious values, our moral values, or our political beliefs. Judges are not expected to do that. You do not expect that. It is not running for office. They are not going to be voting on these things. You want people who understand the law and who will be fair and show intelligence and diligence and a determination to get it right. That is what she said in her testimony. She said: My goal is to get it right.

I believe this is a good nominee. I believe she will be a tremendous addition to the Court of Appeals for the United States. I am proud she is a native of my home State, and I am honored to have these moments to speak on her behalf.

I thank the Chair and yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. SESSIONS. Mr. President, I was talking about Justice Janice Rogers Brown and her record of courage and ability on the Supreme Court of California.

I note an article by Nat Hentoff. It is in the Jewish World Review. Mr. Hentoff is a noted civil rights lawyer, of courage and independence, who writes with clarity and is a civil libertarian who believes in American civil liberties, who has a long record of it. He is not someone who is slavishly part of any political agenda and is willing to speak the truth wherever he sees it. Sometimes I agree with it; sometimes I don't. But he has written an article about the filibuster of Janice Rogers Brown. He talks about the "Action Alert" from the National Association for the Advancement of Colored People that "accuses [Janice Rogers Brown] of having extreme right-wing views" and "issuing many opinions hostile to civil rights."

She has been a victim of civil oppression and segregation. She is a true champion of civil rights, as I think I indicated in my remarks.

He goes on to show "how prejudicially selective the prosecution of her is by the Democrats, the NAACP, People for the American Way, and her other critics."

He says:

To my knowledge, not one of her attackers has mentioned the fact that in the case of

People v. McKay, Brown was the only Supreme Court justice to instruct her colleagues on the different standards some police use when they search cars whose drivers are black:

This is Justice Brown's quote:

There is an undeniable relation between law enforcement stop-and-search practices and the racial characteristics of the driver. . . . The practice is so prevalent, it has a name: "Driving While Black."

Does that sound like somebody who is hostile to civil rights? He goes on to criticize the Action Alert and the selective comments that are made there. He says:

Sen. Ted Kennedy has accused Justice Brown of hostility not only to civil rights but also to "consumer protection." But in *Hartwell Corp. v. Superior Court* (2002), she declared that water utilities could be sued for having harmful chemicals in the water that result in injuries to the residents of the State who drink that water. Also in *People ex rel. Lungren v. Superior Court*, Justice Brown affirmed the authority of California's attorney general to haul into court faucet manufacturers who include lead in their faucets.

Another charge by the NAACP in its "Action Alert" is that Justice Brown dissented from "a ruling that an injunction against the use of racially offensive epithets in the workplace did not violate the First Amendment."

Mr. Hentoff then says this:

I know this case—*Aguilar v. Avis Rent A Car System Inc.*—well, having covered it from the beginning and interviewed lawyers on both sides. Brown dissented from an astonishing decision by the California Supreme Court that authorized the trial judge to actually put together a list of words that would be forbidden for all time in that workplace, even if uttered out of the presence of employees.

That is what Mr. Hentoff says about this opinion of the majority that she dissented from. He goes on to say:

This extreme gag rule on speech turned the First Amendment upside-down because as Stanley Mosk, a much-respected civil libertarian on that California Supreme Court, emphasized: "The offensive content of using any one or more of a list of verboten words cannot be determined in advance." As Brown said plainly and correctly: "We are not dealing merely with a regulation of speech, we are dealing with an absolute prohibition—a prior restraint." This could "create the exception that swallowed the First Amendment."

Do you see what we are talking about here?

That is what has been going on on the floor of the Senate that is so distressing to me. Let's lay it out here on the table.

Justice Janice Rogers Brown, according to one of the great civil liberty lawyers in America, Nat Hentoff, was defending first amendment free speech, joined by one of the most liberal members of the California Supreme Court to defend free speech. What did they accuse her of? They said that she approved of using racial slurs against Hispanics. Now, that is beyond unfair. It is beyond unfair. It is beyond decency and integrity, and it is not right. It is wrong. That is what we have been doing to nominees here to justify the

opposition because fundamentally they believe in a classic rule of law and don't believe in judicial activism.

Hentoff goes on further and talks about another case.

As for this justice's hostility to civil rights and liberties, there was her dissent in *In Re: Visciotti* in which she declared the sentence of John Visciotti—convicted of murder, attempted murder, and armed robbery—be set aside because of his defense lawyer's incompetence. In another capital murder case (*In Re: Brown*) she reversed the death sentence of John George Brown because the prosecutor subverted the defendant's fundamental right to due process by not disclosing evidence that could have been exculpatory.

Not a word about those two cases was in the NAACP "Action Alert" or the New York Times editorial [or the Sacramento Bee].

I ask unanimous consent to have printed in the RECORD the article of Mr. Hentoff of May 9, 2005, entitled "Filibustering Janice Rogers Brown."

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Jewish World Review, May 9, 2005]

FILIBUSTERING JANICE ROGERS BROWN
(By Nat Hentoff)

Janice Rogers Brown of the California Supreme Court has been the Bush nominee for a federal circuit court judgeship facing particularly fierce resistance by Democrats and their allies. For example, the April 26 "Action Alert" from the National Association for the Advancement of Colored People accuses her of "having extreme right-wing views," issuing "many opinions hostile to civil rights."

I do not agree with all of Justice Brown's opinions, but I write this to show how prejudicially selective the prosecution of her is by the Democrats, the NAACP, People for the American Way and her other critics. She was filibustered in the last Congress, and may be again, now having been sent to the floor on a 10-to-8 party-line vote by the Judiciary Committee.

To my knowledge, not one of her attackers has mentioned the fact that in the case of *People v. McKay* (2002), Brown was the only California Supreme Court justice to instruct her colleagues on the different standards some police use when they search cars whose drivers are black:

"There is an undeniable correlation between law enforcement stop-and-search practices and the racial characteristics of the driver. . . . The practice is so prevalent, it has a name: "Driving While Black."

The three-page "Action Alert" I received from the NAACP ignored that opinion, in which Brown added that while racial-profiling is "more subtle, more diffuse and less visible" than racial segregation, "it is only a difference of degree. If harm is still being done to people because they are black, or brown, or poor, the oppression is not lessened by the absence of television cameras."

This is right-wing extremism? Yet, an April 28 lead New York Times editorial accuses Justice Brown of being "a consistent enemy of minorities (and is) an extreme right-wing ideologue."

Sen. Ted Kennedy (D-Mass.) has accused Justice Brown of hostility not only to civil rights but also to "consumer protection." But in *Hartwell Corp. v. Superior Court* (2002), she declared that water utilities could be sued for having harmful chemicals in the water that result in injuries to residents of the state who drink that water.

Also in *People ex rel. Lungren v. Superior Court* (1996), Justice Brown affirmed the au-

thority of California's attorney general to haul into court faucet manufacturers who include lead in their faucets.

Another charge by the NAACP in its "Action Alert" is that Justice Brown dissented from "a ruling that an injunction against the use of racially offensive epithets in the workplace did not violate the First Amendment."

I know this case—*Aguilar v. Avis Rent A Car System Inc.*—well, having covered it from the beginning and interviewed lawyers on both sides. Brown dissented from an astonishing decision by the California Supreme Court that authorized the trial judge to actually put together a list of words that would be forbidden for all time in that workplace, even if uttered out of the presence of employees.

This extreme gag rule on speech turned the First Amendment upside-down because as Stanley Mosk, a much-respected civil libertarian on that California Supreme Court, emphasized: "The offensive content of using any one, or more, of a list of verboten words cannot be determined in advance." As Brown said plainly and correctly: "We are not dealing merely with a regulation of speech, we are dealing with an absolute prohibition—a prior restraint." This could "create the exception that swallowed the First Amendment."

As for this justice's hostility to civil rights and liberties, there was her dissent in *In re Visciotti* (1996) in which she declared that the sentence of John Visciotti—convicted of murder, attempted murder and armed robbery—be set aside because of his defense lawyer's incompetence. In another capital murder case (*In re Brown*) she reversed the death sentence of John George Brown because the prosecutor subverted the defendant's fundamental right to due process by not disclosing evidence that could have been exculpatory.

Not a word about those two cases was in the NAACP "Action Alert" or The New York Times editorial.

Were I on the Senate Judiciary Committee, a critical question I would ask Justice Brown is: "Is it true, as has been charged, that you believe the drastically anti-labor 1905 Supreme Court decision in *Lochner v. New York* was correctly decided?"

In that decision, which placed bakery owners' contract rights over the health of workers and the health of buyers of the company's products, the High Court ruled that employers had the right to insist that their employees work unlimited long hours, even if the public's health were to be endangered because sick workers couldn't even take the day off.

If Justice Brown does indeed agree with that decision, which was influential until President Roosevelt's New Deal, I would have difficulty voting for her; but I would not unjustly accuse her of having nothing in her record that strongly upholds the interests of justice. She does not deserve being stereotyped as an archetypical reactionary. And her defense of the Fourth Amendment's protection of our rights against government search and seizure are much stronger than any current member of the Supreme Court.

Mr. SESSIONS. What kind of lady is this? She graduated from UCLA, one of our Nation's finest law schools. In February of 2004, the alumni of that not-so-conservative law school presented Janice Rogers Brown with an award for public service. In recognizing Justice Brown, her fellow UCLA alumni, the people who know her, did not criticize her and say she was an extremist. They didn't say anything like that. At UCLA law school, where they gave her an award, they said:

Janice Rogers Brown is a role model for all those born to prejudice and disadvantage, and she has overcome adversity and obstacles and, since 1996, has served as a member of the California Supreme Court. . . . The professional training she received at the UCLA School of Law has permitted her, even now when decades remain to further enhance her career,—

Yes, we need to see her career be enhanced by this court of appeals appointment.

to have already a profound and revitalizing impact upon the integrity of American jurisprudence.

I will repeat that. They said:

. . . even now, when decades remain to further enhance her career, [she has been shown] to have already a profound and revitalizing impact upon the integrity of American jurisprudence.

I think that is a good description.

Despite her incredible intellect, work ethic, determination, and resultant accomplishment, she remains humble and approachable.

That is not the Janice Rogers Brown you hear her opponents describe. I will take the words of the people who know her and who have actually studied her record over the rhetoric of special interest groups who are not the least bit concerned, it seems to me, about being fair in their description of the nominee.

She spent 8 years as a deputy attorney general in the Office of the California Attorney General, where she prepared briefs and participated in oral arguments on behalf of the State's criminal appeals; she prosecuted criminal cases and litigated a variety of civil issues. Her keen intellect and work ethic made her a rising star on the California legal scene, and in 1994, Governor Pete Wilson tapped her as his legal affairs secretary. She served in that capacity until 1994, when she was nominated and confirmed as an associate justice on the California Third District Court of Appeals. In May of 1996, to honor her for her superior performance on the appellate court, Governor Wilson elevated her to the California Supreme Court, where she has performed admirably.

Since she was appointed to the California Supreme Court, a couple of things have happened which demonstrate she is doing her job and doing it well. During the 1998 elections, she was retained with 76 percent of the vote, receiving a higher percentage of the vote than any other judge on the ballot and in 2002, she authored more majority opinions than any other Justice on the Court.

The people of California who actually know the law and study the law and who have not been brainwashed by attack sheets that come out, by liberal groups, support her. For instance, Gerald Ullman, a California law professor, has expressed public support for this nominee. His statement sums up what we ought to consider with regard to Justice Brown's nomination. Let me quote it:

Although I frequently find myself in disagreement with Justice Brown's opinions, I

have come to greatly admire her independence, her tenacity, her intellect, and her wit. It is time to refocus the judicial confirmation process on the personal qualities of the candidates, rather than "hot button" issues of the past. We have no way of predicting where the hot button issues will be in years to come, and our goal should be to have judges in place with a reverence for our Constitution, who will approach these issues with independence, an open mind, a lot of common sense, a willingness to work hard and an ability to communicate clearly and effectively. . . . Janice Rogers Brown has demonstrated all these qualities in abundance.

That is what Professor Ullman said.

Her colleagues and former colleagues also support her. A bipartisan group of Justice Brown's current and former judicial colleagues, including all of her former colleagues on the Court of Appeals, Third Appellate District, and four current members of the California Supreme Court, also have written in support of her nomination.

Twelve current and former colleagues noted in a letter to the committee that:

Much has been written about Justice Brown's humble beginnings, and the story of her rise to the California Supreme Court is truly compelling. But that alone would not be enough to gain our endorsement for a seat on the Federal bench. We believe that Justice Brown is qualified because she is a superb judge. We who have worked with her on a daily basis know her to be extremely intelligent, keenly analytical, and a very hard worker. We know that she is a jurist who applies the law without favor, without bias, with an even hand.

That was sent to Chairman ORRIN HATCH in October 2003.

Ellis Horvitz, a Democrat and one of the deans of the appellate bar in California, has written in support of Justice Brown, noting that:

In my opinion, Justice Brown [possesses] those qualities an appellate judge should have. She is extremely intelligent, very conscientious and hard-working, refreshingly articulate, and possessing great common sense and integrity. She is courteous and gracious to the litigants and counsel who appear before her.

That was another letter to Chairman ORRIN HATCH.

The praise for Justice Brown and her performance on the bench goes on and on. Sure, some do not agree with her politically, but they recognize and appreciate her approach to jurisprudence. She is a restrained jurist who refuses to change the definition of marriage or to strike down the Pledge of Allegiance or throw out the "three strikes and you are out" law in California.

She is the kind of judge President Bush promised to support. Again, I think she has done a terrific job on the Supreme Court of California. I am proud she is from Alabama. I am sorry the discrimination she believed she and her family faced in our State was, I am sure, part of the reason they left Alabama to seek a fair life. She went to California and has taken advantage of the opportunities given her. She achieved a tremendous record. It is an honor for me to speak in support of her nomination.

I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, I thank my colleague from Alabama for his remarks. I did not hear them all, but he did say the record of Justice Janice Rogers Brown is compelling, and I agree with that. It is so far off the mainstream that one has to look at it compellingly. It is hard to believe, frankly, that the President nominated someone with these views. I think it shows how far over and out of the mainstream the President's nominees are and, unfortunately, how much in lockstep the majority in the Senate walks with these nominees.

I have no doubt that Justice Brown is smart and accomplished. Her rise from humble beginnings is impressive. That does not make somebody who belongs on the second most powerful court in the land. Someone's rise from humble beginnings is very important, but it does not mean they can run a major company. It does not mean they would be a great lineman or center or linebacker for the New York Giants. It is a wonderful thing, but it does not qualify them for the job.

Judge Janice Rogers Brown's humble rise cannot offset her radical and regressive approach to the law. I would argue that none of the views of the nominees we have had so far are so off the charts as Janice Rogers Brown. None of what she has done in her life can mitigate her hostility to a host of litigants who have appeared before her. If someone is polite and then takes your argument and throws it out, even though the law is behind you, and leaves you hopeless, it does not mean they have done a good job as a judge.

Janice Rogers Brown, on the merits, is the most out of the mainstream, the least deserving of all of the President's appeals court nominees. In a moment, I am going to review those reasons. Before I do, I want to ask a question that has been nagging me for a while: Why are so many self-described conservatives planning to vote for her? She is not conservative, she is a radical. She is the opposite of a conservative. And why are moderate Senators on the other side of the aisle boarding the Brown bandwagon when everything she believes is against what they believe?

Is it that this nominee, more than any other, embodies the conservative ideal for an appellate judge? Let's see what conservatives describe as what a judge ought to be.

This is the President and Republican leaders. They said a model judge should be a strict constructionist, judicially constrained, and mainstreamed. Janice Rogers Brown is none of those, absolutely none. Let's take a look at the record.

Is she a proud and principled strict constructionist? Is that why the President and Republican leaders are pushing her? President Bush has said time and again that he wants judges who will not legislate from the bench. He

said he wants strict constructionists in the mold of Antonin Scalia. But Janice Rogers Brown is no more a strict constructionist than I am a second baseman for the New York Yankees. Any one who says that the New Deal is a socialist revolution and ought to be undone, when we have had 70 years, seven decades of law based on the construct of the New Deal; where 99 percent of America agrees—does that person belong on the bench? Absolutely not. The New Deal is a socialist revolution and ought to be undone—does anyone on this side of the aisle agree with that?

And then defend for me once, I would like to hear in all the debate we had and will have on Janice Rogers Brown one person defending those comments. The only person I heard is ORRIN HATCH: Well, she tries to be inflammatory, or she tries to get people's attention. She has said things such as this over and over.

If you believe the New Deal was a socialist revolution that ought to be undone, you are not a strict constructionist. The legislature, the Congress, and the President, Democrats and Republicans, from 1932 on have said the things we have done in the New Deal and built upon on the basis of the New Deal ought to stay. Should one judge be able to undo that? Then why are we voting for her? That is not strict constructionism. That is not conservatism.

Listen to what a conservative commentator, Ramesh Ponnuru, wrote about her in the *National Review* some time ago. The *National Review* is a conservative publication.

Republicans and their conservative allies have been willing to make lame arguments to rescue even nominees whose juris prudence is questionable.

He continues to say—this is not my quote:

Janice Rogers Brown has argued there is properly an extra constitutional dimension to constitutional law.

Those are her words.

She has said that judges should be willing to invoke—

And this is Mr. Ponnuru quoting Janice Rogers Brown, not me—

She has said that judges should be willing to invoke “a higher law than the Constitution.”

You can find a higher law to the Constitution if you so believe from the far right, from the far left, maybe from the animal rights people or the vegetarians, but that is not what judges should do.

Take a look at her own words in a dissent involving a California proposition, proposition 209. In that case, which involved affirmative action, Justice Brown did not feel compelled to limit herself strictly to the language of that proposition. Instead, she decided that she should “look to the analytical and philosophical evolution of the interpretation and application of title VII to develop the historical context behind proposition 209.”

This sounds like Justice Brennan or some of the very liberal judges the con-

servatives decry. If you are going to make up your own law, are we saying on the other side of the aisle, you are not a strict constructionist if you want to make up your own laws to the left, but you are a strict constructionist if you want to make up your own laws to the right? As somebody who believes deeply in moderation on the bench, I am offended by either side.

So Janice Rogers Brown is not a strict constructionist, but is she otherwise a proven warrior against the scourge of conservatives everywhere—judicial activism? No. She is clearly an activist judge. She takes what comes into her own mind—she is bright, but a lot of her views compared to American law veer way off course—and she writes them in her opinions. Decades of elections, tens of thousands of legislators, executives, and she just throws them out the window because she happens to believe she knows better than everybody else.

That is what a judicial activist is. That is what the conservative movement against judicial activism rebelled against.

Well, conservatives and moderates alike have criticized her for her activism, and her own words show her to be as activist as they come. Her own words demonstrate she is quick to want to reverse precedent, the very definition of an activist judge. When it comes to reversing precedent, one might say Janice Rogers Brown has an itchy trigger finger; she cannot wait to reverse precedent.

Here is what she said in *People v. Roberman, 1998*: We cannot simply cloak ourselves in the doctrine of stare decisis. Hello? I went to law school. I learned throughout law school, one studies cases because of stare decisis. One is supposed to look at the train of law, and here she is: Forget stare decisis.

If that was said by a liberal who wanted to move things way over to the left—a liberal would not say it; it would be someone further over—what would be heard on that side of the aisle? What does it say about her reluctance to be an activist?

Time and time again she has jumped at the chance to reshape settled law. Listen to a few statements from opinions she has written, not from speeches. Everyone has said, do not judge her speeches—they are inflammatory and intended to be so—but her opinions. Here she says: The commercial speech doctrine, which has been established in our law for decades, needs and deserves reconsideration and this is as good as any place to begin.

She wrote she was disinclined to perpetuate dubious law for no better reason than it exists.

I had a history professor in college. He said his first lesson of history is we are no smarter than our fathers, and people who think they are much smarter than people who came before them and have nothing to learn from them do not belong on the bench. Here she is:

disinclined to perpetuate dubious law for no better reason than it exists. Is she saying all the people who wrote those opinions should be ignored?

On other occasions she has talked about “taking a fresh look”, her words, at settled doctrine under California law. And just listen to the California State Bar Judicial Nominees Convention which gave Justice Brown a not qualified rating when nominated to the California Supreme Court in 1996. The rating in part was because of complaints that she was “insensitive to established legal precedent.”

Or listen to the words of conservative writer Andrew Sullivan who agrees with many of Justice Brown's views. He said there is a case to be made for “the constitutional extremism of one of the President's favorite nominees, Janice Rogers Brown. Whatever else she is, she does not fit the description of a judge who simply applies the law.” This is Andrew Sullivan, conservative commentator, not CHUCK SCHUMER. He said: If she is not a judicial activist, I do not know who would be.

Mr. Sullivan made it a point to say he might agree with some of her views but not her penchant for imposing those views in her position as a judge, and that is the point. God bless her for her views. This is America. We can all have different views. But when one becomes a judge and they take an oath of office to uphold the Constitution, part of that means they uphold the traditions of law that are under the Constitution.

Here is what Sullivan said:

I might add, I am not unsympathetic to her views but she should run for office, not the courts.

He has it exactly right. Let her run on her views that the New Deal was a socialist revolution. Let her run on her views that there should not be child labor laws. Let her run on her views that there should be no zoning laws so someone who wanted to open a pornographic store next to a high school had a constitutional right to do so or somebody could buy a tract of land right next to your nice suburban house and put in a factory.

How about Mr. Ponnuru, again, a conservative writer from the *National Review* magazine:

She has said that judicial activism is not troubling per se. What matters is the world view of the judicial activist. In other words, one can be a judicial activist if they agree with her views, not if they do not.

I have to say to my friends on the other side of the aisle, they have lost a lot of the argument on judicial activism when they support Janice Rogers Brown. Judicial activism is not sometimes yes and sometimes no. An activist is somebody who makes his or her own law, it comes out of their own head and supersedes everything we have known, whether it is left, right, center.

It is incredible. It is incredible that we are discussing Janice Rogers Brown. I can imagine the reaction if a Democratic President put forward a nominee

who said all of these things. We would have pandemonium on that side of the aisle. But guess what. President Clinton never would have nominated someone like this. It is only because President Bush is so in the thrall of the hard right that he has to do this. Thank God it is not true of most of the judges he has nominated, conservative though they may be.

So as the record reflects, Janice Rogers Brown does not have the impulses of a restrained judge. She has the passions of a judicial activist and that was the type I thought conservatives wanted to keep off the bench at all costs.

How about this argument: She is not a strict constructionist and she is a judicial activist. But are her judicial views otherwise in the mainstream of conservatism? Is that why people on the other side of the aisle support her? My friend JEFF SESSIONS said Justice Brown is in the mainstream. Well, let us ask the American people if her views are in the mainstream. Or first let us ask conservative commentator George Will, a very respected man—and I have more respect for him because at least he is calling the shots as he sees them, not like my colleagues who seem to be marching to the tune of Janice Rogers Brown without even thinking. Here is what George Will said, and in fairness to George Will he was first saying that Priscilla Owen, who we opposed, is part of the mainstream, but here is what he said about Brown:

Another of the three, Janice Rogers Brown, is out of that mainstream. That should not be an automatic disqualification, but it is a fact . . .

I say to Mr. Will, it surely is a disqualification to me, but that is not the point. Even George Will says Janice Rogers Brown is out of the mainstream. Which mainstream was he talking about? George Will was talking about the mainstream of conservative jurisprudence.

He went on to say, and these are his words:

It is a fact she has expressed admiration for the Supreme Court's pre-1937 hyperactivism in declaring unconstitutional many laws and regulations of the sort that now define the post-New Deal regulatory state.

George Will has the forthrightness, straightforwardness, and courage to admit what Janice Rogers Brown is. When will one of my colleagues from the other side?

What does the record then show about Janice Rogers Brown? She is not strict in her construction. She is not mainstream in her conservatism. Nor is she quiet about her activism. So I am left with the same question: Why is it that Janice Rogers Brown is touted as the model conservative judge when she is anything but conservative in her judicial approach?

I believe there are many Senators across the aisle who would vote against such a candidate because her judicial philosophy could not be more out of sync with theirs, but I worry that there

is enormous political pressure, party pressure, on those moderate Senators.

Senator FRIST has spoken the last few weeks about leader-led filibusters of judges, whatever that means. Well, is this a leader-led rubberstamping of nominees who have not even convinced noted conservatives that they belong on the bench?

Let me make one other point. If one looks at all the nominees, 45 court of appeals nominees, every measure that was put forward on the other side of the aisle for every one of the court of appeals nominees, whether it is to invoke cloture or to vote for them, there was not a single Republican dissent, except one: TRENT LOTT on Roger Gregory for the Fourth Circuit. That was the man Jesse Helms blocked, mostly because he did not want a Black man on the Fourth Circuit, which has not had a Black man before, even though the Fourth Circuit, North Carolina, Virginia, has a large Black population.

Let us look at the merits of Justice Brown. Let us look at her views and why I feel she could not have been a worse pick. This has nothing to do with her faith, her race, her gender, or her background. We are being blind to all that. Any nominee who has these views—could be Black, White, Hispanic, Asian, man, woman—you just can't support somebody like this because of their views, not because of who they are and not because of their background. What a record she has.

In case after case, Justice Brown goes through contortions of legal logic that reach results to hurt workers, limit environmental protections, and injure basic rights. Time and time again, when a legal question is presented twice, she takes two polar opposite approaches in order to achieve the outcome she wants. That is judicial activism at its worst.

Judicial activism can be dangerous on any court, but it is especially dangerous on the DC Circuit, which is known, for good reason, as the Nation's second highest court.

Some of the things she said. She said that the Lochner case was decided correctly. The Lochner case says that States cannot pass any laws protecting workers. If you ask most lawyers to name the worst Supreme Court decision of the 20th century, Lochner would be at the top of any list. Fortunately, the Court threw it out a few decades later. Not even Justice Scalia believes States should be prohibited from passing wages and hours laws. But Janice Rogers Brown believes not only is the Federal Government not allowed to, under the commerce clause, but the States themselves cannot do anything. It is confounding. It is just unbelievable.

How about her views in the San Remo case, where she says all zoning laws are a taking of property, an unconstitutional taking of property? Does anyone in America believe that? Does the most conservative Member of this Chamber? I don't know who it

might be. We might have a race for that. But does the most conservative Member of this Chamber believe there should be no zoning laws? These are State laws, which has nothing to do with federalism, which Justice Scalia made one of his hallmarks. I disagree with him on those issues, but that is a different argument. These are local zoning laws. Unconstitutional? Is it unconstitutional to say you cannot put poison in the air? Is it unconstitutional to say you can't pollute the water? Is it unconstitutional to say in a residential community you cannot put in a factory or a porno palace? What are we doing here? What is going on here?

I have to tell you, I do not see how anyone on that side of the aisle can look in the mirror and say they really think this woman belongs on the DC Court of Appeals.

If it were just one view, you would say: Well, these guys are just focusing on one view. It is over and over again. Until Santa Monica—just to go back to Lochner—v. Superior Court, she called the demise of the Lochner era “the revolution of 1937.” That is that socialist revolution, the New Deal. She wants to undo it.

Here is what she said on another occasion:

Today's senior citizens blithely cannibalize their grandchildren because they have the right to get as much free stuff as the political system will permit them to extract.

I suppose you read from that that she wants to repeal Social Security. After all, that was part of the socialist revolution. Does anyone here believe we should repeal Social Security? Anyone?

In a dissenting opinion, she wrote:

I would deny the senior citizen plaintiff relief because she has failed to establish that public policy against age discrimination inures to the benefit of the public is fundamental and substantial.

It goes without saying that a nominee who does not agree that public policy against age discrimination benefits the public is far out of any mainstream.

I don't know of a single person on the U.S. courts—and there may be one or two but none that have come to my attention—who is as out of the mainstream, as far over to the right as Janice Rogers Brown.

So my colleagues—and this is really a plea to those on the other side of the aisle—we have already come to an agreement, at least 14 in the middle—God bless them for trying—that we are going to invoke cloture on Janice Rogers Brown, which means there will be an up-or-down vote. But no one here has voted up or down on Janice Rogers Brown before, except Members of the Judiciary Committee.

I urge, plead with my colleagues on the other side of the aisle—particularly those who are somewhat more moderate—look at the record of this nominee. Look at what she says and what she stands for. If there were ever a time to show some independence, to not march in lockstep, to vote your

convictions because you can't believe that someone of these views belongs on the court, now is that time.

I yield the floor.

The PRESIDING OFFICER. The Senator from Florida.

(The remarks of Mr. NELSON of Florida pertaining to the introduction of S-1168 are printed in today's RECORD under "Introduced Bills and Joint Resolutions.")

Mr. NELSON of Florida. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

MORNING BUSINESS

Mr. FRIST. Mr. President, I ask unanimous consent there now be a period of morning business, with Senators permitted to speak for up to 10 minutes each.

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

TRIBUTE TO JUDGE CHARLES R. SIMPSON III

Mr. MCCONNELL. Mr. President, I rise today to pay tribute to an ambassador of the law. Charles R. Simpson III, judge of the United States District Court for the Western District of Kentucky, is a renowned fixture of the legal community in his home state as well as a world traveler, in his capacity as a member of the Committee on International Judicial Relations of the Judicial Conference of the United States. In that role, he serves as both a student and a teacher in courtrooms all over the world.

Judge Simpson is also an old friend of mine. He graduated from my alma mater, the University of Louisville, where he received both his bachelor's degree in 1967 and his law degree in 1970. Soon afterwards, we both helped found the law firm of Levin, Yussman, McConnell & Simpson. Obviously it was not the last stop for either of us.

After serving the public in county government, where I also served, Judge Simpson was appointed to the District Court by President Ronald Reagan in 1986. He has retained that post for nearly 20 years, rising to become one of the most respected voices in Louisville and throughout the State. But he also wanted to take his legal knowledge and his love of Kentucky and spread it beyond America's borders.

Dating to a period in his youth when he studied painting and architecture in Europe, Chuck has enjoyed an adventurer's spirit. So he spearheaded the establishment of a sister-court relationship between his court and one in Croatia. Through this friendship, Cro-

atians got a firsthand look at American jurisprudence, and Judge Simpson learned how the law deals with the difficulties of life in Eastern Europe.

Because of his groundbreaking efforts, Chief Justice of the United States William H. Rehnquist appointed Judge Simpson to the Committee on International Judicial Relations of the Judicial Conference of the United States in 2004. His wide travels have included countries such as Russia, Croatia, Slovenia and Cyprus.

Once on a visit to Ivanovo, Russia, Judge Simpson caused a minor international incident when he accidentally locked himself in the courtroom cage usually reserved for the defendant. Apparently, it was quite difficult to find the key. Everyone handled the situation with great humor, and Chuck struck a blow for diplomacy when his story made the front page of the local Ivanovo newspaper.

In 1999 Judge Simpson was named outstanding alumnus of the University of Louisville's Louis D. Brandeis School of Law, and in 2000 the Louisville Bar Association named him judge of the year. He and his wife Clare have three children, one of whom, their daughter Pam, has served with distinction for 2 years in my Washington office.

For his decades of service, the Kentucky Bar Association has named Chuck the 2005 outstanding judge of the year. They recognize that he is a superb representative of the American justice system to our friends across the world, and the knowledge he brings home from his travels enriches us all. Mr. President, today I ask my colleagues to join me in commending Judge Simpson for receiving this high honor, and for his service to the law and his country.

NOMINATION OF JOHN BOLTON TO BE UNITED STATES AMBASSADOR TO THE UNITED NATIONS

Mr. CORZINE. Mr. President, I will be voting against the nomination of John Bolton to be Ambassador to the United Nations.

When the President first nominated Mr. Bolton for this position, I expressed deep disappointment and concern. First, because of his repeated expression of disdain for the organization. But, more importantly, because Mr. Bolton is as responsible as any member of the administration for the needless confrontations with the rest of the world and for the international isolation that plagued President Bush's first term and for the shaky credibility we carry today. At a time when we need to be strengthening our alliances and making full use of international institutions to achieve our foreign policy goals, sending Mr. Bolton to the United Nations sends the exact wrong message. I do not accept his view that the U.N. is a vehicle to be used by the U.S. "when it suits our interests and we can get others to go along." Diplo-

macy in most people's minds requires attention to more than just coalitions of the willing.

Over the past month, the Senate Foreign Relations Committee has uncovered a pattern of behavior on the part of Mr. Bolton that has only confirmed my concerns. Most disturbing to me is the evidence of Mr. Bolton's troubled and confrontational relationship with our intelligence community.

In speeches and testimony, he has appeared to stretch the available intelligence to fit his preconceived views. On three separate occasions, he tried to inflate language characterizing our intelligence assessments regarding Syria's nuclear activities. He sought to exaggerate the intelligence community's views about Cuba's possible biological weapons activities. His track record, on these and other matters, was so bad that the Deputy Secretary of State made an extraordinary order—that Mr. Bolton could not give any testimony or speech that was not personally cleared by the Deputy Secretary or the Secretary's chief of staff.

He also dampened critical debates among professionals on important policy issues by retaliating against analysts who presented a different point of view than his own. For example, on three occasions over a 6 month period, he sought to remove a midlevel analyst who disputed the language he tried to use about Cuba. The proliferation of weapons of mass destruction is a serious matter. I would not criticize Mr. Bolton for asking intelligence analysts hard questions about proliferation issues, nor should policy makers refrain from challenging the assumptions of those analysts. But Mr. Bolton was doing something far different. He made it clear that he expected intelligence analyses that conformed with his preconceived policy views. Rather than welcome contrary intelligence analyses as essential to an informed debate, he retaliated against those who offered contrary views.

Mr. Bolton's approach to those around him has been harshly criticized by those who have worked with him. Larry Wilkerson, the chief of staff for Secretary Powell, called him a "lousy leader." Carl Ford, former head of the State Department's Bureau of Intelligence and Research, referred to Mr. Bolton as a "quintessential kiss-up, kick-down sort of guy."

This is not the person we need at the United Nations. Good diplomacy, like good business, relies on a great team and a good leader. Good leaders listen. They listen to their troops, they make reasoned decisions, they take responsibility, and they build the respect and loyalty of their staff. Management by fear is a recipe, in both public service and the private sector, for getting only the information that you want to hear. Shoot the messenger and other messengers will not volunteer to deliver the bad news. And I submit that Mr. Bolton has developed a reputation for shooting the messenger.

We must begin to learn the lessons of Iraq. It should be more than clear by now that our national interests are damaged when policy makers bend intelligence. And we should all understand by now that accurate, objective intelligence requires analysts who are free to offer differing views. We face serious threats, from international terrorism to the proliferation of weapons of mass destruction. We have serious foreign policy concerns to address, from genocide to global climate change. Protecting our national security interests demands policymakers who seek objective intelligence on these and other challenges. Given his track record, John Bolton is clearly not that policymaker.

Another lesson of Iraq is the critical importance of American credibility. The inaccurate presentations made by our Government to the international community have done serious damage to our interests. If we are to gain the active support of other nations in confronting common threats such as terrorism and weapons of mass destruction, we will need to convince those nations of our views. To do so, we will need their trust. This challenge is especially complicated at the United Nations, where Secretary of State Colin Powell gave what turned out to be an almost entirely inaccurate presentation on Iraq, and where the administration dismissed all alternative views, including those of UN inspectors. Mr. Bolton is not the person to repair this damage. His record makes it extremely unlikely that he could rebuild our credibility in the international community in its most visible forum—the U.N.

The nomination of John Bolton is a lost opportunity for this administration to regain American leadership at the United Nations. It is also dangerous. Failure to gain support in the UN for our policies puts us at unnecessary risk. Simply put, we cannot afford an ineffective Ambassador at the United Nations.

COMMENDING RICHARD PRICE

Mr. GRASSLEY. Mr. President, today I rise to commend and thank Mr. Richard Price of the Congressional Research Service, CRS, for his many years of outstanding service to the U.S. Congress. In June, Mr. Price is retiring from CRS after 32 years of service. For over three decades at CRS, Mr. Price has played a significant role in providing assistance to Congress in analyzing major health care legislation. In his position at CRS, he has been an invaluable asset not only through his own work analyzing health care legislation, but also in his tireless efforts to guide others in the Health Care and Medicine unit at CRS which he managed.

Over the past three decades, Mr. Price has worked on health care legislation across a wide array of health care policy and programs. Mr. Price is

a recognized expert on the major U.S. health care financing programs—Medicare and Medicaid; his particular areas of expertise span most aspects of Medicare and Medicaid reimbursement policy, long-term care, Medicaid eligibility, nursing home reform, managed care, hospice care, skilled nursing home services, end stage renal disease, home health care services, and public health service programs, among many others. His contributions to the development of legislation in these areas have been substantial. Over his long career at CRS, he has helped hundreds of staff understand the effect of the legislative proposals being considered through thoughtful analyses, balanced presentations, and clear explanations. I wish to especially thank him for his work with the Senate Finance Committee and its staff.

In addition to his own analytic work on legislative analysis, Mr. Price has been responsible for management of a staff of CRS analysts who assist Congress across a wide spectrum of health care issues, including those related to Medicare, Medicaid, the Public Health Service, the Food and Drug Administration, the National Institutes of Health, and the Veterans Administration. Mr. Price was instrumental in building the health care staff of CRS to a large team of senior analysts. In addition, Mr. Price has been involved in innumerable projects to develop the capacity of CRS analysts to evaluate and analyze health care data, including models to estimate the effect of various legislative changes in Medicare and other health care programs.

Other organizations that analyze issues related to health care policy have acknowledged Mr. Price's accomplishments and knowledge of U.S. health care policy. For example, Mr. Price is a member of the steering committee of the National Health Policy Forum, a nonpartisan organization that provides research to senior level health policy makers in Washington. Mr. Price is also a member of the prestigious National Academy on Social Insurance, NASI.

Mr. Price's service to Congress in the analysis and development of policy alternatives across a wide array of health care programs, his ability to conceptualize complex public policy issues, as well as his leadership of staff who work on many varied and complex health care issues, set the highest standards for assistance provided by CRS in service to the Congress. He will be missed, both here in Congress and across the street at the Library of Congress.

RETIREMENT OF GEORGE W. MULLEN

Mr. SPECTER. Mr. President, I have sought recognition to honor George W. Mullen of Pennsylvania, who will step down as State Adjutant of the Pennsylvania Department of Veterans of Foreign Wars of the United States this

June. George's retirement will mark the end of a distinguished 59 year career of service to our military, our veterans community, and our Nation.

George W. Mullen joined the United States Navy in 1943 at the age of 17 and served during World War II aboard the merchant ship SS *Ben Holt* and the destroyer USS *Cotton* in both the Atlantic and Pacific Theatres. While on active duty aboard the *Holt*, his ship arrived 2 days after the invasion of Normandy, France, to help supply Allied forces in the battle against Germany. His duty on the *Cotton* included helping rescue a downed American pilot and supporting the invasion of Okinawa.

George worked at the Veterans Affairs Medical Center in Coatesville for 35 years before becoming the Pennsylvania Veterans of Foreign Wars State Adjutant in 1983. As a member of the Pennsylvania War Veterans Council and the Pennsylvania State Veterans Commission, he has been a familiar face to governors and many State and Federal legislators who have sought his guidance.

Mr. Mullen, who lives in Parkesburg, has touched many lives and that has not gone unnoticed. He has been honored at the local, State and national level for his many contributions. While humble in service to others, George has always stood for what is right and remains a staunch supporter of our troops.

His will be hard shoes to fill, and he will be missed. We wish George and his wife Dawn well in future endeavors, and thank him for his dedication to duty, hard work, and professionalism.

ONLINE FREEDOM OF SPEECH ACT

Mr. BURNS. Mr. President, I rise today to express my support for the Online Freedom of Speech Act which my colleague Senator REID has introduced. This legislation clarifies the campaign finance legislation of 2002 in order to restore freedom of speech to the Internet.

The Internet is more than a remarkable new technology. It's a means of bringing people together. I read somewhere that the most important time in a person's development is the first 5 years. Things that happen during infancy have dramatic effects on how that child will develop for the rest of their life. The Internet is no different. It is a technology in its infancy. We are fortunate to live in an exciting time of great technological change. In my State of Montana, cutting-edge technology is creating jobs and industry. But like anything in its infancy, we should be very careful about how we respond to technological infants like the Internet. A wrong step now could affect how it develops for the next 100 years.

For this reason, the Bipartisan Campaign Reform Act of 2002 did not identify the Internet as a target of regulation. However, it also did not specifically exclude it. When the FEC decided how to enforce the regulatory measures of the new law, they erred on the side of caution and exempted the Internet from their regulatory scope.

The fruits of that decision have been profound. According to a Pew Internet

and American Life Project survey, two thirds of adult Americans, or 136 million citizens, use the Internet. For youth, that number is even higher. Over half of the adults who use the Internet used it during the 2004 campaign cycle. They used it to obtain news and determine candidate positions. They viewed websites for campaigns and advocacy groups. They looked for information to register to vote. They followed opinion polls, looked at jokes, and checked the validity of rumors. They emailed one another about the election, and received email newsletters from candidates and advocacy groups. By a 10 to 1 margin, these Americans said that the Internet was a positive addition to public debate in the 2004 campaign. In the past several years, the Internet has become a powerful way for the American People to voice their opinions on everything from car parts to hair styles to political elections.

The Internet has been utilized by Americans representing the numerous ideologies of all the political parties. It is not Republican. It is not Democrat. It is not rich or poor. The Internet, like this country, is the mixture of all of those things together. It has become the newest and most dynamic melting pot of ideas.

But all this may be threatened because in 2004 a Federal court here in Washington, DC, instructed the FEC to begin regulating the Internet. The FEC has begun working out the details for this new regulatory framework, and right now we can see what that process looks like. I'll tell you this. It's not easy to understand. There are experts who don't understand it all. There are thousands of pages of comments and proposals.

The Online Freedom of Speech Act can clean up this entire mess with 8 simple lines of legislation.

In 1996, I was a co-founder of the Congressional Internet Caucus. Today, there are 176 members of this caucus from both parties and in both the Senate and the House of Representatives. These members have pledged to uphold the following: Promoting growth and advancement of the Internet; providing a bicameral, bipartisan forum for Internet concerns to be raised; promoting the education of Members of Congress and their staffs about the Internet; promoting commerce and the free flow of information on the Internet; advancing the United States' world leadership in the digital world; and maximizing the openness of and participation in government by the people.

I helped found this caucus because I understand the importance of careful treatment of this technology in its infancy. Government tends to want to regulate, and regulation can stunt growth. I am very concerned that without legislation like the Online Freedom of Speech Act, the First Amendment rights of Americans, from Montana and throughout the rest of the county, will be severely damaged.

Experts have warned that at the very least, proposed online regulation will subject Internet advocates, like bloggers, to the prospect of FEC investigations. That can mean subpoenas, lawyers, increased government payrolls and bureaucracy. Such investigations are not only a huge commitment for the FEC, but a serious threat to free speech online.

One of the things that makes the Internet unique is that it is so broadly accessible. Compared to more traditional forms of publication it is very cheap to publish on the Internet. As little as 20 years ago, the only way for someone's ideas to reach the full Marketplace of Ideas was to secure access to a printing press or broadcast center.

But as I said, the Internet is much different, now allowing anyone to promote his or her ideas into the marketplace. Internet media doesn't crowd out other competing media. And since everyone can have their say, the reader is the one who gets to decide what he or she wants to read. We need to be mindful of allowing the government to try to limit the choices of what the consumer can make.

Mr. President, as you can see, regulatory standards for the Internet must be much different than for other forms of public communication. The traditional arguments for traditional media do not apply here.

Some of my colleagues may think that there must be some regulation of the Internet for some types of political speech. However, before we choose to regulate this infant technology, we need learned-testimony and debate on this issue by discussing this bill. We need to make sure that regulation is the best course of action. Accordingly, I urge my colleagues to join me in support for the Online Freedom of Speech Act.

BAKERS CREEK TRAGEDY

Mr. SANTORUM. Mr. President, I rise today to offer remarks on the tragedy that occurred on June 14, 1943 at Bakers Creek, Australia. On that day, 40 members of the U.S. Armed Forces, six of whom were from the Commonwealth of Pennsylvania, lost their lives when the B-17C Flying Fortress airplane that they were flying in crashed at Bakers Creek, Australia. This tragedy marked the worst aviation disaster of the Southwest Pacific Theater during World War II.

I understand that at approximately 6 a.m. on June 14, 1943, the B-17C Flying Fortress transporting six crew members and thirty-five soldiers that were returning from leave in Australia departed from Mackay Airport in Bakers Creek for Port Moresby, when shortly after takeoff, the plane lost altitude and subsequently crashed. The sole survivor of this crash was Corporal Foye Kenneth Roberts of Wichita Falls, Texas.

This June will mark the 62nd anniversary of the Bakers Creek crash. I

applaud the work of Dr. Robert S. Cutler and the Bakers Creek Memorial Association for their research and tireless dedication to ensuring that the memory of those who perished at Bakers Creek, Australia in 1943 never be forgotten.

ADDITIONAL STATEMENTS

CONGRATULATING THE WINNERS OF THE NEW HAMPSHIRE EXCELLENCE IN EDUCATION AWARDS

• Mr. SUNUNU. Mr. President, I wish to congratulate the winners of the 2005 New Hampshire Excellence in Education Awards. These awards, otherwise known as the "ED"ies, are given to those individuals and schools that have exhibited the highest standards of excellence in curriculum and instruction, teaching and learning process, student achievement, leadership and decision-making, community and parental involvement, and school climate.

On June 4, 2005, 30 individuals, 2 school boards and 6 schools were recognized for their leadership and outstanding dedication in preparing their students for our rapidly changing workplace. I am honored to lend my voice to those of their colleagues, students, and communities in conveying our appreciation and respect for the professionals they are and the sacrifices and contributions they make every day in classrooms throughout the Granite State.

Nominees consist of some of New Hampshire's finest teachers and community leaders. They are carefully reviewed by selection committees that apply standards developed by The Board of Directors for the New Hampshire Excellence in Education Awards. Nominees come from elementary, middle and secondary schools, as well as higher education. Many are honored in specific categories of excellence such as art education, world languages, school nursing, counseling and technology.

As a student in Salem, I was privileged to have had many great teachers at every level of my education. Today, as a parent looking back on that experience, I see even more clearly the great impact they've had on my life. Not only did they provide an environment conducive to learning, but each in their own way provided me with the direction necessary to succeed.

Like the classroom heroes I knew growing up in Salem, the group of educators chosen this year for the "ED"ies have demonstrated superior dedication and service to their students, schools and communities. They richly deserve this prestigious honor for the important roles they play in helping our children reach their goals and succeed in school. The teachers, principals, counselors, librarians and other school leaders being commended this year have provided students with the tools

they need to become productive and engaged citizens, and have been some of our State's most treasured role models—setting positive examples for the children that surround them, teaching personal responsibility and hard work, and shaping the character of young minds. For these achievements, our State and our country owe them a great deal of gratitude.

Since being elected to Congress in 1996, I have been ever mindful that I am a beneficiary of the State of New Hampshire's public education system. A system that is an exemplary model due in large measure to the contributions and leadership of the many educators and schools being recognized this year. I am confident that the success we enjoy in our State is due to their efforts.

Mr. President, I ask that the list of the 2005 New Hampshire Excellence in Education Award winners be printed in RECORD.

The list follows.

2005 NH EXCELLENCE IN EDUCATION AWARDS
RECIPIENTS

Londonderry School Board
Seabrook School Board
Dr. Marilyn Brannigan
Barbara Brennan
William Church
MaryAnn Connors-Krikorian
Kathleen Custer
Cynthia Dow
Deborah Gibson
Heidi E. Hale Miller
Elizabeth A. Hansel
Kathryn G. Hanson
Bernard Keenan
Mary Alyce Knightly
Lise Lemieux
Jay Lewis
Shelley Lochhead
Steve Lord
Suzanne Lull
Meg Maroni
Maria Matarazzo
Terrence McKenzie
Marie H. Mellin
Michele Munson
Jane M. Murray
Dr. Charles Ott
Robert Pedersen
David St. Jean
Barbara Szabunka
Randy Wormald
Linda A. Wright
Dr. Phyllis Scrocco Zrzavy

Schools

Dover High School
South Meadow Middle School
Golden Brook School
The Whitefield School

School Finalists

Holderness Central School
Dunbarton Elementary School●

TSP CELEBRATES 75 YEARS

● Mr. JOHNSON. Mr. President, it is with great honor that I rise today to publicly congratulate The Spitznagel Partners, Inc., TSP, on its 75th anniversary as one of South Dakota's premier architectural, engineering, and construction firms.

Founded in Sioux Falls on June 9, 1930, by Sioux Falls native, Harold T. Spitznagel, TSP is the largest architec-

tural and engineering firm in the State. Throughout its 75 years, TSP has contributed to the landscape of 100 different South Dakota communities. Among its most notable structures are the Sylvan Lake Hotel, Sioux Falls City Hall, St. Mary's Catholic Church, Sioux Falls Arena, IBP/Tyson Foods Corporate Headquarters, South Dakota Technology Business Center, Harrisburg High School, and Sioux Falls Veterans' Memorial Park.

Following the firm's significant expansion in 1969, TSP established offices in Minnesota, Wyoming, Colorado, Iowa, and Nebraska. Accordingly, what was once a small budding company staffed by a single person in Sioux Falls is now a prominent firm with offices in nine cities and over 200 employees.

Mr. President, it is with great honor that I share with my colleagues the accomplishments of Harold T. Spitznagel, his partners, associates, and employees. TSP's proven success will undoubtedly continue to enhance both the beauty and property of South Dakota for many years to come.●

HONORING THE CITY OF SPENCER,
SOUTH DAKOTA

● Mr. JOHNSON. Mr. President, I rise today to honor and publicly recognize the 125th anniversary of the founding of the city of Spencer, SD. On June 18, 2005, the citizens of Spencer will celebrate their city's proud past, as well as their hope for a promising future.

Located in southeastern South Dakota, the origin of Spencer's name is a bit contentious. One story tells of an Indian Camp located exactly where the town of Spencer now sits. One tale has it that scouts from the Lewis and Clark expedition came across the Indian Camp in 1804, where they found an ill and weary Indian woman with her new born baby. After nursing the two back to health, the woman gave the men a short jacket, known as a "Spencer" jacket, as a token of her gratitude. Additionally, she prophesied that a city would one day flourish there; decades later, her prophecy was fulfilled. The railroad came to Dakota Territory in 1887, and in the words of the Spencer News, the town "like a mushroom, sprang into existence." Similarly, the other account of Spencer's name asserts it was named for Hugh Spencer, the division superintendent of the Omaha Railroad.

Platted in 1880, Spencer was officially incorporated into McCook County in 1917. Ever since E. L. Hunskaar opened the town's first railroad depot in 1887, the community has been home to a number of prosperous businesses and has supported farmers and ranchers across the region.

Unfortunately, as many know, Spencer suffered a horrific tragedy in 1998 when the most destructive tornado in South Dakota history, an F-4, devastated the region. On Saturday, May 30, the tornado ripped through the tiny

town, killing six people and injuring over 150 of Spencer's 320 residents. I remember peering over the city from a ladder on a Sioux Falls fire truck and thinking how much the terrible scene resembled a Civil War battlefield. Most of the houses were reduced to rubble; the post office, first station, library, bank, and multiple churches were all destroyed. Despite the devastation, Spencer's dedicated residents committed themselves to the rebuilding effort with undaunted determination. As a result of the residents' diligence and determination, Spencer commemorates its 125th anniversary as a proud and thriving town.

In the twelve and a half decades since its founding, Spencer has proven its ability to flourish and survive. Spencer's proud residents celebrate its 125th anniversary on June 18, 2005, and it is with great pleasure that I share with my colleagues the achievements made by this remarkable and resilient community.●

HONORING THE TOWN OF De
SMET, SOUTH DAKOTA

● Mr. JOHNSON. Mr. President, I rise today to honor and publicly recognize the 125th anniversary of the founding of the town of De Smet, SD. As the 125th anniversary approaches, De Smet looks back on a proud history and looks forward to a promising future.

Founded in 1880 by the Western Town Lot Company, De Smet is almost equidistant from the Nebraska State line and from the North Dakota State line. Situated in central Kingsbury County, De Smet is named for Father Pierre Jean De Smet, a Belgian priest who tirelessly worked among the region's local Indian tribes. Despite the town's status as Kingsbury County seat, De Smet originally was sparsely populated, home predominantly to single men. The arrival of the Chicago Northwestern Railroad in 1880, however, sparked an influx of residents that included many families.

In 1889, De Smet's most notable resident, Laura Ingalls Wilder, author of the Little House on the Prairie books which evolved into the longest running series in TV history, arrived with her family. While her series immortalizes this great community, every summer De Smet honors the famous writer with the Laura Ingalls Wilder Pageant.

Another of De Smet's attractions is Washington Park, host to countless family picnics and outdoor activities. The park is also home to a statue honoring Father Pierre Jean De Smet, the duplicate of which is located in his hometown of Dendermonde, Belgium. De Smet's statue, which was dedicated to the public on June 8, 1986, established a bond between Dendermonde, Belgium and De Smet, SD and the two became sister cities.

De Smet's other distinguished landmarks include the historic courthouse, the Ingalls Homestead, the Loftus Store, and the De Smet Depot, a museum immortalizing the town's past.

Additionally, De Smet's over 1,100 residents have come to count on The News, founded in 1880, and The Kingsbury County Independent, established in 1890, for quality and accurate reporting on local events and affairs.

In the twelve and a half decades since its founding, De Smet has proven its ability to thrive, while preserving and cherishing its rich past. De Smet's proud residents celebrate its 125th anniversary on June 11, 2005, and it is with great honor that I share with my colleagues the achievements made by this great community. ●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations and a withdrawal which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

At 2:02 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H. R. 1815. An act to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

MEASURES REFERRED

The following bill was read the first and the second times by unanimous consent, and referred as indicated:

H.R. 1815. To authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year; to the Committee on Armed Services.

MEASURES PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar:

H.R. 810. An act to amend the Public Health Service Act to provide for human embryonic stem cell research.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with

accompanying papers, reports, and documents, and were referred as indicated:

EC-2384. A communication from the Deputy Chief Counsel for Regulations, Transportation Security Administration, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Privacy Act of 1974: Implementation of Exemptions; Registered Traveler Operations Files" ((RIN1652-AA36) (Docket TSA-2004-18984)) received on May 26, 2005; to the Committee on Commerce, Science, and Transportation.

EC-2385. A communication from the Chairman and the Chief Executive Officer, United States Olympic Committee, transmitting, pursuant to law, a report relative to the Ted Stevens Olympic and Amateur Sports Act; to the Committee on Commerce, Science, and Transportation.

EC-2386. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Implementation Rule for 8-Hour Ozone NAAQS—Phase 1" (FRL No. 7918-6) received on May 26, 2005; to the Committee on Environment and Public Works.

EC-2387. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Revisions to Arizona State Implementation Plan, Maricopa County" (FRL No. 7912-3) received on May 26, 2005; to the Committee on Environment and Public Works.

EC-2388. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Maine; Smaller-Scale Electric Generating Resources" (FRL No. 7915-1) received on May 26, 2005; to the Committee on Environment and Public Works.

EC-2389. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Maine; VOC Regulations" (FRL No. 7913-3) received on May 26, 2005; to the Committee on Environment and Public Works.

EC-2390. A communication from the Under Secretary of Defense, Acquisition, Technology, and Logistics, Department of Defense, transmitting, pursuant to law, a report relative to the Defense Base Closure and Realignment Act of 1990, as amended; to the Committee on Armed Services.

EC-2391. A communication from the Acting Director, Office of Personnel Management, transmitting, pursuant to law, the Office of Personnel Management's (OPM) Federal Equal Opportunity Recruitment Program Report for Fiscal Year 2004; to the Committee on Homeland Security and Governmental Affairs.

EC-2392. A communication from the President of the United States, transmitting, pursuant to law, a report relative to the Treaty on Open Skies of March 24, 1992; to the Committee on Foreign Relations.

EC-2393. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Coordinated Issue: Notice 2002-50 'Tax Shelter'" (Uniform Issue List No.: 9300.21-00) received on May 26, 2005; to the Committee on Finance.

EC-2394. A communication from the Acting Chief, Publications and Regulations Branch,

Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Additional Rules for Exchanges of Personal Property under Section 1031(a)" ((RIN1545-BD25) (TD 9202)) received on May 26, 2005; to the Committee on Finance.

EC-2395. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Regulations Governing Practice Before the Internal Revenue Service (Circular 230—Shelter)" ((RIN1545-BA70) (TD 9201)) received on May 26, 2005; to the Committee on Finance.

EC-2396. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Examinations, Inspections and Reopenings" (Rev. Proc. 2005-32) received on May 26, 2005; to the Committee on Finance.

EC-2397. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Trust Fund Recovery Penalty Revenue Procedure" (Rev. Proc. 2005-34) received on May 26, 2005; to the Committee on Finance.

EC-2398. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Guidance Regarding Qualified Intellectual Property Contributions" (Notice 2005-41) received on May 26, 2005; to the Committee on Finance.

EC-2399. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Credit for Increasing Research Activities" ((RIN1545-BD60) (TD 9205)) received on May 26, 2005; to the Committee on Finance.

EC-2400. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Declaratory Judgment Procedures under 7479" (Rev. Proc. 2005-33) received on May 26, 2005; to the Committee on Finance.

EC-2401. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Deemed Corporate Election for Electing S Corporations" ((RIN1545-BC32) (TD 9203)) received on May 26, 2005; to the Committee on Finance.

EC-2402. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Mortgage Revenue Bonds" ((RIN1545-BC59) (TD 9204)) received on May 26, 2005; to the Committee on Finance.

EC-2403. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Assumption of Partner Liabilities" ((RIN1545-AX93) (TD 9207)) received on May 26, 2005; to the Committee on Finance.

EC-2404. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Appeals Settlement Guidelines: Transfer or Sale of Compensatory Options or Restricted Stock to Related Persons" (UIL: 9300.28.00) received on May 26, 2005; to the Committee on Finance.

EC-2405. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Pine Shoot Beetle; Additions to Quarantined Areas" (APHIS Docket No. 05-027-1) received on May 27, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC-2406. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Tetraconazole; Pesticide Tolerances for Emergency Exemptions" (FRL No. 7714-1) received on May 31, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC-2407. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "3-Hexen-1-ol, (3Z)-; Exemption from the Requirement of a Tolerance" (FRL No. 7713-2) received on May 31, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC-2408. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Two Isopropylamine Salts of Alkyl C4 and Alkyl C8-10 Ethoxyphosphate esters; Exemption from the Requirement of a Tolerance" (FRL No. 7712-1) received on May 31, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC-2409. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Ocean Disposal; Designation of Dredged Material Disposal Sites in Central and Western Long Island Sound, Connecticut" (FRL No. 7919-9) received on May 31, 2005; to the Committee on Environment and Public Works.

EC-2410. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "ARIZONA SIP. Redesignation of Phoenix to Attainment for 1-Hour Ozone Standard" (FRL No. 7901-6) received on May 31, 2005; to the Committee on Environment and Public Works.

EC-2411. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Alabama: Final Authorization of State Hazardous Waste Management Program Revisions" (FRL No. 7920-6) received on May 31, 2005; to the Committee on Environment and Public Works.

EC-2412. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Determination of Attainment by the Applicable Attainment Date for the Carbon Monoxide National Ambient Air Quality Standard within the Las Vegas Valley Nonattainment Area, Clark County, Nevada; Determination Regarding Applicability of Certain Clean Air Act Requirements" (FRL No. 7919-7) received on May 31, 2005; to the Committee on Environment and Public Works.

EC-2413. A communication from the Acting General Counsel, Department of Commerce, transmitting, the report of a draft bill entitled "To Continue the Secretary of Commerce's Authority to Conduct the Quarterly Financial Report Program" received on June

1, 2005; to the Committee on Commerce, Science, and Transportation.

EC-2414. A communication from the Chief, Regulations and Administrative Law, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Anchorage Grounds; Hampton Roads, VA" (RIN1625-AA01) received on May 27, 2005; to the Committee on Commerce, Science, and Transportation.

EC-2415. A communication from the Chief, Regulations and Administrative Law, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Security Zone; New York Marine Inspection Zone and Captain of the Port Zone, New York Harbor" (RIN1625-AA87) received on May 27, 2005; to the Committee on Commerce, Science, and Transportation.

EC-2416. A communication from the Chief, Regulations and Administrative Law, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Security Zone Regulations; St. Croix, United States Virgin Islands" (RIN1625-AA87) received on May 27, 2005; to the Committee on Commerce, Science, and Transportation.

EC-2417. A communication from the Chief, Regulations and Administrative Law, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Operation Regulations (including 3 regulations): [CGD08-05-033], [CGD08-05-029], [CGD05-05-061]" (RIN1625-AA09) received on May 27, 2005; to the Committee on Commerce, Science, and Transportation.

EC-2418. A communication from the Chief, Regulations and Administrative Law, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Safety Zones (including 4 regulations)" (RIN1625-AA00) received on May 27, 2005; to the Committee on Commerce, Science, and Transportation.

EC-2419. A communication from the Chief, Regulations and Administrative Law, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Safety Zones (including 3 regulations): [CGD01-04-155], [CGD01-05-050], [COPT Los Angeles-Long Beach 03-002]" (RIN1625-AA00) received on May 27, 2005; to the Committee on Commerce, Science, and Transportation.

EC-2420. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment of Class D and E Airspace; Montgomery, AL; CORRECTION" ((RIN2120-AA66) (2005-0104)) received on May 31, 2005; to the Committee on Commerce, Science, and Transportation.

EC-2421. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment to Class E Airspace; Windsor Locks, Bradley International Airport; CONFIRMATION OF EFFECTIVE DATE" ((RIN2120-AA66) (2005-0102)) received on May 31, 2005; to the Committee on Commerce, Science, and Transportation.

EC-2422. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Elkhart, KS" ((RIN2120-AA66) (2005-0099)) received on May 31, 2005; to the Committee on Commerce, Science, and Transportation.

EC-2423. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule

entitled "Modification of Class E Airspace; Kaiser, MO; CONFIRMATION OF EFFECTIVE DATE" ((RIN2120-AA66) (2005-0100)) received on May 31, 2005; to the Committee on Commerce, Science, and Transportation.

EC-2424. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Cedar Rapids, IA; CONFIRMATION OF EFFECTIVE DATE" ((RIN2120-AA66) (2005-0103)) received on May 31, 2005; to the Committee on Commerce, Science, and Transportation.

EC-2425. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Valentine, NE; CONFIRMATION OF EFFECTIVE DATE" ((RIN2120-AA66) (2005-0101)) received on May 31, 2005; to the Committee on Commerce, Science, and Transportation.

EC-2426. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E2 and E5 Airspace; Columbus, NE" ((RIN2120-AA66) (2005-0110)) received on May 31, 2005; to the Committee on Commerce, Science, and Transportation.

EC-2427. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E Surface Area Airspace; and Modification of Class D Airspace; Topeka, Forbes Field, KS; CORRECTION;" ((RIN2120-AA66) (2005-0105)) received on May 31, 2005; to the Committee on Commerce, Science, and Transportation.

EC-2428. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E Surface Area Airspace; and Modification of Class D Airspace; Topeka, Forbes Field, KS" ((RIN2120-AA66) (2005-0106)) received on May 31, 2005; to the Committee on Commerce, Science, and Transportation.

EC-2429. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Pyrotechnic Signaling Device Requirements; DISPOSITION OF COMMENTS" ((RIN2120-A142) (2005-0002)) received on May 31, 2005; to the Committee on Commerce, Science, and Transportation.

EC-2430. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Aviation Safety and Health Partnership Program" (RIN2120-ZZ74) received on May 31, 2005; to the Committee on Commerce, Science, and Transportation.

EC-2431. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Standard Instrument Approach Procedures; Miscellaneous Amendments; Amdt. No. 3063 [6-27-03/5-5-05]" ((RIN2120-AA65) (2005-0013)) received on May 31, 2005; to the Committee on Commerce, Science, and Transportation.

EC-2432. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Standard Instrument Approach Procedures; Miscellaneous Amendments; Amdt. No. 3068 [7-28-03/5-5-05]" ((RIN2120-AA65) (2005-0014)) received on May 31, 2005; to

the Committee on Commerce, Science, and Transportation.

EC-2433. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Standard Instrument Approach Procedures; Miscellaneous Amendments; Amdt. No. 3121 [5-3/5-5]" ((RIN2120-AA65) (2005-0015)) received on May 31, 2005; to the Committee on Commerce, Science, and Transportation.

EC-2434. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Revision of VOR Federal Airways and Jet Routes in the Vicinity of Savannah, GA" ((RIN2120-AA66) (2005-0107)) received on May 31, 2005; to the Committee on Commerce, Science, and Transportation.

EC-2435. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Revision of Class E Airspace; Nome, AK" ((RIN2120-AA66) (2005-0109)) received on May 31, 2005; to the Committee on Commerce, Science, and Transportation.

EC-2436. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Revision of VOR Federal Airway 208" ((RIN2120-AA66) (2005-0108)) received on May 31, 2005; to the Committee on Commerce, Science, and Transportation.

EC-2437. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Revision of Incorporation by Reference Provisions" ((RIN2120-AI39) received on May 31, 2005; to the Committee on Commerce, Science, and Transportation.

EC-2438. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Bombardier Model CL-600-2B19 Airplanes" ((RIN2120-AA64) (2005-0223)) received on May 31, 2005; to the Committee on Commerce, Science, and Transportation.

EC-2439. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Hartzel Propeller Inc. Series and HA-A2V20-1B Series Propellers with Aluminum Blades; CORRECTION" ((RIN2120-AA64) (2005-0224)) received on May 31, 2005; to the Committee on Commerce, Science, and Transportation.

EC-2440. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: LET a.s. Model Blanik L-13 AC Sailplanes" ((RIN2120-AA64) (2005-0232)) received on May 31, 2005; to the Committee on Commerce, Science, and Transportation.

EC-2441. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 707 Airplanes and Model 720 and 720B Series Airplanes" ((RIN2120-AA64) (2005-0233)) received on May 31, 2005; to the Committee on Commerce, Science, and Transportation.

EC-2442. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Pilatus

Aircraft Limited Models B4 PC11, Br PC11A, and B4 PC11AF Sailplanes" ((RIN2120-AA64) (2005-0235)) received on May 31, 2005; to the Committee on Commerce, Science, and Transportation.

EC-2443. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: BAE Systems Limited Model Avro 146RJ Series Airplanes" ((RIN2120-AA64) (2005-0234)) received on May 31, 2005; to the Committee on Commerce, Science, and Transportation.

EC-2444. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Glaser-Dirks Flugzeugbau GmbH Model DG-800B Sailplanes" ((RIN2120-AA64) (2005-0236)) received on May 31, 2005; to the Committee on Commerce, Science, and Transportation.

EC-2445. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 737-300, 400, and 500 Series Airplanes; CORRECTION" ((RIN2120-AA64) (2005-0229)) received on May 31, 2005; to the Committee on Commerce, Science, and Transportation.

EC-2446. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Raytheon Model Hawker 800XP Airplanes" ((RIN2120-AA64) (2005-0231)) received on May 31, 2005; to the Committee on Commerce, Science, and Transportation.

EC-2447. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: McDonnell Douglas Model DC 9 81, DC 9 82, DC 9 87, and MD 88 Airplanes" ((RIN2120-AA64) (2005-0230)) received on May 31, 2005; to the Committee on Commerce, Science, and Transportation.

EC-2448. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Turbomeca S.A. Arriel 1 Turboshift Engines" ((RIN2120-AA64) (2005-0227)) received on May 31, 2005; to the Committee on Commerce, Science, and Transportation.

EC-2449. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Bombardier Model CL-600-2B19 Airplanes" ((RIN2120-AA64) (2005-0228)) received on May 31, 2005; to the Committee on Commerce, Science, and Transportation.

EC-2450. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: McDonnell Douglas Model DC 8 33 and 43 Airplanes; Model DC 8F 54 and DC 8F 55 Airplanes; and Model DC 8 50, 60, 60F, 70 and 70F Series Airplanes" ((RIN2120-AA64) (2005-0237)) received on May 31, 2005; to the Committee on Commerce, Science, and Transportation.

EC-2451. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: CENTRAIR 101 Series Gliders" ((RIN2120-AA64) (2005-0238)) received on May 31, 2005; to the Committee on Commerce, Science, and Transportation.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Ms. CANTWELL:

S. 1161. A bill to amend part A of title IV of the Social Security Act to exempt preparation for high-skill, high-demand jobs from participation and time limits under the temporary assistance for needy families program; to the Committee on Finance

By Ms. CANTWELL:

S. 1162. A bill to amend title 10 and 38, United States Code, to repeal the 10-year limits on use of Montgomery GI Bill educational assistance benefits, and for other purposes; to the Committee on Veterans' Affairs.

By Ms. CANTWELL:

S. 1163. A bill to amend the Workforce Investment Act of 1998 to provide for strategic sectoral skills gap assessments, strategic skills gap action plans, and strategic training capacity enhancement seed grants, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Ms. CANTWELL:

S. 1164. A bill to amend the Workforce Investment Act of 1998 to provide for training service and delivery innovation projects; to the Committee on Health, Education, Labor, and Pensions.

By Mr. INOUE (for himself and Mr. AKAKA):

S. 1165. A bill to provide for the expansion of the James Campbell National Wildlife Refuge, Honolulu County, Hawaii; to the Committee on Environment and Public Works.

By Mr. AKAKA (for himself and Mr. INOUE):

S. 1166. A bill to extend the authorization of the Kalaupapa National Historical Park Advisory Commission; to the Committee on Energy and Natural Resources.

By Mr. VOINOVICH:

S. 1167. A bill to provide that certain wire rods shall not be subject to any antidumping duty or countervailing duty order; to the Committee on Finance.

By Mr. NELSON of Florida:

S. 1168. A bill to amend section 212 of the Immigration and Nationality Act to make inadmissible individuals who law enforcement knows, or has reasonable grounds to believe, seek entry into the United States to participate in illegal activities with criminal gangs located in the United States; to the Committee on the Judiciary.

By Mr. FEINGOLD (for himself, Mr. SUNUNU, Mr. LEAHY, Mr. AKAKA, Mr. JEFFORDS, and Mr. WYDEN):

S. 1169. A bill to require reports to Congress on Federal agency use of data-mining; to the Committee on the Judiciary.

By Mr. DOMENICI (for himself and Mr. BINGAMAN):

S. 1170. A bill to establish the Fort Stanton-Snowy River National Cave Conservation Area; to the Committee on Energy and Natural Resources.

By Mr. SPECTER (for himself, Mr. BAYH, Ms. COLLINS, Mr. JOHNSON, Mrs. MURRAY, Mr. FEINGOLD, and Mr. WYDEN):

S. 1171. A bill to halt Saudi support for institutions that fund, train, incite, encourage, or in any other way aid and abet terrorism, and to secure full Saudi cooperation in the investigation of terrorist incidents, and for other purposes; to the Committee on Foreign Relations.

By Mr. SPECTER (for himself, Mr. HARKIN, Mrs. CLINTON, Mr. OBAMA, and Mrs. BOXER):

S. 1172. A bill to provide for programs to increase the awareness and knowledge of women and health care providers with respect to gynecologic cancers; to the Committee on Health, Education, Labor, and Pensions.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DEWINE (for himself, Mrs. FEINSTEIN, Mr. COCHRAN, Mrs. DOLE, Ms. LANDRIEU, Ms. MURKOWSKI, and Mr. LUGAR):

S. Res. 160. A resolution designating June 2005 as "National Safety Month"; considered and agreed to.

ADDITIONAL COSPONSORS

S. 21

At the request of Ms. COLLINS, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 21, a bill to provide for homeland security grant coordination and simplification, and for other purposes.

S. 98

At the request of Mr. ALLARD, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 98, a bill to amend the Bank Holding Company Act of 1956 and the Revised Statutes of the United States to prohibit financial holding companies and national banks from engaging, directly or indirectly, in real estate brokerage or real estate management activities, and for other purposes.

S. 155

At the request of Mrs. FEINSTEIN, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of S. 155, a bill to increase and enhance law enforcement resources committed to investigation and prosecution of violent gangs, to deter and punish violent gang crime, to protect law-abiding citizens and communities from violent criminals, to revise and enhance criminal penalties for violent crimes, to reform and facilitate prosecution of juvenile gang members who commit violent crimes, to expand and improve gang prevention programs, and for other purposes.

S. 296

At the request of Mr. KOHL, the names of the Senator from Vermont (Mr. LEAHY) and the Senator from Michigan (Mr. LEVIN) were added as cosponsors of S. 296, a bill to authorize appropriations for the Hollings Manufacturing Extension Partnership Program, and for other purposes.

S. 333

At the request of Mr. SANTORUM, the name of the Senator from North Carolina (Mrs. DOLE) was added as a cosponsor of S. 333, a bill to hold the current regime in Iran accountable for its threatening behavior and to support a transition to democracy in Iran.

S. 347

At the request of Mr. NELSON of Florida, the name of the Senator from Indi-

ana (Mr. BAYH) was added as a cosponsor of S. 347, a bill to amend titles XVIII and XIX of the Social Security Act and title III of the Public Health Service Act to improve access to information about individuals' health care operations and legal rights for care near the end of life, to promote advance care planning and decision-making so that individuals' wishes are known should they become unable to speak for themselves, to engage health care providers in disseminating information about and assisting in the preparation of advance directives, which include living wills and durable powers of attorney for health care, and for other purposes.

S. 407

At the request of Mr. JOHNSON, the names of the Senator from North Carolina (Mr. BURR) and the Senator from Colorado (Mr. SALAZAR) were added as cosponsors of S. 407, a bill to restore health care coverage to retired members of the uniformed services, and for other purposes.

S. 492

At the request of Mr. FRIST, the name of the Senator from Florida (Mr. MARTINEZ) was added as a cosponsor of S. 492, a bill to make access to safe water and sanitation for developing countries a specific policy objective of the United States foreign assistance programs, and for other purposes.

S. 559

At the request of Mr. BIDEN, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of S. 559, a bill to make the protection of vulnerable populations, especially women and children, who are affected by a humanitarian emergency a priority of the United States Government, and for other purposes.

S. 601

At the request of Mr. CONRAD, the name of the Senator from North Carolina (Mr. BURR) was added as a cosponsor of S. 601, a bill to amend the Internal Revenue Code of 1986 to include combat pay in determining an allowable contribution to an individual retirement plan.

S. 603

At the request of Ms. LANDRIEU, the name of the Senator from North Dakota (Mr. CONRAD) was added as a cosponsor of S. 603, a bill to amend the Consumer Credit Protection Act to assure meaningful disclosures of the terms of rental-purchase agreements, including disclosures of all costs to consumers under such agreements, to provide certain substantive rights to consumers under such agreements, and for other purposes.

S. 612

At the request of Mr. SPECTER, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 612, a bill to require the Secretary of the Army to award the Combat Medical Badge or another combat badge for Army helicopter medical evacuation ambulance (Medevac) pilots and crews.

S. 633

At the request of Mr. JOHNSON, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 633, a bill to require the Secretary of the Treasury to mint coins in commemoration of veterans who became disabled for life while serving in the Armed Forces of the United States.

S. 642

At the request of Mr. FRIST, the name of the Senator from Alabama (Mr. SHELBY) was added as a cosponsor of S. 642, a bill to support certain national youth organizations, including the Boy Scouts of America, and for other purposes.

S. 685

At the request of Mr. AKAKA, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 685, a bill to amend title IV of the Employee Retirement Income Security Act of 1974 to require the Pension Benefit Guaranty Corporation, in the case of airline pilots who are required by regulation to retire at age 60, to compute the actuarial value of monthly benefits in the form of a life annuity commencing at age 60.

S. 729

At the request of Mr. DURBIN, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 729, a bill to establish the Food Safety Administration to protect the public health by preventing food-borne illness, ensuring the safety of food, improving research on contaminants leading to food-borne illness, and improving security of food from intentional contamination, and for other purposes.

S. 738

At the request of Mr. SPECTER, the names of the Senator from North Carolina (Mrs. DOLE) and the Senator from Louisiana (Mr. VITTER) were added as cosponsors of S. 738, a bill to provide relief for the cotton shirt industry.

S. 757

At the request of Mr. CHAFEE, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of S. 757, a bill to amend the Public Health Service Act to authorize the Director of the National Institute of Environmental Health Sciences to make grants for the development and operation of research centers regarding environmental factors that may be related to the etiology of breast cancer.

S. 768

At the request of Mr. NELSON of Florida, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 768, a bill to provide for comprehensive identity theft prevention.

S. 846

At the request of Mr. DURBIN, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 846, a bill to provide fair wages for America's workers.

S. 847

At the request of Ms. STABENOW, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 847, a bill to lower the burden of gasoline prices on the economy of the United States and circumvent the efforts of OPEC to reap windfall oil profits.

S. 922

At the request of Mr. SANTORUM, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 922, a bill to establish and provide for the treatment of Individual Development Accounts, and for other purposes.

S. 962

At the request of Mr. BAUCUS, the name of the Senator from Colorado (Mr. SALAZAR) was added as a cosponsor of S. 962, a bill to amend the Internal Revenue Code of 1986 to allow a credit to holders of qualified bonds issued to finance certain energy projects, and for other purposes.

S. 963

At the request of Mr. THUNE, the name of the Senator from Florida (Mr. MARTINEZ) was added as a cosponsor of S. 963, a bill to amend title 38, United States Code, to provide for a guaranteed adequate level of funding for veterans' health care, to direct the Secretary of Veterans Affairs to conduct a pilot program to improve access to health care for rural veterans, and for other purposes.

S. 1002

At the request of Mr. BAUCUS, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 1002, a bill to amend title XVIII of the Social Security Act to make improvements in payments to hospitals under the medicare program, and for other purposes.

S. 1029

At the request of Mr. REED, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 1029, a bill to amend the Higher Education Act of 1965 to expand college access and increase college persistence, and for other purposes.

S. 1035

At the request of Mr. INHOFE, the name of the Senator from Oklahoma (Mr. COBURN) was added as a cosponsor of S. 1035, a bill to authorize the presentation of commemorative medals on behalf of Congress to Native Americans who served as Code Talkers during foreign conflicts in which the United States was involved during the 20th century in recognition of the service of those Native Americans to the United States.

S. 1047

At the request of Mr. SUNUNU, the names of the Senator from South Carolina (Mr. DEMINT), the Senator from Rhode Island (Mr. CHAFEE), the Senator from Oklahoma (Mr. COBURN), the Senator from Connecticut (Mr. DODD), the Senator from Florida (Mr. MARTINEZ),

the Senator from Washington (Mrs. MURRAY), the Senator from Georgia (Mr. ISAKSON), the Senator from Indiana (Mr. BAYH), the Senator from Delaware (Mr. CARPER) and the Senator from California (Mrs. FEINSTEIN) were added as cosponsors of S. 1047, a bill to require the Secretary of the Treasury to mint coins in commemoration of each of the Nation's past Presidents and their spouses, respectively to improve circulation of the \$1 coin, to create a new bullion coin, and for other purposes.

S. 1060

At the request of Mr. COLEMAN, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. 1060, a bill to amend the Internal Revenue Code of 1986 to allow a credit against income tax for the purchase of hearing aids.

S. 1068

At the request of Mrs. DOLE, the name of the Senator from Mississippi (Mr. LOTT) was added as a cosponsor of S. 1068, a bill to provide for higher education affordability, access, and opportunity.

S. 1081

At the request of Ms. STABENOW, the name of the Senator from Colorado (Mr. SALAZAR) was added as a cosponsor of S. 1081, a bill to amend title XVIII of the Social Security Act to provide for a minimum update for physicians' services for 2006 and 2007.

S. 1103

At the request of Mr. BAUCUS, the name of the Senator from Montana (Mr. BURNS) was added as a cosponsor of S. 1103, a bill to amend the Internal Revenue Code of 1986 to repeal the individual alternative minimum tax.

S. 1120

At the request of Mr. DURBIN, the names of the Senator from Minnesota (Mr. COLEMAN), the Senator from Nebraska (Mr. HAGEL), the Senator from Vermont (Mr. LEAHY) and the Senator from Vermont (Mr. JEFFORDS) were added as cosponsors of S. 1120, a bill to reduce hunger in the United States by half by 2010, and for other purposes.

S. 1139

At the request of Mr. DURBIN, his name was added as a cosponsor of S. 1139, a bill to amend the Animal Welfare Act to strengthen the ability of the Secretary of Agriculture to regulate the pet industry.

S.J. RES. 12

At the request of Mr. HATCH, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S.J. Res. 12, a joint resolution proposing an amendment to the Constitution of the United States authorizing Congress to prohibit the physical desecration of the flag of the United States.

S.J. RES. 18

At the request of Mrs. FEINSTEIN, the names of the Senator from Oregon (Mr. WYDEN) and the Senator from Massachusetts (Mr. KENNEDY) were added as cosponsors of S.J. Res. 18, a joint reso-

lution approving the renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003.

S. CON. RES. 36

At the request of Mrs. FEINSTEIN, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. Con. Res. 36, a concurrent resolution expressing the sense of Congress concerning actions to support the Nuclear Non-proliferation Treaty on the occasion of the Seventh NPT Review Conference.

S. RES. 86

At the request of Mr. HAGEL, the name of the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of S. Res. 86, a resolution designating August 16, 2005, as "National Airborne Day".

S. RES. 155

At the request of Mr. BIDEN, the names of the Senator from Ohio (Mr. DEWINE) and the Senator from Pennsylvania (Mr. SPECTER) were added as cosponsors of S. Res. 155, a resolution designating the week of November 6 through November 12, 2005, as "National Veterans Awareness Week" to emphasize the need to develop educational programs regarding the contributions of veterans to the country.

S. RES. 158

At the request of Mr. GRAHAM, the names of the Senator from Colorado (Mr. SALAZAR) and the Senator from Louisiana (Mr. VITTER) were added as cosponsors of S. Res. 158, a resolution expressing the sense of the Senate that the President should designate the week beginning September 11, 2005, as "National Historically Black Colleges and Universities Week".

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Ms. CANTWELL:

S. 1162. A bill to amend title 10 and 38, United States Code, to repeal the 10-year limits on use of Montgomery GI Bill educational assistance benefits, and for other purposes; to the Committee on Veterans' Affairs.

Ms. CANTWELL. Mr. President, I rise today to talk about an investment program in lifelong education for our service members and veterans. The Montgomery GI Bill is consistently cited as an important reason people join the military. The GI Bill continues to be one of the most important benefits of military service today. There is no reason why 100 percent of our active duty, selected reserve, and veteran servicemembers shouldn't be taking advantage of their earned education benefits.

That is why I'm introducing the "GI Bill for Life Act of 2005," which would allow Montgomery GI Bill participants an unlimited time to use their earned benefits.

The MGIB is a program that provides up to 36 months of education benefits for educational opportunities ranging from college to apprenticeship and job

training, and even flight training. Upon enlistment, the GI Bill also requires service members to contribute \$100 per month for their first 12 months of services.

Basically, the MGIB is divided into two programs. One program targets active duty and veteran members, paying over \$1,000 per month to qualified students. That's more than \$36,000 for school. The other is directed at the Selected Reserve. This program provides educational benefits of \$288 per month, for a total of \$10,368.

If recruits are overwhelmingly declaring that education opportunity under the GI Bill is the key incentive for them to join the military, then it makes sense that most—if not all—of our troops, who signed up for the program, would also be cashing in on their benefits. But reports show that the majority, 40-60 percent, do not actually use the benefits they earned.

Currently, MGIB participants have up to 10 years from their release date from the military to use their earned education benefits. Members of the Selected Reserve are able to use their MGIB benefits for 14 years. However, that means your earned education benefits expire if you don't use them within the required timeframe, closing your window of opportunity to go to school or finish your college education. Plus you lose the \$1,200 dedicated for your GI Bill during your first year of enlistment.

Originally, the intent of 1944 GI Bill of Rights was to help veterans successfully transition back into civilian life—as education is the key to employment opportunities. Looking back now, we know that the GI Bill opened the door to higher education, helping millions of service members and veterans who wouldn't otherwise have had the chance to pay for college. That is, servicemembers benefited from the GI Bill because they used the payments within the 10- and 14 year limitation.

But there are many others who did not use their earned education benefits within that timeframe. For example, after leaving the military, some servicemembers postponed going to school because they had to go straight to work in order to support their family. Others unfortunately, were either homeless or incarcerated for long periods of time due to disability associated with military service—but are now ready to move forward in their lives, and going back to school is their first step. In some cases, due to random life circumstances, some people just lost track of time. Additionally, because of misinformation and bureaucratic language, the GI Bill is known as a complicated program to navigate.

A constituent of mine, Ruben Ruelas—who is a Local Veterans Employment Representative (LVER) for the WorkSource in Wenatchee, Washington—wrote to me saying, "It's been my experience that most people don't know what they want to do in life or are placed in situations where, due to

changing economic times, they are displaced and need further education and training to compete for jobs. But most don't have access to training resources to do so."

In terms of Vietnam Era veterans, Mr. Ruelas goes on to say, "[m]any 50 year olds are unemployed, untrained and uneducated and could use their educational benefits to improve their skills to compete for better jobs. Many have come to realize, too late, that they need college or retraining and don't have the resources to do so."

While times have changed remarkably, one thing remains constant: education is critical to employment opportunity. In the 21st Century global labor market, enhancing skills through education and job training is now more important than ever. The need for retraining is even more underscored for our military service members and veterans.

My legislation, the GI Bill for Life, would ensure that educational opportunities are lifelong, allowing service members and veterans the flexibility to seek education and job training opportunities when it is the right time for them to do so.

Higher education not only serves as an individual benefit, but positive externalities have transpired: the GI Bill was instrumental in building our country's middle class and continues to help close the college education gap.

Today, employers are requiring higher qualifications from the workforce. The Bureau of Labor Statistics reports that six of the ten fastest-growing occupations require an associate's degree or bachelor's degree. By 2010, 40 percent of all job growth will require some form of postsecondary education. While a highly skilled workforce is one characteristic of the new economy, working for one employer throughout a lifetime is no longer routine, but rather an evanescent feature. According to findings by Brigham Young University, the average person changes jobs or careers eight times in his or her lifetime. To keep up with these trends, expanding access to education and training is a must do in the 21st Century global marketplace.

A 1999 report by the Congressional Commission on Service members and Veterans Transition Assistance stated that the GI Bill of the future must include the following: provide veterans with access to post-secondary education that they use; assist the Armed forces in recruiting the high-quality high school graduates needed; enhance the Nation's competitiveness by further educating American veterans, a population that is already self-disciplined, goal-oriented, and steadfast and attract the kind of service members who will go on to occupy leadership positions in government and the private sector

Eliminating the GI Bill 10- and 14-year limitation for service members, veterans, and Selected Reserve moves one step toward improving the MGIB.

The GI Bill for Life would allow MGIB members, including qualified Vietnam Era Veterans the flexibility to access their earned education benefits at any time.

As the nation's economy continues to recover and grow stronger, the GI Bill will continue to be the primary vehicle keeping our active duty service members and veterans of military service on track, helping to ensure our country's prosperity.

By Mr. INOUYE (for himself and Mr. AKAKA):

S. 1165. A bill to provide for the expansion of the James Campbell National Wildlife Refuge, Honolulu County, Hawaii; to the Committee on Environment and Public Works.

Mr. INOUYE. Mr. President, I rise today to introduce the James Campbell National Wildlife Refuge Expansion Act of 2005, and ask unanimous consent that the text of the bill be printed in the RECORD.

The James Campbell National Wildlife Refuge is the premier endangered Hawaiian waterbird recovery area in the northern portion of the Island of Oahu. It supports all four endangered Hawaiian waterbirds and a variety of migratory shorebirds and waterfowl. The expansion of James Campbell National Wildlife Refuge under my bill would provide for wildlife and habitat protection, and would also resolve issues associated with the hydrology of the Kahuku floodplain.

The expansion would restore historical wetland habitat and form the largest managed freshwater wetland on Oahu. It would connect the two existing units of the Refuge and create a protected flyway between them to provide essential habitat for four endangered waterbird species and migratory waterbirds. It would also protect the last remaining large scale coastal dune ecosystem on Oahu and preserve native strand plants and protect coastal wildlife such as threatened green sea turtles, seabirds, migratory shorebirds, and possibly the endangered Hawaiian monk seal. Support facilities could be constructed on upland areas to support environmental education and interpretation programs, visitor services, and habitat management programs. All land proposed for the expansion is owned by the Estate of James Campbell, a willing seller.

Heavy floods occur frequently in this area, devastating residents who live in the adjacent town of Kahuku. Because of the location and natural function of this historical floodplain, the land acquisition also serves as the crucial component for the proposed Kahuku flood control project by increasing the capacity of the area to drain and preserving the floodwater retention of these wetlands.

This habitat restoration proposal represents the most significant wetland enhancement project ever undertaken in Hawaii. By combining effective flood control, wetland development, endangered species conservation,

environmental education, and visitor opportunities, benefits provided will serve not only the local communities, but also Hawaii residents and visitors for generations to come.

I hope my colleagues will join me in supporting this non-controversial legislation.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1165

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “James Campbell National Wildlife Refuge Expansion Act of 2005”.

SEC. 2. FINDINGS.

Congress finds that—

(1) the United States Fish and Wildlife Service manages the James Campbell National Wildlife Refuge for the purpose of promoting the recovery of 4 species of endangered Hawaiian waterbirds;

(2) the United States Fish and Wildlife Service leases approximately 240 acres of high-value wetland habitat (including ponds, marshes, freshwater springs, and adjacent land) and manages the habitat in accordance with the National Wildlife Refuge System Improvement Act (16 U.S.C. 668dd note; Public Law 105-312);

(3) the United States Fish and Wildlife Service entered into a contract to purchase in fee title the land described in paragraph (2) from the estate of James Campbell for the purposes of—

(A) permanently protecting the endangered species habitat; and

(B) improving the management of the Refuge;

(4) the United States Fish and Wildlife Service has identified for inclusion in the Refuge approximately 800 acres of additional high-value wildlife habitat adjacent to the Refuge that are owned by the estate of James Campbell;

(5) the land of the estate of James Campbell on the Kahuku Coast features coastal dunes, coastal wetlands, and coastal strand that promote biological diversity for threatened and endangered species, including—

(A) the 4 species of endangered Hawaiian waterbirds described in paragraph (1);

(B) migratory shorebirds;

(C) waterfowl;

(D) seabirds;

(E) endangered and native plant species;

(F) endangered monk seals; and

(G) green sea turtles;

(6) because of extensive coastal development, habitats of the type within the Refuge are increasingly rare on the Hawaiian islands;

(7) expanding the Refuge will provide increased opportunities for wildlife-dependent public uses, including wildlife observation, photography, and environmental education and interpretation; and

(8) acquisition of the land described in paragraph (4)—

(A) will create a single, large, manageable, and ecologically-intact unit that includes sufficient buffer land to reduce impacts on the Refuge; and

(B) is necessary to reduce flood damage following heavy rainfall to residences, businesses, and public buildings in the town of Kahuku.

SEC. 3. DEFINITIONS.

In this Act:

(1) **DIRECTOR.**—The term “Director” means the Director of the United States Fish and Wildlife Service.

(2) **REFUGE.**—The term “Refuge” means the James Campbell National Wildlife Refuge established pursuant to the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

(3) **SECRETARY.**—The term “Secretary” means the Secretary of the Interior.

SEC. 4. EXPANSION OF REFUGE.

(a) **EXPANSION.**—The boundary of the Refuge is expanded to include the approximately 1,100 acres of land (including any water and interest in the land) depicted on the map entitled “James Campbell National Wildlife Refuge-Expansion”, and on file in the office of the Director.

(b) **BOUNDARY REVISIONS.**—Not later than 90 days after the date of enactment of this Act, the Secretary may make such minor modifications to the boundary of the Refuge as the Secretary determines to be appropriate to—

(1) achieve the goals of the United States Fish and Wildlife Service relating to the Refuge; or

(2) facilitate the acquisition of property within the Refuge.

(c) **AVAILABILITY OF MAP.**—

(1) **IN GENERAL.**—The map described in subsection (a) shall remain available for inspection in an appropriate office of the United States Fish and Wildlife Service, as determined by the Secretary.

(2) **NOTICE.**—As soon as practicable after the date of enactment of this Act, the Secretary shall publish in the Federal Register and any publication of local circulation in the area of the Refuge notice of the availability of the map.

SEC. 5. ACQUISITION OF LAND AND WATER.

(a) **IN GENERAL.**—Subject to the availability of appropriated funds, the Secretary may acquire the land described in section 4(a).

(b) **INCLUSION.**—Any land, water, or interest acquired by the Secretary pursuant to this section shall—

(1) become part of the Refuge; and

(2) be administered in accordance with applicable law.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

By Mr. AKAKA (for himself and Mr. INOUE):

S. 1166. A bill to extend the authorization of the Kalaupapa National Historical Park Advisory Commission; to the Committee on Energy and Natural Resources.

Mr. AKAKA. Mr. President, I rise today to introduce a bill to reauthorize the Kalaupapa National Historical Park Advisory Commission, an advisory group to Kalaupapa National Historical Park. The park was established by statute in 1980, P.L. 96-565, to provide for the preservation of the nationally and internationally significant resources of the Kalaupapa settlement on the island of Molokai in the State of Hawaii—the residents, culture, history, and natural resources. The purpose of the park is to provide a well-maintained community in which the Kalaupapa Hansen’s disease patients are guaranteed that they may remain at Kalaupapa as long as they wish, and to protect the current lifestyle of these patients and their individual privacy. The Act provides that the preservation and interpretation of the settlement be managed and performed by patients

and Native Hawaiians to the extent practical.

Section 108 of the enacting legislation establishes the Kalaupapa National Historical Park Advisory Commission consisting of 11 members, appointed by the Secretary of the Interior for terms of five years. Seven of the members are patients or former patients elected by the patient community. Four members are appointed from recommendations made by the Governor of Hawaii, and at least one of these is Native Hawaiian. The appointments are not compensated.

The Advisory Commission is an important body providing input and advice to the Secretary of the Interior on policy concerning visitation to the park and other matters. It is remarkable that 25 years have passed since enactment of the bill establishing the park and Commission; and at the end of the 2005 calendar year, the Advisory Commission expires. It is important to continue the work of the Commission, which is to provide a voice for the patients and residents to be heard on matters concerning their home. I and my cosponsor Senator INOUE urge favorable consideration of this legislation in a timely fashion, so that the Commission can continue its business and advisory functions.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1166

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF AUTHORIZATION.

Section 108(e) of the Act entitled “An Act to establish the Kalaupapa National Historical Park in the State of Hawaii, and for other purposes” (16 U.S.C. 410jj-7) is amended by striking “twenty-five years from” and inserting “on the date that is 45 years after”.

By Mr. NELSON of Florida:

S. 1168. A bill to amend section 212 of the Immigration and Nationality Act to make inadmissible individuals who law enforcement knows, or has reasonable grounds to believe, seek entry into the United States to participate in illegal activities with criminal gangs located in the United States; to the Committee on the Judiciary.

Mr. NELSON of Florida. Mr. President, I wish to bring to the attention of the Senate a serious threat to the security of our Nation. Criminal gangs, originally from Central America, are infiltrating several major cities in this country and threatening the safety and security of our citizens.

MS-13, also known as Mara Salvatrucha, is a brutal and violent gang responsible for horrific acts of violence. MS-13 gang members are identified by the various tattoos on their bodies. They have origins in El Salvador, but you find they are frequently found now in Honduras, El Salvador, and Nicaragua. This gang uses extreme

acts of violence to try to intimidate people, not only in Central America but in America itself. According to the Bureau of Immigration, Customs and Enforcement, MS-13 poses the greatest threat to Los Angeles, New York, Baltimore, Newark, the Washington, DC, area, and Miami. MS-13 has been active in increasing their numbers here in the United States by assisting other members enter the United States from Central America. Federal authorities provide that there are between 8,000 and 10,000 members of MS-13 in the United States and my concern is that if we don't act now to stop them, they will be able to get a toe-hold here in the United States and significantly increase their membership and horrific form of violence.

What is some of that violence? According to law enforcement officials, MS-13 has been involved in murder, extortion, robbery, rape, drug trafficking and human smuggling throughout the United States. Here in the Washington, DC, area, for example, two members of MS-13 were found guilty of the stabbing and throat slashing murder of a 17-year-old government witness who was 7 months pregnant at the time of her gang-ordered execution. And to apparently to send some kind of message of intimidation, the gang members disfigured her corpse. Many of their crimes also involve drug trafficking and could very well expand to arms trafficking. And, who knows whether their crimes will soon extend into the terrorist network itself that we are so concerned about. The Bureau of Immigration, Customs and Enforcement reports that there has been speculation of links between MS-13 and international terrorist groups like al-Qaida. The F.B.I. is investigating these rumors of a possible link, but to date has discovered no evidence establishing this link.

In Honduras, MS-13 members murdered 28 women and children 2 days before Christmas. Their victims were on a bus returning home after having gone to shopping for Christmas gifts; some of the children were still clutching the Christmas gifts they had just purchased with their mothers. The purpose of this horrific act of violence was to intimidate the Government of Honduras from cracking down on these gangs.

Over the recess last week, I went to Honduras with our Four Star General, the Combatant Commander of the United States Southern Command.

We went there to meet with the Honduran President Ricardo Maduro, and our ambassador, Ambassador Palmer, to try to have a better understanding of this problem, and what we should do not only to help a country such as Honduras that is trying to get its arms around these gangs and to stop the violence but to keep this from spreading into the United States.

As a result of what I have learned, and the exceptional threat this gang poses to United States, I am filing leg-

islation today that will do a couple of things. First, it will give our consular officers in law an automatic reason to reject entry into the United States for anyone they know, or have reasonable grounds to believe, is a member of one of these gangs. Secondly, this legislation I am filing would up the penalty for anyone smuggling one of these gang members into the United States from 1 to 10 years.

I am also cosponsoring legislation with the senior Senator from California which goes after gang violence by trying to give additional Federal assistance to local law enforcement as they try to grapple with this.

I have a good example. In south Florida last week, after I had returned from Honduras, I met with the joint task force of multiple levels of law enforcement—city, the county, sheriff deputies, the Feds, and the State—that has formed a joint team to attack this problem and to try to keep these gangs, specifically MS-13, from getting a toe-hold in south Florida. We hope if we are successful in Florida it will be an example to the rest of the country, and with the increased penalties offered by this legislation, it will give our law enforcement and our consular officers additional tools to stamp out this violence, this gang-related activity that could lead itself very much into the hands of the terrorists who are trying to exact so much harm upon us as a country and as a people. The time to act to stop the spread of this gang is now, before they are able to spread their web of violence to more cities and areas within the United States. I hope that my colleagues will join me and support this bill.

By Mr. FEINGOLD (for himself, Mr. SUNUNU, Mr. LEAHY, Mr. AKAKA, Mr. JEFFORDS, and Mr. WYDEN):

S. 1169. A bill to require reports to Congress on Federal agency use of data-mining; to the Committee on the Judiciary.

Mr. FEINGOLD. Mr. President, I am pleased today to introduce the Federal Agency Data-Mining Reporting Act of 2005. I want to thank Senator SUNUNU for cosponsoring this bill. He has consistently been a leader on privacy issues, and I am very pleased to work with him on this effort. I also want to thank Senators LEAHY, AKAKA, JEFFORDS and WYDEN for their support of the bill.

The controversial data analysis technology known as data-mining is capable of reviewing millions of both public and private records on each and every American. The possibility of government law enforcement or intelligence agencies fishing for patterns of criminal or terrorist activity in these vast quantities of digital data raises serious privacy and civil liberties issues—not to mention questions about the effectiveness of these types of searches. But more than two years after Congress first learned about the Defense Depart-

ment's program called Total Information Awareness, there is still much we do not know about the Federal government's other work on data-mining. We found out last year from a GAO report that there are 199 Federal data-mining programs, 122 of which rely on personal information and 29 of which are for the purpose of investigating terrorists or criminals, but we don't know the details of those programs. This is information we need to have. Congress should not be learning the details about data-mining programs after millions of dollars are spent testing or using data-mining against unsuspecting Americans.

Coupled with the expanded domestic surveillance already undertaken by this Administration, the unchecked, secret use of data-mining technology threatens one of the most important values that we are fighting for as we combat terrorism—freedom. My bill would require all Federal agencies to report to Congress within 90 days and every year thereafter data-mining programs developed or used to find a pattern indicating terrorist or other criminal activity and how these programs implicate the civil liberties and privacy of all Americans. If necessary, information in the various reports could be classified.

Let me clarify what this bill does not do. It does not have any effect on the government's use of commercial data to conduct individualized searches on people who are already suspects. It does not end funding for any program, determine the rules for use of data-mining technology, or threaten any ongoing investigation that uses data-mining technology.

My bill would simply provide Congress with information about the nature of the technology and the data that will be used. The Federal Agency Data-Mining Reporting Act would require all government agencies to assess the efficacy of the data-mining technology and whether the technology can deliver on the promises of each program. In addition, my bill would make sure that Congress knows whether the Federal agencies using data-mining technology have considered and developed policies to protect the privacy and due process rights of individuals.

With complete information about the current data-mining plans and practices of the Federal government, Congress will be able to conduct a thorough review of the costs and benefits of the practice of data-mining on a program-by-program basis and make considered judgments about which programs should go forward and which should not. Congress will also be able to evaluate whether new privacy rules are necessary.

Data-mining could rely on a combination of intelligence data and personal information like individuals' traffic violations, credit card purchases, travel records, medical records, communications records, and virtually any information contained in commercial or public databases. Congress must

conduct oversight to make sure that government agencies like the Department of Homeland Security, the Department of Justice, and the Department of Defense use these types of sensitive personal information appropriately.

Furthermore, data-mining is unproven in this area. The government argues that data-mining can help locate potential terrorists before they strike. But we do not, today, have evidence that data-mining will prevent terrorism. In fact, some technology experts have warned that data-mining is not the right approach for the terrorism problem. The financial world has successfully used data-mining to identify people committing fraud because it has data on literally millions, if not billions, of historical financial transactions. And the banks and credit card companies know, in large part, which of those past transactions have turned out to be fraudulent. So when they apply sophisticated statistical algorithms to that massive amount of historical data, they are able to make a pretty good guess about what a fraudulent transaction might look like in the future.

We do not have that kind of historical data about terrorists and sleeper cells. We have just a handful of individuals whose past actions can be analyzed, which makes it virtually impossible to apply the kind of advanced statistical analysis required to use data-mining in this way. That doesn't mean we should stop the Federal government from attempting to solve that problem, but it raises serious questions about whether data-mining will ever be able to locate an actual terrorist. Before the government starts reviewing personal information about every man, woman and child in this country, we should learn what data-mining can and can't do—and what limits and protections are needed.

We must also bear in mind that there will inevitably be errors in the underlying data. Everyone knows people who have had errors on their credit reports—and that is the one area of commercial data where the law already imposes strict accuracy requirements. Other types of commercial data are likely to be even more inaccurate. Even if the technology itself were effective, I am very concerned that innocent people could be ensnared because of mistakes in the data that make them look suspicious. The recent rise in identity theft, which creates even more data accuracy problems, makes it even more important that we address this issue.

Most Americans believe that their private lives should remain private. Data-mining programs run the risk of intruding into the lives of individuals who have nothing to do with terrorism or other criminal activity and understandably do not want their credit reports, shopping habits and doctor visits to become a part of a gigantic computerized search engine operating without any controls or oversight.

The Administration should be required to report to Congress about the impact of the various data-mining programs now underway or being studied, and the impact those programs may have on our privacy and civil liberties, so that Congress can determine whether the proposed benefits of this practice come at too high a price to our privacy and personal liberties.

I urge my colleagues to support this bill. All it asks for is information to which Congress and the American people are entitled.

I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1169

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Agency Data-Mining Reporting Act of 2005".

SEC. 2. DEFINITIONS.

In this Act:

(1) DATA-MINING.—The term "data-mining" means a query or search or other analysis of 1 or more electronic databases, whereas—

(A) at least 1 of the databases was obtained from or remains under the control of a non-Federal entity, or the information was acquired initially by another department or agency of the Federal Government for purposes other than intelligence or law enforcement;

(B) a department or agency of the Federal Government or a non-Federal entity acting on behalf of the Federal Government is conducting the query or search or other analysis to find a predictive pattern indicating terrorist or criminal activity; and

(C) the search does not use a specific individual's personal identifiers to acquire information concerning that individual.

(2) DATABASE.—The term "database" does not include telephone directories, news reporting, information publicly available via the Internet or available by any other means to any member of the public without payment of a fee, or databases of judicial and administrative opinions.

SEC. 3. REPORTS ON DATA-MINING ACTIVITIES BY FEDERAL AGENCIES.

(a) REQUIREMENT FOR REPORT.—The head of each department or agency of the Federal Government that is engaged in any activity to use or develop data-mining technology shall each submit a report to Congress on all such activities of the department or agency under the jurisdiction of that official. The report shall be made available to the public.

(b) CONTENT OF REPORT.—A report submitted under subsection (a) shall include, for each activity to use or develop data-mining technology that is required to be covered by the report, the following information:

(1) A thorough description of the data-mining technology and the data that is being or will be used.

(2) A thorough description of the goals and plans for the use or development of such technology and, where appropriate, the target dates for the deployment of the data-mining technology.

(3) An assessment of the efficacy or likely efficacy of the data-mining technology in providing accurate information consistent with and valuable to the stated goals and plans for the use or development of the technology.

(4) An assessment of the impact or likely impact of the implementation of the data-mining technology on the privacy and civil liberties of individuals.

(5) A list and analysis of the laws and regulations that govern the information being or to be collected, reviewed, gathered, analyzed, or used with the data-mining technology.

(6) A thorough discussion of the policies, procedures, and guidelines that are in place or that are to be developed and applied in the use of such technology for data-mining in order to—

(A) protect the privacy and due process rights of individuals; and

(B) ensure that only accurate information is collected, reviewed, gathered, analyzed, or used.

(7) Any necessary classified information in an annex that shall be available to the Committee on Homeland Security and Governmental Affairs, the Committee on the Judiciary, and the Committee on Appropriations of the Senate and the Committee on Homeland Security, the Committee on the Judiciary, and the Committee on Appropriations of the House of Representatives.

(c) TIME FOR REPORT.—Each report required under subsection (a) shall be—

(1) submitted not later than 90 days after the date of the enactment of this Act; and

(2) updated once a year and include any new uses or development of data-mining technology.

By Mr. DOMENICI (for himself and Mr. BINGAMAN):

S. 1170. A bill to establish the Fort Stanton-Snowy River National Cave Conservation Area; to the Committee on Energy and Natural Resources.

Mr. DOMENICI. Mr. President, I rise today to introduce legislation to protect the recent discovery of a natural wonder in my home State of New Mexico. That discovery is a passage within the Fort Stanton Cave that contains what can only be described as a magnificent white river of calcite. I am pleased to be joined in this effort by my colleague from New Mexico, Senator BINGAMAN.

Many locals are familiar with the Fort Stanton Cave in Lincoln County, NM. Exploration of the cave network dates back to at least the 1850s, when troops stationed in the area began visiting the caverns. That exploration has continued into the 21st century, and in 2001 led to a unique discovery of a two-mile long continuous calcite formation by BLM volunteers.

We have not found a formation of this size anywhere else in New Mexico or perhaps even in the United States. In addition to the beauty of this discovery, I am particularly excited about the scientific and educational opportunities associated with the find. This large, continuous stretch of calcite may yield valuable research opportunities relating to hydrology, geology, and microbiology. In fact, there may be no limits to what we can learn from this snow white cave passage.

It is not often that we find something like the calcite formation recently discovered at Ft. Stanton. I believe this find is worthy of study and our most thoughtful management and conservation.

My legislation does the following: 1. creates a Fort Stanton-Snowy River

Cave Conservation Area to protect, secure and conserve the natural and unique features of the Snowy River Cave. 2. instructs the BLM to prepare a map and legal description of the Snowy River cave, and to develop a comprehensive, long-term management plan for the cave area. 3. authorizes the conservation of the unique features and environs in the cave for scientific, educational and other public uses deemed safe and appropriate under the management plan. 4. authorizes the BLM to work hand in hand with colleges, universities, scientific institutions, and researchers to further our understanding of the geologic, hydrologic, mineralogical, and biologic significance of Snowy River. 5. protects the caves from mineral and mining leasing operations; and 6. protects existing surface uses at Fort Stanton.

New Mexico is home to many natural wonders, and I am proud to play a role in the protection of this newest unique discovery in my State. I hope my colleagues will join with me in approving the Fort Stanton-Snowy River National Cave Conservation Area Act. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1170

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Fort Stanton-Snowy River National Cave Conservation Area Act".

SEC. 2. DEFINITIONS.

In this Act:

(1) CONSERVATION AREA.—The term "Conservation Area" means the Fort Stanton-Snowy River National Cave Conservation Area established by section 3(a).

(2) MANAGEMENT PLAN.—The term "management plan" means the management plan developed for the Conservation Area under section 4(c).

(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior, acting through the Director of the Bureau of Land Management.

SEC. 3. ESTABLISHMENT OF FORT STANTON-SNOWY RIVER NATIONAL CAVE CONSERVATION AREA.

(a) IN GENERAL.—There is established the Fort Stanton-Snowy River National Cave Conservation Area in Lincoln County, New Mexico, to secure, protect, and conserve subterranean natural and unique features and environs for scientific, educational, and other appropriate public uses.

(b) BOUNDARIES.—The Conservation Area shall include—

(1) the minimum subsurface area necessary to provide for the Fort Stanton Cave, including the Snowy River passage in its entirety (which may include other significant caves); and

(2) the minimum surface acreage, as determined by the Secretary, that is necessary to provide access to the cave entrance.

(c) MAP AND LEGAL DESCRIPTION.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall prepare a map and legal description of the Conservation Area.

(2) EFFECT.—The map and legal description of the Conservation Area shall have the same

force and effect as if included in this Act, except that the Secretary may correct any minor errors in the map and legal description.

(3) PUBLIC AVAILABILITY.—The map and legal description of the Conservation Area shall be available for public inspection in the appropriate offices of the Bureau of Land Management.

SEC. 4. ADMINISTRATION OF CONSERVATION AREA.

(a) IN GENERAL.—The Secretary shall administer the Conservation Area—

(1) in accordance with the laws (including regulations) applicable to public land and the management plan required by this Act; and

(2) in a manner that provides for—

(A) the conservation and protection of the natural and unique features and environs for scientific, educational, and other appropriate public uses of the Conservation Area;

(B) public access, as appropriate, while providing for the protection of the cave resources and for public safety;

(C) the continuation of other existing uses and new uses of the Conservation Area that do not substantially impair the purposes for which the Conservation Area is established;

(D) the protection of new caves within the Conservation Area, such as the Snowy River passage within Fort Stanton Cave;

(E) the continuation of such uses on the surface acreage as exist under management action in place prior to designation of the Conservation Area by this Act; and

(F) scientific investigation and research opportunities within the Conservation Area, including through partnerships with colleges, universities, schools, scientific institutions, researchers, and scientists to conduct research and provide educational and interpretive services within the Conservation Area.

(b) WITHDRAWALS.—Subject to valid existing rights, all Federal surface and subsurface land within the Conservation Area and all land and interests in the surface and subsurface land that are acquired by the United States after the date of enactment of this Act for inclusion in the Conservation Area, are withdrawn from—

(1) all forms of entry, appropriation, or disposal under the general land laws;

(2) location, entry, and patent under the mining laws; and

(3) operation under the mineral leasing and geothermal leasing laws.

(c) MANAGEMENT PLAN.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary shall develop a comprehensive plan for the long-term management of the Conservation Area.

(2) PURPOSES.—The management plan shall—

(A) describe the appropriate uses and management of the Conservation Area;

(B) incorporate, as appropriate, decisions contained in any other management or activity plan for the land within or adjacent to the Conservation Area;

(C) take into consideration any information developed in studies of the land and resources within or adjacent to the Conservation Area; and

(D) engage in a cooperative agreement with Lincoln County, New Mexico, to address the historical involvement of the local community in the interpretation and protection of the resources of the Conservation Area.

(d) ACTIVITIES OUTSIDE CONSERVATION AREA.—

(1) IN GENERAL.—The fact that an activity or use is not permitted inside the Conservation Area shall not preclude—

(A) the conduct of the activity on land, or the use of land for the activity, outside the

boundary of the Conservation Area, consistent with other applicable laws (including regulations); or

(B) any activity or use, including new uses, on the surface land above the Conservation Area or on any land appurtenant to that surface land.

(2) MANAGEMENT.—The surface land described in paragraph (1)(B) shall continue to be managed for multiple uses in accordance with all applicable laws (including regulations).

(e) RESEARCH AND INTERPRETIVE FACILITIES.—

(1) IN GENERAL.—The Secretary may establish facilities for—

(A) the conduct of scientific research; and

(B) the interpretation of the historical, cultural, scientific, archaeological, natural, and educational resources of the Conservation Area.

(2) COOPERATIVE AGREEMENTS.—The Secretary may enter into cooperative agreements with the State of New Mexico and other institutions and organizations to carry out the purposes of this Act.

(f) WATER RIGHTS.—Nothing in this Act constitutes an express or implied reservation of any water right.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

By Mr. SPECTER (for himself, Mr. BAYH, Ms. COLLINS, Mr. JOHNSON, Mrs. MURRAY, Mr. FEINGOLD, and Mr. WYDEN):

S. 1171. A bill to halt Saudi support for institutions that fund, train, incite, encourage, or in any other way aid and abet terrorism, and to secure full Saudi cooperation in the investigation of terrorist incidents, and for other purposes; to the Committee on Foreign Relations.

Mr. SPECTER. Mr. President, I have sought recognition to offer legislation to halt Saudi Arabia's support for institutions that fund, train, incite or in any other way aid and abet terrorism, and to secure full Saudi cooperation in the investigation of terrorist incidents and organizations.

Despite the Saudi government's attempts to show otherwise, a growing amount of evidence indicates that Saudi Arabia has provided only lackluster support for U.S. investigations into terrorist networks, such as al Qaeda. Mounting documentation and reports have revealed that since the attacks of September 11, 2001, Saudi citizens have provided significant amounts of financial support to al Qaeda, Hamas, and other terrorist organizations. The Saudi government continues to use direct and indirect means to support organizations that propagate hate and incite terror around the world.

United Nations Security Council Resolution 1373, adopted in 2001, mandates that all states "refrain from providing any form of support, active or passive, to entities or persons involved in terrorist acts . . . take the necessary steps to prevent the commission of terrorist acts . . . deny safe haven to those who finance, plan, support, or commit terrorist acts . . . ensure that

any person who participates in the financing, planning, preparation or perpetration of terrorist acts or in supporting terrorist acts is brought to justice" and that member countries "afford one another the greatest measure of assistance in connection with criminal investigations or criminal proceedings relating to the financing or support of terrorist acts." I would like to share some findings with my colleagues that I believe paint a clear picture that Saudi Arabia has failed to comply with this U.N. standard.

Saudi Arabia's lack of cooperation with the United States is not a post 9/11 phenomenon. At the time of the Khobar Towers bombing in 1996, I chaired the Senate Intelligence Committee. I visited Dhahran and had the opportunity to inspect the results of the car bomb which killed nineteen of our airmen and injured 400 others. In that situation, U.S. investigators were denied the opportunity to interview the suspects. I personally met with Crown Prince Abdullah of Saudi Arabia and requested that the FBI be permitted to speak with suspects in custody. Crown Prince Abdullah denied my request and informed me that the United States should not meddle in Saudi internal affairs. The murder of nineteen U.S. airmen and the wounding of 400 more hardly qualifies as a Saudi internal affair.

A joint committee of the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives issued a report on July 24, 2003, which found "a number of U.S. Government officials complained to the Joint Inquiry about a lack of Saudi cooperation in terrorism investigations both before and after the September 11 attacks." With regard to dealing with Saudi officials, General Counsel of the Treasury Department, David Aufhauser, testified on July 23, 2002, that "there is an almost intuitive sense, however, that things are not being volunteered. So I want to fully inform you about it, that we have to ask and we have to seek and we have to strive."

The Saudi Government has asserted its right to question Saudi nationals captured by U.S. forces in Afghanistan, yet according to a September 15, 2003 issue of Time Magazine, the Saudi Government denied "U.S. officials access to several suspects in custody, including a Saudi in detention for months who had knowledge of extensive plans to inject poison gas in the New York City subway system."

In a June 2004 report entitled "Update on the Global Campaign Against Terrorist Financing", the Council on Foreign Relations reported that "we find it regrettable and unacceptable that since September 11, 2001, we know of not a single Saudi donor of funds to terrorist groups who have been publicly punished."

Additionally, the National Commission on Terrorist Attacks Upon the United

States, also referred to as the 9/11 Commission, interviewed numerous military officers and government officials who repeatedly listed Saudi Arabia as a prime place for terrorists to set up bases. "In talking with American and foreign government officials and military officers on the front lines fighting terrorists today, we [9/11 Commission] asked them: If you were a terrorist leader today, where would you locate your base? Some of the same places come up again and again on their lists . . . the Arabian Peninsula, especially Saudi Arabia."

The U.S. should not be in the position of begging for information and expending time and energy pleading for assistance from Saudi Arabia on matters of such great importance to our national security.

In the case of funneling funds to terrorist organizations, Saudi Arabia cannot be permitted to turn a blind eye to the millions of dollars its citizens funnel to radical organizations. It sends a message to the U.S. that they are not serious about stemming the flow of support for terror and it sends a message to their own people that this type of behavior is tolerated.

The New York Times reported on September 17, 2003, that "at least fifty percent of Hamas's current operating budget of about \$10 million a year comes from people in Saudi Arabia." In a July 3, 2003 report, The Middle East Media Research Institute (MEMRI) reported that various Saudi organizations have funneled over four billion dollars to finance the Palestinian intifada that began in September 2000.

The 9/11 Commission also clearly stated that "Saudi Arabia's society was a place where al Qaeda raised money directly from individuals through charities."

In testimony presented to the Senate Judiciary Committee in July 2003, David Aufhauser, General Counsel of the Treasury Department, was asked if the trail of money funding terrorists led back to Saudi Arabia. He indicated that "in many cases it is the epicenter."

Not only has the government failed to halt the hemorrhaging of terrorist funds from its citizens, but its own leadership has reportedly provided significant support for terrorist organizations. Saudi Arabia must begin by getting its own house in order which includes rooting out those of its leaders and those in its government who are fanning the fire of hate. According to the aforementioned MEMRI report, "for decades the royal family of the Kingdom of Saudi Arabia has been the main financial supporter of Palestinian groups fighting Israel."

In addition to financial support, Saudi Arabia, through its various domestic and foreign institutions, has supported the spread of radical ideology. A report released on January 28, 2005 by Freedom House's Center for Religious Freedom found that Saudi Arabia is the state most responsible for

the propagation of material promoting hatred, intolerance, and violence within United States mosques and Islamic centers, and that these publications are often official publications of a Saudi ministry or distributed by the Embassy of Saudi Arabia in Washington, DC.

Freedom House also found that "while the government of Saudi Arabia claims to be 'updating' or reforming its textbooks and study materials within the Kingdom, its publications propagating an ideology of hatred remain plentiful in some prominent American mosques and Islamic centers, and continue to be a principal resource available to students of Islam within the United States."

One such document Freedom House collected from a Herndon, Virginia mosque, distributed by the Cultural Department of the Saudi Arabian Embassy in Washington, was found to contain "virulent denunciations of Christians and of the infidelity of their beliefs and practices. It offers intricate guidelines concerning the proper relations Muslims should have with non-Muslims while they reside in the latter's 'lands of shirk and kufr' (i.e. lands of idolatry and infidelity)." The report also found a fatwa in a Saudi Embassy publication condemning tolerant Muslims and "is followed by selective Koranic verses that spell out the infidelity of Jews and Christians and condemn them to the eternal fires of hell."

In a May 2003 report on Saudi Arabia, the United States Commission on International Religious Freedom found "some Saudi government-funded textbooks used both in Saudi Arabia and also in North American Islamic schools and mosques have been found to encourage incitement to violence against non-Muslims." The Commission further found "offensive and discriminatory language in Saudi government-sponsored school textbooks, sermons in mosques, and articles and commentary in the media about Jews, Christians, and non-Wahhabi streams of Islam."

The September 13, 2003 issue of Time Magazine reported eighth and ninth grade Saudi textbooks which read "that Allah cursed Jews and Christians and turned some of them into apes and pigs . . . and that Judgment Day will not come until the Muslims fight the Jews and kill them."

Time also, found that "many of the Taliban, who went on to rule much of Afghanistan, were educated in Saudi-financed madaris in Pakistan." In the September 2003 issue of Time Magazine, a former Saudi diplomat, Mohammed al-Khilewi, stated that "the Saudi government spends billions of dollars to establish cultural centers in the U.S. and all over the world" and that they "use these centers to recruit individuals and to establish extreme organizations." It is no surprise that it is from these fertile grounds that fifteen of the nineteen 9/11 hijackers were born and radicalized.

To be successful in the global war on terrorism we need the proactive and full cooperation of all nations—especially those who consider themselves allies of the United States.

The Saudi Government must provide complete, unrestricted and unobstructed cooperation to the United States in the investigation of terrorist organizations and individuals. This bill directs the President to certify to Congress that the Government of Saudi Arabia is fully cooperating with the United States in investigating and preventing terrorist attacks, has closed permanently all Saudi-based terror organizations, has ended funding for any offshore terrorist organization, and has made all efforts to block funding from private Saudi citizens and entities to offshore terrorist organizations. If Saudi Arabia fails to take such steps, this legislation will require the President to prohibit certain exports to Saudi Arabia and restrict the travel of Saudi diplomats. This legislation permits the President to waive such sanctions if he determines it is in the national security interest of the United States.

Two major objectives in the Global War on Terrorism are to deny terrorists safe haven and to eradicate the sources of terrorist financing. We cannot be successful in this war by ignoring the problem Saudi Arabia presents to our security. The government of Saudi Arabia can no longer remain idle while its citizenry continues to provide the wherewithal for terrorist groups with global reach nor can it continue to directly facilitate and support institutions that incite violence.

President Bush has stated that the United States “will challenge the enemies of reform, confront the allies of terror, and expect a higher standard from our friends.” The 108th Congress passed, and the President signed, the Syrian Accountability Act. I believe the Saudis are a much greater threat to U.S. interests than the Syrians and there ought to be a very firm approach to our relationship with the Saudi Government. The 9/11 Commission recommended that the problems in our bilateral relationship with Saudi Arabia must be confronted openly—this legislation takes a step in that direction.

By Mr. SPECTER (for himself, Mr. HARKIN, Mrs. CLINTON, Mr. OBAMA, and Mrs. BOXER):

S. 1172. A bill to provide for programs to increase the awareness and knowledge of women and health care providers with respect to gynecologic cancers; to the Committee on Health, Education, Labor, and Pensions.

Mr. SPECTER. Mr. President, I have sought recognition today to introduce The Gynecological Cancer Education and Awareness Act of 2005 also known as Johanna’s Law.

Every year, over 80,000 women in the United States are newly diagnosed with some form of gynecologic cancer such as ovarian, uterine, or cervical

cancer. In 2005, 29,000 American women are expected to die from these cancers.

Early detection of these cancers must be improved to decrease this tragic loss of life. Unfortunately, thousands of women in the U.S. each year aren’t diagnosed until their cancers have progressed to more advanced and far less treatable stages. In the case of ovarian cancer, which kills more women in the U.S. than all other gynecologic cancers combined, 70 percent of all new diagnoses take place after this cancer has progressed beyond its earliest and most survivable stage.

Women are often diagnosed many months, sometimes more than a year after they first experience symptoms due to a lack of knowledge of early warning signs of gynecological cancers. Adding to the challenge of a prompt and accurate diagnosis is the similarity of gynecological cancer symptoms to those of more common gastrointestinal conditions and benign gynecologic conditions such as perimenopause and menopause. Women too often receive diagnoses reflecting these benign conditions without their physicians having first considered gynecologic cancers as a possible cause of the symptoms.

The Gynecological Cancer Education and Awareness Act will improve early detection of gynecologic cancers by creating a national awareness and an education outreach campaign to inform physicians and individuals of the risk factors and symptoms of these diseases. When gynecological cancer is detected in its earliest stage, patients 5-year survival rates are greater than 90 percent and many go on to live normal, healthy lives.

The national awareness campaign will be carried out by the Department of Health and Human Services (HHS) to increase women’s awareness and knowledge of gynecologic cancers. The campaign will maintain and distribute a supply of written materials that provide information to the public about gynecologic cancers. Further, the program will develop public service announcements encouraging women to discuss their risks for gynecologic cancers with their physicians, and inform the public about the availability of written materials and how to obtain them. The projected cost of the awareness campaign is \$5 million per year from 2006–2008, totaling \$15 million.

The educational outreach campaign will be carried out through demonstration grants through HHS. These demonstration grants will go to local and national non-profits to test different outreach and education strategies, including those directed at providers, women, and their families. Groups with demonstrated expertise in gynecologic cancer education, treatment, or in working with groups of women who are at especially high risk will be given priority. Grant funding recipients will also be asked to work in cooperation with health providers, hospitals, and state health departments. The pro-

jected cost of the educational outreach campaign is \$10 million per year from 2006–2008, totaling \$30 million.

This legislation was brought to my attention by my friend Fran Drescher, who was diagnosed with uterine cancer in 2000 and whose diagnosis was also delayed due to her lack of knowledge about symptoms of this disease. She has recovered from uterine cancer and is advocating on behalf of gynecological cancer awareness. She also brought to my attention one of the many victims of gynecological cancers Johanna Silver Gordon, after whom this bill is named, who was diagnosed at an advanced stage of ovarian cancer.

Johanna, the daughter and sister of physicians, was extremely health conscious taking the appropriate measures to maintain a healthy lifestyle including exercising regularly, eating nutritiously, and receiving annual Pap smears and pelvic exams. Johanna however did not have the information to know that the gastric symptoms she experienced in the fall of 1996 were common symptoms of ovarian cancer. She didn’t learn these crucial facts until after she was diagnosed at an advanced stage of this cancer. Despite aggressive treatment that included four surgeries, various types of chemotherapy, and participation in two clinical trials, Johanna died from ovarian cancer 3½ years after being diagnosed. Johanna is survived by her sister Sheryl Silver who has tirelessly worked to increase the information available regarding gynecological cancers.

As Chairman of the Labor, Health and Human Services, and Education Appropriations Subcommittee, I led, along with Senator Harkin, the effort to double funding for the National Institutes of Health (NIH) over five years. Funding for the NIH has increased from \$11.3 billion in fiscal year 1995 to \$28.5 billion in fiscal year 2005. In 2004, the NIH, through the National Cancer Institute provided \$212.5 million for gynecological cancer research. Further, the Centers for Disease Control and Prevention’s National Breast and Cervical Cancer Early Detection Program (NCCEDP) provided \$209 million in fiscal year 2005 for breast and gynecological cancer screening and diagnostic services, including: pap tests, surgical consultation, and diagnostic testing for women whose screening outcome is abnormal. To date, the Program has screened more than 2.1 million women, provided more than 5 million screening exams, and diagnosed 66,295 pre-cancerous cervical lesions and 1,262 invasive cervical cancers. We must continue these efforts to do more to provide information about gynecological cancer to physicians and those most at risk.

I believe this bill can provide desperately needed information to physicians and individuals so that women can be diagnosed faster and more effectively. I urge my colleagues to work with Senator Harkin and me to move this legislation forward promptly.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1172

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Gynecologic Cancer Education and Awareness Act of 2005” or “Johanna’s Law”.

SEC. 2. CERTAIN PROGRAMS REGARDING GYNECOLOGIC CANCERS.

(a) NATIONAL PUBLIC AWARENESS CAMPAIGN.—

(1) IN GENERAL.—The Secretary of Health and Human Services (referred to in this section as the “Secretary”) shall carry out a national campaign to increase the awareness and knowledge of women with respect to gynecologic cancers.

(2) WRITTEN MATERIALS.—Activities under the national campaign under paragraph (1) shall include—

(A) maintaining a supply of written materials that provide information to the public on gynecologic cancers; and

(B) distributing the materials to members of the public upon request.

(3) PUBLIC SERVICE ANNOUNCEMENTS.—Activities under the national campaign under paragraph (1) shall, in accordance with applicable law and regulations, include developing and placing, in telecommunications media, public service announcements intended to encourage women to discuss with their physicians their risks of gynecologic cancers. Such announcement shall inform the public on the manner in which the written materials referred to in paragraph (2) can be obtained upon request, and shall call attention to early warning signs and risk factors based on the best available medical information.

(b) DEMONSTRATION PROJECTS REGARDING OUTREACH AND EDUCATION STRATEGIES.—

(1) IN GENERAL.—The Secretary shall carry out a program to make grants to nonprofit private entities for the purpose of testing different outreach and education strategies to increase the awareness and knowledge of women and health care providers with respect to gynecologic cancers, including early warning signs and treatment options. Such strategies shall include strategies directed at physicians, nurses, and key health professionals and families.

(2) PREFERENCES IN MAKING GRANTS.—In making grants under paragraph (1), the Secretary shall give preference—

(A) to applicants with demonstrated expertise in gynecologic cancer education or treatment or in working with groups of women who are at especially high risk of gynecologic cancers; and

(B) to applicants that, in the demonstration project under the grant, will establish linkages between physicians, nurses, and key health professionals, hospitals, payers, and State health departments.

(3) APPLICATION FOR GRANT.—A grant may be made under paragraph (1) only if an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this subsection.

(4) CERTAIN REQUIREMENTS.—In making grants under paragraph (1)—

(A) the Secretary shall make grants to not fewer than five applicants, subject to the extent of amounts made available in appropriations Acts; and

(B) the Secretary shall ensure that information provided through demonstration projects under such grants is consistent with the best available medical information.

(5) REPORT TO CONGRESS.—Not later than February 1, 2009, the Secretary shall submit to the Congress a report that—

(A) summarizes the activities of demonstration projects under paragraph (1);

(B) evaluates the extent to which the projects were effective in increasing early detection of gynecologic cancers and awareness of risk factors and early warning signs in the populations to which the projects were directed; and

(C) identifies barriers to early detection and appropriate treatment of such cancers.

(c) FUNDING.—

(1) NATIONAL PUBLIC AWARENESS CAMPAIGN.—For the purpose of carrying out subsection (a), there is authorized to be appropriated in the aggregate \$15,000,000 for the fiscal years 2006 through 2008.

(2) DEMONSTRATION PROJECTS REGARDING OUTREACH AND EDUCATION STRATEGIES.—

(A) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out subsection (b), there is authorized to be appropriated in the aggregate \$30,000,000 for the fiscal years 2006 through 2008.

(B) ADMINISTRATION, TECHNICAL ASSISTANCE, AND EVALUATION.—Of the amounts appropriated under subparagraph (A), not more than 9 percent may be expended for the purpose of administering subsection (b), providing technical assistance to grantees under such subsection, and preparing the report under paragraph (5) of such subsection.

Mr. OBAMA. Mr. President, I am pleased to join my colleagues Senators SPECTER and HARKIN to introduce The Gynecological Cancer Education and Awareness Act of 2005, also known as Johanna’s Law. This important legislation authorizes a national gynecologic cancer early detection and awareness campaign for women and their providers. This bill is named in honor of Johanna Silver Gordon who died from ovarian cancer and whose sister, Sheryl Silver, founded Johanna’s Law Alliance for Women’s Cancer Awareness. We thank Ms. Silver for her courage and her persistent efforts to turn her sister’s tragedy into a crusade to raise awareness and prevent needless suffering and death from gynecologic cancers for other women.

Nearly 80,000 American women are diagnosed with gynecologic cancers each year. Tragically, 29,000 of them die from this disease. We know that early detection is the key to successful treatment of all gynecologic cancers, and we have made great strides at reducing rates of cervical cancer with wide-spread use of Pap screening tests. Yet, we have not been able to replicate this success with uterine cancer and ovarian cancer, for which effective and general screening methods do not exist. For ovarian cancer, which is the deadliest of the gynecologic cancers, in addition to lack of screening tests, doctors and researchers have not identified effective diagnostic and treatments. Seventy percent of all new diagnoses of ovarian cancer take place after this cancer has progressed beyond its earliest and most survivable stage.

Given these challenges, knowing the symptoms of gynecologic cancers,

which can mimic GI illnesses, menopause or perimenopause, is key to early diagnosis. The 5-year survival rates for the most common gynecologic cancers are 90 percent when diagnosed early, but drop to 50 percent for cancers diagnosed later.

Johanna’s Law will promote early detection and awareness through a National Public Awareness Campaign conducted by the Department of Health and Human Services. Women will be given written materials that provide information about gynecologic cancers, and Public Service Announcements will be developed to encourage women to talk to their doctors about gynecologic cancer. The Department will also give grants for demonstration projects to local and national nonprofit organizations to identify the best ways to reach and educate women about these cancers, particularly those women who are high risk.

Johanna’s Law will make sure that women and doctors get the information they need to help them recognize early symptoms of gynecologic cancers, so that women can be diagnosed and treated earlier when their cancers are treatable. I urge my colleagues to work to move this legislation forward promptly.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 160—DESIGNATING JUNE 2005 AS “NATIONAL SAFETY MONTH”

Mr. DEWINE (for himself, Mrs. FEINSTEIN, Mr. COCHRAN, Mrs. DOLE, Ms. LANDRIEU, Ms. MURKOWSKI, and Mr. LUGAR) submitted the following resolution; which was considered and agreed to:

S. RES. 160

Whereas the mission of the National Safety Council is to educate and influence society to adopt safety, health, and environmental policies, and procedures that prevent and mitigate human suffering and economic losses arising from preventable causes;

Whereas the National Safety Council works to protect lives and promote health with innovative programs;

Whereas the National Safety Council, founded in 1913, is celebrating its 92nd anniversary in 2005 as the premier source of safety and health information, education, and training in the United States;

Whereas the National Safety Council was congressionally chartered in 1953, and is celebrating its 52nd anniversary in 2005 as a congressionally chartered organization;

Whereas even with advancements in safety that create a safer environment for the people of the United States, such as new legislation and improvements in technology, the unintentional-injury death toll is still unacceptable;

Whereas the National Safety Council has demonstrated leadership in educating the Nation in the prevention of injuries and deaths to senior citizens as a result of falls;

Whereas citizens deserve a solution to nationwide safety and health threats;

Whereas such a solution requires the cooperation of all levels of government, as well as the general public;

Whereas the summer season, traditionally a time of increased unintentional-injury fatalities, is an appropriate time to focus attention on both the problem and the solution to such safety and health threats; and

Whereas the theme of "National Safety Month" for 2005 is "Safety: Where We Live, Work, and Play"; Now, therefore, be it

Resolved, That the Senate—

(1) designates June 2005 as "National Safety Month"; and

(2) recognizes the accomplishments of the National Safety Council and calls upon the people of the United States to observe the month with appropriate ceremonies and respect.

AMENDMENTS SUBMITTED AND PROPOSED

SA 765. Mr. FRIST (for Ms. SNOWE) proposed an amendment to the resolution S. Res. 149, honoring the life and contributions of His Eminence, Archbishop Iakovos, former archbishop of the Greek Orthodox Archdiocese of North and South America.

TEXT OF AMENDMENTS

SA 765. Mr. FRIST (for Ms. SNOWE) proposed an amendment to the resolution S. Res. 149, honoring the life and contributions of His Eminence, Archbishop Iakovos, former archbishop of the Greek Orthodox Archdiocese of North and South America; as follows:

In the last whereas clause of the preamble, strike "at the Holy Trinity Cathedral in New York, New York" and insert "at the Holy Cross Greek Orthodox School of Theology in Brookline, Massachusetts".

NOTICES OF HEARINGS/MEETINGS

SUBCOMMITTEE ON NATIONAL PARKS

Mr. THOMAS. Mr. President, I would like to announce for the information of the Senate and the public that the following hearing has been scheduled before the Subcommittee on National Parks of the Committee on Energy and Natural Resources:

The hearing will be held on Tuesday, June 14th 2005, at 10:00 a.m. in room SD-366 of the Dirksen Senate Office Building in Washington, D.C.

The purpose of the hearing is to receive testimony on the following bills: S. 206, a bill to designate the Ice Age Floods National Geologic Trail, and for other purposes; S. 556, a bill to direct the Secretary of the Interior and the Secretary of Agriculture to jointly conduct a study of certain land adjacent to the Walnut Canyon National Monument in the State of Arizona; S. 588, a bill to amend the National Trails System Act to direct the Secretary of the Interior and the Secretary of Agriculture to jointly conduct a study on the feasibility of designating the Arizona Trail as a national scenic trail or a national historic trail; and S. 955, a bill to direct the Secretary of the Interior to conduct a special resource study to determine the suitability and feasibility of including in the National Park System certain sites in Williamson County, Tennessee, relating to the Battle of Franklin.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, SD-364 Dirksen Senate Office Building, Washington, D.C. 20510-6150.

For further information, please contact Tom Lillie at (202) 224-5161 or Brian Carlstrom at (202) 224-6293.

MEASURE PLACED ON THE CALENDAR—H.R. 810

Mr. FRIST. I understand there is a bill at the desk due a second reading.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 810) to amend the Public Health Service Act to provide for human embryonic stem cell research.

Mr. FRIST. In order to place the bill on the calendar under the provisions rule XIV, I object to further proceeding.

The PRESIDING OFFICER. The objection is heard. The bill will be placed on the calendar on the next legislative day.

HONORING HIS EMINENCE, ARCHBISHOP IAKOVOS

Mr. FRIST. I ask unanimous consent the Judiciary Committee be discharged from further consideration and the Senate now proceed to S. Res. 149.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 149) honoring the life and contributions of His Eminence, Archbishop Iakovos, former archbishop of the Greek Orthodox Archdiocese of North and South America.

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

Mr. FRIST. I ask unanimous consent the resolution be agreed to, the amendment to the preamble be agreed to, the preamble, as amended, 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. 149) was agreed to.

The amendment (No. 765) was agreed to, as follows:

AMENDMENT NO. 765

In the last whereas clause of the preamble, strike "at the Holy Trinity Cathedral in New York, New York" and insert "at the Holy Cross Greek Orthodox School of Theology in Brookline, Massachusetts".

The preamble, as amended, was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 149

Honoring the life and contributions of His Eminence, Archbishop Iakovos, former arch-

bishop of the Greek Orthodox Archdiocese of North and South America.

Whereas His Eminence, Archbishop Iakovos, former archbishop of the Greek Orthodox Archdiocese of North and South America and spiritual leader of Greek Orthodox Christians in the Western Hemisphere from 1959 to 1996, passed away at the age of 93 on April 10, 2005, in Stamford, Connecticut;

Whereas, when Archbishop Iakovos retired at the age of 85 on July 29, 1996, the Archbishop had given 37 years of outstanding service that were distinguished by his leadership in furthering religious unity, revitalizing Christian worship, and championing human and civil rights;

Whereas Archbishop Iakovos was born Demetrios A. Coucouzis on the tiny island of Imbros in the Aegean Sea to Maria and Athanasios Coucouzis on July 29, 1911;

Whereas Archbishop Iakovos enrolled in the Ecumenical Patriarchal Theological School at Halki at the age of 15;

Whereas, after graduating with high honors from Halki, Archbishop Iakovos was ordained deacon in 1934, taking the ecclesiastical name Iakovos;

Whereas 5 years after his ordination, Archbishop Iakovos received an invitation to serve as archdeacon to the late Archbishop Athenagoras, the primate of North and South America, who later became Ecumenical Patriarch of Constantinople;

Whereas in 1940, Archbishop Iakovos was ordained to the priesthood in Lowell, Massachusetts, beginning his service at St. George Church in Hartford, Connecticut, while teaching and serving as assistant dean of the Holy Cross Greek Orthodox Theological School, then in Pomfret, Connecticut, and now in Brookline, Massachusetts;

Whereas in 1941, Archbishop Iakovos was named preacher at Holy Trinity Cathedral in New York City, and in the summer of 1942 served as temporary dean of St. Nicholas Church in St. Louis, Missouri;

Whereas Archbishop Iakovos was appointed dean of the Annunciation Greek Orthodox Cathedral in Boston, Massachusetts, in 1942, and remained there until 1954;

Whereas in 1945, Archbishop Iakovos earned a Master of Sacred Theology Degree from Harvard University;

Whereas Archbishop Iakovos became a United States citizen in 1950;

Whereas in 1954, Archbishop Iakovos was ordained Bishop of Melita by his spiritual father and mentor, Ecumenical Patriarch Athenagoras, for whom he served four years as personal representative of the Patriarchate to the World Council of Churches in Geneva;

Whereas on February 14, 1959, the Holy Synod of the Ecumenical Patriarchate elected Archbishop Iakovos to succeed Archbishop Michael as primate of the Greek Orthodox Church in the Americas;

Whereas Archbishop Iakovos was enthroned April 1, 1959, at Holy Trinity Cathedral in New York City, assuming responsibility for a jurisdiction that has grown to be over 500 parishes in the United States alone;

Whereas the enthronement of Archbishop Iakovos in 1959 ushered in a new era for the Greek Orthodox Church in America, in which the Church became part of the mainstream of American religious life;

Whereas in 1959, shortly after being named archbishop, Archbishop Iakovos held a historic meeting with Pope John XXIII, becoming the first Greek Orthodox Archbishop to meet with a Roman Catholic Pope in 350 years;

Whereas Archbishop Iakovos was a dynamic participant in the contemporary ecumenical movement for Christian unity, serving for nine years as President of the World

Council of Churches and piloting Inter-Orthodox, Inter-Christian, and Inter-Religious dialogues;

Whereas Archbishop Iakovos vigorously supported the passage of the Civil Rights Act of 1964, and had the courage to walk hand in hand with Dr. Martin Luther King, Jr. in Selma, Alabama, a historic moment for America that was captured on the cover of LIFE Magazine on March 26, 1965;

Whereas Archbishop Iakovos spoke out forcefully against violations of human rights and religious freedom and, in 1974, undertook a massive campaign to assist Greek Cypriot refugees following the invasion of Cyprus by Turkish armed forces;

Whereas Archbishop Iakovos was a recipient of the Presidential Medal of Freedom, the Nation's highest civilian honor, which was bestowed on him by President Carter on June 9, 1980;

Whereas in 1986, Archbishop Iakovos was awarded the Ellis Island Medal of Honor and was cited by the Academy of Athens, the National Conference of Christians and Jews, and the Appeal of Conscience;

Whereas Archbishop Iakovos, during his stewardship of the Greek Orthodox Church in America, became an imposing religious figure and a champion of social causes, encouraging the faithful to become involved in all aspects of American life;

Whereas Archbishop Iakovos was a friend to nine Presidents, and to religious and political leaders worldwide, receiving honorary degrees from some 40 colleges and universities;

Whereas Archbishop Iakovos presented a prayer at Presidential inaugural ceremonies in 1961, 1965, 1969, and 1973;

Whereas the Archbishop has said of his pastoral work with immigrants in New England and New York, "I lived and struggled with them to maintain the faith and culture.;"

Whereas in a 1995 interview, the Archbishop said he had accomplished a major goal "to have the Orthodox Church be accepted by the family of religions in the United States"; and

Whereas Archbishop Iakovos was interred at the Holy Cross Greek Orthodox School of Theology in Brookline, Massachusetts, on April 15, 2005: Now, therefore, be it

Resolved, That the Senate—

(1) mourns the loss of Archbishop Iakovos and commends the life the Archbishop led;

(2) thanks Archbishop Iakovos for his service to the members of his church and to the people of this Nation;

(3) honors Archbishop Iakovos' commitment to the principles of equality, humanity, and peace; and

(4) recognizes that Archbishop Iakovos was a committed and caring pastor to a whole generation of Greek Americans—

(A) whose hard work, determination, and pride in their religious and cultural heritage Archbishop Iakovos embodied; and

(B) who will dearly miss the Archbishop.

NATIONAL SAFETY MONTH

Mr. FRIST. I ask unanimous consent the Senate now proceed to the consideration of S. Res. 160 which was submitted earlier today.

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

The legislative clerk read as follows:

A resolution (S. Res. 160) designating June 2005 as "National Safety Month."

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

Mr. FRIST. I ask unanimous consent 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. 160) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 160

Whereas the mission of the National Safety Council is to educate and influence society to adopt safety, health, and environmental policies, practices, and procedures that prevent and mitigate human suffering and economic losses arising from preventable causes;

Whereas the National Safety Council works to protect lives and promote health with innovative programs;

Whereas the National Safety Council, founded in 1913, is celebrating its 92nd anniversary in 2005 as the premier source of safety and health information, education, and training in the United States;

Whereas the National Safety Council was congressionally chartered in 1953, and is celebrating its 52nd anniversary in 2005 as a congressionally chartered organization;

Whereas even with advancements in safety that create a safer environment for the people of the United States, such as new legislation and improvements in technology, the unintentional-injury death toll is still unacceptable;

Whereas the National Safety Council has demonstrated leadership in educating the Nation in the prevention of injuries and deaths to senior citizens as a result of falls;

Whereas citizens deserve a solution to nationwide safety and health threats;

Whereas such a solution requires the cooperation of all levels of government, as well as the general public;

Whereas the summer season, traditionally a time of increased unintentional-injury fatalities, is an appropriate time to focus attention on both the problem and the solution to such safety and health threats; and

Whereas the theme of "National Safety Month" for 2005 is "Safety: Where We Live, Work, and Play": Now, therefore, be it

Resolved, That the Senate—

(1) designates June 2005 as "National Safety Month"; and

(2) recognizes the accomplishments of the National Safety Council and calls upon the people of the United States to observe the month with appropriate ceremonies and respect.

ORDERS FOR TUESDAY, JUNE 7, 2005

Mr. FRIST. I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:45 a.m. Tuesday, June 7. I further ask that, following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and the Senate then return to executive session and resume consideration of the nomination of Janice Rogers Brown to be a United States circuit judge for the DC Circuit.

I further ask consent that the time until 12 noon be equally divided between the two leaders or their des-

ignees; provided further that the last 20 minutes prior to the vote be divided with 10 minutes under the control of the Democratic leader or his designee, to be followed by 10 minutes under the control of the majority leader or his designee.

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

PROGRAM

Mr. FRIST. Tomorrow, the Senate will resume consideration of the nomination of Justice Brown to be a U.S. circuit judge for the DC Circuit. At noon, we will proceed to the cloture vote on the nomination. It is my expectation that cloture will be invoked and we could have an up-or-down vote on confirmation.

As I noted earlier, following the disposition of the Brown nomination, we will move forward immediately with the cloture vote on the nomination of William Pryor to be a U.S. circuit judge for the Eleventh Circuit. Members should expect votes throughout the week as we consider these and other nominations that may proceed over the next several days.

ADJOURNMENT UNTIL 9:45 A.M. TOMORROW

Mr. FRIST. If there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 5:38 p.m., adjourned until Tuesday, June 7, 2005, at 9:45 a.m.

NOMINATIONS

Executive nominations received by the Senate June 6, 2005:

DEPARTMENT OF THE TREASURY

JOHN M. REICH, OF VIRGINIA, TO BE DIRECTOR OF THE OFFICE OF THRIFT SUPERVISION FOR A TERM OF FIVE YEARS, VICE JAMES GILLERAN, TERM EXPIRED.

ENVIRONMENTAL PROTECTION AGENCY

MARCUS C. PEACOCK, OF MINNESOTA, TO BE DEPUTY ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY, VICE STEPHEN L. JOHNSON, RESIGNED.

DEPARTMENT OF THE TREASURY

KEVIN I. FROMER, OF VIRGINIA, TO BE A DEPUTY UNDER SECRETARY OF THE TREASURY, VICE JOHN M. DUNCAN.

DEPARTMENT OF STATE

MARIE L. YOYANOVITCH, OF CONNECTICUT, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE KYRGYZ REPUBLIC.

KATHERINE HUBAY PETERSON, OF CALIFORNIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF HONDURAS.

CHARLES A. FORD, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF CAREER MINISTER, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF HONDURAS.

JOHN ROSS BEYRELE, OF MICHIGAN, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF BULGARIA.

ALAN W. EASTHAM, JR., OF ARKANSAS, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF MALAWI.

THE JUDICIARY

JOHN R. FISHER, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSOCIATE JUDGE OF THE DISTRICT OF COLUMBIA COURT OF APPEALS FOR THE TERM OF FIFTEEN YEARS, VICE ANNICE M. WAGNER, RETIRED.

DEPARTMENT OF EDUCATION

HENRY LOUIS JOHNSON, OF MISSISSIPPI, TO BE ASSISTANT SECRETARY FOR ELEMENTARY AND SECONDARY EDUCATION, DEPARTMENT OF EDUCATION, VICE RAYMOND SIMON.

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE POSITIONS AND GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 3037:

To be major general and the judge advocate general of the United States Army

MAJ. GEN. SCOTT C. BLACK, 1918

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE POSITIONS AND GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 3037:

To be major general and the assistant judge advocate general of the United States Army

MAJ. GEN. DANIEL V. WRIGHT, 1462

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS THE DEAN OF THE ACADEMIC BOARD, UNITED STATES MILITARY ACADEMY AND FOR APPOINTMENT TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTIONS 624 AND 4335:

To be brigadier general

COL. PATRICK FINNEGAN, 1878

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

HUMBERTO BUITRAGO, 9611
WILLIAM D. MEEHAN, 6548
DALE W. PETERSON, 5010
PHYLLIS Y. SPIVEY, 6999

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

IRA I. KRONENBERG, 8580

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

GARY P. MAUCK, 5389

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

ERIC M. RADFORD, 4333

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

To be colonel

PAUL F. RUSSELL, 7853

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

To be colonel

PETER D. GUZZETTI, 6711
TERRY M. LARKIN, 0785

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

To be colonel

MARK W. BRUNS, 3842
KEVIN J. GREENWOOD, 0344
DONALD O. LAGACE, JR., 6260

IN THE NAVY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be captain

CARL J. CWIKLINSKI, 5771
DAVID W. GIRARDIN, 1581
LAWRENCE P. GREENSLIT, 7381
JAMES M. HIGHTOWER, 5270
JOHN H. LEA III, 3816
ROBERT P. MCCLANAHAN, JR., 9373

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVAL RESERVE UNDER TITLE 10, U.S.C., SECTION 12203:

To be captain

JOSEPH A. CLEMENTS, 7701

GREGG E. HARKNESS, 3184
DONALD E. HENDRICK, 6614
TIMOTHY W. SIMPSON, 6184
GAROLD G. ULMER, 7410

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be captain

JEFFREY T. BOROWY, 8865
EDWARD W. BROWN, 7075
DONALD R. CHANDLER, 0794
RICHARD D. COOK, 3908
DARRYL K. CREASY, 9535
JOHN H. EDWARDS, 1186
PATRICK J. GIBBONS, 3528
MARK R. LIBONATE, 8042
SCOTT R. LISTER, 7761
ROBERT A. MCLEAN III, 1993
JOHN D. RICE, 7809
GEORGE E. TAYLOR II, 0539
JEFFREY D. VOLTZ, 4358
JULIUS C. WASHINGTON, 2283

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be captain

DIANNE A. ARCHER, 5681
JEFFREY R. BAQUER, 5088
JAMES M. BARNARD, 8528
WAYNE J. BERGERON, 1528
RONALD L. BLACK, 6299
DOUGLAS S. BORREBACH, 5119
JOHN W. CAMUSO, 1867
RUTH A. CHRISTOPHERSON, 9302
CLAUDE J. COUCOULES, 0075
JEFFREY J. COX, SR., 5097
EDWARD D. DIGGES, 3959
KAREN FALLON, 7862
MATTHEW S. FEELY, 0726
ROBERT A. GOODMAN, 0216
DAVID H. HELLMAN, 9355
JAMES H. HOOVER, 6221
JEFFREY C. HORTON, 9398
SIDNEY J. KIM, 5744
JOHN J. LANDRY, 2039
ARTURO A. LOPEZ, 5618
MICHAEL K. LUCAS, 7428
JOHN R. MCKONE II, 2458
MICHAEL B. MCPEAK, 4510
RANDALL W. MOORE, 0069
ANDREW S. MORGAN, 7541
DREW K. MULLIN, 1139
JAMES T. PIBURN, 3117
ALFREDO E. RACKAUSKAS, 3793
STEPHEN R. SHAPRO, 2799
GREGORY F. STROH, 3903
DAVID M. WATT, 8295
BRIAN L. WENGER, 4523
TIMOTHY H. WILKINS, 0608
JEFFERY S. WOLFE, 9919

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be captain

ROBERT B. BLAZEWICK, 8873
LINDA Y. BUNN, 4893
BENJAMIN B. CLANCY, 7856
DARSE E. CRANDALL, 2162
DEAN L. DWIGANS, 3772
KAREN L. FISCHER-ANDERSON, 9787
JOHN G. HANNINK, 2823
JENNIFER S. HEROLD, 6696
MARK T. HUNZEKER, 1782
STACY A. PEDROZO, 3273
ERIC C. PRICE, 3223

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be captain

WILLIAM J. ADAMS, JR., 2946
WILLIAM H. BLANCHE, 2163
VALMORI M. CASTILLO, 4192
KENNETH A. COLE, 9606
STANTON E. COPE, JR., 6271
VINCENT DEINNOCENTIIS, 7720
PAUL M. DESIMONE, 4307
RONALD F. DODGE, 5583
BENJAMIN G. M. FERIL, 7024
MICHAEL L. FINCH, 3295
KATHY P. GOLDBERG, 2837
DENISE M. GRAHAM, 2096
DONALD D. HAGEN, 1221
LEESA J. B. KENT, 9250
RUPERT F. LINDO, 1749
JOHN L. MARTIN, JR., 5586
WILLIAM P. MCCORMACK, 3179
REGINALD B. MCNEIL, 3298
THOMAS G. MIHARA, 8800
VICTORIA L. MUNDT, 9970
BEVERLY J. PETTIT, 2857
MARK A. RICHERTSON, 9235
EPREN S. SAENZ, 4097
MORAN T. SAMMONS, 6299
CATHERINE A. SIMPSON, 6784
RANDALL A. SLATER, 2819
EUGENE F. SMALLWOOD, JR., 6122
STEPHEN B. SYMONDS, 7408
KEITH A. SYRING, 5839
GARY TABACH, 3239

CLARENCE THOMAS, JR., 5894
JAMES A. THRALLS, 2169
DAVID W. TOMLINSON, 7726
AMILCAR VILLANUEVA, 6162
STEVEN J. WINTER, 9338

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be captain

GREGORY S. BLASCHKE, 7946
PETER C. BONDY, 1783
DOUGLAS F. BREWSTER, 9858
KENNETH J. BRINSKO, 5147
ROBERT H. BUCKLEY, 2727
JOHN B. BURGESS, JR., 7636
ARDEN CHAN, 5763
JAMES J. CHUN, 8618
CHARLES A. CICCONE, 6163
JEFFREY B. COLE, 2619
KENNETH A. CONRAD, 3529
MIGUEL A. CUBANO, 1821
KENNETH C. EARHART, 0207
ANDREW L. FINDLEY, JR., 2386
EDWARD W. HESSEL, 8121
MOORE H. JAN, 3058
TIMOTHY R. KENNEDY, 4106
THOMAS J. MARSHALL, JR., 0504
GRETCHEN A. MEYER, 2532
THOMAS K. MOORE, 7124
YVES NEPOMUCENO, 2561
FRANCIS X. OCONNOR, 9839
CYNTHIA B. PICCIRILLI, 6049
DOMINICK A. RASCONA, 5189
JAMES V. RITCHEE, 1603
RICHARD L. SCHROFF, 0220
STERLING S. SHERMAN, 7133
BRIAN D. SMULLEN, 8114
MICHAEL A. THOMPSON, 1354
JEFFREY W. TIMBY, 9263
SANDRA S. TOMITA, 9492
DAVID G. WRIGHT, 8828

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be captain

IOANA BETTIOS, 2495
CARRIE L. BURGER, 3917
SCOTT W. COLBURN, 2588
KEVIN F. FLYNN, 6304
SANGSOO J. GRZESIK, 4759
DAVID M. HARMATZ, 5012
KEVIN T. KALANTA, 7552
JOSEPH W. KARITIS, 4820
NICHOLAS MAZZEO, 7671
CRAIG M. NEITZKE, 1156
LINDA K. NESBIT, 8565
GENE A. VANDERVORT, 4330
MICHAEL J. WOLFGANG, 5674

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be captain

LINNEA M. AXMAN, 9665
MARK N. COPENHAVER, 8307
CAROLINE V. DELIZO, 1777
SUSAN E. DIONNE, 8136
KAREN A. DIRENZO, 7618
LAFRANCIS D. FRANCIS, 1220
ARTHUR J. GIGUERE, 0590
DENISE A. JOHNSON, 4423
MARY D. KEENAN, 5145
GUTSHALL M. K. KENNEY, 0334
KARIN E. LUNDGREN, 1254
K. NIEMANTSVERDIETMCDONALD, 6564
RONALD L. OLSON, 8642
ANN E. RAEI, 9248
LISA H. RAIMONDO, 2520
JOHN A. ROTHACKER III, 1055
KAREN L. SALOMON, 0676
SUSANNE M. SANDERS, 1128
BOBNA C. SCHFIELD, 4048
DONNA J. STAFFORD, 7276
ELIZABETH A. SWATZELL, 5195
LAURIE L. WILLIAMSON, 4979

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant commander

JEFFREY D. WEITZ, 2049

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVAL RESERVE UNDER TITLE 10, U.S.C., SECTION 12203:

To be captain

JOHN G. DILLENDER, 8123
DIANE L. SNYDER, 6025

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVAL RESERVE UNDER TITLE 10, U.S.C., SECTION 12203:

To be captain

JANE D. BINGHAM, 6995
FRANCIS D. BONADONNA, 5276
WILLIAM R. HOOD, 1642
STEVEN R. MORGAN, 6546

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVAL RESERVE UNDER TITLE 10, U.S.C., SECTION 12203:

To be captain

GREGORY F. BECHT, 0992
 DAVID J. BENNETT, 6969
 ALTHEA H. COETZEE, 5461
 FRANK J. CRESPO, 8313
 THOMAS B. DALPINI, 5687
 ROBERT L. DODSON, 3778
 CHARLES R. DOLAN, 4881
 LOCKWOOD R. EDDY, 4908
 KEITH S. FORMAN, 2679
 ROBERT P. FREY, 8002
 TODD FRIEDLANDER, 8738
 MICHAEL S. FUGATE, 9859
 GUY D. FULLEN, 9278
 STEPHEN I. GENTRY, 4235
 OSCAR B. GIRON, 0864
 RUSSELL K. HUGHES, 1274
 KENDA C. JAMES, 7612
 CHARLES L. JOHNSON, 6398
 GREGORY R. JOHNSON, 2256
 KEITH M. JONES, 8006
 STEPHEN A. LEBLANC, 6548
 LANCE R. MAURO, 4535
 MARCUS R. MCCANCE, 0672
 THOMAS A. MCGRATH, 1662
 TRACEY E. MURDOCK, 3004
 SHARON L. MURRAY, 3087
 THOMAS L. PETERSON, JR., 8656
 ANNEMARIE M. PICK, 0368
 TERRY G. RIVENBARK, 0707
 MARK H. ROBINSON, 2897
 MICHAEL B. WIKSTROM, 1947
 DOUGLAS W. YOUNG, 3440
 MICHAEL L. ZABEL, 1411

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVAL RESERVE UNDER TITLE 10, U.S.C., SECTION 12203:

To be captain

DEANA L. ABERNATHEY, 8032
 ALTHEA E. ALBRITTON, 2494
 BRENDA J. ANDERSON, 3884
 MARY S. BLOSE, 7783
 DEBRA S. BRAUCHLER, 3536
 ERIN M. BREWER, 6455
 FRANCESCA P. CARIELLO, 3402
 DEBORAH A. CASDORPH, 1206
 JOANN M. CRITELLI, 6330
 JOHN M. EADS, 8919
 NANCY H. FRASER, 0936
 PATRICIA J. HAGAN, 4681
 SAMUEL R. HJORT, 3364
 TIMOTHY W. HOWELL, 6693
 THERESA L. KAISER, 6138
 SUSAN B. KEITHLEY, 4551
 CHRISTINE B. LENOIR, 2662

DIANE K. MATTERN, 1242
 DAPHNE S. MATTHEWS, 2121
 JUDITH J. MILLER, 2871
 ANN M. MOTT, 1044
 NANCY A. ORR, 3776
 ELIZABETH M. PRINTUP, 2564
 PATRICIA M. REISDORFER, 9530
 MARY R. ROGERS, 0303
 BELINDA C. SHAUVER, 1584
 RACHEL E. SMITH, 1684
 LINDA J. TIEASKIE, 7958

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVAL RESERVE UNDER TITLE 10, U.S.C., SECTION 12203:

To be captain

MAUREN E. CARROLL, 6735
 ROBERT M. ELWELL, 7485
 PAUL M. GARVIN, 2331
 NANCY N. GAWRYSZEWSKI, 7249
 ROSS L. LEUNING, 1006
 DANIEL R. LUTZ, 3820
 ROBERT D. NELSON, 7841
 WILLIAM J. PINAMONT, 7216
 SHEILA E. SCHAEFER, 2474
 EDWARD G. SMITH, 2968
 WILLIAM A. VANBLARCUM, 6447
 JACOB R. WALKER, 4862

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVAL RESERVE UNDER TITLE 10, U.S.C., SECTION 12203:

To be captain

THOMAS L. AMERSON, 0432
 CLOYD R. BEERS, 9036
 RICHARD M. CADLE, 8797
 STEPHEN G. FITZGERALD, 2855
 JOHN H. HOELSCHER, 9694
 CRAIG M. HOWARD, 0557
 DONALD A. JOHNSON, 4490
 BERYSE D. JONES, 8994
 PATRICIA J. KILLEA, 1137
 JOHN F. KUHNENKAMP, 4989
 AMY D. LINDBERG, 8547
 JAMES R. MILLER, 7303
 MAUREN C. OLSON, 1903
 ROBERT S. PALERMO, 9968
 ANN L. SALYERCALDWELL, 8827
 MARK H. SCOONES, 3822
 SCOTT A. SHAPPELL, 3046
 WILLIAM C. SUITER, 8676
 THOMAS J. VAGNINI, 8392
 KENNETH E. WAVELL, 1502

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVAL RESERVE UNDER TITLE 10, U.S.C., SECTION 12203:

To be captain

BRIAN D. HODGSON, 8004
 DAVID E. LUNA, JR., 4564
 JC SHIRLEY, JR., 2316
 POMAY TSOI, 0563

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVAL RESERVE UNDER TITLE 10, U.S.C., SECTION 12203:

To be captain

GREGORY L. BELCHER, 9434
 JOHN M. DAWSON, 6876
 MARK A. DESJARDINS, 2843
 ANDREW G. EICHLER, 1164
 HOWARD J. ELLASON, 2979
 CHARLES J. GBUR, 0443
 ANTHONY M. GRIECO, 4259
 ANTHONY M. GRIFFAY, 0115
 DELBERT W. HAM, 7490
 RICHARD J. HAMILTON, 4476
 DONGYEON P. HAN, 0183
 MICHAEL HAIK, 1368
 CYNTHIA L. HEINS, 0860
 DAVID M. KUSHNER, 5241
 TODD W. MCCUNE, 1608
 MATTHEW A. MCQUEEN, 3555
 CARY H. MEYERS, 9176
 BRYAN D. MILLER, 8048
 CURTIS OLLAYOS, 7470
 BRIAN S. PECHA, 9300
 BARRY A. RIDDLE, 4544
 DANIEL H. SERRATO, 2076
 GLENN F. THIBAUT, 0869
 ALAN D. TONG, 1891
 WAYNE M. WEISS, 9581

WITHDRAWAL

Executive message transmitted by the President to the Senate on June 6, 2005 withdrawing from further Senate consideration the following nomination:

JOHN M. REICH, OF VIRGINIA, TO BE DIRECTOR OF THE OFFICE OF THRIFT SUPERVISION FOR A TERM EXPIRING OCTOBER 23, 2007, WHICH WAS SENT TO THE SENATE ON MAY 25, 2005.