Clerk of the House of Representatives: Offices of Legislative Operations, Official Reporters of Debate, Official Reporters to Committees, Printing Services, and Legislative Information;

(E) the Office of the Legislative Counsel of the Senate, the Office of the Senate Legal Counsel, the Office of the Legislative Counsel of the House of Representatives, the Office of the General Counsel of the House of Representatives, the Office of the Parliamentarian of the House of Representatives, and the Office of the Law Revision Counsel;

(F) the offices of any caucus or party organization;

(G) the Congressional Budget Office, the Office of Technology Assessment, and the Office of Compliance; and

(H) the Executive Office of the Secretary of the Senate, the Office of Senate Security, the Senate Disbursing Office, the Administrative Office of the Sergeant at Arms of the Senate, the Office of the Majority Whip of the House of Representatives, the Office of the Minority Whip of the House of Representatives, the Office of House Employment Counsel, the Immediate Office of the Clerk of the House of Representatives, the Immediate Office of the Chief Administrative Officer of the House of Representatives, the Office of Legislative Computer Systems of the House of Representatives, the Office of Finance of the House of Representatives and the Immediate Office of the Sergeant at Arms of the House of Representatives.

§ 2472.2 Application of chapter 71

(a) The requirements and exemptions of chapter 71 of title 5, United States Code, as made applicable by section 220 of the CAA, shall apply to covered employees who are employed in the offices listed in section 2472.1 in the same manner and to the same extent as those requirements and exemptions are applied to other covered employees.

(b) The regulations of the Office as set forth at sections 2420–29 and 2470–71, shall apply to the employing offices listed in section 2472.1, covered employees who are employed in those offices and representatives of those employees.

RETIREMENT OF DELAWARE STATE SENATOR RICHARD S. CORDREY

Mr. BIDEN. Mr. President, there are moments in the history of every legislative body when the members, and the public, are forcefully reminded that the achievements of the body as a whole have depended significantly upon the skills and the leadership of a single individual. One of those moments has arrived for the Delaware State Senate with the decision of State Senator Richard S. Cordrey not to seek reelection in 1996, after 30 years of public service.

That his colleagues have long recognized his outstanding personal qualities is made clear by the fact that for 24 of those 30 years, Senator Cordrey has served as president pro tempore of the Delaware Senate—an exceptional tenure in that office that is unrivaled in Delaware's history or among his counterparts in other States. As no one knows better than those of us who serve in the U.S. Senate, such extended recognition of legislative leadership is a certain sign of a rare and enduring trust, and Senator Cordrey's legislative record demonstrates why he has been for so long accorded that trust—fully 80 percent of the bills he has introduced in the Delaware Senate have been passed by both houses of the Delaware General Assembly and signed into law by one of the five Delaware Governors who have held office since Senator Cordrey first entered the Delaware Senate. I doubt that any of us here, or any of our predecessors in this Senate could claim equivalent legislative success.

A major legacy of that success is Delaware's Rainy Day Fund that sets aside 2 percent of the state's revenues in a fund that can be called upon in the event of a devastating economic recession. Delaware's thriving economy and its solid reputation on Wall Street can be largely attributed to that Cordrey-led initiative in fiscal responsibility. He demonstrated similar economic insight and leadership in shepherding through the general assembly in the 1980's Delaware's landmark Financial Center Development Act and related legislation which has expanded Delaware's thriving financial-services sector and given the State's economy a major boost.

But the hallmark of Richard Cordrey's leadership of the Delaware State Senate has been his character and personality—an honest and affable man with a set of well-defined personal values and an adamant integrity who could nevertheless create bipartisan consensus out of legislative chaos. A Republican colleague, State Senator Myrna Bair, has said of Cordrey, a Democrat, ''He had a way of promoting what he believed while allowing others to vote their way with no hard feelings;'' and a Democratic colleague, State Senator Thurman Adams, has said, ''He always spoke what he thought was the truth. He took time with people, and they developed tremendous trust in him. His word was his bond.''

Mr. President, no legislature would willingly say good-by to a leader who consistently demonstrated such qualities over a quarter-century, and the Delaware State Senate will miss the steady hand of Richard Cordrey at the helm, as will the people of Delaware—but he has chosen to retire from office with the same firmness that characterized him in office and, knowing Delaware will benefit far into the future from the body of law and the style of leadership he has created, we Delawareans all wish him well as he returns to private life.

RETIREMENT OF THOMAS R. VOKES FROM THE U.S. MARSHALS SERVICE

Mr. SPECTER. Mr. President, on August 31, 1996, while the Senate was in recess, Thomas R. Vokes retired from the U.S. Marshals Service after a distinguished law enforcement career of 33 years, including 26 years with the Marshals Service.

Mr. Vokes was born and raised in Clearfield, PA. He attended the public schools there through high school. In 1963, he embarked on what proved to be a most distinguished career in law enforcement when he joined the Washington, DC, Metropolitan Police Department as a police officer.

In 1966, Mr. Vokes joined the Federal service by becoming a White House police officer, a predecessor to today's Uniformed Division of the Secret Service. Four years later, Mr. Vokes joined the U.S. Marshals Service, the agency from which he just retired.

Upon joining the Marshals Service, Mr. Vokes returned to Pennsylvania as a deputy U.S. marshal for the Middle District of Pennsylvania. Five years later, in 1975, Mr. Vokes became a supervisory deputy marshal in the Middle District. In 1980, Mr. Vokes was promoted and moved to California to become a court security inspector. He received a court appointment to serve as the U.S. marshal for the Central District of California, one of the Nation's largest Federal judicial districts, in January 1981 and served until March 1982.

Upon completing his term as U.S. marshal in Los Angeles, Mr. Vokes returned to Pennsylvania and served as chief deputy U.S. marshal, the senior career position, in the Middle District of Pennsylvania for 2 years. After additional service as chief deputy U.S. marshal in North Dakota, Mr. Vokes returned once again to Pennsylvania in 1991, having been appointed by the Attorney General to serve as the U.S. marshal for the Eastern District of Pennsylvania, based in Philadelphia.

It was in this capacity that I came to know Mr. Vokes. As the U.S. marshal for the Eastern District of Pennsylvania, Mr. Vokes was widely recognized and esteemed by Federal, State, and local law enforcement agencies and by the Federal courts for his effective leadership and management of the functions of the Marshals Service in the district. I knew the security of the Federal courts in Philadelphia was in good hands when Marshal Vokes was at the helm.

In March 1994, Marshal Vokes left Philadelphia and returned to Washington, where he had started his law enforcement career, to serve as the chief of the Marshal Service's Prisoner Operations Division, managing the agency that ensures that Federal prisoners awaiting trial show up in court at the appointed time. It was from this position that Marshal Vokes just retired.

If the measure of the man is the trust reposed in him, Marshal Vokes has been highly respected throughout his career. Twice he was selected to serve as chief deputy U.S. marshal, the senior career position in the Marshals Service. And twice he was selected to serve as the U.S. marshal in two of the Nation's largest and busiest judicial districts, Los Angeles and Philadelphia. Finally, he ended his career in charge of one of the operational divisions of the entire Marshals Service.

Too often we in Congress fail to recognize publicly the thousands of dedicated civil servants like Marshal Vokes who carry out the laws that we adopt. I am pleased to honor Marshal Vokes for his dedication to our Nation and its people. He is one of Pennsylvania's finest, and we have been honored to share his talents with the rest of the Nation. I know all my colleagues join me in wishing Marshal Thomas R. Vokes all the best in his retirement.

NOMINATION OF CONGRESSMAN PETE PETERSON TO BE AMBASSADOR TO VIETNAM

Mr. THOMAS. Mr. President, I come to the floor today as the chairman of the Subcommittee on East Asia and Pacific Affairs of the Foreign Relations Committee to outline for my colleagues a decision that I and the distinguished full committee chairman Mr. HELMS have made to postpone the nomination hearing of Congressman DOUGLAS ''PETE'' PETERSON to be Ambassador to the Socialist Republic of Vietnam (SRV).

At the outset let me say, as I did to Congressman PETERSON yesterday, that the reason for the postponement—and I will address this in greater detail in a moment—is the White House's failure to meet the constitutional requirements for the nomination; it has nothing to do with PETE PETERSON as a nominee. If the White House had avoided this oversight, we could have moved ahead with this nomination—a nomination I believe most of the committee would support—without all the fits and starts and delays.

The President nominated Congressman PETERSON for the position of Ambassador to the SRV on May 23, 1996. His file was received by the full committee in June and was finally complete and ready for consideration by the committee on June 25. The full committee scheduled a confirmation hearing on the Peterson nomination and three others for July 23, which I was to chair in my capacity as chairman of the subcommittee of jurisdiction. However, because of a series of conflicts with the Senate schedule, the hearing had to be postponed twice; first to July 29 and then to September 5, after the August recess.

But at the same time this series of postponements was taking place, the distinguished Senator from North Carolina [Mr. HELMS] and I were growing concerned over a legal issue which had come to our attention regarding to the nomination. On July 17, our legal staffs informed us that a provision of the Constitution might preclude Congressman PETERSON from serving as Ambassador. We contacted the White House, and asked for a detailed clarification of the issue from them. At the same time, we asked the Office of Senate Legal Counsel [SLC] to provide us with their opinion. Mr. Jack Quinn, Counsel to the President, provided us with a letter outlining the administration position on July 22; their legal opinion from the Office of Legal Counsel [OLC] at the Department of Justice followed after the close of business on July 26. The SLC opinion was delivered to us the same day.

After carefully reviewing the opinions of the OLC and the SLC over the August recess, and the legal authorities cited in them, we have concluded that the constitutional issue requires us to postpone Congressman PETERSON's nomination hearing until January next year in order to meet the requirements of the Constitution.

Mr. President, article I, section 6, clause 2 of the U.S. Constitution provides in part:

> No Senator or Representative shall, during the Time for which he was elected, be appointed to any civil Office under the Authority of the United States, which shall have been created, or the Emoluments whereof shall have been increased during such time. . . .

In other words, this provision of the Constitution—called the ineligibility clause—prohibits a Member of Congress from being appointed to a civil position in the Government which was created, or for which there was a salary increase, during that Member's term of office.

The first time the ineligibility clause arose as an issue was during the Presidency of George Washington; the second was during the administration of President Arthur. In both cases, the President's interpreted the provision literally and it was concluded that the Constitution prohibited even the nomination of a Member of Congress to an office created during his term—thus equating nomination with appointment. As President Arthur's Attorney General stated:

> It is unnecessary to consider the question of the policy which occasioned this constitutional prohibition. I must be controlled exclusively by the positive terms of the provision of the Constitution. The language is precise and clear, and, in my opinion, disables him from receiving the appointment. The rule is absolute, as expressed in the terms of the Constitution, and behind that I can not go, but must accept it as it is presented regarding its application in this case.

Under a literal reading, then, Congressman PETERSON cannot be even considered for the nomination until after January 3, 1997—the expiration of his present term. It would seem to me that if President Washington found a nomination similar to Congressman PETERSON's void from the outset because of the ineligibility clause, that reasoning should be good enough for the Clinton administration.

Even if we assume for the sake of argument that a literal construction of the clause is not warranted here—and that we have to determine exactly which act or series of acts constitutes an appointment under the clause—an examination of the facts in Congressman PETERSON's case yields the same conclusion. It has been argued that some precedent exists to support the conclusion that appointment requires both the acts of nomination and of confirmation by the Senate. For example, in Marbury versus Madison, Chief Justice Marshall wrote:

> These . . . clauses of the Constitution and laws of the United States which affect this part of the case [governing the appointment of U.S. marshals] . . . seem to contemplate three distinct operations:
>
> 1. The nomination. This is the sole act of the President, and is completely voluntary.
>
> 2. The appointment. This is also the act of the President, and is also a voluntary act, though it can only be performed by and with the advice and consent of the Senate.
>
> 3. The commission. To grant a commission to a person appointed might, perhaps, be deemed a duty enjoined by the Constitution. ''He shall,'' says that instrument, ''commission all the officers of the United States.''
>
> The acts appointing to office, and commissioning the person appointed, can scarcely be considered as one and the same; since the power to perform them is given in two separate and distinct sections of the Constitution.

Although that case is not controlling in the Peterson situation because it did not involve the ineligibility clause, assuming that it governed here would still preclude our taking up the Congressman's nomination before the expiration of his present term. Under the reasoning of Marbury, Congressman PETERSON would be appointed within the meaning of the ineligibility clause at the time the Senate were to give its advice and consent. Given the facts of his case, it would be unconstitutional for this body to confirm the Congressman by a floor vote prior to the next Congress.

Moreover, Chairman HELMS and I consider the nomination hearing to be an integral part of the process of advice and consent. It is, after all, the only time that the Senate as a body—through its Foreign Relations Committee—has a chance to personally examine and question the nominee and his qualifications for office. The committee then prepares a written report urging the full Senate to a particular course of action in voting for or against the nomination. We would, therefore, consider it constitutionally inadvisable to proceed with a hearing on a constitutionally ineligible nominee such as in this case until January next year—when the constitutional issue is no longer a problem.

Next, Mr. President, we must consider whether the office of ambassador is a ''civil office of the United States'' and thus is governed by the clause. The OLC opinion contends that ''there is a difficult and substantial question'' whether it is a civil office, and that the only precedent it could find ''assum[ed] (without discussion) that it should be considered to be such an office. In accordance with that precedence [sic], we shall assume here, without deciding, that the Ambassadorship to Vietnam would be a 'civil Office' within the meaning of the ineligibility clause.'' While the OLC opinion thus concedes