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Senate

The Senate met at 9:30 a.m. and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Gracious Father, our loving, forgiving Lord of new beginnings, we listen intently to Your assurance spoken through Jeremiah, ''I have loved you with an everlasting love; therefore with loving kindness I have drawn you.''—Jeremiah 31:3.

We begin this day with these amazing words sounding in our souls. Can they be true? You judge our sins and forgive us. Your grace is indefatigable. It is magnetic; it draws us out of remorse or recrimination into reconciliation. You draw us to Yourself and we receive healing and hope.

Now we are ready to live life to the fullest. We are secure in You and therefore can work with freedom and joy. We know Your commandments are as irrevocable as Your love is irresistible. We have the strength to live Your absolutes for abundant life. We accept Elijah's challenge, ''Choose this day whom You will serve,'' and Jesus' mandate, ''Set your mind on God's kingdom before everything else!''—Matt 6:33;NEV. In His powerful name. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able majority leader, Senator LOTT of Mississippi is recognized.

SCHEDULE

Mr. LOTT. Mr. President, this morning as previously ordered the Senate will resume debate on the cloture motion on the motion to proceed to S. 1601, the cloning bill, with the time until 10 a.m. equally divided between the two leaders or their designees.

Also, as previously ordered, at 10 a.m. a rollcall vote will occur on the cloture motion on the motion to proceed to S. 1601. If cloture is invoked, the Senate will debate the motion to proceed to the cloning bill. If cloture is not invoked, the Senate can be expected to resume debate on the Massiah-Jackson nomination and then, at approximately 4 p.m. today, the Senate can be expected to begin debate on the nomination of Margaret Morrow, of California, to be U.S. district judge.

I want to emphasize that even though we are going back to debate on Massiah-Jackson, that does not mean we will stay on that nomination all the way until 4 o'clock. We will probably have some announcement later on this morning about that matter, and how we would expect to handle it. Additional votes can be expected to occur during today's session of the Senate.

As a reminder to all Senators, at 10 a.m. this morning a vote will occur on the cloture motion and we probably will have a vote late this afternoon on the Morrow nomination. It appears at this time that would occur probably around 6 o'clock, even though we have not advised everybody that that is our intent, or gotten an absolute commitment, but I believe there will probably be a vote about 6 o'clock on the Morrow nomination.

I yield the floor.

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER (Mr. ALLARD). Who yields time?

Mr. CRAIG. Mr. President, I ask unanimous consent to proceed for a very brief time.

The PRESIDING OFFICER. Without objection, is so ordered.

PICABO STREET

Mr. CRAIG. Mr. President, I thank my colleagues for yielding but a brief moment for the Senate to recognize something that went on last night nearly halfway around the world while all of us slept. A marvelous young lady from Idaho, and a superb athlete, won the gold medal, one of our first gold medals in this Olympics in Nagano, Japan. Picabo Street, from the Sun Valley area of Idaho, who was a silver medalist in the 1994 Olympics, brought home the gold.

I think all of us are extremely proud this morning of our country and our athletes, and this fine woman athlete, Picabo Street, who some months ago had major knee surgery, while she was at the World Cup had a major accident, but with tremendous guts and tenacity and ability she is now one of our gold medalists and we are all proud.

I yield the floor.

HUMAN CLONING PROHIBITION ACT—MOTION TO PROCEED

The PRESIDING OFFICER. Who seeks the floor? Who yields time? The Senator from California.

Mrs. FEINSTEIN. Mr. President, it is my understanding that I have 15 minutes.

The PRESIDING OFFICER. The time between now and 10 o'clock is evenly divided.

Mrs. FEINSTEIN. I thank the Chair.

Mr. President, it is my intention to open the debate, then yield to Senator MACK, then Senator THURMOND, and then Senator KENNEDY for the remainder of my time.

Mr. President, I urge the Members of this distinguished body to vote no on cloture. I do so because I believe that by voting for cloture today we could do enormous harm.

The technique involved here, somatic cell nuclear transfer, creates what are called stem cells, which can be used for creation of tissue which has the same DNA as the person whose tissue it is. Therefore they are used as important adjuncts in cancer research; they offer

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

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important opportunities to overcome rejection of tissue in third-degree burns; to solve major problems inherent in juvenile diabetes; for osteoporosis; for Alzheimers; for Parkinsons disease; and for a host of other diseases.

Mr. President, there is no need to rush to judgment. No one, I believe, in this body, supports human cloning. There is a scientific moratorium on human cloning. The FDA has exercised jurisdiction to prevent it.

There is no need to rush to judgment. This bill is less than a week old. There has been no hearing on it. There are no definitions of critical terms in this bill.

Let me quote what the American Cancer Society has said in a letter dated February 9:

> The American Cancer Society urges you to oppose S. 1601, legislation that would prohibit the use of somatic cell nuclear transfer. The American Cancer Society agrees with the public that human cloning should not proceed at this time. However, the legislation as drafted would have the perhaps unintended effect of restricting critical scientific research. The language could hamper or punish scientists who contribute to our growing knowledge about cancer.

Last evening I had printed in the RECORD a huge volume of letters from virtually every single patient group, 27 Nobel prize winners, and industry groups—all saying go slow, use caution.

I urge this body to vote no on cloture.

If I may, now, I yield 3 minutes of my time to the distinguished Senator from Florida.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. MACK. I thank the distinguished Senator from California for yielding this time. I have prepared remarks that I have gone over with my staff that cover things like it is obvious that there is no medical or ethical justification for human cloning. We all understand that. We also know there have been no hearings. We know as well that we have information from 27 Nobel laureates who say we should not pass this legislation. We have letters from 71 patient groups and scientific organizations that say we should not do this.

But let me say to my colleagues that I stand here this morning to make a special appeal. My father died of cancer. My mother died of cancer. My brother died of cancer. I was diagnosed with cancer. My wife was diagnosed with cancer. Our daughter was diagnosed with cancer.

I say to my colleagues, I appeal to you, don't get drawn into this debate that we should pass this legislation because we want to stand up and make a statement that we are against cloning. We are all against human cloning. We are all against human cloning. What I am asking you to do is to vote no on cloture so we will have an opportunity to hear from those patient groups that want to represent people like myself, represent families that have been affected like my family has been affected. Let us hear from the scientific community that tells us whether this is the right thing to do or the wrong thing to do. I don't make a suggestion here that this is an easy decision to be made. It is a very difficult one. But that's all the more reason that you should vote against cloture and allow the process to take place—to have input, to have discussion, to have understanding. Then we then will be in a position to try to make a decision about what is the right thing to do. We just say let the process work. Let there be input.

So I urge my colleagues to vote no on cloture and to support moving the process forward.

I thank the distinguished Senator from California for yielding.

Mrs. FEINSTEIN. I thank the distinguished Senator for his comments. Indeed, they were very, very moving. I can share my family story, although it is not as dramatic, Senator, as yours —I lost my husband to cancer, I lost my mother, my father, my in-law's. So I, in a sense, share this with the Senator. I know in their last days how important research is to patients and how willing they are to try new things. Life is critically important.

I thank the Senator for his comments.

If I may, I allot 3 minutes of my time to the distinguished Senator from South Carolina.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I rise today to address an issue of great international concern. Since February 1997, when Scottish scientists succeeded in cloning an adult sheep, the world has been consumed with the issue of cloning. There are great social and ethical implications of the potential application of this procedure to totally reproduce human beings. Obviously, there is no acceptable justification for replicating another human being, and the bill before the Senate, S. 1601, the Human Cloning Prohibition Act, would ensure that such a procedure would never take place in this country. However, I am concerned that this bill may be written so broadly that it will restrict future promising research which could lead to improved treatment or even a cure for many serious illnesses. The Juvenile Diabetes Foundation informs me that this bill would prohibit promising stem cell research that could make it possible to produce pancreatic beta cells that could then be transplanted into a person with diabetes. As a consequence, many of the horrible complications of this disease, including kidney failure, blindness, amputation, increased risk of heart disease and stroke, and premature death, could be eliminated. Likewise, I am informed by other representatives of the medical community that this bill could prohibit research into treatment of the following diseases and ailments: leukemia; sickle cell anemia; Alzheimers disease; Parkinson's disease; multiple sclerosis; spinal cord injuries; liver disease; severe burns; muscular dystrophy; arthritis; and heart disease.

Mr. President, there have been no committee hearings on S. 1601 and, therefore, no opportunity for the medical community to fully explain the implications of this legislation. My daughter, Julie, suffers from diabetes, and I do not want her, or others like her, to be denied the potential life saving benefits of research that this bill could restrict. But without the appropriate committee hearings, we do not fully understand what these benefits may be. This is far too important an issue for us to rush this bill to the floor without committee hearings. While we can all agree that to replicate a human being is immoral, we need to investigate this issue more thoroughly so that we do not deny our citizens and our loved ones of any possible life saving research. For this reason, I will not support cloture on the motion to proceed to S. 1601, and I strongly recommend that this bill be sent to committee so that the appropriate hearings can be held.

I yield the floor.

Mrs. FEINSTEIN. Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, how much time is left on both sides?

The PRESIDING OFFICER. The Senator from Missouri has 12 minutes and 30 seconds and the Senator from California has 3 minutes and 45 seconds.

Mr. BOND. Mr. President, I yield myself such time as I may need.

I urge my colleagues to vote yes on cloture so that we may proceed to debate an issue which generates many profound ethical and moral questions, ones which demand our immediate attention.

Let me be quite clear. This bill does not stop existing scientific research. I am as concerned as anyone here about the need for research on a whole range of diseases, things that can be perhaps cured or at least dealt with by stem cell research, by many other techniques that are now in progress today. Our bill does not stop any of that research.

Let's be quite clear, our bill does not stop any of that promising research now underway. The measure places a very narrow ban on the use of somatic cell nuclear transfer to create a human embryo. That is what we are talking about. Everybody said, ''We agree we shouldn't be creating a human embryo by cloning,'' and that is what this bill does.

Over the past week, we have had a lot of distortion and, unfortunately, inflamed rhetoric by some of the big special interests, the likes of which I have not seen in my many years of public service. We have asked our opponents on numerous occasions, we have sat down with them, Senator FRIST, Senator GREGG, our staffs and I sat down

and said, ''OK, if we all agree we shouldn't be creating a human embryo by cloning, how do you want to tighten it up?''

They are not willing to come forward because there are some rogue scientists, maybe some big drug companies, big biotech companies, who want to create human embryos by cloning. They think that would be a great way to be more profitable, to do some research on cloned human embryos. I think that is where we need to draw the line.

People say we want to have hearings. We have had hearings on the whole issue last year. We have debated it, and it comes down to the simple point: Do you want to say no to creating human embryos by cloning, by somatic cell nuclear transfer, or do you want to say, as my colleague from California would in her bill, ''Oh, it's fine to create those human embryos by somatic cell nuclear transfer, so long as you destroy them, so long as you kill those test tube babies before they are implanted''?

There are a couple problems, very practical problems. Once you start creating those cloned human embryos, it is a very simple procedure to implant them. Implantation of embryos is going along in fertility research now, and it would be impossible to police, to make sure they didn't start implanting them.

But even if the objectives of the bill of my California colleague were carried out, it would mean that you would be creating human embryos by cloning, researching with them, working with them and destroying them. Do we want to step over that ethical line? I say no.

It is not going to be any clearer 3 months from now, 6 months from now than it is now. What is going to be different is that in 3 or 6 months, the rogue scientist in Chicago or others may well start the process of cloning human embryos by somatic cell nuclear transfer. That is why we say it is important to move forward on this bill.

If we bring this bill to the floor, we are happy to listen to and ask for specific suggestions from those who are concerned about legitimate research, but we have been advised time and time again that there is no legitimate research being done now in the biotech industry that uses somatic cell nuclear transfer to clone and create a human embryo as part of the research on any of these diseases.

We have heard from patient groups, people who are very much concerned, as we all are, about cancer, about juvenile diabetes, cystic fibrosis, Alzheimer's—the whole range of diseases. We can deal with those diseases. We can deal with the research without cloning a human embryo.

The approach of my colleagues from California and Massachusetts would lead us down the slippery slope that would allow the creation of masses of human embryos as if they were assembly line products, not human life. How would the Federal Government police the implantation of these human embryos?

By allowing the creation of cloned test tube babies so long as they are not implanted, our opponents' bill calls for the creation, manipulation and destruction of human embryos for research purposes.

I have a letter that I will enter into the RECORD from Professor Joel Brind, Professor of Human Biology and Endocrinology at Baruch College, The City University of New York. He addresses the question of stem cell research. I quote from a portion of it:

> Industry opponents also correctly point out that S. 1601 would ban the production of human embryos for research or other purposes entirely unrelated to the aim of cloning a human being. And well it should . . . In fact, it is in this area of research and treatment, to wit, the generation of stem cells, from which replacement tissues or organs could be produced for transplantation into the patient from whom the somatic cell originally came, which is most important to the biotech industry, for obvious reasons. For reasons just as obvious to anyone with any moral sense, such practices must be outlawed, for otherwise, our society would permit the generation of human beings purely for the purpose of producing spare parts for others, and thence to be destroyed. Some may call this a ''slippery slope''—I believe ''sheer cliff'' would be more accurate.

Mr. President, I will add one other thing. He said:

> . . . S. 1601 would, in fact, place real restrictions on stem cell research. Stem cell researchers would have to continue to work with somatic cell nuclear transfer technology in animal systems, in order to learn how to transcend the need for producing zygotes first. However, this is no different from restricting cancer research by prohibiting the injection of cancer cells into human beings (instead of rats) and then testing potential anticancer drugs on them. As a civilized society, we do have to live with meaningful ethical constraints or we end up with the likes of the Tuskegee experiment.

Mr. President, I ask unanimous consent that this letter be printed in the RECORD.

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

BARUCH COLLEGE,
DEPARTMENT OF NATURAL SCIENCES,
New York, NY, February 10, 1998.

Hon. CHRISTOPHER BOND,
U.S. Senate,
Washington, DC.

DEAR SIR: This letter is written in support of S. 1601, which is designed to ban the ''cloning'' of human beings. I have placed the word ''cloning'' in quotes, because, as claimed by opponents in the biotech industry, the bill would technically ban more than cloning, which, precisely defined, would be limited to use of somatic cells genetically identical to an existing human being (including an embryo or fetus). In other words, the bill closes a gaping loophole—to wit, the use of cells whose DNA has been modified artificially, or use of a fertilized nucleus—that would exist in the legislation, were it to be limited to cloning in its precise, technical sense. That is precisely why S. 1601 is a good bill, because it adequately defines a 'bright line' in the establishment of appropriate standards for stem cell research.

This 'bright line' drawn by S. 1601 is the line between the generation of a human zygote—i.e., a totipotent one-celled embryo; the equivalent of a complete human body at the time of conception—by the in vivo or in vitro union of haploid sperm and haploid egg, and the generation of a human zygote by the artificial means known as somatic cell transfer ('haploid' means half the normal human complement of 46 nuclear chromosomes [DNA], or 23. Only sperm and egg are haploid, while all other body cells—a.k.a. somatic cells—have 46 nuclear chromosomes. 'Totipotent' means that the one-celled embryo [zygote] is capable of giving rise to a completely differentiated human body, i.e., fully formed human being). In somatic cell transfer, a zygote is artificially produced by the introduction of a diploid (i.e., containing a full set of 46 chromosomes) nucleus from a body cell or a zygote, into an egg from which the nucleus has been removed. Thus, the bill clearly prohibits the generation of a human embryo by the artificial means of somatic cell transfer, whether the procedure may be strictly defined as cloning or not. (Note: It may be argued that in vitro fertilization is also artificial, however it is the artificial assistance of a natural process. A good analogy would be the difference between growing ordinary tomatoes in a greenhouse—artificial assistance—and growing genetically engineered tomatoes—artificially produced individuals.)

Industry opponents also correctly point out that S. 1601 would ban the production of human embryos for research or other purposes entirely unrelated to the aim of cloning a human being. And well it should, for the production of a zygote is the production of a human being, which would then be destroyed after use in research, or to generate spare parts for the treatment of patients suffering from a variety of ills. In fact, it is this area of research and treatment, to wit, the generation of stem cells, from which replacement tissues or organs could be produced for transplantation into the patient from whom the somatic cell originally came, which is most important to the biotech industry, for obvious reasons. For reasons just as obvious to anyone with any moral sense, such practices must be outlawed, for otherwise, our society would permit the generation of human beings purely for the purpose of producing spare parts for others, and thence to be destroyed. Some may call this a 'slippery slope'—I believe 'sheer cliff' would be more accurate.

What then? Does S. 1601 stop the field of stem cell research, with all its potential for life-saving and life-extending treatment, in its tracks? In a word, no. In fact one form of stem cell transplantation—bone marrow transplatation—has already been in wide use for years. Stem cells are body cells which are primitive and undifferentiated, and capable of giving rise to a variety of differentiated cell types and/or tissues and/or organs. For example, in a bone marrow transplant, the transplanted cells give rise, in the recipient's body, to the whole host of different types of white blood cells, red blood cells and platelets. Stem cells are thus 'pluripotent'—capable of forming many different types of cells, but not an entire human being, as would a totipotent cell or zygote. Of course the most precise way to obtain stem cells, especially if they are to be modified in order to correct a genetic defect, is to first generate a whole embryo—such as by somatic cell transfer—and then let it develop into a multicellular embryo, and finally harvest the desired stem cells and throw the rest away. Therefore S. 1601 would in fact place real restrictions on stem cell research. Stem cell researchers would have to continue to work with somatic cell nuclear transfer

technology in animal systems, in order to learn how to transcend the need for producing zygotes first. However this is no different from restricting cancer research by prohibiting the injection of cancer cells into human beings (instead of rats) and then testing potential anti-cancer drugs on them. As a civilized society, we do have to live with meaningful ethical constraints, or we end up with the likes of the Tuskegee experiment.

Biotech industry opponents also point out that one form of somatic cell nuclear transfer has already been used successfully in the treatment of infertility. In particular, a zygote produced the natural way—from the union of sperm and egg—is used to supply a diploid nucleus for transfer into a normal egg from which the nucleus has been removed. Who would need such a treatment?—a woman who has a genetic defect in her mitochondrial, rather than in her nuclear DNA. The mitochondria are the energy-producing parts of a cell, and we all inherit them from our mothers (from the non-nuclear part of the egg). If the mitochondrial DNA is defective the zygote will not be viable, even if the nuclear DNA is fine. Hence, transfer of the viable nucleus into a denucleated egg from a normal donor will result in a viable zygote. Fine, except that the offspring thus produced now has two biological mothers, both having provided genetic material essential for the offspring's survival. The legal nightmares following the use of this technology are easily envisioned, and the fact that it has already been done underscores the need for enacting the present legislation without delay.

I also wish to comment on alternative legislation which proposes to allow cloning or artificial production of human embryos, provided they are destroyed and not permitted to be born or even implanted into a woman's uterus. Such legislation is worse than no legislation at all. Permitting the destruction of innocent human life is abhorrent enough—but to mandate it?

Finally I report the essence of a conversation I had earlier today with some colleagues, concerning the matter at hand. They said that the banning of this technology would only result in its pursuit beyond the borders of the United States. I replied by asking them to name any foundation document or scripture for any civilization ever in history, in which was inscribed as a principle any version of ''If you can't beat'em, join 'em''? I implore you in the strongest possible terms to resist at every turn this product of corrupt mentality.

Please feel free to contact me at any time if I may be of any further assistance.

Sincerely,

JOEL BRIND, Ph.D.,
Professor, Human Biology and Endocrinology.

Mr. BOND. I reserve the remainder of my time.

Mrs. FEINSTEIN addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Thank you. Mr. President, I very much regret the fact that the Senator from Missouri has chosen to mischaracterize both my position and my bill. I hope we will have a chance in committee to iron that out. But at this time, I yield the remainder of my time to the distinguished Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, how much time do I have on this?

The PRESIDING OFFICER. The Senator from Massachusetts has 3 minutes and 13 seconds.

Mr. KENNEDY. I yield myself 2½ minutes.

Mr. President, as the Senator from California has pointed out, we have someone who doesn't describe our position accurately and then differs with the position. And that is just what has happened here on the floor of the U.S. Senate.

First of all, the committee which deals with these issues on public health has not had 1 day, 1 hour, 1 minute of hearings on this legislation. The distinguished Senator, Senator BOND, has said, ''Couldn't we sit down and discuss these measures?'' All we are saying is that a no vote gives us an opportunity to sit down in the committee and hear from the research organizations and the ethicists to try and draft legislation that is in the interest of the patients of this country.

We have challenged those who support this legislation to mention one major research or patient group that supports their position. All we hear is about special interest groups that are going to benefit from this program.

Do we consider the cancer society a special interest group? Do we consider the American Heart Association, the Parkinsons Action Network and the Alzheimers Aid Society special interest groups? If they are special interest groups, we are proud to stand with them. They know what is at risk. And those who support this legislation have not been able to bring to the floor of the U.S. Senate reputable researchers who believe that research towards alleviating human suffering will not be curtailed by this legislation.

This has been pointed out effectively by the Senator from Florida and the Senator from South Carolina. This is not a partisan issue. We all want to have the best in terms of research for our families, for the American people and for the world.

We are effectively cutting off opportunities to advance biomedical research if we impose cloture today. Let's give the committees the opportunity for full, open, informed, balanced judgment and then come back to the floor of the U.S. Senate and have a debate on this issue. Don't cut off one of the great opportunities for research in this country by voting for cloture today. I reserve the remainder of our time.

Mr. BOND. Mr. President, I yield 4 minutes to the Senator from Tennessee.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. FRIST. Mr. President, I rise to support the underlying bill and hope that we will be able to proceed with a discussion of the bill today. No longer can we divorce science from ethical consideration. Science moves too fast today. We see it, with what has resulted from Dolly with this cloning procedure. Science and ethics must march hand in hand.

What does this bill do? No. 1: It prevents cloning of a human being. It stops people, like Dr. Seed, who have proposed cloning human individuals dead in their tracks.

No. 2: It creates a commission, 25 people, bipartisan, broadly representative of the American people, ethicists on board, the very best scientists on board, social scientists on board and lay people on board. That commission will consider new technology, will consider cloning, will consider the next potential great advance that is out there with that ethical, theological and scientific environment.

What does this bill do? This bill does not stop any current research being done in in vitro fertilization, in stem cells, in transplantation. And I challenge any scientist, because the scientific community and the private industry and all say, ''No, we can't stop science,'' we need to involve that ethical decisionmaking today—I do challenge any scientist who reads the wording in the bill to send me a peer-reviewed study that is banned by the wording of this bill. Read the bill.

Do we eliminate all embryo research? No, only a single technique, that balance we have achieved between hope and the potential opportunities for a technique versus the ethical consideration and the science we have achieved by looking at a single technique.

We don't eliminate all embryo research, just a single technique when applied to the procedure when it clones a human embryo. That is the only area.

Do we eliminate all of this technique? Do we eliminate all of this somatic cell nuclear transfer? Absolutely not. The Dolly experiments continue. The animal research continues in somatic cell nuclear transfer.

The only thing we eliminate is the future application when this technique is used only in the circumstance to create a live cloned human embryo. All animal research continues today. This is an untested procedure. It may be harmful. It has not been proven to be safe today. Shouldn't we be looking at it in animal models instead of taking it to the human population? That is what this bill does. Slow down. Let's do that animal research before creating live cloned human embryos.

It is a tough issue. I don't want to slow down science and the progress of science, but I do think that we, as a society, absolutely must recognize that not all science can proceed ahead without consideration by the American people, without consideration of the ethical implications. All of the hopes that have been mentioned in terms of curing disease projected into the future, I have those same hopes, but I also recognize that we can't go totally on uncharted courses. Science has been abused in the past. We can look back at Hitler and what Hitler did in the name of science. We have to take these ethical considerations and put them hand in hand in the progress of science.

Let me close and simply say, the commission is vital to this legislation.

We have to have a forum that is not on the Senate floor, that is not just in the scientific communities, to address these issues. That is what this commission achieves.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. FRIST. I yield back my time.

The PRESIDING OFFICER. Who yields time?

Mr. ROTH. Mr. President, today, I rise to state my unequivocal support for a federal ban on human cloning. However, I am uncomfortable with the hurried pace with which this issue is being considered in the Senate.

The issue before us is both extremely complex and consequential. Regulating the very cutting edge of medical science will impact our fights against nearly every category of disease, including cancer, heart disease, blindness, Parkinsons and Alzheimers diseases to name but a few.

The United States must maintain its preeminent position as the international leader in biotechnological research, but do so while adhering to the highest moral and ethical standards. Any prohibition of cloning needs to be very carefully constructed and tested by public hearing to assure that both of these goals might be fulfilled.

The Food and Drug Administration has claimed authority to regulate this technology now, eliminating the need for immediate legislative action. Knowing this, and with lives at stake, I believe all Senators should have the opportunity to benefit from a thorough public examination of this proposal.

For these reasons, I will not support cloture on the motion to consider S. 1601 in hopes that this matter will be further evaluated at the committee level.

Mr. BROWNBACK. Mr. President, I rise to make a few remarks on the matter of human cloning.

I believe that as the Senate debates this issue that is so fundamental to the meaning and the essence of what it means to be a person we must consider very carefully the moral implications associated with the issue of human cloning.

Certainly there is no moral prohibition, nor could one effectively be argued, against the cloning of plants or even animals—there is something fundamentally different. Also, no one is arguing against tissue research or other important research. The issue today is strictly limited to the use of technologically feasible methods to create and manipulate new life through a process of human cloning. And beyond that, the issue is whether or not it is morally permissible to clone human beings.

This issue demands the public attention because it implicitly revolves around the meaning of human dignity and the inalienable rights that belong to every person.

But before discussing this in particular I think it is necessary to engage in a discussion on an even more fundamental level.

What is even more fundamental in this discussion is the question of the place occupied by the birth of a new child in our society.

First it is worth noting that there is a symmetrical quality to the current debate in our culture. And although the underlying philosophical premise is the same, the outcomes are radically different. I believe it is one of the tragedies of our times that in the midst of a culture which has allowed over 35 million abortions to be performed over the last twenty-five years, we now desire to create human life by our own hands. On the one hand, we deny God's creation, on the other, we seek to create life in our own image and deny God yet again. This is tragic on both counts.

I personally believe, and 2,000 years of Western tradition support this belief, that the birth of any child is an unmerited gift from God to a man and woman. Some in recent years, have given us a notion of a child as an object merely for the fulfillment of a man and woman's personal desire. It should be reasserted though that a child is not and can never be an object merely for the fulfillment of a man and woman's personal desire. A child is a precious and unmerited gift from God. God alone gives human life—but human cloning usurps that role. And I do not believe that we can ever do that.

The creation of new life outside of man and woman is a gross distortion of the moral natural law.

Human cloning distorts the relationship between man and woman by negating the necessity of either one in the creation of new life and consequently also usurps the role of God in the creation of new life. Fundamentally, it alters the view of the child to the world in such a way that the child is seen as something which can fulfill the needs of an individual physically, emotionally or spiritually. This is an incorrect view and is a gross violation of our duty to protect the human dignity of each and every person. It reduces a child to a means to an end and denies them the dignity they deserve to be treated not as a means but as an end in and of themselves.

And this notion is precisely where the disagreement on this issue exists between the Administration and the cloning bill before us today.

Some will argue that the issue simply needs to be studied before any research begins—a notion which does not rest on the supposition of a child as a gift. This is wrong. There is no research that can ever justify the willful technological manipulation and creation of human life through the process of human cloning for the furtherance of science—or even for the preservation of humanity.

The White House doesn't want a permanent ban—they want a limited moratorium. This indicates that they believe there may be a use for this technology as it relates to the issue of human cloning. But no such use exists. The act of cloning a human being for the purposes of study, or for the purpose of bringing new life into the world is intrinsically evil and should be absolutely prohibited.

Also, there is another dimension to this debate which is fraught with problems and that is the rationale that will develop should cloning be allowed.

But what few have mentioned in this discourse is that implicit in the rush to begin cloning human beings is the eugenic rationale that will ultimately develop in support of it. Already, there are stories—what I would call horror stories—of people asking for specific genetic attributes when deciding to participate in *in vitro* fertilization. And when we are able to shop for a baby in the same way that we shop for a car; by whimsically creating new life based solely on our own personal convenience and satisfying our own personal desire, we effectively say: ''God we do not need You anymore, we can do this ourselves.''

And that is just wrong.

Mr. President, it would be a serious mistake and an abdication of our duty as responsible legislators to allow the devaluation of human life that would take place if we allowed for human cloning. There should be no human cloning. Period.

Mr. President, as we continue to debate this issue I would urge my colleagues to examine the role of our government in this debate and to then reach the only conclusion possible: that human cloning seriously threatens the dignity of human beings and it is our responsibility to absolutely prohibit human cloning and in so doing decisively end debate on this issue once and for all.

Mr. HATCH. Mr. President, I rise to offer some comments on the cloning legislation that we are now debating.

I think that this has been an important debate, one which should continue. It is a debate that involves many difficult, troublesome issues. I come to this debate as a concerned pro-life Senator, who also has profound questions about the scientific implications of this bill.

I can tell you that scientists from my home state of Utah are following these discussions very closely.

I am proud that researchers at the University of Utah and the Huntsman Cancer Center are at the cutting edge of science. It was scientists at Myriad Genetics of Salt Lake City who were co-discoverers of a gene—the BRCA 1 gene—that causes some types of breast cancer.

Let me share with you a letter that I received from Dr. Ray White, the Director of the Huntsman Center. I ask for unanimous consent that the text of this letter be printed in the RECORD.

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

HUNTSMAN CANCER INSTITUTE,
Salt Lake City, UT, February 5, 1998.

Hon. ORRIN HATCH,
U.S. Senate, Washington, DC.

DEAR SENATOR HATCH: It has been brought to my attention that there is now pending legislation from the Senate leadership that would make it a criminal offense to utilize somatic cell nuclear transfer technology. The intent of the legislation is to prevent the cloning of humans. I agree completely and whole-heartedly with this intention. It would be a travesty and tragic ethical transgression to create cloned human individuals. However, this technology is the basis for a broad range of studies in biomedical research and a ban would halt research in many areas that promise major benefits for mankind.

For example, injection of fetal brain cells is thought to possibly provide benefits to individuals suffering from Parkinson's disease. Obtaining such cells from fetal materials can create its own ethical dilemmas. It would be far better to be able to reprogram the patient's own cells for this purpose. Nuclear transfer technology might well provide ways to accomplish this desired goal without raising such ethical issues.

It is important and possible to create legislation that will achieve the desired goal of preventing human cloning. I urge you to please consider carefully the downstream negative consequences of an overly broad legislative stroke. By all means, let us outlaw human cloning. But let us not eliminate promising pathways of research that could relieve human suffering.

Thank you very much for your attention.

Sincerely,

RAYMOND L. WHITE,
Executive Director.

Mr. HATCH. I agree with Dr. White that we should try to find a way to ban cloning of human beings but do so in a way that allows, to the extent ethically proper, valuable research to continue.

In these type of debates many of us value the opinion of my good friend and colleague from Tennessee, Senator FRIST. As a physician he brings a unique perspective to issues of science and medicine. He is also a co-sponsor of S. 1601, the bill pending before this body.

Let me also share with you a letter I sent to Senator FRIST on this bill. It is a short letter which I ask unanimous consent to insert in the RECORD at this point:

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

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC, February 6, 1998.

Hon. BILL FRIST,
U.S. Senate,
Washington, DC.

DEAR BILL: I am following the debate on the human cloning bill very closely. My interest is twofold: As Chairman of the Judiciary Committee, I have a special responsibility for considering any legislation such as S. 1601 that creates new criminal penalties. In addition, my long-standing interest in biomedical research and ethics compels me to understand a bill which has such far ranging public health consequences.

As you know, throughout my career, I have always taken a strong pro-family and pro-life stance, especially those relating to abortion and human reproduction. I have also spent considerable efforts to see that the United States remains the world's leader in biomedical research so that our citizens may continue to benefit from revolutionary breakthroughs in science. I know that you share my belief that we have a responsibility to facilitate the advance of medical science in a manner that to the greatest extent possible respects the religious and ethical concerns of a diverse population.

I believe that there is widespread agreement that the cloning of human beings is undesirable and should be stopped. However, in achieving this end we must take care not to cut off—unwisely and unnecessarily—vitally important avenues of research. Dr. Raymond L. White, Director of the Huntsman Cancer Institute at the University of Utah, has voiced his concern about this matter: ''It is important and possible to create legislation that will achieve the desired goal of preventing human cloning. I urge you to please consider carefully the downstream negative consequences of an overly broad legislative stroke. By all means, let us outlaw human cloning. But let us not eliminate promising pathways of research that could relieve human suffering.''

I am committed to legislation that prevents human cloning but allows vital research to continue into areas such as Parkinson's Disease, Alzheimer's Disease, diabetes, and many cancers. You raised a number of cogent points during our debate on Thursday. To better understand the operation of S. 1601, I would appreciate it if you can provide your thoughts on the following:

1. S. 1601 does not define the term ''embryo''. Do you believe that the initially created single cell product of somatic cell nuclear transfer is an ''embryo''? Is there consensus among scientists on this?

2. What is the intent of S. 1601 with respect to allowing, or disallowing, the creation of a one cell entity through somatic cell nuclear transfer to be cultured in vitro to produce tissue intended to treat, cure, diagnose, or mitigate diseases or other conditions? Specifically, what types of research and development activities would be permitted or precluded?

3. S. 1601 does not define the term ''somatic cell.'' Do you consider fertilized eggs of the type used in mitochondrial or cytoplasmic therapy ''somatic cells''? How are such therapies treated under your interpretation of S. 1601?

4. What research and development activities does S. 1601 preclude or regulate that are currently beyond the jurisdiction of the Food and Drug Administration under current law, including its 1993 and 1997 jurisdictional statements (58 Fed. Reg. 53248; 62 Fed. Reg. 9721)?

These questions involve novel and difficult issues. I am certain that other tough questions will surface during the course of this debate. It is because of your expertise in these areas that I seek your guidance. Accordingly, I would greatly appreciate it if you could detail your reasoning in responding to these inquiries. It would be most helpful if I could learn your views prior to the cloture vote on Tuesday.

Warmest personal regards,

ORRIN G. HATCH,
Chairman.

Mr. HATCH. I think that these are some of the important questions and the type of questions on which we need to have consensus before we enact legislation:

— What are the current capabilities of cloning, in animals and humans? Should we be focusing on banning a technology, or technologies, or the results of a technology.

— What should be the status of the asexually-produced totipotent cells? What is the correct definition of an embryo? For example, is it the definition used in the Report of the National Bioethics Advisory Commission—that it is ''the developing organism from the time of fertilization until significant differentiation has occurred, when the organism becomes known as a fetus''? Would that definition preclude human somatic cell transfer technology?

— What current authority does the government have with respect to techniques which might lead to cloning human beings and human tissue?

— Although there is virtual unanimity that cloning of human beings should be banned at this time, what is the appropriate type of penalty for any attempt at such an act? Should it be a criminal penalty? If so, what type? Are the criminal penalties instituted in S. 1601 the appropriate means of preventing cloned humans?

— How does the language of this bill affect the ability to do further research on whether banning somatic cell nuclear transfer technology would affect the ability of a woman with unviable eggs to conceive children?

— Precisely what types of research could—and could not—be conducted under this bill?

These are important issues that deserve our full attention.

All of us have family, friends and loved ones afflicted by some terrible disease.

When we think about this bill we need to think about people like Nancy and Ronald Reagan as they battle against Alzheimers.

We need to think about Mohammed Ali's battle against Parkinsons.

We need to be sure that in locking off human cloning that we don't do so in a way that throws away the key to many other diseases.

Over the past few days, we have heard very compelling, heartfelt debate about this issue.

Some have expressed the belief that asexually-produced totipotent cells are, in fact, an embryo, fully deserving of the protections we accord to a human life.

Others have averred that these cells are not yet a human embryo, but rather should be viewed as a very promising tool which science should be allowed to explore as we continue our quest to cure such devastating diseases as diabetes, cancer and AIDS.

Both sides hold very strong moral convictions. There are extremely important implications for both.

This body must explore these fundamental questions. We must consider the views of our scientific experts, ethicists, religious leaders, ethicists, and men and women of medicine.

Let me also add I am very troubled that this bill should have been considered in Committee where many of the fundamental issues we have been debating can be explored in more depth, especially since S. 1601 amends Title 18 of the U.S. Code.

This is obviously an important debate, one which must be continued, and therefore I will vote ''yes'' on the motion to invoke cloture.

As we attempt to advance the public health, we must do so in a way that protects human life. I think we must work to craft legislation that achieves both of these goals.

Mr. GORTON. Mr. President, I intend to vote for cloture on the motion to proceed to Senator FRIST'S bill this morning because I believe it is imperative that we move the debate on human cloning forward. The lightening pace of scientific and medical advances, while holding immeasurable promise, often leaves society unprepared to answer the moral and ethical questions that follow. The technology used to clone ''Dolly'' the now famous Scottish sheep, somatic cell nuclear transfer, clearly should not be used to clone a human child; this is neither a moral nor medically ethical procedure. Yet it is clear that the scope of possibility for this new technology has not been fully explored. It may hold the potential to develop new lifesaving therapies for diseases that have historically plagued mankind. Can we close the door on new opportunities to heal cancer patients, those afflicted with Alzheimers, or burn victims?

Few of us in this body have background in science, medicine, or medical ethics. Yet we are being asked to make decisions that have tremendous consequences for the lives of every American. We are being asked to examine some of our fundamental beliefs about life and the ethical use of science. We must be exceedingly cautious before legislating in an area we admittedly know little about.

I commend Senator FRIST for his leadership in bringing this issue before the Senate. I hope that we can reach consensus; that prohibiting the use of somatic cell nuclear technology to produce a human child and promoting responsible biomedical research are not mutually exclusive goals. But we cannot do so unless we thoughtfully debate the issue; we cannot ignore it.

Mr. BYRD. Mr. President, in February 1997, scientists in Scotland were successful in producing a cloned sheep, named ''Dolly.'' This incredible event shocked the world and led to the realization that, at some point, cloning human beings might also be on the horizon. Shortly after the announcement about Dolly, my concern about the ethical and moral implications of cloning human beings led me to cosponsor Senator BOND'S bill, S. 368, that would prohibit the use of Federal funds for research on human cloning. I believe that, with the notable exception of Dr. Richard Seed, who has announced to the world his intention of cloning a human being, there is broad agreement that cloning humans is unacceptable on many grounds.

But, the successful cloning of ''Dolly'' has prompted scientists to ponder other potential uses of somatic cell nuclear technology, the technique used to create Dolly. Scientists believe that research using this technique might hold promise for a whole host of devastating human diseases. For this reason many in the scientific community are urging Congress to move cautiously in this area, lest overly broad legislation have unintended consequences. Care in its crafting is, therefore, imperative.

Given the concerns raised by the scientific community and patient groups, it is therefore prudent that we proceed with caution and only after thorough consideration of the ramifications that may follow if we were to enact S. 1601, the bill before us today. This bill has received not one hour of hearing before the appropriate committee. Who can say with any comfort what the impact may be on important research aimed at dread diseases? Doesn't important and potentially far reaching legislation such as this at least warrant hearings before we proceed? This legislation could have unintended and detrimental consequences.

Let us now get down to hard work and take the time necessary to determine how to go about banning the cloning of human beings in a clear and precise way that will avoid the unwanted consequence of also banning important research intended to alleviate the pain and suffering of victims of Alzheimers disease, Parkinsons disease, and many types of dreadful cancers.

I will vote against invoking cloture on the motion to proceed to S. 1601, the Human Cloning Prohibition Act. While I wish to register strong opposition to cloning a human being, I also believe that bringing this recently-introduced legislation to the Senate floor for consideration without hearings by the appropriate Senate committee, including testimony from expert witnesses is a mistake.

Mr. HELMS. Mr. President, the distinguished Senators BOND and FRIST are to be commended in introducing the underlying legislation to ban human cloning and the creation of human embryos. Congress must make unmistakably clear that human life is too precious and valuable to be cheapened by a medical procedure which replicates human beings.

Millions of Americans believe that human cloning is inconsistent with the moral responsibility that is incumbent upon modern medical technology. Put simply, so-called medical ''advances'' are not advances at all unless the dignity and sanctity of all human life are preserved. It is meaningful, I think, that the Senate's only physician has sponsored this bill. I appreciate Senator FRIST's willingness to offer his medical expertise to the American people by setting the record straight about the travesty of human cloning.

Mr. President, the overwhelming consensus among professionals in the medical industry confirms that human cloning is unethical and immoral. NIH Director Harold Vamus stated that he personally agrees with numerous polls evidencing the public's opinion that cloning human beings is ''repugnant.''

Indeed, Mr. President, the American people are outraged by the hubris of a fringe element of the medical community wishing to pursue human cloning—and they are demanding action. In fact, some states have already introduced similar legislation to the one before us that would ban human cloning.

Perhaps this debate over human cloning was inevitable because, for too long, our society has failed to stand on the principle that all life has value. Nowhere has the lack of respect for human life been more evident than in the Supreme Court's tragic Roe v. Wade decision in 1973—the infamous case; which established that unborn children are expendable for reasons of convenience and social policy. Roe v. Wade presaged an era where science, technology and medicine are no longer confined to work within the moral boundaries erased by that ill-fated decision made twenty-five years ago.

I'm sure most Americans were alarmed, as I was, when the Chicago physicist, Richard Seed, expressed his reasoning for wanting to clone a human being. Mr. Seed, states that he believes mankind should reach the level of supremacy as our Creator. Mark my words, a society that permits modern medicine to sacrifice human dignity for the sole purpose of such self-glorification will not survive its own arrogance.

Those having doubts need only to consult their history books. Evidence of this can be seen throughout the course of history. It is instructive to read the book of Genesis and the account about a group from Babylon who became so enamored by technology that they believed they could build a structure, the infamous Tower of Babel, that would reach into heaven. The Lord punished the arrogance of this civilization and disrupted their foolish work.

Some may say this is a story of irrelevance, but I believe it serves as a reminder of the ramifications to come if modern medicine is allowed to exceed beyond the moral boundaries and human limitations set by God. We should not be in the business of taking away life or creating life unnaturally.

So, Mr. President, it is extremely important that the Senate pass this legislation to outlaw human cloning. In doing so, the Senate will heed the American people's belief that this objectionable procedure is a dangerous precedent and a morally abhorrent use of medical technology.

Mr. COATS. Mr. President, I rise in support of S. 1601, a bill that would end the cloning of human beings. I urge my colleagues to support and cosponsor this legislation.

Many opponents of the bill will label its supporters as anti-technology, anti-science—seeking to return to the dark

days of ages past. Such opponents have conveniently seized on a notion that to ban this emerging technological procedure is to despise all science and progress.

Nothing could be further from the truth. Just 80 days ago, two of the primary sponsors of this bill—Senators FRIST and GREGG—and I completed three years of intense work on the FDA Modernization Act, whose sole purpose was to advance the health of patients by supporting and promoting the extraordinary, life-saving work of high-technology biotech companies and drug firms. It is too convenient—indeed, it is dishonest—for opponents to charge supporters of this cloning bill with being anti-science, anti-patient.

Indeed, we who believe human life to be one of the greatest gifts from our Creator, do not fear the development of science and technology that protects and improves that life. We know only too well of the advances in medicine and vaccines that have dramatically reduced infant deaths. We have held hearings in which extraordinary PET technology can reveal the workings of the prenatal and postnatal brain. We have constituent companies whose fetal bladder stents now save the lives of women and their children, when death used to be a certainty.

But to admire, promote, and legislate on behalf of patient-friendly technology, and scientific achievement does not require that we sacrifice all principle or that we abandon caution in the face of serious questions about a particular technology.

Few will disagree that cloning presents this country with one of the most disturbing and tantalizing scientific developments in recent time.

At once, it presents us with the opportunity to duplicate, triplicate, infinitely replicate the best that the world has to offer; and it presents the threat of too much of a good thing—the loss of individuality and the end of the security and utility inherent in diversity. Indeed, the child is now created in our own image and not God's. It becomes a product of the will and not the receipt of gift. Who can predict the emotional, the psychological, or the spiritual consequences of such a technolgy?

Cloning technology, so new to the human experience, indeed considered just ten or fifteen years ago to be practically and scientifically unachievable, has received only scant attention from the most distinguished, thoughtful, and expert-laden institutions in our society. Even today, cloning of humans is still considered only a remote possibility by means as yet untested and only barely imaginable.

Because it differs so dramatically from in vitro fertilization and other methods of reproduction, we can scarcely begin to set forth some of the practical consequences: a reduction in genetic diversity, long considered essential to the species; an increase in deformities in the child. The possibilities are numerous and unexplored.

Proponents of cloning argue that in the face of these possibilities, caution is required. But while cloning proponents call for caution that protects experimentation, the better course is caution that protects the developing human embryos that are inevitably created by such technology.

How in good conscience can we wait for the practical and ethical complications of cloning to develop—to wait for Dr. Richard Seed to use methods that unavoidably involve the destruction of living human embryos?

Perhaps in the meantime research on animal cloning will result in the cloning technology that can be used to develop human cell lines or tissue that is not derived from a developing human embryo or does not result first in the creation of such an embryo. Again, until that day, caution is required—caution in defense of life.

S. 1601 ensures that the least among us receive our full recognition and protection as members of human society. I urge passage of S. 1601.

Mr. BIDEN. Mr. President, I want to make it absolutely clear: I oppose the cloning of human beings. But, I am voting against cloture on the motion to proceed to the cloning bill because the bill and the issues the bill raises are not that simple.

I am voting against cloture because there has not been sufficient discussion; there have not been sufficient hearings; there has not been sufficient consideration of what is a very complicated scientific issue. Legislation is supposed to be the end result of a process; not the beginning of it. This bill, Mr. President, is far too premature.

Yes, hearings were held last year after it was announced that Dolly the sheep was a clone. But, those were generic hearings on the issue of cloning. And, the bill before us is not—I repeat, not—a result of those hearings. This was a bill that was introduced a week ago, has never been the subject of a hearing, and has never been considered by a committee.

Are the definitions adequate? Or, are they over broad? In the name of preventing the cloning of a human being, are we hindering medical research that might help in the battle against cancer and other diseases? Or, in the name of allowing scientific research, are we opening the door to rogue scientists who will then find it easier to clone a human?

These are all very legitimate questions that need answers. In the end, there may be significant differences over what the answers should be. But, the problem here today, Mr. President, is that we are not ready to be debating answers to these policy questions because we have not had a thorough discussion of the questions and the implications.

With the pace of scientific advancement—scientific knowledge is now doubling about every five years—more and more of these extremely complicated bioethical issues are likely to come before the Congress in years to come. Let's not set a precedent here today that we will deal with them willy-nilly—by simply taking a position and voting without having given thoughtful consideration to the issues involved.

We need to act to ban the cloning of humans. But, before we act, we need more hearings and more discussion on how best to accomplish that. Therefore, I am voting against cloture on the motion to proceed.

Mr. DURBIN. Mr. President, I rise today to suggest that we should not be rushing to consider a bill that may do far more than ban human cloning permanently. The Lott-Bond cloning bill was only introduced last Tuesday and has been available for review for a very short period of time. The identical bill that was introduced by Senator BOND was referred to the Judiciary Committee and yet we have had no Judiciary committee hearings on this topic to examine exactly what this bill does. Is the bill really written to accomplish its goal of banning the duplication of humans via this new technology? Or does it go much further than its stated goal? I don't think that many of us here on the floor of the Senate (myself included) are well equipped to make that determination without hearing from experts in the field including scientists, bioethicists, theologians and others qualified to give us advice on this very important matter.

It is also not clear as to why we are rushing to consider this bill given that the FDA has already announced that it has authority over this area. In fact I have a letter here in my hand from the FDA that explains that before any human cloning would be allowed to proceed, FDA would need proof that the technology was safe. FDA will prohibit any sponsor of a clinical study from developing this technology if ''it is likely to expose human subjects to unreasonable and significant risk of illness or injury'' or ''the clinical investigator was not qualified by reason of their scientific training and experience to conduct the investigation.'' The letter goes on to say that ''In the case of attempts to create a human being using cloning technology, there are major unresolved safety questions. Until those questions are appropriately addressed, the Agency would not permit any such investigation to proceed.''

The National Bioethics Advisory Committee recommended a five year moratorium on the use of this technology to create a human being. Due to the time limit that they were under, the committee was unable to focus on the issues beyond safety. They concluded that, at this time, the technology was unsafe for use for the purpose of cloning a human being. They did not address the many ethical issues involved with the use of this technology. The committee believed that these issues were too complex to be dealt with in such a short period of

time. Therefore, it is still necessary to allow time for discussion about the ethical use or need for a specific ban on the use of this technology.

To date, we have excluded Patient groups, physicians, scientists and other interested parties from the discussion of how this particular bill should be drafted. Yet it is these very patients whose future hope for cures may be cut off by a bill if it is improperly drafted.

I find it extremely troubling that we are rushing to consider a bill that every patient advocacy group, doctor, or scientist that has contacted my office has either urged us not to pass or has asked us to consider in a more deliberative manner. Organizations such as: The American Heart Association, the Juvenile Diabetes Foundation International, the American Association for Cancer Research, the American Society for Human Genetics, the American Academy of Allergy, Asthma and Immunology, the Association of American Medical Colleges, the American Pediatric Society, the Cystic Fibrosis Foundation, the National Osteoporosis Foundation, the Parkinson's Action Network, the AIDS Action Council, the American Academy of Pediatrics and 27 Science Nobel Laureates. These organizations and individuals are dedicated to finding cures for diseases. They are not advocates for unethical research. They are mainstream organizations committed to finding cures for such diseases as heart disease, strokes, spinal cord injuries, birth defects, asthma, diabetes, cancer, osteoporosis. These are diseases that afflict millions of Americans. Biomedical research may be some patients with these illnesses only hope.

For some, new technologies as yet undeveloped may be their only hope. For instance, some of my colleagues may have heard the story of Travis Roy. Travis is now a 21 yr old college student at Boston University. Travis grew up in Maine and was an avid ice hockey player. Unfortunately for Travis during his first collegiate hockey game 3 years ago, 11 seconds in to the game, he collided with the wall and suffered a spinal chord injury that has left him paralyzed with only a small amount of movement in his right hand. Travis has written a book about his experiences and his fight for recovery. For people like Travis that have had their spinal chords severely injured they look to new research that might help them regenerate their damaged tissue. As Travis so agonizingly stated recently: ''All I want to be able to do is to hug my mother.''

Researchers hope that they may be able to generate what are known as ''stem cells,'' that is cells that can give rise to lots of other cells, using the technology that the Lott-Bond cloning bill seeks to ban. With continuing research, those cells might be used to repair injured spinal cords or damaged livers or kidneys or hearts.

Stem cell research could provide: cardiac muscle cells to treat heart attack victims and degenerative heart disease; skin cells to treat burn victims; neural cells for treating those suffering from neurodegenerative diseases; blood cells to treat cancer anemia and immunodeficiencies; neural cells to treat Parkinson's Huntington's and ALS. The generation of stem cell lines using an unfertilized egg as a host is far removed from the act of creating embryos for research or creating a fetus for organ parts. In fact, it is the exact opposite giving an avenue for therapies that involve the culturing of single cells from adult cells. Some of these therapies would actually result in fetal tissue no longer being necessary for the treatment of many neurodegenerative diseases. Others might give hope to parents that conceive children that have genetic diseases, so that they are not faced with the agonizing choice between terminating a pregnancy or giving birth to a severely disabled child.

I think that many of us do not really know what the full scope for this technology really is. It is possible that this technology may be used in a life enhancing, life promoting manner.

We should have a full hearings process with opportunities to hear from specialists in medical genetics, researchers at NIH and other institutions. We should listen to what the medical community has to say on treatment options. We should also hear from patient advocacy groups and all others that may have expertise in this area or be affected by the legislation at hand. Likewise, the area of assistive reproductive technology has become incredibly complex and we should listen to bioethicists and religious leaders and their opinions which we surely value. Again, I wonder why we are rushing here. What about the committee hearing process is the Republican leadership afraid of that?

Some may argue that the announcement by the Chicago Physicist, Richard Seed of his intention to start cloning necessitates a rapid response. However, Dr. Seed has no training in medical procedures nor in biology. He does not have a lab for this purpose. He does not have the venture capital and in fact his home was recently foreclosed by the Bank. Thus to suggest that he will be cloning anything soon, seems outlandish at best. By the FDA's stated criteria of an investigator needing to demonstrate expertise, Dr. Seed would clearly fail and thus would be prohibited by FDA from proceeding.

One person's far-fetched claims should not propel us into passing legislation that has not been adequately reviewed. As J. Benjamin Younger, Executive Director of the American Society for Reproductive Medicine has said: ''We must work together to ensure that in our effort to make human cloning illegal, we do not sentence millions of people to needless suffering because research and progress into their illness cannot proceed.''

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. How much time remains?

The PRESIDING OFFICER. Thirty seconds.

Mr. KENNEDY. Mr. President, I yield myself 30 seconds. I have too much respect for my friend and colleague from Tennessee to let the comparison with Hitler and science be used on the floor of the U.S. Senate in reference to our position on this particular issue without comment.

Our position has been embraced by virtually every major research group in this country. This vote isn't about a ban on the cloning of human beings. We have agreed on that principle. This vote is about preserving opportunities for major advances in biomedical research in this country. I hope the Senate will vote ''no'' on cloture.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BOND addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri controls 20 seconds.

Mr. BOND. I yield that time to myself.

Mr. President, unfortunately, the misinformation about this bill has our opponents saying that human cloning bans will hurt research. Show me one mainstream scientist who is currently creating cloned human embryos to fight these ailments. It is not happening. It should never happen.

Science has given us partial-birth abortions and Dr. Kevorkian's assisted suicide. We should say no to these scientific advances and no to the cloning of human embryos. If you vote against cloture, you are saying yes to human cloning.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the motion to proceed to S. 1601, regarding human cloning.

Trent Lott, Christopher S. Bond, Bill Frist, Spencer Abraham, Michael B. Enzi, James Inhofe, Slade Gorton, Sam Brownback, Don Nickles, Chuck Hagel, Rick Santorum, Judd Gregg, Rod Grams, Larry E. Craig, Jesse Helms, and Jon Kyl.

CALL OF THE ROLL

The PRESIDING OFFICER. By unanimous consent, the quorum call has been waived.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the motion to proceed to consideration of S. 1601, the Human Cloning Prohibition Act, shall be brought to a close?

The yeas and nays are required under the rule. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES: I announce that the Senator from Virginia (Mr. WARNER) is necessarily absent.

Mr. FORD. I announce that the Senator from Michigan (Mr. LEVIN) is necessarily absent.

I further announce that the Senator from Nevada (Mr. BRYAN), is absent due to illness.

I also announce that the Senator from Nevada (Mr. REID), is absent attending a funeral.

I further announce that if present and voting, the Senator from Nevada (Mr. BRYAN), would vote ''no.''

The PRESIDING OFFICER (Mr. INHOFE). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 42, nays 54, as follows:

[Rollcall Vote No. 10 Leg.]

YEAS—42

Abraham	Faircloth	Kyl
Allard	Frist	Lott
Ashcroft	Gorton	McCain
Bond	Gramm	McConnell
Brownback	Grams	Murkowski
Burns	Grassley	Nickles
Coats	Gregg	Roberts
Cochran	Hagel	Santorum
Coverdell	Hatch	Sessions
Craig	Helms	Shelby
D'Amato	Hutchinson	Smith (NH)
DeWine	Hutchison	Stevens
Domenici	Inhofe	Thomas
Enzi	Kempthorne	Thompson

NAYS—54

Akaka	Feingold	Lugar
Baucus	Feinstein	Mack
Bennett	Ford	Mikulski
Biden	Glenn	Moseley-Braun
Bingaman	Graham	Moynihan
Boxer	Harkin	Murray
Breaux	Hollings	Reed
Bumpers	Inouye	Robb
Byrd	Jeffords	Rockefeller
Campbell	Johnson	Roth
Chafee	Kennedy	Sarbanes
Cleland	Kerrey	Smith (OR)
Collins	Kerry	Snowe
Conrad	Kohl	Specter
Daschle	Landrieu	Thurmond
Dodd	Lautenberg	Torricelli
Dorgan	Leahy	Wellstone
Durbin	Lieberman	Wyden

NOT VOTING—4

Bryan	Reid
Levin	Warner

The PRESIDING OFFICER. On this vote, the yeas are 42, the nays are 54. Three-fifths of the Senators not having voted in the affirmative, the motion is rejected.

EXECUTIVE SESSION

Mr. LOTT. Mr. President, I ask unanimous consent the Senate resume consideration in executive session to debate the nomination of Frederica Massiah-Jackson.

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

NOMINATION OF FREDERICA A. MASSIAH-JACKSON, OF PENNSYLVANIA, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF PENNSYLVANIA

Mr. LOTT. Now, Mr. President, we are working on an agreement with regard to this nomination—we still have to clear it with Senators on both sides of the aisle—that would allow us to announce some action in regard to this nomination within the next couple of hours, we hope certainly in the early afternoon, and then it would be our intent to go to the Morrow nomination. We have been working on a time agreement, and we will enter a request as to exactly when that would be debated and for how long. It is our intent to have a vote on that nomination at a reasonable hour this afternoon—not tonight.

Mrs. BOXER. Will the Senator yield?

Mr. LOTT. Yes, I yield.

Mrs. BOXER. Several Senators on both sides of the aisle have been trying to get a time certain for the Morrow nomination. I wonder if the distinguished majority leader would consider offering a unanimous consent request so we can at least know how to plan our day? We have already thought it was happening this morning.

Mr. LOTT. We would like to be able to do that. I think the best way to get a unanimous consent agreement is to continue to work with Senators on all sides. My intent would be that we enter into an agreement to begin as early as possible and to get a vote not later than 6 o'clock. If for some reason we could not get that agreement, then we would have to have that vote tomorrow morning, but I believe we can work with the interested Senators on both sides and get this agreement worked out. As soon as we do, hopefully even by noon, we will enter the request. I think it would be something everybody will be comfortable with.

Mr. SPECTER. If the distinguished majority leader would yield to me, there have been discussions about a time. There are 4 hours. I was just discussing with our distinguished colleague from Missouri—I see he has left the floor so I will say nothing further. I hoped we might set that vote for 2:30, but I will let it ride.

Mr. LOTT. I don't think we can do it that early, but we will work with everybody here in the next few minutes. If we could get it done right away, we will do it, but certainly we want to do it this morning if at all possible.

I will continue to consult with the Democratic leader, and we will make that request soon.

I yield the floor.

The PRESIDING OFFICER. The clerk will report the nomination.

The legislative clerk read the nomination of Frederica A. Massiah-Jackson, of Pennsylvania, to be United States District Judge for the Eastern District of Pennsylvania.

Mr. BYRD. 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. FEINGOLD. 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. FEINGOLD. Mr. President, I ask unanimous consent to speak as in morning business for 10 minutes.

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

THE PRESIDENT'S PROPOSED BUDGET

Mr. FEINGOLD. Mr. President, I rise today to offer some initial comments on the President's proposed budget for fiscal year 1999. As with any budget, there will be occasion to discuss and debate the many individual provisions it contains. I have already heard some legitimate concerns voiced about some of the provisions from both sides of the aisle, and I very much look forward to working with my colleagues on the Budget Committee to fashion what I hope will be the second consecutive bipartisan budget agreement.

Despite the many issues surrounding individual provisions, though, we have to acknowledge what a historic moment this is. The President's budget is historic. For the first time in 30 years, a President has submitted a unified budget that actually balances. That is an achievement worth noting and noting again. While many of us believe we have a way to go before we can talk about having a genuine balance, it is fitting to pause for a moment to acknowledge the tremendous progress that has been made.

The President's proposal also marks the end of one budget era and, I think, really the beginning of a transition period that may require changing some of our budget rules, and I will have more to say on that subject in the coming weeks. It is also worth remembering how far we have come and how we reached this important benchmark. First and foremost was the 1993 deficit reduction package. That was one of the toughest votes I think many of us have ever taken in this legislative body. It wasn't pleasant and it wasn't supposed to be pleasant. As we have found, there just is no painless solution to the deficit, and we had to take a different kind of step. In fact, Mr. President, it was the very toughness of that 1993 package that told me it was worth supporting. Let me also say that last year's bipartisan budget agreement also contributed to the effort. I repeat my admiration for the work done by the chairman of the Budget Committee, the Senator from New Mexico, Mr. DOMENICI, and also the ranking member, the Senator from New Jersey, Mr. LAUTENBERG, who worked so hard to make that agreement possible.

Mr. President, I wish that agreement had gone further. As I have noted on other occasions, I really wish we had refrained from enacting that fiscally irresponsible tax package last year. If we had, the unified budget would have actually reach balance earlier. Nevertheless, both of those efforts helped bring us to where we are today and all concerned deserve praise.

Mr. President, in addition to the notable accomplishment of submitting a balanced unified budget, the President also cautioned Congress not to spend the unified budget surplus that is projected, but instead to use those funds to protect Social Security. I think this is one of the better statements we have had in a long time with regard to not only fiscal responsibility, but also our responsibility to future generations that hope to obtain the benefits of the Social Security for which they have already been paying.

The President's admonition in this regard may have been just as important as his achievement in proposing a balanced unified budget. The President is absolutely right in urging that any unified budget surpluses not be spent. But while I strongly agree with his sentiment, I approach this issue from a little different perspective. Again, there are many of us who do not view the unified budget as the appropriate measure of our Nation's budget. In particular, I want to acknowledge two of my colleagues on the Budget Committee, the Senator from South Carolina, Mr. HOLLINGS and the Senator from North Dakota, Mr. CONRAD, for their consistent warnings on this issue of how we calculate and determine and speak about what is really a balanced budget.

Mr. President, the unified budget is not the budget which should guide our policy decisions. The projected surpluses in the unified budget are not real. In fact, far from surpluses, what we really have are continuing on-budget deficits masked, in part, by Social Security revenues. Now, this distinction is absolutely critical. The very word ''surplus'' connotes that there is some extra amount of money or bonus around. One definition of the word surplus is, ''something more than, or in excess of, what is needed or required.''

Mr. President, the projected unified budget is not more than or in excess of what is needed or required. Those funds are required. Those funds are spoken for. In this regard, I take just slight exception to the President's characterization that we should use the surplus to protect Social Security. Some could infer from his comments that the President has chosen, from various alternatives, the best or most prudent option for using surplus funds. I am afraid people will look at it that way and, certainly, from the perspective of the unified budget, it is arguably the best and most prudent option, if we really had surpluses. But, Mr. President, those of us who see the unified budget as merely an accounting convenience do not believe this is an alternative or an option. To repeat, Mr. President, those revenues are already spoken for. They were raised by Social Security for future use.

Mr. President, we have various trust funds in our budget, but Social Security is unlike most other trust funds, and it is unlike the others in this respect: It is by law ''off budget.''

It was taken off budget for this very reason; namely, the decision by Congress to forward fund Social Security by raising additional revenues in the near term to ensure the long-term solvency of the program.

Mr. President, I urge all of my colleagues to choose their use of the word ''surplus'' very carefully. The problem with the use of the word, or the overuse of the word, is that it encourages a way of thinking which may jeopardize not only the work that we have accomplished over the past 5 years but also the additional work that must be done to put our Nation on a firm financial footing.

The use of this term improperly encourages the kind of ''business as usual'' policies that promise immediate gratification while putting off tough budget-cutting decisions until later.

Mr. President, it is kind of like buying an expensive Valentine's Day gift for your sweetheart and then charging it to her credit card.

That is not the way to do business. That is hardly an honest approach to budgeting either.

Mr. President, the challenge before us now is to move quickly toward eliminating the on-budget deficit, balancing the budget without using Social Security trust funds, and in so doing to begin the very important process of bringing down and paying down our national debt.

Mr. President, we have to play it straight with the American people. We need to give them an honest balanced budget.

I very much hope this body will act to put us on that path this year, and I very much look forward to working with other members of the Budget Committee to ensure that we really do reach an honest balanced budget.

Mr. President, I yield the floor.

Ms. SNOWE addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Ms. SNOWE. Thank you, Mr. President.

UNANIMOUS-CONSENT AGREEMENT—NOMINATION OF MARGARET MORROW

Ms. SNOWE. Mr. President, as in executive session, I ask unanimous consent that at 1 p.m. today the Senate proceed to executive session to consider the nomination of Margaret Morrow and a vote occur at 6 p.m. this evening with the time equally divided between Senators HATCH and ASHCROFT or their designees.

This request has been cleared by the minority.

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

ORDER OF BUSINESS

Ms. SNOWE. Mr. President, I ask unanimous consent to proceed as if in morning business, and I ask for up to 30 minutes to be equally divided between myself and the Senator from Maine, Senator COLLINS.

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

Ms. SNOWE. Thank you, Mr. President.

THE ICE STORM OF 1998

Ms. SNOWE. Mr. President, I am pleased to join my colleague, Senator COLLINS, to discuss the unprecedented and historic storm in the State of Maine several weeks ago.

Mr. President, every once in a while—maybe only once every 100 years or more—an event happens that truly tests the strength of a people and the depth of their spirit. It is an event that strips away comforts and security and pretense and reveals for all to see the true nature of those whose lives it has in its grip. In my home State—the State of Maine—that event began on January 5 and is now known as the Great Ice Storm of 1998.

As shown here in this photograph, you can see the ice that covers the streets with the trees over the car. It wasn't just one area of the State. This really replicated almost the entire State in terms of the devastation of this storm.

As you would imagine, we are no strangers to a little winter weather. But this storm was like nothing anyone had ever seen before. By the time five days of sleet and freezing rain had worked their misery on the state, Maine was under a sheet of ice more than two inches thick, and Mainers suddenly found themselves without power, without heat, and facing a life more closely resembling one from 1898 than 1998.

The State was devastated by this unprecedented storm and many areas were described as resembling a ''war zone.'' At its peak, the storm knocked out electrical power to an estimated 80 percent of Maine's households—and a week later, about 137,000 people were still without power. Schools and local governments ground to a halt. Over the weekend as the storm finally abated, over 3,000 people sought refuge in 197 shelters and two days later there were still over 2,000 Mainers staying in 111 shelters across the State. And in the end, all of Maine's 16 counties were declared federal disaster areas.

As you can see here, another sign that shows the kind of pleas that were made by residents all across this State, saying, ''Power, please. Our transformer was taken away on Thursday.'' People lost their power for up to 2 and 3 weeks.

The Chairman of the historical committee of the American Meteorological Association, who also happens to be an associate professor of science, technology and society at Colby College in Waterville, MA, summed it up best: ''So far this century there has been nothing like it . . . It will probably make the meteorological textbooks—as one of the biggest storms ever.''

I traveled Maine extensively in the wake of the ice storm, and I was overwhelmed by the extent of the destruction, as we see here another photo of all the downed poles. That is exactly what happened all across the State. You can see the condition of the road. But it was a total destruction of the forests, the pole lines, as well as the telephone poles across the State. Three-quarters of the State, as I said, was affected by it.

Trees and branches felled, power lines snaked across ice-encrusted streets and major utility structures crumpled as if made of tin-foil. In fact about 50 such structures, an eight-mile stretch carrying the major electrical line into Washington County—the easternmost county in Maine and the United States—were destroyed.

The owner of that line, Bangor Hydro, needed 170 utility poles and 144,000 feet of 115,000 volt transmission line just to repair the eight miles of downed lines that left 10,000 Washington and Hancock County residents without power. Central Maine Power, the other major power company in the state, estimated that 2 to 3 million feet of power lines fell—2,000 utility poles had to be replaced as well as 5,250 transformers.

Between 1,200 and 2,000 National Guard soldiers were called to active duty, and 200 Army and Air National Guard personnel helped clear the roads. Central Maine Power had crews of more than 2,500 line and tree-trimming workers on the job. And Maine hosted line crews from Maryland, Massachusetts, North Carolina, Florida, Pennsylvania; New Jersey; Connecticut; Washington, D.C.; New Hampshire; and New Brunswick, Canada.

Broken trees and broken power lines littered the Maine landscape as far as the eye could see. But I discovered one thing in my travels that was never broken—one thing that may have been stronger after the storm than before—and that is the spirit of Maine's people. That is why I am speaking here today, Mr. President. Mainers faced the tremendous challenges this storm presented with resolve and a caring spirit which is truly remarkable and which makes me very proud to call Maine home.

Everywhere I went I heard stories of neighbors helping neighbors: people inviting strangers into their homes so that they might be warm, lending a hand with fallen trees so that they might be cleared and sharing advice so that no one would feel alone. Rising from the devastation left in the storm's wake was a tide of generosity and giving emblematic of Maine people, and it was deeply heartening to know that such compassion is alive and well in America.

Paul Field Sr. and his son, both of Bridgton, worked tirelessly and virtually without sleep for 10 days cutting branches, clearing roads, fighting fires, draining pipes, helping neighbors and moving generators to where they were most critically needed.

And Paul was not alone. In the Town of Albion, farmer Peter Door trucked a portable generator from farm to farm and slept in his truck while dairy farmers milked their cows. In Fairfield, Town Manager Terry York was moved to tears when talking to the Bangor Daily News about the volunteers who helped residents through the crisis.

Out of state crews found Mainers' attitudes remarkable. One member of a Massachusetts crew that put in two weeks of 16 hour days restoring power to the towns of Otis and Mariaville said, ''When I left there, I was proud to be a lineman. My hat goes off to the people of Maine. They're really a special breed.'' The same lineman said he never heard an angry word, even though many residents had gone over a week without power and heat. In fact, people offered the linemen food and even hosted a public spaghetti dinner for the crews.

Indeed, throughout the state, people took strangers into their homes, brought food to elderly residents unable to get out, looked after the homes of those who were away, and cooked meals at local shelters. Maine's potato growers gave away truckloads of potatoes to those in need of food, radio stations fielded calls from residents sharing vital information and advice, and television stations banded together to raise over $115,000 for Red Cross relief efforts.

My deepest gratitude goes to all those who made life a little easier for others during this most trying of times. In particular I want to recognize and extend my profound gratitude to the outstanding Red Cross officials and the over 1,800 volunteers who did an incredible job of organizing shelters and delivering vital emergency services, as well as the dedicated men and women of the National Guard who did not hesitate for a moment to provide assistance. Also the outstanding employees of the Maine Emergency Management Agency who deserve recognition for their timely and professional response to the disaster.

Again, you see what linemen crews did here in working on these downed power lines, as I said, and which was pervasive all over the State on miles and miles and miles of line.

I also want to extend my sincere appreciation to the men and women on utility crews from Maine and from throughout the country who toiled day and night to clear roads and rebuild a crippled power grid. These dedicated individuals worked incredible hours and in terrible weather conditions to bring the state back on line. They are truly unsung heroes and I thank them for their tireless work.

Indeed, to give you some idea of the magnitude of the effort, in one instance Air Force cargo planes made 13 trips between North Carolina and Maine to bring 50 fresh crews and 47 bucket trucks to lend a hand. It took 5,000 people to carry out the logistics at an estimated cost of this single operation of $1 million.

In Augusta, local Public Works employees logged, on average, an 80 hour week, with some as high as 102 hours. The Maine Department of Transportation spent $600,000 in overtime in one week and in that same time they used 54,000 cubic yards of sand and 5,000 tons of salt to the tune of another $600,000.

And the International Brotherhood of Electrical Workers worked with my office to coordinate their volunteer efforts to help reattach damaged entrance service cables on residences throughout the state so that the power company could re-energize the homes. (In one weekend, Local 567 helped put 75 houses back in shape so the power could come on and families who had done so long without heat could once again be warm.)

Those dedicated IBEW workers provided help where it was most needed, and I applaud these dedicated teams of electricians who donated their time, supplies, and skills to make vital repairs across the state. Indeed, it was an honor for me to spend time in the field with some of these unsung heroes to let them know how much I appreciate and admire their selfless efforts.

Finally, I want to thank all the volunteers who—in the face of their own difficulties—took the time to help others affected by this unprecedented storm. (We may never know their names or their faces, but we know what they have done and we are very, very grateful.)

It is a credit to Maine people that we coped as well as we did and made speedy progress in recovering and rebuilding. Everyone pulled together from Governor King to town officials to the Brotherhood of Electrical workers. But it was clear that we still needed help. We are an independent people and proud to solve our own problems, but this time even we couldn't do it alone. That is why the federal government's response to this disaster was and is so important.

The Vice President's personal tour of Maine in the wake of the disaster spoke to the magnitude of the challenge we were facing. I appreciate the Vice President's visit and the President's prompt declaration of 16 Maine counties as federal disaster areas.

This declaration opened the door to a variety of assistance, and it is estimated by the Federal Emergency Management Agency that about 300 Maine towns and non-profit organizations will seek public assistance from the agency. I am pleased that FEMA has established field offices in Maine to assist Mainers who are still trying to put their lives back together and I expect they will remain in the state for some time.

Because the fact is, the repercussions of this storm will be felt long after the ice melts and the first blossoms of spring make their way north. Dairy farm losses continue to mount and state agricultural officials may not know for months the full impact of the storm on the industry. Utilities are estimating that their costs will top $70 to

80 million. The State of Maine estimates that they need the release of $12 million in LIHEAP funds to help those who normally don't use the funds but will sign up this year, and to defray the costs of buying generators for those eligible.

Small businesses across the state have been reeling from lost business—as of last week the Small Business Administration has taken 450 applications for low-interest loans from individuals and businesses, and awarded loans of $173,000. And overall, FEMA has considered 20,869 applications for individual and family grants, 10,085 applications for disaster housing, 9,849 applications for SBA home and property loans and 4,410 applications for SBA business loans.

This tremendous need for assistance must be met, and that is why I will continue my efforts in conjunction with my colleague from Maine, to ensure that Maine people have rapid and efficient access to the assistance that will become available over the days and weeks ahead.

Mr. President, we are working with the other States who were hit by the storm—Vermont, New Hampshire and New York—on a supplemental funding package to help our states recover from the devastation of the ice storm. The fact remains that we still must obtain an emergency release of LIHEAP funds, we still must acquire supplemental assistance to help prevent Maine's ratepayers from having to foot all of the utility bill, estimated to be $80 million; and the U.S. Forest Service estimates that it will cost $28 million to clean up the more than 7 million acres of working Maine forest which has suffered moderate to severe damage; for making our farmers and our small businesses whole again and for the additional costs our states have identified that they cannot cover.

My colleagues from the Northeast and I and my Maine congressional delegation have started working with the Appropriations Committee to assure that supplemental funding to meet the needs of our States can be included in the first supplemental funding bill which the committee will begin work on early next month.

As many of my colleagues know, we have faced the challenges posed by disasters in their own States. They recognize how important this additional assistance is to their States, and I hope that we can get this assistance as quickly as possible in order to ensure a quick and full recovery from the impact of this historic disaster.

I thank the Chair. I yield the floor.

Ms. COLLINS addressed the Chair.

The PRESIDING OFFICER (Mr. HUTCHINSON). The Senator from Maine.

Mr. BYRD. Mr. President, will the distinguished Senator from Maine, Ms. COLLINS, yield just for a unanimous consent request?

Ms. COLLINS. I would be happy to yield.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. I thank the distinguished Senator.

Mr. President, I ask unanimous consent that on the completion of the remarks by Senator COLLINS, Senator CLELAND be recognized for 5 minutes, that I be recognized then for 20 minutes, and that my colleague, Senator ROCKEFELLER, be recognized for 10 minutes to speak out of order.

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

Mr. BYRD. Mr. President, I again thank the Senator.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I rise today to join my colleague, the senior Senator from Maine, to describe just some of what the people of Maine have experienced in recent weeks, namely, the worst natural disaster in our State's history. The ''Ice Storm of the Century,'' as we refer to it in Maine, began innocently enough with a light rain on Wednesday, January 7. By the time it let up 4 days later, however, the storm had encased the State in a layer of ice up to 10 inches thick and left well over $100 million in damages in its wake.

When all we need to do to restore power is to flip a switch in our fuse boxes, it is very easy to take for granted just how essential power is to every aspect of our lives. Electricity allows us to cook our meals, heat our homes, and communicate with our neighbors and our friends. From the second we wake up in the morning, usually from the buzz of an electric alarm clock, power plays an integral role in our daily lives. Think for a moment of everything that you are able to do today so far because of power. Then just imagine how you would cope without power for 10 days or even longer as many Maine residents had to do. This ice storm was the single most devastating natural disaster to hit Maine in recorded history. Over 800,000—that is approximately 7 out of 10—of our residents lost power for at least some part of the storm, some for as long as 2 weeks or even longer.

As you can see from these pictures, Mr. President, power lines, telephone poles and trees were snapped in two by the massive onslaught of ice. This is a picture that appeared in the Bangor Daily News of power lines and of poles, telephone poles, and as you can see the tops of them have been sheared off by the massive weight of the ice.

Mr. President, I grew up in northern Maine. I am very used to mighty winter storms but never, never in my life, have I experienced a storm like this one. As I looked out from the window of my home in Bangor, limbs from my favorite maple tree in the front yard came crashing down on my roof and against the picture window in my living room. Transformers lit up the night with blue sparks as ice brought them tumbling down as well. And I was much more fortunate than many Maine residents. Many businesses were forced to close due to the lack of power. People took to placing signs in the snow with arrows pointing to their homes reading ''No Phone No Power.'' Even the National Weather Service located in Gray, ME, lost power for over a week and had to rely on a not-so-reliable generator to track the latest weather developments and to help keep Mainers safe and informed.

These pictures of a twig and a tiny blade of grass covered with 2 inches of ice were taken on the lawn adjacent to the National Weather Service office. As you can see, telephone poles were snapped in two, trees were coated by ice.

Mr. President, this is literally a blade of grass. We have a closeup that I am going to show you next on this.

This shows you just how amazing the ice was from this storm. A single blade of grass is photographed here encased with ice.

Adding insult to injury, on Saturday, January 25, just as Mainers had begun to return to life as usual, a second ice storm hit, knocking out power to 165,000 Mainers and crippling the electric grid in a region that had managed to come through the first storm relatively unscathed.

By all accounts, the worst of natural disasters brought out the best in Mainers. Volunteers flocked to shelters to lend a hand and to help serve meals. The State's television stations joined forces to raise money for the Red Cross, and our radio stations and newspapers provided practical tips and encouragement to help keep up the spirits of Mainers during our worst natural disaster. Heartwarming stories of people with little or nothing giving all that they could were commonplace during this tragedy. For 10 straight days, for example, one man opened his home to his neighbors every single night, housing the elderly and infants in his town and helping to remove the heavy branches from roads and from his neighbors' driveways.

On a personal note, when I ran out of wood after my fourth day without power, a neighbor quickly came to the rescue to help keep my pipes from freezing. Acts of kindness like this one exhibited by my neighbor were repeated over and over again in countless communities throughout the State. One in particular touched me deeply.

When I was visiting the Red Cross shelter in Bangor at the Air National Guard base, I talked with an elderly woman in a wheelchair who had been forced to leave her home because of the storm. She was obviously a victim of a stroke and was unable to move much of her right side. In addition, it was obvious that she was a person of very modest means. Nevertheless, she said to me, ''Could you help me by reaching into my pocketbook. I have $2 there that I would like to donate to the Red Cross.''

Mr. President, that is the kind of spirit, of generosity and kindness that characterizes Maine people. Even in

her dire situation, this woman was able to think of people less fortunate than herself. That spirit of kindness and generosity helped us to survive the ''Ice Storm of the Century.''

Unfortunately, while kindness and good will and generosity and a sense of community helped us to get through the worst of the storm, they alone cannot complete the recovery.

Mainers experienced serious financial and property losses as a result of the storm. Early estimates put the damages to homes, businesses, utilities and public property at well over $100 million, and it is still growing. The estimated cost of repairs to Maine's power grid alone is a staggering $70 million, and that is money the ratepayers of Maine will have to bear unless there is assistance forthcoming from the Federal Government.

However, simply attaching a dollar amount to the damage fails to provide a true picture of the devastation experienced by virtually the entire State of Maine. To give you a more vivid idea of the destruction of the ice storm of 1998, I want to share some statistics with my colleagues.

During this ice storm, 7 out of 10 Mainers lost power, some for as long as 14 days; schools across the southern and central portion of the State closed for many days, some for over 2 weeks; all of Maine's 16 counties were declared Federal disaster areas; at just one hospital in central Maine, more than 80 people were treated for carbon monoxide poisoning, 4 people, unfortunately, died of carbon monoxide poisoning; thousands of families were forced into more than 100 emergency shelters across the State, hundreds of thousands of others spent the night with their families, with family members, neighbors or friends; more than 11 million acres of Maine's forest lands—that is more than half of the State's total—were damaged by the storm. Of this total more than 3 million acres are classified as severely damaged; 1,200 utility crews from as far away as Nova Scotia to North Carolina were sent to Maine to help restore power lines. We are very grateful for that assistance; our telephone company, Bell Atlantic, dispatched 625 fieldworkers, several of whom were on loan from other States; in a remarkable development, the Department of Defense actually airlifted bucket trucks and power crews to help us with the repairs; manufacturers of electric parts from as far away as Alabama worked overtime for 10 days to help meet our power company's needs; 3 million feet of electrical cable were irreparably damaged and nearly 3,000 utility poles had to be replaced. Think of how sturdy a utility pole is. We lost 3,000 of them during this storm.

Even after the debris has been removed and our electric infrastructure has been repaired, much of Maine's natural resources based economy will take years to recover. Dairy farmers, maple syrup producers, apple growers, and our forestry industry were particularly hard hit. In addition, because of the countless downed trees and limbs, some of the 11 million acres of damaged forest lands will remain vulnerable to fire and to insect attacks for years to come. Neighbors, Government agencies and nonprofit organizations rallied to the support of the hundreds of thousands of Mainers displaced by the ice storm, but it will take a strong commitment from the Federal Government for Mainers to truly complete the process of putting their homes, their bases and their communities back together.

Vice President GORE's tour of the hardest-hit areas and the prompt assistance of FEMA, HUD and SBA demonstrate the Federal Government's concern for Mainers and their commitment to recovery efforts. But additional help is needed. So as we enjoy the comfortable spring-like temperatures in Washington, DC, I urge my colleagues not to forget the Mainers buried in ice and snow. I hope that my colleagues will remember these statistics and the photographs that the senior Senator from Maine and I have shown you today in the coming weeks as we join with other members of the Maine delegation in asking for my colleagues' assistance through a supplemental appropriation for disaster relief.

I thank the Chair. I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from Georgia is recognized.

Mr. CLELAND. I thank the Chair.

INTERMODAL SURFACE TRANSPORTATION EFFICIENCY ACT REAUTHORIZATION

Mr. CLELAND. Mr. President, I would like to speak today in support of the reauthorization of the Intermodal Surface Transportation and Efficiency Act, better known as ISTEA. More importantly, I am here today to add my voice to that of the distinguished senior Senator from West Virginia, who has made an eloquent and persuasive case for bringing this legislation to the floor for consideration at the earliest possible opportunity.

That I believe was the commitment the Senate made to the American people prior to our early adjournment last year. In the last several days, I paid close attention to that said by my colleagues, many of whom in the Senate have commented on this matter. I would like to make just a few observations.

One of the most striking aspects of the debate which is apparently delaying the Senate's consideration of ISTEA is that it is taking place at all. It is not all that uncommon, I suppose, based on my limited time here, that we argue how to utilize supposedly dedicated trust fund moneys. I am here today to say that these trust fund dollars, whether for Social Security or transportation, are not ours to allocate as we see fit. They are collected from the American people based on specific usage, and we have been entrusted with the responsibility of ensuring that in the case of transportation the taxpayers' gas tax dollars are used for our great country's critical infrastructure needs.

Unlike the Senator from West Virginia, I am not an expert on the Roman Republic and the Roman Empire, but I am a student of history, and I believe that ancient Rome was one the world's earliest and most successful civilizations. Some scholars would say it was good government that allowed the empire to survive as long as it did.

Others believe that it was the strength of the Roman army. In my opinion, one of the most enduring legacies of the Empire, carried on in our American civilization today, is the practice of building roads to facilitate commerce and defense. America's transportation system is the envy of the world and so is the commerce it facilitates. I'll add that the Roman Empire was once the envy of the world too. Where is it now? With apologies to Gibbon, maybe their government failed to pass its transportation funding in a timely fashion.

By delaying the reauthorization of this multibillion-dollar ISTEA funding we put at jeopardy not only commerce and defense but the very lives and livelihoods of those who send us here. Recently I was contacted by a Georgia hospital on a different matter, but it did concern a road project in Georgia. They made the case for the need for a particular transportation corridor and stressed the difficulty their emergency service vehicles were having in this area. When we put off, day after day, action on this legislation, we impede, and sometimes, stop action on projects which may be critical to an area's economy, or vital for highway safety.

Many Senators, Democrat and Republican, North and South, East and West, have all made the case that we need to take up ISTEA legislation, and I respectfully join those colleagues in urging prompt action. We must take up this legislation now. That was the promise that was made to the American people.

When we make commitments, Mr. President, we must stick to them. We simply cannot be a body of continuing resolutions. That is not good government and it does not serve the people well. I know the leadership has heard about this a great deal the last 2 weeks, but I must respectfully request that we take up this legislation now; let's bring this matter to the floor now.

Mr. President, ISTEA legislation is important to our largest cities and our smallest communities alike. It's about jobs, safety, commerce, defense, and it's about the future. It's too important to put off until an uncertain future date. We have a responsibility to act now. Let us do the work required of us.

Mr. President, I yield the floor and I yield any remaining time to the distinguished Senator from West Virginia.

The PRESIDING OFFICER. The Senator from West Virginia is recognized for up to 20 minutes.

Mr. BYRD. Mr. President, I thank my distinguished colleague, Senator MAX CLELAND, for his fine statement urging action on the ISTEA bill now.

Mr. President, bad roads are killers. In 1996, nearly 42,000 people lost their lives in traffic accidents on America's highways; in 1996, 355 of those fatalities occurred in West Virginia. The Federal Highway Administration (FHWA) maintains that poor road designs and conditions are a contributing factor in at least 30 percent of those fatal crashes. That works out to more than 12,000 Americans—over 100 West Virginians—whose lives could be saved each year by an investment in better, safer roads. These fatalities are not just numbers. They are lives, precious lives lost because we are not spending the money that is needed to make our highways safe.

And roadway fatalities are on the rise, having risen in each of the past 5 years. Highway crashes are now the fifth highest cause of all deaths and the leading cause of death for young people between the ages of 6 and 27.

This national problem can be blamed, at least in part, on the deplorable and deteriorating condition of our Nation's highways and bridges. Of the 950,215 road-miles eligible for Federal funds, the Federal Highway Administration, in its biennial Performance and Conditions Report, found that 28 percent of the pavement mileage is poor or mediocre in condition, meaning it needs immediate repair to remain passable. The FHWA also reports that the country has 181,748 bridges, in other words, 31 percent of all bridges over 20 feet in length, that are structurally deficient or functionally obsolete. The report estimates that nationwide investments must average $54.8 billion annually just to maintain current road and bridge conditions over the next 20 years, $74 billion annually to improve the highway network. Currently, all levels of government, Federal, State, and local combined, are investing only $34.8 billion annually. That means we are not even coming close to making the investments necessary to maintain our vital highway infrastructure.

Fortunately, this trend can be reversed. Well designed and maintained roads will increase our safety by reducing vehicle deaths and injuries. They also save Americans the anguish of losing a loved one.

The Federal Highway Administration has conducted extensive research on the lifesaving improvements that can be made to our highways and bridges. According to Federal Highway Administration research: Widening a road lane by 1 foot can lower crash rates by 12 percent. Widening a road lane by 2 feet can lower accident rates by 23 percent.

The construction of medians for traffic separation can reduce fatal crash rates by 73 percent. This is information from the Federal Highway Administration. The term ''fatal crash rate'' means the number of fatal crashes per 100 million vehicle miles traveled. Shoulder widening can lower fatal crash rates by 22 percent, and one of the lives that is saved may be yours, yours—and roadway alignment improvements can lower fatal crash rates by 66 percent. These are huge figures.

Widening or modifying a bridge reduces fatal crash rates by 49 percent, and constructing a new bridge when the current one is deficient can reduce fatal crash rates by 86 percent.

I well remember, and shall never forget, the fatal collapse of the Silver Bridge at Point Pleasant, WV, in 1967, in which collapse 46 people plunged to their deaths in the cold waters of the Ohio, the Ohio River; 46 people plunged to their deaths in 1967, 31 years ago, when the Silver Bridge at Point Pleasant collapsed.

So, constructing new bridges when the current bridges are deficient can reduce fatal crash rates by 86 percent. Upgrading bridge ratings can cut fatal crash rates by 75 percent.

In addition, the number of lanes on a road has an impact on safety. National statistics show that four-lane divided highways are substantially safer than other roads. Four-lane divided highways are substantially safer than other roads.

May I say to my distinguished colleague from West Virginia, Senator ROCKEFELLER, that when I was in the legislature in West Virginia in 1947, 51 years ago, West Virginia had a total of 4 miles—West Virginia had a total of 4 miles of divided four-lane highway; 51 years ago. Four miles. That was it for the entire State. And today there are almost 900 miles of divided, four-lane highways.

National statistics show that four-lane divided highways are substantially safer than other roads. In 1995, 77 percent of all fatal crashes—get that, 3 out of 4—77 percent of all fatal crashes occurred on two-lane roads, while only 5 percent of those crashes took place on four-lane divided highways.

Of course, making the types of improvements I just outlined will cost money. But making that investment will reap human dividends. According to the Department of Transportation's 1996 Annual Report on Highway Safety Improvement Programs, every $100 million invested in roadway safety improvements will result in 144—12 dozen—144 fewer traffic fatalities.

And now, Mr. President, we arrive at the crux of the matter. The U.S. Senate is sitting idle. Not exactly sitting idle. There are other matters that are being considered and they are not unimportant. But insofar as doing something about the highway conditions of the country is concerned, the United States is sitting idle—the U.S. Senate and House are sitting idle when Congress should be working to finish the ISTEA bill, a bill which was brought up last October and debated, or at least it was before the Senate for about 21 days and then it was taken down and a short-term, stop-gap highway authorization measure was enacted, which will expire at midnight—midnight, when the clock strikes 12, midnight, on May 1, just 43—43—days away. Mr. President, there is a time bomb ticking here. Congress has 43 session days. Let's talk about the Senate. The Senate has 43 session days remaining, and that includes today; 43 session days remaining until midnight May 1. So 43 days includes today and includes May 1. The clock is ticking, and the time bomb is ticking.

Roadway safety depends on the uninterrupted flow of Federal highway funds, and yet the Senate is literally inviting a shutdown of our State and Federal highway programs by delaying action on ISTEA II. Forty-three days, 43 session days when the Senate will be in session, not including Saturdays and Sundays and holidays.

Senators don't have to just take my word for that. Let's see what the law says. The short-term highway bill that the Senate passed and the House passed and was signed into law by President Clinton on December 1 of last year, let's see what that law says. That is the short-term highway authorization bill by which the time was extended 6 months, the authorization for highway programs, spending on highway programs.

Let's see what Public Law 105–130, the Surface Transportation Extension Act of 1997 says, in part. Hear it:

> A State shall not obligate any funds for any Federal-aid highway program project after May 1, 1998.

There it is. That's the law, and further obligating by State road systems or transit systems after midnight on May 1 will be illegal. Further obligating funds for highway programs after midnight on May 1 will be against the law. Let's read it again. This is the law:

> A State shall not obligate any funds for any Federal-aid highway program project after May 1, 1998.

Now, I hope that the Governors and the mayors and the highway agencies out there across the country will consider that language that I just read. You must know that after midnight May 1 of this year, you, the highway agencies of this country, will not be permitted to obligate further funding for Federal aid highway programs. And that is just 43 days away, including today. ''Time Bomb Ticking.'' That's it.

So if we postpone debate on ISTEA II until after finishing the fiscal year 1999 budget resolution—that is what some of the budgeteers in the Senate are importuning the Senate majority leader to do—delay, delay, don't take up the 6-year full-term extension of the highway authorization legislation, don't do that until the budget resolution is taken up.

Well, if we postpone debate on ISTEA II until after finishing the fiscal year

1999 budget resolution, the earliest then that the Senate will take up the highway bill will be late April, after the spring recess, and that assumes that we meet the April 15 statutory deadline for the budget, which we are not accustomed to doing.

But let us assume that miraculously—I still believe in miracles, but not here on this floor—let us assume that miraculously we meet the deadline and turn to ISTEA II first thing on April 20, that would leave less than 2 weeks before the May 1 funding deadline, after which States will be prohibited by law from obligating any Federal highway funds. If we wait until after the budget to consider ISTEA II, we are virtually guaranteeing—guaranteeing—that Federal highway funds will be cut off—will be cut off.

That is why the highway bill cannot wait. That is why it should not wait. Given the needs that exist on our Nation's highways and the safety risk which current conditions pose, we cannot afford to delay lifesaving highway projects. The Senate must turn to the ISTEA bill now. The time bomb is ticking—tick, tick, tick, tick. Time for action is now.

Mr. President, how much time do I have left?

The PRESIDING OFFICER. The Senator from West Virginia has 1 minute 3 seconds remaining.

Mr. BYRD. I yield that to my distinguished colleague, and that will give him more than 11 minutes, I believe.

The PRESIDING OFFICER. The Senator is correct.

Mr. BYRD. I thank the Chair. I yield the floor.

Mr. ROCKEFELLER. Mr. President, I thank my esteemed senior colleague from West Virginia. The junior Senator doesn't believe he will need 11 minutes, but I am grateful to have that opportunity. As needs to be said, Senator BYRD has been remarkable in his fight for roads and infrastructure, and not just for roads for West Virginia, but also as a fighter for roads for Arkansas and every other state in this country.

My senior colleague and I—I having been Governor for 8 years, my senior colleague having worked on this problem for many, many years—we are intimately acquainted with the nature of what four-lane highways and federally qualified roads, like route 33 and route 250, can mean. So this is not a minor issue to us.

I am here on the floor to ask therefore why it is that the Senate still isn't acting on the highway bill. Why is it? I pick up the RECORD of yesterday. It is not enormously thick. There is not a lot on our calendar. My senior colleague talked about the Senate sitting idly by. We have cast a handful of votes since reconvening. We had one vote today. It may be our last one for the day. We had a couple votes yesterday. They were not votes, Mr. President, that required enormous amounts of debate. We had time laid out for debate, but they were on individual judges about whom people already felt one way or another.

One has a sense that we are filling time. I don't say that in a partisan way, I say that in just a sort of generally frustrated way. In my 13 years in the U.S. Senate, this feels like the slowest start to a year in which we have so many things that we need to accomplish.

So the excuse of not moving on the reauthorization of the Intermodal Surface Transportation Efficiency Act—an incredible name, I agree, but incredibly important legislation it is—simply escapes me. Why wouldn't we be doing it?

I can remember when I was Governor working with my senior colleague, Senator BYRD, and Senator Randolph on an amendment in this area to help West Virginia and other states obtain the matching money they needed to apply for.

The people of my State, the people of all the States where roads are needed and construction needs to be finished, where bridges need to be completed, are facing a cut-off of funds that carries no logic to it, as far as I can understand. If there is a formula problem, and there always is because that is the way we classically operate in the Senate, we should set a deadline to resolve the problem. We need to face up to a real deadline—my senior colleague is making this point, Mr. President—because waiting longer doesn't just put off the day when we even start to try to deal with these and the other outstanding issues.

But we can resolve those issues. The Senate has resolved far more contentious issues than these. So I don't have any doubt about that. I do have a very strong sense of the damage that failure to act on the highway bill will do to the State that my senior colleague and I represent. It happens to be a State which has almost no flat land. I think about 4 percent of our land is flat.

I am very familiar with the Presiding Officer's State, because my uncle was Governor of Arkansas and my first cousin now is Lieutenant Governor, as the Presiding Officer and I have discussed. I know the Ozarks are a part of Arkansas. It is very difficult there. There are also lots of mountains. West Virginia is mostly mountains. It is the oldest mountain system in the world. The Appalachian Mountains are the oldest mountains in the world. They have been worn down over the centuries, but they are very formidable and still blanket the greatest part of our State.

So I would say to my senior colleague, I can remember the last year I was Governor, it cost, for about a mile of interstate or a mile of Appalachian corridor highway, about $17 million to build a mile. That was back in 1984. I have to assume that we are talking now $25 million to $30 million per mile—per mile.

Completing and upgrading our roads is a terribly urgent situation for West Virginia. We have Corridor H which we have to finish. Some people complain that my senior colleague puts so much emphasis on Corridor H. I would say that we in West Virginia are very grateful that Senator BYRD is doing just that because it is the only way we are going to get this critical road finished.

If I can just explain the importance of roads like Corridor H and reflect on the urgent need for this ISTEA reauthorization, is to remind people listening that you still really can't get from the east coast into the central part of West Virginia or any part of West Virginia easily.

You know, trucks are not willing to drive on two-lane highways. We wish that they could, but they do not. And we have a very difficult aviation situation which some of us are also working on very hard. We have an ample amount of rivers and barges, but even there, Senator BYRD and some of my colleagues in the House have to work very, very hard to modernize the lock system, many of which were built, 50, 60, 70 years ago.

So transportation for us is not what it is, let us say, for some other States which are relatively flat or have very warm climates so that roads last far longer. We not only constantly have to repair our existing roads, but we also have not even completed our basic road system. And that is terribly disadvantageous.

You can track the economy of West Virginia, how well certain places are doing, and others are not doing, based upon how close they are to a four-lane highway. That is not unique to West Virginia, but it is West Virginia at this moment for which I speak and this Senator speaks. And, therefore, I feel very strongly about this situation.

Roads supply jobs. Why can't we look at it that way? I can remember when we were building what we call the turnpike in West Virginia, which was meant originally to be a four-lane highway and ended up to be a two-lane highway. How that happened is a mystery which has been shrouded in the history of West Virginia for many years of speculation. But the point is, building that highway involved going through some of the worst, steepest part of the beautiful, gorgeously beautiful southern mountains. And that was an enormous project. I mean, it is not like building roads in many other parts of the country—you have to build huge abutments of towering concrete walls as you cut into the side of mountains. The work involves phenomenal engineering feats. It is like building the Panama Canal to put an Appalachia corridor or interstate in most parts of West Virginia.

The construction jobs that stem from roads are tremendously important to us. The Nation's unemployment is low. But in West Virginia, our rate is approximately twice the Nation's unemployment. Every job is important to us. There is not a single job in West Virginia that anybody takes for granted. There is not a single job in West

Virginia, the potential for a job, that people do not clamor for, try for.

Toyota recently moved some of their production to West Virginia. And they are going to make half of all of their engines in North America and Canada in West Virginia. They had a need for 300 workers, and they got applications from 25,000 people. What does that tell you? Obviously some were from Ohio, some from Kentucky, some perhaps from Virginia, but we want the work.

We want the work, we want the roads, and we want the roads so then we can further create the jobs. In fact, to make the point, Toyota would not be in West Virginia if it were not for Interstate 64. They openly declare themselves to locate their plants close to where Interstate 64 is whether it be Kentucky, West Virginia or wherever.

So the economic need for turning our attention to the ISTEA reauthorization bill is obvious and clear-cut to my constituency. Our States wait to know whether they can go ahead with their infrastructure plans. They watch us approve a couple of judges and work on a couple things. We had a vote on a cloning bill this morning. It wasn't cloning, it was what leads up to cloning. Maybe we will get around to another vote this afternoon; maybe we will not.

But, good grief, this highway bill has to be done, Mr. President. It has to be done. This is the people's will. We made them a promise with the 6-month extension. And we are not keeping that promise. And there is no reason not to. It is a bill which does good. And again, there may be argument about the formula, but however it comes out, it is going to do every single State an enormous benefit.

And I have to say one last time that our State will benefit enormously from this legislation and needs this legislation to pass. We have not finished our road system. We do not have the prosperity that we deserve in West Virginia for which our people have struggled for a hundred years or more. Coal is diminishing. Only 6 percent of our work force is involved in coal.

We need to have manufacturing and we need to expand our intellectual and technological activity. We need to have all kinds of things. We cannot rely on coal and steel as much as we used to.

So I make the point that Corridor H has to be finished. It is absolutely a requirement for the State. Corridor D needs to be finished. As my senior colleague knows better than anybody, that has been nearly finished except for a few miles, but those miles are enormously expensive miles, and they have been languishing now for 2 decades or more. And that is what connects the western part of our State with Ohio and the rest of the Nation.

West Virginia is enclosed by enormous States: Pennsylvania, Ohio, Kentucky, Virginia, and Maryland. People cannot get out or cannot get in unless they can drive out or in or fly out or in. And they cannot fly out or in easily, so they have to drive. You cannot canoe down the Ohio River and up the Little Kanawha. You have to be able to drive.

So I simply say, in lending my very, very strong support to Senator BYRD's efforts, and as somebody who was a Governor for 8 years and understands the economic significance of our infrastructure, that there is no reason to go on with this uncertainty. There is simply no excuse. I join my senior colleague, and praise him for all he has done in carrying the fight over the years and carrying it almost single-handedly. I urge my colleagues to join with Senator BYRD and join with Senator DORGAN, who was speaking earlier, and others, so that we can get immediate consideration of ISTEA. It is the right thing for the Nation. It will benefit our State and the Presiding Officer's State. And we have no reason at all not to be doing the people's business in this critical area.

I thank my senior colleague, and I thank the Presiding Officer.

Mr. BYRD. Mr. President, is any time remaining?

The PRESIDING OFFICER. Time has just expired.

Mr. BYRD. Mr. President, I ask unanimous consent to proceed for 3 minutes, after which I ask unanimous consent that the distinguished Senator from Texas, Mr. GRAMM, may proceed for not to exceed 15 minutes. I do not see any other Senator seeking recognition.

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

Mr. BYRD. Mr. President, I thank my distinguished colleague, Senator ROCKEFELLER, former Governor from West Virginia, who served 2 terms as Governor. I thank him for joining in urging that the ISTEA bill be called up at this time. And he made the point that partisanship isn't involved here. There is no partisanship in this.

Both sides of the aisle—there are Senators on both sides of the aisle who want ISTEA, the ISTEA bill to be called up. And there are Senators on both sides of the aisle who are supporting the amendment, the Byrd-Gramm-Baucus-Warner amendment, which would provide for the moneys that are in the trust fund, the moneys that the American people have paid at the gas pump, the 4.3-cent gas tax, for example. That is doing nothing now except building up surpluses in the trust fund.

There are Senators on both sides of the aisle, Republicans and Democrats, who want to see those moneys that are spent by the American people out there in the form of gas taxes, who want to see those spent for highways to improve highways and mass transit programs. As of now, they are just building surpluses; they are not being spent for anything.

There are those in this Senate who are importuning the distinguished majority leader not to call up this highway bill right now because they want to wait until after the budget resolution is adopted so that these moneys in the trust fund can be spent for social programs, and so on, that the administration and some Senators, of course, want to spend those moneys on. But the American people believe, because they have been told, that the moneys in the trust fund should be spent for highway improvements and transit improvements.

I have not said much on the West Virginia angle of this, but I intend to. But that is what the amendment which Senator GRAMM and Senator BAUCUS and Senator WARNER and I and 50 other Senators, making a total of 54 Senators, are urging, that that ISTEA bill be brought up, urging that the money in the highway trust fund be spent for highways to improve the highways and to improve transit programs.

So that money is there. And, as I say, there are some on the Budget Committee, not all, some on the Budget Committee who are importuning the leader, the majority leader, not to bring up ISTEA now—keep it, wait, wait until after the budget resolution is brought up. And those particular Senators, in my judgment, do not want to see those gas tax moneys spent on highways. They want to spend them on other programs.

So, Mr. President, I again urge that the leadership keep its commitment to the Senate and call up this highway bill. I can understand the pressures on the majority leader. I have been majority leader. And I can understand the pressures that are on the majority leader from other Senators. And, as I say, I have a feeling that the majority leader, if he did not have those pressures, would have the ISTEA bill brought up now. I have a feeling—I certainly have a hope—that he would support the amendment that 53 of my colleagues are supporting.

Mr. President, I again thank my distinguished colleague from West Virginia, especially for his reference to Corridor H and Corridor D and other corridors in West Virginia.

I ask unanimous consent for 1 additional minute.

The PRESIDING OFFICER (Mr. THOMAS). Without objection, it is so ordered.

Mr. BYRD. Mr. President, there is a small vocal group in West Virginia that opposes Corridor H. But there was a poll taken in West Virginia within the last 2 weeks, I believe, that showed that 80 percent—79 percent of West Virginians support the completion of Corridor H inside West Virginia. Only about 6 percent—6 percent—of the people are very opposed, and that is the highly vocal group over there that has been opposing Corridor H. Of course, they have some people over in some of the adjoining States who add their voices to the small 6 percent in West Virginia who are opposed to completing Corridor H. About 8 or 9 percent, as I understand it, from the poll do not take any position one way or another. But 79 percent take a strong position

for the completion of Corridor H inside West Virginia.

So my colleague mentioned Corridor H. And I hope that eventually in my lifetime we can see Corridor H completed inside West Virginia. It has been promised to the people of West Virginia for 33 years. And the Appalachian highway system has been promised to the 13 States in Appalachia for 33 years. It is 78 percent complete in the region, 74 percent in West Virginia.

The time bomb is ticking. I hope that we can get that bill up and let the Senate work its will on these amendments, my amendment included.

Mr. President, I again thank the distinguished Senator from West Virginia, Mr. ROCKEFELLER. I thank the Chair and thank my colleague from Texas for his patience.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, I thank our dear colleague from West Virginia. It has been a great honor for me to work with him on this. I believe we are going to win on this amendment. We have 54 cosponsors. We probably have 25 other Members of the Senate who are ready to vote for the bill. We gain strength every day.

There is only one thing that is stopping us from passing a new highway bill that can begin providing money to build highways all across America on May the 2nd. And that one thing is that we have been unable to bring the highway bill up so that we can offer the amendment, our amendment, by forcing the Government to live up to the commitment it has made to the American people when it puts on a gasoline pump that about a third of the cost of a gallon of gasoline is taxes. But the good news is, those taxes go to build roads. What we are trying to do is to force the Government to do what it tells people it is doing, and that is, spend the money on roads.

We now know that between 25 and 30 cents out of every dollar collected in gasoline taxes has been going to fund everything except highways. And so what our amendment is trying to do is to require truth in Government by saying that gasoline taxes have to, in an orderly, fiscally responsible manner, be spent on highways.

This is a big deal. This is a very big deal in every State in the Union. What it means in my State, what it means in West Virginia, what it means in every State in the Union is roughly a 25 percent increase in the amount of money that is available to build roads beginning on May the 2nd.

We are not talking about doing something that is going to be felt in your State in the sweet bye and bye. This is something that on May the 2nd we can begin to see States letting contracts, putting people to work, pouring concrete, pressing asphalt, improving the quality of our roads and highways, saving lives, creating jobs, reducing the amount of time that we all spend in traffic, improving the environment in the country. You could list 100 things that are positive for America that will occur, beginning on May 2, if we can pass this amendment and pass the highway bill.

Now, Senator BYRD and I have spoken virtually every day for the last 2 or 3 weeks, and we have made a series of points that no one who opposes the amendment has come down to try to argue against. Those points are basically the following: Gasoline taxes have historically been devoted to road construction; the American people are led to believe this by every sign on every gasoline pump in America. They are paying lots of taxes, but the good news is it is a user fee for roads. And yet that is not the case today nor has it been the case through the 1990s. Money has been collected in gasoline taxes and spent on other things.

Second, we have established very clearly that this amendment does not bust the budget. Nothing in this amendment raises the total level of spending. What this amendment does is it requires that the money collected for road construction be spent for road construction and nothing else.

In fact, one of our colleagues, in arguing against the amendment, posed the question to Senator BYRD and to me, ''If you spend this money on highways, that means we are not going to be able to spend it on the other things we want to spend the money on.''

I think it can be argued in two ways. The first argument is that we have a desperate need for highways in America—31,000 miles of roads in my State are substandard. We have thousands of bridges that have been certified as not being safe. We are basically now at a point in Texas that half of the money we have for roads goes to just maintain the roads we have. The expected life of a road is between 30 and 40 years, depending on where it is built. We built our great farm-to-market roads in Texas in the 1930s and 1940s. We have long since exceeded the life of those roads. Our busiest roads in Texas, our interstates, were built in the 1960s. They are heavily used, some beyond 100 percent capacity, and they are reaching the end of their economic life.

What do we spend on in Government that is more critical than national security and roads? But as strong as that argument is, that is not the strongest argument.

Our colleagues stand up and say, if the money you collect for highways is really spent on highways—we plan to spend this money on other things. I think, quite frankly, that there is an argument in terms of basic honesty in dealing with the electorate that we have on our side, and that is that we have a revenue source dedicated to the highway trust fund. So not only is there a great need for roads, but the money was collected for that purpose and for that purpose only. The idea that we are going to collect potentially $90 billion for highway construction and simply stand by and watch the Government spending it on everything except highways is, I believe, outrageous and unacceptable. Quite frankly, I believe that is going to end this year—end this year.

Some people have raised questions about the priorities of the bill. We have answered each and every one of those questions about the amount that goes to the States, the amount held by the Secretary. Questions have been raised about the Appalachian program, started in 1965, as a percentage of money spent on highways. We are actually in our amendment asking for less than the President requested, the same amount, for all practical purposes, requested by the House.

Questions are raised about border infrastructure and international trade corridors. We actually have less money in our amendment than the bill that came out of committee, but there is one big difference. We make it possible that Congress might actually fund it, whereas the committee bill, in a sleight of hand, appears to provide the money but really doesn't provide the money.

In short, we have answered each and every one of the criticisms that have been raised in this initiative. It is the right thing. It is what we tell people we are doing. It does not violate the Budget Act. It does not raise the total level of spending, and it doesn't create any new priorities. It simply sets out an orderly fashion of fulfilling obligations we have made in the past.

Now, we are getting down to the moment of truth. The highway bill is going to expire on May 1. So road-building equipment that is currently in the process of building highways and roads and interstates all over America, come May 1, they will cut those machines off. Come May 1, people are going to be forced to walk off the job because we have not provided money for highways. It is not that we don't have the money, Senator BYRD. We have the money. It is being collected every time any American goes to the filling station and pumps gas. But they are going to stop building roads all over America on May 1 because we are not allowed to vote on a highway bill to allow the expenditure of money that is being collected specifically to build roads, even though we are collecting more money for road construction in the gasoline tax than ever in history. Despite the fact that the surplus grows every single second, we have the terrible prospect of highway construction stopping all over America on May 1.

There is only one solution to this problem—bring up the highway bill. We debated it last year. It got bogged down in other issues. I wish we could have broken the deadlock last year. It is bad public policy that it happened. But the point is this is not last year. This is this year. We have an opportunity right now to bring this bill up. I can assure you, we are not going to let any issue that has nothing to do

with highways derail this bill this year. There are a lot of legitimate issues that need to be debated. We need to bring this bill up and we need to bring it up as soon as we get back from the recess next week.

I feel an obligation to people in my State. I feel an obligation to the State where we pay in gasoline taxes on a per capita basis as much as any State in the Union. It is not uncommon for people in my State to drive in their cars and trucks 50 miles one way to work, to drive 30 miles to take their children to school. People in my State need highways. They pay for them by paying the gasoline tax.

I want to urge our leadership to work with us to bring this bill up. This is not a budget issue. We are not talking about busting the budget. We are not talking about setting the total level of spending. We are talking about requiring money to be spent for the purpose that it was collected and not on other things. But if there are those who want to talk about this within the context of the budget, Senator BYRD and I are not so busy that we don't have time to sit down and talk. I believe that the day we come back, week after next, that the situation with highways is going to be getting so desperate that we will have to do something. I think we ought to bring up the highway bill. I think it would be bad for us to be forced to try to deal with this issue as an amendment on another bill. That is not the way I want to do it. I know the Senator from West Virginia doesn't want to do it that way. We need to act and we need to do it very quickly. We are running out of time.

I want to conclude by simply urging those who would like to commingle this issue with the budget, if they want to sit down with Senator BYRD, with me, with Senator WARNER, with Senator BAUCUS, to talk about how this might fit into a budget that would be written later, we are willing to sit down and talk about it. It is not a budget issue. Quite frankly, I believe those who oppose us want to make it a budget issue so that they can say to people, look, don't vote for these highways because if you do that, then you can't spend all this money on other things, money requested by the President, money sought by other interests, money expenditures that are supported by Members of Congress.

There is one fundamental difference. Nobody is saying that child care is not important or food stamps aren't important, or funds for the IMF aren't important, or paying dues at the United Nations are not important, or that foreign aid is not important. But there is one fundamental difference. None of those expenditures has a dedicated revenue source. None of those expenditures has a tax that working Americans pay for the purpose of funding them. Americans do pay a gasoline tax to build roads. So our claim is stronger. We have committed to people we are going to do this. I believe time is running out here. I think we have been very patient. I think we have tried to work with everybody. We have been willing to sit down and talk to anyone. You don't get 54 cosponsors by accident. You do it by answering a lot of questions, by convincing a lot of people. I don't think anyone has asked Senator BYRD or asked me to sit down with them to explain this amendment, what it does, how it will affect their State, how it will affect anything they are concerned about. But we are going to reach a point here when we come back after the recess where we have to quit explaining and start acting.

I urge those who would like to commingle this with the budget, while I really believe that is a ruse to beat our amendment—they are trying to convince people that our demand that we spend money for the purpose we tell people we are going to spend it when we collect it is somehow on a par with proposals made to spend money to just simply increase the level of expenditure. There is no comparison between the two. But if somebody wants to talk to us about the budget as it relates to our amendment, we are willing, any time, day or night, to sit down and talk to them. What we are not willing to do is to sit here and let May 1 come and let highway construction stop all over the country. We are not willing to do that, and we need to get on with the task of passing the highway bill and, I believe, passing this amendment.

I want to thank my colleague, Senator BYRD, for his leadership. We have done a lot of work on this. I would like to believe the number of cosponsors, the progress we have made, is somewhat due to our persuasiveness. But I think, really, it is not our persuasiveness; it is the strength of the case we are making. This is the right thing to do. It is clearly the right thing to do. I think if the American people really understood what this debate was about, if they really understood that the critics of what we are doing are saying, ''Don't spend the money for the purpose you select it is because we want to spend it on other things,'' they would be outraged about it. I think that is one of the reasons that people don't come over and debate us on this subject.

I am glad to be on a side of an issue where we are right. I can assure you, it is much easier to argue something if the facts are on your side. Now, often here, great cases are made when the facts don't comport, but when they are on your side, it is easy. And they are on our side on this issue.

Mr. BYRD. Will the Senator yield?

Mr. GRAMM. I am happy to yield to the Senator.

Mr. BYRD. I want to thank the distinguished senior Senator from Texas. He worked inside the Finance Committee to offer an amendment which was adopted in the committee transferring the 4.3-cent gas tax to the trust fund, to the highway trust fund, where it would be spent on highways and mass transit programs. So he got it that far. So the money is in the trust fund, and I compliment him.

Now he has joined with me and 52 other Senators—in addition to the two of us, he has joined with me and 52 other Senators, Mr. BAUCUS and Mr. WARNER, in particular—who are initial cosponsors of this legislation. He has joined with us in attempting to authorize, to have the Congress authorize, the expenditure of the moneys in the trust fund, the 4.3-cent gas tax, to authorize the expenditure of those funds for highways and for mass transit programs.

That is what they were intended to be used for. He has stood like a stout Irish oak on his side of the aisle in urging that the ISTEA bill be brought up and in urging support of this amendment upon which we are both allied and working. I thank him for that. I thank him for his steadfastness; he has stood like a Rock of Gibraltar. We will continue to work in the effort to implore the bringing up of this highway bill. I thank him very much.

Mr. GRAMM. Mr. President, I thank the Senator from West Virginia. Let me just conclude by saying that the American people cry out for bipartisanship. This is the only real bipartisan effort of this Congress. We have 54 cosponsors on this bill; they are roughly divided, Democrats and Republicans. This is not a partisan issue. I hope we can move ahead and I believe we will. I want to thank the Senator from West Virginia. It has been a great honor for me to work with him. I believe we are going to be successful, in large part, because this is the right thing to do. But as Edmund Burke once said, ''All that is necessary for evil to triumph in the world is for good men to do nothing.''

We intend to do something to make this happen—however much work it takes. We have carried this ball all the way down to the goal line, and we are not about to fumble it or call time-out right now.

I thank the Chair and yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

THE WAR CRIMES TRIBUNAL

Mr. SPECTER. Mr. President, in the absence of any other Senator seeking recognition, this may be a good time for me to report briefly on the travels that I undertook from December 30 to January 13, when I visited the War Crimes Tribunal in The Hague and found that this agency is moving forward with prosecutions on war crimes against humanity, arising out of the activities in Bosnia.

It is my sense that after the first conviction, which has been obtained,

the tribunal is on its way to establishing a very, very important international precedent. For the past decade-plus, many of us, including Senator DODD, Congressman JIM LEACH, myself, and others, have been working to try to bring an international criminal court into existence. It is my sense that if the War Crimes Tribunal is successful, we may have the most important institutional change in international relations in this century, if we can bring the rule of law into the international arena.

I think it is very important that the outstanding indictments be served. In talking to the military leaders and NATO in Bosnia, I have been informed that we have the capacity to do so if the instructions are given. Up until the present time, the rule has been to serve them with warrants of arrest if our military groups come into contact with those under indictment, but they are not to make an effort to search them out. It is a delicate matter and has to be handled with discretion and with regard to not losing lives in the process of making the arrests. But, I think that ultimately those warrants of arrest do have to be served.

We stopped in Bosnia and saw the activities there. Mindful of the President's recent request for an open-ended stay in Bosnia, we discussed with the military leaders and with some of the soldiers their sense as to what was going to happen there.

The Congress has legislated to bring an end to the funding as of June 30, 1998, with certain exceptions relating to a Presidential extension. But, it seems to me that it is necessary to have some idea as to how long we are going to be there. Those enmities and hatreds go back hundreds of years, and it is necessary, in my judgment, for us to have some idea as to how long we are going to stay there and how long it will take to accomplish that mission if we are, in fact, to remain there.

The U.S. contingents are still much larger than any others. We have some 8,000 personnel—substantially larger than the French, British, Russians, or others—and there ought to be more of a burden sharing than is present now if the United States is to stay there.

We traveled on to the Mideast where we had an opportunity to meet with Israeli Prime Minister Netanyahu, Syrian President Assad, Egyptian President Mubarak, King Hussein of Jordan, and other leaders. And, it is my sense that the Israeli-Syrian tract could be very close to resolution.

Before going, on December 17, I met with President Clinton, told him of my itinerary, and urged him to become personally involved in the Syrian negotiations as he had been in the past. The parties were very close to a resolution of the dispute between Israel and Syria before the assassination of Prime Minister Rabin. The President was personally involved in those negotiations. I believe that with an activist hand by the President, there could be a successful resolution there. It can't be said with certainty, but the parties were very close before Prime Minister Rabin was assassinated.

I had an opportunity to talk to Prime Minister Netanyahu and President Assad in August and November of 1996. At that time it seemed to me that the parties were far apart, with Prime Minister Netanyahu saying he wanted to negotiate for peace but would do so only if there was a clean slate and he had a new mandate. President Assad of Syria, on the other hand, said he, too, wanted to negotiate but would do so only if they would begin where the negotiations left off with Prime Minister Rabin.

While the words were very similar, when I had a chance to talk to Prime Minister Netanyahu and President Assad last month, the music, it seemed to me, was a little bit different. Syria had a new set of problems with their economy, and Netanyahu faces a new set of problems. I think activist intervention by the President could well bring the Israeli-Syrian tract to a conclusion. It is certainly worth a try.

As to the Palestinian-Israeli tract, it is much more complicated. But, here again I have urged the President to bring Mr. Netanyahu and Mr. Arafat into the same room, at the same time, to hear their complaints and to try to bring a resolution to those very serious problems.

Part of the mission on this trip was to explore persecution against Christians and other religious groups. Our travels took us to Egypt, Ethiopia, Eritrea, and Saudi Arabia. The details are spelled out in a written report, which I shall file as well. But, it seems to me that the United States ought to take a stand on the legislation which has been introduced by Congressman FRANK WOLF in the House and by myself in the Senate which would articulate the principles of religious freedom and impose sanctions on foreign governments which tolerate or encourage this kind of persecution.

In Saudi Arabia, in talking to Prince Turki, I heard again that the Koran calls for the death penalty if someone changes from Islam to Christianity. I heard the same in Egypt, and found, in fact, that those who have converted from Islam to Christianity had been imprisoned. We heard many complaints talking to people who had been victims of persecution in Saudi Arabia and in Egypt. It is my hope that this issue will come to the Senate floor. I know it is on the majority leader's list to be considered by the Senate sometime between now and the spring.

This is just a brief statement of some of the highlights.

I ask unanimous consent, Mr. President, that the full text of the report, which incorporates two op-ed pieces that have been published in the Pittsburgh Post-Gazette and the Harrisburg Patriot-News, be printed in the RECORD as well.

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

REPORT ON FOREIGN TRAVEL

In accordance with my practice of reporting on foreign travel, this floor statement summarizes a trip which I took from December 30, 1997 through January 13, 1998 to fourteen countries in Europe, Africa and the Middle East. My trip had several purposes: to evaluate the work of the International Criminal Tribunal for the former Yugoslavia and Rwanda in The Hague in prosecuting indicted war criminals and in laying down the precedent for the establishment of a permanent international criminal court, to evaluate the President's request for an open-ended extension of time for the U.S. military participation in United Nations Stabilization Force operations in Bosnia, to assess the progress of the Middle East peace process, and to gather information in support of my legislation to strengthen U.S. policy against countries that persecute religious minorities.

INTERNATIONAL CRIMINAL TRIBUNAL

The first phase of my trip involved a review of the progress of the International Criminal Tribunal for the former Yugoslavia and Rwanda in The Hague. This was my third trip to that body in as many years, and its good work reaffirmed my belief that the tribunal could well set the stage for the creation of a permanent International Criminal Court, which would do much to deter future crimes against humanity.

In The Hague, I met with the Tribunal's Chief Prosecutor, Louise Arbour, and several American members of her staff, to discuss pending prosecutions arising from war crimes in the former Yugoslavia and Rwanda. The prosecutors were much more optimistic than they had been on my two previous visits in 1996. One assistant prosecutor, Ms. Patricia Sellers, declared there had been more progress in international law in the last four years than in the intervening 520 years following the first conviction of a war criminal in 1474.

The most tangible of the tribunal's successes was the recent conviction, on eleven counts after a one-year trial, of Dusko Tadic, charged with crimes against humanity under the statutes of the International Tribunal and cruel treatment of civilians as defined by the Geneva Convention of 1949.

While the Tadic case is a start, it is important to note that only 19 of the 79 defendants under indictment are in custody. Most of the remaining defendants are at large in Serb-controlled portions of the former Yugoslavia.

On a later stop in Sarajevo, I saw that the multi-national force in Bosnia faces a complicated task in taking some of these major defendants, like Radovan Karadic and Ratko Mladic, into custody. The current instruction is to arrest indictees if observed, but not to hunt them down. Our military commanders told me in Sarajevo that they have the trained personnel to take them into custody if provided sufficient intelligence information on their whereabouts.

Some of the Congressional opposition to staying in Bosnia could be overcome with a strategy to hunt down war criminals as part of the SFOR mission, but this would present its own set of problems. Our experience in Somalia was bitter when we sustained extensive casualties in our unsuccessful effort to take Mohammad Aidid into custody. Consideration should be given to an arrest strategy if it could be accomplished with minimal difficulty.

A vastly preferable course to SFOR apprehension would be for Serbia to honor its commitments under the Dayton Agreement

to cooperate in apprehending the Tribunal's indictees. After discussing this matter with the Supreme Allied Commander, Europe, General Wesley Clark in The Hague, I requested and obtained a meeting with Slobodan Milosevic, President of the Yugoslavian Federation, who had been labeled a war criminal by Secretary of State Larry Eagleburger in December 1992. Fifteen minutes out of Belgrade on a special flight, I was told Milosevic had suddenly caught the flu.

In my testy substitute meeting in Belgrade with Yugoslavian Foreign Minister Zivadin Jovanovich, I pressed Yugoslavia to turn over several defendants in his country and to help apprehend Karadic and Mladic. I was not surprised by his refusal. While in Belgrade I heardthat many there are worried about the Tribunal's recently adopted procedure to obtain sealed indictments. Some ranking Serbian or Yugoslavian of officials may travel to a jurisdiction where an arrest warrant, based on a sealed indictment from the War Crimes Tribunal, could be served with a one-way ticket to custody at The Hague.

Later stops on my trip validated the importance of the International Tribunal's example to maintaining international stability. In Ethiopia, Yemen and Eritrea, I heard considerable interest in the tribunal's work on Rwanda war crimes. The U.S. Ambassador to Ethiopia expressed concern about the slow progress of the tribunal on the Rwanda indictments. Yemeni Foreign Minister Al-Iryani expressed satisfaction that 23 individuals are in custody on charges of war crimes in Rwanda.

Eritrean Foreign Minister Haile Weldensae told me that successful prosecutions against Rwanda defendants would help bring peace to that country which still suffers from massacres. Yemeni President Salih cautioned against the tribunal's handling of the Rwanda prosecutions without a better understanding of African problems. But the his Foreign Minister struck a positive chord, saying the Rwanda tribunal ''will absolutely deter'' future atrocities and that it would set a ''very good precedent that no one should get away from war crimes.''

From my review of the tribunal's progress, it is clear that it faces many hurdles: the body has only one courtroom (with a second under construction), and is frequently undercut by France and Yugoslavia in carrying out its work. The tribunal's budget has been increased, but still will have grossly insufficient resources to carry out its vital mandate. Only resources, perseverance and strong international backing will enable the War Crimes Tribunal to make a success of its unique opportunity to extend the rule of law against international criminals.

BOSNIA

The second phase of my trip involved evaluating the President's recent decision to stay to stay in Bosnia indefinitely in the face of the Defense Appropriations Act cutting off funding for our military operations there on June 30, 1998. Clearly, Congress and the President may be on a collision course on this matter. Evaluating our policy in Bosnia took me to Sarajevo, Belgrade and Italy to meet in the field with our troops and with military leaders from the U.S. and NATO Commands.

In Sarajevo, I asked our troops to estimate how long we would need to stay there to avoid the resumption of bloodshed which would happen if they left on Congress's schedule. A frequent answer was a generation, given the intensity and longevity of the religious and ethnic hatreds between the Muslims, Croats and Serbs. Command Sergeant Major Selmer Hyde, a Pittsburgh native, pointed out that Muslims in Sarajevo choose to walk up a high hill adjacent to the city over a winding dirt trail rather than using a new macadam road traveled by Serbs and Croats.

There was considerable Congressional opposition to President Clinton's deployment of U.S. troops for one year in early 1996 as part of a multi-national force, and even more skepticism when he extended their stay by 18 months shortly after the 1996 Presidential election. In articulating the three U.S. objectives for an indefinite stay in Bosnia, the President twice refers to European security and once to the rule of international law. While obviously important, those reasons do not measure up to ''vital'' U.S. national interests as defined by the historic Senate debate involving Senators Nunn, WARNER, MOYNIHAN, myself and others on the Congressional resolution to authorize the use of force in the Gulf War in January 1991.

There is no doubt about the potential dire consequences if the fighting resumes among the Muslims, Serbs and Croats. The battle may spill into Macedonia. Germany and other European countries would likely be flooded with refugees. The entire region would be de-stabilized.

But there is significant question as to how far can U.S. military resources be stretched on the current $268 billion defense budget. In the mid-1980s, those appropriations approximated $300 billion, which would exceed $400 billion in 1998 dollars. The top U.S. military brass in Bosnia and NATO had no response to my questions on priorities in deciding how to spend among Bosnia, Korea, Iran, Iraq and the world's other hot spots.

The other nations insist on U.S. leadership. The U.S. has about 8000 soldiers in the Bosnia force, compared to approximately 2500 Germans, 5100 British, 3200 French, and 1400 Russians. Most of those nations are AWOL when it comes to supporting the U.S. on tough sanctions against Iraq or on our efforts to isolate Iran, and France has chosen not to let its officers testify in front of the International Criminal Tribunal in The Hague. This is particularly outrageous given that General Shinseki's multi-national staff told me that successful prosecution of tribunal inductees forms a lynchpin of future Bosnian stability.

In the field, our Bosnian troops express mixed sentiments on our continuing role there. While there is pride on preserving the peace and noting some improvements, most say we will have to be there for decades.

Doing our part does not mean doing more than other major European nations. This is not the Cold War where the U.S. squared off against the USSR and our dominant role in NATO protected our vital national interests. Obviously, Bosnian stability is of much greater concern to the European nations than it is to the U.S.

If we are to stay, we should (1) get greater commitments from the other major powers—Great Britain, France, Germany, Italy, etc; (2) secure agreement from those nations to share on stabilizing the other world hot spots; (3) obtain real cooperation from the Serbs, Muslims and Croats on taking into custody defendants under indictment by the War Crimes Tribunal; and (4) set a timetable on benchmarks for progress which would permit a reduction and, ultimately, a withdrawal of U.S. personnel in Bosnia.

Congress is prepared to be cooperative, but there are important issues and interests which must be addressed to our satisfaction. The Defense Appropriations Subcommittee, on which I serve, should not and will not issue a blank check on Bosnia.

MIDDLE EAST PEACE

The third phase of my trip involved assessing Middle East regional stability and the progress of the peace process. Toward this end, I met in Israel with Prime Minister Netanyahu and various members of the Knesset, in Syria with President Assad and Foreign Minister Shara, in Jordan with King Hussein and Crown Prince Hassan, on the West Bank with Palestinian Authority Chairman Arafat and Minister of Education Hanan Ashrawi, in Eritrea with Foreign Minister Weldensae, in Yemen with President Salih and Foreign Minister al-Iryani, in Saudi Arabia with Saudi Intelligence Director Prince Turki and U.S. Air Force Brigadier General Rayburn and in Egypt with President Mubarak.

Before I left I had a talk with President Clinton and urged him to become more involved in the Mideast peace process, particularly on the Israeli-Syrian track. After meeting with Prime Minister Netanyahu and President Assad, I am convinced that if the President of the United States became personally involved on that track, there could be some real movement.

In talking to President Assad and Prime Minister Netanyahu on trips to the area in August and November, 1996, President Assad's position was that he's not going to resume negotiations unless Israel agrees to start off where Prime Minister Rabin left off, and Prime Minister Netanyahu contended that he had a different mandate from the Israeli electorate. This time, I noticed the same words, but somewhat of a difference in tone. I firmly believe that progress could be made on this track with direct Presidential involvement.

On the question of the Golan, I raised with President Assad the issue of submitting the return of the Golan to an Israeli referendum as part of any agreement with Israel. While initially President Assad considered this a matter purely for Israeli domestic consumption, after we talked for a while, he acknowledged that it could form a part of a future arrangement. If the sticking point of the status of Golan were decided directly by the Israeli electorate referendum, this would allow Prime Minister Netanyahu to negotiate with Syria, notwithstanding his ''mandate.''

As I did in the past, I also raised with President Assad the issue of Israeli MIAs and I was told that the Syrians have made continuing efforts. I had raised that in the past, and they say they have not been able to find anything to this point. I raised a number of other MIA issues; I've been asked by the U.S. Embassy not to discuss those issues in detail, but I did raise them all. I was assured that work is being done on them.

By contrast with the Israeli-Syrian track, the Israeli-Palestinian peace talks are much more difficult. There are a lot of people in the region who contend that Prime Minister Netanyahu has not kept his promises on the Israeli-Palestinian process. Prime Minister Netanyahu insists that he has kept his promises. I believe that bringing both sides together in this atmosphere is going to take a lot of work. I was glad to see the President bring both Prime Minister Netanyahu and Chairman Arafat to meet with him in Washington last week, but I wish that more could have been attained by way of tangible progress during their visits. I feel that a similar Oval Office dialogue between Prime Minister Netanyahu and President Assad would prove more fruitful because the Israeli-Syrian track appears not as intractable.

As ever, Islamic fundamentalist terrorism represents the greatest threat to regional security in the Middle East, and, in light of this, my visit to Saudi Arabia was especially instructive. I visited thousands of U.S. airmen living in tents at the remote Prince Sultan Air Base, to which our forces were sent

following the terrorist attack on Khobar Towers in Dhahran in June 1996. Their living quarters made the Allenwood Federal Prison in Pennsylvania look palatial.

I had met with FBI Director Louis Freeh before departing, and discussed, among other issues, the level of Saudi cooperation with our counter-terrorism effort. In Riyadh, I met with Saudi Intelligence Director Prince Turki, and strongly objected to the Saudis' refusal to honor their commitment to allow the FBI to question suspects in the Khobar Towers bombing. Prince Turki replied that Saudi national sovereignty entitled his government to handle the matter as it chose. This is particularly irksome, given the sacrifices that our troops are making in the region to provide the Saudi government protection from Iraq.

FOREIGN RELIGIOUS PERSECUTION

The fourth phase of my trip involved gathering information on foreign religious persecution. Worldwide persecution of religious minorities, focused particularly on Christians in Muslim countries China and Tibet, led last year to the introduction of the SPECTER–Wolf bill which would create a U.S. office to monitor such persecution and impose trade sanctions on countries which systematically persecute any religious group.

Toward the goal of fact-finding, I met with religious leaders and governmental officials in Egypt, Saudi Arabia, Ethiopia, and Eritrea and Yemen. I had wanted to visit Sudan to investigate persecution of Christians by the fundamentalist Islamic Sudanese government, but was told by the State Department that Sudan was unsafe for American delegations. I did meet with the Sudanese government-in-exile in neighboring Eritrea, and discussed reports of Sudanese persecution with His Holiness Abuna Paulos, the Patriarch of the Ethiopian Orthodox Church, and with the leadership of the Ethiopian Supreme Islamic Council in Addis Ababa.

My fact-finding corroborated the widespread reports of bias, mistreatment and even persecution of religious minorities in the Middle East and Africa.

Egyptian President Mubarak and Saudi Arabian Intelligence Director Prince Turki told me that public intolerance toward non-Muslim religions springs from the Koran. Conversion from Islam to Christianity or any other religion carries the death penalty under Muslim laws that are based on teachings of the Koran.

I heard conflicting statements in Saudi Arabia about whether the death penalty is actually imposed on conversion. One U.S. citizen living in Riyadh told me of a videotaped beheading by Saudi authorities of a Filipino Christian, but there was some question as to whether this individual was put to death solely because of his faith. There appeared to be more substance to a claim of religious motivation for the execution of a Christian charged only with robbery, since that punishment far exceeded the usual penalty for that crime.

Aside from the issue of capital punishment, there is no doubt that the religious police in Saudi Arabia are very repressive against Christians. A Mormon U.S. citizen reported a Saudi investigation seventeen years ago arising from prayer meetings in a private home. A dossier, he said, has been maintained by Saudi authorities on participants resulting in a recent deportation of a Mormon found in possession of a religious video.

Other U.S. citizens in Riyadh told of Christmas decorations being torn down in hospitals, seizures of personal bibles by Saudi customs officials and prohibition of displaying a Christmas tree in the window of a private home if it could be seen from outside. Another Christian from India told of a Sunday School being ransacked by Saudi religious police with the arrest and detention of a pastor, his wife and three children.

American soldiers of Jewish faith feel particularly at risk in Saudi Arabia. They change their ''dog tags'' to eliminate any reference to their religion during their tours there. When a rabbi from the Chaplain Corps recently visited U.S. military posts in Saudi Arabia, many Jewish soldiers declined to meet with him.

The Saudi answer on the religious questions was identical to their rationale on refusing to allow the FBI to interrogate the Khobar Towers suspects. The only difference was that source of their obstinacy was the Koran instead of national sovereignty. Nevertheless, I believe the Saudi attitude on religious bias can be changed at least to some extent in the face of sufficient U.S. and world persuasion and pressure.

On September 12, 1997, Prince Sultan reportedly made a commitment to the Pope that Christians would be permitted to pray together in the solitude of their homes. Even that remains to be seen. Prince Turki claimed that Saudi policy did not preclude people from bringing bibles for their own personal use through customs; but, he said, zealous customs bureaucrats often act on their own in confiscating these items.

From my discussions with foreign leaders and with religious minorities, it was clear that just the introduction of the Specter-Wolf bill has had an effect on foreign repressive practices. My friend, the Special Advisor to President Mubarak, Osama el-Baz, came to see me in my Senate office before my trip to ask that Egypt not be included among countries which persecuted Christians. Also, fifty-three Egyptian Christians recently publicized a letter saying, in effect, the U.S. should mind its own business even though they acknowledged that ''there are certain annoyances that [Christians] in Egypt suffer from.''

Egyptian evangelicals were not as restrained. They cited cases of eight and nine months in jail for Muslims who sought conversion to Christianity. One scholar produced statistics showing 1624 people were killed by religious violence in Egypt from 1990 through 1992 including the deaths of 133 Christians. Evangelicals in both Egypt and Ethiopia also complained about the long time it took to secure official permission to build churches, a snag that, in effect, stymied their religious activity.

Since the State Department advised against visiting Sudan, we sought information on that country's practices in the neighboring countries of Eritrea and Ethiopia. Eritrean Christians confirmed claims of Sudanese children being sold into slavery. They attributed it to profiteering by the militia as part of the booty of war. One Eritrean Christian commented on Sudanese governmental action in closing churches in 1997.

Our Christian, Jewish and Moslem interlocutors in Saudi Arabia, Egypt, Ethiopia and Eritrea were particularly pleased that the U.S. Congress was considering the issue. An Egyptian Muslim almost withdrew his objection to the Specter-Wolf bill when he heard it applied to other nations and had no sanctions against Egypt on U.S. foreign aid. Archbishop Silvano Tomasi, Vatican Ambassador to Ethiopia, complimented the proposed legislation for raising the level of dialogue, adding that, if it were enacted with a ''little bite,'' then so much the better.

By raising the profile of the religious persecution issue in the current discourse of foreign policy, Congress has been able to make some progress on advancing the cause of religious freedom abroad. Still, many problems remain. For this reason, Congressman Wolf and I will continue to pursue our bill toward the goal of putting teeth in our country's longstanding policy against foreign religious persecution.

MAGNETIC LEVITATION TRAIN TECHNOLOGY

On my way back to Washington, I stopped in Lathen, Germany, to announce the completion of an agreement to bring German high-speed magnetic levitation (''maglev'') train technology to Pennsylvania. I took a demonstration ride on the maglev train, which is capable of speeds as high as 310 miles per hour.

This is something I have been working on in the area of Transportation Appropriations for a long time. The maglev train ride would improve the quality of life of all Pennsylvanians who feel they spend too much time in traffic or at congested airports. This technology would also bring Pennsylvania's steel industry roaring into the 21st Century because the maglev train uses steel guideways over hundreds of miles.

The train went a little over 250 miles per hour and it was exhilarating to be in a kind of mass transit which goes so fast, a little like Buck Rogers. It would be tremendous for Pennsylvania and a tremendous boon to the economy of every stop along the line from Philadelphia to Pittsburgh, such as Lancaster, Harrisburg, Lewiston, State College, Altoona, Johnstown, and Greensburg. People could go from Philadelphia to Pittsburgh in one and a half hours non-stop, revolutionizing our transportation system. I look forward to continuing to support this economical, forward-looking technology in the future.

Mr. SPECTER. I thank the Chair and yield the floor.

Mr. GRAMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. GRAMS. Mr. President, I ask unanimous consent to be able to speak as if in morning business for up to 10 minutes.

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

Mr. GRAMS. Thank you, very much.

THE PRESIDENT'S BUDGET

Mr. GRAMS. Mr. President, I rise today to make a few, brief observations about the President's budget.

Let me say I welcome the fact that President Clinton has come up with a budget that may finally be balanced in the next fiscal year, although I do not agree with the outlines of his plan. The good news is that if the economy stays as strong as expected, we may soon enjoy a unified budget surplus for the first time since 1969.

However, Mr. President, again, after a thorough examination of President Clinton's budget, I must say this is not at all a responsible and honest proposal. Here is why:

First, President Clinton claims it is his fiscal policies that have reduced the federal deficit and brought the budget to the edge of balance. That would be stretching the truth. The productivity of the American people has brought us to this point, in spite of what Congress has done or the President's tax-and-spend habits. The truth is, the President has only been willing to balance the budget, if he is allowed

to use all increases in revenues, plus even higher taxes, to match his appetite for spending on expanded programs, new programs, and new entitlements.

In 1992, candidate Bill Clinton promised he would balance the budget if he were elected. When President Clinton arrived at the White House in 1993, he abandoned that promise at the front door. The first budget he proposed called for the largest tax increase in history and increased federal spending of more than a trillion dollars in just five years, a jump of 20 percent.

In 1995, the President again promised America he could balance the budget, first in ten years, then nine, then eight, and finally, seven. He made a similar balanced-budget promise in 1996. Finally, after spending all of the $225 billion revenue windfall ''miraculously'' discovered by the CBO, President Clinton and the Congressional leadership agreed last year to achieve a balanced budget in six years.

Mr. President, it is the American economy that produced this unprecedented revenue windfall for the federal government, and the unexpected dollars have come directly from working Americans—taxes paid by corporations, individuals, consumers, and investors. Washington did not do any heavy lifting: the people did. Yet, Washington takes all the credit.

Second, the Clinton Administration claims that this budget will produce surpluses ''as far as the eye can see.'' Sure, as long as you are looking through rose-colored glasses. Such claims are explicitly intended to mislead the American people. Mr. President, this projected surplus is only a surplus under a unified budget. Without borrowing from the Social Security trust funds, the real federal deficit could reach $600 billion over five years. The total deficit will reach a trillion in the next decade. This means we will see deficits, not surpluses, as far as the eye can see.

In fact, the CBO estimates the possible budget surplus could easily turn into a $100 billion deficit. I asked Dr. O'Neill last week what the odds were we would achieve a budget surplus versus ending up with a deficit, and she said it was 50/50. This uncertainty requires us to exercise fiscal discipline, not to run off and approve another $123 billion in spending as the President has proposed—money from a surplus we have not seen yet and a tobacco settlement that is only a proposal.

I need to stress that a unified balanced budget is an unacceptable prospect if it is achieved at the expense of responsible governing. The truth is that the President's budget continues the tax-and-spend policies that have been the hallmark of this Administration. Again, after setting spending limits that in 1997 grew the government three times faster than inflation, or the incomes of working Americans, the President wants to blow those spending caps with another $123 billion increase in federal spending. The ink is barely dry on last year's budget agreement, which gave working Americans, or at least a few of them, $90 billion in tax relief, and now the President proposes wiping out that tax cut with $115 billion in new taxes—or increases in existing taxes, permits, or fees.

The most untruthful thing about this budget is President Clinton's rhetoric that the era of big government is over. OMB director Raines testified in the Senate Budget Committee last week that by any standard, big government was indeed over. A $100 billion government 35 years ago is now 18 times larger, at $1.8 trillion. Who is kidding who?

If he does not get those new taxes through Congress, the President wants to borrow from the Social Security Trust Fund. Mr. President, the Congress must not permit the President to finance his spending programs, his big-government solutions, by borrowing from Social Security.

If you count what Senator GRAMM calls ''hidden spending'' of $42 billion, actual spending under the President's budget would reach $1.775 trillion, a 6.4 percent increase, and a Washington record. And it continues to grow from there. In 2003, the President is asking for $1.945 trillion in federal spending. Total federal spending for the next five years would reach $9.2 trillion. Annual government spending was $1.4 trillion when Mr. Clinton became president.

In five years, the President has already increased government spending by 27 percent. Is there any sign of leaner government? No. The truth is that the government is growing bigger and bigger and bigger.

Nor does this budget do anything to eliminate wasteful and unnecessary Federal programs. It does nothing to make the government more accountable and efficient. It actually increases civilian nondefense employment by 9,200. This is big, central government by any standard.

Mr. President, as I said on the floor the other day, if this is a race to prove who can be the most ''compassionate'' with the taxpayers' dollars, it is a race nobody is going to win, and one the taxpayers most certainly will lose. The truth is simple: you cannot buy compassion.

Third, the President claims that he will not bust the spending caps set up by last year's budget agreement. Again, this is not true. President Clinton has not only violated the spirit of the budget deal, he has also in effect broken the statutory spending caps established under the Balanced Budget Act of 1997.

Secretary Rubin assured us last week that the President would be bound by the budget agreement we reached last year. But by the President's own estimates, his budget does not meet the statutory caps on discretionary spending by actually reducing that spending.

The offsets proposed in the budget are highly questionable. To stay within the caps called for by last year's Balanced Budget Act, the President anticipates the use of $60 billion in tax increases to offset discretionary spending.

By doing so, without amending the law, the budget in effect violates the two separate enforcement measures set up by the 1990 Budget Enforcement Act, and it violates the spirit of last year's budget deal.

Mr. President, we broke the 1993 statutory spending caps last year, and we must never repeat that mistake. The current spending caps must stay in place.

Fourth, President Clinton claims that his budget will save Social Security. Again, the President is not being truthful to the American people. On the contrary, his budget does nothing to address our long-term financial imbalances.

And his call for increased spending would use all of any surplus, leaving nothing for Social Security. In fact, under the unified budget, the President will borrow another trillion dollars from the Social Security Trust Fund by the year 2012.

The President's Medicare proposal in this budget does more harm than good. Although the President has proposed putting the projected budget surplus into the Social Security trust funds, he has no specific plan of how to save Social Security.

Simply throwing money into the system without real reform will not preserve it. President Clinton's own Social Security Commissioner, Kenneth Apfel, recently said the President's proposal to bail out Social Security could not alone come close to solving the system's impending deficit. It may only extend the fund for two to five years.

Mr. President, I am deeply disappointed with this budget and troubled by its untruthfulness to the American people.

Although our short-term fiscal condition has improved in recent years, thanks to what Chairman Greenspan called an ''exceptionally healthy'' economy, our long-term fiscal imbalances still impose a threat to our future.

Washington's bills remain astronomic. We have a $5.5 trillion national debt, at least $14 trillion in unfunded liabilities for Social Security and Medicare, and more than $5 trillion worth of government contingencies. These risks will shatter our economy if we fail to take action now.

If the President will not step up and take the lead in ensuring fiscal responsibility, then Congress must. We must continue to cut government spending, shrink the size of the government, and reform Social Security and Medicare to save them.

Mr. President, in the next few months, I intend to work with my colleagues and the Administration to exercise the fiscal discipline necessary to ensure the federal budget will be balanced—and stay balanced—without

new taxes, without new spending, and without borrowing from the Social Security Trust Fund.

That is the responsible thing to do. That is the honest thing to do. And, Mr. President, that is the right thing to do.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I have two different items that I want to visit with my colleagues about. No. 1 is on international trade, and the second one will be on the Massiah-Jackson nomination that is before the Senate.

(The remarks of Mr. GRASSLEY pertaining to the submission of S. Con. Res. 74 are located in today's RECORD under ''Submission of Concurrent and Senate Resolutions.'')

EXECUTIVE SESSION

NOMINATION OF FREDERICA A. MASSIAH-JACKSON, OF PENNSYLVANIA, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF PENNSYLVANIA

The Senate continued with the consideration of the nomination.

Mr. GRASSLEY. Mr. President, I want to make a few comments on the nomination of Judge Frederica Massiah-Jackson to the Federal District Court for the Eastern District of Pennsylvania.

Recent resistance to her nomination has moved beyond individual opponents to wide-spread, bipartisan opposition. We've heard about opposition from the Pennsylvania District Attorneys Association.

Additional opposition comes from a Philadelphia lodge of the Fraternal Order of Police, as well as the Fraternal Order of Police, National Legislative Program. The F.O.P. has written letters to the Senate and the President voicing their concerns over the safety and welfare of the Philadelphia police force if Judge Massiah-Jackson is confirmed. They fear her established record of being extremely lenient on criminals and her insensitivity to victims of crime will ''pose a direct threat'' against police. Also, the National Association of Police Organizations, which represents more than 4,000 police unions and associations and over 220,000 sworn law enforcement officers, opposes the confirmation of Judge Massiah-Jackson.

If this isn't a strong indication of the problems this nominee's confirmation would cause, I don't know what is.

The Northampton County District Attorney has also written a letter to the Senate detailing twelve separate instances illustrating the improper conduct of Judge Massiah-Jackson. The facts on which the letter is based were compiled from internal memorandums, court transcripts and other documents from the office of the Philadelphia District Attorney's Office. The most egregious example disclosed by the letter was a 1988 acquittal of a man charged with possession of two and a half pounds of cocaine. The acquittal was the second by Judge Massiah-Jackson of alleged drug dealers arrested by the same police officers. In open court she told these arresting officers, who were working undercover, to turn around and told the drug dealers and other spectators to ''take a good look at the undercover officers and watch yourselves.'' The incident was reported in a Philadelphia newspaper and, as has been mentioned, the Judiciary Committee has also received the signed statements of Detective Sergeant Daniel Rodriguez and Detective Terrance Jones, the officers involved. This conduct not only significantly reduced the crime fighting effectiveness of the officers, but more importantly, they believed it put their lives in serious peril. This is not the type of conduct expected from a Judge, nor can it be tolerated.

In addition to this letter, the members of the Judiciary Committee also received a letter from Philadelphia District Attorney Lynne Abraham, who stands in opposition to this nomination. The opinion of Mrs. Abraham, who by the way is a Democrat, is particularly relevant since she campaigned with and served on the bench at the same time as Judge Massiah-Jackson. Mrs. Abraham concludes that, ''the nominee's record presents multiple instances of a deeply ingrained and pervasive bias against prosecutors and law enforcement officers and, by extension, an insensitivity to victims of crime. Moreover, the nominee's judicial demeanor and courtroom conduct, in my judgment, undermines respect for the rule of law and, instead, tends to bring the law into disrepute.'' She further notes that, ''this nominee's judicial service is replete with instances of demonstrated leniency towards criminals, an adversarial attitude towards police, and disrespect and a hostile attitude towards prosecutors unmatched by any other present or former jurist with whom I am familiar.''

These are not the biased opinions of racist or sexist opponents, as some have irresponsibly charged. They are the informed opinions of respected district attorneys and law enforcement officers with personal knowledge of the nominee. In fact, District Attorney Abraham has publicly said she ''firmly believes the next appointee to the U.S. District Court here should be an African-American woman. But that appointee should be one of the many eminently well-qualified African-American women lawyers in the area, and not Massiah-Jackson.''

Despite these fact-based opinions, supporters of the nominee have repeatedly insisted that she should not be judged on a few cases, and that her overall record can be characterized as fair to law enforcement and crime victims. They also point out that sentencing statistics show she is right in line with other judges. I must say these arguments are misleading, as demonstrated by the statistics provided to the Senate Judiciary Committee.

In reality, Judge Massiah-Jackson deviated from state sentencing guidelines, in favor of criminals, more than twice as often as other judges according to statistics compiled by the Pennsylvania Commission on Sentencing. From 1985 till 1991, Judge Massiah-Jackson sentenced below the Pennsylvania guidelines 27.5 percent of the time. Other Pennsylvania judges sentenced below the guidelines in only 12.2 percent of the cases. This record cannot be characterized as fair to victims or law enforcement, and is not in line with other judges. We've also heard the argument that district attorneys regularly disagree with judges. Well, Mr. President, in the seventeen years I've been voting on judicial nominees, I don't ever recall such local, public opposition as we've seen in this case. This is truly unprecedented.

We in the Senate can no longer overlook and excuse a record that is clearly against the interests of law enforcement personnel and victims of crime, or professional conduct which is below the dignity of a judge. No person, of any race or any gender, should be able to serve on the federal bench if she or he demonstrates a bias against police and prosecutors, is soft on crime and shows a lack of proper judicial temperament. For these reasons, I will oppose the confirmation of this nominee and urge my colleagues to do the same.

The PRESIDING OFFICER (Mr. COATS). The Chair recognizes the Senator from North Dakota.

ISTEA

Mr. DORGAN. Mr. President, I want to visit for just a minute the issue about the highway bill and roads.

I would say to the Senator from Indiana, the Presiding Officer, that when I was in high school in a small town in North Dakota, I was agitating pretty hard to get a car. The way my dad warded me off from this desire to purchase a car was he said I'll let you buy a car because I have one spotted for you. But he insisted that I would have to restore it.

Sure enough, my father, who delivered gasoline to rural users, family farmers, with his rural delivery gasoline truck, had been out on a farm and he saw a 1924 Ford Model T in a granary. It had been sitting in that granary for many, many years. He said, you know the fellow who used to own that farm and put that Model T in there, he lives out of State. You should write him a note and see if he would want to sell you that Model T. So I did, and the fellow wrote back and said he would be glad to sell me his 1924 Model T Ford. He sold it to me for $25 and sent me the original key and original owner's manual.

I went out to look at this car I just bought and the rats had eaten out all the seat cushions and all the wiring

and all there was was a metal shell with the engine, and no tires, of course. And so I was the proud owner of a 1924 Model T Ford. That's the car my dad got me for my social life. It wasn't much of a social life for long while, because it takes a long time to restore a Model T Ford. As a matter of fact, I didn't know much about it. I was told, by the way, the reason the owner drove it to the granary and put it in that granary for a long, long time was the Model T's are like the old red wagon you used to pull when you were a kid. If you turn the wheel in front too far, they would tip over. It's called jackknife. A lot of people don't remember that. But the Model T would jackknife if you turned the wheel too sharp. I was told, the fellow who owned it had been in town drinking and driving home from the bar he thought he saw some chickens in the road so he thought he'd take a sharp left turn and he jackknifed the Model T and it pinned him beneath the Model T and hurt him a little bit. He survived, but he parked the Model T in the granary and never drove it again. He was pretty upset, I guess.

Then I bought it. Then I had a 1924 Model T Ford to restore and drive on modern roads, which was really quite an interesting thing to do. It didn't improve my social life, but nonetheless I had a car, an old car on new roads.

One of the interesting things about automobiles in our society is that we have not only seen dramatic changes in our automobiles from the first Model T I purchased as a young kid, but the infrastructure that we use and that we need for those automobiles and for transportation has also changed dramatically.

I am told that a new automobile in this country, manufactured here today, has more computer power in the automobile than existed in the lunar lander that put the first American on the Moon. There were breathtaking changes in manufacturing techniques and the production of consumer products, especially in automobiles. But we also have to understand that, as a society, that no matter how much we change these consumer products in ways that are really wonderful, we also must invest in infrastructure. So we have, over the years, consistently, Republicans and Democrats, everyone, worked together, from county commissioners to U.S. Senators and mayors and Governors, to decide we need a first-class road system. We have, in part, become a world-class economy because we have a first-class infrastructure and a first-class transportation system.

We have before us in the U.S. Congress the need to pass a new highway bill. It is not a partisan issue. I don't come to the floor to blame anybody for anything. I come to the floor, as have some Republicans and some Democrats, and say it is time now to put the highway bill on the floor and let people who want to offer amendments offer the amendments and pass a highway bill so that those people out there who are running the highway programs in the State governments, and those people in the county commission offices and in the townships and the cities, will understand how much money is available to build and to repair roads and bridges. This plan must be passed by the Congress to allow all of those folks to understand what they can and cannot do; how much is available.

This morning I stopped to put some gas in my car on the way to work. I not only paid for the gasoline, I also paid a tax. That tax is going to go from that station that I stopped at to the Government coffers and will be put in a trust fund, and it is going to be used in one way or another, I expect, to build a road or repair a bridge. That's the purpose of the gas tax that we have imposed, in order to provide for this infrastructure investment.

We have a responsibility now to do last year's work. Some say, ''Gee, we didn't get it done last year. That is somebody else's fault.'' Or they point a number of different ways. ''But now we must wait for next year's budget in order to bring the highway bill to the floor.''

We don't need to delay last year's work to deal with next year's budget. It doesn't make any sense to me. Those people who have come to the floor of the Senate on a bipartisan basis and said this Congress is moving at a Model T speed here—this is really glacial speed, at least as we have taken off from the blocks. Let us bring something to the floor that we must do and must do soon. Let all those who have amendments to it offer those amendments, have a debate on the amendments, and vote so we can do our business.

Some say if we do it the other body will not do it anyway. The other body has signaled that it does not intend to take up a highway bill until the budget is complete this spring.

I was on a television program with the chairman of the committee in the other body that deals with this issue. He said that the Speaker has indicated he doesn't want this to come up until after the budget process. I respectfully say to the Speaker, ''That may be your desire, but I don't think that's what the American people desire.'' It's certainly not what I desire. I hope at least those of us in the Senate could pass the bill and send it over to the House and then say to them the American people want this done. Let's put some pressure on them. The best way to apply pressure to get something done is to do our work. Our job at this point is to bring the bill to the floor and begin to deal with this bill.

I have traveled in various parts of the world at various times. One of the interesting things that distinguishes a Third World country or a developing country from a developed country or an industrialized country is its infrastructure. I have been in hotels, the best hotel in a town, and turned on the tap and have gotten rust and water together because their infrastructure was terrible. And I have driven from that town in a Jeep, going only 25 or 30 miles an hour because the roads, the main roads, the best roads, are full of holes and ruts that will tear up a car's underside if you go faster than that. We all understand that many of those countries have not had the opportunity or the resources to develop their infrastructure.

In some ways, the inability to develop the infrastructure predicts that they will not become a developed country; that they will remain a country that is a Third World country. We distinguish ourselves and have become an enormously successful country over a couple of hundred years by our desire to build in this country, to build and create. Part of that building and creating is to invest in infrastructure. And part of that is to invest in the best road and highway system anywhere.

We face some daunting tasks now with respect to bridges and some of our roads in this country. They are in desperate need of repair. We have been putting money in a trust fund with which to do that. Yet, in many cases the trust fund hasn't been used because they want to build up that money to use it as an offset to make the deficit look different than it should have looked. Or others have other ideas on what to do with the money. The point is, we have a responsibility, all of us serving now, to deal with the infrastructure needs of our country now. I implore the majority leader and others to consider, as they develop the agenda for this Senate, that, beginning tomorrow or the day after tomorrow or next Monday, decide that high on the agenda, at the top of the list, will be for us to do what we must and should do: Pass a highway program that invests in this country's infrastructure.

Mr. President, I indicated that this is not an issue of partisanship. It is, interestingly enough, every time you get a highway bill to the floor, it is a debate between a group of States that think the formula by which we divide the highway moneys is a terrible formula and others who think the formula is a wonderful formula. It depends on who gets and who gives. My State, I just would say with respect to the formula, as you might think, gets more back than it sends in for the highway program. So some States would look at my State and say: ''Well, your State is a receiving State or a recipient State or a beneficiary'' and my State, somebody else's State, they would say, ''is a donor State. We are upset about that.''

Without getting into a debate about the formula, I would just say this. We are a State that is 10 times the size of Massachusetts, in North Dakota. You can put 10 States the size of Massachusetts inside the borders of North Dakota. Yet we have only 640,000 citizens. Those 640,000 citizens cannot by themselves pay sufficient gas taxes locally

to maintain the roads and bridges necessary in our State, in order to make it a national road system. We cannot do it.

In fact, if you measure the burden another way, we in North Dakota rank among the highest in the country in per-person payments of Federal gas tax. Our burden ranks among the highest in the country. But others want to segregate it out and say, ''Well, you are a recipient State and that is not right.''

I say, but we in North Dakota pay for the Coast Guard.

We don't mind doing that. I am a taxpayer. My constituents are taxpayers. We pay for the Coast Guard. We don't really have any coast to guard. North Dakota is landlocked. We don't mind really doing that. That is the way these things should be done on a national basis.

When it comes to investing in highway programs, we feel also that there ought to be a national program to make sure that our country is a country that is not divided by those areas that have good roads and those that don't, because some can afford it and some can't.

Roads and infrastructure represent a national need and a national priority, and the satisfaction of that need and priority makes this a better and a stronger country. I hope that the discussions on the floor of the Senate by Senator BYRD, Senator GRAMM and Senator BAUCUS and so many others who are urging that we be allowed on this agenda to consider very, very soon the highway reauthorization bill, I hope those urgings will be heard and that we will very soon be on that particular business.

Mr. President, with that, I see a colleague is on the floor. I yield the floor.

Mr. HUTCHINSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. HUTCHINSON. Mr. President, I ask unanimous consent to proceed as in morning business for a period not to exceed 10 minutes.

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

Mr. HUTCHINSON. I thank the Chair.

(The remarks of Mr. HUTCHINSON pertaining to the introduction of S. 1631 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. HUTCHINSON. Mr. President, I yield the floor and 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. THOMAS. 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. THOMAS. Mr. President, I ask unanimous consent to speak for 5 minutes as in morning business.

The PRESIDING OFFICER. The Senator is recognized for that purpose.

Mr. THOMAS. Thank you very much.

JACKSON HOLE AIRPORT

Mr. THOMAS. Mr. President, I rise today to talk a little bit about a parochial issue that is peculiar to Wyoming, but it is one that is troublesome. It has to do with the Jackson Hole Airport. I am rising to express my frustration regarding the Federal Aviation Administration (FAA) and its lack of action with respect to an environmental assessment (EA) regarding safety issues at the Jackson Hole Airport.

Let me explain why the issue is so important to us in Wyoming. Jackson Hole is the busiest airport in Wyoming. It is the only commercial service airport in the country that is located within a national park, Grand Teton National Park. As a consequence, of course, the FAA and the Park Service are very careful about making safety or other improvements at this facility. And they should be. As chairman of the Senate subcommittee on national parks, I agree that all of the proposals for changes at the Jackson Hole Airport ought to be carefully examined. You won't find a bigger advocate for our national parks in the U.S. Senate than me. However, there are some significant safety issues that must be addressed quickly.

Between 1984 and 1992, the airport had more ''runway excursions,'' which is a nice way of saying they ran off the end of the runway, than any other airport in the country. This includes a broad range of aircraft, from general aviation and small commuters, to large aircraft such as 757s.

Since 1992, there have been seven additional runway ''incidents'' that have occurred.

In response to these problems, the Jackson Hole Airport board began an environmental assessment in 1992. All the interested parties, including the Park Service and the FAA were at the table. In fact, in 1993, I wrote Transportation Secretary Pena asking for interagency cooperation on this important issue, including the National Park Service, the Interior Department, the FAA, and the Department of Transportation. I wrote that letter in order to avoid the kind of situation that we have now.

In April of 1997, the airport board finally completed the assessment, after 5 years, and submitted it to the FAA. The results of the environmental assessment appeared to be very reasonable.

It would bring the runways into compliance with current FAA runway standards. That makes sense.

It would improve safety without increasing the length of the runways, which is very important. There is opposition by some to making the runways longer because they are in the park. And there is some opposition to making them longer because that could accommodate bigger airplanes, and some people are not anxious to see that happen.

It would not result in any significant noise increase. In fact, I am told that the newer airplanes are less intrusive with noise perhaps than the older ones.

If, in fact, these statements are correct—and they appear to be—then why is the proposal being delayed? The FAA has been unresponsive and uncooperative with my office on this matter.

In December of 1997, 8 months after the completion of the study, the FAA still had not acted on the environment assessment. I wrote the agency asking it to expedite its consideration of this matter and I ask unanimous consent to have it printed in the RECORD.

There being no objection, the letter is ordered to be printed in the RECORD, as follows:

DECEMBER 4, 1997.

JANE F. GARVEY,
Administrator, Federal Aviation Administration, Washington, DC.

DEAR ADMINISTRATOR GARVEY: We write to request that you expedite action on the Final Environmental Assessment (EA) submitted by the Jackson Hole Airport Board in April of this year. Prompt action by the Federal Aviation Administration (FAA) is vital to maintaining safe air travel to and from Jackson Hole Airport.

As you may know, the Jackson Hole Airport enplanes more passengers than any other in our State and provides an essential transportation link to the northwest area of Wyoming. In addition, between 1984 and 1992, the Jackson Hole Airport had more ''runway excursions'' than any other air carrier airport in the United States. Both you and Secretary of Transportation Slater have emphatically stated that safety is the top priority of this administration. We agree that the traveling public's safety is vital and consequently ask that you expedite the consideration of this plan.

In the fall of 1993, the Wyoming Congressional Delegation requested inter-agency cooperation in the preparation of an Environmental Assessment of Master Plan Alternatives to enhance the safety and efficiency of the Jackson Hole Airport. The Delegation was assured by then Secretary of Transportation Federico Peña that the FAA would work toward the development of a responsible and ''timely'' airport plan. We are asking you to keep that commitment, particularly because seven months have passed since the Final EA was sent to the FAA for review.

The EA describes a preferred alternative designed to contain these runway excursions on pavement without actually extending the runway or expanding Airport boundaries. Unless action is taken quickly, runway safety improvements in the preferred alternative will be delayed until 1999. In fact, since the environmental assessment process began in 1992, seven additional runway accidents have occurred.

The concern the delegation expressed over four years ago remains: that timely action to be taken so that runway safety improvements at the Jackson Hole Airport will not be unduly delayed. If the FAA's record of decision on the Final EA will not be issued by January 1, 1998, we request that you inform us as to the reasons for the delay and when a decision should be expected.

Sincerely,

CRAIG THOMAS,
U.S. Senator.
MICHAEL ENZI,

U.S. Senator.
BARBARA CUBIN,
Member of Congress.

Mr. THOMAS. I still have not received an answer to my letter from the FAA. The letter was sent in early December of 1997. All the letter asked was for a date by which we could expect a decision. I didn't ask for a decision, I didn't urge a certain outcome, just the date.

I called the FAA Administrator several weeks ago and though she said she would check into it I have heard nothing from her or her staff. For an agency that claims safety as its No. 1 priority, these delays are hard to understand.

This assessment is not an effort to expand the airport. There won't be longer runways, bigger airplanes or more flights. It is about safety, safety for everyone flying in and out of this airport. Time is of the essence—there is a short construction period, as you might imagine, in Jackson Hole, WY. The FAA needs to come to a decision quickly or these safety improvements will be delayed for yet another year.

Mr. President, I guess I have to admit that I am simply expressing my frustration with this situation. The FAA's primary responsibility is safety. The Jackson Hole Airport presents an opportunity to deal with an important safety issue and we've received no response from the FAA. I, therefore, intend to be rather critical of the FAA until it decides to act and comes to a conclusion. This process has gone long enough. The FAA needs to move forward now.

I typically am not anxious to come to the floor of the Senate and grumble about a federal agency, but I think this is something that needs to be grumbled about, and therefore I am here.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

INDEPENDENT COUNSEL

Mr. TORRICELLI. Mr. President, I ask unanimous consent to have printed in the RECORD a letter I have written on this day to Attorney General Janet Reno.

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

FEBRUARY 11, 1998.

Hon. JANET RENO,
Attorney General of the United States, U.S. Department of Justice, Washington, DC.

DEAR MADAM ATTORNEY GENERAL: As a member of the Senate Judiciary Committee, which is charged with conducting oversight of the Department of Justice and the Office of the Independent Counsel (''OIC''), I believe public confidence in our system of justice must be maintained. I therefore respectfully request that you conduct a formal inquiry of Independent Counsel Kenneth Starr to determine whether he should be removed or disciplined for repeated failures to report and avoid conflicts of interest pursuant to the powers vested in the Attorney General by the Ethics in Government Act (''The Act''), 28 U.S.C. §591, et seq.

Recent events involving the Independent Counsel's probe are further evidence of Mr. Starr's entanglements that cast a cloud over his ability to conduct an investigation objectively. Over the course of his entire investigation, Mr. Starr, in his continuing work as a partner at the law firm of Kirkland & Ellis and as Independent Counsel, has embraced (and been embraced by) persons and interests that seek to undermine the President as part of their political agenda. He has continually turned a blind eye to his own conflicts of interest at his law firm, to the conflicts engendered by the actions of his clients, and to benefactors that seek to discredit the President for partisan political gain. A person of Mr. Starr's numerous conflicts of interest cannot carry out the even-handed and fair-minded, independent investigation contemplated by the Act. Moreover, the evidence that has surfaced thus far regarding the expansion of Mr. Starr's jurisdiction into these matters raises serious concerns about the OIC's collusion with the Paula Jones legal team in an effort to unfairly and illegally trap the President.

This possible misconduct demands an immediate investigation by the Department to determine if Mr. Starr remains sufficiently ''independent'' to continue to serve in his current position.

I. THE ETHICS IN GOVERNMENT ACT REQUIRES THE ATTORNEY GENERAL TO INVESTIGATE ALLEGED MISCONDUCT OF THE INDEPENDENT COUNSEL

The Independent Counsel statute provides the Attorney General with jurisdiction to investigate alleged misconduct, conflict of interest and other improprieties that would render an Independent Counsel unfit to remain in office. Specifically, under the statute, the Attorney General may remove an Independent Counsel ''for good cause, physical disability, or other condition that substantially impairs the performance of such independent counsel's duties.'' 28 U.S.C. §596. The Supreme Court has suggested that a finding of ''misconduct'' would most assuredly constitute ''good cause'' under Section 596, and that ''good cause'' may impose no greater threshold than that required to remove officers of ''independent agencies.'' *Morrison* v. *Olson*, 487 U.S. 654, 692, n. 32 (1988).

The Attorney General's removal authority and the concomitant authority to investigate the independent counsel to determine if there are grounds for removal are essential to the continuing constitutional vitality of the Act. Indeed, the Supreme Court's holding that the Act did not violate separation of powers principles rested largely on the power reserved to the Attorney General to remove the independent counsel for ''good cause.'' Specifically, the court found that the Attorney General's removal power rendered the independent counsel an ''inferior officer,'' as required by the Constitution, 487 U.S. at 671, and that such authority ensured that undue powers had not been transferred to the judicial branch under the Act. 487 U.S. at 656. Thus, Morrison teaches that not only is the Attorney General authorized to determine whether there are reasons to remove the independent counsel, but that the Attorney General is constitutionally obliged to do so.

In addition, the Act expressly obligates the Independent Counsel to follow, to the fullest extent possible, the standards of conduct prescribed by the Department of Justice. See 28 U.S.C. §594(f) (An Independent Counsel ''shall, except to the extent that to do so would be inconsistent with the purposes of this chapter, comply with the written and other established policies of the Department of Justice respecting enforcement of the criminal laws''). Accordingly, independent of your removal authority, the Department's Office of Professional Responsibility (''OPR'') has jurisdiction to investigate allegations of misconduct by the Independent Counsel and his staff or potential conflicts of interest that would disqualify him from serving as independent counsel. See Department of Justice Manual (''DOJ Manual''), Section 1–2112 (Supp. 1990) (Office of Professional Responsibility ''oversees investigation of allegations of misconduct by Department employees''). Against the backdrop of this clear constitutional and statutory mandate, I request that you initiate a formal inquiry into the following matters.

II. CONFLICTS OF INTEREST: MR. STARR HAS CONSISTENTLY IGNORED THE CONFLICTS RELATED TO HIS WORK, HIS CLIENTS, AND HIS BENEFACTORS

Mr. Starr's decision not to devote his full attention to his obligations as Independent Counsel in a matter involving the President of the United States has made inevitable the ensuing appearances of impropriety and actual conflicts of interest. His own ethics consultant, Samuel Dash, formerly Chief Counsel to the Senate Watergate Committee, noted that Starr's decision to continue representing private clients while investigating the President has ''an odor to it.'' ''How Independent is the Counsel,'' The New Yorker, April 22, 1996. The seriousness of these conflicts (and the odor) is evident by the direct involvement that his clients and others to whom he is financially dependent have assumed in Mr. Starr's investigation.

The Act makes clear that during an Independent Counsel's Tenure, neither the counsel, nor any person in a law firm that the counsel is associated with ''may represent in any matter any person involved in any investigation or prosecution under this chapter.'' 28 U.S.C. §594(j)(l)(i) and (ii). Mr. Starr, however, has violated both the spirit and letter of the statute through his own work and work of his law firm, as well as the actions of his clients and future benefactors.

A. The Expansion of the Investigation Into Matters In The Paula Jones Case Places Mr. Staff In Violation Of the Act's Conflict of Interest Provisions

Mr. Starr, as a partner at the law firm of Kirkland & Ellis and just prior to his appointment as Independent Counsel, actually provided legal advice in connection with the Paula Jones litigation. ''Mr. Starr's Conflicts,'' New York Times, March 31, 1996. While the fact that he has been involved with that litigation prior to becoming Independent Counsel certainly gave his appointment the appearance of impropriety in violation of the spirit of the Act, now that his investigation has fully inserted itself into the Paula Jones matter, concerns about his former representation certainly are magnified and call into question his role as an ''independent'' counsel in Paula Jones-related matters.

Of far greater gravity are the press reports and other information suggesting past and present representation by Kirkland & Ellis of other individuals connected to the Paula Jones civil litigation. See ''More Subpoenas and Angry Talk in Starr's Probe,'' Chicago Tribune, January 31, 1998; ''Starr Furor Lands at Firm's Door,'' Legal Times, February 9, 1998. Mr. Starr's potential breach of his duty to inform you of any association between his firm and persons involved in the Paula Jones matter, as well as the possible breach of the Act's statutory conflict of interest standards, should be the subject of investigation. Evidence that is discovered as the result of the current subpoena directed to Kirkland & Ellis for Paula Jones-related documents will undoubtedly shed light on whether Mr. Starr is in violation of the conflict of interest standards under the Act.

Chicago Tribune, January 31, 1998. Kirkland & Ellis's reported opposition to the subpoena is a significant indication of a violation of the Act. ''Chicago lawyer's role in Jones suite examined,'' Chicago Tribune, February 11, 1998. The firm's internal investigation apparently uncovered work done by one of its partners on Jones-related matters. This discovery subsequently was confirmed by one of Ms. Jones' former lawyers. Id. If, in fact, Mr. Starr failed to report the association of his law firm and such a conflict exists, that would undoubtably be grounds for his removal.

Mr. Starr, unfortunately, has failed in the past to report such direct conflicts of interest. While he was investigating the Resolution Trust Corporation and its supervision of Madison Guaranty, Kirkland & Ellis was being sued by the RTC for misconduct. ''Who Judges Prosecutor's Ethics? He does,'' Newsday, January 30, 1998. Despite his membership on the firm's management committee, Mr. Starr professed ignorance of the suit in which the RTC sued Kirkland & Ellis for one million dollars. The New Yorker, P. 63. Mr. Starr's lip-service to his ethical obligations without any apparent willingness to address the conflict of interest issues that have arisen demands that the Attorney General conduct an investigation to determine whether he should be removed.

B. Mr. Starr's Client, The Bradley Foundation, Has Been Active In Efforts To Discredit The President In Matters Directly Affecting The Investigation

The ties of Mr. Starr and his firm to persons and interest groups adverse to the President are not limited to the Paula Jones case. Indeed, in addition to his own personal involvement with the Paula Jones case, Mr. Starr represented the Lynde and Harry Bradley Foundation in an effort to uphold Wisconsin's experimental school-choice program after he was appointed Independent Counsel. The New Yorker, April 22, 1996, p. 59. Mr. Starr's position in that case was in direct opposition to the Administration. In addition to retaining Mr. Starr, the Bradley Foundation gives money to the President's ''most virulent critics,'' including the American Spectator, a publication obsessed with impugning the character of the President and First Lady, as well as the Landmark Legal Foundation and National Empowerment Television. Id.

The Bradley Foundation acknowledged freely that Mr. Starr's role was based in significant part on his long-standing ideological beliefs. Id. At 60. One noted ethics expert concluded that it was ''unwise for Starr to take Bradley money, given Bradley's funding of beneficiaries who are ideological enemies of the president he is investigating.'' ''Gov. Hires Ken Starr To Defend Plan,'' The National Law Journal, December 18, 1995, p. A5. In these instances where his private client is engaged in a highly politicized, personalized and acrimonious public policy debate with the President, Mr. Starr cannot possibly operate as an impartial investigator. This is particularly true when his private client is funding efforts devoted to publicizing Mr. Starr's investigation and related matters in an attempt to discredit the President and his political agenda.

C. Mr. Scaife, Mr. Starr's Benefactor At Pepperdine, Has Funded The ''Arkansas Project''—A Clandestine Effort To Attack The President

The question whether Mr. Starr labors under a conflict of interest in light of his ongoing relationship with Pepperdine University and Richard Scaife, a well-documented political opponent of the President's, was prompted by reports that Mr. Scaife has underwritten the faculty position that waits for Mr. Starr at Pepperdine University upon the expiration of his tenure as Independent Counsel. Washington Post, ''Starr Warriors,'' February 3, 1989. According to recent media reports, Mr. Scaife and his tax-exempt foundations are at the center of a secretive operation, coordinated with the American Spectator, called the ''Arkansas Project.'' See New York Observer, ''Richard Scaife Paid for Dirt on Clinton in Arkansas Project,'' February 4, 1998.

The ''Arkansas Project'' reportedly involved Mr. Scaife funneling more than $2.4 million from his tax-exempt 501(c)(3) foundations to the American Spectator over the last four years ''to pay former F.B.I. agents and private detectives to unearth negative material on the Clintons and their associates.'' Id. Indeed, the project apparently paid former state trooper L.D. Brown—the source of a number of allegations against the President investigated by the Office of Independent Counsel—as a ''researcher.'' Id. Mr. Starr's apparent failure to inquire into the financial motivations that may have prompted these allegations makes his investigation a ''patsy'' for the Arkansas Project, if not actually complicit in its goal to undermine the President.

Even more troubling, David Hale, Mr. Starr's alleged chief witness against the President, is linked to Mr. Scaife. The Arkansas Project was apparently run by Stephen Boynton, a Virginia lawyer and close friend of David Hale, the convicted felon that Mr. Starr considers his prize witness against the President. Recently, after his office argued to reduce Mr. Hale's 28 month sentence to time served, abated his $10,000 fine and asked the court to vacate the order that Mr. Hale provide restitution of $2 million for defrauding the Small Business Administration. Mr. Starr praised Mr. Hale saying ''This [investigation] would be over if everyone had been as cooperative as David Hale, had told the truth.'' Federal News Service, February 6, 1998. Mr. Hale's previous record, however, involved lying to a federal judge at his sentencing. ''The Real Blood Sport: the Whitewater Scandal Machine,'' Washington Monthly, May 1, 1996. Fortunately for Mr. Hale, his personal attorney is Theodore Olson, a board member of the American Spectator Education Foundation, Inc., and former law partner of Mr. Starr. Id.

The only conclusion is that Mr. Starr is inextricably intertwined with persons whose primary objective appears to be to discredit the President. While these allegations have previously been brought to the Department's attention, Mr. Starr's relationship with Mr. Scaife and others in the Arkansas Project combined with the information about the extent of Mr. Scaife's extraordinary expenditure of resources (in apparent violation of federal tax law) to discredit the President in parallel with Mr. Starr's investigation seriously undermine any contention that Mr. Starr is without a conflict of interest.

III. EVIDENCE OF OIC COLLUSION WITH PAULA JONES LEGAL TEAM WARRANTS FURTHER INQUIRY

The sequence of events leading up to the President's deposition and certain media accounts raises serious concerns that the OIC coordinated its investigation with the Paula Jones legal team and, in fact, may have played a role in the preparation of questions for the President's deposition. Such collusion, even if indirect, would constitute misconduct of the highest order and provides grounds for Mr. Starr's removal.

As you may be aware, press reports indicated that on January 12, 1998, Ms. Tripp contacted the OIC and provided them with tapes of conversations that she had unlawfully captured between herself and Ms. Lewinsky, Time, February 9, 1998. Then, the next day, January 13, the OIC equipped Ms. Tripp with a wire and taped a conversation between herself and Ms. Lewinsky. On January 16, Ms. Tripp again lured Ms. Lewinsky into a meeting with her. At that time, she was approached by FBI agents and OIC prosecutors. Id. According to press reports, she was held for several hours, threatened with prosecution and offered immunity if she agreed to a debriefing at that time. Id. According to her current attorney, the immunity offer was contingent upon her agreement not to contact her attorney in the Paula Jones matter, Frank Carter. Time, February 16, 1998. That same day, the Special Division (the court empowered to appoint an independent counsel) expanded Mr. Starr's jurisdictional mandate to cover the allegations related to Ms. Lewinsky.

Simply, the timing of events leading up to the President's deposition provides substantial reason to be concerned about possible coordination between the OIC and the Paula Jones team. But there is more. According to media reports, Ms. Tripp briefed the Jones legal team not only on the conversations that she recorded, but also on the OIC-directed monitoring of her conversation with Ms. Lewinsky. Wall Street Journal, February 9, 1998. This draws the OIC one step closer to the Jones civil litigation efforts. Moreover, the OIC's delay in seeking approval to expand its jurisdiction further heightens concerns over the OIC's coordination with the plaintiffs in the Paula Jones matter. Specifically, in seeking immediate approval of his expanded jurisdiction, Mr. Starr apparently expressed concern that impending press reports would scuttle his efforts to obtain evidence against Mr. Vernon Jordan and perhaps the President. See Washington Post, January 31, 1998. But it appears that Mr. Starr knew about the impending press coverage well before he brought the new allegations to your attention. His delay may be suggestive of an effort to maintain the secrecy of the new allegations until after the deposition of the President.

The alleged entanglement of the OIC with persons or organizations singularly devoted to the demise of the President implicate bedrock constitutional principles of due process and fair play. Indeed, ''[f]undamental fairness is a core component of the Due Process Clause of the Fifth Amendment.'' *United States* v. *Barger*, 931 F.2nd 359 (6th Cir. 1991); *United States* v. *Brown*, 635 F.2d 1207, 1212 (6th Cir. 1980). Any collusion between the OIC and the Paula Jones legal team, for example, casts serious doubt on the propriety of any investigation into the President's alleged statements regarding Ms. Lewinsky during his civil deposition. Specifically, the government may not, consistent with due process, deliberately use a judicial proceeding for ''the primary purpose of obtaining testimony from [a witness] in order to prosecute him late for perjury.'' *United States* v. *Chen*, 933 F.Supp 1264, 1268 (D.N.J. 1986).

There is little doubt that a primary purpose of the deposition questions regarding Ms. Lewinsky was to trick the President. In fact, press reports make clear that ''the goal of the Jones' team was to catch Mr. Clinton in a lie . . . Their detailed questions went well beyond simply whether there was a sexual relationship with Ms. Lewinsky and into other matters that could be independently verified.'' Wall Street Journal, February 9, 1998. Given that, as noted above, Linda Tripp was feeding information to the Paula Jones' lawyers about her conversations with Ms. Lewinsky, including the conversation recorded by the FBI, see Wall Street Journal, February 9, 1998, there is reason to suspect that the OIC may have assisted or played a role in the formation of questions asked by

Ms. Jones lawyers regarding Ms. Lewinsky. In addition, the evidence suggests that Mr. Starr deliberately delayed seeking your approval to expand his jurisdiction for improper purposes. Specifically, the delay appears to have been a calculated effort to conceal his expanded authority from the President prior to the deposition. Such conduct raises the specter that an unlawful ''trap'' may have been laid against the President.

In a similar vein, if the OIC was in fact assisting the Paula Jones legal team in any capacity, such conduct may also be inconsistent with the due process protections that preclude the government from using civil discovery to obtain information for a contemplated criminal action. See e.g. *United States* v. *Nebel*, 856 F. Supp. 392 (M.D. Tenn. 1993). In light of fundamental constitutional concerns implicated by the Independent Counsel's conduct, justice demands that you initiate an inquiry to ensure that the Independent Counsel's investigation has comported with basic rules of fairness and decency. The President, as do others in this investigation, deserves the same protections that shield all other Americans from arbitrary and unlawful government conduct. Indeed, particularly where, as here, a prosecutor has been given virtually unfettered authority to investigate almost every dimension of a person's life, we must be particularly vigilant in guarding against abuses of that authority. You thus have both a statutory and constitutional obligation to determine whether the Independent Counsel has acted properly in investigating the President.

Sincerely,

ROBERT G. TORRICELLI,
U.S. Senator.

Mr. TORRICELLI. Mr. President, I want to make myself clear at the outset. I rise today with no portfolio for President Clinton. I do not pretend to know the details of either the Whitewater case or matters pertaining to Paula Jones, with a series of other legal issues now, involving the Office of Independent Counsel, the Justice Department and President Clinton's private attorneys. Those issues are not my purpose today.

Like most Americans, I have watched events of recent weeks with some curiosity and with a deep sense of regret. I rise today for a different purpose. I want to talk about justice—not the justice of the individual in these cases but the administration of justice by the Government itself. I do so from the perspective of a member of the Judiciary Committee, recognizing that under the Ethics in Government Act it is the responsibility of the Attorney General to investigate alleged misconduct, conflicts of interest and other improprieties of the Office of Independent Counsel. This institution, through the Judiciary Committee, has a responsibility of oversight, both of the Office of Independent Counsel and the Attorney General herself as she implements the act.

My purpose, then, in this capacity, is to review a series of legal and ethical issues that pose a challenge to the integrity of the Office of Independent Counsel and whether or not it is being administered and the responsibility of the Attorney General to oversee its activities.

Within recent days, we have learned details of a series of deliberate leaks of grand jury material—not on a few occasions, not on one or two items, but virtually volumes of material impugning the character of individuals—that may undermine aspects of the investigation. Some of these leaks have been characterized as unfortunate. Some, perhaps, inevitable, as part of the process. They may be these things. But they are also something else. They represent a Federal felony. It is against the law. In this case, a potential violation of the law by members of the Justice Department or in their employment themselves.

David Kendall, President Clinton's lawyer, has detailed some of these leaks in a 15-page correspondence, virtually identifying volumes of material where some of the most reputable publications in America—including the New York Times, the Washington Post—indicate that this material comes from ''sources in Starr's office;'' ''Starr's investigators expect;'' ''sources familiar with the probe''—hardly masking the Government prosecutor's contravention of Federal statutes, punishable both by fines and jail terms, for leaking grand jury material.

I believe that the standard for such abuse was set by former Attorney General Thornburgh who, in the matter of Congressman Gray and the leaking of grand jury material, required that his associates, those familiar with grand jury material, were not simply investigated but polygraphed, with a clear or implied threat that any failure to comply or to pass the polygraph would mean their immediate dismissal.

Indeed, as much of America has heard about the grand jury leaks, it has tended to mask several other perhaps more serious ethical problems that must also be addressed by the Attorney General and are outlined in my correspondence being sent to the Attorney General on this date.

Just prior to his appointment as independent counsel, Mr. Starr was retained by the Independent Women's Forum to write an amicus brief in the matter of the civil complaint being brought by Paula Jones. The Independent Women's Forum is funded by a Richard Scaife of Pennsylvania. In the furtherance of these responsibilities it is not clear how much or whether, indeed, Mr. Starr was compensated, but it is clear that his firm and he were engaged in this activity, including researching a brief, contacting those attorneys, then representing Paula Jones. They were actively engaged.

Reports as recent as 3 months ago indicate that individuals at Mr. Starr's firm with whom Mr. Starr is still associated have continued to assist Paula Jones in her legal defense team. This morning in the Chicago Tribune it is further alleged by that publication that Mr. Starr's firm—where this financial relationship continues between Mr. Starr and his partners—has continued to provide assistance to Paula Jones' defense team, even while the investigation of President Clinton under the authority of the Attorney General was expanded to include matters relating to the civil complaint by Paula Jones.

Mr. President, the Office of Professional Responsibility, under the direction of Attorney General Reno, needs to review these serious lapses of ethical conduct and these transparent conflicts of interest. It is left with little or no choice. If there is to be any confidence in the administration of the Office of Independent Counsel, and if the American people are to believe the result of this investigation and whatever recommendations result, the Office of Professional Responsibility will need to definitively establish whether, indeed, there are conflicts of interest, as are being alleged.

Indeed, I know of no authority in the canons of ethics of the profession, the operating procedures and rules of ethics of the Justice Department, that would permit an attorney in any capacity, no less an Office of Independent Counsel, investigating any American, no less the President of the United States, to operate with ethical standards that allow he or his associates within a single case dealing with the same litigants to do work for such clearly conflicting interests.

Third, while serving as independent counsel for the Government, Mr. Starr's law firm has received and continues to receive retainers and legal payments from corporations, including Philip Morris and Brown & Williamson, potentially of millions of dollars, that not only have an interest but an extraordinary financial interest in the defeat of President Clinton's initiatives and whose interests are directly impacted by his political viability.

Mr. Starr's continuing to draw income, a year ago in excess of $1 million in personal compensation, while in the employment of the U.S. Government to investigate matters relating to President Clinton, is not only unsound judgment but as clear a conflict of interest between those of the private attorneys, the private parties that he has sworn to defend and the interests of the U.S. Government that he has similarly sworn to pursue. Both cannot be his master.

Attorney General Reno is left with the question of what other interests have continued to pay compensation to Mr. Starr, what other clients and what kind of judgment has been exercised.

Making this all the more urgent, indeed feeding suspicion, is a fourth point that in some ways may be the most troubling. Richard Scaife, who earlier in this affair was funding research into the Paula Jones case, appears again as a part of Mr. Starr's performance of his responsibilities. Mr. Scaife has provided $600,000 per year, approximately $2.5 million, to fund something that is known as the Arkansas project. The Arkansas project is a tax free 501(c)3 organization under the Tax Code of the United States. It indeed has funded this money through the American Spectator magazine.

The purpose, apparently as outlined in an article in the New York Observer, written by Joe Conason last week, has resulted in the establishment of a relationship with David Hale, the principal witness used by Mr. Starr against President Clinton, in the Whitewater case and a State trooper, former State Arkansas Trooper L.D. Brown. It appears that the American Spectator established a relationship of unknown financial or other reward to secure the cooperation of each individual in the writing of the articles.

The changing of the testimony of these witnesses, critical to Mr. Starr's work, and when those changes occurred and their relationship with the Arkansas project, becomes an important matter for the Justice Department. It would appear on its face that is at least reason to explore whether the improper use of tax-free foundation funding through this publication with the intention of influencing potential Federal witnesses did not constitute Federal witness tampering. It is, however, an issue that must immediately be established.

As a part of this aspect of the case requiring investigation, as Mr. Hale's legal representation by one Theodore Olson, who seemed to have guided Mr. Hale in his testimony in the Whitewater affair, who is also the counsel to the American Spectator funded by Mr. Scaife, who was also a former law partner of Mr. Starr.

Mr. President, sometimes facts that are coincidental can paint a picture of conspiracy where it does not exist. There are coincidences, sometimes, of extraordinary scale. But the Attorney General would need to admit that there are events in this case that are peculiar indeed—Mr. Scaife's funding of the American Spectator and its impact on Federal witnesses; Mr. Scaife's potential funding of Mr. Starr as a private attorney in the Paula Jones case; Mr. Scaife's funding of employment for Mr. Starr at Pepperdine University, where he was offered and initially accepted a teaching position in the law department.

Coincidence? Perhaps. But as our former colleague, Senator Cohen once observed on this floor, ''The appearance of justice is as important as justice itself.''

There are, in the coming weeks, important judgments to be made about the administration of justice with relation to the President of the United States. Those decisions will profoundly impact policy and the guidance of the U.S. Government. I have no knowledge and, therefore, no recommendation on the matters of how the case should be pursued. I am not here to distinguish falsehood from truth. I am here in the interest of justice.

It would appear on the facts that there is something terribly troubling about the administration of the Office of the Independent Counsel. So in my correspondence of this day, I have asked Attorney General Reno to have the Office of Professional Responsibility inquire as to whether indeed there are conflicts of interest in the Paula Jones case and, indeed, whether it is factual that Mr. Starr was once engaged as a private litigant in that matter. If so, the result is clear—he must recuse himself and professional prosecutors must pursue the matter. Similarly, to establish whether funds, through the American Spectator, were improperly used with a result of tampering of witnesses. Finally, to conclude whether or not the operation of a private law practice, including the solicitation of clients and their funding, has compromised the operations of Mr. Starr in his pursuit of the various cases before his office.

Mr. President, Members of this institution and of the respective parties have at various times praised or criticized the Attorney General in the performance of her responsibilities. Perhaps the fact that she has been criticized from all quarters for so many decisions is the best testament of her native integrity. Janet Reno is as capable an Attorney General as the United States has ever been fortunate enough to have in that office. I leave these judgments with her, knowing of her high integrity, her understanding of the importance of these cases, the profound impact on the administration of the U.S. Government and of justice itself, knowing that she will do with them what is right and proper.

Mr. President, I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. GREGG). Without objection, it is so ordered.

EXECUTIVE SESSION

NOMINATION OF FREDERICA A. MASSIAH-JACKSON, OF PENNSYLVANIA, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF PENNSYLVANIA

The Senate continued with the consideration of the nomination.

Mr. SANTORUM. Mr. President, I rise to continue the discussion on the judge of the Eastern District of Pennsylvania, Judge Massiah-Jackson. Within the past 24 hours, I and Senator SPECTER have been talking to the majority leader, to the chairman of the Judiciary Committee, to those who are in opposition to her nomination in an attempt to resolve a lot of issues. And what Senator SPECTER and I have referred to, to complete this process of consideration in what we believe is the only fair way to do so, is to have an additional hearing for her to be able to respond to the information that has been presented so publicly now to the Congress and the Senate with respect to her nomination.

The majority leader is intending to come down in the next 15, 20 minutes to make a statement, which I fully support, and I know Senator SPECTER supports, which will, in a sense, move this nomination aside for now and have this nominee be given the opportunity to appear before the Judiciary Committee and answer this new information, or respond to the questions of members of the Judiciary Committee.

That is all I have been asking for since the leader scheduled this nomination. I am hopeful that after we go out on recess next week, there will be scheduled a Judiciary Committee meeting for people who have provided the information to present that information formally to the committee, be questioned by committee members, and then for Judge Massiah-Jackson to have the opportunity to answer the charges that have been leveled against her.

That will complete, in my mind, the process of fair consideration.

Her nomination will remain here on the floor. It will remain on the Executive Calendar, and subsequent to the hearing, the majority leader will call the nomination up for a vote at that time.

That is, again, all I have been requesting from the leader—is to give this process time to play out, fairness dictating the order of the day, and then give the Senate the opportunity to pass judgment as to whether we believe that she should be a judge in the Eastern District of Pennsylvania.

So I see this as a very favorable resolution of what I have been asking for in the past 24 hours.

I thank the majority leader for his patience. This has been somewhat of a difficult ordeal having to juggle all the different sides on this issue.

I thank the chairman of the Judiciary Committee for his willingness to hold another hearing. He knows that he has not been formally requested to do so by the Senate but has volunteered to make the committee available to further give Judge Massiah-Jackson the opportunity to respond to this new information that has been provided.

Mr. President, I know the Senator from Missouri has more to say on this nomination. He is ready to go. So I yield the floor.

Mr. ASHCROFT addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. ASHCROFT. Mr. President, I rise to continue to explain the basis for my opposition to the nomination of Frederica Massiah-Jackson to be a U.S. district judge for the Eastern District of Pennsylvania.

Although I have already spent time on the floor detailing this nominee's record, I think it is important and valuable to spend the time necessary to demonstrate the serious flaws of this

nominee and to also highlight the caliber of the nominees that we are receiving from the President of the United States.

There are a number of categories into which my objections to this nomination might fall.

One would be a disrespect for the court and its environment, perhaps most clearly typified by the willingness of this nominee to use profanity in the courtroom.

No. 2, a contempt for prosecutors and police officers that is evidenced in the way she has treated them and handled them as they have appeared in court and the way in which she has handled evidence assembled by those officers.

Those are two major problems that I have with this particular nominee.

No. 3, the concept of leniency in sentencing; the effort made by this nominee as a judge in the State of Pennsylvania to reduce the sentences which were given to those who had been convicted of crimes is notable. It has, as a matter of fact, even caught the attention of the appellate courts at which time those sentences have been reversed.

These are among the most important factors that lead me to the conclusion that Judge Massiah-Jackson should not be confirmed as a United States district court judge.

She should not be considered for a lifetime responsibility in administering justice in the United States of America; that in the event that the President refuses to withdraw this nomination, which he should do, that the Senate of the United States of America should reject this nomination.

Let me just go through some of these points in order to establish a factual basis for these conclusions supporting the categories which I have mentioned.

First is the contempt for prosecutors and police officers that Judge Massiah-Jackson has evidenced in the conduct of her responsibilities as a judge in Pennsylvania.

In the case of Commonwealth v. Ruiz, Judge Massiah-Jackson acquitted a man accused of possessing $400,000 worth of cocaine because she did not believe the testimony of two undercover police officers, Detective-Sergeant Daniel Rodriguez and Detective Terrance Jones. It was the second time she had acquitted alleged drug dealers nabbed by the same officers. The first time, the two undercover officers testified that they found two bundles of heroin on a table right next to the defendant's hand. The judge not only refused to believe this testimony, she went one step further. As the officers were leaving the courtroom, the judge reportedly told spectators in the court: ''Take a good look at these guys [the undercover officers] and be careful out there.''

This identification by the judge was reported in the Philadelphia Inquirer.

Detective-Sergeant Daniel Rodriguez confirmed this outrageous courtroom incident in a signed letter to the U.S. Senate. The detective-sergeant had the following comments regarding the incident, and I quote:

> I thought, ''I hope I don't ever have to make buys from anyone in this courtroom.'' They would know me, but I wouldn't know them. What the judge said jeopardized our ability to make buys. And it put us in physical danger.

I really believe that this officer sincerely wrote that letter and that he intended for the letter to say exactly what it said and that he felt the sense of physical danger that was occasioned by the special identification that the judge had made of him and another police officer.

Detective Terrance Jones, the other undercover officer that was identified by Judge Massiah-Jackson in open court, according to the Philadelphia Inquirer, also confirmed the facts in a signed statement to the committee staff. He stated that the comments ''jeopardized our lives.'' Detective Jones also notes:

> As a law enforcement officer who happens to be African American I am appalled that self-interest groups and the media are trying to make the Massiah-Jackson controversy into a racial issue. This is not about race. This is about the best candidate for the position of Federal judge.

Let me go to another case, the case of Commonwealth v. Hicks. In this case, in an action that led to a reversal by the appellate court, Judge Massiah-Jackson dismissed charges against the defendant on her own motion.

Although the prosecution was prepared to proceed, the defense was not ready because it was missing a witness—a police officer who was scheduled to testify for the defense apparently had not received the subpoena. The defense requested a continuance to clear up the mixup concerning the subpoena. The commonwealth stated that it had issued the subpoena. The defense did not allege any wrongdoing or failure to act on the part of the commonwealth. Nonetheless, without any evidence or prompting from defense counsel, Judge Massiah-Jackson decided she simply did not believe that the commonwealth's attorney subpoenaed the necessary witness. Judge Massiah-Jackson held the commonwealth liable for the defense's lack of preparation for its own unpreparedness, and Judge Massiah-Jackson, on the motion of the court, dismissed the case without even the suggestion from the defense that the case should be dismissed. The facts ultimately revealed that the subpoena had been issued, but the officer was on vacation and had not received it. It was not the fault of the commonwealth. Judge Massiah-Jackson's decision was reversed on appeal as an abuse of discretion. The appellate court concluded that, ''Having carefully reviewed the record, we are unable to determine the basis for the trial court's decision to discharge the defendant. Indeed the trial court was unable to justify its decision by citation to rule or law.''

There is a lot of discussion about whether we need to send this nomination back for additional information and for hearings before the Senate Judiciary Committee.

This particular case, for instance, was discussed at the hearing. When asked by a Senator if she had any comment or explanation of the situation, Judge Massiah-Jackson just replied, ''No, Senator, I don't.''

It occurs to me that it is not necessary to reconvene the committee and to move this matter back from the floor of the Senate asking that there be opportunities for explanations for cases like that when those opportunities were available then.

Commonwealth v. Hannibal is a case that is demonstrative of this particular nominee's lack of judicial temperament.

In court, in response to prosecutor's attempt to be afforded an opportunity to be heard, the following exchange took place on the record:

> The COURT. Please keep quiet, Ms. McDermott.
>
> Ms. MCDERMOTT for the Commonwealth: Will I be afforded——
>
> The COURT. Ms. McDermott, will you shut your f***ing mouth.

That is from the transcript of June 25, 1985, at page 17.

Judge Massiah-Jackson was formally admonished by the Judicial Inquiry and Review Board for using intemperate language in the courtroom. This incident, incidentally, was also discussed by the committee with the judge, and the conduct was admitted.

In the case of Commonwealth v. Burgos and Commonwealth v. Rivera, during a sentencing proceeding, the prosecutor told Judge Massiah-Jackson that she had forgotten to inform one of the defendants of the consequences of failing to file a timely appeal. Of course, such a failure would prejudice the commonwealth on appeal. Judge Massiah-Jackson responded to this legal argument with profanity, stating, ''I don't give a [expletive deleted].'' This incident was discussed at the committee hearing, and the conduct was also admitted.

District Attorney Morganelli of Northampton County, PA, has suggested that the reason there are not more instances of foul language on the record is that Judge Massiah-Jackson's principal court reporter routinely ''sanitized the record.''

It does not appear to be a coincidence that both of these profane outbursts were directed at prosecutors. Instead, Judge Massiah-Jackson's foul language appears to be part and parcel of her hostility to law enforcement.

Let me move to the issue of the leniency in sentencing which has been characteristic, I believe, of this judge's record. In the case of Commonwealth v. Freeman, the defendant shot and wounded a Mr. Fuller in the chest because Mr. Fuller had laughed at him. Judge Massiah-Jackson convicted the defendant of misdemeanor instead of felony aggravated assault. She sentenced him to do 2 to 23 months and

then immediately paroled him so that he did not have to serve jail time. The felony charge would have had a mandatory 5- to 10-year prison term. Judge Massiah-Jackson explained her decision stating, ''The victim had been drinking before being shot,'' and the defendant ''had not been involved in any other crime since the incident.''

Here we have an individual who shoots another individual, and this judge not only makes it a misdemeanor so that the sentence can be reduced from a minimum of 5 to 10 years to 2 to 23 months, but then paroles immediately the individual so that no jail time is served after the conviction. The judge explains this behavior saying that the person who had been shot had been drinking as if somehow, I guess, if you are drinking you are eligible to be shot; and that the defendant ''had not been involved in any other crime since the incident.''

This case was not discussed at the hearing. No appeal was taken from this case.

In the case of Commonwealth v. Burgos, during a raid on the defendant's house, police seized more than 2 pounds of cocaine along with evidence that the house was a distribution center.

The defendant, Mouin Burgos, was convicted. Judge Massiah-Jackson sentenced the defendant to only 1 year's probation.

Then District Attorney Ronald Castille criticized Judge Massiah-Jackson's sentence as ''defying logic'' and being ''totally bizarre.'' He commented, ''This judge just sits in her ivory tower * * * She ought to walk along the streets some night and get a dose of what is really going on out there. She should have sentenced these people to what they deserve.''

This case was discussed at the hearing, and Senators and the judge had an opportunity to explain their positions. No appeal was taken from this case.

In the case of Commonwealth v. Williams, a first-degree robbery, unreported sentencing reversal case, I would like to provide just one more example of Judge Massiah-Jackson's leniency in sentencing, an example that I think is also relevant to whether we should have another hearing on this nominee.

In the case of Commonwealth v. Williams, the defendant robbed a 47-year old woman on the street at the point of a razor. The defendant used the razor to slash the woman's neck and arms and took her purse. The defendant had to undergo surgery to repair the slashed tendons in her hand and was forced to wear a splintering device that pulled her thumb back to her wrist. The defendant pled guilty to first-degree robbery. Under the Pennsylvania sentencing guidelines, that offense carries a range of 4 to 7 years, with a mitigated range of 3¼ to 5 years. Despite these sentencing ranges, Judge Massiah-Jackson sentenced the defendant to a mere 11½ to 23 months. In order to do so, Judge Massiah-Jackson not only had to deviate substantially below the guidelines range but also had to ignore a mandatory weapons enhancement that raises the minimum sentence 1 to 2 years. The Commonwealth did appeal this meager sentence, and Judge Massiah-Jackson was reversed for her sentencing errors.

Now, this decision is important not only because it demonstrates her leniency in sentencing but also because of what it says about the equity of giving Ms. Massiah-Jackson an additional hearing. We have heard a lot about Judge Massiah-Jackson's right to be heard and have been given the impression that she has been the victim of sandbagging by her opponents. It is true that there is information that was not available at the time of the committee's hearing. This sentencing case, for example, was not addressed at the hearing. But why wasn't it addressed at the hearing? That is no one's fault but Judge Massiah-Jackson.

The committee's standard questionnaire asks every candidate to list any judicial decisions which were reversed on appeal. Judge Massiah-Jackson failed to list this case. Indeed, she testified that she had never been reversed on a sentencing appeal. So if this case wasn't debated or discussed at the hearing, it wasn't debated or discussed because at the hearing she had failed to disclose this when the committee had requested that she disclose it, and when asked additionally if there were cases like this upon which she had been reversed she informed the committee that she had not been reversed on sentencing appeal when in fact this case represented such a reversal.

Now, it seems ironic to me that when we finally find out about the existence of those things which she said did not exist, she should be accorded a second hearing now to explain that which she failed to disclose. I think that is a serious problem. This is not only a failure-to-disclose problem but this is the disclosure of something which was specifically denied in the hearing.

I make this point to make clear that this is not just a simple matter of giving someone a right to confront new allegations. She had the opportunity to respond to the allegations in this setting by providing the evidence in the first instance, or the case or the notification that she had been reversed on appeal, and in the second instance by not denying that she had ever been reversed on appeal. It strikes me that we are creating a troubling precedent by affording nominees a second hearing at least in part to explain materials that were requested prior to the first hearing.

Let me move on to the case of Commonwealth v. Smith. This is leniency not just in sentencing but a predisposition on the part of this judge to suppress evidence and to do so improperly.

Judge Massiah-Jackson has also demonstrated leniency in improperly suppressing evidence. The case that perhaps most dramatically illustrates this point is Commonwealth v. Smith, a case discussed by the chairman of the Judiciary Committee in the Chamber yesterday. It is a case that I also mentioned.

In this tragic case, the victim, a 13-year-old boy, was raped at knifepoint in some bushes near a hospital. Eventually, the young boy managed to run away from his assailant nude and bleeding. Two nurses at the hospital saw him, and he told them what had happened, pointing out the bushes where he was attacked. The two nurses called the hospital security guards. They saw the defendant in the case emerge from the bushes with his clothing disheveled and then saw him walk quickly away. The women yelled out for the man to stop, and the police arrived on the scene and apprehended the defendant.

The defendant denied raping the boy, but the police searched him and found a knife matching the description of that used in the rape. At that point the police arrested the defendant. Shockingly, Judge Massiah-Jackson ruled that the police lacked probable cause to arrest the defendant and suppressed all evidence, including the identification of the defendant by the two nurses.

Now, not surprisingly, the appellate court, when confronted with this dubious judgment, reversed Judge Massiah-Jackson.

So the situation is this, that Massiah-Jackson, lenient in suppressing evidence, was reversed by the appellate court. It has been pointed out, and I would thank Senator SPECTER for having so pointed out, that after a remand to the trial court the defendant was acquitted in a new trial before a different judge. But what seems to have received less attention is that all this occurred after Judge Massiah-Jackson was reversed by the appellate court. Unlike the second judge who conducted a full trial, Judge Massiah-Jackson threw out the evidence on the ground that the police lacked even probable cause to arrest the defendant despite his proximity to the crime scene and the victim, and the other facts that are attendant thereto, including the identification by the individuals who were there at the time of his arrest. It is, of course, one thing to acquit someone after a trial but the notion that the police officers did not even have probable cause to arrest the defendant is just shocking, and the appellate court agreed.

And the litany, incidentally, of illustrations regarding leniency in sentencing could go on. Last year there were 50 separate cases that were singled out just as exemplary of this leniency, but that was just last year. And organizations, law enforcement organizations, organizations that serve the culture by providing the safety and security for persons and their property which defines a civilized culture, have come out saying this individual should not be

confirmed as a U.S. district court judge.

The Philadelphia Lodge of the Fraternal Order of Police announced its opposition to the confirmation of Massiah-Jackson on January 13 of this year. And just yesterday I had the privilege of attending a press conference in which Philadelphia Fraternal Order of Police President Richard Costello made his opposition to this nominee unmistakably clear. The National Fraternal Order of Police announced its opposition on January 20. In coming out against this nominee, here is what the National President of the Fraternal Order of Police, Gilbert Gallegos, stated: ''Judge Massiah-Jackson has no business sitting on any bench, let alone a Federal bench.''

After describing the incident in which Judge Massiah-Jackson pointed out undercover police officers in open court, Mr. Gallegos stated, ''I cannot adequately express my outrage.'' The National Fraternal Order of Police President concluded, ''To confirm Judge Massiah-Jackson would be an affront to every law enforcement officer and prosecutor in the Nation, all of whom have a herculean task of fighting crime. We shouldn't have to have [both] the judges and the criminals against us.''

I note the presence of the majority leader in the Chamber, Mr. President, and I would gladly yield to the majority leader with the understanding that at the conclusion of his remarks my right to speak in the Chamber be retained.

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

Mr. LOTT. Mr. President, I have had the opportunity now to discuss this nomination with Senators on both sides of the aisle and those who did support her and certainly those who are opposed to this nomination. I think that we should not go forward to a vote at this time since there are very serious allegations out there. I am convinced they are true; I am convinced this nomination should not go forward; and I would urge at this point the President withdraw this nomination because clearly this nominee has very serious problems, conduct on the bench that is certainly inappropriate and a number of concerns about the nominee's attitude toward prosecutors and toward law enforcement. Clearly this is the type of nomination that should not be confirmed. But so that some of these articles, some of the cases, some of the suggestions that are now in the public arena can be properly looked into, I thought the best thing to do at this time would be to not go forward with a vote and allow time for the committee to have a hearing on the problems that have been identified. I don't think it can be disposed of in the near future.

Having said that, I understand the chairman of the Judiciary Committee will be conducting an additional hearing on the nominee sometime when we return from the recess we are about to go into at the close of business on Thursday or Friday. So we can see what that hearing turns up. But I think that no further action can be taken at this time. I thank all Senators for their consideration and will yield the floor to the Senator from Missouri. I appreciate him yielding me this time. And I know that the Senators from Pennsylvania will both seek recognition so that they can comment on the present status of this nominee.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. I believe the Senator from Missouri still has the floor.

Mr. SPECTER. Mr. President, I ask unanimous consent that I be permitted to speak in response to the majority leader for up to 1 minute.

Mr. ASHCROFT. Mr. President, I believe I have the floor.

The PRESIDING OFFICER. Is there objection?

Mr. ASHCROFT. Mr. President, I believe I have the floor.

The PRESIDING OFFICER. The Senator from Missouri does have the floor.

Does the Senator from Missouri object to the unanimous consent request?

Mr. ASHCROFT. Mr. President, I observe the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that further proceedings under the quorum call be dispensed with.

Mr. ASHCROFT. Objection.

The PRESIDING OFFICER. Objection is heard.

The legislative clerk continued with the call of the roll.

Mr. ASHCROFT. 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. ASHCROFT. Mr. President, I had hoped to offer to the Senator from Pennsylvania an opportunity to make brief remarks, and that is the reason I placed the quorum call, for an opportunity to make that offer.

The nomination of Frederica Massiah-Jackson is a nomination which I think should call us each to a very serious consideration of our responsibilities here in the U.S. Senate. Judges who are appointed for life, who really do not answer to the voters, do not answer to the administration or the executive branch, have a very high degree of power in the culture and we should be very careful about the individuals that we endow with the authority of becoming Federal judges. The National Association of Police Organizations understands that and the National Association of Police Organizations announced its opposition on January 22, to this nominee.

Further, there is opposition from the local law enforcement community in Philadelphia, opposition from individuals that one would not expect to ordinarily oppose a nominee except in extraordinary situations: Lynne Abraham, who is the district attorney in the Philadelphia area—a Democrat, someone you would expect to be aligned with the President and his nominations—at great political cost, with substantial display of putting the benefit of the community in Philadelphia above party loyalty, came out against the nomination of Frederica Massiah-Jackson in a letter to Senator SPECTER, at least that is my information, on January 8. She wrote:

> My position on this nominee goes well beyond mere differences of opinion, or judicial philosophy. Instead, this nominee's record presents multiple instances of deeply ingrained and pervasive bias against prosecutors and law enforcement officers—and, by extension, an insensitivity to victims of crime. Moreover, the nominee's judicial demeanor and courtroom conduct, in my judgment, undermines respect for the rule of law and, instead, tends to bring the law into disrepute.
>
> This nominee's judicial service is replete with instances of demonstrated leniency towards criminals, an adversarial attitude towards police and disrespect toward prosecutors unmatched by any other present or former jurist with whom I am familiar.

That is a very serious charge from the prosecutor, someone of the same party as the President who nominates this judge. I quote again:

> This nominee's judicial service is replete with [full of] instances of demonstrated leniency toward criminals, an adversarial attitude toward police and disrespect toward prosecutors unmatched by any other present or former jurist with whom I am familiar.

The words ''full of'' were my amplification. Her text did not include that.

Other local law enforcement officials who feel that this is a nomination which should not go forward—the Northampton County District Attorney, John Morganelli, another Democrat, announced his all-out opposition to this nomination on January 6, 1998. Mr. Morganelli provided members of the committee with a letter detailing the numerous incidents of unprofessional conduct that have marked Judge Massiah-Jackson's tenure on the State trial bench. The concluding paragraphs of that letter are worth quoting at length:

> [The] record is one of an unusually adversarial attitude toward the prosecution and police. Much personal animosity towards prosecutors and police in general. Other portions of her record indicate a tendency to be lenient with respect to criminal defendants.

I continue with his letter:

> This judge sat as a fact finder in the vast majority of her cases because criminal defendants almost always felt it advantageous to waive their right to a jury trial in order to present their case directly to the judge. * * * In addition, she has shown a lack of judicial temperament with respect to vulgar language from the bench on the record and much of it off the record. Also, as indicated above, Judge Massiah-Jackson has attempted to meddle with the appellate process in Pennsylvania by contacting appellate courts and improperly attempting to influence appellate decisions. Her comments,

conduct, record and lack of judicial temperament by itself should call into question her stature to serve as a Federal Judge.

Numerous District Attorneys and police organizations in the Commonwealth of Pennsylvania oppose this nomination as a slap in the face to the law enforcement community.

That is the conclusion of District Attorney Morganelli's letter, opposing the confirmation of this judge.

In addition, the Executive Committee of the State of Pennsylvania's District Attorneys Association has unanimously voted to officially oppose the nomination. On January 8 the Executive Committee of the Pennsylvania District Attorneys Association, in a unanimous vote, officially opposed the nomination. The President of the association wrote a letter on January 26, expressing the association's opposition.

I would just comment it is not usual for prosecuting attorneys, or for district attorneys, or for police organizations to attack judges, especially judges who are sitting as judges in their jurisdictions, the same judges they have to go before on a regular basis in seeking to effect justice in the society, to make sure we have the right law enforcement, the right prosecution, the right conviction and the right detention of those who have been deemed guilty of a crime. It is not comfortable, it is not easy, it is not expected. It is, I think, fair to describe it as rare, that someone would, as a prosecutor, or that the association of prosecutors, or that the police, or the associations of police, would come forward and make statements that say not only is this the worst judge I have ever seen but this is the worst judge of which I have any awareness. These are individuals who have a substantial awareness of the judicial system as a result of their broad experience in the system.

If my recollection serves me correctly, the district attorney in Philadelphia, Lynne Abraham, is a former judge herself. She has an ability to know what the circumstances of the judge's responsibilities are. And when she comes forward to say that this judge is a judge that is so out of touch with the balance necessary to accord fairness in the system by being so predisposed to the defendant's position and antithetical to the prosecutor's position, and antagonistic to the position of the Commonwealth as opposed to that of the individual who is seeking to be declared innocent of the charges, she just indicates that we can do better. And I think that is really the case that we have here.

The pool of legal talent in Pennsylvania is not shallow. We have talked about Philadelphia lawyers all across the country for a long time, because Philadelphia is known as a center for individuals who know how to work with the law and to do it effectively, who know what their responsibilities are and to make sure that those responsibilities can be carried out in the best interests of their clients. And I believe that there are those in that community who could well serve this President as nominees and could well serve this country as nominees. And I believe it is the responsibility of the U.S. Senate, when you have a nominee who is not of the caliber and quality that is appropriate for membership on the Federal bench, for the Senate to stand up and say so. And I believe that is our responsibility here.

I don't believe that the Founding Fathers of this great country put the U.S. Senate in the stream that leads to the Federal judiciary so that it could act in a way which is a rubberstamp, so that it could say, well, in spite of the fact that this individual is an affront to the judicial system, disrespects it with profanity, disrespects its participants by profaning them and their conduct, is so lenient with criminals that it causes major questions, has to be reversed on criminal appeals and, when asked about it, denies ever being reversed until the appeals are found—I don't think we have to have that kind of person. I don't think we are here to pass that kind of person through to a lifetime tenure, to a system which will, really, give her great latitude in imposing upon the people of this country the authority of the United States in demanding or commanding adherence to the law. I really think that we can do better. And I think we ought to do better.

It is not hard for us to do that. Surely we have cooperated 90, 95 percent—I don't know—of the time, that these cases go through. Most of them never even get debated. This case was—they insisted that we debate. When I was last at a committee meeting I thought we should not move this case to the floor for debate. There was an outcry, a substantial, significant outcry, insisting that we move this case to the floor for debate. Now that we have moved it to the floor for debate there is a substantial outcry to move it back to the committee.

I think the real fact of the matter is we know, we know enough about this case to say this is not an individual that we want to welcome into the lifetime tenure of the Federal judge. It does not mean the individual cannot have merit, cannot do different things, is banished from any other responsibilities. It is simply someone who is not suited to be endowed with the authority of a Federal judge, a serious responsibility in this society and culture.

I suppose we can let this individual go back for additional committee hearings or additional deliberations. But in my view that is a mistake. And, in my view there are times when the Senate should simply act as the Constitution calls upon it to act, that is to either provide the advice and consent which is appropriate and constitute the nominee as a member of the judiciary or deny the advice and consent and move on because America can and should do better.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, I just want to thank the majority leader, again, for his willingness to cooperate with both Senator SPECTER and me in our request that Judge Massiah-Jackson's nomination not be voted on here in the next few days but that the process be able to be worked out and worked through, a hearing to be held. I know Senator SPECTER, who cannot be here right now, fully supports this process that we now have begun to get her a hearing in the Judiciary Committee. And then I hope very promptly to bring her back to the floor of the U.S. Senate for a vote.

I would not like to see this nomination hang out for a long period of time after the hearing. I don't think that would be fair, again, to her or to the process, or to the President who I know, in having conversations with the White House, they would like to see this matter be dealt with in an expeditious fashion after the hearing takes place. A hearing will not be able to take place until the week after next because we are not in session next week. So I am hopeful we can bring this judge up for a final vote here in the U.S. Senate within a 3-week period of time, maybe a 4-week period of time. I think that would be appropriate for her and I think appropriate for the Senate at some point to pass judgment on this nominee. I think it is important when the President puts a nominee up who has had, certainly, the amount of attention that this nominee has had, that the Senate, all Members, get an opportunity to express their opinion as to whether this nominee has the credentials and qualifications and qualities necessary to serve on the Federal judiciary.

With that, I again thank the majority leader and thank my colleagues for allowing this procedure. There are things that could have been done. I talked to several of my colleagues about those things that could be done. The Senator from Missouri and others would have liked to vote today. In fact they could force a vote today. It is within the right of any Senator on this nomination to offer a tabling motion, which would bring the debate to a stop and cause a vote. They have agreed to not do that and I appreciate that very much.

They could have derailed this effort. But their indulgence in allowing what two home State Senators believe is a fair process, their indulgence in allowing what we believe to be a fair process, in acquiescing to those desires, is noble indeed and very much appreciated. So I thank the Senators from Alabama, Missouri, and others who have expressed a willingness to expedite consideration of this nominee, for their willingness to withhold and allow the process to work out just a few more weeks. And then take the nominee back to the floor.

There will be no vote in committee. She will not be recommitted to committee. There will be no action necessary by the committee. Her nomination will remain on the floor of the U.S. Senate and will be eligible to be recalled by the leader at his discretion, which is our understanding, subsequent to the hearing in the Judiciary Committee.

So that is the state of play, if you will, of this nomination, and it is one I find wholly acceptable at this point. I know my colleague, Senator SPECTER, does also.

Mr. THURMOND. Mr. President, I rise today to express my opposition to the nomination of Frederica Massiah-Jackson for the United States District Court for the Eastern District of Pennsylvania. I opposed this nominee in Committee, and nothing has changed in the interim to make me any more likely to support her.

I believe that the President is entitled to some deference in his choice of judges for the Federal Bench, and I try to give his nominees the benefit of the doubt. However, because of Judge Massiah-Jackson's judicial temperament and record of leniency toward criminal defendants, I cannot support her nomination.

Judicial temperament is an essential quality for judges. They must be professional, civil, and fair. To earn esteem and honor, they must exhibit dignity and be respectful of those who appear before them.

Unfortunately, Judge Massiah-Jackson has shown a lack of judicial temperament while serving on the Pennsylvania trial court. She has used profane language from the Bench, which I will not repeat here. There is simply no excuse for a judge to use profanity in court.

Also, we have received numerous letters from bipartisan professionals to the effect that she is hostile and unfair toward prosecutors and police officers. The Pennsylvania District Attorneys Association, which unanimously voted to oppose her nomination, wrote that she has ''an anti-police, anti-prosecution bias'' and that her actions as a trial judge ''at times . . . have bordered on the outrageous.'' The Attorney General of Pennsylvania, Michael Fisher, has weighed in against her. The National Fraternal Order of Police wrote that she ''has made a career of dismissing out of hand testimony by police officers, treating them as second-class citizens.'' The Philadelphia FOP echoed this criticism, saying that her actions ''make it appear she is on a crusade against public safety.'' The Philadelphia District Attorney, Lynne Abraham, whose office prosecutes criminal cases within Philadelphia where Judge Massiah-Jackson has served as a judge, was resolute. She wrote that the ''nominee's record represents multiple instances of a deeply ingrained and pervasive bias against prosecutors and law enforcement officers, and by extension, an insensitivity to victims of crime. The nominee's judicial demeanor and courtroom conduct . . . undermine respect for the rule of law and . . . tend to bring the law into disrepute.'' She then compared this judge to others stating, ''This nominee's judicial service is replete with instances of demonstrated leniency toward criminals, an adversarial attitude towards police, and disrespect and a hostile attitude towards prosecutors unmatched by any other present or former jurist with whom I am familiar.''

An example of the judge's hostility toward police that has created much attention is an incident where she pointed out two undercover narcotics agents and told those in her courtroom to take a good look at the officers and, quote, ''watch yourselves.'' This story was published in a Pennsylvania newspaper, and I asked her about it in writing during the hearing process, which gave her plenty of time to reflect on the matter. She responded, ''I have read the 1988 article and it is inaccurate. I would not and did not make any such statement to the spectators.'' However, the two undercover agents that the article referred to later signed statements saying she had singled them out and referred to them in this manner.

She has also made public comments about crime that warrant concern. Although she informed me in response to a written question that she is not opposed to imposing the death penalty, she was very critical of the death penalty in a 1994 speech. Quoting Justice Harry Blackman, she said, ''the death penalty experiment has failed.'' She added, ''It is not a deterrent to criminal behavior.'' Later in the speech she said, ''Locking folks up is a belated and expensive response to a social crisis.''

It is very unusual for us to receive opposition to a nominee for the Federal Court from prosecutors and professionals as we have here. I commend the prosecutors and police who have taken this bold stand. They have brought a great deal of attention to a nominee who is simply not fit to serve on the Federal court.

The public opposition to this nominee from prosecutors and police, in addition to the information we had at the time she was considered in Committee, should be more than enough for Senators to oppose her. It should not even be necessary to consider cases and statistics that have been brought to our attention in the past few weeks.

Let me close by referring again to the letter from the Fraternal Order of Police. I quote, ''To confirm Judge Messiah-Jackson would be an affront to every law enforcement officer and prosecutor in the Nation. . . . We shouldn't have to have the judges and the criminals against us.''

Mr. President, I agree. I will stand with prosecutors and police on this nomination.

At this time, I ask unanimous consent to have printed in the RECORD a copy of the letters that I quoted in my statement.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

PENNSYLVANIA DISTRICT
ATTORNEYS ASSOCIATION,
Harrisburg, PA, January 26, 1998.

Sen. ORIN HATCH,
Chairman, U.S. Senate Judiciary Committee, Dirksen Office Building, Washington, DC.

DEAR MEMBERS OF THE U.S. SENATE JUDICIARY COMMITTEE: As President of the Pennsylvania District Attorneys Association, I am writing to express the Association's opposition to the nomination of Judge Frederica Massiah-Jackson for a position as a Federal Judge in the Eastern District of Pennsylvania.

As you may know, recently the Executive Board of the Pennsylvania District Attorneys Association which speaks on behalf of all 67 elected District Attorneys in Pennsylvania voted unanimously to oppose the aforesaid nomination. We recently met with Senator Arlen Specter and Senator Rick Santorum of Pennsylvania in person to convey the sentiment of District Attorneys in Pennsylvania.

A review of Judge Massiah-Jackson's record during her tenure as a Criminal Court Judge clearly shows that she has exhibited an anti-police, anti-prosecution bias as a Criminal Court Judge. At times, her actions as a Common Pleas Judge in Philadelphia have bordered on the outrageous. She has used profanity in her courtroom, embarrassed and exposed police officers in her courtroom and has even interfered in the appellate process by attempting to ''recommend'' to an appellate court that a Commonwealth appeal of one of her decisions be quashed. Given the prevalence of federal habeas corpus appellate practice, especially as it related to capital convictions obtained from state courts, the prospect of seating a member to the Federal Judiciary with a record like Ms. Massiah-Jackson's should give those involved in the confirmation process pause and concern.

Therefore, I strongly urge all members of the Senate Judiciary Committee and all members of the United States Senate to oppose this particular nomination.

Very truly yours,

MICHAEL D. MARINO,
President.

COMMONWEALTH OF PENNSYLVANIA,
OFFICE OF ATTORNEY GENERAL,
Harrisburg, Pa, January 29, 1998.

Hon. ARLEN SPECTER,
U.S. Senator, Washington, DC.

RE: Judge Frederica Massiah-Jackson.

DEAR SENATOR SPECTER: I wish to express my opposition to President Clinton's nomination of Judge Frederica Massiah-Jackson to serve on the United States District Court for the Eastern District of Pennsylvania.

I am writing on Judge Massiah-Jackson's nomination after spending considerable time reviewing her record on the Court of Common Pleas of Philadelphia County. Due to the importance of this nomination and because of the seriousness of the allegations raised with respect to Judge Massiah-Jackson's record, I have delayed taking a public position until I had the opportunity to review all available data. This review has also included discussions with members of my staff and other prosecutors who have personally appeared before Judge Massiah-Jackson. To a person, these prosecutors have expressed concern about the Judge's demeanor, her temperament and the manner in which she disposes of cases. I have also reviewed sentencing statistics and discussed Judge

Massiah-Jackson's sentencing practices with these prosecutors. This review and these discussions have revealed a record of leniency in sentencing criminal defendants, a bias against police and prosecutors and an insensitivity to the plight of victims.

The major criticisms about Judge Massiah-Jackson come from the period of time she was assigned to the Court's Criminal Division. In recent years, she has been assigned to the Civil Division. U.S. District Court judges have a civil and criminal court caseload. The Office of Attorney General and I represent the Commonwealth in the U.S. District Court in civil and criminal cases.

As Attorney General, I supervise a large office which includes 180 lawyers and 266 criminal agents. My prosecutors and agents are often cross-designated in federal court and also work jointly with police officers, agents and prosecutors from other federal, state and local agencies. My Office's cases are sometimes prosecuted in federal court, notably when they are developed in conjunction with a federal task force. A federal judiciary that properly safeguards individual rights and liberties while respecting the dedication and commitment of the law enforcement community is essential to our efforts on behalf of the people of the Commonwealth.

Based on my review of Judge Massiah-Jackson's criminal court record and the antipathy she has displayed toward police, prosecutors and victims, I must respectfully ask you to oppose her nomination when it is voted on by the United States Senate and to ask your colleagues to do likewise.

My hope would be that the President will quickly nominate someone who will bring the needed diversity to the United States District Court for the Eastern District of Pennsylvania, but a person with a record that shows a more balanced perspective than this nominee.

Thank you for your consideration of my position.

Very truly yours,

D. MICHAEL FISHER,
Attorney General.

FRATERNAL ORDER OF POLICE,
NATIONAL LEGISLATIVE PROGRAM,
Washington, DC, 27 January 1998.

Hon. ARLEN SPECTER,
U.S. Senate, Washington, DC.

DEAR SENATOR SPECTER: I am writing on behalf of the more than 270,000 members of the Fraternal Order of Police to urge that you withdraw your support for the nomination of Judge Frederica Massiah-Jackson to the Federal judiciary.

Senator Specter, Judge Massiah-Jackson has no business sitting on any bench, let alone a Federal bench. Frankly, I have difficulty reconciling why you would offer her nomination any of your support. She routinely demonstrates that she lacks any sense of judicial propriety and temperament. Her manners and language in the court room are ugly. Her record of sympathy and leniency toward criminals, even violent criminals, is extreme. Most objectionably, Judge Massiah-Jackson consistently parades her anti-police bias by using her power and authority as a judge to belittle, harass, and threaten the law enforcement officers who appear in her court. Her contempt for prosecutors appearing before her is so rancorous, that a broad grassroots effort has been led by members of her own political party to oppose her elevation to the Federal judiciary.

In 1994, a man appeared before Judge Massiah-Jackson charged with numerous offenses. He had struck a pedestrian with his car, left her lying in the gutter, and then pummeled into unconsciousness a relative of the victim who attempted to prevent his fleeing the scene. She described the behavior of this man, who had a prior record of 19 arrests and eight convictions, as ''Not really criminal. He had merely been involved in a car accident.'' The man was sentenced to two years probation.

To add insult to injury, a few years earlier this same man, who then was out on bail for another offense, appeared before Judge Massiah-Jackson. His counsel asserted that a particular police officer was harassing him with ''unnecessary'' traffic stops. Despite the lack on any evidence, Judge Massiah-Jackson offered to have the court file a complaint against the officer on the defendant's behalf! She concluded, without any discernable reason other than her contempt for law enforcement officers, that this officer was masterminding a plot to threaten and harass the man and his family! Senator Specter, she threatened in open court to appear as a fact witness against this officer in the event the defendant, his family, or friends came to any harm. What kind of a judge is this?

On one occasion, Senator, Judge Massiah-Jackson acquitted a criminal of drug possession by simply refusing to believe the testimony of undercover narcotics investigators. After dismissing the charges, she urged spectators in her court to ''take a good look at the undercover officers and watch yourselves.'' I cannot adequately express my outrage, sir. She deliberately jeopardized the lives of these officers. Is this the type of judge we want sitting on the Federal bench?

This is surely the most offensive and egregious example of her conduct, but hardly an uncommon one for Judge Massiah-Jackson, who has made a career of dismissing out of hand testimony by police officers, treating them as second-class citizens barely worthy of even her contempt. Frankly, I am amazed she has served on any bench at all.

I urge you to ensure that all judicial nominees are properly screened, so that the likes of Judge Massiah-Jackson do not find their way to the Senate floor again. And I strongly urge you to withdraw your support of her nomination and cast your vote against her confirmation on 28 January. To confirm Judge Massiah-Jackson would be an affront to every law enforcement officer and prosecutor in the nation, all of whom have the herculean task of fighting crime. We shouldn't have to have the judges and the criminals against us.

Sincerely,

GILBERT G. GALLEGOS,
National President.

FRATERNAL ORDER OF POLICE,
PHILADELPHIA LODGE NO. 5,
Philadelphia, PA, January 13, 1998.

Hon. RICHARD (RICK) SANTORUM,
U.S. Senator, Philadelphia, PA.

DEAR SENATOR SANTORUM: The Fraternal Order of Police, in an effort to protect and properly serve its members, has a keen interest in all Jurists whose appointment could affect the safety and welfare of its Police.

To this end, the Fraternal Order of Police is opposed to the nomination of Judge Frederica Massiah Jackson to the United States District Court for the Eastern District of Pennsylvania.

The reasons for this determination by the F.O.P. is that Judge Jackson has an established record of being extremely lenient on criminals; insensitive to the victims of crime; and has posed a direct threat against Police.

Judge Jackson's bizarre rulings, coupled with her challenging and adversarial attitude toward Police and prosecutors, make it appear she is on a crusade against public safety.

The Police have a hard enough time dealing with the felons on the street. They don't need to be worrying about the people in positions of authority placing them in more danger. Yet, that is exactly what Judge Jackson did to several Narcotic Officers in open Court.

It is an insult to the entire Judicial System and the community it services when a Jurist of this caliber would even be considered for an appointment to a position that could negatively affect public safety.

Must one be reminded that—Crime is out of control. Innocent people are being attacked and slaughtered on our streets. Drugs are in every neighborhood. Our citizens are fleeing the City in great numbers. Our residents are living in fear everyday. Our City is in decay.

We must stop the violence; we must stop the insanity!

The appointment of Judge Massiah Jackson to the U.S. Court would be directly counter-productive to this effort. We need a Federal Judge who has proven to be tough on crime. One who is a highly regarded professional in the field of law. We must have a Judge who can help bring new hope to those in despair.

In closing, Philadelphia has many Judges who can fill the requirements needed for this position. Unfortunately, Judge Massiah Jackson is not one of them.

Respectfully submitted,

RICHARD B. COSTELLO,
President.
MICHAEL G. LUTZ,
Past President.

DISTRICT ATTORNEY'S OFFICE,
Philadelphia, PA, January 8, 1998.

Hon. ARLEN SPECTER,
U.S. Senate,
Washington, DC.

DEAR SENATOR SPECTER: On December 9, 1997, you phoned my office seeking my position on the nomination of Judge Frederica Massiah-Jackson as a Judge for the United States District Court for the Eastern District of Pennsylvania. When we spoke, I told you that, in my thirty years of public service, including almost sixteen years as a Judge and over six years as Philadelphia's District Attorney, never before had my United States Senator solicited my position on any of the many prior Federal District or Circuit Court nominees who had sought confirmation. I further related that it had been my general policy to refrain from speaking out on Federal judicial nominations.

Immediately after our brief phone conversation, you wrote and faxed me a letter seeking my written concurrence in a quoted paragraph regarding my general policy. I have deliberately deferred responding because, instead of offering a perfunctory response, I thought it prudent, under the present circumstances, to re-evaluate my general policy, to see if there were compelling reasons to deviate from it. I have concluded that this nomination presents such reasons.

Between the time of our conversation and today, I have carefully reviewed sentencing statistics, verdicts, courtroom testimony, newspaper and other print media reports, together with a number of other pieces of anecdotal evidence, including office memoranda. After having done so, I have concluded that I must stand opposed to this nomination.

This decision is a difficult one because I campaigned with and served on the bench at the same time as Judge Massiah-Jackson. I firmly believe in the rule of law and the independence of the judiciary, and I would never oppose a nomination merely because of a personal disagreement with some decisions or remarks that a judge might make in the heat of courtroom arguments.

My position on this nomination goes well beyond mere differences of opinion, or judicial philosophy. Instead, this nominee's

record presents multiple instances of a deeply ingrained and pervasive bias against prosecutors and law enforcement officers—and, by extension, an insensitivity to victims of crime. Moreover, the nominee's judicial demeanor and courtroom conduct, in my judgment, undermines respect for the rule of law and, instead, tends to bring the law into disrepute.

This nominee's judicial service is replete with instances of demonstrated leniency towards criminals, an adversarial attitude towards police, and disrespect and a hostile attitude towards prosecutors unmatched by any other present or former jurist with whom I am familiar.

I must, however, make this point perfectly clear: I believe firmly that the next member of the Eastern District judiciary should be an African-American woman. The under-representation of minorities on our federal bench has been permitted to exist for far too long. Fortunately, the Philadelphia area is blessed with many eminently well-qualified African-American women lawyers, in academia, public service, private practice, and on the bench. Had any one of these been selected, she would already be presiding on our Federal District Court bench.

I trust that this letter satisfies your inquiry.

Sincerely,

LYNNE ABRAHAM,
District Attorney.

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

The PRESIDING OFFICER (Ms. COLLINS). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. DOMENICI. Parliamentary inquiry. Is there time set aside for morning business now?

The PRESIDING OFFICER. There is not. However, the Senator may, by unanimous consent, request permission to proceed.

Mr. DOMENICI. Madam President, I ask unanimous consent for 15 minutes to speak as in morning business.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

NUCLEAR ISSUES

Mr. DOMENICI. Madam President, over the last few months, I have been speaking out regularly on a wide range of nuclear issues that confront our country and the world, issues that have not been carefully addressed to optimize the positive impacts of these technologies and to minimize their associated risks.

As I began this statement, I noted that nuclear issues are not exactly the ones that most of us focus on to hear cheers of public support. Nuclear issues typically have been relegated to back burners or only to attacks that wildly inflate their risks.

Based on strong encouragement that I have received from people like Senator Nunn, John Deutch, Allan Bromley, Edward Teller and others, I intend to continue to speak and to seek national dialog on a wide range of nuclear issues. In fact, I will invite each of my Senate colleagues to participate in a nuclear issues caucus focused on issues ranging from nuclear power and waste to nuclear stockpiles.

My goal is that out of this dialog and out of a rebirth of critical thinking on the roles of nuclear technology, we can craft policies that better meet the needs of the Nation and better utilize the power of nuclear technologies. Let me give you the flavor of some of these issues that I assert need careful reexamination.

First, in 1997, the United States decided to halt research into reprocessing mixed oxides, or commonly called MOX fuel, in the hope that it would curtail other countries' pursuit of these technologies. Other countries proceeded to follow their own best interests and technical judgments.

Today, many other countries are reprocessing and using MOX fuel, mixed oxide fuel. Now the United States is unable to use these technologies to meet nonproliferation needs and has largely been left out of the international nuclear fuels cycle.

I contend we made a mistake then. The reason we made the decision is false. We said it is so that no others will do this and create some risks. Others have assessed that there are no risks, or few, and they have proceeded.

Let me move on to another example.

Today, we regulate radiation to extremely low levels based on what we have chosen to call in this country the ''linear-no-threshold'' model of radiation effects. That model, basically, asserts that the least bit of radiation exposure increases the risk of cancer, but scientific evidence does not support that assumption. As a result, the United States spends billions of dollars each year cleaning up sites to levels within 5 percent of natural background radiation, even though natural background radiation varies by large amounts; in fact, by over three times just in the United States and much larger amounts if we look outside the Nation.

On another issue, today, nuclear energy provides 20 percent of the electricity of our Nation. In 1996, nuclear energy reduced U.S. greenhouse gas emissions from electric utilities by 25 percent. Does that sound interesting to anyone? Nuclear electrically generated power reduced U.S. greenhouse gas emissions 25 percent. That means that we produce that electricity clean in terms of global warming emissions, and we did this without imposing taxes or other costly limitations on the use of carbon-based energy forms, some of the suggestions that are being made now about taxing those energy sources that do create greenhouse gases to minimize their impact by using less.

On another issue, today, we focus on the creation of bilateral accords with Russia to size our nuclear stockpile, and we expend much energy debating the pros and cons of START II versus START III. Instead, I believe that the United States should move away from sizing its nuclear stockpile in accordance with bilateral accords with Russia. Instead, within the limitations of existing treaties, the United States should move to a ''threat-based stockpile,'' driven by the minimal stockpile size that meets credible threat evaluations.

That is just another issue in the nuclear field that we ought to be addressing and debating and thinking about and listening to some experts on.

Today, many of the weapons in our stockpile and in the stockpile of Russia are on hair-trigger alert. I believe that both nations should consider de-alerting their nuclear stockpiles and even consider eliminating the ground-based leg of the nuclear triad. And I know this may not be doable, and the discussion may reveal that it is not prudent. But it should be talked about.

Today, both the United States and Russia are dismantling weapons, but both nations are storing the classified components, the so-called pits from the weapons, that would enable either nation to quickly rebuild its arsenals. We are in serious need of a fast-paced program to convert classified weapon components into unclassified shapes that are quickly placed under international verification. Then that material should be transformed into MOX—which I discussed earlier—MOX fuel for use in civilian reactors, again with due haste.

There are some who have prejudged this and will instantly say, no. I am suggesting the time is now to have a thorough discussion of these kinds of issues, because we made some mistakes 15, 20 and 25 years ago when we made some of the decisions that now guide our course in this very, very difficult area that I just spoke of with reference to nuclear arsenal components.

Today, high-level nuclear waste is stored in 41 States. Much of that is spent civilian reactor fuel that is saturating the storage capacity at many sites. The United States should move to interim storage of spent nuclear fuel while continuing to actively pursue permanent repository. In the years before that repository is sealed, there will be time to study alternatives to permanently burying the spent fuel with its large remaining energy potential. One of those alternatives for study should be a serious review of accelerator transmutation of waste technology.

Today, another issue, irradiation of food products is rarely used. Nevertheless, there is convincing evidence of its benefits in curtailing foodborne illnesses. I commend the recent acceptance of irradiation for beef products by the Food and Drug Administration. It was a long time in coming, but it is finally here.

Today, few low-level nuclear waste disposal facilities are operating in this country, jeopardizing many operations that rely on routine use of low-level radioactive materials. For example, the

Federal Government continues its efforts to block the efforts of the State of California to build a low-level nuclear waste disposal facility at Ward Valley, CA.

Today, joint programs with Russia are underway to protect Russian fissile materials and shift the activities of former Soviet weapons and their scientists into commercial projects. These programs should be expanded, not reduced. The President suggests that some should be reduced. I believe they should be expanded.

These and other issues will all benefit from a careful reexamination of past policies relating to nuclear technologies. While some may continue to lament that the nuclear genie is out of the proverbial bottle, I am ready to focus on harnessing that genie as effectively and as fully as possible so that our citizens may gain the largest possible benefit from nuclear technologies.

I have a more detailed statement that analyzes these issues and others. I ask unanimous consent that it be printed in the RECORD, not as if read, but merely as an adjunct to the speech which I have just given.

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

STATEMENT

(By Senator Pete V. Domenici)

Over the last few months, I have been speaking out regularly on a wide range of nuclear issues that confront our nation—issues that have not been carefully addressed to optimize the positive impacts of these technologies and to minimize their associated risks.

As I began these statements, I noted that nuclear issues are not exactly the ones that most of us focus on to hear cheers of public support. Nuclear issues typically have been relegated to back burners, or only to attacks that wildly inflate their risks.

Based on the strong encouragement I've received from people like Senator Nunn, John Deutch, Allan Bromley, and Edward Teller, I intend to continue to seek national dialogue on a wide range of nuclear issues. In fact, I will invite each of my Senate Colleagues to participate in a Nuclear Issues Caucus, focused on issues ranging from nuclear power and waste to nuclear stockpile. My goal is that out of this Caucus, and out of a rebirth of critical thinking on the roles of nuclear technology, we can craft policies that better meet the needs of the nation and better utilize the power of nuclear technologies.

Strategic national issues are always hard to discuss. In no area has this been more evident during these last few decades than in development of public policy involving energy, growth, and the role of nuclear technologies.

But as we leave the 20th Century, arguably the American Century, and head for a new millennium, we truly need to confront these strategic issues with careful logic and sound science.

We live in the dominant economic, military, and cultural entity in the world. Our principles of government and economics are increasingly becoming the principles of the world.

There are no secrets to our success, and there is no guarantee that, in the coming century, we will be the principal beneficiary of the seeds we have sown. There is competition in the world and serious strategic issues facing the United States cannot be overlooked.

The United States—like the rest of the industrialized world—is aging rapidly as our birth rates decline. Between 1995 and the year 2030, the number of people in the United States over age 65 will double from 34 million to 68 million. Just to maintain our standard of living, we need dramatic increases in productivity as a larger fraction of our population drops out of the workforce.

By 2030, 30 percent of the population of the industrialized nations will be over 60. The rest of the world—the countries that today are ''under-industrialized''—will have only 16 percent of their population over age 60 and will be ready to boom.

As those nations build economies modeled after ours, there will be intense competition for the resources that underpin modern economies.

When it comes to energy, we have a serious, strategic problem. The United States currently consumer 25 percent of the world's energy production. However, developing countries are on track to increase their energy consumption by 48 percent between 1992 and 2010.

The United States currently produces and imports raw energy resources worth over $150 billion per year. Approximately $50 billion of that is imported oil or natural gas. We then process that material into energy feedstocks such as gasoline. Those feedstocks—the energy we consume in our cars, factories, and electric plants—are worth $505 billion per year.

We debate defense policy every year, as we should. But we don't debate energy policy, even though it costs twice as much as our defense, other countries' consumption is growing dramatically, and energy shortages are likely to be a prime driver of future military challenges.

Even when we've discussed energy independence in my quarter century of Senate service, we've largely ignored public debate on nuclear policies.

At the same time, the anti-nuclear movement has conducted their campaign in a way that has been tremendously appealing to mass media. Scientists, used to the peer-reviewed ways of scientific discourse, were unprepared to counter. They lost the debate.

Serious discussion about the role of nuclear energy in world stability, energy independence, and national security retreated into academia or classified sessions.

Today, it is extraordinarily difficult to conduct a debate on nuclear issues. Usually, the only thing produced is nasty political fallout.

My goal today is to share with you my perspective on several aspects of our nuclear policy. I am counting on you to join with me to encourage a careful, scientifically based, re-examination of nuclear issues in the United States.

I am going to tell you that we made some bad decisions in the past that we have to change. Then I will tell you about some decisions we need to make now.

First, we need to recognize that the premises underpinning some of our nuclear policy decisions are wrong. In 1977, President Carter halted all U.S. efforts to reprocess spent nuclear fuel and develop mixed-oxide fuel (MOX) for our civilian reactors on the grounds that the plutonium was separated during reprocessing. He feared that the separated plutonium could be diverted and eventually transformed into bombs. He argued that the United States should halt its reprocessing program as an example to other countries in the hope that they would follow suit.

The premise of the decision was wrong. Other countries do not follow the example of the United States if we make a decision that other countries view as economically or technically unsound. France, Great Britain, Japan, and Russia all now have MOX fuel programs.

This failure to address an incorrect premise has harmed our efforts to deal with spent nuclear fuel and the disposition of excess weapons material, as well as our ability to influence international reactor issues.

I'll cite another example of a bad decision. We regulate exposure to low levels of radiation using a so-called ''linear no-threshold'' model, the premise of which is that there is no ''safe'' level of exposure.

Our model forces us to regulate radiation to levels approaching a few percent of natural background despite the fact that natural background can vary by a factor of three just within the United States.

On the other hand, many scientists think that living cells, after millions of years of exposure to naturally occurring radiation, have adapted such that low levels of radiation cause very little if any harm. In fact, there are some studies that suggest exactly the opposite is true—that low doses of radiation may even improve health.

The truth is important. We spend over $5 billion each year to clean contaminated DOE sites to levels below 5 percent of background.

In this year's Energy and Water Appropriations Act, we initiated a ten year program to understand how radiation affects genomes and cells so that we can really understand how radiation affects living organisms. For the first time, we will develop radiation protection standards that are based on actual risk.

Let me cite another bad decision. You may recall that earlier this year, Hudson Foods recalled 25 million pounds of beef, some of which was contaminated by E. Coli. The Administration proposed tougher penalties and mandatory recalls that cost millions.

But, E. Coli bacteria can be killed by irradiation and that irradiation has virtually no effect on most foods. Nevertheless, irradiation isn't used much in this country, largely because of opposition from some consumer groups that question its safety.

But there is no scientific evidence of danger. In fact, when the decision is left up to scientists, they opt for irradiation—the food that goes into space with our astronauts is irradiated. And if you're interested in this subject, a recent issue of the MIT Technology Review details the advantages of irradiated food.

I've talked about bad past decisions that haunt us today. Now I want to talk about decisions we need to make today.

The President has outlined a program to stabilize the U.S. production of carbon dioxide and other greenhouse gases at 1990 levels by some time between 2008 and 2012. Unfortunately, the President's goals are not achievable without seriously impacting our economy.

Our national laboratories have studied the issue. Their report indicates that to get to the President's goals we would have to impose a $50/ton carbon tax. That would result in an increase of 12.5 cents/gallon for gas and 1.5 cents/kilowatt-hour for electricity—almost a doubling of the current cost of coal or natural gas-generated electricity.

What the President should have said is that we need nuclear energy to meet his goal. After all, in 1996, nuclear power plants prevented the emission of 147 million metric tons of carbon, 2.5 million tons of nitrogen oxides, and 5 million tons of sulfur dioxide. Our electric utilities' emissions of those greenhouse gases were 25 percent lower than they would have been if fossil fuels had been used instead of nuclear energy.

Ironically, the technology we are relying on to achieve the benefits of nuclear energy

is over twenty years old. No new reactors have been ordered in this country for almost a quarter of a century, due at least in part to extensive regulation and endless construction delays—plus our national failure to address high level waste.

We have created an environment for nuclear energy in the United States wherein it isn't viewed as a sound investment. We need absolute safety, that's a given. But could we have that safety through approaches that don't drive nuclear energy out of consideration for new plants?

The United States has developed the next generation of nuclear power plants—which have been certified by the NRC and are now being sold overseas. They are even safer than our current models. Better yet, we have technologies under development like passively safe reactors, lead-bismuth reactors, and advanced liquid metal reactors that generate less waste and are proliferation resistant.

A recent report by Dr. John Holdren, done at the President's request, calls for a sharply enhanced national effort. It urges a ''properly focused R&D effort to see if the problems plaguing fission energy can be overcome—economics, safety, waste, and proliferation.'' I have long urged the conclusion of this report—that we dramatically increase spending in these areas for reasons ranging from reactor safety to non-proliferation.

I have not overlooked that nuclear waste issues loom as a roadblock to increased nuclear utilization. I will return to that subject.

For now, let me turn from nuclear power to nuclear weapons issues.

Our current stockpile is set by bilateral agreements with Russia. Bilateral agreements make sense if we are certain who our future nuclear adversaries will be and they are useful to force a transparent build-down by Russia. But our next nuclear adversary may not be Russia—we do not want to find ourselves limited by a treaty with Russia in a conflict with another entity.

We need to decide what stockpile levels we really need for our own best interests to deal with any future adversary.

For that reason, I suggest that, within the limits imposed by START II, the United States move away from further treaty imposed limitations to what I call a ''threat-based stockpile.''

Based upon the threat I perceive right now, I think our stockpile could be reduced. We need to challenge our military planners to identify the minimum necessary stockpile size.

At the same time, as our stockpile is reduced and we are precluded from testing, we have to increase our confidence in the integrity of the remaining stockpile and our ability to reconstitute if the threat changes. Programs like science-based stockpile stewardship must be nurtured and supported carefully.

As we seriously review stockpile size, we should also consider stepping back from the nuclear cliff by de-alerting and carefully reexamining the necessity of the ground-based leg of the nuclear triad.

Costs certainly aren't the primary driver for our stockpile size, but if some of the actions I've discussed were taken, I'd bet that as a bonus we'd see some savings in the $30 billion we spend each year on the nuclear triad.

Earlier I discussed the need to revisit some incorrect premises that caused us to make bad decisions in the past. I said that one of them, regarding reprocessing and MOX fuel, may hamstring our efforts to permanently dismantle nuclear weapons.

The dismantlement of tens of thousands of nuclear weapons in Russia and the United States has left both countries with large inventories of perfectly machined classified components that could allow each country to rapidly rebuild nuclear arsenals.

Both countries should set a goal of converting those excess inventories into non-weapon shapes as quickly as possible. The more permanent those transformations and the more verification that can accompany the conversion of that material, the better.

Language in this year's Energy and Water Development Appropriations Legislation that I developed clearly sets out the importance of converting those shapes as part of an integrated plutonium disposition program.

Technical solutions exist. Pits can be transformed into non-weapons shapes and weapon material can be burned in reactors as MOX fuel—which, by the way, is what the National Academy of Sciences has recommended. However, the proposal to dispose of weapons plutonium as MOX runs into that old premise that MOX is bad despite its widespread use by our allies.

I believe that MOX is the best technical solution. The economics of the MOX solution, however, need further study. Ideally, incentives can be developed to speed Russian materials conversion while reducing the cost of the U.S. effort. We need an appropriate approach for MOX to address its economic challenges—perhaps something paralleling the U.S.-Russian agreement on Highly Enriched Uranium.

I said earlier that I would not advocate increased use of nuclear energy and ignore the nuclear waste problem. The path we've been following on Yucca Mountain sure isn't leading anywhere very fast. I'm about ready to reexamine the whole premise for Yucca Mountain.

We're on a course to bury all our spent nuclear fuel, despite the fact that a spent nuclear fuel rod still has 60–75% of its energy content—and despite the fact that Nevadans need to be convinced that the material will not create a hazard for over 100,000 years.

Reprocessing, even limited reprocessing, could help mitigate the potential hazards in a repository, and could help us recover the energy content of the spent fuel. Current economics may argue against reprocessing based on present-day fuel prices, but now we seem to be stuck with that old decision to never reprocess, quite independent of any economic arguments.

For Yucca Mountain, I propose we use interim storage now, while we continue to actively advance toward the permanent repository. In addition to collecting the nation's spent nuclear fuel in one well secured facility, far from population centers, interim storage also allows us to keep our options open.

Those options might lead to attractive alternatives to the current ideas for a permanent repository in the years before we seal the repository. Incidentally, 65 Senators and 307 Representatives agreed with the importance of interim storage, but the Administration has only threatened to veto any such progress and has shown no willingness to discuss alternatives.

Let me highlight one attractive option. A group from several of our largest companies, using technologies developed at three of our national laboratories and from Russian institutes and their nuclear navy, discussed with me an approach to use spent nuclear fuel for electrical generation. They use an accelerator, not a reactor, so there is never any critical assembly.

There is minimal processing, but carefully done so that weapons-grade materials are never separated or available for potential diversion. Further, this isn't reprocessing in the sense of repeatedly recirculating fissile materials back into new reactor fuel—this is a system that integrates some processing with the final disposition.

When they get done, only a little material goes into a repository—but now the half lives are changed so that it's a hazard for perhaps 300 years—a far cry from 100,000 years. The industrial group believes that the sale of electricity can go a long way toward offsetting the cost of the system, so this process might not add large costs to our present repository solution. Furthermore, it would dramatically reduce any real or perceived risks with our present path. This approach, Accelerator Transmutation of Waste, is an area I want to see investigated aggressively.

I still haven't touched on all the issues embedded in maximizing our nation's benefit from nuclear technologies, and I can't do that without a much longer speech.

For example, I haven't discussed the increasingly desperate need in the country for low level waste facilities like Ward Valley in California. In California, important medical and research procedures are at risk because the Administration continues to block the State government from fulfilling their responsibilities to care for low level waste.

And I haven't touched on the tremendous window of opportunity that we now have in the former Soviet Union to expand programs that protect nuclear material from moving onto the black market or to shift the activities of former Soviet weapons scientists onto commercial projects. Along with Senators Nunn and Lugar, I've led the charge for these programs. Those are programs directly in our national interest. I know that some national leaders still think of these programs as foreign aid, I believe they are sadly mistaken.

We are realizing some of the benefits of nuclear technologies today, but only a fraction of what we could realize:

Nuclear weapons, for all their horror, brought to an end 50 years of world-wide wars in which 60 million people died.

Nuclear power is providing about 20% of our electricity needs now and many of our citizens enjoy healthier longer lives through improved medical procedures that depend on nuclear processes.

But we aren't tapping the full potential of the nucleus for additional benefits. In the process, we are short-changing our citizens.

I hope in these remarks that I have demonstrated my concern for careful reevaluation of many ill-conceived fears, policies and decisions that have seriously constrained our use of nuclear technologies.

My intention is to lead a new dialogue with serious discussion about the full range of nuclear technologies. I intend to provide national leadership to overcome barriers.

While some may continue to lament that the nuclear genie is out of his proverbial bottle, I'm ready to focus on harnessing that genie as effectively and fully as possible, for the largest set of benefits for our citizens.

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

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

Mr. LEAHY. Madam President, first, I wish to thank my good friend from Indiana—I know he is about to speak—for allowing me to continue just for a very few minutes as though in morning

business. And I ask unanimous consent for that purpose.

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

HEALTHY KIDS ACT

Mr. LEAHY. Madam President, I am proud to join the Vice President, Vice President GORE, Senator CONRAD, and other colleagues, in support of comprehensive tobacco control legislation. I believe it is time for the Congress to join the President's call to curb teenage smoking.

But I believe that as a U.S. Senator, as a Vermonter, and as the ranking member of the Senate Judiciary Committee, that the HEALTHY Kids Act improves the proposed national tobacco settlement in two key areas—this is what I am looking at in tobacco settlements—that you have to have full document disclosure and that there can be no immunity for the tobacco industry.

The reason I say this, Madam President, is I have here a 1974 marketing plan by RJR Tobacco.

In 1974 they were saying how they have to target the 14-to-24 age group. In 1974 they were saying how they had to put their ads together so that people in the 14-to-24-year-old group could be targeted, could become cigarette smokers, could become addicted, and once addicted would remain their customers until they died. Of course, so many of them did die of lung cancer and other tobacco-related diseases.

These documents became public almost a quarter of a century later only because of the suits that are going on, only because of the forced disclosure. I say whatever we do in tobacco legislation, make sure all documents have to be disclosed and make sure that there is no immunity to the tobacco industry.

I want to thank Senator CONRAD for working with me to craft legislative language that calls for full disclosure of all tobacco industry documents relating to the health effects of tobacco products, the control of nicotine in tobacco products and the marketing of tobacco products. This disclosure to the FDA includes key documents that the industry may claim as privileged.

After internal review, the FDA has the authority to publish these documents to further the interests of public health. And these documents will be available on the Internet for every citizen to finally learn the full truth about the tobacco industry.

Contrary to its public relations ploys, the tobacco industry is still using stonewalling tactics to keep industry documents secret. Minnesota Attorney General Skip Humphrey has been prying loose documents that reveal much about the past practices of tobacco corporations. But the tobacco industry continues to abuse its attorney-client privilege by trying to block damaging documents from being publicly released. Again, yesterday, the court in Minnesota found the tobacco industry improperly used the attorney-client privilege to hide thousands of industry documents.

This stonewalling will stop and the American people will know all the facts about the tobacco industry under our bill. Second, our bill scraps the sweetheart deal of immunity for the tobacco industry from punitive damages and class action lawsuits that was in the proposed national settlement.

Every day we learn more and more about documents that reveal industry schemes to market their deadly product to children and hide smoking-related health research.

Marketing cigarettes to 14 year-old children is outrageous. Is that the kind of conduct that we should reward with unprecedented legal protections? In the words of today's 14 year-olds, ''Get real.''

Under our bill, a state may resolve its attorney general suit or take on the tobacco industry in court, as Minnesota is doing. It is up to the people of that state, not a Washington knows best approach. I am confident that Vermont Attorney General William Sorrell knows the facts in his lawsuit against big tobacco and will weigh the best interests of Vermonters in making the decision whether to opt-in to the bill's settlement provisions.

I strongly believe that this comprehensive tobacco control legislation puts the interests of our children ahead of the interests of the tobacco lobby.

I look forward to working with President Clinton, Vice President GORE, Senator CONRAD and my other colleagues on both sides of the aisle to enact it into law.

I thank again my good friend from Indiana. I yield the floor.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. COATS. I ask unanimous consent to speak as in morning business.

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

INDEPENDENT COUNSEL

Mr. COATS. Madam President, over the past 3 weeks or so, Independent Counsel Ken Starr has been the subject of a sustained attack by individuals speaking on behalf of the President. Judging by some of these statements, it seems there is little that the President's surrogates are unwilling to say about Judge Starr. The objective of these comments seems clear—to undermine public confidence in the very legal processes designed to assure public integrity in the White House.

In an extraordinary televised interview, the First Lady accused the independent counsel of being ''politically motivated'' by an investigation of the Monica Lewinsky matter and part of a ''vast right-wing conspiracy'' to bring down the President. Other Presidential advisors have also taken to the airwaves, attacking Kenneth Starr as a ''scumbag,'' and ''merchant of sleaze.'' One of these advisors went so far as to declare war on Judge Starr and the Office of the Independent Counsel.

Now these tactics bring to mind the old adage known to every trial lawyer in the country: When you have the facts, argue the facts; when you have the law, argue the law; and when you have neither the facts nor the law, go after the prosecutor, go after the witnesses, go after the accuser, attack their credibility.

Yesterday in the Wall Street Journal in an editorial entitled ''Spinning Starr,'' the editors state:

> Events of recent days suggest that an analysis by Mr. Clinton's legal team has concluded that their strongest strategy is not to meet on the battlefield of facts and law, but to conduct a political offensive against the independent counsel and his staff.
>
> No matter what opposition they've encountered—Paula Jones, Linda Tripp, Kathleen Willey, Fred Thompson, Judge Royce Lamberth—the Clinton side has always chosen the same strategy of stonewalling, smash-mouth lawyering.

Madam President, for those of us who know Ken Starr and have watched and appreciated his distinguished career, the picture painted of this man by the President's people is virtually unrecognizable.

The President's people have asked us to forget Kenneth Starr's exemplary personal character, his service as the Nation's Solicitor General, and his tenure in the United States Court of Appeals for the District of Columbia.

The President's people have asked us to forget the reputation he has gained for fairness and balance and good judgment that he earned through working with the Justice Department.

The President's people have asked us to forget the unpopular chances he took in defending freedom of the press and freedom of religion during his tenure as a Federal judge.

And most of all, the President's people have asked us to forget that Kenneth Starr has brought to the independent counsel's office the cautious, deliberative mind of a judge and not the zeal of a prosecutor.

The President's attack machine has left us not with a caricature of Ken Starr but with a smudge: Kenneth Starr, right-wing conspirator, partisan prosecutor, Republican hack.

Madam President, there is too much hanging in the balance of this investigation to permit these attacks on Judge Starr's character and reputation to go unchallenged. The fact is that even some of Kenneth Starr's most committed ideological opponents have in earlier times painted a very different picture of the man who is now at the receiving end of so much of the Clinton fury.

Some of you may have heard of Walter Dellinger. He is a professor of law at Duke University, a liberal democrat and the former head of the Office of Legal Counsel under Attorney General Janet Reno. When Kenneth Starr was chosen as independent counsel, Professor Dellinger said, ''I have known Ken

Starr since he was one of my students at Duke Law School and I have always known him to be a fair-minded person.''

An official with the American Civil Liberties Union said of Starr's appointment, ''I'd rather have him investigate me than almost anyone I could think of.''

Alan Morrison, the cofounder of Public Citizen Litigation Group told Time magazine last week that the idea of Kenneth Starr as a right-wing avenger is ''not the Ken Starr I know.''

When Democrats criticized Judge Starr's appointment as politically inspired, five former presidents of the American Bar Association refused to call for his resignation, citing their ''Utmost confidence in his integrity and his objectivity.''

Just last week, Robert Bork, one of the sternest critics of the independent counsel law, wrote that the Office of the Independent Counsel ''requires but does not always get an independent counsel of moral strength and judicial temperament. Kenneth Starr is just such a prosecutor * * * He has conducted himself professionally and without a credible hint of partisanship.''

The worlds of Kenneth Starr and the Clinton White House are completely different. The independent counsel has a reputation for integrity and fairness. He is temperate by nature and has been criticized by his own staff as being deliberative to a fault. Kenneth Starr regards justice not as a matter of winning or losing but as a search for the truth.

Madam President, if there is ever a time when we need an impartial independent search for the truth, this is that time. A great deal does hang in the balance. We have important decisions to make relative to foreign policy of this Nation and the domestic policy of this Nation. It is important that we be able to rest credibility and trust in the Office of the Presidency. It is important that we elicit the facts and the truth relative to the allegations swirling around the President and the White House at this particular time.

I can think of no fairer minded nor nonpartisan, capable individual than the current independent prosecutor, Kenneth Starr, and I think it would be appropriate if all of us let him do his job.

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.

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

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

ATTACKS ON KENNETH STARR

Mr. NICKLES. Madam President, I rise today to make a couple of observations. One is that it is very apparent that there is a concerted attack on Kenneth Starr, the court-appointed independent counsel investigating several serious allegations against the Clinton administration. Some of those attacks were made today on the floor of the Senate. I believe a previous attack was made earlier in the week in the Senate. And I think Mrs. Clinton joined in the attack on Judge Starr. So, there appears to be a concerted attempt by the President, his staff, his wife, and others to attack Kenneth Starr as the independent counsel. I just think that is inappropriate.

Just for the information of my colleagues, I have known Ken Starr. I understand that he clerked for the Supreme Court for Chief Justice Warren Burger when he got out of law school. I got to know him when he was assistant and chief of staff to Attorney General William French Smith during the Reagan administration. That is the first time I got to know him. And I remember him when he served as Solicitor General of the United States and argued cases on behalf of the United States before the Supreme Court. I happened to sit in on one or two. In one case that I remember in particular, he did a very fine job. He represented the United States very well. I don't remember anybody ever making any allegations that he was a right-wing conspirator at that time.

He served as a judge on the D.C. Circuit Court of Appeals with Justices Scalia and Ginsburg, and he served with distinction. I don't remember hearing one scintilla of negative comments of his service there.

He was chosen—and this is interesting—by the Senate to review Senator Packwood's diaries that dealt with a sex scandal in the Senate. That was a very sensitive issue and not an easy one. And probably not a job that he had any interest in doing either. But it shows that, yes, he handled that, and he handled it very professionally. I think everyone in the Senate would have to acknowledge that.

Judge Starr has taught constitutional law at New York University Law School, a very prestigious law school. He was chosen by the three-judge court to take over as independent counsel and replace Robert Fiske in his investigation of Whitewater and related matters. He was chosen for this job by the court. I don't believe he campaigned for it. He was selected by a three-judge panel.

So he worked for the Senate, he worked in the Attorney General's office, in the Solicitor General's office, he served as a judge, and he taught—all of which he did with distinction.

So I really regret that many people in the administration, and now some of our colleagues, are attacking Ken Starr—impugning his motives, raising charges of conflict of interest, and so on. I think that is really unfortunate.

I happen to also think it is intended as a diversion. I think it is a pattern that we have seen followed by this administration time and time again when they are feeling pressure from an investigation or emerging scandal.

It is unfortunate, but this administration has been plagued by scandals since prior to President Clinton's election in 1992. It seems like there is a repetitive pattern of attacking whoever that scandal happens to be involved with—whether it was Gennifer Flowers, when she was attacked; Paula Jones, when she was attacked; the FBI, when investigating the FBI files matter. A couple FBI people lost their jobs over that unfortunate incident. The travel office employees were attacked, when Billy Dale was investigated. The Justice Department was called in to investigate Billy Dale. So time and time again, it seems like there is a pattern that if there is a complaint, we all of a sudden start hearing negative stories.

When it became well known that FBI Director Louis Freeh's recommendation was that an independent counsel should be appointed to investigate possible campaign abuses by the Clinton administration, all of a sudden we start hearing negative stories about Director Freeh and the White House's lack of confidence in his work. There was even some speculation that he would be fired. Well, he could not be fired, he had a 10-year term. I think it is very unfortunate.

Mrs. Clinton was on television talking about a ''right-wing conspiracy,'' and about all these groups spreading stories. I don't think Ken Starr has anything to do with any alleged right-wing conspiracy, nothing whatsoever. I don't think he has ever had that strong of a political philosophy or involvement with partisan issues. He has been a judge, he has been working at the Justice Department and teaching law school. I just don't think that's the case. I certainly don't think that the President's own personal secretary was part of a right-wing conspiracy. So I am just bothered by that.

I think that we see a concerted effort by the administration to have a diversion. Certainly this latest scandal is serious. There were allegations that were brought to Ken Starr's attention, and he took them to the Attorney General for authority to investigate. She gave a recommendation to the three-judge court to expand his authority to investigate. Janet Reno recommended to the three-judge panel that these latest allegations concerning the sex scandal be investigated. That is what Ken Starr is doing.

So I hope that my colleagues will tone down their rhetoric. I hope this administration will tone down the rhetoric and quit attacking Ken Starr and maybe cooperate with the investigation and let the facts be known.

I hope that nothing happened. I hope that there is nothing to this scandal. But I think the President should tell the truth. I think that the American people are entitled to the truth and, hopefully, it will come out very shortly. Then we can go on and do the Nation's business—as the President has

called for. But when there are allegations of perjury, or obstruction of justice, coaching witnesses, or trying to get people to leave town so maybe they would not testify—these are serious charges. I might remind colleagues that President Nixon was on the road to impeachment not because he broke into the Watergate, but because of charges of perjury, tampering with a witness and obstruction of justice.

So these are serious charges, but they don't need to be investigated on the floor of the Senate. It is possible that at some point the Senate will have a role; I don't know. But I don't think it is proper or right to have this campaign of attack and smear on Ken Starr. I think it undermines the judicial process and really undermines those people who are making such charges. Madam President, I hope that our colleagues and others will allow the independent counsel to do his work.

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

The PRESIDING OFFICER (Mr. FAIRCLOTH). Without objection, it is so ordered.

EXECUTIVE SESSION

NOMINATION OF MARGARET M. MORROW, OF CALIFORNIA, TO BE U.S. DISTRICT JUDGE FOR THE CENTRAL DISTRICT OF CALIFORNIA

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to consider Executive Calendar No. 135, which the clerk will report.

The legislative clerk read the nomination of Margaret M. Morrow, of California, to be United States District Judge for the Central District of California.

The PRESIDING OFFICER. Debate on the nomination is limited to 2 hours equally divided and controlled by the Senator from Utah and the Senator from Missouri.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I rise today to support the nomination of Margaret Morrow to the Federal District bench in California.

Ms. Morrow enjoys broad bipartisan support, and it is no wonder. She graduated magna cum laude from Bryn Mawr College, and cum laude from the Harvard Law School. She is presently a partner at Arnold and Porter in their Los Angeles office where she handles virtually all of that office's appellate litigation.

I plan to outline in greater detail why I intend to support Ms. Morrow's nomination. But first I would like to discuss the Judiciary Committee's record with respect to the confirmation of President Clinton's judicial nominees.

As chairman of the Senate Judiciary Committee, one of the most important duties I fulfill is in screening judicial nominees. Indeed, the Constitution itself obligates the Senate to provide the President advice concerning his nominees, and to consent to their ultimate confirmation. Although some have complained about the pace at which the committee has moved on judicial nominees, I note that it has undertaken its duty in a deliberate and serious fashion. Indeed, with respect to Ms. Morrow, there were concerns. Her answers to the committee were not entirely responsive. Rather than simply pushing the nomination forward, however, I believed it was important for the committee to ensure that its questions were properly answered. Thus, the committee submitted written questions for Ms. Morrow to clarify some of her additional responses. And, having reviewed Ms. Morrow's answers to the questions posed by the committee, I became satisfied that she would uphold the Constitution and abide by the rule of law.

In fact, we held two hearings in Margaret Morrow's case, as I recall, and the second hearing was, of course, to clarify some of these issues without which we might not have had Ms. Morrow's nomination up even to this day.

Thus, I think it fair to say that the committee has fairly and responsibly dealt with the President's nominees. Indeed, the Judiciary Committee has already held a judicial confirmation hearing, and has another planned for February 25. Thus, the committee will have held two nomination hearings in the first month of the session.

I note that Judiciary Committee processed 47 of the President's nominees last session, including Ms. Morrow. Today there are more sitting judges than there were throughout virtually all of the Reagan and Bush administrations. Currently, there are 756 active Federal judges. In addition, there are 432 senior Federal judges who must by law continue to hear cases. Even in the ninth circuit, which has 10 vacancies, only one judge has actually stopped hearing cases. The others have taken senior status, and are still actively participating in that court's work. I am saying that the other nine judges have taken senior status. Those who have retired, or those who have taken senior status, are still hearing cases. The total pool of Federal judges available to hear cases is 1,188, a near record number.

I have sought to steer the confirmation process in a way that kept it a fair and a principled one, and exercised what I felt was the appropriate degree of deference to the President's judicial appointees.

I would like to personally express my gratitude and compliments to Senator LEAHY, the ranking Democrat on the Judiciary Committee, for his cooperative efforts this past year. In fact, I would like my colleagues to note that a portrait of Senator LEAHY will be unveiled this very evening in the Agriculture Committee hearing room. This is an honor that I believe my distinguished colleague justly deserves for his efforts on that great committee. I want Senator LEAHY to know that I plan on attending that portrait unveiling itself even though this debate is taking place on the floor between 4 and 6 today.

It is in this spirit of cooperation and fairness that I will vote to confirm Ms. Morrow. Conducting a fair confirmation process, however, does not mean granting the President carte blanche in filling judicial vacancies. It means assuring that those who are confirmed will uphold the Constitution and abide by the rule of law.

Based upon the committee's review of her record, I believe that the evidence demonstrates that Margaret Morrow will be such a person. Ms. Morrow likely would not be my choice if I were sitting in the Oval Office. But the President is sitting there, and he has seen fit to nominate her.

She has the support of the Senators from California. And the review conducted by the Judiciary Committee suggests that she understands the proper role of a judge in our Federal system and will abide by the rule of law. There is no doubt that Ms. Morrow is, in terms of her professional experience and abilities, qualified to serve as a Federal district court judge. I think the only question that may be plaguing some of my colleagues is whether she will abide by the rule of law. As I have stated elsewhere, nominees who are or who are likely to be judicial activists are not qualified to serve as Federal judges, and they should neither be nominated nor confirmed. And I want my colleagues to know that when such individuals come before the Judiciary Committee I will vociferously oppose them. In fact, many of the people that have been suggested by the administration have been stopped before they have been sent up. And that is where most of the battles occur, and that is where most of the work between the White House and myself really occurs. I have to compliment the White House in recognizing that some people that they wish they could have put on the bench were not appropriate persons to put on the bench because of their attitudes towards the rule of law primarily.

While I initially had some concerns that Ms. Morrow might be an activist, I have concluded, based on all the information before the committee, that a compelling case cannot be made against her. While it is often difficult to tell whether a nominee's words before confirmation will match that nominee's deeds after confirmation, I believe that this nominee in particular deserves the benefit of the doubt. And

all nominees deserve the benefit of the doubt, unless the contrary is substantial—or, should I say, less evidence to the contrary is substantial. In my view, there is not sufficient evidence to demonstrate that Ms. Morrow will engage in judicial activism. In fact, Ms. Morrow has assured the committee that she will abide by the rule of law, and will not substitute her preferences for the dictates of the Constitution.

If Ms. Morrow is a woman of her word, and I believe she is, I am confident that she will serve the country with distinction.

I would like briefly to address some of the questions raised by those who oppose Ms. Morrow's nomination. Perhaps the most troubling evidence of potential activism that Ms. Morrow's critics advance comes from several speeches she has given while president of the Los Angeles, CA, Bar Association. At the fourth annual Conference on Women in the Law, for example, Ms. Morrow gave a speech in which she stated that ''the law is almost by definition on the cutting edge of social thought. It is a vehicle through which we ease the transition from the rules which have always been to the rules which are to be.''

Now, if Ms. Morrow was speaking here about ''the law'' and ''rules'' in a substantive sense, I would have no choice but to read these statements as professing a belief in judicial activism. On that basis alone, I would likely have opposed her nomination. However, Ms. Morrow repeatedly and somewhat animatedly testified before the committee that she was not speaking substantively of the law itself but, rather, was referring to the legal profession and the rules by which it governs itself.

When the committee went back and examined the context of Ms. Morrow's speech, it concluded that this explanation was in keeping with the theme of her speech.

In her inaugural address as president of the State Bar of California on October 9, 1993, Ms. Morrow quoted then Justice William Brennan, stating that ''Justice can only endure and flourish if law and legal institutions are engines of change able to accommodate evolving patterns of life and social interaction.''

Here again some were troubled that Ms. Morrow seemed to be advocating judicial activism. Ms. Morrow, however, assured the committee that she was not suggesting that courts themselves should be engines of change. In response to the committee she testified as follows:

> The theme of that speech was that the State Bar of California as an institution and the legal profession had to change some of the ways we did business. The quotation regarding engines of change had nothing to do with changes in the rule of law or changes in constitutional interpretation.

Once again, the committee went back and scrutinized Ms. Morrow's speech and found that its theme was in fact changes the bar should make and did not advance the theme that courts should be engines of social change. The committee found the nominee's explanation of the use of the quotation, given its context, very plausible. In addition, the nominee went to some lengths in her oral testimony and her written responses to the committee to espouse a clearly restrained approach to constitutional interpretation and the rule of the courts. Frankly, much of what she has said under oath goes a long way toward legitimized, very restrained jurisprudence that some of our colleagues on the other side of the aisle called out of the mainstream just a decade ago.

For example, she testified that she would attempt to interpret the Constitution ''consistent with the intent of the drafters.'' She later explained in more detail that judges should use the constitutional text ''as a starting point, and using that language and whatever information there is respecting the intent behind that language one ought to attempt then to decide the case consistent with that intent.''

She later testified that judges should not ''by incremental changes ease the law from one arena to another in a policy sense.'' And in written correspondence with the committee, Ms. Morrow further elaborated on her constitutional jurisprudence by highlighting the case which in her view adopted the proper methodology to constitutional interpretation.

As she explained, in that case the Court ''looked first to the language of the Constitution,'' then ''buttressed its reading'' of the text by ''looking to the language of other constitutional provisions.'' And finally to ''the intent of those who drafted and ratified this language as reflected in the Federalist Papers, debates of the Constitutional Convention and other writings of the time.''

Contrary to the claim that she condemns all voter initiatives, Ms. Morrow has actually sought to ensure that voters have meaningful ways of evaluating such initiatives.

In a widely circulated article, Ms. Morrow noted that the intensive advertising campaigns that surround citizen initiatives often focus unfairly on the measure's sponsor rather than the initiative's substance. This made it hard, she argued, for voters to make meaningful choices and ''renders ephemeral any real hope of intelligent voting by a majority.''

Read in its proper context, this statement seized upon by Ms. Morrow's critics was a statement concerning the quality of information disseminated to the voters, not a comment on the voters' ability to make intelligent policy choices. Thus Ms. Morrow's statement is not particularly controversial but in fact highly respectful of the role voters must play in our electoral system. In fact, Ms. Morrow argued that the courts should not be placed in a position of policing the initiative process. She explained that ''having passed an initiative, the voters want to see it enacted. They view a court challenge to its validity as interference with the public will.''

For this reason, Ms. Morrow advocated reforms to the California initiative process to take a final decision on ballot measures out of the hands of judges and to place it back into the hands of the people.

In supporting this nomination, I took into account a number of factors, including Ms. Morrow's testimony, her accomplishments and her evident ability as an attorney, as well as the fact that she has received strong support, bipartisan support from both Democrats and Republicans. Republicans included Ninth Circuit Judges Cynthia Hall, Steven Trott and Pamela Rymer, Reagan-Bush appointees, as well as Rob Bonner, a respected conservative, former Federal judge and head of the drug enforcement agency under President Bush.

I know all of these people personally. They are all strong conservatives. They are really decent people. They are as concerned as you or I or anybody else about who we place on the Federal bench, and they are strongly in favor of Margaret Morrow, as are many, many other Republicans. And they are not just people who live within the district where she will be a judge. They are some eminent judges themselves.

I have a rough time seeing why anybody basically under all these circumstances would oppose this nominee. Each of those individuals I mentioned and others, such as Richard Riordan, the Republican mayor of Los Angeles, have assured the committee that Ms. Morrow will not be a judicial activist. I hope they are correct. And at least on this point I have seen little evidence in the record that would suggest to me that she would fail to abide by the rule of law once she achieves the bench and practices on the bench and fulfills her responsibility as a judge on the bench.

In sum, I support this nominee and I urge my colleagues to do the same. I am also pleased, with regard to these judicial nominees, that no one on our side has threatened to ever filibuster any of these judges, to my knowledge. I think it is a travesty if we ever start getting into a game of filibustering judges. I have to admit my colleagues on the other side attempted to do that on a number of occasions the last number of years during the Reagan-Bush years. They always backed off, but maybe they did because they realized there were not the votes to invoke cloture. But I really think it is a travesty if we treat this third branch of Government with such disregard that we filibuster judges.

The only way I could ever see that happening is if a person is so absolutely unqualified to sit on the bench that the only way you could stop that person is to filibuster that nominee. Even then, I question whether that should be done. We are dealing with a

coequal branch of Government. We are dealing with some of the most important nominations a President, whoever that President may be, will make. And we are also dealing with good faith on both sides of the floor.

I have to say, during some of the Reagan and Bush years, I thought our colleagues on the other side were reprehensible in some of the things they did with regard to Reagan and Bush judges, but by and large the vast majority of them were put through without any real fuss or bother even though my colleagues on the other side, had they been President, would not have appointed very many of those judges. We have to show the same good faith on our side, it seems to me. And unless you have an overwhelming case, as may be the case in the nomination of Judge Massiah-Jackson, unless you have an overwhelming case, then certainly I don't see any reason for anybody filibustering judges. I hope that we never get into that. Let's make our case if we have disagreement, and I have to say that some of my colleagues disagree with this nomination, and they do it legitimately, sincerely, and I think with intelligence, but I think they are wrong. And that is after having been part of this process for 22 years now and always trying to be fair, whoever is the President of the United States and whoever the nominees are.

It is important because most of the fight has to occur behind the scenes. It has to occur between honest people in the White House and honest people up here. And that's where the battles are. When they get this far, generally most of them should be approved. There are some that we have problems with still in the Judiciary Committee, but that is our job to look at them. That is our job to look into their background. It is our job to screen these candidates. And, as you can see, in the case of Massiah-Jackson we had these accusations but nobody was willing to stand up and say them. I am not about to rely on unsubstantiated accusations by anybody. I will rely on the witness herself in that case. But we never quit investigating in the committee, and even though Massiah-Jackson was passed out of the committee, the investigation continued and ultimately we find a supernumber of people, very qualified people, people in that area who have a lot to do with law and justice are now opposed to that nomination. We cannot ignore that. But that is the way the system works. We have had judges withdraw after we have approved them in the Judiciary Committee because something has come up to disturb their nomination.

That is the way it should work. This is not a numbers game. These are among the most important nominations that any President can make and that the Senate can ever work on. In the case of Margaret Morrow, I personally have examined the whole record, and, like I say, maybe people on our side would not have appointed her if they were President, but they are not the President. And unless there is an overwhelming case to be made against a judge, I have a very difficult—and especially this one; there is not—I have to say that I think we do a great injustice if we do not support this nomination.

So with that, I will yield the floor.

How much time does the distinguished Senator need?

Mrs. BOXER. About 10 minutes.

Mr. HATCH. I yield 10 minutes to the distinguished Senator from California.

If my colleague would prefer to control the time on his side, I would be happy—should I yield to the Senator?

Mrs. BOXER. I would prefer we yield to Senator LEAHY given his schedule.

Mr. HATCH. Let's split the time. You control half the time, and I will control half. You can make the determination, or if you would like——

Mr. LEAHY. Mr. President, how much time is there remaining?

The PRESIDING OFFICER. There are 36 minutes 30 seconds.

Mr. LEAHY. I wonder if I might yield myself 5 minutes.

The PRESIDING OFFICER. The Chair recognizes the Senator from Vermont.

Mr. LEAHY. Mr. President, this really has been a long time coming, and I appreciate the effort of my friend, the chairman, who is on the floor, to support this nomination. I commend my good friend, the Senator from California, Mrs. BOXER, who has been indefatigable in this effort. She has worked and worked and worked. I believe she has spoken to every single Senator, every single potential Senator, every single past Senator, certainly to all the judges, and she has been at us over and over again to make sure that this day would come. She has worked with the Republican leader, the Democratic leader, and Republican and Democratic Senators alike. I appreciate all that she has done. We have all been aided by our colleague, Senator FEINSTEIN. She has spoken out strongly for Margaret Morrow as a member of the Judiciary Committee and as a Senator.

I feel though, as Senator BOXER has said, that none of us would have predicted that it would take 21 months to get this nomination before the Senate. I know that we would not even be here now if the distinguished Senator from Utah and the distinguished majority leader had not made the commitment before we broke last fall to proceed to this nomination this week.

I have spoken about this nomination so many times I have almost lost track of the number. I will not speak as long as I would otherwise today because I want to yield to the Senator from California. But I think people should know that for some time there was an unexplained hold on this outstanding nominee. This is a nominee, incidentally, who was reported out of the Judiciary Committee twice. This is a nominee who is the first woman to be the president of the California State Bar Association and a president of the Los Angeles County bar.

This is a nominee who is a partner in a prestigious law firm. This is a nominee who has the highest rating that lawyers can be given when they come before our committee for approval as a judge. This is a woman about whom letters were sent to me and to other Senators from some of the leading Republicans and some of the leading Democrats in California and from others whose background I know only because of their reputations, extraordinary reputations. I have no idea what their politics are. But all of them, whether they describe themselves as conservatives, liberals, moderates or apolitical, all of them say what an extraordinary woman she is. And I agree.

I have read all of the reports about her. I have read all the things people said in her favor, and the things, oftentimes anonymous, said against her. I look at all those and I say of this woman: If I were a litigant, plaintiff or defendant, government or defendant, no matter what side I was on, I could look at this woman and say I am happy to come into her court. I am happy to have my case heard by her—whether I am rich, poor, white, black, no matter what might be my background. I know she would give a fair hearing.

Now, finally, after 12 months on the Senate calendar without action over the course of the last 3 years, I am glad that the debate is beginning. I am also glad we can now look forward to the end of the ordeal for Margaret Morrow, for her family, her friends and her supporters.

Her supporters include the chairman of the Judiciary Committee and half the Republican members on that committee. The Republican Mayor of Los Angeles, Richard Riordan, calls her ''an excellent addition to the Federal bench.'' All of these people have praised her.

To reiterate, this day has been a long time coming. When this accomplished lawyer was first nominated by the President of the United States to fill a vacancy on the District Court for the Central District of California, none of us would have predicted that it would be more than 21 months before that nomination was considered by the United States Senate.

I thank the Majority Leader and the Chairman of the Judiciary Committee for fulfilling the commitment made late last year to turn to this nomination before the February recess. Fairness to the people and litigants in the Central District of California and to Margaret Morrow and her family demand no less.

I trust that those who credit local law enforcement and local prosecutors and local judges from time to time as it suits them will credit the views of the many California judges and local officials who have written to the Senate over the last several months in support of the confirmation of Margaret Morrow. I will cite just a few examples:

Los Angeles County Sheriff Sherman Block; Orange County District Attorney Michael R. Capizzi; former U.S. Attorney and former head of the DEA under President Bush, Robert C. Bonner; former Reagan Assistant Attorney General of the Criminal Division and former Associate Attorney General and current Ninth Circuit Judge Stephen S. Trott; and California Court of Appeals Associate Justice H. Walter Croskey.

I deeply regret that confirmation as a Federal Judge is becoming more like a political campaign for these nominees. They are being required to gather letters of support and urge their friends, colleagues and clients to support their candidacy or risk being mischaracterized by those who do not know them.

Margaret Morrow's background, training, temperament, character and skills are beyond reproach. She is a partner in the law firm of Arnold & Porter. She has practiced law for 24 years. A distinguished graduate of Bryn Mawr College and Harvard Law School, Ms. Morrow was the first woman President of the California State Bar Association and a former president of the Los Angeles County Bar Association. She has had the strong and unwavering support of Senator BOXER and Senator FEINSTEIN of California.

In light of her qualifications, it was no surprise that in 1996 she was unanimously reported by the Senate Judiciary Committee. In 1997 her nomination was again reported favorably, this time by a vote of 13 to 5.

Yet hers has been an arduous journey to Senate consideration. She has been targeted—targeted by extremists outside the Senate whose $1.4 million fundraising and lobbying campaign against judges needed a victim. As our debate will show today, they chose the wrong woman.

Lest someone accuse us of gratuitously injecting gender into this debate, I note the following: Her critics have gone so far as to deny her the courtesy of referring to her as Ms. Morrow. Instead, they went out of their way repeatedly to refer to her as ''Miss'' in a Washington Times op ed. Margaret Morrow is married to a distinguished California State Court Judge and is the proud mother of a 10-year-old son. It is bad enough that her words are taken out of context, her views misrepresented and her nomination used as a ideological prop. She is entitled to be treated with respect.

Nor was this reference inadvertent. The first point of criticism in that piece was her membership in California Women Lawyers, which is criticized for supporting parental leave legislation.

Senator FEINSTEIN posed the question whether Margaret Morrow was held to a different standard than men nominees. That is a question that has troubled me throughout this process. I was likewise concerned to see that of the 14 nominees left pending at the end of last year whose nominations had been pending the longest, 12 were women and minority nominees. I did not know, until Senator KENNEDY's statement to the Senate earlier this year, that judicial nominees who are women are now four times as likely as men to take over a year to confirm.

At the same time, I note that Senator HATCH, who supports this nomination, included two women whose nominations have been pending for more than a year and one-half, at last week's Judiciary Committee hearing. I also note that the Senate did vote last month to confirm Judge Ann Aiken to the Oregon District Court. So one of the four article III judges confirmed so far this year was a woman nominee.

Margaret Morrow has devoted her career to the law, to getting women involved in the practice of law and to making lawyers more responsive and responsible. Her good work in this regard should not be punished but commended.

As part of those efforts Margaret Morrow gave a speech at a Women in the Law Conference in April 1994. That speech was later reprinted in a law review. Critics have seized upon a phrase or two from that speech, ripped them out of context and contended that they show Margaret Morrow would be an unprincipled judicial activist. They are wrong. Their argument was refuted by Ms. Morrow in her testimony before the Judiciary Committee.

This criticism merely demonstrates the critics own indifference to the setting and context of the speech and its meaning for women who have worked so hard to achieve success in the legal profession. Her speech was about how the bar is begrudgingly adjusting to women in the legal profession. How telling that critics would fasten on that particular speech on women in the law and see it as something to criticize.

Margaret Morrow spoke then about ''the struggles and successes'' of women practices law and ''the challenges which continue to face us day to day in the 1990s.'' Margaret Morrow has met every challenge. In the course of this confirmation, she has been forced to run a gauntlet. She has endured false charges and unfounded criticism. Her demeanor and dignity have never wavered. She has, again, been called upon to be a role model.

The President of the Woman Lawyers Association of Los Angeles, the President of the Women's Legal Defense Fund, the President of the Los Angeles County Bar Association, the President of the National Conference of Women's Bar Association and other distinguished attorneys from the Los Angeles area have all written the Senate in support of the nomination of Margaret Morrow. They wrote that: ''Margaret Morrow is widely respected by attorneys, judges and community leaders of both parties.'' She ''is exactly the kind of person who should be appointed to such a position and held up as an example to young women across the country.'' I could not agree more.

By letter dated February 4, 1998, a number of organizations including the Alliance for Justice, the Leadership Conference on Civil Rights and women's lawyer associations from California likewise wrote urging confirmation of Margaret Morrow without further delay. I ask that a copy of that letter be included in the RECORD at this point.

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

FEBRUARY 4, 1998.

Senator PATRICK LEAHY,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR LEAHY: We write to express our concern over a series of developments that continue to unfold in the Senate that are undermining the judicial confirmation process. These include calls for the impeachment of judges, a slowdown in the pace of confirmations, unjustified criticisms of certain nominees, and efforts to leave appellate vacancies unfilled. Some court observers have opined that collectively these are the most serious efforts to curtail judicial independence since President Roosevelt's plan to pack the Supreme Court in 1937.

In the past year nominees who failed to meet certain ultraconservative litmus tests have been labeled ''judicial activists.'' While these charges are unfounded, they nonetheless delay confirmations and leave judicial seats unfilled. We note that of the 14 individuals whose nominations have been pending the longest, 12 are women or minorities. This disturbing pattern is in striking contrast to those 14 judges who were confirmed in 1997 in the shortest period of time, 11 of whom are white men. For example, Margaret Morrow, a judicial nominee to the United States District Court for the Central District of California, was nominated more than a year and a half ago. Not only is she an outstanding candidate, but her credentials have earned her enthusiastic and bipartisan endorsements from leaders of the bar, judges, politicians, and civic groups.

An honors graduate from Harvard Law School, a civil litigator for more than 20 years, winner of numerous legal awards, and the first female president of the California Bar Association, Morrow has the breadth of background and experience to make her an excellent judge, and in the words of one of her sponsors, she would be ''an exceptionally distinguished addition to the federal bench.'' Morrow has also shown, through her numerous pro bono activities, a demonstrated commitment to equal justice. As president of the Los Angeles County Bar Association, she created the Pro Bono Council, the first of its kind in California. During her year as bar president, the Council coordinated the provision of 150,000 hours of previously untapped representation to indigent clients throughout the county. Not surprisingly, the American Bar Association's judicial evaluation committee gave her its highest rating.

Republicans and Democrats alike speak highly of her accomplishments and qualifications. Robert Bonner, a Reagan-appointed U.S. Attorney and U.S. District Judge for the Central District of California and head of the Drug Enforcement Administration during the Bush Administration, has said Morrow is a ''brilliant person with a first-rate legal mind who was nominated upon merit, not political affiliation.'' Los Angeles County Sheriff Sherman Block wrote that, ''Margaret Morrow is an extremely hard working individual of impeccable character and integrity. . . . I have no doubt that she would

be a distinguished addition to the Court.'' Other supporters include local bar leaders; officials from both parties, including Los Angeles Mayor Richard Riordan; California judges appointed by the state's last three governors; and three Republican-appointed Ninth Circuit Court of Appeals judges, Pamela Rymer, Cynthia Holcomb Hall, and Stephen Trott.

Despite here outstanding record, Morrow has become the target of a coordinated effort by ultraconservative groups that seek to politicize the judiciary. They have subjected her to a campaign of misrepresentations, distortions and attacks on her record, branding her a ''judicial activist.'' According to her opponents, she deserves to be targeted because ''she is a member of California Women Lawyers,'' an absurd charge given that this bipartisan organization is among the most highly respected in the state. Another ''strike'' against her is her concern, expressed in a sentence from a 1988 article, about special interest domination of the ballot initiative process in California. Her opponents view the statement as disdainful of voter initiatives such as California's term limits law; however, they overlook the fact that the article outlines a series of recommended reforms to preserve the process. It is a stretch to construe suggested reforms as evidence of ''judicial activism,'' but to search for this members of the Judiciary Committee unprecedentedly asked her to disclose her personal positions on all 160 past ballot propositions in California.

Morrow's confirmation has been delayed by the Senate beyond any reasonable bounds. Originally selected over nineteen months ago in May 1996, her nomination was unanimously approved by the Judiciary Committee that year, only to languish on the Senate floor. Morrow was again nominated at the beginning of 1997, subjected to an unusual second hearing, and recommended again by the Judiciary Committee, after which several Senators placed secret holds on her nomination, preventing a final vote on her confirmation. These holds, which prevented a final vote on her confirmation during the 1st Session of the 105th Congress, where recently lifted.

As Senator Orrin Hatch repeatedly said: ''playing politics with judges is unfair, and I'm sick of it.'' We agree with his sentiment. Given Margaret Morrow's impressive qualifications, we urge you to bring the nomination to the Senate floor, ensure that it receives prompt, full and fair consideration, and that a final vote on her nomination is scheduled as soon as possible.

Sincerely,

Alliance for Justice: Nan Aron, President.

American Jewish Congress: Phil Baum, Executive Director.

Americans for Democratic Action: Amy Isaacs, National Director.

Bazelon Center for Mental Health Law: Robert Bernstein, Executive Law.

Brennan Center for Justice: E. Joshua Rosenkrantz, Executive Director.

Black Women Lawyers Association of Los Angeles: Eulanda Matthews, President.

California Women Lawyers: Grace E. Emery, President.

Center for Law and Social Policy: Alan W. Hausman, Director.

Chicago Committee for Civil Rights Under Law: Clyde E. Murphy, Executive Director.

Disability Rights Education and Defense Fund, Patricia Wright, Coordinator Disabled Fund.

Families USA: Judy Waxman, Director of Government Affairs.

Lawyers Club of San Diego: Kathleen Juniper, Director.

Leadership Conference on Civil Rights: Wade Henderson, Executive Director.

Marin County Women Lawyers: Eileen Barker, President.

Mexican American Legal Defense & Educational Fund: Antonia Hernandez, Executive Director.

Monterey County Women Lawyers: Karen Kardushin, Affiliate Governor.

NAACP: Hilary Shelton, Deputy Director, Washington Office.

National Bar Association: Randy K. Jones, President.

National Center for Youth Law: John F. O'Toole, Director.

National Conference of Women Bar Associations: Phillis C. Solomon, President.

National Council of Senior Citizens: Steve Protulis, Executive Director.

National Employment Lawyers Association: Terisa E. Chaw, Executive Director.

National Gay & Lesbian Task Force: Rebecca Issacs, Public Policy Director.

National Lawyers Guild: Karen Jo Koonan, President.

National Legal Aid & Defender Association: Julie Clark, Executive Director.

National Organization for Women: Patricia Ireland, President.

National Women's Law Center: Marcia Greenberger and Nancy Duff Campbell, Co-presidents.

Orange County Women Lawyers: Jean Hobart, President.

People for the American Way Action Fund: Mike Lux, Senior Vice President.

San Francisco Women Lawyers Alliance: Geraldine Rosen-Park, President.

Santa Barbara Women Lawyers: Renee Nordstrand, President.

Union of Needletrades, Industrial and Textile Employees: Ann Hoffman, Legislative Director.

Women Lawyers Association of Los Angeles: Greer C. Bosworth, President.

Women Lawyers of Alameda County: Sandra Schweitzer, President.

Women Lawyers of Sacramento: Karen Leaf, President.

Women Lawyers of Santa Cruz: Lorie Klein, President.

Women's Legal Defense Fund: Judy Lichtman, President.

Youth Law Center: Mark Soler, Executive Director.

Mr. LEAHY. It is time. It is time to stop holding her hostage and help all Americans, and certainly those who are within the district that this court will cover in California. It is time to help the cause of justice. It is time to improve the bench of the United States. It is time to confirm this woman. And it is time for the U.S. Senate to say we made a mistake in holding it up this long. Let us go forward.

Mr. President, if the Senator from Utah has no objection, I would like now to yield, and yield control of whatever time I might have, to the Senator from California.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. I say to Senator LEAHY, before he leaves the floor, and because Senator HATCH in his absence explained the wonderful tribute he is going to have shortly with his portrait being hung in the Agriculture room, and he himself said that he is so respectful of you and wants to show his respect so much that he is going to join you, so that will leave me here on the floor to debate with the Senator from Missouri—before you leave the floor I wanted to say to you and to Senator HATCH together, and I say this from the bottom of my heart, without the two of you looking fairly at this nomination, this day would never have come.

To me it is, in a way, a moving moment. So often we stand on the floor and we talk about delays and so on and so forth. But when you put the human face on this issue and you have a woman and her husband and her son and a law firm that was so excited about this nominee, and you add to that 2 years of twisting in the wind and not knowing whether this day would ever come, you have to say that today is a wonderful day.

So, before my colleague leaves, I wanted to say to him: Thank you for being there for Margaret Morrow and, frankly, all of the people of America. Because she will make an excellent judge.

Mr. LEAHY. Mr. President, I say to my friend from California and to my friend from Utah, I do appreciate their help in this. I can assure you that, while my family and I will gather for the hanging of this portrait—I almost blushed when you mentioned that is my reason for being off the floor—I can assure you I will be back in plenty of time for the vote and I will have 210 pounds of Vermonter standing in the well of the Senate to encourage everybody to vote the appropriate way.

Mrs. BOXER. I thank my colleague very much, Senator LEAHY.

The PRESIDING OFFICER. The Chair recognizes the Senator from California.

Mrs. BOXER. Mr. President, how much time do I have remaining on this side?

The PRESIDING OFFICER. The Senator from California has 15 minutes. The Senator from Utah has 30 minutes.

Mrs. BOXER. My understanding is I would have 15 minutes, then?

The PRESIDING OFFICER. The Senator is correct.

Mrs. BOXER. I ask that the Presiding Officer let me know when 10 minutes has passed, and I will reserve 5 minutes in which to debate the Senator from Missouri, because I know he is a tough debater and I am going to need some time.

Mr. President, as I said, I am so very pleased that this day has come at long last, that we will have an up-or-down vote on Margaret Morrow. I really think, standing here, perhaps the only people happier than I am right now are Margaret and her husband and her son and her law partners and the various citizens of California, Republicans and Democrats, who worked together for this day.

Margaret Morrow is the epitome of mainstream values and mainstream America, and the depth and breadth of her support from prominent Republicans and Democrats illustrate that she is eminently qualified to sit as a Federal judge. I don't think I could be any more eloquent than Chairman HATCH and Ranking Member LEAHY, in putting forward her credentials.

What I am going to do later is just read from some of the many letters that we got about Margaret, and then I, also, at that time, will have some letters printed in the RECORD.

Again, I want to say to Senator HATCH how his leadership has been extraordinary on this, and also I personally thank Majority Leader LOTT and Democratic Leader DASCHLE for bringing this to the floor and arranging for an agreement that this nominee be brought to the floor. I thank my colleague from Missouri for allowing an up-or-down vote, for not launching a filibuster on this matter. I think Chairman HATCH spoke of that eloquently, and I am very pleased that we can have this fair vote.

I recommended Margaret Morrow to the President in September of 1995. She was nominated by the President on May 9, 1996. She received her first hearing before the Judiciary Committee on June 25, 1996, and was favorably reported out unanimously by the committee 2 days later. Because there was no action, she was renominated again on January 7, 1997, and had her second hearing on March 18, 1997. This time she was reported out favorably. This time the vote was 13 to 5.

I want to make the point that there is a personal side to this judicial nomination process. For nominees who are awaiting confirmation, their personal and professional lives truly hang in the balance. Margaret Morrow, a 47-year-old mother and law partner has put her life and her professional practice on hold while she waited for the Senate to vote on her nomination. Her whole family, particularly her husband and son, have waited patiently for this day. That is stress and that is strain, as you wait for this decision which will so affect your life and the life of your family and, of course, your career.

Former Majority Leader Bob Dole spoke of this process himself when he once said, ''We should not be holding people up. If we need a vote, vote them down or vote them up, because the nominees probably have plans to make and there are families involved.'' I think Senator Dole said it straight ahead. So I am really glad that Margaret's day has come finally.

I do want to say to Margaret, thank you for hanging in there. Thank you for not giving up. I well understand that there were certain moments where you probably were tempted to do so. There were days when you probably thought this day would never come. But you did hang in there, and you had every reason to hang in there.

This is a woman who graduated magna cum laude from Bryn Mawr College and received her law degree from Harvard, graduating cum laude, 23 years in private practice in business and commercial litigation, a partner at the prestigious law firm of Arnold and Porter. She is married to Judge Paul Boland of the Los Angeles Superior Court and has a 10-year-old son, Patrick Morrow Boland, who actually came up here on one of the times that she was before the committee.

Over the years, Margaret has represented a diverse group of business and Government clients, including some of the Nation's largest and most prominent companies.

In the time I have remaining now, I want to quote from some very prestigious leaders from California, and from the Senate, who have spoken out in behalf of Margaret Morrow. First we have Senator ORRIN HATCH. He spoke for Margaret himself, so I won't go over that quote.

Robert Bonner, former U.S. attorney appointed by President Reagan, former U.S. district court judge in the Central District of California and former head of the Drug Enforcement Administration, appointed by President George Bush, he sent a letter to Senators BOND, D'AMATO, DOMENICI, SESSIONS and SPECTER. In it he says:

> The issue—the only real issue—is this: Is Margaret Morrow likely to be an activist judge? My answer and the answer of other Californians who have unchallengeable Republican credentials and who are and have been leaders of the bar and bench in California, is an unqualified NO. . . . On a personal note, I have known Margaret Morrow for over twenty years. She was my former law partner. I can assure you that she will not be a person who will act precipitously or rashly in challenging the rule of law.

He continues:

> Based on her record, the collective knowledge of so many Republicans of good reputation, and her commitment to the rule of law and legal institutions, it is clear to me that Margaret will be a superb trial judge who will follow the law as articulated by the Constitution and legal precedent, and apply it to the facts before her.

I think that this statement is quite powerful. We have numbers of others as well. In a letter to Senators ABRAHAM and GORDON SMITH and PAT ROBERTS, Thomas Malcolm, who is chairman of Governor Wilson's Judicial Selection Committee for Orange County and served on the Judicial Selection Committees of Senators Hayakawa, Wilson, and Seymour, wrote the following:

> I have known Ms. Morrow for approximately 10 years. Over the years, she has constantly been the most outstanding leader our California Bar Association has ever had the privilege of her sitting as its President. . . . Of the literally hundreds of nominations for appointment to the federal bench during my tenure on Senators Hayakawa, Wilson and Seymour's Judicial Selection Committees, Ms. Morrow is by far one of the most impressive applicants I have ever seen.

Mr. President, how much time do I have remaining——

The PRESIDING OFFICER. You have 7½ minutes.

Mrs. BOXER. Remaining of my 10 minutes?

The PRESIDING OFFICER. You have 3 minutes of your 10 minutes remaining.

Mrs. BOXER. Thank you, Mr. President. In the 3 minutes remaining I am going to quote from some others.

Los Angeles Mayor, Richard Riordan, in a letter to Senator HATCH, said:

> Ms. Morrow would be an excellent addition to the Federal bench. She is dedicated to following the law and applying it in a rational and objective fashion.

Republican judges in the 9th Circuit, Pamela Rymer and Cynthia Hall—they are both President Bush and President Reagan's appointees respectively—in a letter to Senators HUTCHISON, COLLINS and SNOWE, write:

> [We] urge your favorable action on the Morrow nomination because [we] believe that she would be an exceptional federal judge.

Representative JAMES ROGAN, former Republican Assembly majority leader in the California State Assembly, the first Republican majority leader in almost 30 years—actually he testified in front of the Judiciary Committee and said:

> When an individual asks me to make a recommendation for a judgeship, that is perhaps the single most important thing I will study before making any recommendation . . . I am absolutely convinced that . . . she would be the type of judge who would follow the Constitution and laws of the United States as they were written. . . . [I]t is my belief . . . that should she win approval from this committee and from the full Senate, she would be a judge that we could all be proud of, both in California and throughout our land.

Mr. President, I ask unanimous consent to have printed in the RECORD a list of people from all over California endorsing Margaret Morrow.

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

REPUBLICAN SUPPORT FOR MARGARET M. MORROW

Robert C. Bonner, former U.S. Attorney (appointed by President Reagan), former U.S. District Court Judge in the Central District of California and former Head of the Drug Enforcement Administration (appointed by President Bush), Partner at Gibson, Dunne and Crutcher in Los Angeles (2 letters).

Thomas R. Malcolm, Chairman of Governor Wilson's judicial selection committee for Orange County and previously served on the judicial selection committees of Senators Hayakawa, Wilson, and Seymour.

Rep. James Rogan (R–27–CA), former Assembly Majority Leader, California State Legislature, former gang murder prosecutor in the LA County District Attorney's Office, former Municipal Court Judge in California.

Pamela Rymer, Curcuit Court Judge, U.S. Court of Appeals for the Ninth Circuit (2 letters), appointed by President Bush.

Cynthia Holcomb Hall, Circuit Court Judge, U.S. Court of Appeals for the Ninth Circuit, appointed by President Reagan.

Lourdes Baird, District Court Judge, U.S. District Court, Central District of California, appointed by President Bush.

H. Walter Croskey, Associate Justice, State of California Court of Appeal, Second Appellate District (2 letters), appointed by Governor Deukmejian.

Richard J. Riordan, Major, City of Los Angeles.

Michael R. Capizzi, District Attorney, Orange County.

Lod Cook, Chairman Emeritus, ARCO, Los Angeles.

Clifford R. Anderson, Jr., supporter of the presidential campaigns for Presidents Nixon and Reagan, and former member of Governor Wilson's judicial selection committee (when

he was Senator) member of Governor Wilson's State judicial evaluation committee.

Sherman Block, Sheriff, County of Los Angeles.

Roger W. Boren, Presiding Justice, State of California Court of Appeal, Second Appellate District (2 letters), appointed by Governor Wilson.

Sheldon H. Sloan, former President of Los Angeles County Bar Association.

Stephen Trott, Circuit Court Judge, U.S. Court of Appeals for the Ninth Circuit (2 letters), appointed by President Reagan.

Judith C. Chirlin, Judge, Superior Court of Los Angeles County, appointed by Governor Deukmejian.

Richard C. Neal, State of California Court of Appeal, Second Appellate District, appointed by Governors Deukmejian and Wilson.

Marvin R. Baxter, Associate Justice, Superme Court of California, appointed by Governor Deukmejian.

Charles S. Vogel, Presiding Justice, State of California Court of Appeal, Second Appellate District, appointed by Governors Reagan and Wilson.

Dale S. Fischer, Judge, Los Angeles Municipal Court, appointed by Governor Wilson.

Richard D. Aldrich, Associate Justice, State of California Court of Appeal, Second Appellate District, appointed by Governors Deukmejian and Wilson.

Edward B. Huntington, Judge, Superior Court of the State of California, San Diego, appointed by Governor Wilson.

Laurence H. Pretty, former President of the Association of Business Trial Lawyers.

Mrs. BOXER. Mr. President, I want to say to you again, I know you have been very fair as I presented the case to you, this is a woman that every single Senator should be proud to support today. It is not a matter of political party. This is a woman uniquely qualified. I almost want to say, if Margaret Morrow cannot make it through, then, my goodness, who could? I really think she brings those kinds of bipartisan credentials.

I reserve my 5 minutes and yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Missouri is recognized.

Mr. ASHCROFT. Mr. President, thank you very much. I yield myself so much time as I may consume, and I ask that the Chair inform me when I have consumed 15 minutes.

I thank you very much for allowing me to participate in this debate. It is appropriate that we bring to the floor nominees who are well known to the committee for debate by the full Senate. I commend the chairman of the committee for bringing this nomination to the floor. I have no objection to these nominations coming to the floor and no objection to voting on these nominees. I only objected to this nominee coming to the floor to be approved by unanimous consent because I think we deserve the opportunity to debate these nominees, to discuss them and to have votes on them.

So many people who are not familiar with the process of the Senate may think that when a Senator says that he wants to have a debate that he is trying to delay. I believe the work of the Senate should be done in full view of the American people and that we should have the opportunity to discuss these issues, and then instead of having these things voted on by unanimous consent at the close of the business day with no record, I think it is important that we debate the nominee's qualifications on the record.

I think it is important because the judiciary is one-third of the Government of the United States. The individuals who populate the judiciary are lifetime appointments.

The United States Constitution imposes a responsibility on the Senate to be a quality screen, and it is the last screen before a person becomes a lifetime member of the judiciary. So we need to do our best to make sure that only high-quality individuals reach that level, individuals who have respect for the Constitution, who appropriately understand that the role of the courts is to decide disputes and not to expand the law or to somehow develop new constitutional rights. The legislature is the part of the body politic that is designed to make law. The courts are designed to settle disputes about the law.

It is against this background that I am pleased to have the opportunity to debate the nomination of Margaret Morrow.

Let me begin by saying that Ms. Morrow is an outstanding lawyer. No one wants to challenge her credentials. No one believes that she is not a person of great intellect or a person of tremendous experience. She is a person who has great capacity. It has been demonstrated in her private life, her educational record and in her life of service as an officer of the California Bar Association.

The only reservations to be expressed about Ms. Morrow, and they are substantial ones in my regard—they are not about her talent, not about her capacity, not about her integrity—they are about what her interpretation of the role of a judge is; whether she thinks that the law as developed in the court system belongs on the cutting edge, whether she thinks that the law, as developed in the court system, is an engine of social change and that the courts should drive the Nation in a direction of a different culture and a direction of recognizing new rights that weren't recognized or placed in the Constitution, and that needed to be invented or developed or brought into existence by individuals who populate the courts. That, I think, is the major question we have before us.

So let me just say again, this is an outstanding person of intellect, from everything I can understand a person of great integrity, a person whose record of service is laudable and commendable. The only question I have is, does she have the right view of the Constitution, the right view of what courts are supposed to do, or will she be someone who goes to the bench and, unfortunately, like so many other lawyers in the ninth circuit, decide that the court is the best place to amend the Constitution? Does she think the court is the best place to strike down the will of the people, to impose on the people from the courts what could not be generated by the representatives of the people in the legislature.

So, fundamentally, the question is whether or not this candidate will respect the separation of powers, whether this candidate will say the legislature is the place to make the law, and whether she will recognize that courts can only make decisions about the law. Will she acknowledge that the people have the right to make the law, too? After all, that is what our Constitution says, that all power and all authority is derived from the people, and they, with their elected representatives, should have the opportunity to make the law.

It is with these questions in mind that I look at some of the writings of this candidate for a Federal judgeship, and I come to the conclusion that she believes that the court system and the courts are the place where the law can be made, especially if the people are not smart enough or if the people aren't progressive enough or if the Constitution isn't flexible enough.

I can't say for sure this is what would happen. I have to be fair. I have to go by what she has written. I will be at odds with the interpretation of some of the things said by the committee chairman. I respect the chairman, but I think that his interpretation of her writings is flawed.

In 1995, in a law review comment, Ms. Morrow seemed to endorse the practice of judicial activism, that is judge-made law. She wrote:

> For the law is, almost by definition, on the cutting edge of social thought. It is a vehicle—

Or a way—

> through which we ease the transition from the rules which have always been to the rules which are to be.

She is saying that the law is the vehicle, the thing that takes you from what was to what will be. I was a little puzzled when the committee chairman said that the committee found that she didn't mean the substantive as expressed in the courts and the like. Let me just say I don't believe the committee made any such findings. I have checked with committee staff, and it is just not the case that the committee made findings.

It is true that a majority of the members of the committee voted this candidate to the floor, but the committee didn't make findings that this was not a statement of judicial activism. Frankly, I think it is a statement of judicial activism, despite the fact that Ms. Morrow told the committee that she was not speaking about the law in any substantive way, but rather was referring to the legal profession and the rules governing the profession.

The law, by definition, is on the cutting edge of social thought? Social

thought doesn't govern the profession, social thought governs the society. The transition of the rules from the way they have always been to the rules which they are to be? I think it is a stretch to say that this really refers to the legal profession.

If she meant that the legal profession is a vehicle through which we ease the transition from the rules which always have been to the rules which are to be, that doesn't make sense. Clearly she is referring to something other than the legal profession or the rules of professional conduct.

Some have suggested that because Ms. Morrow initially made these remarks at a 1994 Conference on Women and the Law, that it is plausible that she was referring to the profession and not to the substantive law. But I think it is more likely that her statement reflects a belief that the law can and should be used by those who interpret it to change social norms, inside and outside of the legal profession.

Truly, that is a definition of activism, the ability of judges to impose on the culture those things which they prefer rather than have the culture initiate through their elected representatives those things which the culture prefers.

Frankly, if it is a question of a few in the judiciary defining what the values of the many are in the culture, I think that is antidemocratic. I really believe that the virtue of America is that the many impose their will on the Government, not that the few in Government impose their will on the many.

Reasonable people can disagree on the proper interpretation of Ms. Morrow's statement. Others can argue about whether or not hastening social change is a proper role for judges in the courts. But I think it is fair to conclude that Ms. Morrow's comments were an endorsement of judicial activism.

In 1993, Ms. Morrow gave another speech that suggested approval of judicial activism, quoting William Brennan, an evangelist of judicial activism. Morrow stated:

> Justice can only endure and flourish if law and legal institutions are ''engines of social change'' able to accommodate evolving patterns of life and social interaction in this decade.

She said these remarks were not an endorsement of activism. She told the Judiciary Committee the subject of the comments was, once again, not the law but the legal profession and the California State Bar Association.

To say that both law and legal institutions are engines of social change I think begs the question of whether you are just talking about the State bar association. In this statement, Ms. Morrow refers specifically to the law and legal institutions. Ms. Morrow's words were a call for activism to those who administer the law.

Again, the committee chairman indicated that the committee found that she was referring to those things she referenced in her testimony. That may have been the conclusion of some on the committee as a basis for how they voted, but I don't believe the committee made any findings about what her statements meant.

Ms. Morrow was the president of the California State bar in 1993 and 1994, one of the things for which she is to be applauded. She was first woman elected president of the bar. But according to press reports, her first bar convention as president was ''marked by only one big issue: gun control.'' Even U.S. Attorney Janet Reno traveled all the way to the San Diego convention to exhort attendees to work against Americans' ''love affair with guns.''

And although a 1990 U.S. Supreme Court decision prohibited the California bar from using dues for political activities and specifically listed advocacy of gun control legislation as an example, Ms. Morrow said the bar should consider the Court's ruling, ''assess the risks, and then do what is right.''

So looking into the face of a Supreme Court decision of the United States, Ms. Morrow said, ''Yeah, we should figure out what we think is right and assess the risks,'' I suppose of getting caught and what the consequences would be, ''and then just basically do what we think is right.''

I think if we are going to ask someone to undertake the responsibility of administering justice in the Federal judicial system, we have to expect them to accord the Constitution of the United States respect. We have to expect them to accord the rulings of the Supreme Court of the United States respect, and to assess the risks and do what is right is not a philosophy.

Frankly, one does not need to assess the risks if one is going to do what is right. If you are going to do what is right, there are no risks. Rather than imply that the Court's prohibition on using bar dues for political purposes may be somehow circumvented or disregarded, Ms. Morrow could have stated her clear intention to respect the Court's decision and to urge her membership to do the same.

Ms. Morrow not only has indicated her willingness to use the law ''on the cutting edge'' and to use the law, the legal profession and the courts to change the rules whereby people live and to make law and not just interpret law or decide disputes, she has argued that when the people get involved in making the law, the result is dubious and should be called into question and into doubt.

The PRESIDING OFFICER. The Senator has used 15 minutes.

Mr. ASHCROFT. I allocate myself such further time as I may consume in making this next point.

Mr. President, Ms. Morrow's supporters argue that her comments about judicial activism are taken out of context or misinterpreted, but I don't believe that they are. Her supporters will have a harder time explaining away Ms. Morrow's disparaging and elitist views about direct citizen involvement in decisionmaking processes.

If she is not clear about saying that she would displace the legislative function by being a judicial activist in one arena, that is, when it comes to interpreting the law and expanding the Constitution, she is very clear about her disrespect for legislation enacted by the people.

In 1988, she wrote an article and smugly criticized the ballot initiative as used by the citizens of California. Here is what she wrote in that article:

> The fact that initiatives are presented to a ''legislature'' of 20 million people renders ephemeral any real hope of intelligent voting by a majority.

What she is saying, in other words, is that whenever the people get involved, decisions will not be intelligent. She suggests that the courts are going to have to step in and do the right thing, what they know to be better than what the people have said, and take over. I think a lot of Americans would be concerned if the courts simply took over.

By the way, I noted there was a substantial list of letters that were sent to the desk on behalf of individuals that endorsed Ms. Morrow.

I ask unanimous consent that the list assembled by the Judicial Selection Monitoring Project be printed in the RECORD. It lists more than 180 different grassroots organizations, from the American Association for Small Property Ownership to the Independent Women's Forum to the Women for Responsible Legislation, that oppose this nomination.

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

JUDICIAL SELECTION MONITORING PROJECT,
Washington, DC, October 29, 1997.

Hon. John Ashcroft,
U.S. Senate,
Washington, DC.

DEAR SENATOR ASHCROFT: We strongly oppose the nomination of Margaret Morrow to the U.S. District Court for one or more of the following reasons.

First, her activities and writings reveal aggressive advocacy of liberal political causes and the view that courts and the law can be used to effect political and social change. This combination foretells liberals judicial activism on the bench. She wants bar association to take ''a strong active voice'' on political issues and has written that the law is ''on the cutting edge of social thought'' and ''the vehicle through which we ease the transition from the rules which have been to the rules which are to be.'' She opposes any restrictions on blatantly political litigation by the Legal Services Corporation.

Second, as Senator Charles Grassley has said, Morrow's ''judgment and candor are under a great deal of question.'' Morrow twice withheld nearly 40 articles, reports, and speeches from the Senate Judiciary Committee, including those clearly reflecting her activist approach to the law. She refused to answer Senators' legitimate questions following her hearing, and eventually provided answers that Senator Grassley called ''false and misleading.''

Finally, and perhaps most important, Americans now know what Morrow's wholesale condemnation of direct democracy will

mean if she becomes a federal judge. She has written that ''any real hope of intelligent voting'' by the people on ballot measures is only ''ephemeral.'' On October 8, the U.S. Court of Appeals in California implemented that same view and swept aside an initiative enacted by Californians because two judges thought the voters did not understand what they were doing. It is clear that Morrow will be yet another judge more than willing to substitute her own elitist judgments for the will of the people.

A nominee who believes the courts can be used to enact liberal political an social policy, whose ''judgment and candor are under a great deal of question,'' and who will undermine democracy has no place on the federal bench.

Sincerely,

Alabama Citizens for Truth
Alabama Family Alliance
Alliance Defense Fund
Alliance for American
American Association of Christian Schools
American Association for Small Property Ownership
American Center for Law and Justice—DC
American Center for Law and Justice—National
American Family Association
American Family Association of KY
American Family Association of MI
American Family Association of MO
American Family Association of NY
American Family Association of TX
American Foundation (OH)
American Land Rights Association
American Policy Center
American Pro-Constitutional Association
American Rights Coalition
Americans for Choice in Education
American for Decency
Americans for Tax Reform
California Coalition for Immigration Reform
Catholic League for Religious and Civil Rights
Center for Arizona Policy
Center for Individual Rights
Center for New Black Leadership
Christian Coalition
Christian Coalition of California
Christian Coalition of IA
Christian Coalition of KS, Inc.
Christian Exchange, Inc.
Christian Home Educators of Kentucky
Citizens Against Repressive Zoning
Citizens Against Violent Crime
Citizens for Better Government
Citizens for Community Values
Citizens for Constitutional Property Rights, Inc.
Citizens for Economically Responsible Government
Citizens for Excellence in Education (TX)
Citizens for Law & Order
Citizens for Reform
Citizens for Responsible Government
Citizens United
Coalition Against Pornography
Coalitions for America
Colorado Coalition for Fair Competition
Colorado for Family Values
Colorado Term Limits Coalition
Concerned Women for America
Concerned Women for America of Virginia Legislative Action Committee
Conservative Campaign Fund
Conservative Opportunity Society PAC
Constitutional Coalition
Constituionalists Networking Center
Coral Ridge Ministries
Council of Conservative Citizens
Defenders of Property Rights
Delaware Family Foundation
Eagle Forum
Eagle Forum of Alabama
Eagle Forum, Inc. (FL)
Environmental Conservation Organization
Evergreen Freedom Foundation
Family Foundation (KY) (The)
Family Foundation (VA) (The)
Family Friendly Libraries
Family Institute of Connecticut
Family Life Radio—Micky Grace (KFLT, Phoenix)
Family Policy Center (MO)
Family Research Council
Family Research Institute of Wisconsin
Family Taxpayer's Network (IL)
Family Taxpayers Foundation
First Principles, Inc.
Focus on the Family
Freedom Foundation (The)
Frontiers of Freedom
Georgia Christian Coalition
Georgia Sports Shooting Association
Government Is Not God PAC
Gun Owners of America
Gun Owners of South Carolina
Heritage Caucus/Judicial Forum
Home School Legal Defense Association
Idaho Family Forum
Illinois Citizens for Life
Illinois Family Institute
Impeach Federal Judge John T. Nixon
Independence Institute
Independent Women's Forum
Indiana Family Institute
Individual Rights Foundation (Center for Pop Cult)
Institute for Media Education (The)
Iowa Family Policy Center
''Janet Parshall's America''—WAVA FM
Judicial Selection Monitoring Project
Judicial Watch, Inc.
Justice for Murder Victims
Kansas Conservative Union
Kansas Eagle Forum
Kansas Family Research Institute
Kansas Taxpayers Network
Landmark Legal Foundation
Law Enforcement Alliance of America
Lawyer's Second Amendment Society, Inc.
League of American Families
League of Catholic Voters (VA)
Legal Affairs Council
Liberty Counsel
Life Advocacy Alliance
Life Coalition International
Life Decisions International
Life Issues Institute, Inc.
Madison Project (The)
''Mark Larson Show (The)''—KPRZ San Diego
Maryland Assoc. of Christian Schools
Massachusetts Family Institute
Michigan Decency Action Council
Michigan Family Forum
''The Mike Farris Show''
Minnesota Family Council
Mississippi Family Council
Morality Action Committee
Nat'l Center for Constitutional Studies
Nat'l Center for Public Policy Research
Nat'l Citizens Legal Network
Nat'l Coalition for Protection of Children & Families
Nat'l Family Legal Foundation
Nat'l Institute of Family & Life Advocates
Nat'l Legal and Policy Center
Nat'l Legal Foundation (The)
Nat'l Parents' Commission
Nat'l Rifle Association
NET-Political News Talk Network
Nevada State Rifle & Pistol Association
New Hampshire Landowners Alliance
New Hampshire Right to Life
New Jersey Family Policy Council
Northwest Legal Foundation
Oklahoma Christian Coalition
Oklahoma Family Policy Center
Oklahomans for Children & Families
Organized Victims of Violent Crime
Parents Rights Coalition
Pennsylvania Landowners Association
Pennsylvanians For Human Life
''Perspectives Talk Radio''—Hosted by Brian Hyde (KDXU)
Philadelphia Family Policy Council
Pro-Life Action League
Public Interest Institute
Putting Liberty First
''Radio Liberty''
Religious Freedom Coalition
Resource Education Network
Resource Institute of Oklahoma
Right to Life of Greater Cincinnati, Inc.
Safe Streets Alliance
Save America's Youth
Seniors Coalition (The)
Sixty (60) Plus Association
Small Business Survival Committee
South Carolina Policy Education Foundation
South Dakota Family Policy Council
''Stan Solomon Show''
Strategic Policies Institute
Take Back Arkansas, Inc.
Talk USA Network
TEACH Michigan Education Fund
Texas Eagle Forum
Texas Public Policy Foundation
Toward Tradition
Traditional Values Coalition
U.S. Business and Industrial Council
Utah Coalition of Taxpayers
WallBuilders
West Virginia Family Foundation
''What Washington Doesn't Want You to Know'' Hosted by Jane Chastain
Wisconsin Information Network
Wisconsin State Sovereignty Coalition
Women for Responsible Legislation

Mr. ASHCROFT. I think the fact that these grassroots organizations oppose this nomination reflects the fact that they distrust an individual who distrusts the people. Whenever you have someone moving into the Federal court system who expresses in advance the fact that when people get involved in government, it renders an intelligent result ephemeral or unlikely to take place, I think they have a right to be disconcerted and upset.

She continued in her article:

> Only a small minority of voters study their ballot pamphlet with any care, and only the minutest percentage takes time to read the proposed statutory language itself. Indeed, it seems too much to ask that they do, since propositions are . . . difficult for a layperson to understand.

Basically, this says that lawyers are smart enough to understand these things but ordinary people cannot and, as a result, cannot make intelligent decisions. I have noted before that it is not a requirement to be a lawyer to be a Member of the Senate. Ordinary people can run for the U.S. Senate. And they do. You need only be 35 years old.

I have also noticed that, very frequently, only a small minority of the Senators have read, in the totality, the legislation which is before the Senate. If you are going to say that laws are not effective and should not be respected because they were not read thoroughly or not everybody who voted on them was a lawyer, that would be a premise for disregarding any law passed in the United States. It would be a premise for saying that the laws of the United States are not to be accorded deference by the courts. And sometimes I think that is the way the courts look at them.

They look at the laws that are enacted by the Congress and they say, ''Well, we're going to have to expand that. We're going to have to change that. They weren't smart enough. The representatives of the people weren't smart enough. They didn't know what they were doing.''

Frankly, this distrust of democracy is the kind of thing that provides the predicate for judicial activism where individuals substitute their judgment for the law of the Constitution, where courts substitute their preferences for the people's will as expressed in the law.

This has been a particular problem with the Ninth Circuit Court of Appeals, which has been striking down propositions approved by the voters of Californians right and left.

Proposition 140. A three-judge panel affirmed a decision by Judge Wilkin, a Clinton appointee, to throw out term limits for State legislators. The ninth circuit en banc reversed and upheld the constitutionality of the initiative.

Here you have it. The people of California decide they want term limits, and you have a Federal judge who thinks, ''Well, they don't know what they're doing. They're just people. They aren't lawyers. They didn't read this carefully enough,'' and it is set aside. That is the attitude we cannot afford to replicate there.

Proposition 209. Judge Henderson struck down this prohibition of race and gender preferences. People of America do not want quotas and preferences. They want to operate based on merit. So the people of California did what the people should do when they want something in the law, they enacted it through the constitutional method of passing an initiative.

But the judge, Federal judge, thinking himself to be superior in wisdom to the voters—maybe the judge had been reading the article by Ms. Morrow that said, ''The fact that initiatives are presented to a 'legislature' of 20 million people renders ephemeral any real hope of intelligent voting by a majority''—struck down that initiative.

Proposition 187. This law denying certain public benefits to illegal aliens was declared unconstitutional by another judge.

Proposition 208 was recently blocked in its enforcement by Judge Karlton.

Over and over again in California we have had this problem caused by judges who basically think that the initiatives of the people are not due the respect to be accorded to enactments of the law. And when judges place themselves above the people, when judges elevate their own views to a point where they are saying that they have a legislative capacity to say what ought to be the law rather than to resolve disputes about the law, I think that is when we get into trouble.

Now, many confirmation decisions will require Senators to anticipate what will happen. We cannot really know for sure what is going to happen. Almost 4½ years ago the Senate confirmed, by unanimous consent, without a vote, Claudia Wilken to be a district court judge in the Northern District of California.

She was asked about things like this before the Judiciary Committee. And she stated, ''A good judge applies the law, not her personal views, when she decides a case.'' She said judges should fashion broad, equitable relief ''only where the Constitution or a statute'' requires. But she's the judge who said that the term limits initiative passed in California in 1990 was unconstitutional. Now, when the Federal Constitution itself has term limits for the President, you have to wonder if she is not just trying to substitute her judgment and displace the judgment of the people of California.

Last April, Judge Wilken ruled that the term limits initiative, which was passed by the voters in the State, and approved by the California Supreme Court—violated the Constitution. The new law, Judge Wilken held, was unfair to those voters who wanted to support a candidate with legislative experience. I wonder if maybe she had been reading the material of the nominee in this case. I wonder if she really believed that ''The fact that initiatives are presented to a 'legislature' of 20 million people renders ephemeral any real hope of intelligent voting by a majority.''

The ninth circuit court of appeals, which covers California, is the circuit in which these questions arose. Unfortunately, it is the most active circuit judicially. I think we have to be very careful when we are appointing individuals to courts within that circuit that we do not find ourselves reinforcing this judicially active mentality.

Let us just take a look at what kind of legal environment they are in out there.

In 1997, the Supreme Court reversed an astounding 27 out of 28 ninth circuit decisions.

In 1996, it was 10 out of 12 decisions that were reversed.

In 1995, it was 14 out of 17.

It is obvious that the ninth circuit is out of control, filled with individuals who believe that the people are to be disregarded, that the intelligence resides solely in the court system. Frankly, I think that is a troublesome problem.

Here is what one of the judges on the ninth circuit said, expressing pride in the fact that the court was frequently reversed. Chief Judge Procter Hug said in a recent interview:

> We're on the cutting edge of a lot of cases.

Does the phrase ''cutting edge'' remind you of anything? Another one of those quotes from Ms. Morrow.

> We're on the cutting edge of a lot of cases. If a ruling creates a lot of heat, that's why we have life tenure.

I really believe that life tenure is supported by the need for independence, but it is not to be a license to take over the legislative responsibility of Government. It is not to be a license to be out there on the cutting edge, to be writing new laws, instead of deciding controversies presented by application of old laws.

On the ninth circuit, no judge is reversed more than judge Stephen Reinhardt, the renegade judge who in recent years has argued that the Constitution protects an individual's right to commit physician-assisted suicide. Of course, he was reversed by the Supreme Court. He recently ruled that school-administered drug tests for high school athletes violated the Constitution. His creation there of a new constitutional right again was reversed by the U.S. Supreme Court. Finally, Reinhardt argued that farmers lack standing to challenge the Endangered Species Act because they have an economic interest in doing so. This decision also was reversed by the Supreme Court. And just last week, Reinhardt reversed a lower court decision and held employers are prevented by the Constitution from conducting genetic tests as part of their employees' routine physicals—another new constitutional right found by an activist judge.

Judge Reinhardt seems to share the arguments made by Ms. Morrow in her article about initiatives. To Reinhardt, the Constitution is not a charter to be interpreted strictly; rather, it is an outline for creative judges to fill in the blanks.

I think judges who believe that the Constitution is written in pencil and who think that the Bill of Rights is written in disappearing ink are judges that are out of control. We have to be careful we don't put more individuals on the bench who have a disregard for the separation of powers and who do not understand that what the people do under the authority of the Constitution is valid and must be respected.

I see my colleague from the State of Alabama has arrived and is prepared, I believe, to make remarks in this respect. I want to thank him for his outstanding work on the Judiciary Committee. He takes his work very seriously. He is a champion of the Constitution of the United States. He understands that the people are the source of power. He understands well that judges are very important. It is important that we have intelligent judges, capable judges; but also, judges that respect the fact that they have a limited function of resolving disputes. And in so doing they are not to amend the Constitution or extend the law but to rely upon the legislature or the people to do that whenever is necessary.

I yield to the Senator from Alabama 10 minutes in which to make his remarks in opposition to this nominee.

The PRESIDING OFFICER (Mr. ABRAHAM). The Senator from Alabama is recognized.

Mr. SESSIONS. I spent 15 years in my professional career as a Federal prosecutor prosecuting full-time before Federal judges. I have had the pleasure of practicing before some of the finest judges in America. It is a thrill to have

that opportunity, to have the opportunity to represent the United States of America in court and to utilize our Constitution, our laws and our statutes, and the logic that God gives us the ability to utilize, to analyze difficult problems.

Many of us can disagree, but I do rise today in opposition to the nomination of Margaret Morrow to the U.S. District Court bench for the Central District of California. This is not an easy decision. These are not pleasant tasks for those of us on the Judiciary Committee and in this Senate to decide to vote against a Presidential nomination. But if we believe in that and we are concerned about that, our responsibility as Members of this body calls on us to do so.

By all accounts, she is a fine lawyer and a good person. However, her writings and speeches which span over a decade indicate that she views the Federal judiciary as a means to achieve a social or political end.

This nomination is all the more important when one considers that Ms. Morrow's home State of California has repeatedly been victimized recently by liberal and undemocratic Federal judges. Moreover, judicial activism has plagued her judicial circuit, the ninth circuit, like no other circuit in the country.

Consider for a moment how big a problem judicial activism is on the ninth circuit. In 1997, last year, the Supreme Court reversed 27 out of 28 decisions rendered by the ninth circuit. In 1996, the Supreme Court reversed 10 out of 12 ninth circuit decisions. That pattern has been going on for decades. As a Federal prosecutor in Alabama, when criminal defense lawyers file briefs and cite law to argue their opinion or to suppress evidence or matters of that kind, they most frequently cited ninth circuit opinions because those were the most liberal in the country on criminal law. Frankly, they were not given much credit around the country. Most judges in the United States recognize that this circuit too often was out of step with the rest of the country.

There are a number of factors that cause me to oppose the confirmation of Ms. Morrow. Chief among the factors is her skepticism, if not outright hostility, toward voter initiatives. In a 1988 article, Morrow criticized California's initiative process. In this article, she stated, really condescendingly, these words, ''The fact that initiatives are presented to a 'legislature' of 20 million people renders ephemeral any real hope of intelligent voting by a majority.'' I suggest that that indicates a lack of respect for that process and the jealously guarded privilege of California voters to enact legislation by direct action of the people.

She further criticized the initiative process with this statement: ''The public, by contrast, cast its votes for initiatives on the basis of 30- and 60-second advertisements which ignore or obscure the substance of the measure.''

At the time of her hearing, I found that Ms. Morrow's suspicion of initiatives particularly troubling because of two recent California initiatives, Proposition 187 and Proposition 209, the California civil rights initiative, both of which have been blocked by activist Federal judges in California. In fact, the judges in the ninth circuit have invalidated voter initiatives on tenuous grounds since the early 1980s. These decisions demonstrate the enormous power that a single sitting Federal district judge possesses to subvert the will of the people. Morrow's criticism of citizen initiatives reveals an elitist mindset characteristic of activist judges who use the judiciary to impose their personal values onto the law.

Unfortunately, recent events have left me even more concerned about her disdain for the people's will as expressed in voter initiatives. Late last year, the ninth circuit effectively enshrined Ms. Morrow's view of initiatives into ninth circuit law. In an opinion striking down yet another voter initiative, term limits for California State legislatures, the ninth circuit held that Federal courts must scrutinize voter initiatives more closely than ''ordinary legislative lawmaking.'' This ''extra scrutiny'' is necessary, according to the ninth circuit Judge Stephen Reinhardt and Betty Fletcher, because initiatives are not the product of committee hearings and because ''the public also generally lacks legal or legislative expertise.'' In the end, the ninth circuit invalidated the term limits initiative not because term limits are unconstitutional—because I submit to you they plainly are not unconstitutional—but because the two Federal judges did not think the voters fully understood what they were voting for.

The ninth circuit does not need any more reinforcements in its war on the initiative process. The people of California are rightly jealous of their initiative process. They are frustrated that judges go out of their way to strike down the decisions they reach by direct plebiscite. We don't need to send them another judge, another leader on that court who would support the anti-initiative effort.

Ms. Morrow's distaste for voter initiatives is not the only troubling aspect of her record. For example, in a 1995 law review comment, she wrote what can be interpreted clearly to me as a blatant approval of judicial activism:

> For the law is, almost by definition, on the cutting edge of social thought. It is a vehicle through which we ease the transition from the rules which have always been to the rules which are to be.

I know she has suggested a view of that language that would indicate that she meant something like the practice of law, rather than the rule of law. But that's not what she said and, in fact, maybe she meant it to apply to both circumstances. In fact, I think that's the most accurate interpretation of it. She may well have been talking about the practice of law, but at the same time her approach to law, because that is what her language includes. It would suggest to me that this is, in fact, the language of a judicial activist.

In a 1983 speech, she also made comments that suggest approval of judicial activism. In this speech, she quoted Justice William Brennan, the evangelist of judicial activism, stating:

> Justice can only endure and flourish if the law and legal institutions are ''engines of change'' able to accommodate evolving patterns of life and social interaction in this decade.

Obviously, using the law as an ''engine of change'' is the very definition of judicial activism and is fundamentally incompatible with democratic government.

Mr. President, it is a serious matter when the people, through their contract with the Government and their Constitution, set forth plain restraints on the power of the law, when the people, through their legislators in California, or through their Congress in Washington, pass statutes requiring things to be done one way or the other, and when a judge, if they do not respect that law, feels like he or she can reinterpret or redefine the meaning of words in those documents in such a way that would allow them to impose their view of the proper outcome under the circumstances. That makes them a judicial activist. I submit that these writings from her past indicate that tendency.

Also, in 1983, the nominee strongly criticized the Reagan administration's efforts to restrict the Legal Services Corporation from filing certain categories of lawsuits. As many of you know, the Legal Services Corporation grantees—they receive money from the Government—have repeatedly filed partisan suits in Federal courts to achieve political aims. For example, the Legal Services Corporation has repeatedly sued to block welfare reform efforts in the States. Issues of public policy simply are not properly decided by litigation. The use of public tax dollars to promote an ideological agenda through the Federal courts is not acceptable.

Of course, support for the historic mission of the Legal Services Corporation—helping the poor with real legal problems —is not the issue. What bothers me is Ms. Morrow's opposition to President Reagan's attempt to depoliticize the Legal Services Corporation and to direct it's attention fundamentally to its goal of helping the poor. But we had a very serious debate in America and I think, for the most part, it has been won; for the most part, Legal Services Corporation has been restrained. There are still problems ongoing, but I hope we have made progress, despite the very strong opposition of Ms. Morrow in her writings.

So Ms. Morrow's intelligence, academic record, and professional achievements are not in question. However,

her writings, published over the last decade, provide a direct look at her view of the law. That view, I must conclude, indicates that Ms. Morrow would be yet another undemocratic, activist Federal judge.

One last point must be made. Unlike other judicial nominees, Ms. Morrow has not previously been a judge. Consequently, she does not have a lengthy judicial record for the Senate to review. In this situation, we must rely on her private writings and speeches to determine her judicial philosophy. This is not an easy or certain task. We must make judgments as to what is relevant and probative and what is not. In this situation, I have made such an inquiry and have decided to oppose the confirmation of this very able attorney. The Senate must fulfill its advise and consent responsibilities to ensure that federal judges respect their constitutional role to interpret the law. Consequently, I urge you to oppose this nomination.

I yield the floor.

Mrs. FEINSTEIN. Mr. President, I rise in support of the confirmation of Margaret Morrow to the Federal District for the Central District of California.

Her consideration by the United States is long overdue:

Ms. Morrow's nomination has twice been reported out by the Senate Judiciary Committee, on which I have the honor to serve;

Both times she has enjoyed the public support of the Chairman of the Judiciary Committee, Senator ORRIN HATCH;

Both times the American Bar Association voted unanimously to give her its highest rating, ''well qualified.''

Yet for nearly two years, Ms. Morrow's nomination has languished in the Senate.

By way of background, Ms. Morrow graduated from Harvard Law School, cum laude, in 1974. Prior to that, she graduated from Bryn Mawr College, magna cum laude, in 1971.

Since 1996, she has been a partner in the Los Angeles office of Arnold & Porter, one of the nation's preeminent corporate law firms.

Prior to 1996, she helped form the Los Angeles law firm of Quinn, Kully & Morrow in 1987, where she chaired the firm's Appellate Department.

Prior to 1987, she practiced for 13 years at the Los Angeles firm of Kadison, Pfaelzer, Woodard, Quinn, & Rossi, where she attained the rank of partner and handled a wide range of commercial litigation in the federal and state courts.

The legal profession has recognized Ms. Morrow's quality of work, commitment to the profession, and dedication to the broader community with a host of awards.

Among the many legal awards Ms. Morrow has received are the following:

In 1997, she received the Shattuck-Price Memorial Award, the Los Angeles County Bar Association's highest award, awarded to a lawyer dedicated to improving the legal profession and the administration of justice.

In 1995, she received the Bernard E. Witkins Amicus Curiae Award, presented by the California Judicial Council to non-jurists who have nonetheless made significant contributions to the California court system.

In 1994, the Women Lawyers Association in Los Angeles recognized Ms. Morrow as most distinguished woman lawyer with the Ernestine Stalhut Award.

She received the 1994 President's Award from the California Association of Court-Appointed Special Advocates for her service on behalf of abused, neglected, and dependent children.

In 1990, the Legal Aid Foundation of Los Angeles presented her with the Maynard Toll Award for her significant contribution to legal services for the poor. She is the only woman to date who has received this award.

Margaret Morrow's excellent legal skills have been consistently recognized:

She was listed in the 1997–1998 edition of The Best Lawyers in America.

In 1995 and 1996, the Los Angeles Business Journal's ''Law Who's Who,'' listed her among the one hundred outstanding Los Angeles business attorneys.

In 1994, she was listed as one of the top 20 lawyers in Los Angeles by California Law Business, a publication of the Los Angeles Daily Journal.

Margaret Morrow has held leadership positions in Federal, State and county bar associations and other legal organizations.

She served as the first woman President of the State Bar of California, a position she held from 1993 to 1994. Prior to that, she served as the State Bar's Vice-President.

From 1988–89, she served as President of the Los Angeles County Bar Association, creating the Pro Bono Council and the Committee on the Status of Minorities in the Profession during her term.

As President of the Barristers' Section of the Los Angeles County Bar, she established a nationally recognized Domestic Violence Counseling Project as well as an AIDS hospice program.

She directed the American Bar Association's Young Lawyers' Division and served on its Standing Committee for Legal Aid for Indigent Defendants.

She has served on the boards of a number of legal services programs, and has been a member of several Advisory Committees of the California Judicial Council.

The true test of Margaret Morrow's qualifications to serve on the federal bench is the long list of attorneys, judges, law enforcement personnel, and community leaders who actively support her nomination.

Indeed, the list of Margaret Morrow's supporters reads like a ''Who's Who'' of California Republicans and Bush, Reagan, Deukmejian, and Wilson appointees.

Just to highlight a few of Margaret Morrow's many supporters:

Los Angeles Mayor Richard Riordan, Republican;

Los Angeles County Sheriff Sherman Block, Republican;

Orange County District Attorney Michael Capizzi, Republican;

Former DEA Head, U.S. District Judge, and U.S. Attorney, Robert Bonner, who was appointed to those positions by Presidents Bush and Reagan; Cynthia Holcomb Hall and Stephen Trott, Reagan appointees to the Ninth Circuit Court of Appeals; and the list goes on and on.

Perhaps most telling is the recommendation of H. Walter Croskey. Judge Croskey is a Governor Deukmejian appointee to the appellate court of the State of California, and a self-described life-long conservative Republican.

Judge Croskey is well-acquainted with Margaret Morrow's reputation in the legal community, having observed her over a period of 15 years, when she appeared before him in both trial and appellate courts, and worked professionally on numerous State and local bar activities.

Based on his observations, this conservative Republican appellate jurist concluded:

> She is the most outstanding candidate for appointment to the Federal trial court who has been put forward in my memory.

Margaret Morrow is, by any measure, an unusually accomplished member in her profession, and I believe that her qualifications will serve her well as a member of the Federal judiciary.

I urge the Senate to swiftly confirm her nomination.

Mr. KENNEDY. Mr. President. I rise in strong support of Margaret Morrow to the U.S. District Court in Los Angeles. She is well-qualified to serve as a federal judge, and she has already been waiting far too long for the vote she deserves on her nomination.

Margaret Morrow was nominated in the last Congress in May 1996. Partisan politics prevented action on her nomination before the 1996 election, but even that excuse can't be used to justify the Senate's failure to act on her nomination in all of 1997.

Margaret Morrow is a partner in a prestigious California law firm, and the first woman to serve as the president of the California Bar Association. She is a well-respected attorney and a role model for women in the legal profession.

Her nomination has wide support. The National Association of Women Judges calls her ''an extraordinary candidate for the federal bench, a true professional, without a personal or political agenda, who would be a trustworthy public servant of the highest caliber.'' The National Women's Law Center calls her ''a leader and a path blazer among women lawyers.''

She also has the support of many prominent Republicans, because of her impressive qualifications for the bench.

Representative JAMES ROGAN says that ''she would be the type of judge who would follow the Constitution and the laws of the United States as they were written.'' Richard Riordan, the Republican Mayor of Los Angeles has stated that the residents of Los Angeles ''would be extraordinarily well-served by her appointment.'' Robert Bonner, who headed the Drug Enforcement Administration under President Bush, says that Morrow is ''a brilliant person with a first-rate legal mind.''

I hope we can move ahead today her nomination. But I also want to express my concern over a related issue—the excessive difficulty that women judicial nominees are having in obtaining Senate action or their confirmation. An unacceptable double standard is being applied, and it is long past time it stopped.

In this Republican Congress, women nominated to the federal courts are four times—four times—more likely than men to be held up by the Republican Senate for more than a year.

Women nominees may eventually be approved by the Judiciary Committee. But too often their nominations languish mysteriously, and no one will take responsibility for secretly holding up their nominations.

The distinguished majority leader has rightly noted that the process of confirming judges is time-consuming. The Senate should take care to ensure that only individuals acceptable to both the President and the Senate are confirmed. The President and the Senate do not always agree. But there is no reason the process should take longer for women than it does for men.

It is time to end the delays and double standards that have marred the Senate's role in the Advice and Consent process. I urge my colleagues to support the nomination of Margaret Morrow and to vote for her confirmation.

Mr. LEAHY. Mr. President, Senator ASHCROFT feels strongly about the validity of citizen initiatives. So do I. So does Margaret Morrow. As she explained to the Committee when she testified and reiterated in response to written questions, she fully respects and honors voters choice.

Ms. Morrow has explained to the Committee that she is not anti-initiative in spite of what some would have us believe. In response to written questions, she discussed an article she wrote in 1988 and explained, in pertinent part:

> My goal was not to eliminate the need for initiatives. Rather, I was proposing ways to strengthen the initiative process by making it more efficient and less costly, so that it could better serve the purpose for which it was originally intended. At the same time, I was suggesting measures to increase the Legislature's willingness to address issues of concern to ordinary citizens regardless of the views of special interests or campaign contributors. I do not believe these goals are inconsistent.
>
> . . . . The reasons that led Governor Johnson to create the initiative process in 1911 are still valid today, and it remains an important aspect of our democratic form of government.

Does this sound like someone who is anti-democratic? No objective evaluation of the record can yield the conclusion that she is anti-initiative. No fair reading of her 1988 article even suggests that.

After the November 1988 elections in California, she was writing in the aftermath of five competing and conflicting ballot measures on the most recent California ballot. They had been placed there by competing industry groups, the insurance industry and lawyers each had their favorites, and each group spent large sums of money on political advertising campaigns to try to persuade voters to back their version of car insurance restructuring. It was chaotic and confusing for commentators and voters alike.

Rather than throw up her hands, Margaret Morrow wrote in a bar magazine as President of a local bar association that lawyers could contribute their skills to make the process more easily understood by those voters participation is limited to reading the ballot measures and descriptions and voting.

Her concerns were not unlike those of our colleague from Arizona, who proclaimed last year that when the voters of Arizona adopted a state ballot measure to allow medical use of marijuana, they had been duped and deceived. Indeed, Senator KYL criticized that ballot initiative passed by the voters of Arizona during the last election and said: ''I believe most of them were deceived, and deliberately so, by the sponsors of this proposition.''

Senator KYL proceeded at a December 2, 1996 Judiciary Committee hearing to focus on the official description of the proposition on the Arizona ballot as misleading. His approach was similar to what the majority did on the 9th Circuit panel that initially held the California term limits initiative unconstitutional, but that does not make Senator KYL a ''liberal judicial activist.''

I also recall complaints from conservative quarters when the people of Houston reaffirmed their commitment to affirmative action in a ballot measure last fall. They complained that the voters in Houston had been deceived by the wording of the ballot measure.

There have been problems with citizen initiatives and the campaigns that they engender. But that problem is not with Margaret Morrow or her commitment to honor the will of the voters. The problem is that they are being utilized in ever increasing number to circumvent the legislature and the people's will as expressed through their democratically-elected representatives. They are no longer the town meeting democracy that we enjoy in New England but the glitzy, Madison Avenue, poll-driven campaigns of big money and special interest politics.

Margaret Morrow was right when she pointed out that these measures, their ballot descriptions and their advertising campaigns ought to be better, more instructive, more clearly written. The thrust of that now-controversial article was that lawyers should contribute their skills better to draft the measures so that once adopted they are clear and controlling, so that they are not followed by court challenges during which courts are faced with difficult conflicts over how to interpret and implement the will of the people.

We know how hard it is to write laws in a way that they are binding and leave little room for misinterpretation. With all the staff and legislative counsels, and legal counsels and specially-trained legislative drafters and Congressional Research Service and hearings and vetting and comments from Executive Branch departments and highly-skilled and experienced and highly-paid lobbyists, Congress has a difficult time writing plain English and passing clear law. Were it not for the administrative agencies and supplemental regulatory processes even more of our work product would be the target of legal actions by those who lost the legislative battle over each contested point.

For those who preach unfettered allegiance to initiatives, I commend their rhetoric but note that it does not advance us. The questions in most of the subsequent legal challenges to voter-passed ballot measures are either what does it mean or was it passed fairly. Both those questions are premised on an acceptance of the will of the voters.

For example, the first challenge to the California term limits initiative was not that in Federal court that resulted in the split opinion by a panel of the Ninth Circuit that is later reversed. No, the earlier challenge was in the state courts and reached the California Supreme Court. The California Supreme Court was required to determine, what did the ballot measure say, was it written to be a lifetime ban or a limit on the number of consecutive terms that could be served.

That was not an easy question given the poor drafting of the measure and the official materials that described it to the voters. Indeed, the California Attorney General, a conservative Republican, argued that the measure meant only to be a limit on the number of consecutive terms. After three levels of state court proceedings and months and months and hundreds of thousands of dollars in legal fees the case was decided by a split decision of the California Supreme Court.

The Federal challenge to the statute followed on the alternative ground that the voters were not clearly informed what the measure meant. This is only important for those who cherish the will of the voter and want to protect against voter fraud.

On citizen initiatives, Margaret Morrow has told the Committee:

> I support citizen initiatives, and believe they are an important aspect of our democratic form of government. . . .

I believe the citizen initiative process is clearly constitutional. I also recognize and support the doctrine established in case law that initiative measures are presumptively constitutional, and strongly agree with [the] statement that initiative measures that are constitutional and properly drafted should not be overturned or enjoined by the courts.

Contrary to the impression some are seeking to create about her views, she told the Committee:

In passing on the legality of initiative measures, judges should apply the law, not substitute their personal opinion of matters of public policy for the opinion of the electorate.

I am disappointed to see that some have sought to make the nomination of Margaret Morrow into a vote about guns; it is not. During two years of consideration by the Judiciary Committee and through two sets of hearings and waves of written questions, no one even asked Ms. Morrow about guns.

Nonetheless, some who have sought to find a reason to oppose Ms. Morrow have fastened upon a few phrases taken out of context from a National Law Journal article from October 1993 that discussed the 67th California State Bar conference. This meeting followed the July 1993 killings in the San Francisco offices of the law firm of Pettit & Martin.

The National Law Journal's report notes that the representatives of the local voluntary bars considered 100-plus resolutions for referral to the State Bar's Board of Governors. The fact missed by those who are seeking to criticize this nominee is that the State Bar took no anti-gun action.

The National Journal report noted that the widow of one of the victims pleaded at a reception that the convention ''take action on gun control.'' What has gone unrecognized is that in spite of the emotional rhetoric at the conference, the California State Bar took no such action. Instead, mindful of the legal constraints on bar associations and the United States Supreme Court decision in *Keller* v. *State Bar*, the conference scaled back anti-gun resolutions. A resolution calling for a ban on semiautomatic handguns from the San Francisco delegation was reworded as a safety measure for judges, other court personnel and lawyers. A resolution from the Santa Clara delegation was turned into a mere call for a study.

The Chairwoman of the conference was not Margaret Morrow but Pauline Weaver of Oakland. Margaret Morrow was not installed as the new President of the California State Bar until the end.

Ms. Morrow told the National Law Journal that the bar should act like a client and do what is right by following the legal advice of its lawyers. That is what the California State Bar did under Margaret Morrow. In fact, and this is the key fact missed by those who seek to criticize Ms. Morrow, the California State Bar followed the law as declared by the United States Supreme Court and did not take action on gun control.

Mindful of the strictures of law, Margaret Morrow appointed a special committee of the Board of Governors to review the resolutions that had been recommended at the conference. Based on the recommendations of that committee, the Board of Governors of the California State Bar did not take a stand on gun control and did not even adopt the resolutions passed at the State conference.

This is hardly a basis on which to oppose this outstanding nominee. First, she was not involved in the efforts by some to push gun control resolutions through the State Bar, following the horrific killings in the San Francisco law offices a few months before. Second, she was not installed as the President of the State Bar until the end of the conference. Third, the actions she took as President were essentially to make sure the Board of Governors understood the law and the limits on what they could do.

So, in spite of the emotional plea by victims and the desires of certain activists, the California State Bar did not adopt gun control resolutions in 1994 and did not act to use mandatory dues for political activities. Far from demonstrating that she would be a judicial activist or is anti-gun, these facts show how constrained Margaret Morrow was in making sure the law was followed and everyone's rights were respected.

I grew up hunting and fishing in the Vermont outdoors and I enjoy using firearms on the range. I believe in the rights of all Americans to use and enjoy firearms if they so desire. I voted against the Brady bill and other unconstitutional anti-gun proposals. I have no reason to think that Margaret Morrow will judicially impose burdens on gun ownership.

I urge others to review the facts. I am confident that they will come to the same conclusion that I have with respect to the nomination of Margaret Morrow and the lack of any basis to conclude that she is anti-gun.

I ask unanimous consent that a January 15, 1998 letter to Senator BOXER signed by 11 members of the Board of Governors of the California State Bar that year be printed in the RECORD.

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

JANUARY 15, 1998.

Re Margaret M. Morrow: Judicial nominee for the Central District of California.

Hon. BARBARA BOXER,
U.S. Senate, Washington, DC.

DEAR SENATOR BOXER: We write concerning the nomination of Margaret M. Morrow to the United States District Court for the Central District of California. It has recently come to our attention that various individuals and/or groups have charged that Ms. Morrow ''vowed to push a gun control resolution'' through the State Bar of California during the year she served as President of that association.

Each of us was a member of the State Bar Board of Governors during Ms. Morrow's year as President. We represent a broad spectrum of political views. We are Republicans and Democrats, liberals and conservatives. We write to inform you that Ms. Morrow did not advocate that the State Bar take a position on gun control, and that the association in fact did not take a position on the issue during the 1993–1994 Board year.

The assertion that Ms. Morrow vowed to push gun control appears to emanate from an article that appeared in the National Law Journal concerning the 1993 State Bar Annual Meeting. At that meeting, the Conference of Delegates, which is comprised of representatives of voluntary bar associations throughout California, passed two resolutions that called upon the State Bar to study the possible revision of laws relating to firearms, and propose and support measures to protect judges, court personnel, lawyers, lawyers' staffs and lawyers' clients from gun-related violence. These resolutions were passed in the wake of a shooting incident at a prominent San Francisco law firm that took the lives of several of the firm's lawyers and employees.

At the time the Conference resolutions were passed, Ms. Morrow had not yet assumed the office of President. When asked how the Board of Governors would respond to the resolutions, she told the National Law Journal that she would ''discuss Keller strictures with the Board,'' and also that she believed the bar ''should act more like a client, . . . that is, get legal advice, 'assess the risks and then do what is right.' '' Ms. Morrow's reference to ''Keller strictures'' was a reference to the United States Supreme Court's decision in *Keller* v. *State Bar*. That case held that the bar could not use mandatory lawyers' dues to support political or ideological causes.

On its face, therefore, the National Law Journal article does not support the assertion that Ms. Morrow ''vowed to push a gun control resolution'' through the State Bar. Rather, it reports that she vowed to discuss legal restrictions on the bar's ability to act on such a resolution with other members of the Board.

Ms. Morrow's actions in the months that followed the Annual Meeting further demonstrate that she followed the law as it relates to this subject. Consistent with usual State Bar procedure, the resolutions passed by the conference of Delegates were considered by the Board of Governors. Because of the legal issues involved, Ms. Morrow appointed a special committee of the Board to review the resolutions and recommend a position to the full Board. Based on the committee's recommendation, the Board did not adopt the resolutions passed by the Conference. Rather, it adopted a neutral resolution that called on lawyers to ''participate in the public dialogue on violence and its impact on the administration of justice,'' and suggested that the State Bar sponsor ''neutral forums on violence and its impact on the administration of justice.'' The even-handed tone of the resolution was due, in large part, to the belief of Ms. Morrow and others that the Board should not violate Keller's spirit or holding. Stated differently, Ms. Morrow and the Board followed the law, and avoided taking a stand in favor of or against gun control.

We hope these comments help set the record straight with respect to Ms. Morrow's actions as President of the State Bar.

Very truly yours,
Michael W. Case,
Maurice L. Evans,
Donald R. Fischbach,
Edward B. Huntington,
Richard J. Mathias,
James E. Towery,
Glenda Veasey,
Hartley T. Hansen,
John H. McGuckin, Jr.,
Jay J. Plotkin, and

Susan J. Troy.

Mr. LEAHY. Mr. President, I note that Senators ASHCROFT and SESSIONS have not challenged Ms. Morrow's truthfulness before the Committee. At their press conference last fall announcing their opposition to her nomination, they were careful to avoid such personal attacks. Instead, they based their conclusions on her writings. I disagree with them and agree with those who read those writings in context. That is a disagreement, we draw different conclusions from the same words. That is understandable.

What I do not understand is how anyone can continue to repeat the claim that Ms. Morrow was not truthful with the Committee. She was required to answer more litmus test questions and was more forthcoming than any nominee I can remember.

Some have made the confirmation process into an adversary process. Ms. Morrow is not paranoid; someone has been out to get her.

In this difficult context, in which the Morrow nomination was targeted by forces opposing the filling of judicial vacancies, charges against Ms. Morrow's integrity and character remain out of line and unfounded. Unfortunately, I have heard repeated over the last day the charge that Ms. Morrow provided a false answer to a written question propounded at the Committee. That is incorrect.

While I will not take the Senate's time to refute all of the unfounded arguments that have been used in opposition to this nomination, I do want to clear up the record on this. This is a matter of honor and honesty. I do not want the record left unchallenged should her son, Patrick, come to read it someday.

The written questions propounded long after the Committee deadline following the March 18, 1997 hearing included the following: ''Are there any initiatives in California in the last decade which you have supported? If so, why? Are there any initiatives in California in the last decade you have opposed? If so, why?''

On April 4, the nominee responded in writing noting:

I have not publicly supported or opposed any initiative measure in the past decade, with one exception.'' The nominee proceeded in her answer to describe her participation as a member of the Los Angeles County Bar Association Board of Trustees in a unanimous vote authorizing the Association to oppose a measure sponsored by Lyndon LaRouche concerning AIDS, a measure that was also opposed by Governor Deukmejian and many others.

I raised objection to these questions at a meeting of the Committee on April 17 because I saw them as asking how Ms. Morrow voted on the more than 150 initiatives that Californians had considered over the last 10 years. Later, the Senator who submitted these questions indicated that he did not intend to ask how the nominee voted and he revised the questions. When he did, he resubmitted another set of supplemental written questions to the nominee on April 21, he acknowledged that 160 initiatives have been on the ballot in California in the last 10 years and he disavowed any interest whether or not the nominee voted on the initiatives but asked for ''comment'' on a list of initiatives.

Some have come to contend that the portion of the answer about public support or opposition to initiatives was ''intentionally or unintentionally'' not truthful information. Their supposed ''smoking gun'' is a November 1988 article in the Los Angeles Lawyer magazine. What this contention about dishonesty ignores is that the nominee had previously furnished the Committee with the November 1988 article and that article had been inquired about at the March 18 hearing and in the follow up written questions. In fact, the written questions that included the ones at issue contained quotes from the article and questions specifically about it. Thus, no one can seriously contend that this article was unknown to the Committee or that the nominee had failed to disclose it.

Equally important, and the reason I suspect that the nominee did not refer to the article in her written response to the questions in issue, was that the article was not relevant to these particular questions. Preceding questions had inquired about the meaning of the article. The questions in issue ask about support or opposition for initiatives and appear to inquire about such support or opposition for initiatives in the course of their being considered by voters in California.

By contrast, the article concerned measures that had already been acted upon by the voters of California, including one that had been considered two years previously. They were not support for or opposition to these initiatives, as the nominee, or, for that matter as I, understood those questions. They were commentary after the fact by way of comment upon the growing resort to initiatives in California and ways lawyers might help to improve the initiative process and the drafting and consideration of initiatives as well as a call for the State legislature to function more efficiently.

Indeed, when the author of those questions received the initial answer, he did not question that it was untruthful or feign ignorance of the November 1988 article. Instead, when he revised and resubmitted supplemental questions he prefaced his revised question by noting that he was aware of the nominee's ''public comments regarding citizen initiatives.''

Thus, no one can fairly believe that this nominee's answer was incomplete or deceptive for having failed to include express reference to an article that was not advocating in favor or in opposition to a pending initiative and about which the questioner had knowledge, had already specifically inquired and on which the questioner promptly professed knowledge.

Stripped of the rhetoric and hyperbole, there is simply no basis to contend that this nominee mislead the Committee by her answer. This is no basis to question her candor. Any purported ''major misstatement of fact'' is not that of this nominee but would be of those who accuse her of a lack of honesty or candor.

No fair and objective evaluation of the record can yield the conclusion that she is anti-initiative. No fair reading of her statements suggests a basis for any such assertion.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. The Senator from Missouri said I could yield myself 10 minutes.

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

Mr. GRASSLEY. Mr. President, I would like to make a few comments regarding the nomination of Margaret Morrow.

Some of my colleagues on the other side have attempted to argue that Ms. Morrow has been treated unfairly. This unsubstantiated argument is based partly on the questions she was asked in the Judiciary Committee. However, all that some of us were trying to achieve in asking those questions was to attempt to understand what Ms. Morrow's views were on a number of important issues to the American people. In particular, we've had a number of Federal judges overturn popular initiatives, in direct conflict with voters' decisions. The last thing we need is another Federal judge that will defy what the voters have decided. Ms. Morrow has spoken against citizen initiatives and has publicly opposed specific ballot initiatives. So, we believed it was important to understand better what kind of a judge she might be.

Now, we've heard Margaret Morrow was reported out of the Judiciary Committee in the last Congress without a problem. So, why is there a problem now? Well, I think to our credit, we on this side tried to give the President a great deal of deference regarding his nominees. But, as Senator HATCH and others have pointed out, the President has appointed a number of judges who have taken it upon themselves to try to make the law, and have angered the public in doing so. This record now demands the kind of scrutiny Senator LEAHY advocated, which has been absent until the last couple of years or so. I've received a great deal of letters from my State asking me to do a better job of scrutinizing nominees.

Of course, after getting used to us rubber-stamping nominees, I'm sure it's been quite a shock to see Republicans borrowing from the Democrats' playbook and turning the tables. Over the last year, I've heard irresponsible and overheated rhetoric directed at Republicans regarding judicial nominees.

To suggest, as some misguided Members have, that Ms. Morrow's gender is a factor in our decision to ask her

questions, or even oppose her nomination, is both irresponsible and absurd. As others may have noted, we've processed around 50 women judicial nominees for President Clinton, including Justice Ginsberg, and I've supported almost all of them. As a matter of fact, the first nominee unanimously confirmed last year was a woman candidate, and we've already confirmed a couple this year. It's just absurd to think that any Senator makes his or her decision on a nominee based on gender or race.

Mr. President, I sent Ms. Morrow five pages of questions in total. As a contrast, I sent Merrick Garland 25 pages of questions. So, 5 pages versus 24 pages. And, we're supposedly unfair to Ms. Morrow. Figure that one out.

I must say though, it was easier getting Mr. Garland to respond to his 25 pages of 100 or so questions than it was to get Ms. Morrow to answer her 5 pages.

Mr. President, when a judicial nominee, whether a man or a woman, writes an article which is critical of democratic institutions like the citizen initiative process, it is our duty as Senators to learn the reasons for this. How can a Senator reasonably give advice and consent without understanding a potential judge's position on such fundamental issues? With the recent propensity of Federal judges, especially in California, to overturn Democratic initiatives on shaky grounds. It's important that we not confirm another activist judge who is willing to substitute his or her will for that of the voters.

I recall during the Democrat-run confirmation hearings of various Republican nominees the issue of ''confirmation conversion'' was a recurrent theme.

But, now the shoe is on the other foot. When Ms. Morrow answered written and oral questions contradicting her former beliefs on certain issues, I became somewhat concerned. Several of my followup questions related to such ''conversations.'' Where there are discrepancies, we have a duty to uncover the reasons why.

But a more disturbing problem I have seen with Ms. Morrow's writing is that, on number of issues, she doesn't say her views have changed. She says we are misreading her writing. In other words, she doesn't really mean what she appears to say.

In the 1988 article on citizen initiatives, for example, Ms. Morrow writes in language that is highly critical of the voters. She has recently responded that she ''had not meant to be critical of citizen initiatives.'' Yet, in her article she goes so far as to state that

> The fact that initiatives are presented to a ''legislature'' of 20 million people renders ephemeral any real hope of intelligent voting by a majority.

In her statement, Ms. Morrow was basically saying that initiatives are inherently flawed, although now she is translating it differently. So this raises serious questions about Ms. Morrow's ability to enunciate her views in a clear and concise manner, which we all hope judges will do. If such conflicting messages are reflected in her writing as a lawyer, her potential judicial opinions may be equally confusing. How can citizens rely on writings of someone who has a record of contradicting herself?

But, on top of these shortcomings, Mr. President, there is a matter of more importance. Whether intentionally or not, Ms. Morrow has, unfortunately, provided false and misleading information to the Judiciary Committee. And, I believe the integrity of the committee and the nomination process is at stake.

When asked her views on a number of initiatives, Ms. Morrow first responded by stating unequivocally, ''I have not publicly supported or opposed any initiative measure in the past decade with one exception.'' And, then she mentioned a specific initiative from 1988 sponsored by the extremist Democrat, Lyndon Larouche, that she opposed.

But, despite Ms. Morrow's unequivocal denial, in 1988 it turns out she also publicly attacked three other initiatives that pitted the insurance industry against trial lawyers. Ms. Morrow wrote, ''Propositions 101, 104 and 106 were, plain and simple, an attack on lawyers and the legal system.'' In 1988, she went on to attack a 1986 proposition that would have reduced the salaries of public officials. She argued it would have ''driven many qualified people out of public service.'' Of course, we hear that worn out argument every time we debate our own pay raises.

Now, Ms. Morrow had stated, without question, that she had not taken any public position on these initiatives whatsoever. And, after creating this foundation of sand, she used it to refuse to answer questions on her views.

Well, the foundation crumbled after the chairman demanded responses, and perhaps the nominee realized her misinformation had been discovered. Only then did she finally provide more responsive answers to the questions.

But, the fact remains that regardless of whether there was an intention or motive, false and misleading information was provided to the Judiciary Committee by the nominee, an experienced lawyer, who one would presume either knew, or should have known, what she was doing. If she indeed didn't realize what she was doing, then one has to question her ability to be careful with the details, which would reflect on her ability to function as a Federal judge.

Now, I'm sure that many of you are unaware of this problem, so I'm bringing it to your attention. Unfortunately, some have tried to make the feeble argument that these were just mistakes that should be overlooked. Well, this isn't a mistake of failing to provide articles to the committee, which the nominee did. This isn't a mistake of quoting a controversial statement of Justice Brennan, and they saying she pulled the quote from some book, but hadn't read the context of the quote, and didn't know what it meant.

This is a major misstatement of fact, that was used as the basis for not responding to the committee. This is not what we expect from lifetime tenured judges. Mr. President, this is below the standard we all demand. This is below the standard afforded most Americans in their dealings with the government. For these reasons Mr. President, I will vote against the nominee.

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. I ask that I be able to speak for 5 minutes and retain the remainder of my time, and Senator HATCH would like to have his 5 minutes retained as well. My understanding is I have 10 minutes, he has 5 minutes, and I will now use 5 minutes of my time.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. BOXER. I want to put in the RECORD an article from the Los Angeles Lawyer, November 1988, that directly refutes the remarks by the Senator from Iowa, Senator GRASSLEY, who said that Ms. Morrow misled the committee and publicly took a stand on initiatives when clearly in this article it is very obvious she wrote about these after those initiatives were voted on in all cases. I think it is very serious that the Senator from Iowa, who is my friend and we work on many issues together, would misstate what occurred.

So, Mr. President, at this time I would place this article in the RECORD. She says she is commenting on initiatives that had appeared on the November 8 ballot in one case. On the other she commented on an initiative that was voted on 2 years prior. So I ask unanimous consent that be printed in the RECORD for starters.

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

REFORMING THE INITIATIVE PROCESS—AN OPPORTUNITY TO RESTORE RESPONSIBLE GOVERNMENT TO CALIFORNIA

(By Margaret M. Morrow)

We in California have this month concluded the single most expensive and one of the most complicated initiative campaigns in history. I refer, of course, to the battle over Propositions 100, 101, 103, 104 and 106, the insurance and attorneys' fees initiatives, which appeared on the November 8 ballot. Much as we might like to dismiss these propositions and the campaigns they spawned as an aberration, we cannot do so. The cost and tone of the campaigns, and the complexity of the measures involved, are simply the latest examples of a disturbing trend toward overuse and abuse of the initiative process.

Much of the rhetoric in the recent campaign focused on lawyers, and much of the spending pro and con was done by lawyers. Insurance industry Propositions 101, 104 and 106 were, plain and simple, an attack on lawyers and the legal system. They were not the first such assault and they probably will not be the last. Self-interest alone, therefore,

may dictate that lawyers examine the initiative process to see if it is serving the purpose intended by its creators. Our responsibility as citizens compels us to do so as well, since recent abuse of the initiative process is but one symptom of a general malaise in government in this state.

The right of initiative was placed in the California Constitution in 1911, as part of a series of reforms championed by populist Governor Hiram Johnson. Johnson believed that the initiative would serve as a check on the unaccountable, corrupt or unresponsive legislature, and would provide a grass roots vehicle for citizens who saw their desires thwarted by elected representatives.

The initiative was never intended to serve as a substitute for legislative lawmaking, nor as a weapon in the arsenal of wealthy special interest groups. In reality, however, it has become both of these things.

DRAMATIC INCREASE

The number of initiatives put before the public has risen dramatically in recent years. Only 17 initiatives were filed in the 1950s. This number rose to 44 in the 1960s, and leaped to 180 in the 1970s. Thus far in the 1980s, 204 initiatives have been filed. There were 12 on this month's ballot alone, covering such diverse topics as the homeless, AIDS, insurance rates, attorneys' fees, cigarette taxation and part-time teaching by judges at public universities and colleges.

This increased use of the initiative process is attributable to a number of factors. In recent years, California legislators have become so beholden to special interest groups for campaign financing and added personal income that they have been paralyzed to act on controversial measures negatively impacting their benefactors. One need look no further than tort reform and insurance reform, the meat of Propositions 100, 101, 103, 104 and 106, to see that this is true. Bills on these subjects have been consistently opposed by trial lawyers associations on the one hand, and the insurance industry on the other. Whether one favors reform in these areas or not, it is hard to argue with the fact that their movement in the legislature has been stymied not on the merits, but because of the perceived power of the interests involved. This lawmaking paralysis, coupled with tales of corruption in Sacramento, has led the public to lose confidence in and to mistrust state government. A natural side effect has been an increase in the popularity of the initiative.

Special interest groups, too, have begun to perceive the utility of the initiative in pushing their agendas. Measures sponsored by such groups often lend themselves to packaging for mass media consumption. Initiatives, moreover, get less scrutiny than legislative bills, and frequently this is just what their interest group sponsors want. In the legislature, many eyes review a bill before it is put to a final vote. Legislative counsel examines it for technical or legal shortcomings. Various committees look at it from different perspectives. Pros and cons are debated, and compromises are reached.

The public, by contrast, casts its vote for initiatives on the basis of 30- and 60-second advertisements which ignore or obscure the substance of the measure, and which focus instead on who sponsors the proposition. The process allows for no amendment or compromise. An initiative is an all-or-nothing proposition.

Reformers and special interest groups have been joined, ironically enough, by politicians and officeholders in frequent resort to the initiative. Lawmakers, frustrated with being the party out of power or seeking to increase their popularity through association with a successful proposition, have begun to sponsor and promote a variety of initiatives. They do so to circumvent a legislative process they cannot control or to create leverage they can use to manipulate that process more effectively. Personal popularity is enhanced, too, when one lends one's name to a successful ballot proposition.

SPIRALING COSTS

This increased use of the initiative has fundamentally changed the nature of the right. Spiraling costs have made a mockery of its grass roots origins. A good example of the runaway expense associated with most initiative campaigns is Proposition 61, a measure which appeared on the ballot two years ago. This proposal would have drastically reduced the salaries of all government officials, including judges, and driven many qualified people out of public service. The measure was opposed by virtually every recognized organization and by the state's most prominent political leaders. Yet opponents were told that they would have to raise millions of dollars to ensure the measure's defeat. This year's battle over insurance and attorney's fees raises the even more frightening specter of massive campaigns financed by wealth special interest groups. The insurance industry alone has spent something in the range of $50 million promoting its position on Propositions 100, 101, 103, 104, and 106. These kinds of numbers make any true grassroot effort by a group of citizens nothing more than a pipedream.

Misleading advertising and reliance on seconds-long television and radio spots, moreover, defeat any chance that citizens can obtain the information necessary to cast an informed vote. The fat that initiatives are presented to a ''legislature'' of 20 million people renders ephemeral any real hope of intelligent voting by a majority. Only a small minority of voters study their ballot pamphlet with any care and only the minutest percentage take time to read the proposed statutory language itself.

Indeed, it seems too much to ask that they do, since propositions are often lengthy and difficult for a layperson to understand. Proposition 104, for example, consumed almost 13 pages of small, single-spaced type in the most recent ballot pamphlet and concerned some of the most technical aspects of the Insurance Code. The problem is exacerbated by the fact that paid advertising and news reports tend to focus on the identity of the proponents and opponents and on how much money each campaign is spending, rather than on the substance of the measure and the arguments in favor of or against it. Some advertising, in fact, is affirmatively misleading concerning the content and effect of the initiative.

To add to the confusion, many initiatives are poorly drafted, internally inconsistent or hopelessly vague. Bills introduced in the legislature are subjected to many levels of review before final passage, and drafting or clarity problems usually surface and are resolved before a final vote is taken. Initiatives, by contrast, receive no prior review before being put to a vote of the people. The likelihood of any subsequent review is minimal too, since an initiative, once approved, can only be amended by another vote of the people.

The net result is that many of the more complicated measures passed by the voters end up in the courts for final review.

As David Magleby of Brigham Young University, a leading authority on the initiative process, has said, ''Unlike other political processes, there are no checks and balances on the initiative process [other] than the courts.'' The courts are thus forced to become ''the policeman of the initiative process.''

Requiring that the courts assume this role is not good for the public image of the judiciary or of the legal profession. Having passed an initiative, voters want to see it enacted. They view a court challenge to its validity as interference with the public will, and blame the lawyers and judges who control the legal process for thwarting the public's directive.

* * * * *

numerous proposals for reform of the initiative process over the years. Some have urged that contributions to initiative campaigns be limited, and that disclosure of financial backers be required in all campaign advertising. Others have suggested that initiatives go directly to the legislature for a vote before being presented to the electorate. Still others have proposed that all initiatives be screened by the Secretary of State's office for legal and drafting problems before they qualify for the ballot. Several of these ideas are sound and would address some of the most glaring problems with the initiative process as it now operates. Given the campaign we have just endured, we must hope that these proposals are resurrected quickly and implemented swiftly.

Initiative reform, however, is not enough. There must be in addition an overhaul of the way business gets done in Sacramento, so that the legislature can function as it should and resort to the initiative is not necessary. Limits on campaign spending, higher salaries coupled with rules prohibiting the taking of honoraria and gifts, quarterly disclosure of contributions by legislators and serious self-policing through active ethics committees in the Assembly and Senate are just a few of the ideas which should be explored. Whatever the solution, legislators must become what they were intended to be—representatives of the people, not puppets of a panoply of interest groups who define public good in terms of their own pocketbooks.

Lawyers and lawyers' organizations should be at the forefront of these reform efforts. Lawyers are among those most uniquely concerned with the interpretation of laws and the enforcement of legal rights. We are among those most familiar with the delicate balance between executive, legislative, and judicial branches envisioned by the founders of our democratic form of government. Our traditions and our rules of professional responsibility, moreover, obligate us to work for the public good. There is no greater public good than strong, effective, good government.

We lawyers assert that we are among the leaders of society, and it is time we began to act the part. I intend to establish a committee to examine existing proposals for reform, explore other options and recommend a course of action. Our Association has a real opportunity, which we cannot ignore, to contribute to restoring responsible government of California. We welcome your ideas and support.

Mrs. BOXER. I also want my colleagues to understand that the Senator from Iowa asked Ms. Morrow in an unprecedented request which, frankly, had Senators on both sides in an uproar, to answer the question how she personally voted on 10 years' worth of California initiatives. It was astounding. I remember going over to my friend, whom I enjoy working with, and I have worked with him on so many procurement reform issues, and I said, ''Senator, I can't imagine how you would expect someone to remember how they voted on 160 ballot measures,'' some of which had to do with

parks, some of which had to do with building railroads, some of which had to do with school bond measures. And besides, I always thought—and correct me if I am wrong—we had a secret ballot in this country; it is one of the things we pride ourselves on.

Now, Margaret Morrow has been forthcoming. That is why she has the strong support of Senator ORRIN HATCH, and let's read what Senator HATCH has written about Margaret Morrow.

Mr. GRASSLEY. Mr. President, since my name was mentioned, I would like to respond, if the Senator would yield.

The PRESIDING OFFICER. Does the Senator from California yield?

Mrs. BOXER. Yes. I will be happy to allow a 30-second response.

Mr. GRASSLEY. I will only remind the Senator from California that the point I was making is not when—the question I was proposing is not when Ms. Morrow responded. The question is that she said she did not take a position on public policy issues except for that one, and she did take, we found out that she did take positions on public policy issues. So she was misleading.

The PRESIDING OFFICER. The Senator's time has expired.

Mrs. BOXER. If I might make a point here. When one is asked if one took a stand on an initiative, one would assume the critical point is at what time you speak out about it. My goodness, if we are forbidden as human beings, let alone the head of a bar association, to comment on what voters have voted on and to talk about ways the initiative process can be improved—and I am going to put into the RECORD her remarks on that point because she has such respect for the initiative process. She has thought about ways to improve it—if we are gagged as human beings from commenting on what the voters have voted on, this is a sad state of affairs for this country.

So I want to talk about what Senator HATCH has said about Margaret Morrow. I think it is important. He said it himself quite eloquently at the beginning of this debate. But I want to reiterate because he sent a letter out to all of our colleagues, and he talked about the comment that Margaret Morrow made that has been so taken out of context by my colleagues.

He said that the committee, the Judiciary Committee, studied Margaret Morrow's response to make a decision as to whether she was an activist judge, and they concluded that her explanation was in keeping with the theme of her speech. And essentially, Senator HATCH goes on to say, ''[T]he nominee went to some lengths in her oral testimony and her written responses to the Committee to espouse a clearly restrained approach to the constitutional interpretation and the role of the courts.''

Then he goes on to say the following:

> In supporting the nomination, the Committee takes into account a number of factors including Ms. Morrow's testimony, her accomplishments and her evident ability as an attorney, as well as the fact that she has received strong support from a number of Republicans.

The PRESIDING OFFICER. The Senator has used 5 minutes.

Mrs. BOXER. I ask I be allowed another 2 minutes.

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

Mrs. BOXER. So my colleagues have every right to oppose Margaret Morrow. My goodness, it is a free country. They have every right to vote against her and speak against her. But I would like when we have arguments in the Chamber, particularly where someone is not present, that these arguments be true, that these arguments hold up, that these arguments are backed up by the facts.

I want to point out that in several of my colleagues' dissertations here today, they have talked about other lawyers, they have talked about other judges. It is extraordinary to me that they do not want Margaret Morrow, so they talk about three other judges. Margaret Morrow is Margaret Morrow. She is not judge X, judge Y or judge Z. She is Margaret Morrow. She is coming before us, the second woman ever elected to head the Los Angeles County Bar Association, the first woman ever elected to head the California State Bar Association. This is the largest State bar in any State. Republicans voted for her for that position. Democrats did as well. She has the most extraordinary support across the board.

So when we attack Margaret Morrow, my goodness, don't talk about other judges. Talk about Margaret Morrow. If my colleagues are running for the Senate, they want to be judged on who they are, what do they stand for, not to stand up and say, well, I can't vote for this candidate X because he or she reminds me of candidate Y, and if he gets in, he will act like candidate Y.

One great thing about the world today is we are all individuals. We are all human beings. God doesn't make us all the same. That is why I am going to vote against cloning. We are different than one another. So when you attack Margaret Morrow, I think you need to do it in a fair way, not by the fact that another judge ruled a certain way. And when I come back to my last 5 minutes, I will continue on this theme.

I yield back and retain my time.

The PRESIDING OFFICER. Who yields time?

Mr. ASHCROFT. Mr. President, I yield to myself the remainder of the time and ask you to inform me when there is 1 minute remaining.

I am concerned about this nominee who has indicated that when the people are involved in developing the law through a referendum, you don't get intelligent lawmaking. I am concerned about that because from her writings it appears that the Ninth Circuit Court of Appeals embraced that very view. When the Ninth Circuit Court of Appeals sought to set aside the California voters' commitment to term limits, they did so based on what they considered to be the lack of expertise of the people. Here is what Judge Reinhardt said when he set aside the term limits initiative in California:

> The public lacks legal or legislative expertise—or even a duty to support the Constitution. Our usual assumption that laws passed represent careful drafting and consideration does not obtain.

Where might he get an idea like that idea, to allege that the people are disregarded because they don't have legal training.

Here is what Ms. Morrow said:

> The fact that initiatives are presented to a legislature of 20 million people renders ephemeral any real hope of intelligent voting by the majority.

This is the judge who has been reversed over and over again when the California Ninth Circuit was reversed 27 out of 28 times by the Supreme Court. They are embracing this philosophy in those kinds of items.

Reinhardt said:

> The public . . . lacks the ability to collect and study information that is utilized routinely by legislative bodies.

Where could he have gotten that? Same philosophy as Ms. Morrow who said:

> . . . propositions are often lengthy and difficult for a layperson to understand. The public . . . casts its votes for initiatives on the basis of 30- and 60-second advertisements.

Both of these reflect a distrust of the people: One an activist judge, one of the most reversed judges in history; the other an offering of this administration for us to confirm.

I am calling into question the judgment and the respect that this nominee has for the people. And it is based on her statements. By contrasting her to Judge Reinhardt, I am trying to point out that the same kind of mistakes made by the most reversed judge on the ninth circuit are the kinds of mistakes that you find in Ms. Morrow's writings, and I think it reflects a confidence in lawyers and judges that permits them to do things that the law doesn't provide them a basis to do.

The law says the people of California have a right, if they want to have term limits, to have an initiative that embraces it. But what does Judge Reinhardt say? Judge Reinhardt says:

> Before an initiative becomes law, no committee meetings are held, no legal analysts study the law, no floor debates occur, no separate representative bodies vote on the bill. . . .

He does that as a means of setting aside the law, saying the people are simply too ignorant. They have not studied this carefully enough.

Where would Morrow be on that kind of issue? According to her writings:

> In the legislative, many eyes review a bill before it is put to a final vote. Legislative counsel [another lawyer] examine it for technical or legal shortcomings. Various committees look at it from different perspectives. Pros and cons are debated.

We have already in California and on the west coast in the Ninth Circuit

Court of Appeals, a court of appeals that is reversed constantly. In their setting aside of initiatives, in their invasion of the province of the people, and in their invasion of the legislative function, they take a page out of the writings of this candidate. But I don't think we need more judicial activists. I think it is clear she believes the cutting edge of society should be the law and its profession. I think the cutting edge needs to be the legislature and the people expressing their will in initiatives. That is where the law should be changed. The engine of social change should not be the courts. The engine for social change should be the people and their elected representatives. When the people enact a law through the initiative process, it is imperative that the will of the people be respected.

Even if you graduate from the best of law schools and you have a great understanding of legal principles, our country says that the people who cast the votes are the people whose will is to be respected. Because she seems to believe otherwise, I do not think this nominee should be confirmed by the U.S. Senate.

The PRESIDING OFFICER. Who yields time?

Mrs. BOXER. Mr. President, at this point, since Senator HATCH is not here, he has given me permission to use up his time and mine, and I assume I have about 7 minutes left.

The PRESIDING OFFICER. The Senator has 8 minutes remaining.

Mrs. BOXER. Mr. President, sometimes I think my colleagues have a very strange definition of activist judge. Listening to them, I think if you have a heartbeat and a pulse, they call you an activist. I mean, I—really, listen to them.

Are you supposed to nominate a person who has not had a thought in her head, who cannot say, 2 years after an initiative passed, that she thought it was good, bad, or indifferent, who cannot comment on a way to make the initiative process better?

They also have a way of selective arguing—selective arguing. In 1988, Margaret Morrow wrote the following. This is directly from an article in 1988, way before she even dreamt of coming before this Senate. Here is what she wrote:

> Having passed an initiative, voters want to see it enacted. They view a court challenge to its validity as interference with the public will.

So here is Margaret Morrow arguing that when the voters pass an initiative, they want it enacted. I see Senator HATCH is here, so when I finish my 2 minutes I am going to yield him his 5 minutes.

I want to say that this is a woman whose practice, if you look at it, is far from anyone's definition of being an activist. These are the areas of law that she has practiced.

Contract disputes, business torts, unfair competition, securities fraud, directors' and officers' liability, employment law, arbitration law, copyright and trademark infringement, libel, partnership dissolution, real estate development, government contracts, and insurance coverage.

So my colleagues paint the picture of someone who is entirely different from Margaret Morrow. Mr. President, I just ask my colleagues on both sides of the aisle to vote on Margaret Morrow. Do not vote on judge X, do not vote on judge Y, don't vote on some ideological basis because you think she is going to be a certain way. Follow the leadership of Chairman HATCH, follow the leadership of the many Republican conservatives who have gone on the line to fight for Margaret Morrow.

I have to say to my colleague from Missouri, thank you for bringing this debate almost to an end. I think I have enjoyed debating you. I wish we could have done it sooner rather than later. But I am pleased that we have reached this day, and to Margaret and to her family, I hope that tonight you will have a reason to celebrate. I can't be sure until the votes are in, but we will know soon.

Finally, Mr. President, I would just like to continue my response to some of the arguments offered by my colleagues, and set the record straight. On the issue of Ms. Morrow's position on ballot initiatives, there are some people who, having read an article she wrote in 1988, believe that Ms. Morrow holds disdain for citizen initiatives. This is completely false. I repeat—any concerns that Ms. Morrow holds a position other than being 100% supportive of citizen initiatives has no basis in fact. In fact, in that 1988 article, Ms. Morrow expressed her concern about misleading advertisements which provide misinformation for voters. This made it hard, she argued, for voters to make meaningful choices and ''renders ephemeral any real hope of intelligent voting by a majority.'' Read in context, this statement concerned the quality of information disseminated to the voters, and was not a comment on the ability of voters to make intelligent choices with the necessary information in hand. Ms. Morrow holds the utmost respect for democratic institutions like the citizen initiative process in California.

In that same 1988 article, Ms. Morrow argued that courts should not be put in the position of policing the initiative process. ''Having passed an initiative,'' she explains, ''voters want to see it enacted. They view a court challenge to its validity as interference with the public will. . . .'' Hopefully my colleagues here in the Senate understand that Ms. Morrow merely advocated reforms that would ameliorate problems in the California initiative process.

For those who may still not be convinced, I would like to read a portion of a letter that I referred to earlier from Robert Bonner, who, as I mentioned, was former U.S. Attorney under President Reagan, former U.S. District Court Judge in the Central District of California and former Head of the Drug Enforcement Administration under President Bush. Mr. Bonner writes:

> The concerns expressed about judicial activism appear to be based on a misunderstanding or misinterpretation of certain articles written by Margaret years ago in her capacity as President of the State Bar of California, the Los Angeles County Bar Association, and the Barristers (young lawyers) section of the Los Angeles County Bar Association. In particular, in 1988, while she was the President of the Los Angeles County Bar Association, Margaret wrote an article concerning the initiative process. The article was critical of the way certain recently concluded initiative campaigns had been run, and suggested ways in which the initiative process could be strengthened by communicating more information to the electorate about the substance of the measures. It also discussed procedural reforms that would assist in correcting the drafting errors that sometimes provide the basis for a legal challenge. Finally, it suggested measures to reduce the influence of special interests and increase the legislature's willingness to address issues of concern to the citizens of the state.
>
> The article does not suggest hostility to the initiative process; rather it seeks to strengthen the process. Margaret's responses to the Judiciary Committee demonstrate that she unequivocally supports the initiative process and believes that all legislative enactments, including initiatives, are presumptively constitutional, and that courts should be reluctant to overturn them. Margaret explained to the committee her desire to strengthen the process, not make it vulnerable to legal challenge. She also explained that the article proposed ways to make the process more efficient and less costly, so that the initiatives could serve the purpose for which they were intended.

To anyone still skeptical, I invite you to call Robert Bonner, who believes in Margaret Morrow. In his letter to Senators BOND, D'AMATO, DOMENICI, SESSIONS and SPECTER, Mr. Bonner urged them to give him a call with any questions.

Finally, the California Research Bureau, which is a branch of the state public library and supplies nonpartisan data to the executive and legislative branches of the California state government, has much the same role as the Congressional Research Service does for the U.S. Legislative Branch. The Bureau put out a study in May of 1997, entitled California's Statewide Initiative Process, which iterated many of the same concerns Ms. Morrow has about the initiative process in California, and which the senior senator from California, Senator FEINSTEIN, referred to during the markup of Ms. Morrow's nomination. For instance, this impartial, non-partisan research service notes that proponents and opponents of a ballot measure may not have the incentive to provide clear information to voters. Further, the Bureau notes that a number of scholars, elected officials, journalists and commissions have examined the initiative process over the last decade.

The Bureau cited to concerns about ''serious flaws that require improvement,'' including limited voter information, deceptive media campaigns,

the lack of legislative review, poor drafting, and the impact of money in the initiative process. In other words, Margaret Morrow believes in ballot initiatives, but has concerns similar to those of the California Research Bureau, a nonpartisan research service for the California State Legislature.

In summary, let there be no doubt that Ms. Morrow supports citizen initiatives as an important part of our democratic form of government. She also subscribes to the position that legislative enactments, including initiatives, are presumed to be constitutional, and that courts should be reluctant to overturn legislation. Margaret Morrow did suggest ways the initiative process could be strengthened by providing more information to the electorate and by correcting the drafting errors that sometimes form the basis for a legal challenge, but she does NOT oppose ballot initiatives.

On charges that she may be a judicial activist, let me make it very, very clear. Ms. Morrow believes in the respective roles of the legislative and judicial branches, and will look to the original intent of the drafters of the laws and our Constitution.

Some have questioned whether Margaret Morrow will be an activist judge. Her critics pulled a quote, out of context, from one of her many speeches, and those critics have decided that that single quote is evidence that Margaret Morrow will be an activist judge. The quote in controversy is from a 1- to 2-minute presentation to the State Bar Conference on Women in the Law. She says: ''For the law is, almost by definition, on the cutting edge of social thought. It is the vehicle through which we ease the transition from the rules which have always been to the rules which are to be.''

As Margaret said during her second hearing, the overall context of that speech concerned how lawyers were going to govern the legal profession. She wasn't speaking of the substance of the law. Rather, she was referring to the legal profession. Her point in that speech was if lawyers have to work 2,000 to 3,000 hours a year in order to have positions in private law firms, how will both men and women in the legal profession govern and balance their careers and their family lives? In her speech at the Women in the Law Conference, Margaret Morrow said: ''[Women lawyers] should reject the norm of 2000-plus hours a year; the norm that places time in the office above time with family . . . We should work to infuse our perspective into the law—our experience as women, as wives, and as mothers.''

I would also refer you to the letter from Robert Bonner which so clearly states that he, and so many other Republians of good reputation, can assure you that Margaret Morrow will not be an activist judge.

Finally, some of her critics base their belief that Ms. Morrow will be an activist judge on a speech she made during her installation as the first woman president of the State Bar of California on October 9, 1993. In her speech, Ms. Morrow quoted Justice William Brennan: ''Justice can only endure and flourish if law and legal institutions are engines of change, able to accommodate evolving patterns of life and social interaction.'' Taken out of context, her critics believe Ms. Morrow will use the courts as an engine of change. However, during her hearing, Ms. Morrow confessed she pulled Justice Brennan's statement from a book of quotes, and she testified that ''The theme of that speech was that the State Bar of California as an institution and the legal profession had to change some of the ways we did business. The quotation regarding engines of change had nothing to do with changes in the rule of law or changes in constitutional interpretation.'' In fact, the speech was about the changes the bar should make so that it would be more responsive to the public. It did not advance a theme that the courts should be engines of change.

To respond to my colleagues' charge that Margaret Morrow advocated gun control while president of the state bar, let me just say that this is patently untrue, and is refuted by 11 of the 21 Members of the California State Bar Board of Governors who were on the board at the time in question. They were there, they know what happened and what didn't happen, and they have signed a letter confirming that Margaret Morrow did not advocate gun control as her critics accuse her of. These 11 members are Republicans and Democrats alike.

These Republicans and Democrats explain in their letter to me that in 1993, the State Bar Conference of Delegates—representatives of voluntary bar associations throughout California—adopted two resolutions calling upon the Bar to study a possible revision of firearms laws and to propose measures to protect judges, lawyers, and others from gun violence. These resolutions were prompted by a tragic shooting incident at a San Francisco law firm in which several people were killed. These resolutions were passed before Ms. Morrow assumed her position as the first woman President of the State Bar of California.

The resolutions were then considered by the State Bar Board of Governors, of which Margaret Morrow was president in 1993–94. She appointed a special committee to consider the firearms resolutions, saying that she wanted to ensure compliance with the Supreme Court decision, Keller v. State Bar, that forbids a state bar from using mandatory lawyers' dues to support political or ideological causes.

The Board of Governors, under Margaret Morrow's leadership, rejected the resolutions passed by the delegates and passed explicitly neutral language instead. Let me repeat this very important point. As President of the State Bar Board of Governors, Margaret Morrow led the Board in deciding to reject resolutions on gun laws passed by the California Bar Conference of Delegates and instead adopted a neutral resolution, which suggested that the State Bar sponsor ''neutral forums on violence and its impact on the administration of justice.'' Therefore, she did the exact opposite of what her critics accuse her of. She followed the law as articulated by the United States Supreme Court, precisely what she will do if she is confirmed as a district judge.

I yield the remaining 5 minutes to the distinguished chairman of the Judiciary Committee, Chairman HATCH.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, as we close this debate, I would like to take just a moment to reiterate my support for Margaret Morrow. As my friend from Missouri, Senator ASHCROFT, has conceded, Ms. Morrow certainly enjoys the professional qualifications to serve as a United States district court judge.

Unfortunately, those who have chosen to vote against Ms. Morrow have failed to identify a single instance in the nominee's legal practice in which she has engaged in what can be considered as activism. The best the opponents to Ms. Morrow can do is take quotes from several of her speeches and read into that an activist intent. I do not believe, however, that when closely analyzed, those claims stand up. Regarding the two brief statements being used to question Ms. Morrow's propensity to engage in judicial activism, when balanced against the 20-plus-year distinguished and dedicated career, the statements are simply insufficient to determine that Ms. Morrow would be a judicial activist.

The first statement attributed to Ms. Morrow that the ''law is on the cutting edge of social thought,'' when placed within its proper context and read along with the entire speech is not troubling to me. I note that the opposition did not discuss the text of that speech or the theme of the speech, because the speech itself is not controversial in any manner. In fact, the theme of the speech advocates change in the legal profession itself. The speech does not advocate judicial activism. This is why no one has mentioned any other sentence or phrase from the speech. It simply does not advocate activism.

The second statement attributed to Ms. Morrow, that the law and legal institutions are engines of change, was taken from a quote by Mr. Justice Brennan. Whether you agree with Mr. Justice Brennan or not, he was one of the most substantial Justices in history. And she was quoting him. Again, the opposition has not mentioned the theme of the speech from which this quote was taken. The speech also advocated change in the legal profession, not activism in the courts.

I personally believe that the profession could stand some changes in certain areas. It is not fair to this nominee or any other that her entire career

and judicial philosophy be judged on the basis of a few statements, arguably very ambiguous statements. I cannot ignore the overall theme of the speeches from which these statements were taken. The speeches in no way advocated activism. They only advocated change in the legal profession.

Ms. Morrow's legal career speaks for itself. She will be an asset to the Federal bench, in my opinion. Thus, when Ms. Morrow's statements are read in context, they do not paint a picture of a potential activist. Moreover, when asked by the members of the committee to explain her judicial philosophy and her approach to judging, she gave an answer with which any strict constructionist would agree. And when asked to explain whether her speeches were intended to suggest that judges should be litigating from the bench, she adamantly denied such a claim.

Given her plausible explanation of these statements criticized by my good friends from the Judiciary Committee and her sworn testimony that she would uphold the Constitution and abide by the rule of law, I have to give her the benefit of the doubt and will vote to confirm her. I think and I hope my colleagues will do the same.

Ordinarily, I believe that a nominee's testimony should be credited unless there is overwhelming evidence to the contrary. Here, those who oppose this nominee lack such evidence. What they are left with are snippets from some of her speeches, speeches that we are trying to divine the intent of, while lacking the evidence to think otherwise.

I will credit the testimony of the nominee and her stated commitment to the rule of law. I sincerely hope that she will not disappoint me, and I believe that she is a person of integrity and one who will judge, as she has promised, in accordance with the highest standards of the judgeship profession and with the highest standards of the Constitution and the rule of law.

On this basis, I support the nominee. I believe we all should support this nominee. She has had a thorough hearing and we have had many, many discussions of this. But I just don't think we should take things out of context and stop a nominee on that basis.

With that, I hope our colleagues will support the nominee. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Margaret M. Morrow, of California, to be United States District Judge for the Central District of California?

The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Virginia (Mr. WARNER) and the Senator from Pennsylvania (Mr. SPECTER) are necessarily absent.

Mr. BREAUX. I announce that the Senator from Kentucky (Mr. FORD) and the Senator from Michigan (Mr. LEVIN) are necessarily absent.

I also announce that the Senator from Nevada (Mr. REID) is absent attending a funeral.

The PRESIDING OFFICER (Ms. COLLINS). Are there any other Senators in the Chamber who desire to vote?

The result was announced, yeas 67, nays 28, as follows:

[Rollcall Vote No. 11 Ex.]

YEAS—67

Abraham	Faircloth	Lott
Akaka	Feingold	Lugar
Baucus	Feinstein	Mack
Bennett	Frist	McCain
Biden	Glenn	Mikulski
Bingaman	Gorton	Moseley-Braun
Boxer	Graham	Moynihan
Breaux	Gregg	Murray
Bryan	Harkin	Reed
Bumpers	Hatch	Robb
Byrd	Hollings	Rockefeller
Campbell	Hutchison	Roth
Chafee	Inouye	Santorum
Cleland	Jeffords	Sarbanes
Cochran	Johnson	Smith (OR)
Collins	Kennedy	Snowe
Conrad	Kerrey	Stevens
Daschle	Kerry	Thompson
DeWine	Kohl	Torricelli
Dodd	Landrieu	Wellstone
Domenici	Lautenberg	Wyden
Dorgan	Leahy	
Durbin	Lieberman	

NAYS—28

Allard	Gramm	Murkowski
Ashcroft	Grams	Nickles
Bond	Grassley	Roberts
Brownback	Hagel	Sessions
Burns	Helms	Shelby
Coats	Hutchinson	Smith (NH)
Coverdell	Inhofe	Thomas
Craig	Kempthorne	Thurmond
D'Amato	Kyl	
Enzi	McConnell	

NOT VOTING—5

Ford	Reid	Warner
Levin	Specter	

The nomination was confirmed.

Mr. LEAHY. Madam President, I move to reconsider the vote.

Mrs. BOXER. I move to lay it on the table.

The motion to lay on the table was agreed to.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

MORNING BUSINESS

Mr. HATCH. Madam President, I ask unanimous consent there now be a period of morning business with Senators permitted to speak up to 5 minutes each.

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

THE 299TH ANNIVERSARY OF FRENCH COLONIZATION

Mr. LOTT. Madam President, I rise today to recognize an important day in the history of this nation—a day that may intrigue some of you who are not familiar with Southern history. Tomorrow is the 299th anniversary of the landing of D'Iberville on the shores of present-day Mississippi, and the beginning of the French colonization of the American South.

Madam President, my colleagues are familiar with the English landings in Jamestown and Plymouth, Maryland and Pennsylvania. Some may recall the Spanish settlements up the eastern seaboard or the missions in the far West. But I suspect few of you know of the French colonization of the deep South and the frontier of the future United States, and the deeds of men like Pierre Lemoyne Sieur D'Iberville, the French military officer who began that colonization.

However, down home, all along the Mississippi Gulf Coast, we know and we remember. We remember how D'Iberville's band of French soldiers, hunters, farmers and adventurers began the exploration and occupation of the lower Mississippi valley. We remember that this landing eventually gave birth to towns as far-flung as Biloxi, Natchez, Mobile, New Orleans, Baton Rouge, Memphis, St. Joseph, Detroit, and Galveston.

My native Mississippi Gulf Coast is a place of year-round beauty, romance, and charm. It is easy to understand why the French chose to found their first colony there.

We are throwing a party today, in Biloxi, Mississippi, where D'Iberville landed, 299 years ago tomorrow, and in Ocean Springs, where he built Fort Maurepas. As I am sure you have heard, we know how to throw a party. But next year, on this very day, will be the 300th anniversary of D'Iberville's landing. And I especially want to invite every one of my colleagues and you, Madam President, to attend that celebration.

All along the Mississippi Gulf Coast, from my native Pascagoula west to Pass Christian and Bay St. Louis, hundreds of volunteers are already planning and preparing a vast array of festivals, parties, national sporting events, educational activities, and cultural exchanges with French cities, working to make our 1699 Tricentennial a truly wonderful celebration.

In conjunction with next year's festivities will be the Mardi Gras Celebration in all the coast towns, from Texas to Florida. I believe all of my colleagues are familiar with Mardi Gras.

But the Tricentennial celebrations are more than just festivities. They are celebrations of how really diverse we are in the deep South, how wonderfully varied and multi-cultural our Southern heritage, our American heritage really is, and how much we've accomplished over the past 300 years!

Come to the Gulf Coast next year with us, and help us celebrate that diverse culture, and our hard-won economic prosperity. You might be surprised. You'll find that whether we are of French, Scottish, Irish, Spanish, Yugoslavian, Vietnamese, English, African-American or Native American

ancestry, or a little of everything, we are all fair, honest, hardworking, and friendly to a fault. And we can all cook!! And we all talk with this accent!!

So come down and join us, if not this year, certainly for the big Tricentennial celebration. A lot of faces and names will be familiar to you: Brett Favre, the great NFL quarterback, astronauts Fred Haise of Apollo XIII and Stuart Roosa, and the works of great American painter Walter Anderson and potter George E. Ohr. And the places to see!—the beautiful home of Jefferson Davis, the beaches, the southern way of life, the unique nightlife, the Mardi Gras, the 1699 celebrations and re-enactments.

Madam President, I invite all my colleagues to come down to the Gulf Coast next year and join us in the wonderful celebration of our Tricentennial.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Wednesday, February 10, 1998, the Federal debt stood at $5,471,889,906,215.21 (Five trillion, four hundred seventy-one billion, eight hundred eighty-nine million, nine hundred six thousand, two hundred fifteen dollars and twenty-one cents).

One year ago, February 10, 1997, the Federal debt stood at $5,302,292,000,000 (Five trillion, three hundred two billion, two hundred ninety-two million).

Five years ago, February 10, 1993, the Federal debt stood at $4,172,770,000,000 (Four trillion, one hundred seventy-two billion, seven hundred seventy million).

Ten years ago, February 10, 1988, the Federal debt stood at $2,452,575,000,000 (Two trillion, four hundred fifty-two billion, five hundred seventy-five million).

Fifteen years ago, February 10, 1983, the Federal debt stood at $1,194,868,000,000 (One trillion, one hundred ninety-four billion, eight hundred sixty-eight million) which reflects a debt increase of more than $4 trillion—$4,277,021,906,215.21 (Four trillion, two hundred seventy-seven billion, twenty-one million, nine hundred six thousand, two hundred fifteen dollars and twenty-one cents) during the past 15 years.

HUMAN CLONING PROHIBITION ACT OF 1998

Ms. MOSELEY-BRAUN. Madam President, I would like to take a moment to commend my colleagues for voting ''no'' this morning on the effort to shut down debate and take up S. 1601, the Human Cloning Prohibition Act of 1998 without hearings or the benefit of a comprehensive Committee review of the bill.

At the outset, I want to make it clear that I stand with the vast majority of Americans who oppose efforts to clone human beings. S. 1601, however, does much more than that. The bill includes a permanent ban on the act of human somatic cell nuclear transfer, which means taking the nucleus—which contains DNA—from a mature cell and putting it into an egg cell from which the original nucleus has been removed. Although the bill defines the product of such a transfer as an embryo, it is not actually a fertilized egg, as that term is commonly understood. It is an unfertilized egg cell that contains DNA from another source. It is true that if this cell were implanted in a woman's womb, it could very well develop into a baby. However, the cell may also be grown in a laboratory to become skin, nerve, or muscle tissue.

Because of its ban on human somatic cell transfer, there is a strong likelihood that S. 1601 would extinguish biomedical research in several vital areas. Scientists are examining approaches to treating disease that won't depend on drugs, but on stem cells that can differentiate into brain, skin, blood, or heart cells. S. 1601 would put an end to such research whenever somatic cell nuclear transfer is involved. Thus, it would outlaw efforts to create cardiac muscle cells to treat heart attack victims and degenerative heart disease; skin cells to treat burn victims; spinal cord neuron cells for the treatment of spinal cord trauma and paralysis; neural cells to treat those suffering from Parkinson's disease, Huntington's disease, and Lou Gehrig's disease; blood cells to treat cancer anemia and immunodeficiencies; cells for use in genetic therapy to treat 5,000 genetic diseases, including cystic fibrosis, Tay-Sachs, schizophrenia, and depression; liver cells for the treatment of such diseases as hepatitis and cirrhosis; and myriad other cells for use in the diagnosis, treatment, and prevention of a multitude of serious and life-threatening medical conditions.

Consider the effect that S. 1601 would have on research related to the treatment of diabetes. A diabetes patient has a shortage of insulin-producing cells in her pancreas. Somatic cell nuclear transfer technology may allow for the transplantation of a large number of insulin-producing cells into the diabetic patient that would be genetically identical to her. As a result, rejection would not be an issue and the patient would be cured. S. 1601 would stifle research into this promising approach to the treatment of diabetes.

Moreover, S. 1601 would prevent doctors from utilizing certain treatments that already exist, such as an effective therapy for mitochondrial disease, which causes infertility in women.

In sum, too much is at stake to allow legitimate concerns over human cloning to quash the beneficial research and existing treatments associated with somatic cell nuclear transfer. Over 120 medical research, industry, and patient advocacy organizations have expressed the view that S. 1601 would do just that. That is why I am co-sponsor of Senator FEINSTEIN and Senator KENNEDY's substitute bill, S. 1602. This legislation, drafted with the assistance of the National Bioethics Advisory Commission (NBAC), the National Institutes of Health, the American Society for Reproductive Medicine, the Biotech Industry Association, the Department of Health and Human Services, and the Food and Drug Administration, imposes a 10-year ban on the implantation of the product of somatic cell nuclear transfer into a women's uterus. While it bans the cloning of human beings for 10 years, the bill does not prohibit the cloning of molecules, DNA, cells, tissues, or non-human animals. It therefore does not restrict important biomedical and agricultural research that will improve the quality of life for millions of Americans and save the lives of many more.

S. 1602 requires that in four-and-a-half years the NBAC prepare and submit a report on the state of the science of cloning; the ethical and social issues related to the potential use of this technology in human beings; and the wisdom of extending the prohibition. The bill also requires the President to seek cooperation with other countries to establish international restrictions similar to those it enumerates.

Madam President, S. 1601 was brought directly to the floor two days after it was introduced without a day of committee hearings or a markup. The Senate did the right thing today when it decided that such a far-reaching bill with so many implications for the future direction of scientific inquiry must be carefully considered in committee. I am confident that we will ultimately agree upon a bipartisan approach to dealing with the issues raised by cloning technology, one that ensures that life-saving medical research will not be threatened. Through its action today, the Senate has sent the message that it intends to give this complex matter the thoughtful and deliberative consideration it deserves.

Mr. HATCH. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

READING OF WASHINGTON'S FAREWELL ADDRESS

Mr. ROBERTS. Madam President, I ask unanimous consent that notwithstanding the resolution of the Senate of January 24, 1901, on Monday, February 23, 1998, immediately following the prayer and the disposition of the Journal, the traditional reading of the Washington's Farewell Address take place and that the Chair be authorized to appoint a Senator to perform this task.

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

APPOINTMENT BY VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to the order of the Senate of January 24, 1901, appoints the Senator from Louisiana (Ms. LANDRIEU) to read Washington's Farewell Address on February 23, 1998.

REMOVAL OF INJUNCTION OF SECRECY—TREATY DOCUMENT NO. 105–36

Mr. ROBERTS. Madam President, I ask unanimous consent that the injunction of secrecy be removed from the following treaty transmitted to the Senate on February 11, 1998, by the President of the United States:

Protocols to the North Atlantic Treaty of 1949 on accession of Poland, Hungary, and Czech Republic (Treaty Document No. 105–36.)

I further ask that the treaty be considered as having been read the first time; that it be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President's message be printed in the RECORD.

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

The message of the President is as follows:

To the Senate of the United States:

I transmit herewith Protocols to the North Atlantic Treaty of 1949 on the accession of Poland, Hungary, and the Czech Republic. These Protocols were opened for signature at Brussels on December 16, 1997, and signed on behalf of the United States of America and the other parties to the North Atlantic Treaty. I request the advice and consent of the Senate to the ratification of these documents, and transmit for the Senate's information the report made to me by the Secretary of State regarding this matter.

The accession of Poland, Hungary, and the Czech Republic to the North Atlantic Treaty Organization (NATO) will improve the ability of the United States to protect and advance our interests in the transatlantic area. The end of the Cold War changed the nature of the threats to this region, but not the fact that Europe's peace, stability, and well-being are vital to our own national security. The addition of these well-qualified democracies, which have demonstrated their commitment to the values of freedom and the security of the broader region, will help deter potential threats to Europe, deepen the continent's stability, bolster its democratic advances, erase its artificial division, and strengthen an Alliance that has proved its effectiveness during and since the Cold War.

NATO is not the only instrument in our efforts to help build a new and undivided Europe, but it is our most important contributor to peace and security for the region. NATO's steadfastness during the long years of the Cold War, its performance in the mission it has led in Bosnia, the strong interest of a dozen new European democracies in becoming members, and the success of the Alliance's Partnership for Peace program all underscore the continuing vitality of the Alliance and the Treaty that brought it into existence.

NATO's mission in Bosnia is of particular importance. No other multinational institution possessed the military capabilities and political cohesiveness necessary to bring an end to the fighting in the former Yugoslavia—Europe's worst conflict since World War II—and to give the people of that region a chance to build a lasting peace. Our work in Bosnia is not yet complete, but we should be thankful that NATO existed to unite Allies and partners in this determined common effort. Similarly, we should welcome steps such as the Alliance's enlargement that can strengthen its ability to meet future challenges, beginning with NATO's core mission of collective defense and other missions that we and our Allies may choose to pursue.

The three states that NATO now proposes to add as full members will make the Alliance stronger while helping to enlarge Europe's zone of democratic stability. Poland, Hungary, and the Czech Republic have been leaders in Central Europe's dramatic transformation over the past decade and already are a part of NATO's community of values. They each played pivotal roles in the overthrow of communist rule and repression, and they each proved equal to the challenge of comprehensive democratic and market reform. Together, they have helped to make Central Europe the continent's most robust zone of economic growth.

All three of these states will be security producers for the Alliance and not merely security consumers. They have demonstrated this through the accords they have reached with neighboring states, the contributions they have made to the mission in Bosnia, the forces they plan to commit to the Alliance, and the military modernization programs they have already begun and pledge to continue in the years to come at their own expense. These three states will strengthen NATO through the addition of military resources, strategic depth, and the prospect of greater stability in Europe's central region. American troops have worked alongside soldiers from each of these nations in earlier times, in the case of the Poles, dating back to our own Revolutionary War. Our cooperation with the Poles, Hungarians, and Czechs has contributed to our security in the past, and our Alliance with them will contribute to our security in the years to come.

The purpose of NATO's enlargement extends beyond the security of these three states, however, and entails a process encompassing more than their admission to the Alliance. Accordingly, these first new members should not and will not be the last. No qualified European democracy is ruled out as a future member. The Alliance has agreed to review the process of enlargement at its 1999 summit in Washington. As we prepare for that summit, I look forward to discussing this matter with my fellow NATO leaders. The process of enlargement, combined with the Partnership for Peace program, the Euro-Atlantic Partnership Council, the NATO-Russia Founding Act, and NATO's new charter with Ukraine, signify NATO's commitment to avoid any new division of Europe, and to contribute to its progressive integration.

A democratic Russia is and should be a part of that new Europe. With bipartisan congressional support, my Administration and my predecessor's have worked with our Allies to support political and economic reform in Russia and the other newly independent states and to increase the bonds between them and the rest of Europe. NATO's enlargement and other adaptations are consistent, not at odds, with that policy. NATO has repeatedly demonstrated that it does not threaten Russia and that it seeks closer and more cooperative relations. We and our Allies welcomed the participation of Russian forces in the mission in Bosnia.

NATO most clearly signaled its interest in a constructive relationship through the signing in May 1997 of the NATO-Russia Founding Act. That Act, and the Permanent Joint Council it created, help to ensure that if Russia seeks to build a positive and peaceful future within Europe, NATO will be a full partner in that enterprise. I understand it will require time for the Russian people to gain a new understanding of NATO. The Russian people, in turn, must understand that an open door policy with regard to the addition of new members is an element of a new NATO. In this way, we will build a new and more stable Europe of which Russia is an integral part.

I therefore propose the ratification of these Protocols with every expectation that we can continue to pursue productive cooperation with the Russian Federation. I am encouraged that President Yeltsin has pledged his government's commitment to additional progress on nuclear and conventional arms control measures. At our summit in Helsinki, for example, we agreed that once START II has entered into force we will begin negotiations on a START III accord that can achieve even deeper cuts in our strategic arsenals. Similarly, Russia's ratification of the Chemical Weapons Convention last year demonstrated that cooperation on a range of security matters will continue.

The Protocols of accession that I transmit to you constitute a decision of great consequence, and they involve solemn security commitments. The addition of new states also will entail financial costs. While those costs will be manageable and broadly shared with

our current and new Allies, they nonetheless represent a sacrifice by the American people.

Successful ratification of these Protocols demands not only the Senate's advice and consent required by our Constitution, but also the broader, bipartisan support of the American people and their representatives. For that reason, it is encouraging that congressional leaders in both parties and both chambers have long advocated NATO's enlargement. I have endeavored to make the Congress an active partner in this process. I was pleased that a bipartisan group of Senators and Representatives accompanied the U.S. delegation at the NATO summit in Madrid last July. Officials at all levels of my Administration have consulted closely with the relevant committees and with the bipartisan Senate NATO Observer Group. It is my hope that this pattern of consultation and cooperation will ensure that NATO and our broader European policies continue to have the sustained bipartisan support that was so instrumental to their success throughout the decades of the Cold War.

The American people today are the direct beneficiaries of the extraordinary sacrifices made by our fellow citizens in the many theaters of that ''long twilight struggle,'' and in the two world wars that preceded it. Those efforts aimed in large part to create across the breadth of Europe a lasting, democratic peace. The enlargement of NATO represents an indispensable part of today's program to finish building such a peace, and therefore to repay a portion of the debt we owe to those who went before us in the quest for freedom and security.

The rise of new challenges in other regions does not in any way diminish the necessity of consolidating the increased level of security that Europe has attained at such high cost. To the contrary, our policy in Europe, including the Protocols I transmit herewith, can help preserve today's more favorable security environment in the transatlantic area, thus making it possible to focus attention and resources elsewhere while providing us with additional Allies and partners to help share our security burdens.

The century we are now completing has been the bloodiest in all of human history. Its lessons should be clear to us: the wisdom of deterrence, the value of strong Alliances, the potential for overcoming past divisions, and the imperative of American engagement in Europe. The NATO Alliance is one of the most important embodiments of these truths, and it is in the interest of the United States to strengthen this proven institution and adapt it to a new era. The addition to this Alliance of Poland, Hungary, and the Czech Republic is an essential part of that program. It will help build a Europe that can be integrated, democratic, free, and at peace for the first time in its history. It can help ensure that we and our Allies and our partners will enjoy greater security and freedom in the century that is about to begin.

I therefore recommend that the Senate give prompt advice and consent to ratification of these historic Protocols.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *February 11, 1998*.

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 which were referred to the appropriate committees.

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

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–337. A joint resolution adopted by the Legislature of the State of Alaska; to the Committee on Energy and Natural Resources.

HOUSE JOINT RESOLUTION NO. 14

Whereas the United Nations has designated 67 sites in the United States as ''World Heritage Sites'' or ''Biosphere Reserves,'' which altogether are about equal in size to the State of Colorado, the eighth largest state; and

Whereas art. IV, sec. 3, United States Constitution, provides that the United States Congress shall make all needed regulations governing lands belonging to the United States; and

Whereas many of the United Nations' designations include private property inholdings and contemplate ''buffer zones'' of adjacent land; and

Whereas some international land designations such as those under the United States Biosphere Reserve Program and the Man and Biosphere Program of the United Nations Scientific, Educational, and Culture Organization operate under independent national committees such as the United States National Man and Biosphere Committee that have no legislative directives or authorization from the Congress; and

Whereas these international designations as presently handled are an open invitation to the international community to interfere in domestic economies and land use decisions; and

Whereas local citizens and public officials concerned about job creation and resource based economies usually have no say in the designation of land near their homes for inclusion in an international land use program; and

Whereas former Assistant Secretary of the Interior George T. Frampton, Jr., and the President used the fact that Yellowstone National Park had been designated as a ''World Heritage Site'' as justification for intervening in the environmental impact statement process and blocking possible development of an underground mine on private land in Montana outside of the park; and

Whereas a recent designation of a portion of Kamchatka as a ''World Heritage Site'' was followed immediately by efforts from environmental groups to block investment insurance for development projects on Kamchatka that are supported by the local communities; and

Whereas environmental groups and the National Park Service have been working to establish an International Park, a World Heritage Site, and a Marine Biosphere Reserve covering parts of western Alaska, eastern Russia, and the Bering Sea; and

Whereas, as occurred in Montana, such designations could be used to block development projects on state and private land in western Alaska; and

Whereas foreign companies and countries could use such international designations in western Alaska to block economic development that they perceive as competition; and

Whereas animal rights activists could use such international designations to generate pressure to harass or block harvesting of marine mammals by Alaska Natives; and

Whereas such international designations could be used to harass or block any commercial activity, including pipelines, railroads, and power transmission lines; and

Whereas the President and the executive branch of the United States have, by Executive Order and other agreements, implemented these designations without approval by the Congress; and

Whereas actions by the President in applying international agreements to lands owned by the United States may circumvent the Congress; and

Whereas Congressman Don Young introduced House Resolution No. 901 in the 105th Congress entitled the ''American Lands Sovereignty Protection Act of 1997'' that required the explicit approval of the Congress prior to restricting any use of United States land under international agreements;

Be it resolved, That the Alaska State Legislature supports the ''American Lands Sovereignty Protection Act'' that reaffirms the constitutional authority of the Congress as the elected representatives of the people over the federally owned land of the United States.

Copies of this resolution shall be sent to the Honorable Ted Stevens and the Honorable Frank Murkowski, U.S. Senators, and the Honorable Don Young, U.S. Representative, members of the Alaska delegation in Congress.

POM–338. A concurrent resolution adopted by the Legislature of the State of West Virginia; to the Committee on Foreign Relations.

HOUSE CONCURRENT RESOLUTION 3

Whereas, The United States is a signatory to the 1992 United Nations Framework Convention of Global Climate Change; and

Whereas, In December, 1997, the United States participated in negotiations in Kyoto, Japan, resulting in the agreement known as the Kyoto Protocol, which calls for the United States to reduce emissions of greenhouse gases by 7 percent from 1990 levels during the period A.D. 2008 to 2012, with potentially larger reductions thereafter; and

Whereas, The United States delegation signed the Protocol on December 10, 1997; and

Whereas, The Kyoto Protocol calls for reductions by other industrial nations from 1990 levels by 6 to 8 percent during the same period; and

Whereas, Developing nations are exempted from greenhouse gas emission limitation requirements of the Framework Convention and refused to accept any new commitments for such limitations during the negotiations of the Kyoto Protocol; and

Whereas, The United States relies on carbon-based fossil fuels for more than 90 percent of its total energy supply; and

Whereas, The requirements of the Protocol would bind the United States to more than a 35 percent reduction in carbon dioxide emissions between 2008 and 2012; and

Whereas, Research has not reached convincing proof that fossil fuel related emissions is in fact creating global climate changes; and

Whereas, Economic impact studies by the United States government estimate that the requirements of the treaty could result in the loss of 900,000 jobs, increased energy prices, losses of output in energy intensive industries such as aluminum, steel, rubber, chemical and utility production and especially the coal industry; and

Whereas, The State of West Virginia, being dependent upon these industries and especially upon the coal industry, would experience these effects severely, including the possible loss of thousands of jobs; and

Whereas, The President of the United States pledged on October 22, 1997, that the United States will not assume binding obligations unless key developing nations meaningfully participate in this effort; and

Whereas, The failure of key developing nations to participate will create unfair competitive imbalances between the United States and these developing nations, potentially leading to the transfer of jobs vital to the West Virginia economy to developing nations; and

Whereas, On July 25, 1997, the United States Senate adopted Senate Resolution No. 98, expressing the sense of the Senate that the United States should not be a signatory to any protocol or to any other agreement which would require the advice and consent of the Senate to ratify, and which would mandate new commitments to mitigate greenhouse gas emissions unless the protocol or agreement mandates commitments and compliance by developing nations; therefore, be it

Resolved by the Legislature of West Virginia, That the President of the United States is requested not to sign the Kyoto Protocol so long as the possibility of all above mentioned negative effects upon the American economy exists; and, be it

Further Resolved, That, in the event that the President signs the Kyoto Protocol, the Senate of the United States is requested to refuse ratification of the Protocol so long as the possibility of said effects exits; and, be it

Further Resolved, That the Clerk of the House of Delegates shall, immediately upon its adoption, transmit duly authenticated copies of this resolution to the President of the United States, to the President Pro Tempore and the Secretary of the United States Senate, and to the United States Senators representing West Virginia.

REPORTS OF COMMITTEE

The following report of committee was submitted:

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources:

Special Report entitled ''History, Jurisdiction, and a Summary of Activities of the committee on Energy and Natural Resources During the 104th Congress'' (Rept. No. 105–160).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources:

Margaret Hornbeck Greene, of Kentucky, to be a Member of the Board of Directors of the United States Enrichment Corporation for a term expiring February 24, 2003.

Donald J. Barry, of Wisconsin, to be Assistant Secretary for Fish and Wildlife.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ROTH:

S. 1622. A bill to suspend temporarily the duty on deltamethrin; to the Committee on Finance.

S. 1623. A bill to suspend temporarily the duty on diclofop-methyl; to the Committee on Finance.

S. 1624. A bill to suspend temporarily the duty on piperonyl butoxide; to the Committee on Finance.

S. 1625. A bill to suspend temporarily the duty on resmethrin; to the Committee on Finance.

S. 1626. A bill to suspend temporarily the duty on thidiazuron; to the Committee on Finance.

S. 1627. A bill to suspend temporarily the duty on tralomethrin; to the Committee on Finance.

S. 1628. A bill to suspend temporarily the duty on synthetic organic coloring matter c.i. pigment yellow 109; to the Committee on Finance.

S. 1629. A bill to suspend temporarily the duty on synthetic organic coloring matter c.i. pigment yellow 110; to the Committee on Finance.

S. 1630. A bill to suspend temporarily the duty on pigment red 177; to the Committee on Finance.

LEGISLATION TO SUSPEND TEMPORARILY THE DUTY ON CERTAIN CHEMICALS

Mr. ROTH. Mr. President, I rise today to introduce nine bills to suspend temporarily the imposition of duties on the importation of certain products.

I am pleased to introduce six bills to suspend temporarily the imposition of duties on imports of certain chemicals used in the production of pesticides. These chemicals are deltamethrin, diclofop-methyl, piperonyl butoxide, resmethrin, thidiazuron and tralomethrin. By temporarily suspending the imposition of duties, these bills would help AgrEvo USA, a company located in Wilmington, Delaware, lower its cost of production and improve its competitiveness.

I am also pleased to introduce three bills to suspend temporarily the imposition of duties on imports of Pigment Yellow 109, Yellow 110 and Pigment Red 177. These high quality coloring materials are imported for sale in the United States by Ciba Specialty Chemicals Corporation (Pigments Division), a company located in Newport, Delaware. By temporarily suspending the imposition of duties, these bills will reduce significantly the cost of coloring materials that are used in a wide variety of finished products, including automotive parts, vinyl flooring, carpet fibers and plastic utensils.

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

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 1622

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

SECTION 1. TEMPORARY SUSPENSION OF DUTY.

(a) IN GENERAL.—Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

''	9902.30.18	(1R,3R)-3(2,2-dibromovinyl)-2,2-dimethylcyclopropane-carboxylic acid (S)-alpha-cyano-3-phenoxybenzyl ester (deltamethrin) in bulk or in forms or packings for retail sale (CAS No. 52918–63–5) (provided for in subheading 2926.90.30 or 3808.10.25)	Free	No change	No change	On or before 12/31/2000	.... ''

(b) EFFECTIVE DATE.—The amendment made by this section applies with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of enactment of this Act.

S. 1623

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

SECTION 1. TEMPORARY SUSPENSION OF DUTY.

(a) IN GENERAL.—Subheading 9902.30.16 of the Harmonized Tariff Schedule of the United States is amended by striking ''12/31/98'' and inserting ''12/31/2000''.

(b) EFFECTIVE DATE.—The amendment made by this section applies with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of enactment of this Act.

S. 1624

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

SECTION 1. TEMPORARY SUSPENSION OF DUTY.

(a) IN GENERAL.—Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"	9902.32.99	5-[[2-(2-butoxyethoxy)ethoxy]m ethyl]-6-propyl-1,3-benzodioxole (piperonyl butoxide) (CAS No. 51–03–6) (provided for in subheading 2932.99.60)	Free	No change	No change	On or before 12/31/2000	.... ".

(b) EFFECTIVE DATE.—The amendment made by this section applies with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of enactment of this Act.

S. 1625

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

SECTION 1. TEMPORARY SUSPENSION OF DUTY.

(a) IN GENERAL.—Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"	9902.32.19	[5-(phenylmethyl)-3-furanyl] methyl 2,2-dimethyl-3-(2-methyl-1-propenyl) cyclopropanecarboxylate (resmethrin) (CAS No. 10453–86–8) (provided for in subheading 2932.19.10)	Free	No change	No change	On or before 12/31/2000	.... ".

(b) EFFECTIVE DATE.—The amendment made by this section applies with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of enactment of this Act.

S. 1626

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

SECTION 1. TEMPORARY SUSPENSION OF DUTY.

(a) IN GENERAL.—Subheading 9902.30.17 of the Harmonized Tariff Schedule of the United States is amended by striking ''12/31/98'' and inserting ''12/31/2000''.

(b) EFFECTIVE DATE.—The amendment made by this section applies with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of enactment of this Act.

S. 1627

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

SECTION 1. TEMPORARY SUSPENSION OF DUTY.

(a) IN GENERAL.—Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"	9902.30.19	Cyclopropanecarboxylic acid, 2,2-dimethyl-3-(1,2,2,2-tetrabromoethyl)-, cyano(3-phenoxyphenyl)methyl ester (tralomethrin) in bulk or in forms or packages for retail sale (CAS No. 66841–25–6) (provided for in subheading 2926.90.30 or 3808.10.25)	Free	No change	No change	On or before 12/31/2000	.... ".

(b) EFFECTIVE DATE.—The amendment made by this section applies with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of enactment of this Act.

S. 1628

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

SECTION 1. TEMPORARY SUSPENSION OF DUTY ON C.I. PIGMENT YELLOW 109.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"	9902.32.00	Benzoic acid, 2,3,4,5-tetrachloro-6-cyano-,methyl ester, reaction product with 2-methyl-1,3-benzenediamine and sodium methoxide (CAS No. 106276-79-3) (provided for in subheading 3204.17.04)	Free	No change	No change	On or before 12/31/2000	.... ".

SEC. 2. EFFECTIVE DATE.

The amendment made by this Act applies with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

S. 1629

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

SECTION 1. TEMPORARY SUSPENSION OF DUTY ON C.I. PIGMENT YELLOW 110.

(a) IN GENERAL.—Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"	9902.32.05	Benzoic acid, 2,3,4,5-tetrachloro-6-cyano-,methyl ester, reaction products with p-phenylenediamine and sodium methoxide (CAS No. 106276-80-6) (provided for in subheading 3204.17.04)	Free	No change	No change	On or before 12/31/2000	.... ".

(b) EFFECTIVE DATE.—The amendment made by this section applies with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

S. 1630

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

SECTION 1. TEMPORARY SUSPENSION OF DUTY.

(a) IN GENERAL.—Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"	9902.30.58	Pigment red 177 (CAS No. 4051–63–2) (provided for in subheading 3204.17.04)	Free	No change	No change	On or before 12/31/2000	.... ".

(b) EFFECTIVE DATE.—The amendment made by this section applies with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of enactment of this Act.

By Mr. HUTCHINSON (for himself, Mr. DEWINE, Mr. SMITH of New Hampshire, Mr. CRAIG, Ms. COLLINS, Mr. INHOFE, Mr. FAIRCLOTH, and Mr. HELMS):

S. 1631. A bill to amend the General Education Provisions Act to allow parents access to certain information; to the Committee on Labor and Human Resources.

THE PARENTAL FREEDOM OF INFORMATION ACT

Mr. HUTCHINSON. Mr. President, imagine, if you will, that your daughter is given an assignment by her teacher which requires her to keep a journal, not just a journal of her own intimate and very private thoughts, but of answers to questions that have been posed to her by her teacher. Should you as a parent have a right to know what questions the teacher has posed, what questions the teacher has asked?

Now imagine that a research team from a local university is given permission by your child's school to perform psychological exams on your son or daughter. Should you as a parent in that situation have a right to approve of this exam before it takes place? Should you as a parent at least be informed about the impending exams?

Finally, Mr. President, imagine that your son is required to take a class in ''decisionmaking'' which you are concerned may include discussion of issues that might violate or be contrary to the teachings you have espoused and inculcated in your children in the

home.Should you, in that circumstance, as a parent have a right to review the classroom material prior to enrolling your children in that particular class, in that decisionmaking class?

In each of these three examples, the clear and, I think, the obvious answer is yes, parents, as those to whom primary responsibility for the education of their children is entrusted, should be allowed to know what questions their children are being asked; parents should have the right to decide whether or not their children are examined psychologically; parents should have the right to review their children's curriculum.

Unfortunately, the above examples are not just random hypotheticals that I dreamed up or that I had my staff dream up. These are real-world examples of how public schools are currently usurping the rights of parents to be informed about the education of their children.

Mr. and Mrs. Robinson from Sheridan, AR, have yet to learn what questions were posed to their daughter by her teacher in an in-class journaling assignment. Parents in Monroeville, PA, have yet to obtain their children's records maintained as a part of a research project run in their children's school by the University of Pittsburgh. Parents in California have been forced to go to court to view the curriculum being used in their local school for a class that they fear may delve into deeply personal matters.

How can this be the case? How can we have this situation in a country founded on the principles of freedom, in a country that has always respected the parents' ultimate authority in the rearing and education of their children? How can parents be denied basic information relating to their children's education?

The answer may lie in a book recently published by Eric Buehrer entitled ''The Public Orphanage.'' In this book, Mr. Buehrer points out that public schools have become ''one-stop social service agencies'' attempting to address the needs of children that were traditionally the responsibility of the children's parents.

Whether this trend is the errant result of a legitimate attempt to fill the void left in children's lives with the breakdown of the American family, or whether this trend is part of a more sinister philosophy based on belief that ''Washington or Government knows best,'' it is a trend that is leading to lower educational achievement and to less clearly defined standards of right and wrong for our Nation's children. In short, I think it is a trend that we should not allow to continue.

The importance of parents in the education of their children was clearly emphasized in 1994 by Secretary of Education Richard Riley in testimony before the Committee on Labor and Human Resources. In this testimony, Secretary Riley, I think very powerfully and poignantly, emphasized that ''Thirty years of research tells us that the starting point of American education is parental expectations and parental involvement with their children's education'' and that schools must ''establish a supportive environment for family involvement.''

Despite this important parental role, Secretary Riley pointed out that ''many parents feel that their right to be involved in school policy—to be full participants in the learning process—is being ignored, frustrated or even denied.'' In short, Secretary Riley noted that many parents simply do not feel ''valued'' by the schools that educate their children.

So today, I am introducing legislation that will value the role of parents in educating their children. It will help to establish a supportive environment for families by guaranteeing parents a place at the table in decisions central to the creation and implementation of education policies within their local schools.

This legislation builds on the already well-established principles outlined in the 1974 Family Education Rights and Privacy Act, which ensures that parents have access to all records which public schools maintain on their children. The Parental Freedom of Information Act, which I am introducing today, will strengthen the rights of parents by guaranteeing them access to the curriculum being used to teach their children. Current law, the 1974 law, ensures that parents will have access to the records and files that are maintained on their children. But we need to go a step further. We need to build on that successful 1974 legislation by ensuring that parents also have the right to access the curriculum being used to teach their children. I think it is a reasonable provision which allows parents to review their children's textbooks, audio-visual materials, manuals, journals, films and any other supplemental material used to educate their children.

On the surface, one would think this legislation shouldn't be necessary. I think most Americans assume that parents already have the right to go into the school and ask to see the books, ask to see the curriculum materials, ask to see the supplemental materials, ask permission to view a film that might be shown to their children, to look at the journals that are in the library, and to have basic access to all of the information and all of the curriculum materials being used in the education of their children. But unfortunately, the record is now replete with examples of where parents have run into a stone wall and have met stiff resistance when they have tried to obtain that kind of basic educational information. Information which is so essential to the education of their children.

So we say on one hand, we want parents to be supportive, we want parents to be involved, we want parents to attend PTA, we want them to attend parent-teacher conferences, we want them to show by their actions that they are actively involved in the education and upbringing of their children. We don't want our public schools to be social orphanages that take care of the children from breakfast until supper.

Then, on the other hand, we allow policies to be enacted in local schools across this country that resist that very desire by many parents, that make it difficult, if not impossible, to access critical materials being used in the education of their children.

The Parental Freedom of Information Act will provide parents access to curriculum and to the testing materials administered to their children, and it will require parental consent prior to any student being subjected to medical, psychological or psychiatric examinations, testing or treatment at the school.

This legislation is very basic and straightforward and, I think, is just plain common sense. This legislation will empower parents by providing them access to the information they need to oversee and direct the education of their children and will slow, and hopefully reverse, the establishment of schools as public orphanages.

I look forward to pursuing this legislation in committee and with my colleagues in the Senate.

Mr. President, 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. 1631

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 ''Parental Freedom of Information Act''.

SEC. 2. INFORMATION ACCESS AND CONSENT.

(a) IN GENERAL.—Section 444 of the General Education Provisions Act (20 U.S.C. 1232g) is amended by adding at the end the following:

''(i) INSTRUCTIONAL AND TESTING MATERIALS.—

''(1) IN GENERAL.—No funds shall be made available under any applicable program to any educational agency or institution that has a policy of denying, or that effectively prevents, the parent of an elementary school or secondary school student served by such agency or at such institution, as the case may be, the right to inspect and review any instructional material used with respect to the educational curriculum of, or testing material administered to, the student. Each educational agency or institution shall establish appropriate procedures for the granting of a request by parents for access to the instructional material or testing material within a reasonable period of time, but in no case more than 30 days after the request has been made.

''(2) DEFINITIONS.—In this subsection:

''(A) INSTRUCTIONAL MATERIAL.—The term 'instructional material' means a textbook, audio/visual material, manual, journal, film, tape, or any other material supplementary to the educational curriculum of a student.

''(B) TESTING MATERIAL.—The term 'testing material' means a copy of any test (without responses) that is administered to a student during the current or preceding school year,

and if available, any statistical comparison data regarding the test results with respect to the student's age or grade level. The term does not include a nonclassroom diagnostic test, a standardized assessment or standardized achievement test, or a test subject to a copyright agreement.

''(j) RIGHT OF ACCESS.—

''(1) IN GENERAL.—A parent of an elementary school or secondary school student whose right to gain access to information or material made available to the parent under this section during the 30-day compliance period set forth in subsection (a)(1) or (i)(1) is knowingly or negligently violated may maintain an action for appropriate relief after the last day of such period. Appropriate relief includes equitable or declaratory relief and reasonably incurred litigation costs, including a reasonable attorney's fee.

''(2) LIMITATION.—A civil action under this subsection may not commence more than 2 years after the last day of the 30-day compliance period set forth in subsection (a)(1) or (i)(1).

''(k) PARENTAL CONSENT.—No funds shall be made available under any applicable program to an educational agency or institution that, as part of an applicable program and without the prior, written, informed consent of the parent of a student, requires the student—

''(1) to undergo medical, psychological, or psychiatric examination, testing, treatment, or immunization (except in the case of a medical emergency); or

''(2) to reveal any information about the student's personal or family life (except to the extent necessary to comply with the Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et seq.)).''.

(b) RIGHT OF ACCESS.—The third sentence of section 444(a)(1)(A) of the General Education Provisions Act (20 U.S.C. 1232g(a)(1)(A)) is amended by striking ''forty-five'' and inserting ''30''.

By Mr. CHAFEE:

S. 1633. A bill to suspend through December 31, 1999, the duty on certain textile machinery; to the Committee on Finance.

DUTY SUSPENSION LEGISLATION

Mr. CHAFEE. Mr. President, this afternoon I am introducing legislation to suspend the duty on the importation of certain textile printing machines that are used by textile manufacturers in the United States.

These particular machines are used for the printing of patterns, designs and motifs on fabrics—an important process in the making of textile goods. However, none of these machines are made in the United States. That means domestic manufacturers must import these machines at considerable cost, which does not help their ability to compete in what is an increasingly challenging market. Yet since there is no domestic industry producing these machines, the duties serve little purpose.

The bill I am introducing would lift the duty imposed on these machines. It is my hope that by doing so, we will be helping the textile industry in this country to improve its competitiveness and maintain its workforce, both in Rhode Island and around the nation.

By introducing this legislation today, I believe there should be ample time for review and comment on the bill, and that it can be ready for inclusion when Senate begins work on comprehensive duty suspension legislation this year.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

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

S. 1633

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

(a) Subchapter II of Chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

''9902.81.20	Other textile printing machinery (provided for in subheading 8443.59.10)	Free	No change	No change	On or before 12/31/99''

(b) The amendment made by subsection (a) shall apply to goods entered, or withdrawn from warehouse for consumption, on or after the date that is 15 days after the date of the enactment of this Act.

(c) Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, upon proper request filed with the Customs Service within 180 days after the date of the enactment of this Act, any entry, or withdrawal from warehouse for consumption, of goods described in subheading 8443.59.10 of the Harmonized Tariff Schedule of the United States—

(1) which was made after December 31, 1997, and before the date that is 15 days after the date of the enactment of this Act, and

(2) with respect to which there would have been no duty if the amendment made by subsection (a) applied to such entry or withdrawal,

shall be liquidated or reliquidated as if such amendment applied to such entry or withdrawal.

ADDITIONAL COSPONSORS

S. 112

At the request of Mr. MOYNIHAN, the name of the Senator from Rhode Island [Mr. REED] was added as a cosponsor of S. 112, a bill to amend title 18, United States Code, to regulate the manufacture, importation, and sale of ammunition capable of piercing police body armor.

S. 879

At the request of Mr. FEINGOLD, the name of the Senator from Illinois [Mr. DURBIN] was added as a cosponsor of S. 879, a bill to provide for home and community-based services for individuals with disabilities, and for other purposes.

S. 1252

At the request of Mr. D'AMATO, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of S. 1252, a bill to amend the Internal Revenue Code of 1986 to increase the amount of low-income housing credits which may be allocated in each State, and to index such amount for inflation.

S. 1305

At the request of Mr. GRAMM, the names of the Senator from Ohio [Mr. GLENN], the Senator from Mississippi [Mr. COCHRAN], the Senator from California [Mrs. BOXER], and the Senator from Montana [Mr. BURNS] were added as cosponsors of S. 1305, a bill to invest in the future of the United States by doubling the amount authorized for basic scientific, medical, and pre-competitive engineering research.

S. 1308

At the request of Mr. BREAUX, the name of the Senator from North Carolina [Mr. FAIRCLOTH] was added as a cosponsor of S. 1308, a bill to amend the Internal Revenue Code of 1986 to ensure taxpayer confidence in the fairness and independence of the taxpayer problem resolution process by providing a more independently operated Office of the Taxpayer Advocate, and for other purposes.

S. 1321

At the request of Mrs. MURRAY, her name was added as a cosponsor of S. 1321, a bill to amend the Federal Water Pollution Control Act to permit grants for the national estuary program to be used for the development and implementation of a comprehensive conservation and management plan, to reauthorize appropriations to carry out the program, and for other purposes.

S. 1334

At the request of Mr. BOND, the name of the Senator from Kentucky [Mr. MCCONNELL] was added as a cosponsor of S. 1334, a bill to amend title 10, United States Code, to establish a demonstration project to evaluate the feasibility of using the Federal Employees Health Benefits program to ensure the availability of adequate health care for Medicare-eligible beneficiaries under the military health care system.

S. 1365

At the request of Ms. MIKULSKI, the name of the Senator from California [Mrs. BOXER] was added as a cosponsor of S. 1365, a bill to amend title II of the Social Security Act to provide that the reductions in social security benefits which are required in the case of spouses and surviving spouses who are also receiving certain Government pensions shall be equal to the amount by which two-thirds of the total amount of the combined monthly benefit (before reduction) and monthly pension exceeds $1,200, adjusted for inflation.

S. 1391

At the request of Mr. DODD, the names of the Senator from Arkansas [Mr. BUMPERS], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Illinois [Mr. DURBIN], the Senator from Wisconsin [Mr. FEINGOLD], the Senator from California [Mrs. FEINSTEIN], the Senator from Iowa [Mr. HARKIN], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Massachusetts [Mr. KERRY], the Senator from Nebraska [Mr. KERREY], the Senator from Indiana [Mr. LUGAR], the Senator from New York [Mr. MOYNIHAN], the Senator from Rhode Island [Mr. REED], and the Senator from Minnesota [Mr. WELLSTONE] were added as

cosponsors of S. 1391, a bill to authorize the President to permit the sale and export of food, medicines, and medical equipment to Cuba.

S. 1396

At the request of Mr. JOHNSON, the name of the Senator from Nevada [Mr. REID] was added as a cosponsor of S. 1396, a bill to amend the Child Nutrition Act of 1966 to expand the School Breakfast Program in elementary schools.

S. 1406

At the request of Mr. SMITH, the names of the Senator from Oregon [Mr. WYDEN], the Senator from North Dakota [Mr. DORGAN], and the Senator from Nebraska [Mr. HAGEL] were added as cosponsors of S. 1406, a bill to amend section 2301 of title 38, United States Code, to provide for the furnishing of burial flags on behalf of certain deceased members and former members of the Selected Reserve.

S. 1422

At the request of Mr. MCCAIN, the name of the Senator from Maine [Ms. SNOWE] was added as a cosponsor of S. 1422, a bill to amend the Communications Act of 1934 to promote competition in the market for delivery of multichannel video programming and for other purposes.

S. 1461

At the request of Mr. LAUTENBERG, the name of the Senator from Oregon [Mr. SMITH] was added as a cosponsor of S. 1461, a bill to establish a youth mentoring program.

S. 1563

At the request of Mr. SMITH, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 1563, A bill to amend the Immigration and Nationality Act to establish a 24-month pilot program permitting certain aliens to be admitted into the United States to provide temporary or seasonal agricultural services pursuant to a labor condition attestation.

S. 1577

At the request of Mr. CHAFEE, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 1577, A bill to amend the Internal Revenue Code of 1986 to provide additional tax relief to families to increase the affordability of child care, and for other purposes.

S. 1578

At the request of Mr. COATS, the name of the Senator from Michigan (Mr. ABRAHAM) was added as a cosponsor of S. 1578, A bill to make available on the Internet, for purposes of access and retrieval by the public, certain information available through the Congressional Research Service web site.

S. 1580

At the request of Mr. SHELBY, the name of the Senator from West Virginia (Mr. BYRD) was added as a cosponsor of S. 1580, A bill to amend the Balanced Budget Act of 1997 to place an 18-month moratorium on the prohibition of payment under the medicare program for home health services consisting of venipuncture solely for the purpose of obtaining a blood sample, and to require the Secretary of Health and Human Services to study potential fraud and abuse under such program with respect to such services.

S. 1593

At the request of Mr. BREAUX, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 1593, A bill to amend the Controlled Substances Act and the Controlled Substances Import and Export Act with respect to penalties for powder cocaine and crack cocaine offenses.

S. 1599

At the request of Mr. HELMS, his name was added as a cosponsor of S. 1599, A bill to amend title 18, United States Code, to prohibit the use of somatic cell nuclear transfer technology for purposes of human cloning.

At the request of Mr. BOND, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 1599, supra.

S. 1601

At the request of Mr. HELMS, his name was added as a cosponsor of S. 1601, A bill to amend title 18, United States Code, to prohibit the use of somatic cell nuclear transfer technology for purposes of human cloning.

At the request of Mr. BOND, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 1601, supra.

S. 1602

At the request of Mrs. FEINSTEIN, the name of the Senator from Illinois (Ms. MOSELEY-BRAUN) was added as a cosponsor of S. 1602, A bill to amend the Public Health Service Act to prohibit any attempt to clone a human being using somatic cell nuclear transfer and to prohibit the use of Federal funds for such purposes, to provide for further review of the ethical and scientific issues associated with the use of somatic cell nuclear transfer in human beings, and for other purposes.

S. 1604

At the request of Mr. D'AMATO, the names of the Senator from Mississippi (Mr. COCHRAN), the Senator from Vermont (Mr. JEFFORDS), and the Senator from South Carolina (Mr. HOLLINGS) were added as cosponsors of S. 1604, A bill to amend title XVIII of the Social Security Act to repeal the restriction on payment for certain hospital discharges to post-acute care imposed by section 4407 of the Balanced Budget Act of 1997.

S. 1605

At the request of Mr. CAMPBELL, the names of the Senator from Rhode Island (Mr. REED) and the Senator from Wisconsin (Mr. KOHL) were added as cosponsors of S. 1605, A bill to establish a matching grant program to help States, units of local government, and Indian tribes to purchase armor vests for use by law enforcement officers.

S. 1611

At the request of Mrs. FEINSTEIN, the name of the Senator from Illinois (Ms. MOSELEY-BRAUN) was added as a cosponsor of S. 1611, A bill to amend the Public Health Service Act to prohibit any attempt to clone a human being using somatic cell nuclear transfer and to prohibit the use of Federal funds for such purposes, to provide for further review of the ethical and scientific issues associated with the use of somatic cell nuclear transfer in human beings, and for other purposes.

S. 1618

At the request of Mr. MCCAIN, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 1618, A bill to amend the Communications Act of 1934 to improve the protection of consumers against ''slamming'' by telecommunications carriers, and for other purposes.

S. 1619

At the request of Mr. MCCAIN, the names of the Senator from Alaska (Mr. STEVENS), the Senator from Hawaii (Mr. INOUYE), the Senator from Texas (Mrs. HUTCHISON), and the Senator from Wisconsin (Mr. KOHL) were added as cosponsors of S. 1619, A bill to direct the Federal Communications Commission to study systems for filtering or blocking matter on the Internet, to require the installation of such a system on computers in schools and libraries with Internet access, and for other purposes.

SENATE JOINT RESOLUTION 30

At the request of Mr. WARNER, the name of the Senator from Alabama (Mr. SHELBY) was added as a cosponsor of Senate Joint Resolution 30, A joint resolution designating March 1, 1998 as ''United States Navy Asiatic Fleet Memorial Day,'' and for other purposes.

At the request of Mrs. MURRAY, her name was added as a cosponsor of Senate Joint Resolution 30, supra.

SENATE CONCURRENT RESOLUTION 30

At the request of Mr. HELMS, the name of the Senator from Oklahoma (Mr. NICKLES) was added as a cosponsor of Senate Concurrent Resolution 30, A concurrent resolution expressing the sense of the Congress that the Republic of China should be admitted to multilateral economic institutions, including the International Monetary Fund and the International Bank for Reconstruction and Development.

SENATE RESOLUTION 171

At the request of Mr. SPECTER, the name of the Senator from Nevada (Mr. BRYAN) was added as a cosponsor of Senate Resolution 171, A resolution designating March 25, 1998, as ''Greek Independence Day: A National Day of Celebration of Greek and American Democracy.''

AMENDMENT NO. 1397

At the request of Mr. THURMOND his name was withdrawn as a cosponsor of Amendment No. 1397 intended to be proposed to S. 1173, A bill to authorize funds for construction of highways, for highway safety programs, and for mass

transit programs, and for other purposes.

SENATE CONCURRENT RESOLUTION 74—RELATIVE TO THE EUROPEAN UNION

Mr. GRASSLEY (for himself, Mr. BOND, Mr. BROWNBACK, and Mr. ROBERTS) submitted the following concurrent resolution; which was referred to the Committee on Finance:

S. CON. RES. 74

Whereas the European Union has banned imports of United States beef treated with hormones since 1989;

Whereas 9 out of 10 United States cattle are treated with growth promoting hormones;

Whereas growth promoting hormones have been deemed safe by all countries that have reviewed the use of such hormones, including reviews by European Union scientists in 2 separate studies;

Whereas since the implementation of the European Union ban, United States cattle producers have lost hundreds of millions of dollars in exports;

Whereas the United States beef industry loses approximately $250,000,000 in annual sales due to the ban;

Whereas the United States beef industry, the United States Department of Agriculture, and the United States Trade Representative have invested substantial resources to comply with strict dispute settlement procedures of the World Trade Organization;

Whereas the Dispute Settlement panel and the Appellate Body of the World Trade Organization have ruled that the European Union's ban of United States beef is not based on sound science or supported by a risk assessment and is therefore in violation of the World Trade Organization's Agreement on the Application of Sanitary and Phytosanitary Measures; and

Whereas noncompliance by the European Union regarding the ban on United States beef threatens the integrity of both the Agreement on the Application of Sanitary and Phytosanitary Measures and the World Trade Organization as a dispute settlement body: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that—

(1) the United States expects the European Union to immediately and completely comply with the World Trade Organization's ruling and grant United States beef producers access to the European market; and

(2) the United States Trade Representative should take immediate action to open European markets to United States beef producers in the event the European Union fails to comply with the World Trade Organization's ruling.

Mr. GRASSLEY. Mr. President, I rise today to submit a concurrent resolution to open the European market to U.S. beef exports. Last month, the Appellate Body of the World Trade Organization affirmed the earlier findings of the WTO that Europe's ban on U.S. beef violates commitments made under the Uruguay Round Agreement. The decision should clear the way for U.S. beef producers to sell their product to Europe.

This concurrent resolution requests the European Union to open its market immediately, in light of the WTO's decision, and directs the U.S. Trade Representative to take action if the EU fails to do so.

This dispute goes back to 1989 when the EU banned all imports of meat from animals treated with growth hormones. About 90% of U.S. cattle is treated with hormones. They have been found to be safe by every country that has studied them. In fact, twice the EU commissioned its own scientists to study the hormones and found them to be safe.

Mr. President, to put these growth hormones in perspective: A person would have to eat 169 pounds of beef from an animal treated with a growth hormone in order to consume the equal amount of that hormone present in one, single egg. They are completely safe for human consumption.

Yet, nine years ago, the EU decided to ban this meat from coming into its market. At that time, there was little we could do to counter the ban. We negotiated with the EU and even imposed sanctions, but nothing has worked.

Then came the Uruguay Round Agreement. For the first time, members of the GATT agreed to eliminate trade barriers not founded on a sound, scientific basis. In other words, trade decisions would be made on sound science, not political science. Clearly, the beef ban was not based on sound science.

In 1996, the U.S. requested a WTO panel to determine whether the EU had breached the Sanitary and Phytosanitary Agreement of the Uruguay Round. In August of last year, the panel found in favor of the U.S. position and the decision was affirmed in January. So the WTO has decided that the European's ban on U.S. beef violates the S/PS Agreement and must be removed immediately.

Mr. President, you would think that would be the final word on this issue. But the trade press is reporting that the Europeans are looking for ways around the decision. They want to study the issue a little longer. Even though the ban has already been in place for nine years.

It seems to me that they have had enough time. Our farmers have suffered the effects of this ban for too long. When the ban was put in place in 1989, we were sending $100 million of beef annually to Europe. If the ban was lifted, it is estimated that beef exports would total about $250 million per year. American beef producers literally have lost hundreds of millions of dollars due to this unjustified ban.

This concurrent resolution says to the Europeans, open your markets. You would had your day in court, now it is time to abide by the judge's decision.

If the WTO is to have long-standing legitimacy as an objective arbiter of international trade disputes, its decisions must be respected and complied with. We expect the Europeans to respect this decision, just as the United States has complied with the decision in the Kodak-Fuji case that went against us. We do not have to like the decision. But we have to respect the dispute resolution process.

The concurrent resolution also states if the Europeans do not immediately comply with the decision and open its markets, the U.S. Trade Representative should take action. I leave it up to the able USTR to decide what action is appropriate. But we cannot stand by and allow this decision to be ignored.

Mr. President, enough is enough. The private sector and several government agencies have spent significant time and money attempting to resolve this dispute. And they have been proven to be correct. The European beef ban is simply a trade barrier, disguised as a health concern. No scientific evidence exists to justify it. And the WTO has said so. Now is the time for the EU to end the ban and allow American farmers and ranchers a fair chance to compete in the European market.

SENATE CONCURRENT RESOLUTION 75—HONORING THE SESQUICENTENNIAL OF WISCONSIN STATEHOOD

Mr. FEINGOLD (for himself and Mr. KOHL) submitted the following concurrent resolution; which was referred to the Committee on the Judiciary.

S. CON. RES. 75

Whereas the land that comprises the State of Wisconsin has been home to numerous Native American tribes for many years;

Whereas Jean Nicolet, who was the first known European to land in what was to become Wisconsin, arrived on the shores of Green Bay in 1634;

Whereas Father Jacques Marquette and Louis Joliet discovered the Mississippi River, one of the principal waterways of North America, at Prairie du Chien on June 17, 1673;

Whereas Charles de Langlade founded at Green Bay the first permanent European settlement in Wisconsin in 1764;

Whereas, before becoming a State, Wisconsin existed under 3 flags, becoming part of the British colonial territory under the Treaty of Paris in 1763, part of the Province of Quebec under the Quebec Act of 1774, and a territory of the United States under the Second Treaty of Paris in 1783;

Whereas on July 3, 1836, the Wisconsin Territory was created from part of the Northwest Territory with Henry Dodge as its first governor and Belmont as its first capital;

Whereas the city of Madison was chosen as the Wisconsin Territory's permanent capital in the fall of 1836 and construction on the Capitol Building began in 1837;

Whereas, pursuant to legislation signed by President James K. Polk, Wisconsin joined the United States as the 30th state on May 29, 1848;

Whereas members of Native American tribes have greatly contributed to the unique culture and identity of Wisconsin by lending words from their languages to the names of many places in the State and by sharing their customs and beliefs with others who chose to make Wisconsin their home;

Whereas the Wisconsin State Motto of ''Forward'' was adopted in 1851;

Whereas Chester Hazen built Wisconsin's first cheese factory in the town of Ladoga in

1864, laying the groundwork for one of the State's biggest industries;

Whereas Wisconsin established itself as a leader in recognizing the contributions of African Americans by being the only State in the union to openly defy the Fugitive Slave Law;

Whereas the first recognized Flag Day celebration in the United States took place at Stony Hill School in Waubeka, Wisconsin, on June 14, 1885;

Whereas Wisconsin has sent 859,489 of its sons and daughters to serve the United States in the Civil War, the Spanish-American War, World War I, World War II, Korea, Vietnam, the Persian Gulf, and Somalia;

Whereas 26,653 Wisconsinites have lost their lives serving in the Armed Forces of the United States;

Whereas Wisconsin allowed African Americans the right to vote as early as 1866 and adopted a public accommodation law as early as 1895;

Whereas on June 20, 1920, Wisconsin became the first State to adopt the 19th Amendment, granting women the right to vote;

Whereas in 1921 Wisconsin adopted a law establishing equal rights for women;

Whereas Wisconsin celebrated the centennial of its statehood on May 29, 1948;

Whereas many Wisconsinites have served the people of Wisconsin and the people of the United States and have contributed to the common good in a variety of capacities, from inventor to architect, from furniture maker to Cabinet member, from brewer to Nobel Prize winner;

Whereas the State of Wisconsin enjoys a diverse cultural, racial, and ethnic heritage that mirrors that of the United States;

Whereas May 29, 1998, marks the 150th anniversary of Wisconsin statehood; and

Whereas a stamp commemorating Wisconsin's sesquicentennial will be issued by the United States Postal Service on May 29, 1998: Now therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) honors the proud history of Wisconsin statehood; and

(2) encourages all Wisconsinites to reflect on the State's distinguished past and look forward to the State's promising future.

SEC. 2. TRANSMITTAL OF CONCURRENT RESOLUTION.

Congress directs the Secretary of the Senate to transmit an enrolled copy of this concurrent resolution to each member of the Wisconsin Congressional Delegation, the Governor of Wisconsin, the National Archives, the State Historical Society of Wisconsin, and the members of the Wisconsin Sesquicentennial Commission.

NOTICES OF HEARINGS

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Ms. COLLINS. Mr. President, I would like to announce for the information of the Senate and the public that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, will hold a field hearing over the President's Day Holiday in Portland, Maine on Unauthorized Long Distance Switching (''Slamming'').

This hearing will take place on Wednesday, February 18th, 1998, at 9:30 a.m., at the Portland City Hall Council Chambers, 389 Congress Street, Portland, Maine. For further information, please contact Timothy J. Shea of the Subcommittee staff at 202/224–3721.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. WARNER. Mr. President, I wish to announce that the Committee on Rules and Administration will meet in SR–301, Russell Senate Office Building, on Wednesday, February 25, 1998 at 9:30 a.m. to conduct an oversight hearing on the strategic plan implementation including budget requests for the operations of the Office of the Secretary of the Senate, the Sergeant at Arms, and the Architect of the Capitol.

For further information concerning this hearing, please contact Ed Edens of the Rules Committee staff at 224–6678.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. WARNER. Mr. President, I wish to announce that the Committee on Rules and Administration will meet in SR–301, Russell Senate Office Building, on Thursday, February 26, 1998 at 9:30 a.m. to receive testimony from Senator McCain on S. 1578, to make certain information available through the CRS web site; and to conduct an oversight hearing on the budget requests and operations of the Government Printing Office, the National Gallery of Art, and the Congressional Research Service.

For further information concerning this hearing, please contact Ed Edens of the Rules Committee staff at 224–6678.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. HUTCHINSON. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Wednesday, February 11, for purposes of conducting a Full Committee business meeting which is scheduled to begin at 9:30 a.m. The purpose of this business meeting is to consider pending calendar business.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. HUTCHINSON. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Wednesday, February 11, for purposes of conducting a full committee hearing which is scheduled to begin at 9:30 a.m. The purpose of this hearing is to receive testimony on S. 1069, a bill to designate the American Discovery Trail as a national trail, a newly established national trail category, and S. 1403, a bill to establish a historic lighthouse preservation program, within the National Park Service.

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

COMMITTEE ON FINANCE

Mr. HUTCHINSON. Mr. President, the Finance Committee requests unanimous consent to conduct a hearing on Wednesday, February 11, 1998 beginning at 10:00 a.m. in room 215 Dirksen.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. HUTCHINSON. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, February 11, 1998 at 10:00 a.m. to hold a hearing.

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

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. HUTCHINSON. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources Subcommittee on Public Health and Safety be authorized to meet for a hearing on Agency for Health Care Policy and Research during the session of the Senate on Wednesday, February 11, 1998, at 9:30 a.m.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. HUTCHINSON. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, February 11, 1998 at 10:00 a.m. to hold an open hearing and at 2:30 p.m. to hold a closed markup.

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

SUBCOMMITTEE ON FINANCIAL INSTITUTIONS AND REGULATORY RELIEF

Mr. HUTCHINSON. Mr. President, I ask unanimous consent that the Subcommittee on Financial Institutions and Regulatory Relief of the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Wednesday, February 11, 1998, to conduct a hearing on bankruptcy reform.

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

ADDITIONAL STATEMENTS

HERO OF THE HOLOCAUST

• Mr. LIEBERMAN. Mr. President, I rise to pay tribute to Mr. Hiram Bingham IV, a Connecticut native, who risked his life and sacrificed his career to rescue thousands of Jews from the Nazis while serving as a U.S. diplomat in Vichy France. Mr. Bingham performed these services despite the opposition of his superiors in France and in Washington, displaying a courage of conviction which demands both our recognition and greatest respect.

Hiram Bingham IV died in 1987 and it was only last year that his son, William S. Bingham, discovered the records which brought his father's exploits to light. Survivors whom Hiram Bingham helped rescue have now petitioned Yad Vashem, Israel's Holocaust Memorial, that he be honored as a ''righteous gentile'' for having put his life and career on the line to save Jewish refugees.

Hiram Bingham IV never sought glory for himself but as a man who put service to others before all other considerations he has earned our appreciation as a true American hero. In doing so he has extended the remarkable public service and honorable reputation of the Bingham family, one of Connecticut's great families.

Mr. President, I ask that an article by William Bingham in the New London Day be printed in the RECORD.

The article follows:

[From the New London Day, Oct. 5, 1997]

A MAN FROM SALEM EMERGES AS A HERO OF THE HOLOCAUST: HIRAM BINGHAM IV

(By William S. Bingham)

When we lose a loved one, we struggle desperately to recollect bits and pieces of a life lived and finished. We hang tightly onto the slightest memories that have meaning for us. Gradually, the memories fade and the vividness of those who were once alive grows dim. But parchment and celluloid, letters and photographs allow us to recapture our loved ones' lives. These images and words left behind in journals, books and correspondence allow us to revisit the life and times of our loved ones and the history they embrace.

Such was the journey I started when I began investigating my father's secret history as a covert operative in a mission to rescue Jews, artists and other political figures from the Nazis during World War II.

I cannot say I know everything about my father. Most of him is still a mystery to me. But almost 10 years after the death of my father, Hiram Bingham IV, I discovered a cache of diaries and documents tightly bound in manila folders by hay bale rope and masking tape, buried deep in the dust and cobwebs of an ancient linen closet tucked by colonial design into the wall behind the fireplace in my family's 230-year-old pre-Revolutionary homestead in Salem. In these bound folders and files marked simply ''H.B.—Personal Notes—Marseilles—1940,'' which had lain untouched for more than a half-century, I discovered chilling evidence of my father's secret role in thwarting the spread of Nazism and in rescuing thousands of Jews from the Nazis.

After my father died in 1987, I discovered he was a silent hero of the Holocaust. As with almost all intelligence operatives, he maintained secrecy about most of his actions from everyone except those who had a need to know up to the time of his death. He kept his silence because he himself became a victim of pro-Nazi elements and Nazi sympathizers in the U.S. government and, in his role as a rescuer, he took actions which were condemned by his superiors and contravened U.S. laws and policy. My father's story contained in these hidden papers sheds a small ray of light on one of the darkest periods in human history.

Among his papers were secret memos, photographs and reports on the concentration camps, maps and notes on escape routes and meetings of the anti-Nazi conspirators. There were reports on Nazi propaganda, hidden Nazi gold and war criminals and the ''Fifth Column'' (Nazi civilian infiltrators worldwide). There were accounts and descriptions of Nazi agents and suspected agents within and without the U.S. consulate in Marseilles and embassies in Europe and Latin America and their methodology for world conquest. There were letters from Marc Chagall and Thomas Mann, which the top opponents of Adolf Hitler had written to my father pertaining to the rescues, the rescue operations and my father's participation. There were copies of passport photos and ''official'' documents and papers used by the escapees to gain freedom from the concentration camps and to escape the Holocaust.

As a vice consul in the U.S. Consulate in Marseilles, France, when the Nazis invaded and took Paris in the summer of 1940, my dad became a government expert on Nazis and Fascists, and a key agent in the secret rescue operation of thousands of Jewish and other political refugees from war-torn Europe. The whole rescue operation, encouraged and supported by Eleanor Roosevelt, was kept in large part secret even from his State Department superiors, because many of them at first supported Hitler. Some in the U.S. government believed Hitler would win the war and felt that the U.S. should maintain favorable political, social and economic relations with the Nazis.

In the face of strident and vocal opposition from his own bosses in France and Washington, my father helped establish a clandestine operation of international operatives smuggling Hitler's ''most wanted'' enemies—predominantly Jewish intellectuals, political activists and artists who opposed Nazism—through an underground railroad system across Europe to gain safe passage through Africa, the Caribbean and Latin America to the United States and other safe harbors. Some of my father's collaborators formed Maquis, guerrilla-resistance cadres, to fight the Nazis in the countryside.

But my father's role in the operation had to remain secret from his superiors, his family and all but his closest friends, because he followed a moral imperative to aid Jews and other political refugees in violation of official U.S. policy, regulations and laws. My father's superiors in the State Department and other branches of government who favored accommodation and cooperation with Hitler had forbidden official and unofficial support for the operation.

It was only because of Eleanor Roosevelt's quiet support, pressuring Franklin D. Roosevelt to permit the operation, and my father's Washington contacts through his own father (former Connecticut Gov. and U.S. Sen. Hiram Bingham III), that my father himself was not arrested and prosecuted for violating ''official'' U.S. law and policy. But my father suffered retaliatory treatment at the hands of his superiors and feared government prosecution if the extent of his role in the planning and execution of rescue missions was known.

Why were the Nazis chasing Chagall? In the pictures and letters it became clear that my father was instrumental in saving Chagall, but why did he need to? Why did the Nazis want to exterminate the surrealist artists like Max Ernst, Marcel Duchamp and Andre Masson, or the surrealist poet Andre Breton, or the novelists?

Because surrealism was a threat to Nazism—it was nonconformist and often contained political messages that were the antithesis of Nazism, totalitarianism and nationalism.

My father was an artist and philosopher till the end of his life. He would sit on an old beat-up chair by the bathtub, where he would place his large-framed canvases flat on the porcelain rim of the tub and paint his surreal visions while listening to Beethoven and Brahms. He liked the subdued light from the west through a small window there, and he could rotate his paintings to adapt to the swirls of his ''music on canvas,'' as he called it. You could turn the panting upside down or sideways, he told me, any way, and new visions would be revealed.

My father had painted portraits of some of the rescued, and he had painted copies of several of Chagall's paintings because he admired Chagall and had become his friend during the crisis. My father's journal entries revealed that Chagall had gracefully admired my father's rather traditional portraits and landscapes during meetings at my father's villa in Marseilles while they were planning his escape, and Chagall told him always to paint large canvases and never conform to what others wanted him to paint.

I remembered the tale of Lion Feuchtwanger, who was smuggled out of a concentration camp at Nimes dressed up as woman at the direction of my father and hidden at my father's villa for two months, passed off as his mother-in-law from Waycross, Ga., to fool the neighbors and the Gestapo and spies at the U.S. Consulate. Feuchtwanger, I learned, was Hitler's Public Enemy Number One, because of his historical novel, ''The Oppermans,'' which exposed Hitler and the evils of Nazism in 1933.

Hitler stripped Feuchtwanger of his German citizenship, and the Nazis issued a death warrant for him before he fled to France, where the pro-Nazi Vichy government held him until he was rescued. When it was leaked to members of the U.S. Consulate that my father was hiding Feuchtwanger and his wife at my father's villa, my father soon realized that his own life was in danger—so he put a pseudonym ''Lion Wetcheek'' on Feuchtwanger's passport and arranged that the Feuchtwangers be smuggled on a footpath over the Pyrenees Mountains into Spain and on to Lisbon, Portugal, where they caught a steamship to New York City. The code words for them in this operation were ''Harry's friends.''

I vaguely remembered the names of Rudolf Breitscheid and Rudolf Hilferding, whom my parents would discuss in hushed and saddened voices. Although their names rang a bell in my recollections from youth, I never knew who they were or what happened to them. The two Rudolfs were Hitler's greatest political enemies in the Reichstag. Old political activists in Germany, they too were stripped of German citizenship by Hitler and fled to France.

MET IN BROTHELS

Some of the rescue team would meet in Marseilles brothels with their prospective escapees, because it was one of the few places where discretion and hushed conversation in English and other foreign languages could take place without arousing the suspicion of the proprietors. On occasion, some of the women in the team (Americans among them) would entice pro-Nazi guards and policemen in order to distract them, or get them drunk so that rescue operations could proceed with little or no interruption. Other meetings took place in jazz clubs, until the Nazis forbade jazz, or at my father's villa in the evening after his work in the visa section of the consulate was finished for the day.

Until I discovered these papers, only a few individuals knew my father's role: those who worked closely with him and a handful of those he helped rescue. Some, like the artists Marc Chagall, Max Ernst and Andre Masson—and writers Victor Serge, Lion Feuchtwanger and Franz Werfel and the family of Thomas Mann—were close to my father during their own escapes. But because my father had to keep his actions secret from his own government superiors and fellow employees, some of whom were supporters of and informants for the Nazis, he could not reveal his role in planning and executing the escapes of the refugees to any but a select few of the escapees who were staunch anti-Nazi activits and conspirators in the underground network.

At any moment, Nazi agents posing as refugees or enemies of Hitler and Mussolini might infiltrate and blow the whole operation.

Indeed, when the true nature of my father's role became more fully known by his superiors in the U.S. State Department, he was removed from his position in the visa section. Given meaningless bureaucratic paperwork, he was passed over time and again for promotions, and he was ultimately dispatched to Buenos Aires, Argentina, with my mother and their five children. Despite the threat from Nazi sympathizers and agents acting with the U.S. State Department, my father continued to investigate and report on the Nazi menace in Latin America and in the U.S. Embassy in Buenos Aires.

In an ultimatum to the State Department in 1945, he vowed to resign from the diplomatic corps if there were no efforts to put a stop to the spread of Nazism and fascism in Latin America. For this ultimatum, he was again passed over for promotion and his pleas for investigations of Nazi gold and war criminals being smuggled into Chile and Argentina on German U-boats (submarines) were ignored.

He then made good on his vow, resigned from his post, and returned to the family homestead in Salem to farm, paint, pursue various business ventures and study Buddhism and Eastern philosophy, which he embraced as a believer in mystical Christianity.

Only now, after 50 years of obscurity, is my father's story coming to light worldwide. After discovering the cache of documents, I began an effort to investigate all of his correspondence and official files, including those in the U.S. archives, which are now declassified, and to find those he rescued who may never have known his role in their escapes. All of these incredible stories of spies, refugees, counterspies, American heroes, surrealist artists and writers fighting and fleeing the conflagration which engulfed Europe, I am assembling into a personal and historical account of the events for publication based on my father's papers and supporting documents.

Prompted by contacts from a man whom he rescued and from the U.S. Holocaust Museum in Washington, D.C., which knew of his involvement in the effort, the key documents and photographs I discovered in that ancient linen closet behind the fireplace have been duplicated and are being preserved by the museum. More than 50 documents and photographs from my father's files were exhibited, along with several of my father's surrealist paintings and landscapes, at the Simon Weisenthal Center—House of Tolerance Museum, in Los Angeles, during July and August this past summer.

PETITION SEEKS MEDAL

A petition prepared by survivors my father helped rescue asks that Hiram Bingham IV be honored with a medal from the State of Israel and a tree planted in his honor at Yad Vashem, the Holocaust Memorial in Israel.

If he is awarded the Yad Vashem medal as one of the rescuers, he will be only the second U.S. Citizen and the only U.S. diplomat ever so honored for putting his life and career on the line to rescue Jewish refugees.

Perhaps most important, the documents related to Nazi gold and war criminals being spirited away to Latin America on submarines with the knowledge of the U.S. State Department now are being investigated by the Simon Weisenthal Center.●

BLACK HISTORY MONTH

● Mr. SMITH of Oregon. Mr. President, in recognition of Black History Month I come to the floor to honor a little-known member of the Lewis and Clark expedition that explored the Oregon territory. Expedition historians tell us that an African-American by the name of York accompanied Lewis, Clark and the Shoshoni woman, Sacagawea on the long journey ending in the area of what is now Fort Clatsop, OR.

Throughout the Lewis and Clark expedition, York served as a valuable translator, helped to strengthen Native-American relations, and guided several successful trading ventures. It has been said that on numerous occasions, York risked his life so that the expedition could continue. York's contributions were numerous, and according to the Lewis and Clark Heritage Foundation, when the party reached the Columbia River, a decision had to be made whether to head to the north shore of the Columbia—Washington State—or cross the river to the south side—Oregon—where Indians had said that game could be found. An actual vote of the members was recorded, representing the first American democratically held election west of the Rockies that included the vote of a woman, Sacagawea, and a black man, York.

Today, a mural in the southwest corner of the Rotunda of Oregon State Capital in Salem depicts the expedition that Merriwether Lewis and William Clark, Sacagawea and York made through the Louisiana and Oregon Territories. I want to join all Oregonians today in celebrating Black History Month and celebrate the contributions that African-Americans have made to American history.●

RECOGNITION OF DR. ROBERT REID, INCOMING PRESIDENT OF THE CALIFORNIA MEDICAL ASSOCIATION

● Mrs. FEINSTEIN. Mr. President, I would like to recognize Dr. Robert Reid, who on February 16, 1998, will become the 133rd President of the California Medical Association, the largest medical association in the nation. With a membership of 35,000 physicians, California Medical Association represents California physician from all regions, medical specialities and modes of practice—from solo practitioners, to academic physicians, to physicians working in large group practices. Reflecting the diversity that is California, the association's members advocate for quality of care and access to health care for all of the state's residents.

Dr. Reid is a practicing Obstetrician-Gynecologist and Director of Medical Affairs for the Cottage Health System in Santa Barbara, California. Prior to becoming the hospital's Medical Director, Dr. Reid served as the hospital's Chief of Staff and has been a member of its Board of Directors since 1991.

Dr. Reid is also a fellow of the American College of Obstetrics-Gynecology and Past President of the Tri-Counties Obstetrics-Gynecology Society.

He became active in organized medicine in 1972 when he joined the California Medical Association. Ten years later he was elected President of the Santa Barbara County Medical Society and has since gone on to serve the House of Medicine as alternate delegate to the AMA, Vice-Speaker of the CMA Committee on Scientific Assemblies, and chair of the CMA Finance, Membership Development and Communications committees.

Born in Milan, Italy, Dr. Reid is a graduate of the University of Colorado Medical Center. He lives in Santa Barbara, CA, with his wife Patricia, and is the father of four grown children. I am sure Dr. Robert Alfred Reid will continue to make many important contributions to medicine and to the nation's health policy debate.

BLACK HISTORY MONTH

● Mr. SARBANES. Mr. President, since 1926, we have designated February as the month during which we honor the contributions of African-Americans to our history, our culture, and our future.

Of course, no month should pass without our giving attention to the historical legacy of America's African-Americans. However, this month is the time when we devote special attention to this legacy, which, in the face of seemingly insurmountable odds, has survived and enriched American life in countless ways.

As it does each year, the Association for the Study of Afro-American Life and History (ASALH) has selected a theme for this month's celebration. This year's theme is ''African Americans and Business: The Path Toward Empowerment.''

Mr. President, maybe more than any other theme, the question of African-Americans and business demands our attention and interest. The degree to which African-Americans participate in and benefit from America's commercial and business life may be the single best indicator of whether they have obtained the equality of opportunity and freedom for which they have long strived and to which they are entitled under our Constitution. We move toward full equality when uniquely gifted individuals—athletes, artists, entertainers, etc.—capture the public's imagination and because of their unique gifts transcend the limits placed on their race. We move even closer to this goal when each and every African-American has the opportunity to get a loan, lease or purchase property, open a business, develop a product, hire other African-Americans, and contribute to the betterment of his community. The ability of African-Americans to have these most basic avenues of opportunity and advancement open to them may give us the best sense of just how far we have progressed on the road to equality.

Thus, any study of the history of African-Americans and business should highlight not only the many brilliant inventors and entrepreneurs who have made unique or major contributions to American history. It should also take note of the many average, hard-working people who have fulfilled, against

great odds, the American dream of owning and operating their own businesses. Let me devote a few minutes to both these sets of heroes.

On one hand African-Americans, and Americans in general, can boast of such great minds as Jan Matzeliger (1852–1889), Joseph Lee (1849–1905), Elijah McCoy (1843–1929), and Andrew Beard (1850–1910)—19th century inventors who helped revolutionize American industry at a crucial period in its development. They can boast of groundbreaking success stories such as Madame C.J. Walker (1867–1919), America's first black millionaire businesswoman, whose hair products company employed 3,000 people, and Maggie Lena Walker (1867–1934), America's first female bank president. Mr. President, this list is merely a sample of the many African-Americans who have made unique contributions to American commerce, and who have helped lead us to the heights we occupy today as the strongest economic force in the world.

On the other hand, let us also take note of the more modest success stories of the many African-Americans who at this same time owned and ran businesses, surviving not only economic hardship but a social system that left them short of funding, public support, and legal protection. Here I speak of the members—now long forgotten—of the Colored Merchants Association of New York City, formed during the Great Depression to sustain the city's African-American businesses against the shocks of that economic disaster. I speak here also of the numerous African-American newspapers established in the late 19th century, the first of which, Baltimore's Afro-American, is still published to this day.

Mr. President, I submit that only when such stories of struggle and achievement are commonplace, and demand no particular attention, can we truly claim credit for eradicating completely the scourge of racial bias from our society.

I think we are moving in the right direction. Between 1987 and 1992, when the last set of complete figures were available from the Census Bureau, the number of American businesses owned by African-Americans increased by 46%. In my own State of Maryland, the numbers are even more impressive. In Maryland during the 1987–1992 period, the number of African-American businesses grew by 14,080 to 35,578, a 65% increase. These figures, I am proud to say, make Maryland the State with the most African-American-owned businesses in the Nation. Moreover, two of Maryland's counties are among the top ten in the nation in terms of the number of African-American businesses based there. Clearly, more and more African-Americans are taking the path to empowerment that Americans of all colors and creeds should view as their birthright.

Thus, during Black History Month, let us celebrate not only firms like Prince George's County's Pulsar Data Systems, a computer systems integration company that made $165 million in 1995, and was ranked by Black Enterprise Magazine as the fifth most profitable black-owned company in America that year. Let us also celebrate smaller enterprises like Grassroots II, an African-American bookstore in Salisbury, MD, which specializes in literature celebrating the African-American experience. Both these types of businesses—the smaller no less than the bigger—show us how far we have come as a nation and how far we still need to go.

In closing, Mr. President, let me pay tribute to a Maryland-based African-American run ''business'' that deserves special mention this month. This business sought to lead African-Americans down a different path of empowerment—not economic empowerment, but intellectual and cultural empowerment. I speak of the black history calendar business run by C. Cabell Carter during the 1970's and 1980's. Mr. Carter, a retired schoolteacher who died in 1987, travelled throughout Baltimore's African-American community selling calendars that featured African-American artwork and highlighted on each day of the year a significant achievement in African-American history. He charged a nominal fee for each calendar, and, by most estimates, sold few calendars per year. I ask that a February 5, 1998 article in the Baltimore Sun about Mr. Carter be printed in the RECORD at the end of my statement.

Mr. Carter did not create jobs, he was not known outside his immediate community, and he would hardly qualify as a prosperous businessman, much less a captain of industry. His achievement, however, was to make his fellow African-Americans aware of their rich history, and to instill in them the pride to be part of that history. It is my sincere hope that some of those with whom Mr. Carter spoke and to whom he sold calendars will be the ones that we in Congress will honor in future editions of Black History Month.

The article follows:

TAKING BLACK HISTORY TO THE STREETS

(By Elmer P. Martin and Joanne M. Martin)

Historian Carter G. Woodson began Negro History Week in 1926 (now Black History Month), but over the years many average citizens helped popularize the February observance.

One such local person was the late C. Cabell Carter, a Baltimore schoolteacher who spent much of his retirement years in the 1970s and '80s peddling black history calendars he created, and serving as a sort of street-corner historian, preaching to everyone from drug dealers to church leaders about the importance of knowing their history.

Mr. Carter charged a nominal fee for the calendars that featured black and white renderings of ancient African royalty and historical African-Americans of note. Virtually every day on the calendars was marked with a significant event in black history.

Mr. Carter probably sold 1,000 calendars a year. Any proceeds were used to finance the production of the next year's calendars and black history postcards. Once, he self-published a thin paperback of profiles of black historical figures.

WIDELY TRAVELED

With his tall, thin figure always immaculately dressed in a starched, white, buttoned-down shirt and tie, and frequently a jacket or suit, Mr. Carter was a well-known figure in Baltimore's black community who traveled all over the area selling his calendar. You were as likely to see him outside Lexington Terrace housing project as you were to find him traversing Morgan State University.

Amazingly, he did all his travels—in good weather and bad—using public transportation. When he was cautioned not to go into dangerous areas, he shrugged off such suggestions. After all, he was on a mission to educate his people, which meant he had to go wherever his people were.

Mr. Carter sought to ''liberate'' black history from academia and take it to the streets. He said it was important for black youth to know that their people had a rich history long before coming to this country. He wanted to fill the gaps left by many history books.

While Mr. Carter spread the word about black history, he didn't spend a lot of time talking about himself, so details of his background are sketchy.

He was born Dec. 5, 1912, and graduated from Hampton Institute (now Hampton University). He taught for years at Carver Vocational School, where he became a leading advocate for instituting black studies and black history in the public schools.

His wife apparently died years ago; his only child, a son, could not be located at the time of Mr. Carter's death, Aug. 8, 1987.

We came to know Mr. Carter when we established the Great Blacks in Wax Museum in 1983. He volunteered his services and became one of our founding board members. He loved taking our wax figures on the road for exhibits to such places as Mondawmin Mall.

Mr. Carter said he developed his love of history while serving in the Army's 92nd Infantry Division during World War II, where he received the Bronze Star for bravery in action.

Faced with extreme racial prejudice and segregation from fellow soldiers and others, Mr. Carter read black history to keep from succumbing to feelings of inferiority and bitterness. The therapeutic results persuaded him that all black people should become acquainted with their history.

Toward that end, he spent considerable time collecting newspaper clippings, visiting libraries and engaging in other activities in an effort to amass historical data for his files, which he would in turn share with others.

AN ECCENTRIC CHARACTER

Although some people regarded him as a bit crazy for approaching hardened youths on street corners, such youths were generally disarmed by Mr. Carter's easy smile, his sincerity, his low tolerance for foolishness and the great confidence he had in their promise and potential.

Mr. Carter often said, ''It is a sad day when the elders are afraid of their own children. I refuse to ever get in that state.''

Mr. Carter also started the Reading Improvement Association, a community-based literacy program. His work did not go unappreciated. At his funeral, some 300 people from all walks of life packed a small cemetery chapel to pay tribute to that wonderfully unusual man.

The West Baltimore resident died penniless at age 74. His landlord, not realizing the importance of Mr. Carter's collection, had it

gathered up and thrown away. So there's little left of Mr. Carter's work except a few calendars and a few copies of his book, ''Black History Makers.''

But, during Black History Month, we recognize such little-known figures as Mr. Carter, as well as the celebrated.

Mr. Carter would have liked that.●

HONORING HOBBS, N.M., HIGH SCHOOL BASKETBALL COACH RALPH TASKER

● Mr. DOMENICI. Mr. President, I rise to pay tribute to a man who has accumulated a remarkable record as the head basketball coach at Hobbs High School in New Mexico. This year he ends more than a half century of teaching and coaching. During these decades of service, he has endeared himself to a community and earned acclaim as one of the most winning high school coaches in the United States.

To understand the significance of Ralph Tasker's impact, it is useful to know more about Hobbs, the community to which he had dedicated his life.

Hobbs is a city born of the hard-scrabble oil and gas industry. Situated on the dusty mesquite-laden plains of southeast New Mexico, it is primarily dependent on farming, ranching, and the petroleum industry. It is a proud community that has touted itself as ''Hobbs, America.''

I believe I can safely say that a lot of the pride in this community has been fostered by its school system and, more specifically, the renowned success of its high school basketball team.

Mr. President, on February 20, Ralph Tasker will coach his last high school basketball game in Hobbs.

On that Friday evening in the Ralph Tasker Arena, the people of Hobbs—a town accustomed to the booms and busts of the oil and gas industry—will honor the man who since 1949 has lead the Hobbs Eagles to consistent basketball glory. Under Ralph Tasker's steady tutelage, it can be said a most constant sound in Hobbs, beyond the hum of oilfield pumps, has been the swish of basketballs ripping through the hoops, the squeak of rubber on hardwood, and decades of cheering fans. It has been through the efforts of Ralph Tasker, the hard knuckled basketball coach, that Hobbs has become known to America.

Understandably, Hobbs honors the end of Coach Tasker's remarkable career with a measure of trepidation.

Mr. President, I believe Ralph Tasker's career as a high school coach has been so outstanding that he deserves the recognition of the Senate.

Born, raised and educated in West Virginia, Ralph Tasker's life has virtually always involved basketball. His teaching and coaching career began in Ohio. During World Was II, he served with the U.S. Army Air Corps stationed at what is now Kirtland Air Force Base in Albuquerque. Tasker played basketball with the Flying Kellys during his service days.

Following the war, he earned a masters degree and returned to New Mexico, this time to Lovington where he taught and coached starting in 1946. It was in 1949 that Ralph Tasker began his illustrious tenure as the head basketball coach at Hobbs High School.

Over the decades, Coach Tasker has compiled the third most winning record of active high school coaches in the United States, with a record of at least 1,116 wins and only 289 losses.

Tasker's Hobbs Eagles have won a dozen state championships—one in Lovington in 1949 and 11 in Hobbs in 1956, 1957, 1958, 1966, 1968, 1969, 1970, 1980, 1981, 1987, and 1988. He is believed to have set a record of sorts by coaching state championship basketball teams in five different decades, from the 1940s to the 1980s. The varsity team has qualified for the state basketball tournaments 36 times, including 24 consecutive tourney appearances between 1961 and 1985.

In 52 seasons as head basketball coach, Ralph Tasker's teams have suffered only two losing seasons. In comparison, he has coached 36 teams to seasons with 20 or more victories. He led two teams through perfect seasons, 1966 (28–0) and 1981 (26–0). His 1970 squad averaged 114.6 points per game during a 27-game season, which is still a national record.

All this success has been rewarded with a trophy case of personal honors. Ralph Tasker has been named National High School Coach by the National High School Coaches Association and by the National Sports News Service. In 1991, he was named the National Athletic Coach of the Year by the prestigious Walt Disney National Teacher Awards Program.

He was a 1988 inductee into the National High School Sports Hall of Fame in Kansas City, Missouri. He has also been inducted into the New Mexico High School Coaches Association Hall of Honor, the Alderson-Broaddus College's Battler Hall of Fame, and the New Mexico State University Aggie Hall of Fame.

Recognition of Coach Tasker's abilities is underscored by the fact that more than 100 Eagle basketball players have gone to college on basketball scholarships, with 50 named to All-State squads, nine selected to prep All-American teams, and 13 drafted by professional basketball leagues.

But I know that the citizens of Hobbs are most proud and appreciative of Ralph Tasker for the hundreds of lives he has helped shape as a coach and mentor. Hundreds upon hundreds of youth people have benefited from the hard work, discipline, and sense of comradery they gained under Coach Tasker's direction. For more than 50 years he has given impressionable young men a sense of direction, a sense of being part of something bigger and greater than they could be by themselves. In teaching such lessons through sweat and toil on the varnished boards of a gymnasium floor, he has made Hobbs a better place to live.

For all his accomplishments, I salute Ralph Tasker, and join those who bring deserved attention to his lifetime of commitment to an honored sport and the youth who play the game.●

RETIREMENT OF RALPH TASKER

● Mr. BINGAMAN. Mr. President, I rise to give praise to a great man. Ralph Tasker has announced that after 52 seasons of coaching, he will retire as the head basketball coach at Hobbs High School in New Mexico. In his 52 seasons, Coach Tasker has amassed over 1,103 wins en route to 12 State championships, 4 State runner-up titles, and 1 National Coach of the Year title. Indeed, Coach Tasker's legacy is that of a man who not only won many basketball games, but also brought his positive influence into the lives of hundreds of high school students.

From 1965 to 1967, Coach Tasker's team won 53 consecutive games. In the 1969–70 season, his team averaged 114.6 points per game, earning him the prestigious National Coach of the Year title. In the 1980's, Coach Tasker continued his winning ways as he led his team to consecutive undefeated seasons from 1980–82, and he was elected to the National High School Sports Hall of Fame.

Mr. President, on the eve of the third-winningest active high school coach's retirement, I would like to take this opportunity to thank Ralph Tasker for his years of dedication to the youth of New Mexico. Certainly, we all have a lot to learn from this man, and his example stands as a marker that we should all strive to attain. Thank you, Coach Tasker, for teaching us the true meaning of winning gracefully.●

NOMINATION OF DR. DAVID SATCHER

● Mr. GRAMS. Mr. President, over the course of the debate on Dr. Satcher's nomination for Assistant Secretary of Health and Surgeon General, Senator ASHCROFT and others have expressed some issues of concern. First, Dr. Satcher's comments regarding abortion. Second, an AZT study in Africa to research alternative treatments for developing nations to the costly and inaccessible AZT regimen.

While I initially had concerns about Dr. Satcher's comments on abortion, I wanted to listen to the debate, examine additional written responses Dr. Satcher provided to the committee on this issue, and make my decision.

During the committee's consideration of Dr. Satcher, he stated that he supports President Clinton in his veto of the ban on partial-birth-abortions. After the hearings, he tried to backtrack.

In his October 28, 1997 written comments to Senator FRIST, Dr. Satcher further explained his position on abortion and I'd like to quote those remarks.

Let me state unequivocally that I have no intention of using the positions of Assistant

Secretary for Health and Surgeon General to promote issues related to abortion. I share no one's political agenda and I want to use the power of these positions to focus on issues that unite Americans—not divide them.

I am not comforted by this clarification of his position.

Mr. President, I believe we as a nation require a Surgeon General who's position on this issue is one of furthering policies which, at a minimum, do not give tacit approval of a procedure that 75 to 80 percent of Americans agree is barbaric and unneeded.

With regard to the AZT trials to prevent the maternal-to-infant transfer of HIV in Africa, I also share some concerns about the protocol set up in this study. Specifically, the use of a placebo control group.

Mr. President, I have always been a strong supporter of medical research. I cannot, however, endorse or condone research done in developing countries in a manner which we would not conduct it here in our own Nation—with our own constituents as the subjects of that research.

Mr. President, I listened to both sides of the arguments and came to a conclusion. I have no reason to believe Dr. David Satcher is not qualified to serve as Assistant Secretary of Health and Surgeon General of the United States. However, I, for the reasons cited earlier, could not in good conscience support his nomination.●

MAKING CRS REPORTS AVAILABLE TO THE PUBLIC

● Mr. ABRAHAM. Mr. President, last week Senator MCCAIN, the Chairman of the Commerce Committee, introduced legislation to make Congressional Research Service Reports, Issue Briefs and Authorization and Appropriations products available over the Internet to the public. I rise today to express my support for this timely legislation.

The Congressional Research Service has a well-deserved reputation for producing objective, high-quality reports and issue briefs. I have relied on these reports in the past and have only the highest regard for the material produced by CRS. This information is not readily available to the general public, however. Congressional offices must officially request information on a constituent's behalf.

Senator MCCAIN's legislation, S. 1578, directs the Director of CRS to make reports, issue briefs and the more comprehensive CRS reports on federal authorizations and appropriations available on the Internet. Most of this information is already available on the CRS website but can only be accessed by Members of Congress and their staff. Obviously, since we use the Internet to make this information more accessible to Congress, we have the ability to make this information available to the general public. It is time we do so.

Increasingly, the public is demonstrating that it is not satisfied with the way Congress does business. Amid the furor over campaign finance reform, accusations abound of Members ''selling'' their votes to private interest groups. I believe that greater access to the documents used by Members of Congress when making decisions will increase public understanding of this institution. Since constituents will be able to see the materials which influence the way a Member votes, a more accurate view of the Congressional decision-making process should emerge.

Passage of this legislation will also permit the Congressional Research Service to serve an important role in informing the public. This nation's citizens will be able to read CRS products and receive a concise, accurate summary of the issues that concern them. The American taxpayer is paying for this information, almost $65 million for this year alone, and has a right to see it.

The technological advances of the last decade are truly astonishing. Every effort should be made to apply this new technology as widely as possible. The advent of the Internet provides an important avenue for the exploration of new applications. This new medium has made possible the low-cost, rapid dissemination of information to an growing audience, and, whereas legislation to make CRS information available to the public was not plausible ten years ago, today we can do it at a very low cost.

Mr. President, removing the barriers to public view of CRS documents is a great idea who's time has come. It will help Congress to better fulfill its duty to inform the public and allow constituents to see first hand the information that serves as the basis for many of the decisions made by its federally elected representatives.●

AN IDAHOAN MINES OLYMPIC GOLD

● Mr. KEMPTHORNE. Mr. President, I rise to congratulate an American athlete who has shown us all that adversity can be turned into inspiration and success.

Picabo Street, a young woman from the tiny mining town of Triumph in my home state of Idaho, has thrilled us all with her gold medal-winning performance in the women's super giant slalom at the Winter Olympics in Nagano, Japan.

Four years ago I stood in this chamber to offer my congratulations to Picabo, who won a silver medal in the Lillehammer Olympics in the downhill. While a lot has happened in this country and the world over those four years, one thing has remained the same: Picabo Street's desire to win an Olympic gold medal.

That dream looked like it might not be fulfilled after a horrible accident 14 months ago during a training run. Picabo blew out her knee, and missed almost the entire 1997 season. But thanks to her determination and tireless rehabilitation, the knee was strong enough to return to action late last year. And then, another setback marred her prospects for Nagano. Just 12 days ago, she was knocked unconscious in a spill during a race in Sweden.

But this remarkable third-generation Idahoan, who learned to ski on the slopes of Sun Valley, was determined not to let this latest setback keep her from fulfilling the promise she made to her parents when she was a little girl—the promise of Olympic gold.

Picabo says the long and difficult months of rehabilitation from her injury were the toughest times of her life. Yet her hard work and dedication pulled her through. Even while she could only sit and watch her teammates get ready for these games, she never lost hope.

Picabo's mother, Dee, taught her the words to the Star Spangled Banner. Four years ago, Picabo stood on the silver medal platform, listening to another country's anthem being played. She vowed the next time she'd hear her anthem. Those singing lessons came in handy today. With the gold medal around her neck, Picabo sang the words to our national anthem. I'm sure every American sang with her.

Idaho can be truly proud of a hometown hero, who overcame seemingly insurmountable odds to regain the form that made her a world champion. I ask every Idahoan and every American to join me in offering congratulations to this amazing athlete.

The little girl from the gold mining town of Triumph, Idaho has triumphed and won the gold medal.●

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. ROBERTS. Madam President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nominations on the Executive Calendar:

No. 371, Sally Thompson, to be CFO of the Department of Agriculture.

No. 490, Robert Warshaw, to be Associate Director for National Drug Control Policy.

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

Mr. ROBERTS. I further ask unanimous consent that the nominations be confirmed, the motions to reconsider be laid upon the table, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

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

The nominations were considered and confirmed, as follows:

DEPARTMENT OF AGRICULTURE

Sally Thompson, of Kansas, to be Chief Financial Officer, Department of Agriculture.

EXECUTIVE OFFICE OF THE PRESIDENT

Robert S. Warshaw, of New York, to be Associate Director for National Drug Control Policy.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

ORDERS FOR THURSDAY, FEBRUARY 12, 1998

Mr. ROBERTS. Madam President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m. on Thursday, February 12, and immediately following the prayer, the routine requests through the morning hour be granted, and the Senate immediately begin a period for the transaction for morning business until 2 p.m., with Senators permitted to speak therein for up to 10 minutes each, with the following exceptions:

Senator NICKLES, 20 minutes; Senator DOMENICI, 45 minutes; Senator BYRD, 1 hour; Senator THOMAS, 10 minutes; Senator ALLARD, 20 minutes; Senator DORGAN, 1 hour; Senator MURKOWSKI, 20 minutes; Senator JEFFORDS, 5 minutes; Senator GRAMM, 30 minutes; Senator JOHNSON, 10 minutes, and Senator BAUCUS for 30 minutes.

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

PROGRAM

Mr. ROBERTS. Madam President, tomorrow morning, as previously ordered, the Senate will be in morning business until 2 o'clock. Following morning business, the Senate may proceed to any legislative or executive business cleared for action. Therefore, votes are possible during Thursday's session of the Senate.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Might I ask that the 30 minutes allotted to me be immediately following Senator DOMENICI?

Mr. ROBERTS. I inform the distinguished Senator from Montana that the order right now is Senator NICKLES for 20 minutes, Senator DOMENICI for 45 minutes, and Senator BYRD for 1 hour.

Mr. BAUCUS. I ask unanimous consent that I may follow Senator BYRD for 30 minutes.

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

ORDER FOR ADJOURNMENT

Mr. ROBERTS. Madam President, if there is no further business to come before the Senate, I now ask that the Senate stand in adjournment under the previous order, following the remarks by my distinguished colleague from Delaware, Senator BIDEN.

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

The Senator from Delaware is recognized.

NATO ENLARGEMENT

Mr. BIDEN. Madam President, I am pleased to report a very historic event that occurred today at the State Department at about 12 noon. The President of the United States, the Secretary of State, the Vice President, and the Foreign Ministers of the Czech Republic, Poland, and Hungary, were in attendance. At this event, the President signed an amendment to the Washington treaty—the NATO treaty—that has been or will shortly be delivered to the Senate asking that the Czech Republic, Hungary and Poland become full members of NATO. This ceremony at the State Department completed the formal transmission from the President to this body for its advice and consent of the protocols of accession of those three countries into NATO.

It was pointed out to me by the Vice President, as we were leaving the State Department ceremony, that it was this very day upon which the Yalta Conference ended some 50 years ago. It seems to me incredible that it is happening, but also that it has taken this long for to us rectify a serious historical error. At the ceremony, there were a number of things stated about why this was so important.

We are moving very quickly this session to a momentous vote addressing America's security interests in Europe, which will not only affect us, but the next several generations of Americans. I refer to the addition of new allies to the North Atlantic Treaty Organization. Recognizing that the protocols would be referred to the Foreign Relations Committee for its review,

The committee, under Chairman HELMS' leadership, has been holding a series of comprehensive hearings since October on the pros and cons of enlarging NATO.

Beginning with Secretary of State Albright, we heard testimony from senior Clinton administration and former executive branch officers, retired ambassadors and generals, and distinguished academics and foreign policy experts—most in favor of, but some in opposition to expansion.

The Committee also invited public testimony from all citizens concerned with this issue, welcoming veterans groups, scholars, and representatives of the American Baltic, Central and East European, and Jewish communities. Opinion among all witnesses ran four to one in favor of embracing the Poles, Hungarians, and Czechs as NATO allies.

With the Protocols now in hand, the Committee will hold one more hearing with Secretary of State Albright, Secretary of Defense Cohen, and Chairman of the Joint Chiefs Shelton on February 24.

The following week, the Committee is expected to markup and vote on the Resolution of Ratification. I anticipate that the Committee will overwhelmingly recommend consideration of the Resolution by the full Senate. The Majority Leader has indicated that consideration should begin in March, after action on campaign finance reform.

Mr. President, rather than giving a detailed statement now on the many benefits to America of NATO enlargement, I wish only to enunciate a few central themes upon which I will expand as Senate consideration of these vital protocols approaches.

The first thesis is that, as NATO's leader, America must ensure the Alliance moves beyond its Cold War mission. The status quo is tantamount to declaring NATO a non-performing asset.

Internally, NATO is already adapting to address different threats to peace, now that a massive military strike from the East is highly unlikely. The Alliance is placing smaller, smarter, more mobile forces under a streamlined command system with a new strategic concept. This will allow rapid action, including beyond the borders of NATO, such as our current mission in Bosnia.

Enlargement is part of NATO's external transformation. This transformation is designed to widen the zone of stability, deter new threats of ethnic conflict, eliminate new divisions or ''zones of influence,'' and promote common action against weapons proliferation and transfer, terrorism, and organized crime. NATO's open door to expansion helps provide the confidence and inspiration for continued democratization and economic development in the former Soviet States and in Eastern and Central Europe.

Admission of new allies is the most solemn in the spectrum of new security relationships NATO has undertaken throughout Europe and the former Soviet Union, since the admission of Spain, and prior to that, Germany, Greece and Turkey. In addition, NATO has developed unique partnerships with Russia and Ukraine, and has drawn former adversaries into a web of cooperation through what we refer to as the Partnership for Peace and the Euro-Atlantic Partnership Council.

The second thesis that I will be expounding on at a later time is that the costs of enlargement are real but manageable, and represent a bargain for the American people in terms of our security.

NATO's own study of the Polish, Hungarian, and Czech contributions to our common defense rates them well worth the ten-year, one-and-a half billion dollar price tag. The U.S. share in this price will be roughly four hundred million dollars over ten years, or about forty million dollars per year.

Most importantly, Secretary of State Albright noted in her testimony, that our Allies stated at the last NATO summit that the resources for enlargement will be found and that she will ensure that our allies pay their fair share—a very important requirement to be met in order to gain the support of our colleagues in the Senate.

In the long-run, America has always found that common defense is cheaper defense. This is true certainly in financial, but even more so in the far more

precious human resources the sixty million people and two hundred thousand troops Poland, Hungary, and the Czech Republic bring to our common security. This is not a question of whether the U.S. will trade Warsaw for Washington, or Budapest for Buffalo, but rather that the Poles, Czechs, and Hungarians are willing to assume the front line in America's forward defense of its shores.

The third thesis is that our relations with Russia remain solid, productive, and cooperative, notwithstanding enlargement. Prophets of backlash have been disproven.

Although few Russians are fond of NATO enlargement, policymakers in Moscow have accepted it. Moreover, no Russian with whom I met in Moscow—from Communist leader Zyuganov, to liberal leader Yavlinsky, to the nationalist retired General Lebed—believed that NATO enlargement constitutes a security threat to Russia.

We have seem Russia ratify the Chemical Weapons Convention, renew efforts to ratify START II, send troops under overall U.S. command to implement peace in Bosnia, and work smoothly with NATO as an organization in the new Russia-NATO Permanent Joint Council.

But ultimately, Russia must understand that it has no veto over NATO actions, nor over the right of former Soviet satellites to freely choose their defense arrangements. I believe their actions demonstrate that they have come to terms—however grudgingly—with this fact.

My fourth thesis is a caution. The consequences of a failure to embrace the Poles, Hungarians, and Czechs as new allies would be a disaster.

This century has taught us that when Central Europeans are divorced from Western institutions of common defense, they are vulnerable to pressure and control by the great powers around them, and susceptible to insidious suspicions of their neighbors' intentions. This forces them to nationalize their defense policies, creating tension and instability

Here, I would like to quote from Dr. Henry Kissinger's testimony to the Foreign Relations Committee on this very point. Dr. Kissinger's testimony to the Foreign Relations Committee on this very point was very, very enlightening, I thought.

Kissinger warned: Basing European and Atlantic security on a no man's land between Germany and Russia runs counter to all historical experience, especially that of the interwar period. It would bring about two categories of frontiers in Europe, those that are potentially threatened but not guaranteed, and those that are guaranteed but not threatened. If America were to act to the defend the Oder [between Germany and Poland] but not the Vistula [in Poland], 200 miles to the east, the credibility of all the existing NATO guarantees would be gravely weakened.

Madam President, I will close with a fifth and final thesis, and it is a moral one.

For 40 years, the United States loudly proclaimed its solidarity with the captive nations of Central and Eastern Europe who were under the heel of communist oppressors. Now that most of them have cast off their shackles, it is our responsibility, in my view, to live up to our pledges to readmit them into the West through NATO and the European Union as they qualify.

Just as NATO enlargements embraced Turkey, Greece, and West Germany several years before the European Union's precursors were yet in existence, so we should not hesitate to accept Poland, Hungary, and the Czech Republic now, even before their accession to the European Union.

The habits of cooperation created by NATO membership can only help these nations as they prepare for economic integration into Europe and the West.

I thank the Chair for listening and I yield the floor.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned until 9:30 a.m. tomorrow.

Thereupon, the Senate, at 6:50 p.m., adjourned until Thursday, February 12, 1998, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate February 11, 1998:

DEPARTMENT OF COMMERCE

DEBORAH K. KILMER, OF IDAHO, TO BE AN ASSISTANT SECRETARY OF COMMERCE, VICE JANE BOBBITT, RESIGNED.

DEPARTMENT OF JUSTICE

RICHARD H. DEANE, JR., OF GEORGIA, TO BE UNITED STATES ATTORNEY FOR THE NORTHERN DISTRICT OF GEORGIA FOR THE TERM OF FOUR YEARS VICE KENT BARRON ALEXANDER, RESIGNED.

RANDALL DEAN ANDERSON, OF UTAH, TO BE UNITED STATES MARSHAL FOR THE DISTRICT OF UTAH FOR THE TERM OF FOUR YEARS, VICE DANIEL C. DOTSON, RETIRED.

DANIEL C. BYRNE, OF NEW YORK, TO BE UNITED STATES MARSHAL FOR THE EASTERN DISTRICT OF NEW YORK FOR THE TERM OF FOUR YEARS VICE MICHAEL A. PIZZI, RESIGNED.

BRIAN SCOTT ROY, OF KENTUCKY, TO BE UNITED STATES MARSHAL FOR THE WESTERN DISTRICT OF KENTUCKY FOR THE TERM OF FOUR YEARS, VICE CHARLES WILLIAM LOGSDON, RESIGNED.

THE JUDICIARY

CHESTER J. STRAUB, OF NEW YORK, TO BE UNITED STATES CIRCUIT JUDGE FOR THE SECOND CIRCUIT, VICE JOSEPH M. MCLAUGHLIN, RETIRED.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

WILLIAM JAMES IVEY, OF TENNESSEE, TO BE CHAIRPERSON OF THE NATIONAL ENDOWMENT FOR THE ARTS FOR A TERM OF FOUR YEARS, VICE JANE ALEXANDER, TERM EXPIRED.

NATIONAL TRANSPORTATION SAFETY BOARD

JAMES E. HALL, OF TENNESSEE, TO BE CHAIRMAN OF THE NATIONAL TRANSPORTATION SAFETY BOARD FOR A TERM OF TWO YEARS. (REAPPOINTMENT)

IN THE ARMY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

CRAIG H. ANDERSON, 0000
LARRY L. ANDERSON, 0000
NORMAN E. ARFLACK, 0000
JAMES F. ARMSTRONG, 0000
JIMMY D. ARMSTRONG, 0000
ROBERT W. ASKEY, 0000
MICHAEL A. BAILEY, 0000
DENNIS E. BANOWETZ, 0000
LONNIE L. BARHAM, 0000
WILLIAM B. BARKER, 0000
JOHN F. BARRY, 0000
JOHN P. BASILICA, 0000
WILLIAM E. BEASLEY, 0000
STEVEN L. BELL, 0000
SHELLEY L. BENNETT, 0000
ROBERT A. BEREITER, 0000
DAN A. BERKEBILE, 0000
JOSE BERRIOS, 0000
WILLIAM J. BERTSCH, 0000
CHARLES D. BETONEY, 0000
MITCHELL T. BISANAR, 0000
ABNER C. BLALOCK, JR., 0000
JIMMY L. BLAND, 0000
JACK P. BOBO, 0000
GEORGE F. BOWDOIN, 0000
LEON C. BOWLIN, 0000
ROBERT A. BRADFORD, 0000
JOHN J. BRAHAM, 0000
DOUGLAS M. BRANTLEY, 0000
ROBERT T. BRAY, 0000
MARTIN T. BREAKER, 0000
DONALD J. BREECE, 0000
GLENN C. BREITLING, 0000
MANUEL BRILLON-RODRIGUEZ, 0000
RITA M. BROADWAY, 0000
FREDERICK G. BROMM, 0000
CLARENCE D. BROWN, 0000
OTIS BROWN, JR., 0000
ELTON C. BRUCE, 0000
DAVID H. BRUNJES, 0000
JAMES A. BRUNSON, 0000
ELBERT T. BUCK, JR., 0000
CRAIG W. BULKLEY, 0000
PHILLIP R. BURCH, 0000
DAVID P. BURFORD, 0000
MICHAEL T. BURK, 0000
DONALD L. BURNETT, 0000
JAMES L. BURSON, 0000
JOHN L. CAIRER, JR., 0000
TERRY B. CALLAHAN, 0000
WAYNE T. CAMERON, 0000
JULIO CAPOCAPO, 0000
MICHAEL E. CARR, 0000
CASPER CATAUDELLA, 0000
DENNIS L. CELLETTI, 0000
THOMAS E. CHALIFOUX, 0000
STEPHEN G. CHAMBERS, 0000
JAMES E. CHAPMAN, 0000
RONALD L. CHUBB, 0000
RAY D. CLEVEN, 0000
ANTONIO R. COBIAN-MENDEZ, 0000
GILBERT P. COLLINS, 0000
STEPHEN D. COLLINS, 0000
WILLIAM D. COLVIN, 0000
WILLIAM G. CONFER, 0000
REX J. CONNERS, 0000
JOHN K. COOLEY, 0000
BILLIE M. COOPER, 0000
LARRY D. COPELIN, 0000
BILLY J. COSSON, 0000
PAUL D. COSTILOW, 0000
REBECCA A. COULTER, 0000
TERRY R. COUNCIL, 0000
ALLEN D. CRANFORD, 0000
MICHAEL S. CROCKER, 0000
MICHAEL J. CURTIN, 0000
DONNA L. DACIER, 0000
MICHAEL J. DACY, 0000
FRANCIS A. DANIELS, 0000
HAROLD F. DANIELS, 0000
CHARLES H. DAVIDSON, 0000
JOHN T. DAVIS, 0000
MYLES L. DEERING, 0000
PAUL J. DEGATEGNO, 0000
PHILIP M. DEHENNIS, 0000
ROBERT F. DELCAMPO, 0000
MILTON E. DEMORY, 0000
CRAIG W. DEUTSCHENDORF, 0000
GREGORY H. DEVOE, 0000
DAVID L. DICKSON, 0000
RENE DOLDER, 0000
MICHAEL R. DONAGHY, 0000
MARK C. DOW, 0000
ROY L. DRAKE, JR. 0000
MARK W. DUSHNYCK, 0000
WALTER K. DYER, 0000
DONALD E. EBERT, 0000
LESTER D. EISNER, 0000
MARK A. ELLIS, 0000
STEPHEN B. ENGLE, 0000
ROGER D. EVANS, 0000
MICHAEL R. EYRE, 0000
TERRY FOBBS, 0000
WILLIAM A. FOLEY, 0000
WILLIAM P. FOSTER, 0000
JULIUS A. FRALEY, 0000
ROBERT P. FRENCH, 0000
WILLIAM J. FULFORD, 0000
JOHN T. FURLOW, 0000
CHARLES L. GABLE, 0000
JOHN D. GAINES, 0000
DAVID D. GAPINSKI, 0000
JAMES P. GARDNER, 0000
JOSEPH E. GARLAND, 0000
STEPHEN F. GARRISON, 0000
ALAN C. GAYHART, SR. 0000
DENNIS GILPATRICK, 0000
HAROLD GLANVILLE, 0000
DAVID E. GOINS, 0000
RONNIE E. GORDON, 0000
MICHAEL A. GORMAN, 0000
PAUL R. GRAMS, 0000
DAVID L. GRAY, 0000
MICHAEL C. GRAY, 0000
MARK S. GRAZIER, 0000

DAVID E. GREER, 0000
RALPH R. GRIFFIN, 0000
DAVID J. GRIFFITH, 0000
RUSSELL D. GULLETT, 0000
DAVID F. GUNN, 0000
MICHAEL HACKENWERTH, 0000
GARY M. HARA, 0000
BILLY R. HARTBARGER, 0000
EARL W. HARTER, 0000
STEVEN J. HASHEM, 0000
DONALD J. HASSIN, 0000
PAUL HAVEY, 0000
JOHN R. HAWKINS, 0000
LEONARD T. HENDERSON, 0000
PATRICK R. HERON, 0000
JOHN B. HERSHMAN, 0000
WILLIAM A. HIPSLEY, 0000
JOHN C. HOLLAND, 0000
PAUL M. HOUSE, 0000
GREGORY A. HOWARD, 0000
DONNA L. HUBBERT, 0000
THOMAS C. HUNT, 0000
THOMAS W. HUNT, 0000
ROBERTA S. IMMERS, 0000
CHARLES L. INGRAM, 0000
CHRISTOPHER A. INGRAM, 0000
CLAUDE T. ISHIDA, 0000
STANLEY G. JACOBS, 0000
DENNIS E. JACOBSON, 0000
WALTER S. JANKOWSKI, 0000
CARL R. JESSOP, 0000
KENNETH C. JOHNSON, 0000
SHELDON L. JOHNSON, 0000
WILLIAM G. JOHNSON, 0000
FREDDIE L. JONES, 0000
FREDRICK D. JONES, 0000
WALTER M. JONES, 0000
WILLIE E. JONES, JR, 0000
JAMES JOSEPH, 0000
FRED A. KARNIK, JR, 0000
ROBERT F. KEANE, 0000
JAMES E. KELLY, 0000
HOLLIS G. KENT, 0000
BRIAN A. KILGARIFF, 0000
KIM KIMMEY, 0000
CRAIG S. KING, 0000
JAMES H. KING, 0000
ROBERT C. KING, 0000
WILLIAM C. KIRKLAND, 0000
MARK S. KOPSKY, 0000
RICHARD KUECHENMEISTER, 0000
THOMAS J. KUTZ, 0000
HENRY T. KUZEL, 0000
DIANNE S. LANGFORD, 0000
CHARLES B. LANIER, 0000
ANTONIO S. LAUGLAUG, 0000
THOMAS C. LAWING, 0000
JACK E. LEE, 0000
WILLIAM T. LEE, 0000
CLAY C. LEGRANDE, 0000
PHILLIP J. LENNERT, 0000
MYRON C. LEPP, 0000
GARY N. LINDBERG, 0000
DANIEL M. LINDSLEY, 0000
RICHARD K. LINTON, 0000
BETSY A. LITTLE, 0000
CASIMIR G. LORENC, 0000
THOMAS D. LUCKETT, 0000
JOHN B. LYDA, 0000
KENNETH L. MACK, 0000
ROBERT M. MACMECCAN, 0000
GLENN W. MACTAGGART, 0000
GREGG H. MALICKI, 0000
JAMES B. MALLORY, 0000
JOHN C. MALONEY, 0000
STEVEN L. MANNHARD, 0000
JANET V. MARK, 0000
DAVID L. MARLEY, 0000
PASCUAL MARRERO, 0000
MARION D. MARSH, 0000
EUGENE C. MARTIN, 0000
CHARLES E. MASON, 0000
MATTHEW C. MATIA, 0000
MICHAEL T. MCCABE, 0000
JEFFREY C. MCCANN, 0000
JAMES C. MCCASKILL, 0000
WILLIAM M. MCCORKLE, 0000
GARY L. MCCORMICK, 0000
BERNARD D. MCCRAW, 0000
KEVIN F. MCCROHAN, 0000
GEORGE W. MCCULLEY, 0000
JOE D. MCDOWELL, 0000
PATRICK F. MCGOVERN, 0000
DAVID F. MERRILL, 0000
STEPHEN F. MILLER, 0000
DENNIS MINER, 0000
FREDERICK E. MINER, 0000
JESUS M. MOLANOCARDENAS, 0000
MICHAEL B. MONTGOMERY, 0000
ROBERT L. MOODY, 0000
MARIA E. MOON, 0000
JEROME T. MORIARTY, 0000
ANTHONY MORRISON, 0000
RONALD H. MOSKOWITZ, 0000
JAMES A. MOYE, 0000
ROBERT L. MULLALY, 0000
WILLIAM R. MURPHY, 0000
WILLIAM P. MURRAY, 0000
JOHN L. NATTERSTAD, 0000
MURRAY A. NEEPER, 0000
CHARLES R. NESSMITH, 0000
CHARLES H. NEWELL, 0000
HERBERT L. NEWTON, 0000
SUZANNE M. NEWTON, 0000
ROBERT M. NICHOLAS, 0000
RICHARD L. NORMAN, 0000
MARTIN N. NOWAK, 0000
MADONNA M. NUCE, 0000
ARTHUR C. NUTTALL, 0000
DENNIS J. O'BRIEN, 0000
PATRICK M. O'HARA, 0000
EMMETT N. O'HARE, 0000
JAMES W. OXFORD, 0000
CHARLES C. PANGLE, 0000
GARY A. PAPPAS, 0000
LOUIS A. PAPPAS, 0000
THOMAS W. PARKINS, 0000
JAMES A. PATTON, 0000
PETER Q. PAUL, 0000
DAVID J. PAYNE, 0000
DENIS J. PETCOVIC, 0000
MURRAY T. PETERSEN, 0000
JAMES W. PETERSON, 0000
STEPHEN M. PETERSON, 0000
EMIL H. PHILIBOSIAN, 0000
PHILIP G. PICCINI, 0000
BILLY L. PIERCE, 0000
MICHAEL L. PIERCE, 0000
DAVID S. PIKE, 0000
ALBERT PORTO, 0000
DONALD E. POTTER, 0000
ALLYN R. PRATT, 0000
WAYNE A. PRATT, 0000
CHARLES C. PRICE, 0000
MICHAEL L. PRICE, 0000
RONALD G. PRICE, 0000
GARY M. PROFIT, 0000
ERNESTO QUINONESMARTIN, 0000
DAVID W. RAES, 0000
JAMES W. RAFFERTY, 0000
JOHN J. REECE, JR., 0000
ROBERT E. REED, 0000
STEVEN L. REED, 0000
JOHNNY H. REEDER, 0000
JEFFREY C. REYNOLDS, 0000
ANDREW RICHARDSON, 0000
GARY G. RICKMAN, 0000
ROBERT J. RIDILLA, 0000
GLENN K. RIETH, 0000
TIMOTHY D. RINGGOLD, 0000
JAIME O. RIVERA, 0000
CHARLES S. RODEHEAVER, 0000
ALEKSANDRA M. ROHDE, 0000
JOHN W. ROLLYSON, 0000
JAMES T. ROOT, 0000
JOSE M. ROSADO, 0000
GEORGE M. ROSS, 0000
KENNETH B. ROSS, 0000
LAWRENCE H. ROSS, 0000
JOEL S. ROSTBERG, 0000
CHARLES D. RYDELL, 0000
TERRY L. RYDELL, 0000
DAVID F. SARNOWSKI, 0000
STEPHEN D. SCHAER, 0000
ROBERT C. SCHARLING, 0000
LARRY D. SCHIED, 0000
JAMES A. SCHILLER, 0000
GEORGE A. SCHWENK, 0000
GARTH T. SCISM, 0000
MICHAEL SEBASTIAN, 0000
JACKIE L. SELF, 0000
VICTOR L. SHELDON, 0000
JAMES H. SHIREY, 0000
JAMES L. SIMPSON, 0000
WILLIAM A. SLOTTER, 0000
HERBERT D. SMILEY, 0000
PERRY G. SMITH, 0000
STEVEN A. SMITH, 0000
WILLIAM T. SMITH, 0000
KARL P. SMULLIGAN, 0000
STANLEY L. SNIFF, 0000
DEE J. SNOWBALL, 0000
JAMES L. SNYDER, 0000
FRANK T. SPEED, 0000
DANIEL S. SPRING, 0000
ROBERT J. STAIERT, 0000
BRUCE A. STARKEY, 0000
JOHN B. STAVOVY, JR, 0000
LARRY J. STUDER, 0000
ROBERT L. SWARTWOOD, 0000
BASIL O. SWEATT, 0000
RICHARD M. TABOR, 0000
ROBERT S. TEMPLETON, 0000
WYNIACO D. THOMAS, 0000
REX E. THOMPSON, 0000
WILLIAM F. TIEMANN, 0000
CHARLES K. TOBIN, 0000
ELROY K. TOMANEK, 0000
ALAN A. TOMSON, 0000
NELSON E. TORRES, 0000
JAMES R. TRIMBLE, 0000
HUGHES S. TURNER, 0000
PATRICK J. TUSTAIN, 0000
DAVID R. TUTHILL, 0000
RONALD W. URBAN, 0000
THOMAS E. VANDERPOOL, 0000
ROBERT W. VANMETER, 0000
JERRY A. VAUGHN, 0000
PHILIP E. VERMEER, 0000
DANIEL J. VONDRACHEK, 0000
WILLIAM L. WALLER, 0000
RONALD L. WEAVER, 0000
CHARLES R. WEBB, 0000
NANCY J. WETHERILL, 0000
GARY E. WHEELDON, 0000
BERT J. WHITTINGTON, 0000
MARK E. WIDMER, 0000
WILLIAM WILBOURNE, 0000
JOE D. WILLINGHAM, 0000
JOHN F. WILLIS, 0000
ROBERT C. WINES, 0000
MICHAEL L. WOOD, 0000
WILLIAM S. WOOD, 0000
JAMES A. WRIGHT, 0000
JEFFREY L. YEAW, 0000
JOHN L. YOUNG, 0000
JOHNNIE L. YOUNG, 0000
WALTER F. YOUNG, 0000
MICHAEL H. ZANG, 0000
KENNETH W. ZIESKA, 0000
BRUCE E. ZUKAUSKAS, 0000

CONFIRMATIONS

Executive nominations confirmed by the Senate February 11, 1998:

DEPARTMENT OF AGRICULTURE

SALLY THOMPSON, OF KANSAS, TO BE CHIEF FINANCIAL OFFICER, DEPARTMENT OF AGRICULTURE.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

THE JUDICIARY

MARGARET M. MORROW, OF CALIFORNIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE CENTRAL DISTRICT OF CALIFORNIA.

EXECUTIVE OFFICE OF THE PRESIDENT

ROBERT S. WARSHAW, OF NEW YORK, TO BE ASSOCIATE DIRECTOR FOR NATIONAL DRUG CONTROL POLICY.