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Senate

The Senate met at 9:31 a.m. and was called to order by the Honorable RICK SANTORUM, a Senator from the State of Pennsylvania.

PRAYER

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

Almighty God, as we begin this day of work here in the Senate our minds are focused on the people of New Mexico who have suffered the loss of their homes and personal property in the tragedy of the forest fires in both the northern and southern parts of the State. Especially, our hearts go out in profound sympathy for fire fighter Samuel James Tobias who lost his life while flying a spotter plane over the forest fires. Comfort his family and continue to give courage to his fellow fire fighters.

Father, we are profoundly grateful for the heroic service of fire fighters, police and emergency personnel who face danger and possible loss of life to preserve our forests, natural resources, homes, and our very lives.

Now, as we turn to the responsibilities of this day we ask You to fill the wells of our souls with Your strength and our intellects with fresh inspiration. Here are our minds, enlighten them; here are our wills, quicken them; here are our bodies, infuse them with energy. For You, Dear God, are our Lord and Saviour. Amen.

PLEDGE OF ALLEGIANCE

The Honorable RICK SANTORUM, a Senator from the State of Pennsylvania, led the Pledge of Allegiance, as follows:

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. THURMOND].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, May 23, 2000.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable RICK SANTORUM, a Senator from the State of Pennsylvania, to perform the duties of the Chair.

STROM THURMOND,
President pro tempore.

Mr. SANTORUM thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader.

SCHEDULE

Mr. LOTT. Mr. President, today the Senate will be in a period of morning business, with Senators GRAMS and DURBIN in control of the time until 11:30 a.m. Momentarily, I intend to propound a unanimous consent request that provides for debate on two FEC nominations, beginning at 11:30 a.m., and consuming the remainder of the day. There will also be debate time on several judicial nominations, with any votes ordered during today's session to occur on Wednesday.

For the information of all Senators, it is my intention to begin consideration of the legislative branch appropriations bill, as well as the Agriculture appropriations bill, later this week. It is hoped that the Senate can complete action on both of these very important spending bills prior to the Memorial Day recess.

Now, again, for the information of Senators, we will have this debate on the nominations throughout the day. Beginning tomorrow, in the morning, I presume, right after the opening activities, we will go to the legislative branch appropriations bill. We hope to be able to finish that in a reasonable period of time. But regardless of that, sometime in midafternoon—I presume, 3:30, 4:00, 4:30; we will have to look at the time and work out that exact time—we will begin a series of votes that will probably mean votes on either four or five or six—I hope it is five or four and not the full six, but we could still have as many as six votes in a row Wednesday afternoon. Then we hope to turn to the Agriculture appropriations bill.

UNANIMOUS CONSENT AGREEMENT—EXECUTIVE CALENDAR

Mr. LOTT. In executive session, I ask unanimous consent that at 11:30 a.m., Tuesday, May 23, the Senate proceed to executive session to consider Executive Calendar No. 436, the nomination of Bradley Smith to be a member of the FEC. I further ask consent that debate be limited on the nomination as follows: Senator MCCONNELL, 2 hours; Senator DODD, or his designee, 2 hours; Senator WELLSTONE, 2 hours; Senator MCCAIN, 2 hours; Senator FEINGOLD, 2 hours.

I further ask consent that following the use or yielding back of time, the nomination be laid aside, with a vote to occur on the confirmation of the nomination during Wednesday's session of the Senate at a time to be determined by the two leaders, with 20 minutes for closing remarks, equally divided, just prior to the vote. If we need a few more minutes than that, we will work with the interested parties to see if that can be achieved.

I also ask consent that immediately following that vote, the Senate proceed

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

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to a confirmation vote on the nomination of Danny McDonald, Calendar No. 435.

I further ask consent that also on Tuesday, May 23, the Senate then proceed to the nomination of Timothy Dyk to be a U.S. circuit judge, Calendar No. 291, and the debate be limited to the following: Senator SESSIONS, 30 minutes; Senator HATCH, 15 minutes; and Senator LEAHY, 15 minutes.

I further ask consent that on Tuesday, the Senate proceed to Calendar No. 498, the nomination of Gerard Lynch, and there be 40 minutes of debate, equally divided, between the opponents and proponents. I also ask consent that all debate time on the nominations be consumed or considered yielded back during Tuesday's session of the Senate.

I further ask consent that the vote occur on or in relation to the Dyk nomination third in the voting sequence on Wednesday, to be followed by votes on Executive Calendar No. 498, No. 519, and No. 520.

I ask unanimous consent that immediately following those votes, the Senate immediately proceed to the consideration of the following nominations on the Executive Calendar:

Nos. 206, 334, 424, 433, 434, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 452, 453, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 472, 476, 477, 478, 479, 480, 481, 482, 483, 496, 497, 499, 500, 501, 502, 503, 504, 505, 506, 518, 521, 522, 523, and all nominations on the Secretary's desk.

I further ask unanimous consent that the nominations be confirmed, the motions to reconsider be laid upon the table, any statements relating to the nominations be printed at the appropriate place in the RECORD, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. MCCAIN. I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. LOTT. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. LOTT. I amend the unanimous consent request which stated there would be 20 minutes for closing remarks, equally divided, just prior to the vote. I amend that to say, 20 minutes for closing remarks, equally divided, plus an additional 10 minutes for Senator MCCAIN and 10 minutes for Senator FEINGOLD.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. DASCHLE. Reserving the right to object, let me just say that there are 19 nominations still pending on the calendar if we are able to adopt this unanimous consent request today. Some of those nominations have been on the calendar for well over a year. I think it is the view of virtually every member of the caucus on our side that to hold nominations that long is cruel. It is wrong. It should not be tolerated. We are in a position to clear all nominations, including those 19.

I ask whether the majority leader might be able to clear those as well?

Mr. LOTT. Mr. President, I will respond. I know that at least one appointment is waiting on a companion appointment from the administration, where you have a Democratic nominee for a commission or a board, and we usually try to move them together. That is one case. Then we have seven IRS members who can be cleared if—I understand there is opposition to at least one of those from the Democratic side.

But my goal in working to get this large package done is so we can continue to work to get companion nominations and move more nominations. I discussed this with Senator DASCHLE yesterday. It is not easy, but we hope to continue to work together to get the nominations in a position where they can be cleared, or where we have debate time and a vote and arrange for that to occur. We will keep working on it. It has been reduced by some 70 or more nominations if this entire package is completed, and if all of them—well, it will either be voted on and approved or defeated, leaving only 19. So that is a major step toward getting nominations confirmed.

Mr. DASCHLE. Reserving the right to object, and I will not, obviously, I hope the majority leader will work with us to work through these 19 names. As I say, some of them have put their lives on hold now for over a year. It is just intolerable to them, and it should be intolerable to us that we would accept that kind of a practice. I will work with the majority leader and, hopefully, resolve these outstanding problems. I will not object to this request.

Mr. FEINGOLD. Mr. President, reserving the right to object, I simply thank both the leaders for their patience in working out this very difficult agreement. I appreciate the majority leader extending us time prior to the vote to summarize our arguments.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

The ACTING PRESIDENT pro tempore. The Senator from New Hampshire is recognized.

Mr. GREGG. Mr. President, are we now in morning business?

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business with Senators permitted to speak therein for up to 10 minutes each.

ORDER OF PROCEDURE

Mr. GREGG. Mr. PRESIDENT, I ask unanimous consent that I be allowed to speak for 5 minutes without having that time come off of the time allocated to the Senator from Minnesota, who, I understand, has time reserved during this period of morning business.

The ACTING PRESIDENT pro tempore. The Senator has time until 10 o'clock. The Senator from Minnesota has time until 10 o'clock.

Mr. GREGG. I ask unanimous consent that I be allowed to speak for 5 minutes and that his time be extended to reflect the time that I will take.

The ACTING PRESIDENT pro tempore. There are sequential times after that. The Senator from Wyoming has until 10:30, and the Senator from Illinois has until 11:30.

Mr. GREGG. I ask unanimous consent that my 5 minutes come off of the time of the Senator from Wyoming.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SIERRA LEONE

Mr. GREGG. Mr. President, I wanted to speak about Sierra Leone and especially about the attempts I have made to address this issue as chairman of the Appropriations Subcommittee on Commerce, Justice, State, and the Judiciary.

The New York Times and a number of other daily papers have reported that I have limited the ability of the State Department to spend money on behalf of the United Nations, or send money to the U.N. for the purpose of peacekeeping in Sierra Leone, and that is correct. However, the numbers that the New York Times, at least, used were incorrect.

I think the record needs to be corrected. I presume this story came from a momentum within the U.N. to try to put pressure on the Congress to spend money on U.N. initiatives. Obviously, the U.N. feels that by using our media sources in this country, they can influence the activity of the Congress, specifically of the Senate. However, I would have hoped that the New York Times reporter would have reviewed the actual facts and determined the facts before reporting them as facts. Obviously, this reporter got his information from somebody, I presume, at the U.N., or maybe the State Department, and did not bother to check the facts.

It was represented in the story, for example, that the amount of money that was owed to the U.N. in the area of peacekeeping was somewhere in the vicinity of $1.7 billion. This number is inaccurate and the story was, therefore, inaccurate.

Let me review the numbers specifically. In accounting for the amount of money that the U.N. is owed, there is a regular budget assessment of approximately $300 million. This is included in the $1.7 billion, which I presume they got from the U.N., or they could not have gotten to that number. However, that $300 million is not owed. We paid that money on a 9-month delay. We have always paid it on a 9-month delay because of the budgeting process of the Federal Government. So you can reduce that number by the $300 million figure because that money will be paid on October 1, as it always is.

Second, the Times must have been counting as a U.N. assessment the peacekeeping moneys of $500 million. Well, the $500 million is the amount we have allocated for peacekeeping in our budgets for the benefit of the U.N. But that $500 million has not yet been called upon by the U.N. In fact, of that $500 million, we have received requests for approximately $300 million. We have not received requests for the full $500 million. We have received requests for about $300 million. We have paid—of that $300 million requested—approximately $55 million. The balance is in issue, but it is being worked out. So that number is inaccurate, and you can reduce that $1.7 billion by at least $200 million that we have not received a request for, and the $55 million we have paid and, in my opinion, by significant other numbers also.

Third, the Times must have been counting the $926 million which is an arrearage payment. The arrearage issue was settled last year. It had been delayed for 3 years because of the Mexico City language, which did not need to be delayed. But the administration put such a hard line on obscure language dealing with Mexico City Planned Parenthood that they ended up tying up the arrears that we as the Senate were willing to pay. We appropriated that money every year, by the way. There was an agreement reached between ourselves and the State Department and the White House, known as the Helms-Biden agreement, which said we would pay that money. So that money is in the pipeline to be paid, subject to the U.N. meeting certain conditions. That is not in issue.

So when you take all the numbers, there is no $1.7 billion at issue. Actually, it is closer to $100 million than $1.7 billion. So the exaggeration in the story was inaccurate. It reflects, I think, shoddy journalism.

Secondly, the story implied that my position was basically an isolationist position and that I am opposing peacekeeping everywhere in the world.

No, I am not. In fact, we have approved peacekeeping in my committee in a number of areas. We have approved peacekeeping in the Golan Heights for $4 million, Lebanon for $15 million, Cyprus for $3 million, Georgia for over $3 million, in Tajikistan for $2 million, and the Yugoslavia and Rwanda War Crime Tribunal for $22 million. The list goes on and on.

So we have approved a significant amount of peacekeeping dollars for a variety of different missions that have been undertaken by the U.N. However, the problem I have is that in Sierra Leone, what we ended up doing was endorsing a policy that brought into power parties who had committed rape, murder, and atrocities against the people of Sierra Leone. And instead of having these people brought to justice under the War Crimes Tribunal, as they should have been, what we have done is endorsed these people in the Lome Accord and said they should be brought into the Government. That policy makes no sense.

We are seeing a deterioration of that policy by what is happening to the peacekeepers in Sierra Leone today. Instead of taking weapons from the rebels who are basically killing people arbitrarily and, as part of the policy, hacking limbs off of people—instead of taking their weapons, the U.N. has given up more weapons than it has taken in Sierra Leone.

Right now, we still have actually hundreds of U.N. peacekeepers who have been taken hostage over there. Why? Because the policy being pursued in Sierra Leone was misdirected from the start. We should not have been making peace. We should not have been bringing into the Government people who acted in such a barbaric way toward their own people. We should have been taking a harder line. We should have been sending in U.N. peacekeepers—in Sierra Leone honoraria we may not want to—people who had the capacity and the equipment to defend themselves, and had the portfolio and the directions so they could defend themselves and use force.

Unfortunately, we didn't send those types of troops in there—or the U.N. didn't. America is complicit in this. American taxpayers have to ask themselves, why are we spending this money? Why would we want to spend money to support, encourage, and endorse people who are essentially criminals and moving those criminals into the Government of Sierra Leone and giving them the authority to act? Well, that was my reason for putting a hold, as we call it, on this. It was actually a denial of the funds for Sierra Leone.

It appears, having said that, I guess, that suddenly people have awakened and are saying, hey, maybe that is right. In fact, as of yesterday, the State Department changed its position as to the rebel leader over there. Instead of him being a conciliatory, positive force for the basis on which they might base the peace accord over there, this person—or people—should be brought before an international tribunal when they have committed crimes against humanity, which this individual clearly has. Maybe there is a shift of attitude occurring within the State Department. I hope there is because that would move us down the road towards resolving this issue. But the representation that the committee I chair, and in which the ranking member, Senator HOLLINGS, participates in very aggressively, has in some way opposed peacekeeping is inaccurate. The numbers used in the article are inaccurate. The fact is, we have raised legitimate concerns to protect the taxpayers of this country, which is our job. I believe we are doing it effectively.

I yield the floor.

The ACTING PRESIDENT pro tempore. Under the previous order, time until 10:05 a.m. is under the control of the Senator from Minnesota.

Mr. GRAMS. Thank you very much, Mr. President. I understand Senator THOMAS is to control the time from 10 a.m. until 10:30 a.m. He will not be to the floor right away. I ask unanimous consent to have 15 minutes of additional time from Senator THOMAS' time.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SOCIAL SECURITY REFORM

Mr. GRAMS. Thank you very much. Mr. President, I have a lot to go through in a very short period of time. But I wanted to come to the floor this morning to make a few remarks on a vitally important issue facing our Nation, which is how we are going to strengthen and save Social Security.

But, first, I would like to commend George W. Bush for bringing Social Security reform to the forefront by proposing to allow workers to invest a portion of their Social Security payroll taxes in personal retirement accounts. I believe this is the best solution to the fast approaching insolvency of Social Security.

Governor Bush's vision of courage and leadership is greatly appreciated by all of us who are concerned about saving this Nation's retirement programs, including the Senator from Pennsylvania, who is in the chair this morning, who has also worked very hard and tirelessly to find a way to save Social Security in the future.

In contrast to the efforts by Governor Bush to explore solutions to fix our retirement system, his opponent, Vice President AL GORE, offers no workable plan and only politicizes the issue. He accuses Governor Bush of being too willing to take risks with the nation's retirement program. He also believes that younger workers should not be allowed to invest some of their payroll taxes because they would not be capable of managing their own investments.

Besides the usual scare tactics, Vice President GORE has taken the same approach as President Clinton in dealing with Social Security problems—basically, they refuse to make hard choices and use double counting and other budget gimmicks to mask the threat to Social Security.

Under current law, Social Security will begin running a deficit by 2015.

The Clinton/Gore proposal would not extend this date by a single year.

They simply put more IOUs in the Social Security trust fund which will significantly increase the national debt, and then claim they have saved Social Security.

But their numbers simply do not add up. Between 2015 and 2036, the government will have to come up with $11.3 trillion from general revenues to make up the annual shortfall in the Social Security system. This is nearly three times the amount the government will save from paying down the publicly held debt during that period.

Worse still, the Clinton/Gore plan does not trust the American people to manage their own money, and they instead propose government investment of Americans' Social Security surplus—this despite Vice President GORE's recent denial that their plan called for the government to invest payroll taxes in the stock market. ''We didn't really propose it. We talked about the idea,'' he said.

Vice President GORE obviously has a short memory. He forgot their government investment proposal was included in their budgets for FY 1999, FY 2000 and FY 2001.

I remember that when the Clinton administration first proposed the government investment scheme, I asked Federal Reserve Chairman Alan Greenspan whether we should allow the government to invest the Social Security Trust Funds in the markets, and whether or not this was the right approach. Here are his exact words:

> No, I think it's very dangerous . . . I don't know of any way that you can essentially insulate government decision-makers from having access to what will amount to very large investments in American private industry. . . .
>
> I am fearful that we are taking on a position here, at least in conjecture, that has very far-reaching, potential danger for a free American economy and a free American society. It is a wholly different phenomenon of having private investment in the market, where individuals own the stock and vote the claims on management (from) having government (doing so).
>
> I know there are those who believe it can be insulated from the political process, they go a long way to try to do that. I have been around long enough to realize that that is just not credible and not possible. Somewhere along the line, that breach will be broken.

Mr. President, Chairman Greenspan was among the first to raise the issue of Social Security's unfunded liabilities and warned Congress a few years ago about the consequences if we fail to fix Social Security.

Mr. President, we should never venture out onto what Chairman Greenspan calls ''a slippery slope of extraordinary magnitude.'' We must move from a pay-as-you-go system to a fully funded retirement system, which he supports. This is the only way to save Social Security.

The recently released annual report of the Social Security Trust Fund's Board of Trustees shows it is even more urgent for us to find a solution to Social Security's approaching insolvency. The report shows some short-term improvement but continued long-term deterioration. The inflation-adjusted cumulative deficit between 2015 and 2075 is not projected to be $21.6 trillion, up nearly 7 percent from last year's projection. If the economy takes a turn for the worse, or if the demographic assumptions are too optimistic, the Trust Fund could go bankrupt much sooner.

Clearly, Vice President GORE is just plain wrong about Social Security, about government investment, and the ability of working Americans to manage their own money. His use of scare tactics dodges the real issue: that we must solve the insolvency problem. Americans' retirement should be above politics, and we should have an honest debate on the best way to avoid the fast approaching Social Security crisis, and to ensure retirement security for all Americans.

Mr. President, to achieve this goal, we must understand how we got here, what problems we are facing and what options we have to save our retirement system. Now, Mr. President, let us take a look back in time to see what we can learn and also what I believe is the best plan to achieve retirement security.

Clearly, Vice President AL GORE is just plain wrong about Social Security, and I am glad that he and Governor Bush have framed the debate in what we are going to be talking about as far as Social Security over the next 5 months of a very important campaign and into the 107th Congress.

I have been doing a series of town meetings in Minnesota, trying to outline the problems that we find with Social Security. Social Security has done the job we have asked it to do over the last 65 years; that is, to provide minimum retirement benefits to millions of Americans. But a public Social Security system was even questioned by Franklin Roosevelt back in 1935. He thought at one time during part of the debate that we should have included a private retirement account as part of the options. He even said when the Social Security program was created that he wanted the feature of a private sector component to build retirement income. It was not included. In fact, it was taken out in conference after being approved here on this Senate floor with the promise that a private investment concept would be brought back the next year to be debated as part of the Social Security program. That never happened. It was one of the first big lies dealing with Social Security.

Why are we having problems today? Social Security is now a system being stretched to its limits. Seventy-eight million baby boomers will begin retiring in the year 2008. Social Security spending will exceed tax revenues by the year 2015. In other words, the surpluses we hear about today will not exist past 2015. In fact, at that time the system will be bringing in less money than the demand will be for those benefits, and the Social Security trust funds would go broke in 2037; that is, if we could turn the IOUs between now and the year 2015 into cash and be able to use them to supplement the system. Without it, the American taxpayer is going to be asked as early as 2015 to begin paying higher taxes to redeem those IOUs which exist today with the pay-as-you-go system.

Why are we in trouble? Why is it being stretched to the limit?

In 1940, there were about 100 workers for every person on retirement. You remember the old Ponzi system, the pyramid scheme, where you had a lot of people at the bottom and you could support a few at the top. That is the way the system was. It worked then because of the pyramid style of 100 workers and 1 retiree. Today there are about three workers for every retiree. By the year 2050, there will be about two workers for every retiree.

So you can see the strain that we are going to put on the system. But what is the system? That system is going to be your children, your grandchildren, and your great-grandchildren. They are going to be put under a tremendous financial strain in order to support an outdated system.

As I mentioned, right now we are in a surplus mode. But by the year 2015, we are going to begin accumulating deficits, and this is going to continue on a very downward pattern over the next 70 years. This is what we are going to accumulate. The Government is coming up short with more than a $20 trillion shortfall between the year 2015 and the year 2070. That means these are the benefits the Government has promised to pay and this is what we are going to come up with, and we will be short of revenues from the current FICA tax or withholding tax in order to pay these benefits.

From where is this $20 trillion-plus going to come? As I said, it will come from paying back the IOUs that have already gone out. It is the American taxpayer who is going to see tax increases of at least twentyfold in order to do this.

My plan, which is a totally funded retirement system, is going to cost—our estimate—at least $13 trillion, and it is going to take a little bit shorter curve in over to attain by the year 2050. We need to solve this problem, and we will be in the black in a system that will pay for itself by the year 2015. But if you look at the current system, in the year 2070, it is $20 trillion in debt, and it is heading downhill at an ever increasing rate.

I am going through these a little fast because we don't have a lot of time this morning. But I will try to get in all of this information.

The biggest risk we have facing Social Security today is doing nothing at all.

Again, this is the way Vice President AL GORE has framed the debate. Let's

do nothing. Let's just put our arms around this. Let's put a Band-Aid over the real problem dealing with Social Security or our retirement future. Let's put a Band-Aid over it and do nothing, despite the fact there is over $20 trillion in unfunded liabilities.

The Social Security trust fund is nothing but IOUs. If this is how the system will remain solvent, I say why not write an IOU to yourself? Make it for $1 million; put it in your checking account. How many banks will allow you to write a check? Not one, until you redeem the IOU.

To pay promised Social Security benefits, the payroll tax paid today, which is one-eighth of everything taxpayers make, will have to be increased by at least 50 percent or benefits will have to be reduced. We are leaving our kids and grandchildren a future of paying more for retirement, getting less, and they are talking of raising the retirement age further. Is that the kind of system we want to leave our children? I don't think so.

Payroll taxes keep rising. Today, in the year 2000, 15.4 percent of your income is deducted in FICA taxes to pay for Social Security and Medicare. By the year 2030, that will be about 23 percent, according to low estimates; it will be about 28 percent according to even higher projections. Somewhere in between there is what we are going to see our children paying in FICA taxes. If they are paying nearly 30 percent in FICA taxes, and thrown on top of that is an average of 28-percent Federal taxes, we are now up to 48 percent. My home State of Minnesota has an 8½ percent State tax, so now we are 57 percent. Add in your sales tax, estate tax, property taxes, and everything, and our children are going to be paying taxes that could be in the range of 65 to 70 percent of their income. Again, is this the future we want to leave our children?

Diminishing returns of Social Security is another problem. Right now, Social Security is paying less than a 2 percent return. If someone retired in 1950 or 1960, they got back all the money paid into Social Security within 18 months. Today's workers are getting back less than 2 percent on their investment. Many of the minority groups in our society are now getting a negative return. In other words, they are supporting Social Security with their dollars because they are receiving less because of life expectancy. For those today under 50 years old, when they retire they will actually receive a zero return or less, a negative return. I don't know how many people will stand in front of a window to invest their money when they are promising to pay you 2 percent and, in the future, less than 0 percent on the investment. I don't think many people want to do that.

I compare this with the market return over the last 75 years. The markets have paid back better than 7 percent real return. This is after inflation adjusted. And this is 75 years, including the crash of 1929, the Great Depression and everything else. The markets have been a better source of revenue than what we can expect from Social Security in the future.

There is no Social Security account with your name on it. I know a lot of people think: I have paid into Social Security all my working life; surely, there has to be an account in Washington in my name.

There is not. There is not an account in your name. There is not one dollar set aside for your retirement. It is a pay-as-you-go system. All one can hope is when retiring there are people working yet so we can take money from their check and give it to you as a benefit in retirement. The money we collected the first of May will go out in benefits at the end of May. It is a pay-as-you-go system. No investments, no cash, no accumulation of wealth, no assets—nothing for your retirement, just the hope there will be workers.

When they talk about solvency and Social Security until 2037, because of the IOUs, the President has actually had to put into his budget certain words so he is legally correct in dealing with the IOUs. The statement begins ''These [trust fund]''—and the Senator from South Carolina, Mr. HOLLINGS, says there is no ''trust'' and there is no ''funds'' in trust funds.

> These [trust fund] balances are available to finance future benefit payments and other trust fund expenditures—but only in a bookkeeping sense. They are claims on the Treasury, that, when redeemed, will have to be financed by raising taxes, borrowing from the public, or reducing benefits or other expenditures.

In their own budget, they had to very clearly spell out that the IOUs we are talking about in the Social Security trust fund are nothing but paper.

The Social Security lockbox is very important. The moneys we are taking in now, the surplus in Social Security, needs to be locked away. We need to save the Social Security trust fund dollars for Social Security and keep Washington's big spenders from using trust fund dollars for other Government functions. I introduced a Grams Social Security lockbox concept that takes care of this.

The Grams lockbox offers a double lock on Social Security. It triggers an automatic reduction in all Government discretionary spending, including Congressional Members' pay, if any of the Social Security surplus is spent, returning it to the Social Security trust fund. In other words, in Washington, we are always at ''best guess'' estimates. We have an estimate on what our revenues will be, we have a best guess on estimates on what spending will be. My lockbox says we have promised not to take one dime from Social Security. If the estimates are off, even if only off a million dollars, all other spending would be reduced so Social Security would not pay one dime.

Right now, any deficit spending has to come out of the surplus, and that is out of Social Security funds. If we are honest about not taking a dime out of Social Security, we should do that.

My plan, the six principles for saving Social Security, protects current and future beneficiaries. Anyone on Social Security today or planning on retiring and staying with this system—that is your option—we guarantee protection of future benefits. That is a guarantee we have to make. Seniors today and those who want to retire should not be afraid of allowing their children or grandchildren to have options. We guarantee your benefits today. This is an agreement I believe the Government has made with you. Taxpayers have said: I will pay into the system, and I expect a retirement benefit in return. That is the agreement. I think we need to make sure that happens.

Allow freedom of choice—your kids, your grandchildren to have the chance to have a private retirement account.

Preserve the safety nets for disability and survivor benefits as the system today. Make sure that is included.

Make Americans better off, not worse. My plan says you cannot retire with less than 150 percent of poverty. That is your income. Today, nearly 20 percent of Americans retire into poverty because Social Security is so low. The majority of those are women. Social Security is a system that discriminates against women.

Create a fully funded system. And no tax increases in the future.

The Grams plan, the Personal Security and Wealth in Retirement Act I introduced in September last year, and in the 105th Congress, my staff says, is the third rail of politics. Members cannot talk about retirement or Social Security or they will never get reelected. I thought it was so important we had to talk about it I said then it would become an important issue of this Presidential campaign. As I mentioned earlier, Governor Bush and Vice President AL GORE have now framed this debate and it will be an important part of the elections in 2000.

Right now, 12.4 percent of workers' income goes into Social Security, one-eighth of everything they make. My plan says you can take 10 percent of your income and put that into a personal retirement account. That would be managed by Government-approved private investment companies. Safe and sound. We hear the scare tactics; we will invest your money and lose it. Some do better than others. They say you are too dumb to manage your own money. You don't know how to save for your future.

Our plan says we have faith in you. Under Government-approved guidelines as those used in your IRAs and the FDIC account at your banks, provisions are made for safety. These plans are the same. Your retirement would be safe, sound, and secure. The only difference is it would accumulate and grow much faster, and taxpayers receive much better returns than Social Security.

For those who say: I have paid into Social Security for so long, first, if your wage is $30,000, under Social Security today, $3,720 is put into the Social Security account. Under my plan, $3,000 goes into your account. A passbook shows assets of $3,000 plus interest at the end of the first year. The other $720 is part of our financing plan, to make sure there are benefits for those who stay in Social Security. The $720 goes into that system. Hopefully, that would be absolved in 20 years and would then be a tax cut. Ten percent of your salary would go into your account to begin to grow assets for you and your family.

If you make an average of $36,000 a year, after your lifetime of work, $1,280 a month is your maximum benefit from Social Security. Take 10 percent, put it into an average return market account, and your retirement would be $6,514 a month, a much better return for your retirement than the $1,280. These are average returns, nothing spectacular, as we have seen in the markets as of late. Based on an income of $36,000—we have heard of everything from taking just 2 percent of the 12.4, maybe taking 6 percent or about half of the Social Security. My plan would put it all into private accounts, and these are what we could expect as the differences.

After 20 years at 2 percent, you would only have $33,000 in a separate account. Under our plan, you would have, after 20 years, $168,000. But after a lifetime at an average income of $36,000, if you could take 10 percent of your wages and put it into a personal retirement account, you would have, not $171,000 but $855,000 cash money in an account for you and your family for your retirement benefits and part of your estate as well. That is for a single worker.

An average family in the United States right now has an income of about $58,500. If we could take these same scenarios, after a lifetime of work, under 2 percent, you would set aside an additional $278,000 for your retirement—better than Social Security, granted, because this will be a supplement to that. But if you could put 10 percent away, you would have nearly $1.4 million put away for your retirement—$1.4 million put away for your retirement. That is after 40 years at 10 percent, with an average salary of $58,000 a year: $1.4 million on which you can retire.

We look at Galveston County, TX. When Social Security was implemented in 1936, one part of the law said if you were a public worker and had a private retirement account, you did not have to go into Social Security. We have something like 5 million Americans who are public employees today who have their own private retirement accounts and are not in Social Security. Galveston County, TX, was one of those. They just entered in 1980, by the way, because an administrator found a loophole in the law. Of course, that was closed after Galveston County got out.

But this is a comparison between Social Security and what Galveston County pays. They are very conservative, investing only in annuities, not necessarily in the market. This is what they paid:

Social Security death benefit? My father passed away at 61 and received zero from Social Security, except for a $253 death benefit after a lifetime of work, investing in Social Security—$253. In Galveston County: A minimum death benefit of $7,500.

Disability benefits under Social Security—maximum $1,280; for Galveston it is now $2,800 dollars.

In retirement benefits per month: Social Security, $1,280 maximum; in Galveston, $4,790—much better returns.

One lady's husband was 42; she was 44. He passed away suddenly from a heart attack. All she could say was, ''Thank God that some wise men privatized Social Security here. If I had had regular Social Security, I'd be broke.'' She would have been in poverty with her three children. After her husband died, Wendy Colehill was able to use her death benefit check of $126,000 to pay for his funeral and enter college. Under Social Security, she would have received $255. So she got a death benefit of $126,000 plus a survivors benefit to which Social Security never would have come close. She said, ''Thank God for Galveston.''

In San Diego, a 30-year-old employee who earns a salary of $30,000 for 35 years, contributing—in San Diego they only contribute 6 percent, not 12.4—6 percent, so they pay less than half into their retirement system than you do—would receive about $3,000 a month in their retirement compared to $1,077 under Social Security. They pay in less than half and get three times more.

The difference between San Diego's system of PRAs and Social Security is more than three times better under their private plan. Even those who oppose PRAs—and there are many in this Senate who say, as Vice President GORE says, you just cannot handle your own retirement—agree that the system in San Diego is better.

This is a letter written from Senators BARBARA BOXER, DIANNE FEINSTEIN, and TED KENNEDY, among others, to President Clinton. Under the President's plan for privatizing any part of Social Security, he wanted to take all these employees and bring them into Social Security. Take Galveston County, San Diego, take all of them, and they would have had to become part of Social Security. But Senators BOXER, FEINSTEIN, and KENNEDY, among others, wrote to the President and said:

> Millions of our constituents will receive higher retirement benefits from their current public pensions than they would under Social Security.

So they said leave San Diego alone.

My question is, If Social Security is so much better, why don't the residents of San Diego, or the workers, get to enjoy that? But if private retirement accounts are better, why don't you and I get to enjoy the same thing as these three Senators speak of for San Diego?

The United States trails other countries in saving its retirement system. For nearly 19 years Chile offered PRAs; 95 percent have opted into the system, and their average return last year was 11.3 percent. They have had much higher than that, but last year it averaged 11.3 percent. Among other countries that are going to private retirement accounts—and I am talking totally private retirement accounts—are Australia, Britain, Switzerland, and there are 11 others. Thirty countries today are considering doing that.

We like to think we are ahead of the game on a lot of things here in the United States, which we are in most cases, but when it comes to Social Security, we are behind the curve of what other countries are doing.

British workers chose PRAs with 10-percent returns. The question is, Who could blame them? Two out of three British workers are now enrolled in the second-tier; that is, private parts of their social security system. They chose to enroll in PRAs. British workers have enjoyed a 10-percent return on their pension investments over the last 5 years—a 10-percent return. I said our numbers are based on a conservative 7 percent. The pool of PRAs in Britain exceeds nearly $1.4 trillion today. That is how much they have accumulated in that account. That is larger than the entire economy of Britain, and it is larger than the private pensions of all other European countries combined. This is what the British workers have set away for their retirement.

Say you are 45 year old. You say: I have worked 20 years; I paid into the system; How am I going to let that go?

A lot of young people who are 45 say: If you just let me out of the system, you can keep everything I paid in. But we said, again, it is a contract with the Government.

We need to have a recognition bond. This is a sample. But if you have paid in $47,000 or $91,000, we should recognize that in a bond—put that into your private account as seed money and pay you interest on it, due and payable when you reach the age of 65. If you choose to remain within the current system, the Government will guarantee your benefits—again, part of that contract. If you stay with Social Security, we are going to guarantee your benefits. If you are on retirement today, we are going to guarantee those benefits, preserve the safety net so no American will be retiring into poverty.

Again, the poverty level today is $8,240 a year. That means in the United States, you would have to retire with at least $12,400 a year. This is again for a single individual. But you would not retire into poverty—providing safety and soundness. Again, they say this is risky. This is not risky. We have similar rules that apply to IRAs, and they would apply to the PRAs. A Federal Personal Retirement Investment

Board, an independent agency, will oversee the PRAs. Investment companies that manage it would have to have an insurance plan to have survivors benefits, disability benefits, and also a floor that says you would never get less than 2.5 percent of your investment that year. By the way, you choose the company with which you want to put your money. If it is better somewhere else, you can move your money.

Chile has 16 companies that do this with a population of under 20 million people. In our country, we would probably have 100 firms. Just look at the numbers of mutual funds you can choose from today.

You also decide when to retire. This is an important part. Under the current system, the Government tells you how much you are going to pay into the system; the Government tells you when you are going to retire; you have no choice, and the Government tells you what you are going to get as a benefit. They determine everything. You have nothing to say about it. You are being led along like sheep into this system.

Ours says when you reach this 150 percent of poverty, if you can buy an annuity that will pay you the rest of your life at that, you can stop paying into the system. You can retire at that time. I don't care if you are 40 years old. Once you have met that requirement, you can get out of this system. You will no longer be considered a ward of the State; you will have enough to provide for your retirement. Some choices: In divorce cases, PRAs are treated as community property. Upon death, a PRA benefit will go to the heirs without estate taxes.

Think, if you had that $1.4 million in your account when you die—not like my father who got $253, but whatever you had accumulated in your account, up to $1.4 million or more, that would be your money that would go to your heirs without estate taxes, without capital gains. Workers could arrange PRAs for nonworking children. They could put $1,000 in their account, and when they reached the age of 65, it would be $250,000.

There will be no new taxes for this system. Retirement income would be there for everybody, whether you stayed within Social Security or chose to build a personal retirement account. In Minnesota, workers can decide when to retire and which options work best for them. With PRA, average returns would be at least three to five times better.

This is the system. I hope when we continue these debates, and when people hear these scare tactics, remember, that is all they are, rhetoric and scare tactics. We can develop a system that will be safe, sound, and will preserve better retirement benefits than we have today.

We should have that chance for our children, just as other countries. When hearing this debate, set aside the rhetoric and scare tactics and look at the numbers. I hope we can continue this debate because this is a very important part of America's future.

I yield the floor.

The PRESIDING OFFICER (Mr. CRAPO). The time of the Senator has expired. The Senator from Maine.

Ms. COLLINS. Mr. President, I ask unanimous consent that I be permitted to proceed under the time reserved for the Senator from Wyoming, Mr. THOMAS.

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

Ms. COLLINS. I thank the Chair.

(The remarks of Ms. COLLINS pertaining to the introduction of S. 2605 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Ms. COLLINS. I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mrs. BOXER. Point of order: Is the Democratic side supposed to take over at 10:30?

The PRESIDING OFFICER. At 10:30, that is correct. There remains about 3 minutes.

PERSONAL RETIREMENT ACCOUNTS

Mr. SANTORUM. Mr. President, I wish to briefly continue the discussion started by Senator GRAMS from Minnesota. I commend him for his fine work on the issue of Social Security and moving forward on personal retirement accounts.

I also commend Gov. George W. Bush for his bold and, I think, prescient decision to move forward on the issue of personal retirement accounts for Social Security. This is the kind of leadership this country is looking for, someone who is going to tell the truth to the country, let them know what the decisions to be made are with the most important social program in this country, Social Security.

The Governor laid out very clearly the options before us: We can either raise taxes, we can cut benefits, or one can invest some of the current Social Security revenue stream into stocks and bonds. He came out and said: I am for investment. That is the way we are going to solve this problem and create opportunities for every working American, with every working American sharing a piece of the American dream, the free spirit of America.

I commend him for that, thank him for his leadership, and look forward to talking about this issue over the next several months to move this issue forward for America.

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

All the time of the Senator from Wyoming has expired.

The Senator from California.

SOCIAL SECURITY

Mrs. BOXER. Mr. President, it is interesting that Senator GRAMS and Senator SANTORUM came to the floor to praise Governor Bush's Social Security plan. I come here to express my deep alarm over this plan and to place into the RECORD the reasons I believe it is very dangerous to the future of this country, to our senior citizens, and to those who really depend on Social Security for themselves or for their aging parents.

I think the first question to ask is, What is Social Security? Why is it called security?

I used to be a stockbroker. I can tell you that I have seen the smiles when the market goes up, and I have seen the tears when the market goes down. At the time I was a broker, there was a very traumatic period in our history. It was the tragic assassination of our great President John Kennedy. I will never forget, the market was just crashing that day. It went down so much that there was a halt in the trading. Anyone who retired that day, and had an annuity plan, would have been in the deepest trouble.

I believe in investments in the stock market. I believe in investments in the bond market. I think it is very important that we let our people know Social Security is not meant to be your full retirement. What it is meant to be—and what it has worked so well as—is a basic foundation, a safety net, not guesswork but a basic return you can expect every month with a check you will get which will meet your basic needs.

Let me describe it this way: You have a house. It is very modest, but it is good. It has a roof. It protects you. It is a place where you can be comfortable, warm. It works for you.

Maybe you want to add a room to that house. That is wonderful. That is an amenity. That is something additional you could use—a family room, an extra bedroom. But you do not mess with the foundation of the house. You keep that a solid house—that Social Security. Anyone who challenges this idea is making a huge mistake. I will explain why.

You do not have to go that far to look at the ultimate result if we just said: People can just have individual accounts and forget Social Security. Because we know that happened in Texas. I will show you what happened in Texas when three counties left Social Security and went into the market and said to their people: We will allow you to deal with your accounts. This isn't theoretical; it has actually happened in Texas. Let me tell you about the Texas example where every single family lost out.

It was the same idea Governor Bush has. He started off talking about 2 percent of your Social Security being diverted. As I understand it, last week he said he could foresee a time when everybody has private accounts—100 percent. We know what happened in this experiment. The source here is the U.S. General Accounting Office, February 1999.

They did a study of the Texas experiment. This is what happened. Those counties went off Social Security, instead of saying: We will have a supplemental plan, like a 401(k). Keep your Social Security. Let's do a supplemental plan.

By the way, around here, a lot of us have a supplemental plan. We have our basic Social Security, and then we have what we call thrift savings, which is added on. That is fine. But we do not mess with Social Security.

These counties messed with Social Security. They walked away. This is what happened: The bottom 10 percent of earners, had they stayed in Social Security, would be getting a monthly benefit of $1,125. But in their retirement plan—where they just said forget Social Security, we will have an individual account—they are getting $542 a month. That is utter poverty. If they are in the median, the moderate income, instead of getting $1,488 a month from Social Security, they are getting $810 a month. If they are in the highest income, instead of getting $1,984 a month, they are getting $1,621 a month.

So when Senator SANTORUM and Senator GRAMS come to the floor—I say to my friend from Illinois, they have been lauding the Bush plan—I think we have to note that if you took the Bush plan to its ultimate, which he in fact said he could foresee, abandoning Social Security for individual accounts, every family lost, regardless of their income bracket.

I do not want to see this for America's families. I do not want to see it. I ask the next question: What happens if we go this route, and people are living in poverty instead of having a social safety net because of this? Do you think Congress would turn its back on the families of America? You know we would not. What would we do? We would say: Oh, my God, we had better bail them out. We have done it before for the savings and loans. We do not want to see people go destitute.

Then you have to ask yourself a question: If George Bush is President and he gets this huge tax cut for the wealthy but has used up all the money for that tax cut, where is he going to find the money to do this bailout? Are we going to go back to the days of printing money? We just finally got out of that situation—thank God—where we were running these deficits; we finally got it under control.

Let me tell you, this election is a watershed election. This is a risky plan.

The women Democratic Senators held a press conference just a few days ago. We decided to look at what this plan would do to women in our Nation. We went to the experts and asked them how they felt about it. This is what one of them said. I want to put his credentials into the mix. This is John Mueller, of Lehrman Bell Mueller Cannon, Inc., a former adviser not to AL GORE, not to BARBARA BOXER, not to DICK DURBIN, but an adviser to Representative Jack Kemp, an adviser to Republican Jack Kemp. This is what John Mueller said:

> . . . the largest group of losers from ''privatizing'' Social Security would be women. This is true for women in all birthyears, all kinds of marital status, all kinds of labor-market behavior, and all income levels.

Why does he say this? We went into this in the press conference we women Senators held. I want to try to find that clip so I can share with you why it is a fact that women will suffer.

First of all, there is no question that private accounts will lead to the reduction of benefits. Why do I say that? I want to make sure people understand that, because when you divert money away from Social Security into private accounts, what happens? The Social Security fund drops, and we do not have enough money to keep paying those benefits. So benefits would have to be cut. Women live longer, and they count on those benefits, so they would lose more; they would suffer more.

Now, here is an irrefutable fact, and the group that analyzed this was the Center on Budget and Policy Priorities. With just a 2-percent privatization—in other words, taking 2 percent of your taxes and putting it into an individual account—the trust fund will go broke in the year 2023. That may sound like a long way off, but trust me when I tell you it is not; 20 years is not a lot of time. I remember back to 1980, and it doesn't seem that long ago. Twenty years from now, with the 2-percent privatization that George Bush is calling for, assuming he does nothing to cut the benefits—and he won't admit to that—the trust fund goes broke.

Right now, without doing anything, the trust fund is solvent until 2037, so we make this trust fund go broke by many years. That is 14 years sooner that the trust fund is broke. AL GORE has a plan to take the interest payments on the debt he is going to save because he is much more conservative than George Bush in paying down the private debt, which is the bonds. He is going to absolutely make sure we don't have to keep issuing more bonds and we will pay down that debt. His plan keeps the funds solvent until 2050.

So let's take a look at the three scenarios. If you do nothing, the fund is solvent until 2037. If you follow the Gore plan, the fund is solvent until 2050. If you do the Bush plan and you don't cut benefits or raise taxes—which he will not tell us what he is going to do—you go bust in 2023. This is from a conservative. We know if you carry this plan to the ultimate extreme and go beyond 2 percent, you essentially know, from looking at what has happened before, people will suffer. You set up a real problem and you may have to do an S&L-type bailout. That is not good.

So the women Democratic Members are very clear on all of this. Let me say, in closing—and I know my friend, Senator DURBIN, is anxious to address this issue—I think a robust debate over Social Security is right on target. I think encouraging people to save and put money into the stock market and have a nest egg there is good because I believe that is a good idea. But don't mess with Social Security. If you want to have a supplemental plan, your basic Social Security plus a 401(k), a thrift savings plan, and IRA, added on to the basic safety net, that is just fine. I believe in that. I think it is smart and good. But if you mess with the foundation, you are in a lot of trouble.

Senator SCHUMER was talking about this earlier today. He made the point that he is saving for his kids' college education. He decided he needed to have that money, no ifs, ands, or buts. He took that money and put it into the safest Government bond-type of investment because he can't gamble. What happens if on the day he has to start paying those bills the market goes down? We have seen the volatility of these markets. He says: My kids have to go to college. I am not going to tell them they can't go. So, yes, for other types of savings; it is a good idea to invest in markets; but for your basic retirement, don't gamble as they did in Texas. Don't gamble as the candidate for President, George Bush, wants to do. There are a number of us who are sending a letter—and I hope Senator DURBIN will describe it—to Governor Bush asking him to come clean on the details of his plan.

I ask unanimous consent to have this document on solvency printed in the RECORD.

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

PRIVATIZING SOCIAL SECURITY: A RIVERBOAT GAMBLE

Social Security Trust Fund Solvent Until: 2037.

With 2% Privatization, Trust Fund Solvent Until: 2023.

(Source: Center on Budget and Policy Priorities.)

Mrs. BOXER. Mr. President, his plan will take us into the red. Combined with his risky tax scheme, he won't be able to bail out the people. So it is a dangerous idea. Stock market investments are good, but not as a foundation of an insurance plan, which is what Social Security is.

You will be hearing a lot more from the women Senators on our side of the aisle on this question because, under the leadership of Senator MIKULSKI, we have set up a checklist where we are going to judge every plan against this checklist that women should be able to count on. We should be able to count on several things: Preserving the Social Security guaranteed lifetime inflation and protecting the benefit; preserving Social Security protections to workers when they are disabled, as well as when they retire, and for workers, spouses, and children, and when workers are disabled, retired or die; three, protect against impoverishment of women by maintaining Social Security's progressive benefit structure;

four, strengthen the financing of the Social Security system while ensuring that women and other economically disadvantaged groups are protected to the greatest degree possible.

Look at that plan. Does it further reduce poverty among older women? I told you that his plan does not. We certainly want to see if it includes retirement savings options. Are these options something that will work for women? That is where we are.

I will close by repeating a quote from an expert, John Mueller, a former adviser to Representative Jack Kemp, who said:

> The largest group of losers from ''privatizing'' Social Security would be women. This is true for women in all birthyears, all kinds of marital status, all kinds of labor-market behavior, and all income levels.

If you look at this experiment in Texas, everyone lost—all families, women, everyone. Let's not go down this path. We can't afford to do that.

TRIBUTE TO FRANK AUKOFER

Mr. KOHL. Mr. President, I rise today in recognition of 40 years of outstanding reporting by my friend, Frank Aukofer, who is retiring from the Milwaukee Journal Sentinel next week. With his retirement, the Capitol loses one of its finest journalists and Wisconsin loses one of its keenest eyes on Washington. I lose a reporter I admire and trust.

Frank is regarded as among the best in his profession, by both his peers and by those he covers. He is respected as a straight-shooter, valued for his integrity and admired as an honorable man. As a journalist, he has reported on virtually every event of consequence in our country over more than three decades. He has an impressive working knowledge of Congress, of policy, and of politics. Frank is usually three steps ahead of the story.

He is a journalist who didn't lose sight of the responsibilities of reporting, a professional who is a credit to his occupation.

Frank's love of his profession is evident in his long reach beyond the newspaper. He will be honored later this month by the Freedom Forum, a foundation dedicated to free press and free speech throughout the world. He is recognized as a national expert on the media, and has testified before Congress to promote access to government information. He was a visiting professor at Vanderbilt University. He was an early and strong supporter of the Newseum, our country's premier news museum.

Frank is also an active member and former President of the National Press Club, and an enthusiastic, if not particularly gifted, performer for the Gridiron Club. Earning the envy of his colleagues and sports car enthusiasts everywhere, Frank has even managed to peddle a legitimate weekly auto column to newspapers around the country.

As Frank closes this chapter of his career, I know he looks forward to new adventures and more time to spend with his grandkids. Frank has many more years of ideas and ambitions ahead of him. While I am saddened by his departure from the Capitol, I'm convinced that no one will enjoy a busier retirement than Frank Aukofer. I wish him well, I wish him continued good health, and I will miss him.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. DURBIN. Mr. President, I ask the Chair to advise me of the time remaining on the Democratic side?

The PRESIDING OFFICER. The Democratic side has until 11:30 a.m.

SOCIAL SECURITY

Mr. DURBIN. Thank you. I come to the floor this morning to talk about an issue which is dominating the Presidential race across the United States. It is the issue about the future of Social Security.

It is interesting when you ask Americans how important it is. As an issue in this Presidential campaign, 71 percent of Americans say it is very important. It is understandable, because, at least since the era of the New Deal and Franklin Roosevelt, Social Security has really been there as an insurance policy against the devastating impact of age and retirement of people before its creation.

There was a time in America before Social Security when, if you were lucky enough to have saved some money, or if you were among the fortunate few with a pension, retirement was kind of an easy experience. But for the vast majority of Americans who didn't have that good fortune, retirement was a very troubling and dangerous experience.

It is no surprise that before Franklin Roosevelt conceived of the notion of creating Social Security, one of the highest ranking groups of poor people in America was parents and grandparents who were elderly. In his era, President Franklin Roosevelt changed the thinking in America to say: we are going to create, basically, a safety net to say to everyone, if you will give the Social Security fund some money as you work during the course of your employment, we will put that aside and guarantee to you that there will be a safety net waiting for you; that you will have a nest egg; that the Federal Government will be watching; and it will be there.

Over the years, of course, because of medical science and other things, we have gotten to the point where we live longer and more and more people are taking advantage of Social Security. Over the years, the amount of payroll tax for Social Security went up so you could take care of those senior citizens. But Social Security in America, for 70 years, has been that basic insurance policy.

When political leaders of either political party—Democrats or Republicans—start talking about changing Social Security, a lot of American families start listening—not only those who are receiving it but many who are near retirement. Certainly, a lot of younger workers ask very important questions, such as: Will it ever be there when I need it? I think for the last three or four decades in America that question from younger workers has been very common. It is natural to be skeptical—when you are 20 years old or 25 years old—that the money you are putting into the payroll tax for Social Security will ever help you.

Yet if you take a look at the record in America, Social Security has always been there. Payments have always been made. We have kept up with the cost-of-living adjustments to try to improve and increase those payments over the years. But we have kept our promise. A program created almost 70 years ago has been an insurance policy for every American family.

There are warnings, of course, for people: Do not count on Social Security for a living because it is a very spartan existence. It doesn't provide a lavish lifestyle once you have retired. But you are not going to starve. You are going to have some basic health and necessities of life. Americans have built this into their thinking about their future. What will happen to us at the age of 65? We would like to think we are prepared with savings and retirement, but we always know that we have worked for a sufficient number of quarters for our lives so that we will qualify for Social Security.

It is interesting. In the year 2000, in this Presidential campaign, there is a brand new debate, and the debate suggests that we ought to take a brand new look at Social Security. On one side, George Bush has suggested we ought to change it rather dramatically; that we ought to take at least 2 percent of the payroll savings taxes that are taken out for Social Security and put that into a private account in which individuals can invest.

There is some appeal to that because a lot of people say maybe that will be a better idea—maybe I can make more money by investing it personally and directing my investments than if the Federal Government buys a very conservative investment plan with the whole Social Security trust fund. It is not uncommon to think that people across America are feeling good about directing their own future.

I say at the outset that—I think I speak for everyone in the Senate, both Democrat and Republican—we believe in encouraging people to save for their future. We believe in giving them options for investment. That is why we have created IRAs and 401(k)s, and all sorts of vehicles under the Tax Code so people can make plans for their future. But George Bush raises a more important question, and one that I would like to address for a few minutes.

What would happen if George Bush had his way? If we took 2 percent of the

proceeds going into the Social Security trust fund and said they will no longer go into the trust fund but people will be allowed to invest them individually, what impact would that have? Frankly, it could have a very serious and, I think, a very negative impact.

Keep in mind that the money being taken out of the payroll taxes each week in America goes to pay the current benefits of Social Security retirees. There is not some huge savings account that is blossoming. But basically we are talking about a pay-as-you-go system. If you take 2 percent away, you are still going to have the retirees needing their Social Security check. You are going to have to figure out some way to plug this gap.

If you say that 2 percent of payroll taxes will stop going into the Social Security trust fund, who will make up the difference? How big is that difference? Some estimate that the difference is $1 trillion. If you think about that, you have to ask George Bush and others who support this: Where is that money coming from? How will we make up the difference if we start saying to people they don't have to put it all in the trust fund, keep 2 percent and invest it personally? That $1 trillion transition has to be taken in the context of George Bush's other suggestion of a $2 trillion tax cut primarily for the wealthiest people in America.

I will concede that we are in good times in America for most families. The economy is strong. For the first time in decades, we are seeing surpluses in the Federal accounts. You can attribute that to leadership in Washington, leadership in business, and leadership in families. It has all come together in the last 8 years. America is moving forward. We are in a surplus situation. Who would have thought we would be talking about this on the floor of Congress just a few years after we debated a balanced budget amendment?

But many of us believe that even in a surplus situation we should be cautious because we are not certain what is going to be around the bend. We want to make certain that the decisions we make now about investing surplus funds makes sense for ourselves, for our children, and for our grandchildren.

To come up with an idea for taking this surplus and putting it into a massive tax cut for wealthy people or putting it into a Social Security change that could cost us another trillion dollars, in my mind, is not fiscally conservative. Yes. That is right—fiscally conservative.

The conservative approach being proposed by President Clinton and Vice President GORE says take the surplus and instead of putting it into something of great risk, such as a tax cut or some privatization of Social Security, let us buy down parts of the national debt. The national debt costs taxpayers in America $1 billion a day in interest. That is right. You are paying taxes now—payroll taxes and income taxes—to the tune of $1 billion a day for interest payments on old debt.

If you think about it, what is a better gift to our children and their children than to reduce this debt, and to say to them that we are going to take care of our mortgage, the one that we were going to leave to you, by paying down the national debt? That is Vice President GORE's suggestion. He says, in the Social Security program, pay down the debt in the trust funds. Pay down all of the bonds that have accumulated. When you do it, incidentally, you can extend the life of Social Security and make it stronger to the year 2050. It is a twofer—reducing the national debt and reducing the interest payment on it, and at the same time strengthening Social Security. That is the Gore approach. It a conservative approach. I will concede that. But I think it is the fiscally responsible approach.

On the other side, George Bush has said don't worry about paying down debt; Let's talk about a tax cut of $2 trillion for wealthy people, and let's talk about a new Social Security privatization idea that will cost at least $1 trillion in transition. That is not conservative, nor do I think it is prudent. I think you can appropriately call it a risky idea.

I joined with Senator BYRON DORGAN of North Dakota and Senator CHARLES SCHUMER of New York and my friend and colleague Senator BOXER of California in sending a letter to George Bush saying to him: If you want to talk about one of the most important programs to America's families, Social Security, and you want to talk about dramatic changes in Social Security, then we want you to come forward with an idea about what this means. What impact will this have on families?

We are anxious to receive a reply because, you see, George Bush, in the last few weeks, has gone beyond the 2-percent suggestion—that we can take 2 percent and invest it in the stock market—and now he says he can envision a day when we invest all of our Social Security in the stock market.

I readily concede that over the last 8 years, during President Clinton's administration, the stock market has done very well. It doesn't from day-to-day for those who follow it, but over the long term it has. The Dow Jones Industrial Average of 3,000 back in 1993 is now up to 10,000. That suggests a lot of wealth has been created in America. Those that were smart enough, and could, invested in the stock market and have seen their savings grow.

It is naive to believe this will go on indefinitely. We have certainly seen in the last 6 months the roller coaster of the NASDAQ and the roller coaster of the New York Stock Exchange, to suggest there have been good days and bad days. To take your life savings, or take 2 percent of your payroll tax and Social Security, and put it in the stock exchange, you understand there are risks. I think most Americans appreciate that fact.

As I said earlier, for those who want to invest their savings, that is their business. When it comes to Social Security, we have always said this is a part of our system that should be protected. If we go forward with George Bush's plan to privatize Social Security, it would truly give to individuals some power to invest. However, it also raises questions about the future of this Social Security system. Where will we come up with the $1 trillion in transition payments?

There are only so many ways to achieve that: We can tax Social Security to come up with more revenue; we can reduce benefits, for those who are currently receiving Social Security; or we can raise the retirement age under Social Security.

Frankly, I reject all three of those. I don't think America's families who are looking forward to enjoying their retirement years and counting on Social Security will sign up for George Bush's deal when they understand it could jeopardize Social Security as we know it and as we count on it. That is truly one of the serious problems we face.

Second, if we accept the George Bush approach on privatizing Social Security, we don't have the money that Vice President GORE wants to invest in paying off the national debt and paying off the debt of the Social Security trust fund. So we leave that interest payment out there for future generations. We don't stabilize Social Security. We don't give it a longer life.

A point made earlier by my colleague from the State of California, Senator BOXER: What if George Bush guesses wrong? What if people invest some part of their Social Security into the stock market and the market goes down and they are losing money? What will the response be of the elected officials across this country? We don't know because we have never faced it.

History tells us it is likely that Democrats and Republicans will say: Wait a minute; we cannot let a sizable number of Americans fail. People cannot be in a position where they don't have enough money to live on in retirement.

We are then likely, on a political basis, to ride to the rescue. Anyone remember not too long ago we did that with the savings and loan bailout? Too many institutions had lost money across America, and a lot of people lost their savings accounts. We bailed out the savings and loans. I didn't like voting for that, but I didn't see any alternative. The economy was at stake and we did it.

I happen to believe if the Bush privatization scheme goes through and it doesn't work, this Congress will be called on to come up with the money to bail out the families who guessed wrong in the stock market. Think about where this leads. From the dark days of deep red ink and deficits, we are now in a surplus. George Bush is saying let's try something that is a little new and a little innovative and

hasn't been tried. He is suggesting changes which could jeopardize the strength of this economy, the strength of our recovery, and what we envision as a strong American economy for decades to come. He is taking what I consider to be a leap of faith that some scheme which someone has come up with will work.

Vice President GORE is urging a more conservative approach: Put the surplus into bringing down the substantial debt, into strengthening the Social Security trust fund; put the surplus into making certain that Medicare is there for years to come; reduce the national debt so our children and their children don't continue to pay $1 billion in interest a day on old debt that we have accumulated.

That is the fundamental choice. It is not a question of whether people should have the right to invest their savings in the stock market—that is their right in America; 50 percent of families are doing that now. Our family is one of them—but whether or not you take the Social Security system, and after 70 years, turn it upside down and say we are now going to make this a much different system.

In the words of George Bush: We will privatize Social Security. I think there is a great amount of risk to that. I can understand the skepticism of a lot of American families about this proposal.

Mrs. BOXER. Will the Senator yield for a couple of questions?

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

Mrs. BOXER. I thank my colleague. Once again, he has explained quite clearly what the risks are to this Bush plan.

I was reading some of the quotes that appeared in the press surrounding the Bush plan. I ask my colleague to comment on some of them.

Bush's top economic adviser, Lawrence Lindsey, acknowledged somewhat sheepishly he bailed out of the market years ago. He said: That was because of my personal situation. I don't take risks. I hate losing money.

That was from the Philadelphia Inquirer: I don't take risks; I hate losing money.

I think that reflects certain people are more conservative. Others are willing to take a risk.

The point my colleague and I have tried to make is that we think it is fine if you want to take a risk with certain accounts you have, but you don't want to risk the foundation of your retirement, the safety net of your retirement. You want to count on that.

Bush's top economic adviser is saying he hates losing money, and yet the person he advises is essentially putting money at risk for other people.

I want to mention something else. The word ''privatization'' is a good word. I like it. It is similar to the word ''deregulation.'' It is a nice word. Everybody likes ''privatization.'' It is a nice word that indicates individual control. Of course, much of what we do in our life is privatization. We have our own accounts, whether they are savings accounts, or we own bonds, and we direct them. However, Social Security is a little bit different. It is the foundation.

The Houston Chronicle reported that Bush said on Tuesday, his plan to create private savings accounts could be the first step toward a complete privatization of Social Security. That would be the end of a program that has worked for 70 years. There is more at stake than a 2-percent diversion of funds.

Finally, the New York Times reports, when answering the question about his plan, Mr. Bush said the Government could not go from one regime to another overnight. It is going to take a while to transition to a system where personal savings accounts are the predominant part of the investment vehicle. When he is asked by the Dallas Morning News, would beneficiaries receive less money, he says: Maybe; maybe not.

I ask my friend for his comments on the volatility of the stock market expressed by Bush's own top economic adviser, the fact that this could be the first step toward the end of Social Security, and the fact that George Bush cannot answer today whether anyone would have to take a cut in your benefits.

Mr. DURBIN. I thank the Senator from California. Quoting George Bush on this issue tells me more than anything else that he has not thought this through. In the 18 years I have served on Capitol Hill, when the issue of Social Security has come up, I have had a tendency to step back and wait. I want to hear both sides.

This is complicated. We are literally talking about a Social Security system that benefits tens of millions of Americans today and that many more Americans are counting on for the future. When people start talking about change in Social Security, I am very cautious. I think the people of Illinois who have sent me here expect me to be cautious.

I recall when the Senator from California and I were serving in the House of Representatives many years ago when there was a debate on the floor about the so-called ''pickled-pepper'' amendment. Jake Pickle of Texas and Claude Pepper of Florida had a fight over the future of Social Security and whether to raise the retirement age from 65 to 67. I voted against that. I really think the retirement age is an important milestone in people's lives, particularly if they have jobs involving manual labor and physical work. So when people start talking about changing Social Security—''We will change a little bit here and a little bit there''—I am very skeptical because I don't want to see us put in a position where someone's great campaign promise in the year 2000 means someone trying to retire in just a few years from now finds out that the window is closed at Social Security:

''No, you have to wait a few more years.''

''Why?''

''We wanted to try a new approach to Social Security.''

The Senator from California is right. When George Bush says—and this is a quote from the Houston Chronicle—''creating private savings accounts in Social Security could be the first step toward a complete privatization of Social Security,'' that is a frightening idea. Let me explain to you why.

If we ever privatize Social Security, we will still have millions of Americans who worked their whole lives, paid their taxes, obeyed the laws, and counted on Social Security, who need to receive their benefits. If you are going to have that requirement out there, you have to figure out a way to keep Social Security moving while George Bush creates a brand new system, his new idea, whatever it is. That is a massive investment. When we talk about keeping America's economy moving forward, not increasing our deficit, creating more surpluses, keeping job creation online and businesses thriving, I think this is a risky venture by George Bush when it comes to Social Security.

Frankly, I think the American people should ask of George Bush what several Members of the Senate have asked: Sit down and explain this to us; put it on paper. Before you start messing with Social Security, explain to us what you have in mind because a lot of us—a lot of families across America—are counting on this system.

Mrs. BOXER. If my friend will yield further, I understand Senator GRAMS came down and quoted me as saying I like the idea of people investing in the market. I do. But not taking it away from the foundation of Social Security. Social Security is that foundation. As my friend pointed out, this is really serious.

Since Governor Bush is now saying he envisions the day when we don't have any more Social Security, when it would all be private accounts—that is not Social Security. He is right to point out: What happens to those of us who have worked our 40 quarters? There would be nothing going into the Social Security fund to pay those benefits. What does that mean? We are not going to let those people go poor; everyone knows that. The pressure will be on us. We will bail out the system.

If you take it a step further and look at his $2 trillion tax cut, where is he going to get the money? He will print it. We will go back to those days his father oversaw, with $300 billion deficits which added to the national debt. As my friend well knows, we had more debt in the Reagan-Bush years than we had from George Washington to Ronald Reagan.

We do not want to go back to those days. We don't want to go back to those days when our President had to go visit another country to find out how to run the economy. Those were

bad days for this Nation—bad, bad days. It took us a long time to get out of it. A lot of people lost their seats around here because they had the courage to vote to balance this budget. It did not take courage to vote for a balanced budget amendment to the Constitution. It did take courage, however, to vote to actually balance the budget. It meant some tough stuff.

I want to ask my friend, we have a colleague on this side of the aisle who says: Yes, we ought to go into privatizing Social Security. But he is one of the most courageous and straightforward colleagues, Senator BOB KERREY. What does he say about it? He says if you are going to go that route, this is what you have to do: Raise the retirement age.

My friend has already pointed out we have raised it to 67 over time. What is it going to be, 75? People will die long before they get their checks or they will be too old to really appreciate it. We don't want to see that happen, raising the retirement age after people worked so hard, and then make them work longer, or raise taxes on the Social Security that you get, or on your interest from these personal accounts. Raise taxes, raise their retirement age, lower benefits—you have to do a combination of those things.

I have to say, there are a lot of things we do around here that are not very good. But would my friend not agree we have a good system here that has lasted through time—70 years, as he points out? It is a basic retirement, a basic safety net.

One last point I would make for my friend to comment on. Around here we are like everybody else; we want to make sure we can take care of our families. I think what we do around here is a good system. We have had Social Security since the 1980s. We decided to make sure we paid in. We have Social Security retirement as our basic foundation, and then, if we want, we can add a thrift savings plan. So, yes, we can pick out investing in the market—or, by the way, Government bonds, or corporate bonds—in addition to our Social Security.

That will be my last question to my friend. We know it is good to not put all your eggs in one basket, but we also think it is important to have a basic account, No. 1; No. 2, don't go back to the bad old days of these yearly deficits that were dragging our economy down. Yes, you want to add something to sweeten your retirement pie, take a little risk with it. We know some people who have taken some risks and didn't do too well; others have done very well. That is fine. Don't mess with the foundation of the house. If you want to add a room, fix it up. That is great. But don't mess with the foundation.

Mr. DURBIN. I thank my friend, the Senator from California.

It is interesting in this debate how the roles have been switched. It used to be not that long ago the Democrats were faulted for being fiscally irresponsible, too liberal when it came to tax and spend. In this debate over the future of Social Security, the fiscally conservative and, I think, from my point of view, the prudent approach is being pushed on the Democratic side. That is, make certain before we take the surplus economy for granted, and make certain before we talk about any changes for Social Security, that we have thought them through.

Here we are in the middle of the Presidential campaign, with George Bush, the Republican candidate, suggesting sweeping changes in Social Security, changes which could literally affect millions of American families.

The concept that we would somehow privatize Social Security would have been laughable not that many years ago. Now it is being said with a straight face during the course of this Presidential campaign. Unfortunately, the candidate, George Bush, who is making these statements, refuses to come forward and explain how he would achieve it.

I think it is natural for those of us on the other side, those supporting Vice President GORE, to ask of him to be specific. If you are going to start talking about Social Security, start telling us in specific terms how you are going to change it and what it is going to cost us.

I think the plan on the other side, from Vice President GORE, is a conservative, sensible approach that does not assume this economic boom which we have seen over the last 8 or 9 years will continue indefinitely. What Vice President GORE has said is take the surplus we have coming into the Federal Government and invest it back to pay off the debt of our Nation.

We in Illinois, I think, represent kind of a microcosm. I represent a microcosm of this Nation—rural, urban, liberal, conservative, and you name it—across our great State. When I go back and talk to business leaders about what to do with our surplus, they universally agree with Vice President GORE's position: Be prudent, be sensible, take the surplus and invest it in such a way so if 6 months from now we are in a recession or a downturn, we will not regret decisions we have made.

Take a look at what has happened to us in just a short period of time. Because we have had fiscal discipline for the last several years, the Nation's debt is already $1.7 trillion lower than it would have been. In other words, if we had not made this decision a few years ago to balance the budget and to make certain that Social Security trust funds were not spent for other reasons, we could be $1.7 trillion deeper in debt, meaning we would have bondholders in the United States and around the world asking every month for their interest payment and being paid with taxes coming out of families, businesses, and individuals across America.

We are on the right track. I think we in Washington got the message. Under the Clinton-Gore administration, we have started bringing down this debt and the economy has flourished for most people. There are exceptions: In the farm belt, exceptions in the inner city, exceptions in small towns. But by and large, most people believe America is moving in the right direction.

Along comes a Presidential campaign. Really, this is a referendum on our future. I am not going to question the motives of George Bush on the Republican side, and I hope he would not question the motives of Vice President GORE.

The American people basically have a crucial choice this November. In a time of prosperity, what should America's future look like? What should we be doing for the young people across America to say to them: We want to create at least as good an opportunity for you as we have had in this country.

Frankly, the Democratic approach, Vice President GORE's approach, is the sensible one. It basically says: Don't assume prosperity forever; pay down the debt so we don't have to collect more in taxes to pay interest on this debt. Reduce the debt of the Social Security program so that it will be stronger for a long period of time.

In fact, under Vice President GORE's proposal, for another 50 years, it will be solvent, so we can even say to those who are just getting their driver's license this year: Social Security is going to be there when you show up at the window 50 years from now. That is a good thing to say to the future of America.

Also, we are saying when it comes to Medicare—this is a program often overlooked by this Congress; it is not overlooked by tens of millions of elderly and disabled who count on Medicare for their health insurance—we believe we should take part of this surplus and invest it in Medicare as well to make sure it is stronger and is affordable. This is the Gore approach.

The other side is a much different view of our future. What George Bush has proposed for America's future is let's try something new and untried. First, let's talk about a $2 billion tax cut, and it is a tax cut that is not targeted to families who need it. It is a tax cut that, frankly, goes to a lot of people who are already wealthy.

I am joined on the floor by my colleague from New York, Senator SCHUMER. Senator SCHUMER has a proposal most American families would applaud. He has suggested targeting the tax cuts where they are really needed. One of Senator SCHUMER's proposals is to allow families to deduct up to $10,000 a year in college expenses for their children. That means about $2,800 in the bank for a lot of families to help pay college education expenses. That is a smart investment. That is a targeted tax cut that does not go to the wealthiest in America but prepares the next generation of Americans to compete in a global economy.

This election is coming down to: Do you want the Bush tax cut for primarily wealthy people, and do you want to target the tax cuts and invest in paying down the debt? Do you want to keep Social Security strong for decades to come, or try a privatization approach which Governor Bush proposes which has never been tested and will cost us a trillion dollars and runs the risk of more red ink, more deficits, and problems in the future?

We are taking the Gore and Democratic side, fiscally prudent approach which says: Let's look to the future in real uncertain terms.

I know we only have until 11:30 for morning business. My colleague from New York is here. I yield the floor to Senator SCHUMER.

The PRESIDING OFFICER. The Chair recognizes the Senator from New York.

Mr. SCHUMER. I thank the Chair. Mr. President, I also thank the Senator from Illinois for his, once again, enthusiastic, as well as erudite, presentation on our fiscal policy and on Social Security. Maybe after I finish what I have to say I will say a few words on that. I do not know the time situation.

GUN VIOLENCE

Mr. SCHUMER. Mr. President, it has been more than a year since the Columbine tragedy, but this Republican Congress still refuses to act on sensible gun legislation. Since Columbine, thousands of Americans have been killed by gunfire. Until we act, Democrats in the Senate will read some of the names of those who lost their lives to gun violence in the past year and will continue to do so every day the Senate is in session.

In the name of those who died, we will continue this fight. Following are the names of some people who were killed by gunfire 1 year ago today. Before I read the names, these are names, just letters in black and white, but every one represents a life living and breathing, loving and was loved. Every one leaves a family and friends who will never be the same, as well as the tragedy for all of us that someone is untimely taken from us:

Rodney Autry, 30 years old, Dallas, TX; Aaron Baskin, 28 years old, Chicago, IL; Shawn Blake, 24 years old, Detroit, MI; Eddie Espinosa, 17 years old, Miami-Dade County, FL; Keith Gales, 19 years old, Pittsburgh, PA; Rodney J. Graham, 25 years old, Chicago, IL; Gaberiel Herrea, 22 years old, Detroit, MI; Francisco Horta, 33 years old, Miami-Dade County, FL; Eddie JOHNSON, 17 years old, New Orleans, LA; Goodman Jones, 55 years old, Concord, NC; Brian Sentelle Hill, 20 years old, Macon, GA; Harvey Meyers, 23 years old, Philadelphia, PA; Tarvis E. Miller, 25 years old, Chicago, IL; Cleophis Ramsey, 41 years old, Miami-Dade County, FL; Jesus Rodriquez, 22 years old, Houston, TX; Luther Faye SMITH, 45 years old, Tulsa, OK; Thomas Tyler, 20 years old, New Orleans, LA; Frederick Williams, 19 years old, Detroit, MI; Jamal Williams, 18 years old, Philadelphia, PA; unidentified female, 12 years old, Chicago, IL; an unidentified male, 24 years old, Norfolk, VA; an unidentified male, 60 years old, Portland, OR.

I hope and pray the reading of these names importunes us to act. Would all of these deaths be prevented with better laws on the books? Maybe not. Would some of them have been prevented with better laws on the books? Most likely. But even if there is a chance that one of the lives I have mentioned might be living, breathing, living under God's sunshine on this Earth, being the kind of person we can all be just by the gift of life, then there is no reason not to act.

I hope the understanding that every day, every year, there are names such as these from every part of this country who are killed by gun violence will finally move this body to act.

I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I ask unanimous consent to proceed for 5 minutes as in morning business.

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

EDUCATION

Mr. KENNEDY. Mr. President, I once again bring the attention of the Senate to the importance of completing action on an issue that is of fundamental importance to families all across this country, and that is the role of the Congress in addressing the elementary and secondary education challenge which exists across our Nation in which local communities and States are taking action and in which the Federal Government is also a partner.

We have had a total of 6 days debate. Of the 6 days, 2 were debate only. We were not permitted to have votes on 2 of those 6 days, so we had 4 days of debate and votes. We had a total of 8 amendments. One was a voice amendment. There were 7 rollcalls. Of the 7 rollcalls, 2 of those rollcalls were on amendments we had indicated we were prepared to accept. Essentially, we have had 4 days of debate and 5 votes on this legislation.

This is what our good Republican friends have indicated to us about the priority of education.

In January 6, we have our majority leader saying:

> Education is going to be a central issue this year. For starters, we must reauthorize the Elementary and Secondary Education Act. That is important.

These are his remarks to the U.S. Conference of Mayors luncheon on January 29:

> But education is going to have a lot of attention, and it's not going to be just words.

On June 22, he said:

> Education is No. 1 on the agenda of Republicans in the Congress this year.

In remarks to the U.S. Chamber of Commerce on February 1, 2000, he said:

> We're going to work very hard on education. I have emphasized that every year I have been majority leader, and Republicans are committed to doing that.

On February 3, in a speech to the National Conference of State Legislatures, he said:

> We must reauthorize the Elementary and Secondary Education Act. Education will be a high priority in this Congress.

Congress Daily, on April 20, said this:

> Lott said last week that his top priorities in May include an agriculture sanctions bill, ESEA reauthorization, and passage of four appropriations bills.

May 1:

> This is very important legislation. I hope we can debate it seriously and have amendments in the education area. Let's talk education.

On May 2, I asked Senator LOTT:

> On ESEA, have you scheduled a cloture vote on that? Senator Lott said:
>
> No, I have not. . . . But education is No. 1 in the minds of the American people all across the country, in every State, including my own State. For us to have a good, healthy, and even a protracted debate and amendments on education I think is the way to go.

On May 9, at the time when the legislation was pulled down, I asked the majority leader:

> As I understand, we will have an opportunity to come back to ESEA next week. Is that the leader's plan?

He said:

> That is my hope and intent.

We are about to go out for a period of 10 days. We are reaching the end of May. We have no end in sight for the completion of legislation dealing with the Elementary and Secondary Education Act. We have been prepared to enter into short time agreements on the various proposals. I don't know of a single amendment on this side on which we could not enter into a time agreement of 1 hour equally divided. We put that forward and we have outlined in detail the various education amendments that we had intended to offer. But we are not getting focus, attention, and priority on this legislation.

I don't believe the American people want us to stonewall on the issue of education. I don't think they want the Senate gagged from having a full debate, discussion and action. We have had other legislation, such as the bankruptcy bill, that went for 15 or 16 days of debate before completion. We can take the time that is necessary and also complete the work on the appropriations bills. But we are serious about bringing this matter to the floor. We are going to raise it continuously. We want to take action. We think families across this country know appropriations are important, but those appropriations are not going to actually be expended until the fall. Families want to know, as we go on into this year, what we are going to do on education and education policy. We owe it

to the families, and we have every intention of pursuing it on this side of the aisle.

I yield the floor.

INTERNET PRIVACY

Mr. KERRY. Mr. President, last night, the FTC released its report on Internet privacy. We are, all of us, in the midst of an Internet revolution in this country. It is extraordinary, when we think about it, to take note of the fact that the Internet has only been in existence about 6 or 7 years now. During that time, it has had a profound impact on everybody's life, particularly on business, and increasingly on consumer opportunity.

I have tremendous respect for the work the FTC has done on this issue. Its monitoring of web sites and the convening of working groups have been very helpful in educating all of us on a very complicated new arena. The FTC plays an important role in oversight and regulating our economy, and I think it is fair to say that its Commissioners have navigated admirably through the complexity of the new economy.

But—and here is the ''but,'' Mr. President—at this particular moment in time, I very respectfully disagree with the regulatory approach to Internet privacy proposed by the FTC. Let me be clear. Yes, consumers have a legitimate expectation of privacy on the Internet, and they will demand it, and I personally want that right of privacy protected. But I also believe that they want an Internet that is free and that gives them more choices rather than fewer. I believe that a regulatory approach mandated by in-depth, detailed congressional legislation at this particular point in time could actually harm consumers in the long run by limiting their choices on the Internet.

On the Internet today, we can buy and sell anything. We can research everything from health information to sports scores to movie reviews. We can keep track of our stock portfolios, tomorrow's weather, and the news throughout the world. And we do most of that free of charge. The reason we can surf from page to page for free is because the Internet, like television, is supported by advertising—or is struggling to be supported by advertising. Obviously, access is by subscription in most cases; but the point is that advertising is increasingly growing. Business spent more than $1.9 billion to advertise on the web in 1998, with spending on electronic advertising expected to climb to $6.7 billion by 2001.

It is this advertising that is the reason we don't have a subscription-based Internet—at least at this point in time. That would clearly limit a lot of people's online activities, and it would contribute to the so-called digital divide. Instead, we have an Internet that we can freely explore. It is my sense that people like this model of the Internet, and they understand that the banner ads they see on their screens are necessary in order to try to keep the Internet free.

What I don't think people understand is that, at least for now, the model for Internet advertising is going to include ads that are narrowly targeted to particular customers. The jury is still out on whether a targeted model is going to work. Currently, the click-through rates—the average percentage of web surfers who click on any single banner ad have fallen below the 1-percent mark, compared with about 2 percent in 1998. Some see that as a sign that the advertising model on the Internet has failed. Others say the percentages are lower, but that is because more and more ads are being placed. What it tells me is that it is simply too soon for the Congress of the United States to step in and prevent that model from running its course. If, for the time being, we allow or acknowledge that the economy of the Internet calls for targeted advertising, we must also recognize that it won't attract customers if they believe their privacy is being violated.

Finding the fine balance of permitting enough free flow of information to allow ads to work and protecting consumers' privacy is going to be critical if the Internet is going to reach its full potential. I believe that we in Congress have a role to play in finding that balance, although we should tread very lightly in doing so.

In the past, I have argued that self-regulation was the best answer for consumers and the high-tech industry itself in relation to privacy. I hope we can continue to focus on self-regulation because Congress will, frankly, never be light-footed enough—nor fast-footed enough—to keep up with the technological changes that are taking place in the online world.

However, poll after poll shows that consumers are anxious that their privacy is not being protected when they go on line.

For example, a 1999 survey by the National Consumers League found 73 percent of online users are not comfortable providing credit card or financial information online and 70 percent are uncomfortable giving out personal information to businesses online. Moreover, due to privacy concerns, 42 percent of those who use the Internet are using it solely to gather information rather than to make purchases online.

Likewise, a Business Week survey in March 2000 noted that concern over privacy on the Internet is rising. A clear majority—57 percent—favor some sort of law regulating how personal information is collected and used. According to Business Week, regulation may become essential to the continued growth of e-commerce, since 41 percent of online shoppers say they are very concerned over the use of personal information, up from 31 percent two year ago. Perhaps more telling, among people who go online but have not shopped there, 63 percent are very concerned, up from 52 percent two years ago.

In addition to it being too early in the process for Congress to embark on sweeping legislation, I believe there are still a number of fundamental questions that we need to answer. The first is whether there is a difference between privacy in the offline and online worlds.

I think polls like that are the result of the failure, so far, of industry to take the necessary initiative to protect consumers' privacy. But we should not neglect to notice that industry is making progress. When the Federal Trade Commission testified before the Commerce Committee about this time last year, it cited studies showing that roughly two-thirds of some of the busiest Web sites had some form of disclosure of privacy policies. This year, the FTC reports that 90 percent of sites have disclosure policies. Likewise, last year the FTC found that only 10 percent of sites implemented the four core privacy principles of notice, choice, access and security. This year the FTC reports that figure at 20 percent. That is still not high enough, but this is a five-year-old industry. We've seen significant improvements without the need for intrusive congressional intervention. It is simply too soon to write off a market driven approach to privacy.

Most of us don't think about it. But I want to make a point about the distinction between the offline and online world. When you go to the supermarket and you walk into any store and swish your card through the checkout scanner, that scanner has a record of precisely what you bought. In effect, today in the offline world, people are getting extraordinarily detailed information about what you are purchasing. The question, therefore, is to be asked: Is there some kind of preference about what happens at the supermarket, or any other kind of store, and is that somehow less protected than the choice you make online? Likewise, catalog companies compile and use offline information to make marketing decisions. These companies rent lists compiled by list brokers. The list brokers obtain marketing data and names from the public domain and governments, credit bureaus, financial institutions, credit card companies, retail establishments, and other catalogers and mass mailers.

I have been collecting the catalogs that I have received just in the last few weeks from not one online purchase, and I have been targeted by about 50 catalogs just on the basis of offline purchases that have been made and not because of an online existence.

Even in politics, off-line privacy protections may be less than those we are already seeing online. For example, we all know that campaigns can and do get voter registration lists from their states and can screen based on how often individuals vote. They will take this data and add names from magazines—Democrats could use the New Republic and Republicans might choose

the National Review—and advocacy groups, and target all of them. With those combined lists, campaigns decide which potential voters to target for which mailings. The campaigns will also often share lists with each other and with party committees. All of this goes on offline.

On the other hand, when I go to the shopping mall and I walk into a store and look at five different items, five sweaters, or five pairs of pants, whatever it may be, and I don't buy any of them, there is no record of them at all. But there is a record of that kind of traveling or perusal, if you will, with respect to the web.

There are clearly questions that we have to resolve with respect to what kind of anonymity can be protected with respect to the online transaction.

I just do not think this is the moment for us to legislate. I think we need to study the issue of access very significantly.

There is a general agreement that consumers should have access to information that they provided to a web site. We still don't know whether it is necessary or proper to have consumers have access to all of the information that is gathered about an individual.

Should consumers have access to click-stream data or so-called derived data by which a company uses compiled information to make a marketing decision about the consumer? And if we decide that consumers need some access for this type of information, is it technologically feasible? Will there be unforeseen or unintended consequences such as an increased risk of security breaches? Will there be less rather than more privacy due to the necessary coupling of names and data?

Again, I don't believe we have the answers, and I don't believe we are in a position to regulate until we have thoroughly examined and experienced the work on those issues.

I disagree with those who think that this is the time for heavy-handed legislation from the Congress. Nevertheless, I believe we can legislate the outlines of a structure in which we provide some consumer protections and in which we set certain goals with which we encourage the consumer to familiarize themselves while we encourage the companies to develop the technology and the capacity to do it.

Clearly, opting in is a principle that most people believe ought to be maximized. Anonymity is a principle that most people believe can help cure most of the ills of targeted sales. For instance, you don't need to know if it is John Smith living on Myrtle Street. You simply need to know how many times a particular kind of purchase may have been made in a particular demographic. And it may be possible to maintain the anonymity and provide the kind of protection without major legislation. It seems to me that most companies will opt for that.

In addition to that, we need to resolve the question of how much access an individual will have to their own information, and what rights they will have with respect to that.

Finally, we need to deal with the question of enforcement, which will be particularly important. It is one that we need to examine further. I believe that there is much for us to examine. We should not, in a sense, intervene in a way that will have a negative impact on the extraordinary growth of the Internet, even as we protect privacy and establish some principles by which we should guide ourselves. I believe that the FTC proposal reaches too far in that regard.

I hope my colleagues in the Senate will join me in an effort to embrace goals without the kind of detailed intrusion that has been suggested.

I thank the Chair.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

EXECUTIVE SESSION

NOMINATION OF BRADLEY A. SMITH, OF OHIO, TO BE A MEMBER OF THE FEDERAL ELECTION COMMISSION

The PRESIDING OFFICER. Under the previous order, the hour of 11:30 a.m. having arrived, the Senate will proceed to executive session.

The legislative clerk read the nomination of Bradley A. Smith, of Ohio, to be a member of the Federal Election Commission.

Mr. MCCONNELL. Mr. President, based on the caricatures of Professor Bradley Smith, one would think he must have horns and a tail. I unveil a picture of Brad Smith and his family in the hopes of putting to rest some of these rumors.

Let me quote Professor Smith himself on this point, talking about the experience he has had over the last 10 months. He said: In the last 10 months since my name first surfaced as a candidate, certain outside groups and editorial writers opposed to this nomination have relied on invective and ridicule to try to discredit me. Among other things, some have likened nominating me to nominating Larry Flynt, a pornographer, to high office. Nominating me has been likened to nominating David Duke, one-time leader in the Ku Klux Klan, to high office. Nominating me has been likened to nominating Theodore Kaczynski, the Unabomber, a murderer, to high office.

Professor Smith went on and said: Just this week I saw a new one. I was compared to nominating Jerry Springer, which is probably not a good comparison since Springer is a Democrat. Other critics have attempted ridicule, labeling me a ''flat Earth Society poobah,'' and more.

He says: I say all this not by way of complaint because I'm sure that Members—he is referring to Members of the Senate—have probably been called similar or worse things in the course of their public lives.

I thought it might be appropriate to begin with a photograph of Professor Smith and his family, which bears little resemblance to Larry Flynt, David Duke, or Theodore Kaczynski.

It is my distinct honor today to rise in support of the nomination of Professor Bradley A. Smith to fill the open Republican seat on the bipartisan Federal Election Commission.

In considering the two FEC nominees, Professor Brad Smith and Commissioner Danny McDonald, the Senate must answer two fundamental questions: Is each nominee experienced, principled, and ethical? And: Will the FEC continue to be a balanced, bipartisan commission?

I might state this is a different kind of commission. It is a commission set up on purpose to have three members of one party and three members of another party so that neither party can take advantage of the other in these electoral matters that come before the Commission. The Federal Election Commission is charged with regulating the political speech of individuals, groups, and parties without violating the first amendment guarantee of freedom of speech and association—obviously, a delicate task.

Over the past quarter century, the FEC has had difficulty maintaining this all-important balance and has been chastised, even sanctioned, by the Federal courts for overzealous prosecution and enforcement that treated the Constitution with contempt and trampled the rights of ordinary citizens.

In light of the FEC's congressionally mandated balancing act and the fundamental constitutional freedoms at stake, Congress established the balanced, bipartisan, six-member Federal Election Commission. The law and practice behind the FEC nominations process has been to allow each party to select its FEC nominees. The Republicans pick the Republicans; the Democrats pick the Democrats. As President Clinton said recently, this is, ''the plain intent of the law, which requires that it be bipartisan and by all tradition, that the majority make the nomination'' to fill the Republican seat on the Commission.

Professor Bradley Smith was a Republican choice agreed to by the Republicans in the House and the Republicans in the Senate and put forward by the Republicans to the President of the United States, who has nominated him.

Typically, Republicans complain that the Democratic nominees prefer too much regulation and too little freedom, while Democrats complain that the Republican nominees prefer too little regulation and too much freedom.

Ultimately both sides bluster and delay a bit, create a little free media attention, and then move the nominees forward. In fact, the Senate has never

voted down another party's FEC nominee in a floor vote or even staged a filibuster on the Senate floor.

At the end of the day, however, the bipartisan nature of the FEC serves the country well. The FEC gets a few commissioners that naturally lean toward regulation and a few commissioners that naturally lean toward constitutionally-protected freedoms. And the country gets a six-member bipartisan Federal Election Commission to walk the critical fine line between regulation and freedom.

The Dean of Stanford Law School, Kathleen Sullivan, has summed up the balance as well as anyone. Specifically, she praised Professor Smith for the instrumental role he would play in upholding constitutional values and establishing a bipartisan equilibrium:

> I do think Mr. Smith's views are in the mainstream of constitutional opinion. . . . I think it is a good thing, not a bad thing, to have people who are very attuned to constitutional values in Government positions, just as we would think it is a good thing to have a prosecutor who thinks very highly of the Fourth Amendment and wants to make sure searches are always reasonable, maybe more so than some of his colleagues. It is certainly good to have one of those prosecutors in the shop, and it certainly would be a good thing to have one Commissioner at least who has those views.

Let me say that I sincerely hope that we can uphold this bipartisan law and tradition that President Clinton invoked when he sent these two nominees to the Senate.

After all, Professor Smith's views are similar to the Republicans who have gone before him. And, Commissioner McDonald's views are similar to those he himself has held for the past 18 years as one of the Democrats' commissioners at the FEC. In fact, Commissioner McDonald's views are so consistent with and helpful to the Democratic Party that former Congressman and current Gore campaign chairman Tony Coelho has hailed Commissioner McDonald as ''the best strategic appointment'' the Democrats ever made. So, notwithstanding the bluster and delay, these two nominees largely represent their parties' long line of past FEC Commissioners. One could argue that the only thing new in this debate is the opportunity for new headlines.

Again, let me restate the questions before the Senate on these two FEC nominees?

Is each nominee experienced, principled and ethical?

Will the FEC continue to be a balanced, bipartisan commission?

I dedicate the remainder of my opening comments this morning to reading a few excerpts from the flood of letters I have received in support of Professor Smith since he was nominated. These letters from those who agree and those who disagree with Professor Smith clearly establish that: (1) Professor Smith is experienced, principled and ethical, and (2) his service would help the FEC to be balanced and bipartisan.

Even staunch advocates of reform, including two past board members of Common Cause, have written in support of Professor Smith's nomination. These many letters attest to the central role that Professor Smith's scholarship has played in mainstream thought about campaign finance regulation. Equally important, these letters make clear that no one who knows Brad Smith personally or professionally, including self-avowed reformers, believes that he will fail to enforce the election laws as enacted by Congress or to fulfill his duties in a fair and even-handed manner.

All of the scholars that have written urging the confirmation of Professor Smith believe that his scholarly work is not radical but rather well-grounded in mainstream First Amendment doctrines and case law. Let me share with you a few examples of what these experts say.

I ask unanimous consent the full text of these letters that I am going to be reading be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. MCCONNELL. First, Professor Daniel Kobil, Capital Law School, Reform Advocate and Past Director of Common Cause, Ohio:

> Groups seeking to expand campaign regulations dramatically might have misgivings about Brad's nomination. However, I believe that much of that opposition is based not on what Brad has said or written about campaign finance regulations, but on crude caricatures of his ideas that have been circulated. . . . I think that the FEC and the country in general will benefit from Brad's diligence, expertise, and solid principles if he is confirmed to serve on the Commission.

Second, Professor Larry Sabato, Director of the University of Virginia Center for Governmental Studies, appointed by Senator George Mitchell to the Senate's 1990 Campaign Finance Reform Panel:

> Contrary to some of the misinformed commentary about Professor Smith's work and views, his research and opinions in the field of campaign finance are mainstream and completely acceptable. For example, Professor Smith has argued in several of his academic papers for a kind of deregulation of the election rules in exchange for stronger disclosure of political giving and spending. This is precisely what I have written about and supported in a number of publications as well. Bradley certainly supports much of the work of the Federal Election Commission and understands its importance to public confidence in our system of elections. I have been greatly disturbed to see that some are not satisfied to disagree with Professor Smith and make those objections known, but believe it necessary to vilify the professor in an almost McCarthyite way. I do not use that historically hyper-charged word lightly, but it applies in this case. Any academic with a wide ranging portfolio of views on a controversial subject could be similarly tarred by groups on the right or left.

Third, Professor John Copeland Nagle of Notre Dame Law School:

> Professor Smith's view is shared by numerous leading academics from across the political and ideological spectrum, including Dean Kathleen Sullivan of the Stanford Law School and Professor Lillian BeVier of the University of Virginia School of Law. His understanding of the First Amendment has been adopted by the courts in sustaining state campaign finance laws.

Fourth, Professor Burt Neuborne of the Brennan Center at New York University. There is no group in America that disagrees more passionately with Professor Smith on campaign finance than the Brennan Center. Yet, listen to what Burt Neuborne, the Legal Director of the Brennan Center had to say about Smith's scholarship.

Neuborne considers Professor Smith's writings to be ''thoughtful discussions of topics of extreme importance'' and concludes that Smith has done ''excellent work in debunking the status quo.'' He goes on to say of Professor Smith's scholarship:

> I learned from it and altered aspects of my own approach as a result of his argument. It is, in my opinion, thoughtful scholarship that helps us move toward a better understanding of an immensely important national issue. Higher praise than that I cannot give.

It also speaks well of Professor Smith that constitutional scholars and election law experts that know him personally and are familiar with his work, including some who have served on the board of Common Cause, are confident that he will faithfully enforce the law as enacted by Congress and upheld by the courts. Here are just a few examples of the confidence these experts have in Brad Smith's integrity and commitment to the rule of law.

Fifth, Professor Daniel Lowenstein of UCLA Law School, served six years on Common Cause National Governing Board:

> Anyone who compares his writings on campaign finance regulation with mine will find that our views diverge sharply. Despite these differences, I believe Smith is highly qualified to serve on the FEC. . . . Smith possesses integrity and vigorous intelligence that should make him an excellent commissioner. He will understand that his job is to enforce the law, even when he does not agree with it. . . . In my opinion, although my views on the subject are not the same as theirs, [the Senate Republican Leadership] deserves considerable credit for having picked a distinguished individual rather than a hack. . . . Although many people, including myself, can find much to disagree with in Bradley Smith's views, I doubt if anyone can credibly deny that he is an individual of high intelligence and energy and unquestioned integrity. When such an individual is nominated for the FEC, he or she should be enthusiastically and quickly confirmed by the Senate.

Sixth, Professor Daniel Kobil of Capital Law School, former governing board member of Common Cause, Ohio:

> Knowing Brad personally, I have no doubt that his critics are wrong in suggesting that as a FEC Commissioner, Brad would refuse to enforce federal campaign regulations because he disagrees with them. I have observed Brad's election law class on several occasions and he always took the task of educating his students about the meaning and scope of election laws very seriously. I have never heard him denigrating or advocating skirting state and federal laws, even though he may have personally disagreed with some of those laws. Indeed, several times in class he admonished students who

seemed to be suggesting ignoring what they considered overly harsh election laws. Brad is an ethical attorney who cares deeply about the rule of law. I am confidant that he will fairly administer the laws he is charged with enforcing as a Commissioner.

Seventh, Professor Randy Barnett of Boston University Law School:

I . . . can tell you and your colleagues that [Professor Smith] is a person of the highest character and integrity. If confirmed, Brad will faithfully execute the election laws which the Commission is charged to enforce—including those with which he disagrees . . . . Brad's critics need not fear that he will ignore current law, but those who violate it may have reason to be apprehensive.

Let me close my opening comments by sharing with you Brad Smith's own closing remarks in his statement before the Senate Rules Committee:

[S]hould you confirm my nomination to this seat, which I hope that you will, here is my pledge to you. First, I will defer to Congress to make law, and not seek to usurp that function to the unelected bureaucracy. Second, when the Commission must choose under the law, whether to act or not to act, or how to shape rules necessary for the law's enforcement, faithfulness to congressional intent and the Constitution, as interpreted by the courts, will always be central to my decision making. Third, I will act to enforce the law as it is, even when I disagree with the law. . . . Finally, I pledge that I will strive at all times to maintain the humility that I believe is necessary for any person entrusted with the public welfare to successfully carry out his or her duties.

I think, with all due respect to current and past members of the FEC, this is clearly the most outstanding individual ever nominated for that commission. We all regret that this nomination has taken on some level of controversy because of Professor Smith's views, which are similar to those of 95 percent of the Republicans in the Senate. But that happens occasionally.

I am confident that well-meaning Senators on both sides of the aisle will remember that this is a bipartisan agency. It is supposed to have three Democrats, picked by the Democrats, and three Republicans, picked by the Republicans. It is important for us to honor each others' choices if the FEC is to work. So I am hopeful and confident that Professor Smith's nomination will be confirmed tomorrow when the roll is called.

With that, I yield the floor.

EXHIBIT 1

UNIVERSITY OF CALIFORNIA
SCHOOL OF LAW,
Los Angeles, CA, February 17, 2000.

Re Bradley Smith nomination.

(Attn: Andrew Siff)

Senator MICTH MCCONNELL,
Senate Rules Committee, Senate Office Building, U.S. Senate, Washington, DC

DEAR SENATOR MCCONNELL: I write in support of the nomination of Bradley Smith to serve on the Federal Election Commission. My support is not based on either partisan or ideological grounds. To the contrary, I have been an active Democrat since 1970, whereas, as is well known, Smith's appointment to the FEC was proposed by Republicans. Anyone who compares Smith's writings on campaign finance regulation with mine will find that our views diverge sharply. Despite these differences, I believe Smith is highly qualified to serve on the FEC.

The difficulties that have affected the performance of the FEC since its creation have not been caused by the ideological views of its members, but by excessive partisanship and, sometimes, by mediocrity. Smith possesses integrity and vigorous intelligence that should make him an excellent commissioner. He will understand that his job is to enforce the law, even when he does not agree with it.

That the Senate Republican leaders should have proposed an individual who matches their ideological views on campaign finance regulations should not have surprised anyone. Law and custom assume that the members of the FEC will have different partisan and ideological backgrounds. In my opinion, though my views on the subject are not the same as theirs, these leaders deserve considerable credit for having picked a distinguished individual rather than a hack.

That Smith is indeed distinguished can hardly be doubted. He has published numerous articles on campaign finance regulation in distinguished law journals. These articles are widely recognized as leading statements of one of the major positions in the campaign finance debate. In 1995 I published the first American textbook of the twentieth century on election law (Election Law, Carolina Academic Press). Not long after the book was published, Smith published his first major article on campaign finance in the Yale Law Journal. With his permission, I included extended excerpts from that article in the supplements that have been published for my textbook. I certainly would not have done so unless I regarded his article as intellectually distinguished.

It is understandable that in an area such as campaign finance regulation, whose effects are so far-reaching for all competitors in American politics, appointments should be highly contested. However, as I mentioned above, the system contemplates that individuals with different backgrounds and beliefs will serve on the FEC. Although many people, including myself, can find much to disagree with in Bradley Smith's views, I doubt if anyone can credibly deny that he is an individual of high intelligence and energy and unquestioned integrity. When such an individual is nominated for the FEC, he or she should be enthusiastically and quickly confirmed by the Senate. If such an individual is denied confirmation, the result inevitably will be to compound the already prevalent gridlock in this difficult area of public policy.

If I can provide any additional information I should be happy to do so. I can be reached at 310–825–5148, and at <lowenste@mail.law.ucla.edu>

Sincerely,

DANIEL H. LOWENSTEIN,
Professor of Law.

CAPITAL UNIVERSITY
LAW SCHOOL, COLUMBUS OH,
February 15, 2000.

Re nomination of Professor Bradley A. Smith for Commissioner on Federal Election Commission.

Hon. MITCH MCCONNELL,
Chair, Senate Committee on Rules and Administration, Russell Senate Office Building, U.S. Senate, Washington, DC.

DEAR SENATOR MCCONNELL: I am writing in support of Professor Bradley A. Smith's nomination for a position as a Commissioner on the Federal Election Commission. I have known Brad since he joined the faculty of Capital Law School in the Fall of 1993 as a visiting professor, and have served as the chair of his committee for purposes of considering his tenure and promotion, most recently to Full Professor. He is, in my view, an outstanding candidate for the position and should certainly be confirmed.

As a friend and colleague of Brad's, I am of course aware of the controversy surrounding his nomination to a position on the FEC. Indeed, as a former governing board member for Common Cause, Ohio, I can understand why groups seeking to expand campaign regulations dramatically might have misgivings about Brad's nomination. However, I believe that much of that opposition is based not on what Brad has written or said about campaign finance regulations, but on crude caricatures of his ideas that have been circulated.

Although I do not agree with all of Brad's views on campaign finance regulations, I believe that his scholarly critique of these laws is cogent and largely within the mainstream of current constitutional thought. I have taught Constitutional Law at Capital Law School for nearly thirteen years. I was also counsel for amicus curiae, the ACLU of Ohio, in a significant case dealing with the intersection of the First Amendment and election law, Pestrak v. Ohio Elections Commission, 926 F2d 573 (6th Cir. 1991).

Brad's central premise, that limits on political contributions burden expression and should only be upheld for the most compelling reasons, is hardly radical. It has long been a basic tenet of the Supreme Court's First Amendment jurisprudence that the amount and content of speech cannot be limited except for the most important reasons. Brad's writings do question the Supreme Court's conclusion in Buckley v. Valeo that the government's interest in preventing the appearance of corruption is sufficient to outweigh the burden campaign finance regulations place on speech. However, this critique is not outlandish, but calls attention to the one of the obvious tensions in Buckley that in my view ought to be continuously reexamined by courts and scholars if the basic values underlying the First Amendment are to be adequately protected.

Moreover, having come to knowing Brad personally, I have no doubt that his critics are wrong in suggesting that as a FEC Commissioner, Brad would refuse to enforce federal campaign regulations because he disagrees with the laws. I have observed Brad's Election Law class on several occasions and he always took the task of educating his students about the meaning and scope of election laws very seriously. I have never observed him denigrating or advocating skirting state and federal election laws, even though he may have personally disagreed with some of those laws. Indeed, several times in class he admonished students who seemed to be suggesting ignoring what they considered overly harsh election laws. Brad is an ethical attorney who cares deeply about the rule of law. I am confident that he will fairly administer the laws he is charged with enforcing as a Commissioner.

In conclusion, I think that the FEC and the country in general will benefit from Brad's diligence, expertise, and solid principles if he is confirmed to serve on the Commission. Please contact me if I can provide additional information or assist the Committee in any way regarding Brad's nomination.

Very Truly Yours,

DANIEL T. KOBIL,
Professsor of Law.

UNIVERSITY OF VIRGINIA,
WOODROW WILSON DEPARTMENT,
Charlottesville, VA, March 1, 2000.

Senator MITCH MCCONNELL,
Chairman, Senate Rules Committee, Russell Building, U.S. Senate, Washington, DC.

(Attention Andrew Siff)

DEAR SENATOR MCCONNELL: I am pleased to write this letter in support of Professor Bradley Smith's nomination to the Federal Election Commission. I believe Professor Smith is a solid and informed choice for the vital federal agency at a critical moment in its history. I am pleased to be able to add my voice to many who support Professor Smith.

My own credentials in this field are outlined in the attached vita. I have published several books and many articles in the field, including Pac Power: Inside the World of Political Action Committees, Paying for Elections, and Dirty Little Secrets. In addition, I was honored and privileged to serve on the U.S. Senate's campaign finance reform panel back in 1990, having being jointly appointed by then-majority leader George Mitchell and minority leader Robert J. Dole.

Contrary to some of the misinformed commentary about Professor Smith's work and views, his research and opinions in the field of campaign finance are mainstream and completely acceptable. For example, Professor Smith has argued in several of his academic papers for a kind of deregulation of the election rules in exchange for stronger disclosure of political giving and spending. This is precisely what I have written about and supported in a number of publications as well. Bradley certainly supports much of the work of the Federal Election Commission and understands its importance to public confidence in our system of elections. I have been greatly disturbed to see that some are not satisfied to disagree with Professor Smith and make those objections known, but believe it is necessary to vilify the professor in almost a McCarthyite way. I do not use that historically hyper-charged word lightly, but it applies in this case. Any academic with a wide-ranging portfolio of views on a controversial subject could be similarly tarred by groups on the right or left. I hope and trust that under your able leadership, the Senate Rules Committee will not give in to this kind of vicious sloganeering and character assassination.

I should note that I don't completely agree with Professor Smith's views and opinions in all respects. Even though we have our differences, I fully respect his scholarship and the clear argumentation and documentation that undergirds it. I have not been a long acquaintance of Professor Smith so I cannot be accused of simply backing an old chum! Instead, I am supporting Bradley Smith because he is fully qualified for the Federal Election Commission and I believe that he will do an outstanding job, putting in long hours and thoroughly analyzing the complicated subjects that come before the Commission. I trust him to fulfill his public responsibilities with great care and a determination to be fair and honest. That is all one can reasonably ask from a nominee.

Thank you for permitting me the opportunity to offer these observations. Please let me know if I can be of any additional help as Professor Smith's nomination moves forward, as it should.

With every good wish,

Yours respectfully,

DR. LARRY J. SABATO.
ROBERT KENT GOOCH,
Professor Of Government and Foreign Affairs, and Director of the University of Virginia Center for Governmental Studies.

NOTRE DAME LAW SCHOOL,
Notre Dame, IN, February 18, 2000.

Hon. MITCH MCCONNELL,
U.S. Senate, Russell Senate Office Building, Washington, DC.

(Att'n: Andrew Siff)

DEAR SENATOR MCCONNELL: It is my privilege to recommend Bradley A. Smith for appointment to the Federal Election Commission (FEC).

Professor Smith is a leading scholar in election law. His work—which has appeared in such prestigious publications as the Yale Law Journal and the Georgetown Law Journal—is innovative, academically rigorous, and an exciting contribution to the existing literature in the field of campaign finance legislation. He is one of the few scholars who has investigated how campaigns were financed before the second half of the twentieth century, see Bradley A. Smith, Faulty Assumptions and Undemocratic Consequences of Campaign Finance Reform, 105 Yale L.J. 1049, 1053–56 (1996), and his scholarship builds upon the lessons that history teaches. For example, he dispels a common perception by observing that "the role of the small contributor in financing campaigns . . . has increased, rather than declined, over the years." Id. at 1056. He has closely examined the way in which money affects both political campaigns and the legislative process, concluding that the precise relationship between campaign spending and corruption is far more complicated than many commonly assume. See id. at 1057–71; Bradley A. Smith. Money Talks: Speech, Corruption, Equality, and Campaign Finance, 86 GEO.L.J. 45, 58–60 (1997). Yet that is exactly the kind of analysis that should be performed when considering what legal regulation is merited, especially in light of the frequent laments that the federal campaign finance laws enacted in the 1970's have not performed as Congress hoped or expected.

Professor Smith questions the compatibility of campaign restrictions with the first amendment. In doing so, he gives voice to the many organizations across the political and idelolgical spectrum who fear the impact of some of the proposed legal regulation on the ability of citizens and groups of communicate their message to the public. Professor Smith's view is shared by numerous leading academics, again from across the political and ideological spectrum, including Dean Kathleen Sullivan of the Stanford law School and Professor Lillian BeVier of the University of Virginia School of Law. His understanding of the first amendment has been adopted by the courts in sustaining state campaign finance regulations. See Toledo Area AFL–CIO v. Pizza, 154 F.3d 307, 319 (6th Cir. 1998) (quoting Professor Smith's description of the first amendment). But Professor Smith sees the first amendment in an affirmative light rather than a negative one. As he has so eloquently explained:

"By assuring freedom of speech and of the press, the First Amendment allows for exposure of government corruption and improper favors and provides voters with information on sources of financial support. There is no shortage of newspaper articles reporting on candidate spending and campaign contributions, and candidates frequently make such information an issue in campaigns. By keeping the government out of the electoral arena, the First Amendment allows for a full interplay of political ideas and prohibits the type of incumbent self-dealing that has so vexed the reform movement. It allows challengers to raise the funds necessary for a successful campaign and keeps channels of political change open. By prohibiting excessive regulation of political speech and the political process, the First Amendment, properly interpreted, frees individuals wishing to engage in political discourse from the regulation that now restrains grassroots political activity. And because the First Amendment, properly applied to protect contributions and spending, makes no distinctions between the power bases of different political actors, it helps to keep any particular faction or interest from permanently gaining the upper hand. In each respect, it promotes true political equality."

Smith, 105 YALE L.J AT 1090. This positive explanation far better serves the first amendment than the frightening prospect that the meaning of the Constitution's protections might soon depend upon the perceived majority desire for the stringent regulation of political campaigns. See Nixon v. Shrink Missouri Government PAC, 120 S. Ct. 897 (2000) (Breyer, J., concurring)(suggesting that the Supreme Court's interpretation of the first amendment should change if it "denies the political branches sufficient leeway to enact comprehensive solutions to the problems posed by campaign finance").

Yet Professor Smith understands the problems evidence in our current system. He recognizes the need for "radical" reform, see Bradley A. Smith, A Most Uncommon Cause: Some Thoughts on Campaign Reform and a Response to Professor Paul, 30 CONN. L. REV. 831, 837 N.37 (1998) , a sympathy that I share. See John Copeland Nagle, The Recusal Alternative to Campaign Finance Reform, 37 HARV. J. LEGIS. (forthcoming February 2000). What impresses me most about Professor Smith is his insistence that the problems evident in our existing system be addressed in a manner that protects constitutional rights. It is far too easy to assume that the first amendment must be discarded when it is inconvenient to adhere to its teachings. Moreover, apart from the commands of the Constitution, Professor Smith has questioned whether the same kinds of proposed solutions that have been tried and failed for nearly thirty years are best suited for the kinds of problems that we face today. Indeed, he has identified a number of unintended effects of the standard restrictions on campaign contributions and expenditures, including the entrenchment of the status quo, the promotion of influence peddling, the favoritism of select elites and special interests, and perhaps most obviously, the encouragement of wealthy candidates. See Smith, 105 YALE L.J. at 1072–84. Instead, Professor Smith had advocated other actions that could be taken to solve the problem, including increased disclosure requirements. See Smith, 45 GEO. L.J. at 62–62. But Professor Smith has clearly stated his preferred remedy: "I believe strongly that the best solution to any ills in our political system lies in the American voter." Smith, 30 CONN. L. REV. at 862. I cannot imagine a more attractive view to be possessed by a member of the Federal Election Commission.

Perhaps most importantly, Professor Smith has displayed a fidelity to the law. His writing about the first amendment shows that the he abides by the Constitution regardless of the consequences. Professor Smith is also faithful to the laws enacted by Congress. He has counseled that both the statues enacted by Congress and the constitutional decisions of the courts are entitled to respect whether or not one agrees or disagrees with them. See Bradley A. Smith, Soft Money, Hard Realities: The Constitutional Prohibition on a Soft Money Ban, 24 J. LEGIS, 170, 200 (1998), In sort, he possesses the "experience, integrity, impartiality, and good judgment," 2 U.S.C. §437c(a)(3), necessary to serve on the FEC.

Please contact me at (219) 631–9407 or at john.c.nagle.8@nd.edu if you have any further questions about Professor Smith's nomination to the FEC. He will be an excellent commissioner.

Sincerely,

JOHN COPELAND NAGLE,
Associate Professor.

BOSTON UNIVERSITY,
SCHOOL OF LAW,
Boston, MA, February 13, 2000.

Senator MITCH MCCONNELL,
Chair, Senate Committee on Rules and Administration, Russell Senate Office Building, U.S. Senate, Washington, DC.

DEAR SENATOR MCCONNELL: I am writing to strongly urge the Senate to confirm the nomination of Brad Smith as a commissioner on the Federal Communications Commission. I have known Brad well since he was a student at Harvard Law School, and have followed his academic career closely, and can tell you and your colleagues that he is a person of the highest character and integrity. If confirmed, Brad will faithfully execute the election laws which the Commission is charged to enforce—including those with which he disagrees—and he will also take seriously the rights guaranteed by the Constitution.

Though election law is not my specialty, I am generally familiar with Brad's writings in the field and I have written extensively on the Constitution and, in particular, the constitutional protection of liberty. I believe that Brad's positions on federal election laws in general, and campaign finance laws in particular, are far more consonant with the requirements of both the First Amendment and the Supreme Court's first amendment jurisprudence than are the views of his critics. These critics would deny public office to anyone who disagrees with their views of good policy, or to anyone who believes in reforming existing law in a manner with which they disagree.

I share Brad's policy view that the goal of free, fair, and competitive elections would be better served with less rather than more regulation of elections. But I have no doubt whatsoever that he will vigorously enforce current law. Indeed, in recent years, we have seen wholesale and flagrant violations of current election laws which have gone largely unenforced by the FEC and the Justice Department. Brad's critics need not fear that he will ignore current law, but those who violate it may have reason to be apprehensive.

Sincerely,

RANDY E. BARNETT,
Austin B. Fletcher Professor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Connecticut.

Mr. DODD. Mr. President, I begin by thanking the distinguished chairman of the Rules Committee for his leadership and for bringing these matters to the floor. We will have roughly 6 hours of debate on this matter. A number of my colleagues have some very strong views about this nomination and will take the time to express them at the appropriate time.

I begin by apologizing to Danny Lee McDonald, the Democratic nominee for the Federal Election Commission, and his family. I do not have a picture of Danny Lee McDonald. I do not know if he has a dog or not, or two dogs. I will try to correct that before the next 6 hours and see if I can come up with a nice picture of Mr. McDonald to show to our colleagues and the public.

Mr. MCCONNELL. Will my friend yield?

Mr. DODD. I will be happy to yield.

Mr. MCCONNELL. Had Commissioner McDonald been subjected to the same things to which the Republican nominee has been subjected, my colleague might have needed a picture with children and dogs. In any event, we are going to be voting on him as well after we vote on Professor Smith.

Mr. DODD. If he does not have a dog, maybe he can rent one. This is a fine looking dog here. Maybe we can borrow that fine looking red dog for our picture. I apologize to Mr. McDonald, we do not have a similar photograph of him and his family and dog before us.

I want to take our colleagues who are monitoring this back in time for a historical framework before I get to the issue of the nominees before us because it might be helpful for people to understand the legislative background as well as the historical background of these nominees and how the process has proceeded over this past quarter of a century. It has been 25 years since we created these positions. It might be worthwhile to understand how this process has worked and how nominees have historically been handled.

My colleague from Kentucky has already alluded to that in his opening comments. I thought it might be helpful to take a few minutes and give a history lesson about the Federal Election Commission and about the people who have been nominated to fill these positions.

We are here to consider two Presidential nominations. That is the first lesson. We are considering Presidential nominations. The Republican Party may have promoted Brad Smith and the Democrats may have promoted Danny McDonald, but, in fact, these are two nominations that have been sent to us by President Clinton, as every other President has done during the consideration of nominees for the Federal Election Commission.

The two nominees are Danny McDonald of Oklahoma to fill the Democratic seat and Brad Smith of Ohio to fill the Republican seat on the Commission. Rollcall votes, as we know, will be conducted later this week.

It is somewhat unusual, although not unprecedented, for the Senate to take a significant amount of time to debate Presidential nominees to the Federal Election Commission. I know some of my colleagues have planned extensive remarks, and they are not out of order at all in doing that. It has been done on other occasions.

It is even more unusual for the Senate to conduct a rollcall vote, however, on such nominees. It might be instructive to briefly review Senate action of FEC nominees over the past 25 years since the creation of the Commission.

Approximately 43 nominees, including reappointments, have been submitted to the Senate for consideration to this Commission. Of that total, only three nominations have required a rollcall vote by this body in the past quarter of a century. In each of those three instances, the nominees were confirmed by the Senate. The Senate has never voted to reject a nominee to the Federal Election Commission submitted by respective Presidents.

Of the remaining 40 or so nominees, 3 were withdrawn by Presidents for various reasons, 1 was returned to the President without action under rule XXXI of the Senate, 3 were recess appointments, 2 of which were confirmed by the Senate by unanimous consent; and the remainder, some 33 nominees, were all confirmed by unanimous consent without recorded votes in the Senate.

In the last 10 years, pairs of nominees, one Democrat paired with one Republican, have been considered by the Senate Rules Committee, reported to the Senate, and confirmed en bloc by unanimous consent. In the most recent action by the Senate in 1997, four nominees, or two pairs, were considered and confirmed in this manner and confirmed by unanimous consent, again en bloc.

How is it possible so many nominees, to what is considered by some to be a controversial agency, have received the nearly unanimous support of this body throughout the past 25 years? I suggest the answer lies in the very statute that created this Commission.

Chapter 14 of title 2 of the United States Code governs Federal campaigns. Section 437c establishes the Federal Election Commission and provides for the appointment of Commissioners. The statute provides for—and I apologize for going through this laboriously, but it may help to understand the background of all of this—the statute provides for the appointment by the President, with the advice and consent of the Senate, of six members to the Commission. Further, the statute provides that no more than three members of the Commission be affiliated with the same political party; and that members shall serve for 6 years, with the requirement that the initial six members serve staggered terms, with two members not affiliated with the same political party being paired for each of the staggered terms. These requirements were adopted by the Congress in the 1976 amendments to the Federal Election Campaign Act.

The Supreme Court struck down the original membership provision of this act in the landmark case of Buckley v. Valeo. The original provisions of the 1971 act provided that the six members of the Commission be appointed by the President, the President pro tempore of the Senate, and the Speaker of the House, with confirmation by a majority of both Houses of Congress. The Buckley Court struck that process down.

What is obvious, however, is it has always been the intent of Congress that these nominees be appointed with regard to their party affiliation. That part has been quite clear.

Moreover, these nominees are appointed and considered in pairs—one Democratic nominee paired with a Republican nominee —and that is how the Committee on Rules and Administration has also traditionally considered FEC nominees. The committee has similarly paired their consideration so that no hearings are held, nor are the nominees reported, except in strict pairs.

In recent history, the Rules Committee has reported pairs of nominees, voting to report the pair en bloc to the Senate as a full body. That is the case with the two nominees before the Senate today. The Rules Committee held a confirmation hearing in which both nominees appeared, presented testimony, and answered questions of members of the committee. On March 8, the committee, by a voice vote, reported these nominations en bloc to the full body. That is also why the overwhelming majority of these FEC nominees have moved through the Senate over the past 25 years by unanimous consent, often, again, confirmed en bloc.

The statute creates a presumption that the views of each of the two major political parties will be represented by the three members of the Commission. And the practice that has developed that the leadership of the Congress, both Republican and Democratic leadership, communicate to the President their preferences for the nominees.

Presidents have rejected these preferences in the past. I noted that earlier. This practice may be a holdover from the original provisions in which the President of the Senate and the Speaker of the House actually chose the nominees under the 1971 statute. Now the recommendations are made to the President, and the President makes the nomination. He can reject the recommendations, which Presidents have. Ronald Reagan rejected a nominee, and I recall Jimmy Carter also. Others may have a better recollection historically of that.

This practice may be a holdover from the original provisions in which the President pro tempore of the Senate and the Speaker of the House actually chose the nominees. Or it may reflect the reality that such nominees, because they are intended to reflect the relative views of the political parties, must be confirmed by members of those parties in the Senate. In either event, these nominees are accepted as somewhat partisan in their views and consequently are paired in their consideration.

So why does the Senate find itself in the somewhat unusual position of taking the time of the body to fully debate and conduct rollcall votes on these nominees? Not surprisingly, each of these nominees is very closely associated with the majority views of their party on issues of campaign finance reform. Commissioner McDonald has been a member of the FEC since 1982. He is currently Vice Chairman of the Commission. He has been reaffirmed to a seat on the Commission twice since his original appointment. During his tenure, he served as Chairman of the Commission three times, and as Vice Chairman four times.

Professor Bradley Smith is a distinguished professor of law at Capital University Law School in Columbus, OH. He is the author of numerous scholarly articles on campaign finance and his views are well-published and widely known on this subject matter.

In testimony before the Rules Committee, Mr. Smith acknowledged that, notwithstanding the decision of the Supreme Court in Buckley and the long line of cases that follow, he happens to believe the first amendment should be read to prohibit restrictions on campaign contributions.

Mr. Smith has similarly argued that Congress needs to reverse course and loosen campaign finance regulations. He has argued that contrary to the belief of a majority in Congress, and a majority of the American people, that there is too much money in politics today, Mr. Smith argues that money increases speech and therefore we need more speech—and more money, I argue, from his point of view—in our campaigns. He also argues that campaigns funded by small donors are not more democratic and that, in fact, large donors are healthier for the system. Mr. Smith has also argued that the perception that money buys elections is incorrect and that rather than corrupting the system, limiting money corrupts the system by entrenching the status quo, favoring wealthy individuals, and making the electoral process less responsive to public opinion.

Let me categorically state for the record that I could not disagree more with Mr. Smith's positions and his writings when it comes to campaign finance. It is clear to me that money plays far too great a role in campaigns today. I could not disagree more that limits on contributions are not only constitutional but necessary for our form of democracy to survive.

There is no doubt in my mind that money corrupts, or has the appearance of corrupting our system, and this perception threatens to undermine our electoral system and jeopardize the confidence in our form of democracy.

I could not disagree more with Mr. Smith's conclusion that Congress needs to reverse course and loosen campaign finance regulations. It is past time for this Congress to pass comprehensive campaign finance reform, which I have consistently supported and will continue to support.

That is what the debate in the Senate is about today—whether or not this Congress will act on the will of the people and bring this system of campaign finance loopholes and the money chase to a close. My support for such action could not be more clear.

Notwithstanding my strong disagreement with his views, I am not going to oppose this nomination of Mr. Smith for the following reasons: Traditionally, there is a heightened level of deference given to the President's nominees, particularly when the position is designated to be filled by one party. That is particularly the case with nominees to the FEC, who by statute are to be the representatives of their political parties on that commission. Moreover, in performing our constitutional responsibility to provide advice and consent to the President's nominations, the Senate should determine whether a nominee is qualified to hold the office to which he or she has been nominated.

Mr. President, it is clear to me that Mr. Smith is qualified to hold this office. He is clearly intellectually qualified for the position. He is a recognized, although controversial, scholar on election law and the Constitution. He is bright, articulate, and anxious to serve. Again, I could not disagree with him more, but to say he is not qualified to serve is not to have spent time reading his writings or listening to him. You can disagree with him—and I do vehemently—but he is certainly qualified to sit on the FEC. Most importantly, he has appeared before the Senate Rules Committee and testified under oath that if confirmed, he will uphold the Constitution of the United States and the election laws of the land.

During Rules Committee consideration of this nominee, I asked Mr. Smith if, notwithstanding his personal views, was he prepared to enforce the election laws founded on the congressional belief that political contributions can corrupt elections and need to be limited, as allowed by law and the Constitution. Mr. Smith responded that he would ''proudly and without reservations'' take that oath of office.

Finally, this Senate, and the Rules Committee in particular, have an obligation, in my view, to fill vacancies on the Federal Election Commission. Otherwise, we face gridlock and inaction by our agencies. The FEC is simply far too important, in my view, to be hamstrung by refusing to confirm a controversial but otherwise well-qualified nominee.

My vote in favor of this nomination should not be read as an endorsement of his views. Nothing could be further from the truth. It is an endorsement of the process that allows our political parties to choose nominees who hold views consistent with their own. I regret that the majority party here—at least a majority of the majority party—embraces the views they do, and nobody holds them more strongly than my friend and colleague from Kentucky. I think he is dead wrong in his views on these issues, but he represents the views of the majority party on this issue. They have made a choice that Bradley Smith reflects their views well on this issue. Therefore, they have the right, in my view, to have him confirmed to the seat, assuming that he is otherwise qualified to sit on the Commission. I would not vote for him if it

were strictly a case of endorsing his views as opposed to mine. But the FEC has never been a body where that has been a litmus test applied to Presidential nominees.

Whether or not this nominee is confirmed will not determine the real issue for Congress—and that is whether we will pass meaningful campaign finance reform laws to restore the public's faith in our elected system of Government.

The fundamental problem we face is not whether Bradley Smith is on the FEC, but whether or not this body, before we adjourn this Congress, is ever going to address the fundamental campaign laws that some of us would like to see modified, including the McCain-Feingold legislation, which has been before this body in the past.

It is time, in my view, to confirm these nominees to ensure that this agency has a full complement of dedicated, talented Commissioners sworn to uphold the laws on the books.

It is time to get on with the work of the Senate to reform our campaign finance laws and give the FEC the resources it needs —both financially and statutorily—to restore the public's confidence in our electoral system.

I yield the floor at this time.

The PRESIDING OFFICER. The Chair recognizes the Senator from Kentucky.

Mr. McCONNELL. Mr. President, let me say briefly to the ranking member of the Rules Committee, I listened carefully to his statement. I thank him very much for respecting the process by which we have selected our nominees for the Federal Election Commission. He made it clear that, had the choice been his, he would not have picked Professor Smith. I will make it clear a little later that had the choice been mine, I would not have picked Commissioner McDonald. This is the way the FEC is supposed to work. I thank my colleague for honoring that tradition.

The PRESIDING OFFICER. Under the previous order, the Senate is to recess at 12:30.

Mr. FEINGOLD. Mr. President, I ask unanimous consent that I be recognized at that point to use such time as I am allotted.

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

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate will now stand in recess until the hour of 2:15 p.m.

Thereupon, at 12:49 p.m., the Senate recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. INHOFE).

NOMINATION OF BRADLEY A. SMITH, OF OHIO, TO BE A MEMBER OF THE FEDERAL ELECTION COMMISSION—Continued

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

Mr. FEINGOLD. Thank you, Mr. President.

Today we are debating a nomination that may be just as important to the cause of campaign finance reform as any bill that has been considered by the Senate in recent years. Tomorrow's vote on the nomination of Brad Smith may be just as significant for campaign finance reform as any of the votes we had on those bills.

The issue here is the nomination of Brad Smith to a 6-year term on the Federal Election Commission, and I oppose that nomination.

Like other speakers, I take note of the photograph of Brad Smith's family shown today on the floor only to make a point that this nomination is certainly not analogous to treatment that has been given to judicial appointments, where we have had to wait for years and years for a confirmation vote. Mr. Smith was just nominated a couple of months ago. So this has not been a long drawn out delay of his nomination that would do harm to him, his family, or anybody else. In fact, I rejected that kind of approach to his nomination because, as far as I know, Professor Smith is a perfectly reasonable man in terms of his integrity and his academic ability and the like. He deserved a vote on the floor and he is going to get it, a lot faster than many judicial nominees that President has sent to us.

The problem is that Professor Smith's views on Federal election laws as expressed in Law Review articles, interviews, op-eds, and speeches over the past half decade are startling. He should not be on the regulatory body charged with enforcing and interpreting those laws.

So when words are used on the floor such as ''vilification,'' or questioning his integrity, or any other excuse not to get to the real issue, I have to strongly object. This debate is simply on the merits of what Professor Smith's views are of what the election laws are or should be.

Over the course of the debate—and I note that a number of my colleagues will be joining me on the floor to set out the case against Professor Smith—we will explain, and I hope convince, our colleagues and the public that this nomination has to be defeated.

Let me again make it clear, because I think there was some attempt to suggest the opposite, that I hold no personal animus towards Professor Smith. It is not a matter of personality. I am sure he is a good person. I do not question his right to criticize the laws from his outside perch as a law professor and commentator. But his views on the very laws he will be called upon to enforce give rise to grave doubt as to whether he can carry out the responsibilities of a Commissioner on the FEC. It just isn't possible for us to ignore the views he has repeatedly and stridently expressed simply because he now says he will faithfully execute the laws if he is confirmed.

We would not accept, nor should we accept, such disclaimers from individuals nominated to head other agencies of government. Sometimes a cliche is the best way to express an idea. Professor Smith on the FEC would really be the classic case of the fox guarding the hen house.

Let me illustrate this by pointing out the views of Bradley Smith that caused me and many others who care about campaign finance reform to have a lot of concern about his being on the FEC.

Professor Smith has been a prolific scholar on the first amendment and the Federal election laws, so there is a rich written record to review. Let's start with one of his most bold statements. In a 1997 opinion in the Wall Street Journal, Professor Smith wrote the following:

> When a law is in need of continual revision to close a series of ever changing ''loopholes,'' it is probably the law and not the people that is in error. The most sensible reform is a simple one: repeal of the Federal Elections Campaign Act.

That is right. The man who we may be about to confirm for a seat on the Federal Election Commission believes the very laws he is supposed to enforce should be repealed. Thomas Jefferson said we should have a revolution in this country every 20 years. He believed laws should constantly be revised and revisited to make sure they are responsive to the needs of citizens at any given time. Yet Professor Smith sees the need for closing a loophole in the Federal elections laws as evidence that the whole system, the whole idea of campaign finance reform laws, should be completely scrapped. In other words, what would be the purpose of the Federal Elections Commission under his view of the world?

A majority of both the House and the Senate have voted to close the loophole in the law known as soft money. We know that loophole is undermining public confidence in our elections and our legislative process. We have seen that loophole grow until it threatens to swallow the entire system. Many Members think it already has. A majority of the Congress wants to fix that problem. We are willing to legislate to improve an imperfect system. But Brad Smith wants to junk the system entirely and let the big money flow, without limit.

So what are we doing? We are about to put somebody with that view on the body charged with enforcing laws we pass. I don't think this makes any sense.

Another statement by Professor Smith that I think should give us pause, in a policy paper published by the Cato Institute, for whom Professor

Smith has written extensively, he says the following:

> The Federal Election Campaign Act and its various State counterparts are profoundly undemocratic and profoundly at odds with the First Amendment.

Of course, this is consistent with his views that the Federal Election Campaign Act should be repealed. The FEC has loopholes and doesn't work. Not only that, it is profoundly undemocratic and profoundly at odds with the first amendment.

How can a member of the FEC, how can Brad Smith, reconcile those views with his new position as one of six individuals responsible for enforcing and implementing the statute and any future reforms that Congress may pass? He has shown such extreme disdain in his writings and public statements for the very law he would be charged to enforce that I just don't think he should be entrusted with this important responsibility.

Let me repeat, this nominee says that the Federal Election Campaign Act is profoundly undemocratic and profoundly at odds with the first amendment. Every bit of it. I am sure this body doesn't agree. Is it profoundly undemocratic to believe that the tobacco companies, the pharmaceutical companies, and the trial lawyers shouldn't be pouring money into campaigns through the parties, while they seek to influence legislation that affects their bottom lines? Is it profoundly undemocratic to believe that $20,000 per year is enough for a wealthy person to be able to contribute to a political party? Is it profoundly undemocratic to argue that the spending of outside groups to attack candidates should be reported? That the public has a right to know the identities and financial backers of groups that run vicious, negative ads against candidates just weeks before an election?

I, for one, take great pride in being a strong defender of the first amendment. I wouldn't vote for a bill that was ''profoundly at odds with the first amendment,'' and I don't think my colleagues, who form a majority of the Senate in support of campaign finance reform, would either. But we are being asked to confirm to a seat on the body that will implement these laws someone who views these laws and our views as totally illegitimate.

Professor Smith does believe, apparently, that disclosure is a good thing, but that is all the regulation he wants to see in our elections.

In another article, Professor Smith writes: I do think that Buckley is probably wrong in allowing contribution limits. He believes and he reaffirmed this belief in the hearings on his nomination held by the Rules Committee that contribution limits are unconstitutional. Professor Smith's view, as quoted by the Columbus Dispatch, is that people should be allowed to spend whatever they want on politics. Whatever they want. He thinks there is no problem with unlimited contributions, none. Congress need not concern itself with that issue at all, apparently. In an interview at MSNBC he said: I think we should deregulate and just let it go. That is how our politics was run for over 100 years.

Think about what this is. We are asking somebody to enforce our election laws who says, literally, ''just let it go.'' That is some enforcement. Professor Smith would have us go back to the late 19th century before Theodore Roosevelt pushed through the 1907 Tillman Act and prohibits corporate contributions to Federal elections.

The limits on contributions from individuals to candidates—the very core of the campaign finance law that the Supreme Court upheld in Buckley v. Valeo and again in Nixon v. Shrink Missouri Government PAC—Brad Smith would junk these provisions along with the very statute that created the FEC, the body on which he now seeks to serve.

Professor Smith thinks that contribution limits are expendable because, in his view, the concerns about corruption are just overblown.

Let's look at what Mr. Smith has to say about that: He wrote in a 1997 law review article:

> Whatever the particulars of reform proposals, it is increasingly clear that reformers have overstated the government interest in the anticorruption rationale. Money's alleged corrupting influence are far from proven.

Well it just so happens, Mr. President, that the U.S. Supreme Court doesn't agree. Just a few months ago, the Supreme Court issued a ringing reaffirmation of the core holding of the Buckley decision that forms the basis for the reform effort. The Court once again held that Congress has the constitutional power to limit contributions to political campaigns in order to protect the integrity of the political process from corruption or the appearance of corruption. In upholding contribution limits imposed by the Missouri Legislature, Justice Souter wrote for the Court:

> [T]here is little reason to doubt that sometimes large contributions will work actual corruption of our political system, and no reason to question the existence of a corresponding suspicion among voters.

Mr. Smith thinks the dangers of corruption are overblown. The Supreme Court says they are obvious. Professor Smith's disdain for campaign finance reform is so great that he won't even admit the most basic fact about our political life. That at some point, in some amount, contributions can corrupt. Or at least they look like they corrupt, which the Supreme Court recognized is just as good a reason to limit contributions to politicians. The appearance of corruption, Mr. President. We all know it's there. We hear it from our constituents regularly. We see it in the press, we hear about it on the news. But Brad Smith says the corrupting effect of money on the legislative process is far from proven.

Back home if I said that at any town meeting that is a laugh line. Americans scoff at the notion that big money is not corrupting our system.

The Supreme Court held, and by the way, this wasn't a narrowly divided Supreme Court decision in the Shrink Missouri case. This was a 6–3 decision, with a majority containing four Justices appointed by Republican Presidents including Chief Justice Rehnquist. The Supreme Court held as follows:

> Buckley demonstrates that the dangers or large, corrupt contributions and the suspicion that large contributions are corrupt are neither novel nor implausible. The opinion noted that the deeply disturbing examples surfacing after the 1972 election demonstrate that the problem of corruption is not an illusory one.

''The problem of corruption is not an illusory one,'' said the Court. The Supreme Court got it 25 years ago. Brad Smith still doesn't believe it. Professor Smith says: ''Money's alleged corrupting influence are far from proven.'' That's what this debate is all about, Mr. President. If someone can't even see the danger in unlimited contributions, how can he adequately fulfill his duties as an FEC commissioner?

The campaign finance laws are not undemocratic. They are not unconstitutional. They are essential to the functioning of our democratic process and to the faith of the people in their government. As the Supreme Court said in the Shrink Missouri case:

> Leave the perception of impropriety unanswered, and the cynical assumption that large donors call the tune could jeopardize the willingness of voters to take part in democratic governance. Democracy works 'only if the people have faith in those who govern, and that faith is bound to be shattered when high officials and their appointees engage in activities which arouse suspicions of malfeasance and corruption.

Now, in the wake of that clear declaration by the Court, how can Bradley Smith continue to rationalize the gutting of the Federal Election Campaign Act? And how can we allow him the chance to carry it out as a member of the FEC?

We need FEC Commissioners who understand and accept the simple and basic precepts about the influence of money on our political system that the Court reemphasized in the Shrink Missouri case. We need FEC Commissioners who believe in the laws they are sworn to uphold. We need FEC Commissioners who will be vigilant for efforts to evade the law, to avoid the clear will of the Congress. We need FEC Commissioners who will be alert to the development of new and more clever loopholes, tricks by candidates or parties or advocacy groups to avoid constitutionally valid limits on their activities or requirements that they operate in the light of day. We do not need FEC Commissioners who have an ideological agenda contrary to the core rationale of the laws they must administer.

As any American who has been watching ''The West Wing'' in recent

weeks knows, nominees to the FEC come in pairs, one Democratic, one Republican. And the members of the Commission by tradition are suggested by the congressional leadership to the President. Now it would be a pipe dream to think that the President would actually nominate two Commissioners at once who favor campaign finance reform, as has happened on TV. No, for reality to imitate art to that extent that would be too much to hope for. But at least we shouldn't put the foremost academic critic of the election laws on the Commission. Surely the Republican leadership can suggest another qualified individual for this post who doesn't believe the election laws should be repealed.

We all know this nomination was made as part of an agreement to get a vote on the confirmation of another presidential nominee last year. I am sorry that the Senate's great responsibility to advise and consent to nominations has become a game of political horse trading. In the end, I think the country suffers when these kind of games are played, but I know it goes on, and I did not stand in the way of this most recent agreement to bring Mr. Smith to a vote as part of a larger package of nominations. But we still have a duty of advise and consent on each nomination, and I ask my colleagues to take a very hard look at this particular nomination and after doing so I hope you come to the conclusion to vote no.

The public is entitled to FEC Commissioners who they can be confident will not work to gut the efforts of Congress to provide fair and democratic rules to govern our political campaigns. The time has come for the Senate to say no. The nomination of Brad Smith should not be approved.

I reserve the remainder of my time and I yield the floor.

Mr. WELLSTONE. Mr. President, I rise today to join my colleague, Senator FEINGOLD, and strongly oppose the nomination of Bradley A. Smith to the Federal Election Commission. Mr. Smith has no confidence in federal election law, indeed he believes it to be ''undemocratic'' and ''unconstitutional.'' As a member of the FEC he will have the opportunity to put those views into practice and actually shape election law through rulemaking. But worst of all, Mr. Smith doesn't just disagree with the law, he disagrees with the express purpose of the law—limiting the corrupting influence of money in politic. An FEC nominee who's own personal beliefs and philosophies are so at odds with the purposes and authority of the Federal Election Campaign Act should be rejected by a pro-reform Congress.

I oppose the Smith nomination not only because his philosophies are antithetical to present law, but because I believe they are antithetical to broad political participation, to lowering the price of access to the legislative process, restoring Americans faith in our system, and they are antithetical to everything that is necessary for a functioning democracy.

But before I make my case that the Senate should reject this nomination, let me say this. I have met Mr. Smith and found him to be an earnest and learned advocate of his point of view. I have no reason to question Mr. Smith's honor or his intentions and even his harshest critics do not make the claim that Mr. Smith does not have a strong technical understanding of the law. He seems to be a good guy, so this is not personal and I hope that he does not take my criticisms personally. But I do feel that given Mr. Smith's views, he is a poor fit for this job.

Mr. Smith is a very vocal and articulate critic of current election law—to say nothing of the various reform proposals introduced by members of this body. In fact, Mr. Smith is widely regarded as one of the foremost critics of the current campaign finance system. He has written numerous articles on the subject, he has frequently appeared before Congressional Committees, sat on panels and has appeared on television. Throughout the body of his writings and public appearances he has been consistent: He believes the Federal Election Campaign Act is unworkable, unconstitutional, and undemocratic.

Mr Smith takes the argument one step further: he is an aggressive proponent of near complete deregulation of the campaign finance system and believes that nearly any attempts to regulate the relationship between money and elections is folly. For example, in a 1997 Georgetown Law review article Mr. Smith states quote:

> I have previously argued at length that campaign finance regulation generally makes for bad public policy. Campaign finance regulation tends to reduce the flow of information to the public, to favor select elites, to hinder grass roots political activity, to favor special interests, to promote influence peddling, and to entrench incumbents in office.

I don't want to belabor this point. Other colleagues are speaking to this issue and in all honesty it's the least of my objections to the nomination. But in all I would simply say this to my colleagues: I cannot remember a time when this body confirmed a nominee—for any executive position—who's own views were so completely at odds with the law he was meant to uphold. Mr. Smith claims that his own strong opinions notwithstanding he can and will enforce the law. Still, I don't see how he can be true to both the law and his convictions. He will be responsible for administering a law that in his view that pose a threat to ''political liberty.'' He will be appointed to perpetuate a system that he feels was made ''more corrupt and unequal'' by the Federal Elections Campaign Act. Speaking for myself, I would not want to be charged with enforcing a law that is antithetical to everything I know about politics, democracy, and good government—as Smith feels about current law. But the Senate is being asked to confirm a nominee with just that perspective.

If the FEC were simply an empty vessel, mindlessly executing the will of the Congress as stated in the Federal Election Campaign Act, Mr. Smith's extreme views would be trouble enough. But that isn't how the system works. And, in fact, the FEC has considerable leeway in interpreting FECA when it issues rules. The following are three examples of how a person with Smith's attitudes about the law could do a lot of damage to the integrity of the system of regulations that govern election spending:

No. 1. Redefining ''coordination''—Under current law, contributions to candidates are limited, but independent spending is unlimited. In order to avoid evasion of the contribution limits, the law specifies that any spending that is done in coordination with a candidate counts as a contribution to the campaign. However, the FEC currently is considering a proposed rulemaking that would define ''coordination'' so narrowly as to make it meaningless. Under the proposed rule, there would be no coordination unless the FEC could prove that a candidate specifically requested an expenditure, actually exercised control over the expenditure, or reached an actual agreement with the candidate concerning the expenditure. This rulemaking, if approved, would open a massive loophole that would enable a spender to maintain high level contacts with a campaign and still claim to be acting independently. This is a prime example of how a Commissioner can eviscerate the law while claiming to enforce it.

No. 2. Neglecting to close the ''soft money'' loophole—Soft money—which the Senate has spent years trying to ban—was basically ''created'' by an FEC interpretation of the law. Recently, a complaint filed by five members of Congress and a separate complaint filed by President Clinton have urged the FEC to close the ''soft money'' loophole administratively. The FEC's Office of General Counsel has submitted a notice of proposed rulemaking which outlines the steps that the Commission can take to close the ''soft money'' loophole if it so chooses. Brad Smith's view that it is unconstitutional to prohibit ''soft money'' makes it likely that he would reject a recommendation from the General Counsel to close the ''soft money'' loophole.

No. 3. Regulation of election-related activity over the internet—The FEC is currently considering the whole range of issues raised by the use of the internet to conduct political activity. This is a largely uncharted area, and the current and future FEC Commissioners will play an important role in determining how internet communications will be treated under the law. Brad Smith's view that the federal government should scrap all of its campaign

finance reform efforts can be expected to strongly color his policy judgment about what regulations the FEC ultimately should issue in this area of the law.

I want my colleagues to be clear on this point: This nominee is no empty vessel. He will have the opportunity to actually shape election law through rulemaking—colleagues shouldn't kid themselves that FEC commissioners can just ''follow the law'' and that their personal biases don't matter. An anti-campaign finance law Commission, can promote anti-campaign finance law rules.

Mr. President, I do want to take some time to get to the heart of my objection to the Smith nomination: He doesn't just disagree with the law, he disagrees with the express purpose of the law. The express purpose of the Federal Election Campaign Act is to limit the disproportionate influence of wealthy individuals and special interest groups on the outcome of federal elections; regulate spending in campaigns for federal office; and deter abuses by mandating public disclosure of campaign finances. Mr. Smith doesn't just quibble with how the law achieves those goals, he disagrees with those goals completely! Mr. Smith believes that money—regardless of how much or where it comes from—has no corrupting or disenfranchising influence on elections.

For example lets look at what Smith wrote on the effect of money on how the Congress conducts its business, on what gets considered and what doesn't, on who has power and who does not. This is from ''The Sirens' Song: Campaign Finance Regulation and the First Amendment.'' Smith argues:

> If campaign contributions have any meaningful effect on legislative voting behavior, it appears to be on a limited number of votes that are generally related to technical issues arousing little public interest. On such issues, prior contributions may provide the contributor with access to the legislator of legislative staff. The contributor may then be able to shape legislation to the extent that such efforts are not incompatible with the dominant legislative motives of ideology, party affiliation and agenda, and constituent views. Whether the influence of campaign contributions on these limited issues is good or bad depends on one's views of the legislation. The exclusion of knowledgeable contributors from the legislative process can just as easily lead to poor legislation with unintended consequences as their inclusion. But in any case, it must be stressed that such votes are few.

Let me explain what I find so chilling about this statement. It would be one thing if Mr. Smith argued that money had no effect on policy. That regardless of the endless anecdotes and personal testimonials of members of Congress past and present, that having lots of money on your side buys you no extra influence in Congress. Some members of this body take that position. I think it's wrong, I think it's naive, I think the American people see through it. In other words, it would be bad enough if that was Smith's view. But isn't. He asserts that money plays a role but only on ''technical issues that arouse little public interest''—but worse, doesn't seem to be concerned about it!

It does not appear to matter to Brad Smith that money affects the process on those issues that outside of the public attention! Well with all due respect, most of what we do takes place below the surface here! We pass bills with scores of obscure provisions, hundred of pages long. No one knows what they all do, we can't know. We vote on them without knowing. It is there that the system is most ripe for abuse, where the greatest potential exists for those with the money, the clout, the access to game the system, but Mr. Smith isn't much worried about it.

I agree with Smith that it is the small, stealth provisions which are most likely to appear or disappear because of money. But where I strongly disagree with Smith is that I believe that this is a problem. It should be aberrational, not typical. I think it's outrageous that because a person is in a position to donate $200,000 to the NRSC or the DSCC that person is in a position to dictate policy—regardless of how obscure. I think it's wrong that a line in a bill can be bought and paid for with a campaign contribution. I think it's wrong that a patent extension or favorable tariff treatment is up for sale. Because the matters are obscure, they are even more ripe for abuse. I won't speak for my colleagues, but I'd like the Commissioners on the FEC to be concerned with these abuses.

For example, I point my colleagues to an excellent article in the February 7 issue of Time magazine entitled ''How to Become a Top Banana'' by Donald Barlett and James Steele. This article details how it came to pass that the U.S. government imposed 100% tariffs on obscure European imports in an ongoing attempt to force the European Union to allow market access for Chiquita Bananas. As the article notes, the U.S. Trade Representative imposed tariff rates on products essential to the economic health of several U.S. small businesses to promote the interests of a firm who does not even grow its bananas in the United States. As it turns out, campaign contributions may have played a big role. The article concludes:

> So what does the battlefield look like as the Great Banana War's tariffs approach their first anniversary? Well, the operators of some small businesses, like Reinert, are limping along from month to month. Other small-business people are filing fraudulent Customs documents to escape payment. Other businesses are doing just fine because their suppliers in Europe agreed to pick up the tariff or it applies to just a small percentage of the goods they sell. In Europe as in America, small businesses have been harmed by the U.S. tariffs. Larger companies have been mostly unaffected. And the European Union has kept in place its system of quotas and licenses to limit Chiquita bananas. Who, then, is the winner in this war?
>
> That's easy. It's the President, many members of Congress and the Democratic and Republican parties—all of whom have milked the war for millions of dollars in campaign contributions—along with the lobbyists who abetted the process. A final note. While Lindner (owner of Chiquita banana) had many areas of political interest beyond his battle with the European Union, a partial accounting of the flow of his dollars during the Great Banana War—as measured by contributions of $1,000 or more—as well as lobbying expenditures on the war, shows: Republicans—$4.2 million, Democrats—$1.4 million Washington lobbyists—$1.5 million.

Just look at the bankruptcy bills passed by the House and the Senate. I'm told Committee staff refer to the provisions based on which industry ''paid'' for them. This provision is for the credit card companies, this one for the real estate industry, and so on it goes. As the Wall Street Journal noted on April 20 in an article entitled ''Bankruptcy Reform Pits Industries Against Each Other'':

> Lawmakers like to portray the battle over bankruptcy reform as a clash of principles: stopping debtors from shirking their obligations or creditors from fleecing the needy. But in the back rooms of Capital Hill, the nature of the fight changes. Industry lobbyists, many ostensibly allied in favor of bankruptcy overhaul legislation, vie to carve out as many favors for their clients as possible at the expense other business groups. These contests pit auto companies against credit card issuers, retailers against Realtors and the Delaware bar against lawyers from the rest of the U.S.

Again, the major political parties seem to be the major winners in all of this (well, aside from the lenders)—and certainly not low and moderate income debtors. Contributions from the lending industry to both parties since 1997 tops $20 million.

But that doesn't much concern Mr. Smith, the man who would be in charge of enforcing our campaign finance laws.

Smith even argues even more explicitly that tying legislation to campaign contributions is not necessarily a bad thing. Or at least that being attentive to campaign contribution will make politicians more attentive to the public. He argues in ''A Most Uncommon Cause'':

> What reformers mean by corruption is that legislators react to the wishes of certain constituents, or what, in other circumstances, might be called 'responsiveness.' The reformist position is that legislators shape their votes and other activities based on campaign contributions. They call this corruption. Money dominates the policy making process, they argue, unfairly frustrating the popular will. . . . For one this, it is proper, to some extent, for a legislator to vote in ways that will please constituents, which may, from the legislators viewpoint, have the beneficial effect of making those constituents more likely to donate to the legislators re-election campaign.''

But who does it make them more attentive to? The wealthy, the heavier hitters, the tiny proportion of the population who can make substantial contributions to candidates. Again, the fact that Smith admits this is the case is not surprising. Many critics of private money in politics draw the same conclusion. What colleagues should find outrageous is that Smith, again,

sees nothing wrong with this relationship.

It is the money in politics which has stripped away from many Americans the capacity to have one's vote weigh as much as the person in the next polling booth, to have a vote in the South Central, LA to be worth as much as a vote in Beverly Hills. The vote is undermined by the dollar. The vote may be equally distributed, but dollars are not. As long as elections are privately financed, those who can afford to give more will always have a leg up—in supporting candidates, in running for office themselves, and in gaining access and influence with those who get elected. We all know this is the way it works. And the American people know it, too.

Bizarrely, though, Smith argues that wealth, and therefore the ability to affect elections is distributed equitably enough through out our society that the inordinate influence of money is not inordinately concentrated among a small subset of the population. In a 1997 piece entitled ''Money Talks: Speech, Equality, and Campaign Finance'' Smith states:

> Very few citizens have the talent, physical and personal attributes, luck of time and place, or wealth to influence political affairs substantially. Thus a relatively small number of individuals will always have political influence far exceeding that of their neighbors. However, to the extent that wealth (however that might be defined) than there are citizens capable of running a political campaign, producing quality political advertising, writing newspaper editorials, coaching voice, and so on. In other words, it may be true that more people are ''good looking'' than rich, it may be true that more people are ''educated'' than rich. However, the number of people capable of meaningful nonmonetary contributions to a political campaign—that is the type of contribution that will give the individual some extra say in policy-making—is much smaller than the group of monied people.

I frankly think this argument is ridiculous and insulting. It suggests that if you're not a $500 an hour consultant telling the candidate to wear earth tones, if you're not a big name pollster you can't make a meaningful nonmonetary contribution to a political campaign. No one who has actually run for office would hold this view. Taken to a logical extreme its effect would be to limit participation by those other than the monied elite—the hundred of folks who volunteer at a phone bank, put up yard signs, or write letters to the editor. My point is that almost everyone has something to offer regardless of how wealthy they are.

But there is a larger point here; the fact that Brad Smith believes that there are more people in America capable of donating $1000 than there are people who can take a few afternoons to lick envelopes. I'm not sure where Smith comes by this view but it obviously falls on its face.

Of course, it does explain where Smith is coming from. I mean, if you believe that money is speech and that campaign contributions profoundly impacts the legislative process, you are one of two things: You are either a defender of a political oligarchy of the wealthy and well-heeled or you believe that this money, this power, is distributed equally throughout society. To be fair to Smith, he genuinely seems to hold the latter view. But while this might be a less cynical reason to be comfortable with money influencing politics, he's still flat out wrong. In fact, he has it completely backward.

The picture of those who contribute the vast majority of money to candidates under the current contribution limits does not look like America, it is overwhelmingly white, male, and wealthy. A study conducted of donors in the '96 election found the following characteristics of such donors: 95 percent were white, 80 percent were male, 50 percent were over 60 years of age and 81 percent had annual incomes of over $100,000. The population at large in the United States had the following characteristics at that time: 17 percent was non-white, 51 percent were women, 12.8 percent were over 60, and only 4.8 percent had incomes over $100,000.

For example, the organization Public Campaign found that during the 1996 elections, just one zip code—10021, in New York City—contributed $9.3 million. There are only 107,000 people in that exclusive slice of Manhattan real estate and the vast majority (91 percent) are white. On the other side of the lop-sided equation are 9.5 million residents of the 483 U.S. communities that are more than 90 percent people of color. They gave $5.5 million. Are these groups equal before the law?

Additionally, Only a spectacularly small portion of U.S. citizens contribute more than $200 to political campaigns. In the first half of 1999:

> Only 4 out of every 10,000 Americans (.037%) has made a contribution greater than $200.
>
> As of June 30, 1999 only .022% of all Americans had given $1000 to a presidential candidate.
>
> In the '98 election, .06% of all Americans gave $1000, or 1 in 5000.

So again, Smith has the argument precisely backward, because so few can effectively participate through campaign contributions it is inherently unequal means of political participation. The fact that a few actors—big corporations, Unions, the truly wealthy—have nearly limitless funds to pour into races exacerbates the disparity between the average citizen and the monied citizen. But other means of political participation are inherently limited—no matter who you are, there are still no more than 24 hours in a day or seven days in a week—do no one has that much of an advantage.

But Smith goes further than simply arguing that campaign contributions can buy legislative favors, he argues in ''Money Talks'' that money is speech—not in the sense that it buys speech or allows for getting out the candidates message—but in the sense that making a campaign contribution is an act of symbolic, political speech in of itself. This argument, I should point out to colleagues, goes way beyond the Supreme Court's linkage between speech and money in Buckley. Smith argues:

> The Court's rationale that contribution limits only ''marginally'' burden First amendment rights is suspect on its own and at odds with the traditional First Amendment right of association. The Court was correct that the size of a contribution does not express the underlying basis of support, but wrong when it held that it involved ''little direct restraint on political communication.'' Is not a substantially different message communicated when a local merchant pledges $10,000 to one charity (or political campaign) and just $25 to another? In such an instance, is it not the size of the donation, rather than the act of donating, that sends the strongest message to the community? It is true that the basis of support for the cause (or candidate) remains vague, yet the message in each gift is substantially different.

Combined with the fact that only a tiny percentage of voting citizens are making large hard money contributions (much less truly massive soft money contributions) Smith is advocating for a system where much political speech is effectively closed to most Americans because they can't muster the means to make a send a loud ''message.''

If money equals speech, we can clearly see who we are letting do all the talking—or at least those are the folks that we're listening to. The hopes, dreams, concerns, and problems of the vast majority of the American people are going unheard because the bullhorn of the $1,000 contribution drowns them out. Why would be want to make that bullhorn bigger and louder? Why would we want to give greater access and more control to those who already have it locked up? But that is the direction that this FEC nominee would see us go in.

Like Smith, I too am a critic of our mechanism for financing of elections. This current system of funding congressional campaigns is inherently anti-democratic and unfair. It creates untenable conflicts of interests and screens out many good candidates. By favoring the deep pockets of special interest groups, it tilts the playing field in a way that sidelines the vast majority of Americans. But unlike Smith, I support reforms that would expand political participation. Unlike Smith I have no illusions that inequities in wealth—in a system where wealth rules—do not result in a distorted product.

In 1966 in the case of Harper versus Virginia State Board of Elections, the Supreme Court struck down a poll tax of $1.50 in Virginia state elections. The Court stated in its decision that, quote, the ''State violates the Equal Protection Clause of the Fourteenth Amendment whenever it makes the affluence of the voter or payment of any fee an electoral standard. Voter qualifications have no relation to wealth.''

In 1972 in Bullock versus Carter, the Court again faced the issue of wealth in

the electoral process and again stated that such a barrier was unconstitutional. This time, the question concerned a system of high filing fees that the state of Texas required candidates to pay, in order to appear on the primary ballot. The fees ranged from $150 to $8,900.

The Court invalidated the system on Equal Protection grounds. It found that, with the high filing fees, quote: ''potential office seekers lacking both personal wealth and affluent backers are in every practical sense precluded from seeking the nomination of their chosen party, no matter how qualified they might be and no matter how enthusiastic their popular support.''

The ''exclusionary character'' of the system also violated the constitutional rights of non-affluent voters. ''We would ignore reality,'' the Court stated, ''were we not to find that this system falls with unequal weight on voters, as well as candidates, according to their economic status.'' unquote. These cases may have no literal legal implications for our system, where deep pockets—either one's own or one's political friends—are a prerequisite for success. But they do have a moral implication.

I do believe that in America's elections today we have a wealth primary, a barrier to participation to those who are not themselves wealthy or who refuse to buy in to monied interests. Is it an absolute barrier? No. Does it mean that every candidate for federal office is corrupt? No. However, the price we pay is what the economists would call the ''opportunity cost.'' It is a cost represented by lost opportunities, by settling for those who are most electable rather than those who are the best representatives of the American people. And I do not believe that in a system where money equals power, inequality of wealth can be reconciled with equality of participation.

That, I say to my colleagues, is why I cannot support Mr. Smith's nomination. And it isn't that he is a critic of the present system. Indeed I agree with Smith that fixing the system is not fundamentally an issue of tightening already existing campaign financing laws, no longer a question of what's legal and what's illegal. The real problem is that most of what's wrong with the current system is perfectly legal.

Many people believe our political system is corrupted by special interest money. I agree with them. It is not a matter of individual corruption. I think it is probably extremely rare that a particular contribution causes a member to cast a particular vote. But the special interest money is always there, and I believe that we do suffer under what I have repeatedly called a systemic corruption. Unfortunately, this is no longer a shocking announcement, even if it is a shocking fact. Money does shape what is considered do-able and realistic here in Washington. It does buy access. We have both the appearance and the reality of systemic corruption.

I wonder if anyone would bother to argue that the way we are moving toward a balanced federal budget is unaffected by the connection of big special-interest money to politics? The cuts we are imposing most deeply affect those who are least well off. That is well-documented. The tax breaks we offer benefit not only the most affluent as a group, but numerous very narrow wealthy special interests. Does anyone wonder why we retain massive subsidies and tax expenditures for oil and pharmaceutical companies? What about tobacco? Are they curious why we promote a health care system dominated by insurance companies? Or why we promote a version of ''free trade'' which disregards the need for fair labor and environmental standards, for democracy and human rights, and for lifting the standard of living of American workers, as well as workers in the countries we trade with? How is it that we pass major legislation that directly promotes the concentration of ownership and power in the telecommunications industry, in the agriculture and food business, and in banking and securities? For the American people, how this happens, I think, is no mystery.

For this reason, I support public financing of elections. It is a matter of common sense, not to mention plain observation, that to whatever extent campaigns are financed with private money, people with more of it have an advantage and people with less of it are disadvantaged.

I think most citizens believe there is a connection between big special interest money and outcomes in American politics. People realize what is ''on the table'' or what is considered realistic here in Washington often has much to do with the flow of money to parties and to candidates. We must act to change this, but a vote for Smith is to move the FEC, and the debate over campaign finance reform, in the opposite direction.

Despite his obvious command of the law, Brad Smith has shown himself through his writings to be completely insensitive to the realities of political participation in America. He is smart enough to know better. The Senate should send a message that it is smart enough to know better too. I urge a no vote.

Recently, a complaint was filed by five Members of Congress and a separate complaint filed by President Clinton which urged the FEC to close the soft money loophole. Brad Smith's view that it is unconstitutional to prohibit soft money makes it likely he will reject any recommendation from general counsel to close the soft money loophole.

Regulation of election-related activity on the Internet—the FEC is looking at a whole range of issues that are based upon or deal with the use of the Internet to conduct political activities. Again, I do not know the potential for all the abuses and the ways in which people can attack and people can raise money for the attack and what they can do on the Internet. I do know Brad Smith's view that the Federal Government should scrap all of its campaign finance reform efforts can be expected to strongly color his policy judgment about what regulations the FEC ultimately should issue in this area of law.

For other colleagues who are thinking of coming to the floor, I will not take a lot more time. I will reserve the remainder of my time. I want to put forth a couple of points.

First of all, Senator FEINGOLD and I have been in opposition. We were part of an agreement this nomination would come to the floor, but that has to do also with the ability to get a number of judges considered. We certainly need to start voting on judges.

I do not believe, I say to my colleagues, that these votes are independent of one another. I do not think colleagues ought to be voting for Brad Smith, the argument being that only if he is so confirmed will judges pass. I do not believe that is part of any formal agreement, and it should not be a part of any informal agreement. We ought to vote on these candidates on the basis of their qualifications. We ought to be voting on them on the basis of what it is we ask them to do in Government.

While I respect Brad Smith's intellectual ability and while I like him as a person—and I am not just saying that—I believe it would be a terrible mistake for the Senate to confirm him. It sends a terrible message of our viewpoint of the mix of money in politics and whether or not we are serious about any reform.

In many ways, this is the core problem—the mix of money in politics. I believe we have moved dangerously close to a system of democracy for the few. Money has hijacked politics in this country. It is no wonder we see a decline in the participation of people in public life and politics. Most people believe money dominates politics, and it does.

I am in disagreement with Brad Smith. Money—other Senators can come to the floor and disagree and debate—determines all too often who gets to run. All too often it determines who wins the election or who loses the election. All too often it determines what issues we even put on the table and consider. All too often it determines the outcome of specific votes on amendments or bills. All too often on a lot of the details of legislation, special interests are able to get their way. All too often it is on the basis of some people, some organizations, some groups having way too much wealth and power and the majority of the people left out.

It is incredible to me. We have all become so used to this system that we have forgotten the ways in which it can be so corrupting, not in terms of individual Senators doing wrong because someone offers them a contribution and, therefore, a Senator votes

this way or that way. I do not think that happens. I hope it does not happen. I pray it does not happen.

I will say this. We have the worst kind of corruption of all. It is systemic, and it is an imbalance between those people who have all the financial resources and the majority of people in the country who do not. It is when too few of those people have way too much of the power and the majority of the people feel left out. When that happens, there is such an imbalance of access, influence, say, and power in the country that the basic standard in a democracy that each person should count as one, and no more than one, is seriously violated.

It is interesting, I point out for colleagues, in the first half of 1999, just looking at the contributions, only 4 out of every 10,000 Americans, .03 percent, made a contribution greater than $200. As of June 30, 1999, .022 percent of all Americans had given $1,000 to a Presidential candidate. In the 1998 election, .06 percent of all Americans gave $1,000, and that was 1 in 5,000.

This does not even take into account all the soft money contributions. This does not take into account the $500,000 and the $1 million contributions. What happens is that the vast majority of people in the country—I am sorry, not just poor people who do not have financial resources—the vast majority of people in the United States of America believe their concerns—for themselves, their families, and their communities—are of little concern in the corridors of power in Washington, DC, where they see a political system and a politics dominated by big money and, therefore, really believe they are shut out. We have given them entirely too much justification for that point of view.

I do not see how in the world we can vote for Brad Smith, given how clear he is in his opposition to reform. Given the positions he has taken which go in the exact opposite direction of believing that money in any way, shape, or form can be corrupting of this political system and corrupting of democracy, we send a terrible message to people in this country if we vote for this nominee.

Again, I am not all that excited about coming here and making these arguments, especially when it is about an individual person. I am not talking about Brad Smith; I am talking about his viewpoint. I think he is wrong. I would love to be in a debate with him. I probably would have a tough time in a debate with him. He has a tremendous amount of ability. It would be a fun debate. I would enjoy it.

The point is, you can respect someone; you can say you would love to debate somebody; you appreciate their writing; you appreciate the speech they have given; you appreciate the lecture they have given—I was a college professor—but to see them on the Federal Election Commission is a different story when he is asked to implement the very laws he says he does not believe in, when he is asked to be there to make decisions—FEC is not an empty vessel, and he certainly is not an empty vessel—where key decisions are going to be made about coordination, soft money, and a whole set of issues that are dramatically important to whether we have a democracy or not.

I cannot vote for him. I believe Senators should oppose this nomination. I do not know what the final vote will be. Maybe there will be a majority vote for him, maybe there will not. His nomination is put forth at precisely the wrong time in the history of American politics in the country.

I say that because I believe people in this country yearn for change. Senator MCCAIN is on the floor. He will be speaking later. His campaign certainly tapped into that. His campaign brought that out in people. That is but one powerful example.

People would love to have a Government they believe is their Government. They would love to have a Senate and a House of Representatives they believe belong to them. People right now—I have said it before in the Senate—believe that if you pay, you play, and if you don't pay, you don't play.

Above and beyond this debate, I want us to get to the point where we make some significant change. What is at stake on this whole reform question is basically whether or not we will continue to have a vibrant representative democracy. If your standard is that each person should count for no more than one, we have moved so far away from that standard, it is frightening.

This may be a terrible thing to say on the floor of the Senate because I love being a Senator. I will thank Minnesota for the rest of my life for giving me this chance. In many ways I think we have a pseudodemocracy, a minidemocracy. We have participation, we have government of, by and for maybe about 20 percent or less of the people.

There are many things that need to be done which can lead to democratic renewal. One of them is to get serious about the ways in which money has come to dominate politics, the ways in which we now have the most severe imbalance of power we could imagine, which is dangerous to the very idea of representative democracy.

I want to see us move to a clean money-clean election. I love what Massachusetts has done; I love what Arizona has done; I love what Maine has done; and I love what Vermont has done. I know other States want to do it. If I ever get the chance, I am going to offer a bill or an amendment that will say that every State should apply clean money-clean election campaigns not only to their State races but to Federal races, give the right to the States as to whether or not they want to have essentially a fund people can draw from—maybe everybody contributes a few dollars a year—which enables people to say: By God, these are our elections; our voice counts; no one person and no one interest is dominant.

There will be the McCain-Feingold bill. I will be pushing hard for the clean money-clean election effort. There are other people who have had ideas. I want us to come out here and get serious about passing reform legislation. We are not there yet; I know that. I think the mode of power for change is going to have to come from a citizen politics; a citizen politics will have to be the money politics. You will have to have an engaged, energized, excited, empowered, determined citizen politics that is going to force us to pass this reform legislation.

In the meantime, I urge colleagues not to vote for Brad Smith's nomination—not because he isn't a good person; he is—because of the basic philosophy he holds, the basic viewpoint he holds which is so antithetical to reform. I think this is a test case as to whether or not we are serious about the business of reform. I hope we vote no.

I yield the floor.

The PRESIDING OFFICER (Mr. CRAPO). The Senator from Arizona.

Mr. MCCAIN. Mr. President, I rise in opposition to the nomination of Mr. Smith to the Federal Election Commission. I intend no personal aspersions toward Mr. Smith, and I am sure he is a fine man. However, he should not serve in the position to which he has been nominated. Sending Brad Smith to the FEC is akin to confirming a conscientious objector to be Secretary of Defense.

It would be well to put the debate we are having today and for a short period tomorrow in the context of what is going on as we speak. Tuesday, May 23, from an LA Times article, ''Democratic Fund-Raising King Has 26 Million Reasons to Gloat''.

Brash, unapologetic Terry McAuliffe helps party raise ''greatest amount of money ever.'' Critics decry ''political extortion.''

Even on an average day, Terry McAuliffe is exuberant. But these days, the Democrats' fund-raising master can barely contain himself.

After six weeks of making 200 telephone calls a day, attending happy-hour rallies with small time fund-raisers and wooing new high-dollar givers at intimate dinners, McAuliffe is on track to raise $26 million at a blue-jeans-and-barbecue event at a downtown sports arena Wednesday night—''the greatest amount of money ever in the history of American politics.''

Then, turning to leave for another dinner where he would woo a likely big-money contributor, McAuliffe added: ''Get those checkbooks out!''

Although a $100,000 contribution was a benchmark in the last presidential election, this time around fund-raisers are collecting scores of checks for $250,000 and more from those who want to qualify as political players.

For Wednesday night's event at Washington's MCI Center, no fewer than 25 people raised or donated at least $500,000, McAuliffe said.

By March, unregulated ''soft money'' donations to both parties were soaring, with Democratic totals nearly matching Republicans for the first time.

Officials of both parties say that the record-setting inflow reflects enthusiasm for

their candidates and their platforms, but the reality is more complicated.

''There is just raw greed on the part of the solicitors, and it is corrupting,'' said Fred Wertheimer, a longtime leader in the effort to reform the nation's campaign finance laws.

''When you're dealing with $250,000 and $500,000 campaign contributions you are flatly dealing with influence -buying and -selling and with political extortion.''

Faced with what many would consider a daunting task, the callers appeared driven by a mix of humor, commitment, swagger and chutzpah.

''I want to ask you a question,'' McAuliffe told one donor on the phone. ''If the world blew up tomorrow would you do 500?'' meaning $500,000.

''We should have gone for RFK,'' McAuliffe bellowed, referring to the 50,000-seat stadium that once housed the NFL's Washington Redskins.

But when one top DNC donor inquired about getting a second table at the event, McAuliffe said, ''For 500 grand, I think we could give him two tables.

In the few in-depth conversations . . . donors seem more interested in talking about pet legislative issues than about the merits of the Democrats' presidential nominee, AL GORE.

Mr. President, that is the context in which we are considering the nomination of a man who has written extensively and spoken, not very persuasively, on the fact of no regulation whatsoever concerning the role of money in American politics. We know that the role of the FEC is to ''administer, seek to obtain compliance with, and formulate policy with respect to'' the Federal Election Campaign Act.

The FEC has the exclusive authority with respect to civil enforcement of the act. Clearly, then, it is obvious that FEC Commissioners should be dedicated to the proposition of Federal election regulation. Each Commissioner must be committed to ensuring a fair and open election process which is not tainted by the appearance of impropriety. Each Commissioner must be prepared to—I emphasize—uphold the law and preserve its intent by prohibiting the use and proliferation of loopholes.

I do not believe Mr. Smith has a philosophical commitment to upholding the intent of the law necessary to perform the duties of an FEC Commissioner. In fact, Mr. Smith has been highly critical of campaign reform. It is not that Mr. Smith simply disagrees with particular details of campaign finance reform. He disagrees with the basic premise that campaigns should be regulated at all—a distinctly and unique minority position in America—or that campaign contributions play any part in public cynicism of our political system.

I read from a March 17, 1997, article that Mr. Smith wrote, published in the Wall Street Journal. It is entitled ''Why Campaign Finance Reform Never Works.'' The title says it all in terms of his philosophy. Apparently, Mr. Smith never heard of Theodore Roosevelt.

I quote from his article, Mr. President:

In fact, constitutional or not, campaign finance reform has turned out to be bad policy. For most of our history, campaigns were essentially unregulated, yet democracy survived and flourished. However, since passage of the Federal Elections Campaign Act and similar State laws, the influence of special interests has grown, voter turnout has fallen, and incumbents have become tougher to dislodge. . . .

Apparently, Mr. Smith lived in some other nation during the Watergate scandal, when unlimited amounts of money would be carried around this town in valises, when corporations and companies and individuals were literally being extorted for money which was unaccounted for. Apparently, Mr. Smith missed the widespread, nationwide revulsion at these abuses, which brought about the campaign finance reform laws of 1974. Apparently, Mr. Smith was not seeking public office, as I was in 1982, when there was no such thing as soft money, where we had to go out and raise small amounts of money from many, many donors, where we had to conduct the kind of grassroots campaign to which Americans have grown accustomed. Perhaps Mr. Smith was not aware that, until late into the 1980s, campaigns were conducted in a very different fashion than today.

Not recognizing any role that creative evasion of the laws has played in these results, Mr. Smith concludes his article by writing:

When a law is in continual revision to close a series of everchanging ''loopholes,'' it is probably the law, and not the people, that is in error. The most sensible reform is a simple one—

I am quoting from Mr. Smith's article in the Wall Street Journal:

The most sensible reform is a simple one: repeal of the Federal Elections Campaign Act.

That is a remarkable statement, a remarkable statement, from one who is required in his new position to enforce the very law that he wants repealed. Remarkable, Mr. President, remarkable.

Is someone who advocates a total repeal of the very law he would be enforcing as a Commissioner the right person for this job? Additionally, what job, over time, does not need revision or reauthorization? I am pleased to be the chairman of the Commerce Committee. We spend a great deal of time reauthorizing agencies of Government. That is an important part of our duties because time and circumstances and technology and issues change. For Mr. Smith to somehow condemn a law that is as important as the Federal Election Campaign Act because it needs to be reviewed, revised, and renewed, is, of course, showing incredible ignorance of the way that Congress functions.

Unfortunately, this is not an isolated example. In January 1998, Mr. Smith authored an article for USA Today. In that article, he said:

The First Amendment was based on the belief that political speech was too important to be regulated by the government. Campaign finance laws operate on the directly contrary assumption that campaigns are so important that speech must be regulated. . . . The solution to the campaign finance dilemma is to recognize the flawed assumptions of the campaign finance reformers, dismantle the Federal Elections Campaign Act, and the FEC bureaucracy, and take seriously the system of campaign finance ''regulation'' that the Founding Fathers wrote into the Bill of Rights: ''Congress shall make no law abridging the freedom of speech.''

Is Mr. Smith ignoring the fact that President Theodore Roosevelt led the fight to enact meaningful reform in 1907? Is Mr. Smith ignoring the fact that Republican majorities in Congress led the fight to prohibit union campaigns and corporate contributions to American political campaigns? Is Mr. Smith ignorant of the fact that the overwhelming majority of both Houses of Congress enacted comprehensive campaign finance reform in 1974? I stand proudly by Theodore Roosevelt in believing the 1907 reforms were valid. Mr. Smith does not.

Apparently, Mr. Smith missed, or has not heard of, the recent decision of the U.S. Supreme Court which directly repudiates Mr. Smith's assertions. I also find it curious that a person would hold views that have been directly repudiated by the U.S. Supreme Court—not holding their views as to the validity or his commitment to them, but certainly it is hard for me to understand how he would hold views that the U.S. Supreme Court, in their appointed duties, has ruled as constitutional.

In one of the comments made by the U.S. Supreme Court, in U.S. Supreme Court decisions, at the end of part B, the U.S. Supreme Court goes out of its way to even mention Mr. Smith:

There might, of course, be need for a more extensive evidentiary documentation if petitioners had made any showing of their own to cast doubt on the apparent implications of Buckley's evidence and the record here, but the closest respondents come to challenging these conclusions is their invocation of academic studies said to indicate that large contributions to public officials or candidates do not actually result in changes in candidate's positions. Brief for Respondents Shrink Missouri Government PAC; Smith, Money Talks: Speech, Corruption, Equality, and Campaign Finance; Smith, Faulty Assumptions and Undemocratic Consequences of Campaign Finance Reform. Other studies, however, point the other way.

Obviously, the U.S. Supreme Court did not agree with Mr. Smith's conclusions. If Mr. Smith were intellectually honest, he would note in his next upholding of his view that his view has been directly repudiated by the U.S. Supreme Court.

Another example. In light of Senator THOMPSON's investigation in the 1996 finance scandal, the unfettered buying and selling of influence, which the Clinton-Gore campaign practiced, such as overnight stays at the White House, selling seats on foreign trade missions, and receiving money from foreign governments, what Mr. Smith wrote in USA Today on July 8, 1997, was this:

Campaign reform is not about good government. It's about silencing people whose views are inconvenient to those with power. . . . The real campaign-finance scandal has little to do with Senator Fred Thompson's investigation. The real scandal is the brazen effort of reformers to silence the American people.

I have been around here a lot of years. An allegation of that nature, even though I have been here for some period of time, I find very offensive. I repeat what Mr. Smith said:

The real scandal is the brazen effort of reformers to silence the American people.

I think the record is clear of not only my advocacy but my service to this Nation on behalf of free speech, and certainly to argue that those of us who have a different opinion than Mr. Smith are conducting a brazen effort to silence the American people is obviously something that not only do I find offensive, but something that I find disqualifying in Mr. Smith.

It is clear that Mr. Smith believes there is no such thing as appropriate campaign finance reform. He believes that all campaign contributions, spending, and influence peddling are protected without limitation. He has advocated time and again the repeal of the very law he would be sworn to uphold and enforce. How can we seriously consider confirming his nomination to serve as a Commissioner?

I would like to say a word about his really inappropriate remarks about Senator FRED THOMPSON's advice. Senator FRED THOMPSON's investigation got into some very serious issues, such as breach of national security, such as foreign influence peddling, such as unlimited amounts of money coming in from foreign nations to influence our political process. Whether most Americans believe Senator THOMPSON's conclusions were correct, I think they certainly agreed it was an appropriate action. In fact, it was agreed to by both Republicans and Democrats that Senator THOMPSON's investigative hearings take place.

Mr. Smith says, ''The real scandal is the brazen effort of reformers to silence the American people.'' That is a remarkable statement among many remarkable statements Mr. Smith has made.

Others are equally concerned about Mr. Smith's suitability to serve on the FEC. The Brennan Center for Justice at the New York University School of Law has this to say. This is the Brennan Center for Justice at the New York University School of Law:

Imagine the President nominating an Attorney General who believes that most of our criminal laws are 'profoundly undemocratic' and unconstitutional. Or an SEC Commissioner who has publicly called for the repeal of all securities laws with the plea, 'We should deregulate and just let it go.' Or a nominee for EPA Administrator who believes that the agency he aspires to head and 'its various state counterparts' should be abolished. It would be unthinkable. In a society rooted in the rule of law, we would never tolerate the appointment of a law enforcement officer who has vocally and repeatedly denounced the very laws he would be called upon to enforce, much less one who has called for the repeal of those laws and the abolition of the very agency he aspires to head.

'Unthinkable. Yet, President Clinton, at the urging of Senator Lott and Senator McConnell, has nominated Bradley A. Smith to fill one of the vacancies on the Federal Election Commission. Brad Smith, a law professor at Capital University Law School, has devoted his career to denouncing the FEC and the laws it is entrusted to enforce in precisely those strident terms. He believes that virtually the entire body of the nation's campaign finance law is fundamentally flawed and unworkable-indeed, unconstitutional. He has forcefully advocated deregulation of the system. And if the James Watt of campaign finance had his way, the FEC and its state counterparts, would do little more than serve as a file drawer for disclosure reports . . .

Brad Smith's sponsors and supporters are floating the myth that it is campaign finance reformers, rather than Smith, who are the radicals on these issues. However, the Supreme Court only last month in Shrink Missouri cited two of Smith's academic articles by name in its opinion and then repudiated his view that there is no danger of corruption or the appearance of corruption from large campaign contributions. However, we do not need the U.S. Supreme Court to tell us that Brad Smith is a radical, who is out of step with the mainstream. In his own words, when he was approached about serving on the FEC, Smith stated: 'My first thought was ''they've got to be just looking at me put my name on the list so that whoever they really want will look less radical.'' Even Smith did not believe, at first, that the Republicans would seriously put forward his name for this position because his views are so extreme. . .

Brad Smith and his supporters have asserted that, although Smith personally disagrees with much of the law, he can nevertheless be counted on to faithfully enforce it. One is forced to ask, however, why an academic who has made his career by criticizing the nation's election laws would want the job of stoically enforcing those laws? The answer, of course, is that Brad Smith recognizes that federal election law, like any complex regulatory regime, is open to interpretation and it is the process of interpretation that gives the law its meaning. Brad Smith's goal, whenever there is any room for interpretation, will doubtless be to allow federal campaign finance law to whither on the vine. And any member of Congress that supports additional campaign finance regulations—such as McCain-Feingold or Shays-Meehan, should be very troubled by the prospect that the rules and regulations governing their implementation might be drafted by such an arch-nemesis of those reforms.

I think there are a couple of additional points to be made here. One is, how can the President of the United States be committed to finance reform and submit Mr. Smith's name? That nominating process comes from the President of the United States. The next time you hear the President of the United States reiterate his commitment to meaningful campaign finance reform, remember the type of person who was nominated by the President of the United States for this position.

In deference to the President of the United States, we have a little unwritten rule that the President gets to appoint some and the majority—in this case, the Republicans—appoint others. The President still had the ability and the authority to reject this most extreme nominee for any position that I have seen in my years here since 1987.

There is another point that I think is important. Why would someone who disagrees with campaign finance laws, who believes they should be scrapped, and who believes fundamentally they are unconstitutional—not just the personal dislike but a firmly held tenet that all campaign finance laws should be scrapped and are unconstitutional—how in the world could you then expect someone to face a fundamental contradiction of their basic beliefs that a law is unconstitutional and yet seek the position where his sole duties are to enforce those laws? How Mr. Smith could even take an oath to uphold the same laws of which he has time and again rejected and advocated their repeal is a mystery.

What does that say? Either he is willing and able to cast aside lifelong beliefs and principles in order to hold a prestigious position or he is less than sincere in undertaking enforcement of campaign reforms or enforcing existing law.

President Reagan once said no to a Democrat whose name was submitted. President Clinton could have done the same. I say, shame on you, Mr. President, for not rejecting this name.

Let me be perfectly clear that I do not oppose Mr. Smith simply because he disagrees with my proposed legislation. Many of my closest friends take issue with aspects of McCain-Feingold. I respect the opinion of others, and I respect the right of Mr. Smith to hold a view contrary to mine. It is because he objects to any form of campaign finance regulation that I oppose him.

If you took a poll of the 100 Members of this body, I don't think you would find more than perhaps 1 who would hold the view that Mr. Smith does. My friends on both sides of the aisle at least say we need some form of campaign finance reform. Most are offended by this latest loophole called 527. Most find it egregious that we now have $500,000 contributors. Most of them believe the money chase has lurched out of control to the point where, by actual acts of commission and omission, young Americans have become cynical and alienated from the political process. The 1996 election had the lowest voter turnout of 18- to 26-year-olds than at any time in the history of this country.

There was recently a poll taken by the Pugh Research Center—which I will submit for the RECORD at a later time—which showed that 67 percent of young Americans say they are disconnected from government. And the reason given is the influence of special interests and big money in Washington. The system cries out for reform, if not for McCain-Feingold, then some other vision of reform.

Mr. Smith believes campaign finance reform is not about good government.

It is about silencing people whose views are inconvenient to those with power. The real scandal, Mr. Smith says, is the brazen effort of reformers to silence the American people.

A statement such as this impugns the motives of many millions of good and decent Americans who believe this reform is necessary in a remarkable way. I do not impugn the motives of Mr. Smith. I disagree with him. I do not believe Mr. Smith is trying to silence the American people. I do believe he is wrong in his positions and he is wrong for this job.

It is because he objects to any form of campaign regulation that I oppose him, because he can acknowledge all the examples of campaign abuse witnesses in the 1996 election, as he did in an article published by the American Jewish Committee in December 1997, and still he contends that the only reform necessary is deregulation. So those kinds of abuses become the norm.

In that article he cited the many unsavory examples of fundraising by the Clinton-Gore campaign. He goes on to say:

> Yet, we now see, on videotape and in White House photos, shots of the President of the United States meeting with arms merchants and drug dealers; we learn of money being laundered through Buddhist nuns and Indonesian gardeners; we read that the acquaintance of the President are fleeing the country or threatening to assert Fifth Amendment privileges to avoid testifying before Congress. . . .

What troubles me most abut Mr. Smith is that, after acknowledging all of these incidents, he concludes that since campaign reform has not eliminated those abuses, we should simply give up and allow a free for all. That's like saying, ''Since the laws against murder haven't eliminated murders, we should simply legalize murders.'' Or, ''Since the country's drug laws haven't been enforced sufficiently to eliminate illegal drug deals, we should simply legalize drug use.''

Is someone with that kind of attitude the right person for the job? I don't think so, and I cannot believe that my colleagues can in good faith and with a straight face assert that he is.

It should be a grave concern to my colleagues that Brad Smith concedes all of the facts of the 1966 campaign scandal, but apparently sees nothing wrong with perpetuating and legalizing those wrongs. I do not believe the American public concurs.

Mr. Smith advocates anything goes in election campaigns and says no tactic is too unseemly, too corrupt to be protected by the first amendment of the Constitution. By the way, I believe it was Justice Stevens who said in his opinion in the Shrink Missouri decision that money is property, money is not free speech.

I do not agree that our Founding Fathers could have intended such a result any more than prosecuting someone yelling ''fire'' in a crowded theater. The Supreme Court has concurred in the recent Shrink Missouri decision in upholding the State of Missouri's campaign contribution limits. The Court reiterated its determination from their earlier Buckley v. Valeo decision that the prevention of corruption and the appearance of corruption is a constitutionally sufficient justification for limiting contributions as a form of speech.

Mr. Smith's position is in direct contradiction to what the U.S. Supreme Court stated in Shrink Missouri. I repeat, the U.S. Supreme Court said the prevention of corruption and the appearance of corruption is a constitutionally sufficient justification for limiting contributions as a form of speech.

> In speaking of ''improper influence'' and ''opportunities for abuse'' in addition to ''quid pro quo'' arrangements, we recognized a concern not confined to bribery of public officials, but extending to the broader threat from politicians too compliant with the wishes of large contributors. These were the obvious points behind our recognition that the Congress could constitutionally address the power of money ''to influence governmental action'' in ways less ''blatant and specific'' than bribery.

As Justice Stevens said in his concurring opinion in the *Shrink* case, responding to the arguments raised by Justice Kennedy in his dissent:

> Justice Kennedy suggests that the misuse of soft money tolerated by this Court's misguided decision in *Colorado Republican Federal Campaign Committee* v. *Federal Election Commission*, demonstrates the need for a fresh examination of the constitutional issues raised by Congress' enactment of the Federal Election Campaign Acts of 1971 and 1974 and this Court's resolution of those issues in *Buckley* v. *Valeo*. In response to his call for a new beginning, therefore, I make one simple point. Money is property; it is not speech.
>
> Speech has the power to inspire volunteers to perform a multitude of tasks on a campaign trail, on a battleground, or even on a football field. Money, meanwhile, has the power to pay hired laborers to perform the same tasks. It does not follow, however, that the First Amendment provides the same measure of protection to the use of money to accomplish such goals as it provides to the use of ideas to achieve the same results.

I find it incredible that a law professor speaking on the topic of constitutionality of campaign finance reform would not cite the most recent Supreme Court ruling and opinion pertinent to the topic. Yet, notwithstanding the fact that the Supreme Court issued its ruling in the *Shrink* case in January of this year, in Mr. Smith's testimony during his confirmation hearing before the Senate Rules Committee in March offered no recognition that the Supreme Court had most recently upheld campaign contribution limitations. He made no attempt to renounce his earlier writings or opinions based upon the opinion. He made no acknowledgment that the Supreme Court had recently reached a conclusion as to the constitutionality of contribution limitations at odds with his views. Instead, he focused his presentation on the uncertainty of the law, and in particular the confusion surrounding the Buckley opinion. This, even though the Supreme Court had in *Shrink* reiterated and clarified the state of the law. Perhaps it was because he had not read the *Shrink* opinion, a disturbing omission for a law school professor—or perhaps simply because he disagrees with it. In either case, I find the omission troubling and indicative of why Mr. Smith would be unsuitable as an FEC Commissioner.

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

COMMON CAUSE,
Washington, DC, March 8, 2000.

Hon. MITCH MCCONNELL,
Hon. CHRISTOPHER DODD,
Senate Committee on Rules, U.S. Senate, Washington, DC.

DEAR CHAIRMAN MCCONNELL AND SENATOR DODD: While Common Cause believes the Committee and the Senate would have been better served with full and open hearings regarding the nomination of Bradley A. Smith to be commissioner to the Federal Election Committee (FEC), I request that this letter be made part of the record.

Common Cause strongly urges the Committee to reject the nomination of Bradley A. Smith, Professor of Law at Capital University in Ohio, to serve on the Federal Election Commission. Mr. Smith has written extensively about the need to deregulate the campaign finance system, has stated that the FEC should be abolished, and has written that the Federal Election Campaign Act (FECA) is unconstitutional. Clearly, as someone who strongly opposes the law he would be duty-bound to uphold and administer impartially, Mr. Smith should not be confirmed.

The FEC was created for the sole purpose of upholding and enforcing the FECA. Mr. Smith, however, strongly believes that the Act should be repealed. In a 1997 op-ed published in The Wall Street Journal, Smith stated: ''When a law is in need of continual revision to close a series of ever-changing 'loopholes,' it is probably the law, and not the people, that is in error. The most sensible reform is a simple one: repeal of the Federal Election Campaign Act.''

Elimination of FECA would repeal, among other provisions, the ban on corporate and labor union contributions to federal candidates, the limits on individual and PAC contributions to federal candidates, the ban on foreign contributions to federal candidates, the ban on cash contributions of more than $100 to federal candidates, and the prohibition on federal officeholders converting campaign contributions to personal use.

In short, repeal of the Federal Election Campaign Act would return this country to the days before Watergate when hundreds of thousands of dollars in cash were being given directly to candidates from undisclosed wealthy contributors.

Any member of a federal regulatory agency should, at a minimum, believe in the mission of that agency, and the constitutionality of those laws. Not only does Mr. Smith demonstrate utter contempt for the agency, he also demonstrates his comprehensive hostility to the federal campaign finance laws—laws which he believes are wrong, burdensome, and unconstitutional.

Mr. Smith is on record stating that federal campaign finance laws are, in their entirety, unconstitutional. He has written that ''FECA and its various state counterparts are profoundly undemocratic and profoundly at odds with the First Amendment.''

Smith also wrote: ''The solution is to recognize the flawed assumptions of the campaign finance reformers, dismantle FECA

and the FEC bureaucracy, and take seriously the system of campaign finance regulation that the Founders wrote into the Bill of Rights: 'Congress shall make no law . . . abridging the freedom of speech.' ''

Any individual who believes that an agency's organic statute is unconstitutional and should be repealed in toto, is not fit to serve as a Commissioner of the agency charged with administering and enforcing that statute.

No one, for example, would conceive of appointing to head the Drug Enforcement Agency an individual who believes all federal anti-drug laws are unconstitutional and should be repealed. Such an appointment would be viewed as an act of utter disdain and disrespect for the laws to be administered by the agency involved.

Mr. Smith believes the federal campaign finance laws are not only unconstitutional, but misguided in their very purpose. In supporting repeal of the campaign finance laws, he has written that the country ''would best be served by deregulating the electoral process.''

Mr. Smith's ideas are not simply a matter of whether one takes a liberal or conservative view of the existing campaign finance laws. What is at stake here is whether the law will be administered and enforced to its full extent. While Mr. Smith's ideas may be appropriate for an academic participating in public debate, they are wholly unacceptable for a Commissioner charged with administering and enforcing the nation's anti-corruption laws enacted by Congress and upheld by the Supreme Court. The purpose of the FEC is not to be a debating society. The role of a FEC Commissioner is not to be an advocate.

Indeed, Mr. Smith fails even to accept the fundamental anti-corruption rationale for the campaign finance laws—the rationale that was at the very heart of the Supreme Court's decision in Buckley v. Valeo, upholding the constitutionality of the existing campaign finance laws, and which was reaffirmed this year by the Supreme Court in Nixon v. Shrink Missouri Government PAC. In that case, Justice David Souter, writing for the majority, stated ''There is little reason to doubt that sometimes large contributions will work actual corruption of our political system, and no reason to question the existence of a corresponding suspicion among voters.''

Mr. Smith dismisses the rationale by writing that ''money's alleged corrupting effects are far from proven . . . that portion of Buckley that relies on the anti-corruption rationale is itself the weakest portion of the Buckley opinion—both in its doctrinal foundations and in its empirical ramifications.''

The FECA requires the members of the Federal Election Commission shall be chosen ''on the basis of their experience, integrity, impartiality, and good judgment.'' 2 U.S.C. 437c(a)(3). While we believe President Clinton would have been within precedent to reject the recommendation from Senate Majority Leader Trent Lott (R–MS) of Mr. Smith's nomination (President Reagan rejected a proposed FEC nominee in 1985), the Committee now has the responsibility to judge whether Mr. Smith meets these criteria.

Mr. Smith is in no way ''impartial'' about the campaign finance laws. He simply does not believe in them.

Mr. Smith's extreme opposition to the existence of the federal campaign finance laws, and his clearly stated views that they are unconstitutional, make him unfit to serve as a Commissioner of the FEC.

Common Cause strongly urges the Committee to vote against Mr. Smith's nomination. A vote to confirm Mr. Smith is a vote against campaign finance reform.

Sincerely,

SCOTT HARSHBARGER,
President.

THE WRONG MAN FOR THE JOB

(By Fred Wertheimer, President, Democracy 21)

Would an individual who believes the nation's drug laws should be repealed and are unconstitutional be appointed to head the Drug Enforcement Agency?

No way.

Would the United States Senate confirm an individual with these views to be the nation's chief drug law enforcement official?

Absolutely not.

Then, what in the world is Bradley Smith's name doing pending before the Senate for confirmation to serve as a Commissioner on the Federal Election Commission (FEC)?

Mr. Smith—who has stated that the nation's campaign finance laws should be repealed and are unconstitutional—was nominated by President Clinton earlier this month to serve on the FEC, the agency responsible for enforcing the nation's campaign finance laws.

That's the same President Clinton who is a self-proclaimed supporter of campaign finance laws and campaign finance reform.

The Smith nomination was dictated by Senate Republican Majority Leader Trent Lott and Senator Mitch McConnell, the leading Senate defenders of the corrupt campaign finance status quo in Washington, and Smith's two leading advocates for the Commission job.

President Clinton lamely explained his nomination of Smith, a strong opponent of federal campaign finance laws, on the grounds that he was just following custom in ceding to the other major party the ability to name three of the six FEC Commissioners. In fact, however, when the Republicans held the White House, President Reagan had no problem rejecting the appointment of an FEC nominee of the Democrats that he found to be objectionable.

So what are the potential consequences of Clinton's campaign finance betrayal if the Senate confirms Smith to serve on the Commission?

Here is what Bradley Smith has said about the nation's campaign finance laws: ''[T]he most sensible reform is a simple one: repeal of the Federal Election Campaign Act (FECA).''

And, here is what Mr. Smith's ''reform'' would accomplish: repeal of the ban on corporate contributions to federal candidates; repeal of the ban on labor union contributions to federal candidates, and repeal of the limits on contributions from individuals and PACs to federal candidates.

Mr. Smith's ''reform'' also would repeal the system for financing our presidential elections, the ban on officeholders and candidates pocketing campaign contributions for their personal use, the ban on cash contributions of more than $100, and various other provisions enacted to protect the integrity of our democracy.

Mr. Smith also has stated that the federal campaign finance law, known as the FECA, is ''profoundly undemocratic and profoundly at odds with the First Amendment.''

Mr. Smith's position that the FECA, and its contribution limits, are unconstitutional, however, is directly contradicted by numerous Supreme Court decisions.

Just last month, for example, the Supreme Court reaffirmed in Nixon v. Shrink Missouri Government PAC that contribution limits are constitutional.

The Court cited ''the prevention of corruption and the appearance of corruption'' as the rationale for upholding contribution limits, a rationale that Smith firmly rejects.

Justice Souter, writing for six of the nine Justices including Chief Justice Rehoquist, stated, ''Leave the perception of impropriety unanswered and the cynical assumption that large donors call the tune could jeopardize the willingness of voters to take part in democratic governance.''

Mr. Smith, it goes without saying, is entitled to hold and express whatever views and philosophy he may have about campaign finance laws.

It should also go without saying, however, that the American people are entitled to have law enforcement officials who believe in the validity and constitutionality of the laws they are charged to enforce, and who do not view these laws with total disdain and hostility.

As The Washington Post noted in an editorial, Smith's premises ''are contrary to the founding premises of the commission on which he would serve. He simply does not believe in the federal election law.''

And, The New York Times wrote in an editorial that Smith's stated positions ''make plain that his agenda as a commission member would be a further dismantling of reasonable campaign limits intended to curb the corrupting influence of big money rather than serious enforcement of current campaign finance laws.''

Mr. Smith's nomination is a classic symbol of the breakdown in law enforcement that has occurred when it comes to the nation's campaign finance laws. Mr. Smith's confirmation to be an FEC Commissioner would be an insult to the American people.

United States Senators should not allow this to happen.

Mr. MCCAIN. Mr. President, I see my friend and comrade in arms, Senator FEINGOLD. Let me mention what is going on not only as far as the fundraiser is concerned, but recently we received information there will be a hearing tomorrow before the Senate Judiciary subcommittee and on Thursday before the House Government Reform Committee.

According to a December 9, 1996, memo by FBI Director Louis J. Freeh, Mr. Radek [head of Justice Office of Public Integrity] told Mr. Esposito [who was a deputy director of the FBI] he was ''under a lot of pressure not to go forward with the investigation,'' and that Ms. Reno's job ''might hang in the balance.'' The memo said Mr. Freeh met with Ms. Reno and personally suggested she and Mr. Radek recuse themselves from the probe.

What we are talking about here is a situation that, if campaign finance laws had been obeyed and enforced, we would not be subjected to as a nation; that is, disturbing allegations that information was brought by the FBI, the Director of the FBI, Mr. Louis Freeh, and by Mr. Charles LaBella, who was appointed as the head of the task force to investigate these very allegations by the Attorney General herself—those recommendations were ignored by the Attorney General. The recommendation for the appointment of an independent counsel was ignored by the Attorney General of the United States. A recommendation by Mr. Freeh was not accepted by the Attorney General of the United States and, according to the Deputy Director of the FBI, Mr. Radek, whose office is described as the Office

of Public Integrity in the Justice Department, he said he was ''under a lot of pressure not to go forward with the investigation''—I wonder who from—and that Ms. Reno's job ''might hang in the balance.''

This is the pernicious effect of a campaign finance system which has run amok. That is not confined to the Democratic Party. There have been abuses on my side as well because this system knows no party identification. This system knows only the increasing avariciousness of a system that has run amok.

We are now about to confirm as one of those whose appointment is to enforce the law someone who is adamantly opposed to the law, believes the law is unconstitutional. And we are in a situation in America today that, in the view of more objective observers than I, can only be compared to the turn of the century when the robber barons of this Nation, through huge input of contributions to political campaigns, had basically bought the American Congress. Thanks to the brave and courageous efforts of one Theodore Roosevelt, joined by millions of other like-minded reformers, we brought an end to that corruption.

Now we are about to appoint to that body an individual who will not only not be opposed, who will not only not support trying to clean up this system, but will try to remove the last vestiges of campaign finance reform law as it exists today. All I can say is it is a 5-year appointment. He will not be there forever. We will have campaign finance reform.

As my colleagues know, I recently completed an unsuccessful campaign for the nomination of my party for the Presidency of the United States. It was one of the most rewarding and uplifting experiences of my life. I learned many things during that campaign. I will not clutter the RECORD with the lessons I learned.

When I began the campaign, I said the theme of my campaign would be reform. Every political pundit said there was no room for reform in the political agenda. In hundreds of townhall meetings and thousands of speeches, I said: Campaign finance reform is the linchpin; if we want to reform education, if we want to reform the military, if we want to reform the Tax Code, if we want to reform the institutions of government, we must get this Government out of the hands of the special interests and back to the people. I believe that message resonated then and resonates to this day.

We are about to appoint an individual now in complete contradiction to what I believe is strongly the will of the people, not only that existing laws be enforced but new laws be enacted in order to close the loopholes that have been created since the passage of the 1974 law.

We, in our wisdom, are about to appoint an individual who flies in the face of everything I learned in my campaign, despite a clear voice from the American people, particularly from our young, particularly from our young citizens to whom, sooner rather than later, we will pass the torch of leadership of this Nation, who have become cynical and even alienated from the political process—not without good reason.

Mr. President, I note the presence of the Senator from Vermont. I might say to the Senator from Vermont, I had a wonderful day in his State long ago, where he is well respected and well loved by the citizens of his State. I appreciate the opportunity, always, to be in lovely Montpelier. I thank him and his fellow citizens for all their hospitality.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I ask unanimous consent I be allowed to take 7 minutes of the 15 minutes that is reserved to the Senator from Vermont on the Timothy Dyk nomination.

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

Mr. McCAIN. Mr. President, I reserve the remainder of my time.

Mr. LEAHY. Mr. President, while the Senator from Arizona is still on the floor, I was going to say at the beginning of my remarks, the Vermont press showed very clearly how well respected the Senator from Arizona is in Vermont and how well received he was. He was one of the biggest vote getters our State has ever had. He did an extremely good job. He won his party's primary overwhelmingly. In Vermont his victory was declared within, I think, 5 minutes after the polls closed on primary day because the number was so overwhelming.

I say this because, while I was not at the convention where he spoke, as he can imagine—it was the Republican State convention—many of my dear friends and supporters were there. They told me also how much they respected what the Senator from Arizona said, as they had when he had been in Burlington earlier in his campaign and spoke to an overflow crowd. Montpelier is where I was born, so I always watch what happens there. I say to my friend from Arizona, the calls and e-mails I got after his appearance about him were all positive.

Mr. McCAIN. I thank my colleague.

NOMINATION OF TIMOTHY B. DYK

Mr. LEAHY. Mr. President, I am pleased that the Senate is finally going to vote this week on the confirmation of Timothy Dyk.

A vote on this nominee has been a long time coming. He was first nominated to a vacancy on the Federal Circuit Court of Appeals in April of 1998—over 2 years ago—by some reckonings, in the last century. He had a hearing. He was reported favorably by the Judiciary Committee of the Senate in September of 1998. His nomination was left on the Senate calendar that year without any action and eventually was returned to the President, 2 years ago as the 105th Congress adjourned.

Then Mr. Dyk was renominated in January of 1999. He was favorably reported to the Senate floor, again, in October of 1999. For the last 7 months, this nomination has been waiting on the Executive Calendar for Senate action.

Let me just tell you a little bit about Timothy Dyk. He has distinguished himself with a long career of private practice in the District of Columbia. From 1964 to 1999, he worked with Wilmer, Cutler, and Pickering as an associate and then as a partner. Since 1990 he has been with Jones, Day, Reavis, and Pogue as a partner. He has been the chair of its issues and appeals section.

He received his undergraduate degree in 1958 from Harvard College; his law degree from Harvard Law School in 1961. Following law school, he clerked for three U.S. Supreme Court Justices: Justices Reed and Burton, and Chief Justice Warren. He was also a special assistant to the Assistant Attorney General in the Tax Division.

His is a distinguished career. He represented a wide array of clients, including the U.S. Chamber of Commerce, the National Association of Manufacturers, the National Association of Broadcasters, the National Trucking Association, and he has the support of a wide variety of these organizations. We have received strong letters of support for him. Here are some of those who sent in letters saying let's get this man confirmed:

The U.S. Chamber of Commerce, the American Trucking Association, the National Association of Manufacturers, the National Association of Broadcasters, IBM, Gannett, Eastman Kodak, Brush Wellman, Rockwell, LTV Corporation, SkyTel Telecommunications, the Lubrizol Corporation, Ingersoll-Rand, the American Jewish Congress, the Anti-Defamation League, the American Center for Law and Justice, and Trinity Broadcasting Network.

I said many times on the floor that we take far too long to confirm good people. We are wrong and irresponsible to hold people up basically on a whim until we feel like bringing up their names. Nominees deserve to be treated with dignity and dispatch, not delayed for 2 or 3 years. Of course, any Senator can vote as he or she wants, but let's understand the human aspect.

When somebody has gone for their hearings, when they have been voted out of committee, when they are pending in the Senate, their life is on hold until we act. It is unfair, it is unreasonable to tell somebody in a law practice: The good news is the President has nominated you to the Court of Appeals. You will be congratulated by your partners, by your clients, and then they will say: When are you going to be confirmed? If you have to respond: When the Senate gets around to it, that is not a good answer. Vote somebody up or vote somebody down.

This is a man who should have broad, strong bipartisan support, just as the letters of support show broad, strong bipartisan support.

I am glad that Tim Dyk will be voted on for the Federal Circuit. We have worked long and hard to get him the vote to which he is entitled. I worked to have him confirmed in 1998. I worked to have him confirmed in 1999. I am glad that finally, he will be accorded a vote on this long pending nomination.

He and his entire family have much of which to be proud. His legal career has been exemplary. He will make a superb judge.

I know Timothy Dyk. I know him and his wife, both of whom have had long, distinguished careers in the private sector and the public sector. Let's give the country the opportunity to have him join the Federal Circuit Court of Appeals, just as we did late last year with his colleague, Richard Linn. It is time for the Senate to confirm Timothy Dyk to the Federal Circuit.

Mr. President, not seeing anybody on the floor, I suggest the absence of a quorum and ask unanimous consent that it not run against the time of either side.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SCHUMER. 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. SCHUMER. Mr. President, I yield to myself as much time as I may consume from Senator LEAHY's time on the nomination of Mr. Gerard Lynch to become a district court judge for the Southern District of New York.

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

NOMINATION OF GERARD LYNCH

Mr. SCHUMER. Mr. President, I thank the majority leader and the minority leader for coming together on an agreement that allows for a number of vital votes on judicial nominees. I also thank Chairman HATCH for, again, tending to our judicial needs in my State and in so many States, and for the fairness with which he has tried to move this process forward.

It is with great pride and pleasure that I rise in support of the nomination of Gerard Lynch to be district court judge for the Southern District of New York. At my recommendation, President Clinton nominated Professor Lynch to fill a vacant Federal judgeship in the Southern District.

Professor Lynch's experiences and accomplishments as a prosecutor, as a private lawyer, as a professor of law, and as a public servant make him a superb candidate to be a Federal judge. I have never, in my days, seen such high recommendations from people from all parts of the political spectrum simply about this man's intellect and accomplishments.

Professor Lynch's background and career accomplishments are, frankly, staggering. He was born and raised in Brooklyn, a place near and dear to my heart. He then attended Columbia College, where he graduated first in his class—a highly competitive school—followed by Columbia Law School, where he also was No. 1 in his class.

After law school, he accepted two judicial clerkships— first, with one of New York's great jurists, Judge Wilfred Feinberg of the Second Circuit, and then with Justice William Brennan on the Supreme Court. He was at the top of the legal profession as he went through his education and his clerkships. You could not have a better record.

Since that time, he has had a multifaceted career, mostly as a prosecutor and professor, and that is as impressive as any judicial candidate I have seen in years.

Since 1977, he has served as the Paul K. Kellner Professor of Law at Columbia Law School, where he teaches criminal law and criminal procedure, as well as constitutional law and other courses.

He is a leading expert on the Federal racketeering laws and has written numerous articles on the subject. He has also published articles on other aspects of criminal law, constitutional theory, and legal ethics.

Maybe most importantly, he is considered one of Columbia Law School's outstanding professors, winning a number of awards for excellence in teaching and serving as a guide and mentor to countless students over the years.

Professor Lynch, however, has not only been a professor, he also spent many years as a Federal prosecutor in the Southern District of New York, one of the premier U.S. Attorney's Offices in the country. He tried numerous cases, including white collar and political corruption cases, and eventually rose to be the chief of the appellate division.

In 1990, after a stint as a professor, he was asked to return to that office as chief of the Criminal Division under U.S. Attorney Otto Obermaier. In that capacity, he supervised more than 135 prosecutors and oversaw all of the office's criminal cases. Mr. Obermaier, a Republican appointee, handpicked Professor Lynch to serve as his lead criminal prosecutor. I know he has been outspoken in support of this nomination, and Mr. Obermaier was known as a hardnosed, rather conservative prosecutor in the Southern District.

Professor Lynch has also served as counsel to numerous city, State, and Federal commissions, and has worked with a number of special prosecutors investigating public corruption. Moreover, from 1988 to 1990, he served as a part-time associate counsel for the Office of Independent Counsel.

More recently, Professor Lynch has been counsel to a top New York law firm, primarily handling white collar criminal matters and regulatory matters, while still maintaining a full courseload teaching at Columbia.

So, intellectually, he is at the top of the list. Experience-wise, he has done it all. He is also a wonderful, wonderful person. He loves Latin and Greek and he knows them well. He loves theater, art, and ballet.

Just to let my colleagues know what a fine man he is and what an honorable man he is, when Gerry went to Columbia College, the Vietnam war was waging. He came from a working-class background and he knew that many of his classmates in high school would be drafted. He, by being a college student, was not eligible for the draft, but he thought that was unfair. He thought it was unfair that those lucky enough to get into college should have special advantages over working-class young men being called for the front line. So he refused to pursue an exemption. He was not called. But that shows you the mettle of the man.

I will close by admitting that I am very excited about the prospect of Professor Lynch becoming the next member of the Southern District bench. I know his wife and his son are proud of him, and rightfully so.

He meets the criteria I have set for myself in choosing judges, which are:

No. 1, excellence. There is no doubt;

No. 2, moderation. I try to avoid judges who are extreme in either case;

And, No. 3, diversity. While Gerard doesn't quite qualify in that, I think I fulfill that in some other nominations.

Gerard Lynch has the rare combination of intelligence, practical experience, judicious temperament, fairness, and devotion to hard work that makes for truly great judges. He is just what the Founding Fathers and all others throughout have wanted for a Federal judge. All too many people of his qualification don't ask for and don't aspire to the bench. He does. We should take this opportunity and support him wholeheartedly.

I yield to my senior colleague and friend from the State of New York, Senator MOYNIHAN. Is that the proper procedure, Mr. President? Should I yield to Senator MOYNIHAN, or should I yield my time?

The PRESIDING OFFICER. Senator MOYNIHAN is recognized in his own right.

Mr. MOYNIHAN. How very generous of you, Mr. President.

How kind of my beloved colleague and friend.

I rise with a measure of animus, if I may do, sir, this afternoon. I was one of those who, with my colleague, introduced Mr. Lynch to the Committee on the Judiciary with such very considerable pride to have that opportunity.

My colleague remarked about the founders of the Constitution. I will speak in just a moment about the Columbia Law School, which precedes the Constitution, which Constitution was written in very large measure by a graduate of that law school, Alexander Hamilton, and whose first large treatise of explanation was written by

Chancellor Kent, as he is known, having been chancellor of New York State, with his commentaries on the laws of the United States.

It is not a small thing to become a member of that law faculty. It is a large honor carefully reserved for lawyers of successive generations who note history and demand its importance to this time.

We have before us, sir, the nomination of a great lawyer—I use that carefully—who will be a superb judge.

I think he might have been surprised—we would not have been surprised—that early in life and at another time he might not have chosen criminal law as his specialty. But he came of age in the bar when that was the first problem, singularly so, of the Southern District of New York. And he went to work at it.

He was a serious prosecutor, sir, a successful one—a relentless one and a successful one. I want to say that, sir—a successful one. None came into his compass charged with a crime that he did not prosecute fairly, rigorously, relentlessly, and, in the end, sir, with an extraordinary range of success—and I defer to my revered colleague—with an extraordinary range of success.

This is a man of whom criminals had never heard but, when they appeared in court with him, will never forget. This man understood that the principles of a free society require adherence to law with a reverence and respect and, if necessary, a measure of fear: Do not appear before this judge with the burden of guilt or you shall be found guilty.

He has a range of intellectual pursuits. Ought not a member of the school of law that taught Alexander Hamilton and graced by Chancellor Kent and his great success—ought not there be such a range? Ought he not be able to entertain alternative ideas, examine them, and consider the possibilities?

We have, sir, a wonderful symbol—I do not know in my ignorance whether it is from Greece or Rome—of Justice blindfolded, holding up a scale and weighing the evidence. He has done that in a great range of professional articles. He has done that in a long career of prosecution. And he has considered alternatives and made judgments because he is by nature a judge. He has been in the pits where judges have to make determinations from whatever is presented to them as evidence. And he knows the process.

He graduated summa cum laude from Columbia Law School. He clerked for Judge Feinberg on the Second Circuit Court of Appeals —the Second Circuit, sir, the mother court, we should say—and for Justice Brennan on the Supreme Court. Over the past 23 years, he has won award upon award, including the University-wide President's Award for Outstanding Teaching in 1997. He is nationally known as a criminal law expert, for his writings, and particularly his writings on racketeering law.

I come before the Senate to say there has not been a finer judge proposed by the Senate Committee on the Judiciary. We are honored to have him before the Senate. I prayerfully hope none of us ever appear before him.

Mr. SESSIONS. Mr. President, I ask unanimous consent that I be allowed to use my time on two judicial nominations.

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

Mr. SESSIONS. Mr. President, I have great respect for Senator MOYNIHAN and Senator SCHUMER. I know they have great affection and admiration for Mr. Lynch. In no way do I question his integrity. I do not question his legal ability. He is certainly a scholar and a person of intellect.

Except for two leaves of absence, he has been a law professor. The old rule must apply: The A students become professors; B students, judges; and C students make the money. Regardless, he has been a professor, worked on a few cases, and spent several years with the U.S. Attorney's Office prosecuting cases. By all accounts, he is a man of good personal character.

The problem I have with this nomination is that I have come to believe from his writing that he is, indeed, a judge who is an activist. There is only one opportunity for the people of this country to confront the question as to whether or not an individual nominated to be a judge will obtain a lifetime appointment. That is our role under the Constitution, to advise and consent to nominations of the President. The President has nominated Mr. Lynch. I think it is our duty, if we are not to be a potted plant or rubber stamp his record, his skill, his background, his philosophy, and see if we want to authorize him, for the rest of his life, to preside over cases, to interpret the law, to interpret the Constitution, and make major decisions in that regard. That is our question: Do we want to do that?

It would be bad to impose upon the people of New York or any other State any person who is not clearly committed to the judicial role. The judicial role is that a judge should require himself to follow the Constitution of the United States and the laws duly passed by the Congress of the United States. The Constitution is a contract. It was an instrument of agreement between the American people and the government when they formed it. They gave to the government certain limited powers. They reserved for themselves and for the States other powers. That is a fundamental principle.

I think our courts in recent years have done a little better. At one point, they were exceedingly activist. The leader of that activism crusade in the Federal courts was none other than Justice Brennan for whom Mr. Lynch clerked. Subsequent to that, he has written in the Columbia Law Review on two separate occasions. The Columbia Law Review is a prestigious law review and the Columbia Law School is a prestigious law school. One does not write for the Columbia Law Review without giving careful thought to each and every word he utilizes in that law review, even more so if he is a professor at that school.

In the course of writing these articles, Mr. Lynch made some statements that I think represent very serious indications of his philosophy and his willingness to be bound by the law and the Constitution as a judge. Take, for example, this 1984 article, ''Constitutional Law as Moral Philosophy'':

> The Supreme Court, because it is free of immediate political pressures of the sort that press on those who must face the voters, is better placed to decide whether a proposed course of action that meets short-term political objectives is consistent with the fundamental moral values to which our society considers itself pledged.

That is a very risky, dangerous statement, a carefully written statement, words Mr. Lynch chose carefully. He says the Supreme Court, because it doesn't have to answer to the American people in elections, is better placed to decide a proposed course of action that meets short-term political objectives and is consistent with moral values which our society considers itself bound.

Our Constitution is deeply rooted in our moral order and heritage, but our Constitution is a contract; our Constitution is an agreement with the people. It has specific ideas and requirements in it that I expect a judge to abide by.

To show the danger in this philosophy, let me share the example of the death penalty. The eighth amendment prohibits cruel and unusual punishment. Justice Brennan, for whom Mr. Lynch clerked, declared that the death penalty was cruel and unusual and therefore it violates the eighth amendment to the Constitution.

I suggest that is bizarre because at the time the Constitution was adopted, every State had a death penalty. There are six or more references within the very document itself, the Constitution, to a death penalty. Yet he feels it violates some sort of contemporary standards of morality. Justice Brennan used his lifetime appointment as a judge to dissent on every single death penalty case, saying it violates the Constitution, while the Constitution contemplates and says you can take life with due process in several different places.

That is judicial activism.

Mr. SCHUMER. Will the Senator yield? I am happy to yield to him some of my time.

I ask my colleague if he was aware that Professor Lynch is for the death penalty. In fact, he was questioned by Senator THURMOND, on our committee. I will read the question for the RECORD:

> Do you have any personal objection to the death penalty that would cause you to be reluctant to oppose or uphold the death sentence?

And Professor Lynch answered:

No, Mr. Chairman.

So I submit to my friend that, while Justice Brennan may have had a more broad—I tend to agree with my colleague. I am for the death penalty myself, but I tend to agree with my colleague on that issue. That is not Professor Lynch's philosophy. In fact, when one becomes a Clerk for the Supreme Court, high honor that it is, you are chosen simply on your scholastic ability, not on your ideology. I thank the Senator for yielding and letting me add that to the record.

Mr. SESSIONS. Mr. President, I think Senator SCHUMER raises a good point. I never said he opposed the death penalty. What I was trying to point out is that judges, if they desire to impose their fundamental moral values on people when they don't get elected, can end up doing things like Justice Brennan did, for which, certainly, Mr. Lynch admires him.

I have another quote I think is even more clear, a more clear indication of Mr. Lynch's willingness to utilize personal opinions—justifying judges who want to use personal opinions instead of interpreting the law. He was talking about Justice Brennan. This was in 1997, just a few years ago:

> Justice Brennan's belief that the Constitution must be given meaning for the present seems to me a simple necessity; his long and untiring labor to articulate the principles of fairness, liberty, and equality found in the Constitution—

Fairness, liberty, and equality sound a little bit like the French Revolution, words they used to chop off a lot of people's heads. Our Constitution is a document of restraint. But:

> . . . in the way that he believed made most sense today.

Justice Brennan's belief that the Constitution must be given:

> . . . meaning for the present in the way he believed made most sense today seems far more honest and honorable than the pretense that the meaning of those principles can be found in 18th- or 19th-century dictionaries.

In the course of my time on the Judiciary Committee, I have voted for well over 90 percent of the nominees, I suppose, that the President has submitted. This Senate has confirmed a large number of them. I suggest that this may be the most dramatic example of any nominee that we have had, that they have explicitly stated that a judge has the ability to ignore the meaning of the words that were put in the Constitution. In other words, he doesn't have to use the dictionary definition of words. He doesn't have to use dictionary definitions of words. He just goes to whatever the meaning of ''is,'' is, I suppose.

In other words, there is no constraint on a judge who will not adhere to the words himself and admit that he needs to be bound by the plain words in a statute or our Constitution. He puts down the philosophy that a judge has to show restraint. Even if he did not like the constitutional provision, even if he or she did not like the statute involved, he would be bound to enforce it. It is a fundamental matter of great importance.

Just as Professor VanAlstyn, speaking at a Federal court conference a number of years ago, said:

> It is absolutely critical that we enforce this Constitution, the one that we have, the good and bad parts of it.

That is what law is all about, enforcement of law that is written. Without it, we do not have justice. Professor VanAlstyn says you do not respect the Constitution if you don't enforce its plain meaning. You say the Constitution is great; it is a living document. It is not; it is on paper. It is not living; it doesn't breathe. It is a contract with the people of America about how they are going to give power to people who govern them. It is a limited grant of power to the people who govern them.

I will say this. That is another dramatic statement of a judge's ability, according to Mr. Lynch, to redefine meanings of words and to line up contemporary events, as of today, so he can impose a ruling on the people that he believes is just and fitting with community standards and moral decencies and things of that nature. That is a very dangerous philosophy. It is not the philosophy of the mainstream law in America today.

It was advocated by and probably reached its high-water mark under Justice Brennan when he tried to declare the death penalty to be in violation of the U.S. Constitution, when the Constitution provided for the death penalty. That is big-time stuff, when a Justice on the Supreme Court is prepared to say something like that and dissented on every single death penalty case based on that theory.

I suggest Mr. Lynch is a brilliant lawyer, a man of great skill, a lawyer/professor, and he knows what he means and he said what he meant when he wrote that. What else can we think? If that is so, then I believe we cannot be sure, Members of this Senate, that he would consider himself bound by the plain meaning of words, of statutes passed by this body or even more significant, not consider himself bound by the Constitution itself that was ratified by the American people to protect their liberties.

Remember, when we have a judge who believes in activism, it is at its most fundamental an antidemocratic act. It is an act that goes against democracy because we have a lifetime-appointed judge whose salary cannot be cut so long as he lives. He can stay on that bench as long as he lives. He is asserting for himself or herself the right to declare what he or she thinks is appropriate today. ''It may not have been what they thought when they wrote that old Constitution, but things have changed today. I think today the death penalty is unconstitutional.'' That kind of philosophy is a danger. It disrespects the Constitution. It undermines the Constitution and undermines democracy.

I wish I would be able to support Mr. Lynch. I supported the overwhelming majority of the nominees, some of them maybe even more liberal than Mr. Lynch, but I haven't had anything to indicate that or I would have probably opposed them. Some I have.

This document, these law review articles are extraordinarily troubling to me. I do not think it is a minor point. I think it is a big point. I know the Senator from New York, both Senators from New York, think highly of Mr. Lynch and I respect that. But based on what I have observed, I believe his written remarks indicate he is unwilling to be bound by the law. Therefore we should not impose him on the people of New York and the United States.

I see the Senator from New York might want to comment on that before I go to the next nominee? I have one more nominee I would like to comment on.

Mr. SCHUMER. Yes, Mr. President.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, I thank my friend from Alabama for his heartfelt remarks. I understand the passion from which he comes and, while I do not agree with him completely, as those on my judicial panel will tell him, one of the things I always cross-examine them about is, Is this person going to go off and make their own law? Because I do not like that either. As I said, my three watchwords in appointing judges in my first year, and I think I have lived up to them with every nominee, are: Excellence, moderation, and diversity.

Let me just say I think Judge Lynch is clearly a moderate and he clearly is not the kind of activist that my good friend from Alabama is saying. In fact, he has criticized Justice Brennan for being ''activist'' in some of his interviews. Judge Posner noted the same about Judge lynch. Judge Posner is someone who probably agrees with the Senator from Alabama more than he agrees with the Senator from New York.

But the two quotes there that my friend from Alabama cited are snippets of articles. Two paragraphs later Professor Lynch expostulates further and greatly narrows what he has said here. Let me read a quote from the first article. I think it is important the record have it for the edification of my good friend from Alabama.

Admittedly, Professor Lynch is a professor. He has written a lot more than a lot of the other judges and, given as many writings as he has, I guess you could take two paragraphs and say: This man is a judicial activist.

If you look at the entire warp and woof of his work, as well as what he actually meant even in the two paragraphs my good friend from Alabama has mentioned, I think the Senator is not correctly stating Professor Lynch's view.

I will read a paragraph from the same article from which the previous quote

the Senator from Alabama had mentioned appears. This is what Professor Lynch says a few paragraphs later:

> It is the text itself that embodies and defines what has been agreed on. What survived the rigorous ratification process to become fundamental law, after all, was not what Madison or Bingham believed in his heart, or even what they said on the floor of the Convention or the House, but rather what was contained in the text of the ratified provision. Thus, the text is not merely evidence from which the mind of the (perhaps partly mythological) lawgiver should be deduced; rather, the text is the definitive expression of what was legislated.

I will repeat that again for my colleague from Alabama:

> . . . the text is the definitive expression of what was legislated.

That is hardly the writing of somebody who wants to go far, far afield. As I mentioned, the example my good friend from Alabama keeps hearkening back to is the death penalty and the way Justice Brennan interpreted it. If Professor Lynch agreed with that, I would say the Senator from Alabama had a point, but he explicitly disagrees and has criticized Justice Brennan as being too active.

The second quote Senator SESSIONS focuses on, the quote before us on the chart, comes from a tribute to the memory of Justice Brennan that Professor Lynch, who clerked for Justice Brennan after graduating from law school, wrote in 1997. Again, in the context of the whole essay, Professor Lynch's point is noncontroversial. He is writing here about what a judge is to do when the broad language in the Constitution does not speak to a modern-day issue. We are not talking about expanding but interpreting the spirit of the Constitution.

I say to my colleague from Alabama, when the fourth amendment speaks of unreasonable searches and seizures and says nothing about wiretaps of telephones or the Internet, it does not mean the judges are unable to interpret what search and seizure means in the context of telephones or wiretaps. That is all Professor Lynch is saying.

He is saying judges must look at the text and the values underlying the text and interpret both in light of developments of the present. Do not expand what unreasonable searches and seizures are, rather interpret them in light of new changes in technologies, such as telephones. Otherwise, the Constitution—and I am sure my colleague from Alabama can admit this—would be largely irrelevant to today's legal problems.

Moreover, Professor Lynch was asked at his nomination hearing about this article by Senator THURMOND. Here is what he said. His response was unequivocal:

> I believe, Mr. Chairman, that the starting place in interpreting the Constitution is with the language of the document. As with the legislation passed by the Congress, it is the wording of the Constitution that was ratified by the people and that constitutes the binding contract under which our government is created.
>
> In attempting to understand that language, it is most important to look to the original intent of those who wrote it and the context in which it was written.

It seems to me, and I did not realize it until I read this paragraph again, those are the exact words my good friend from Alabama mentioned as his views of what the Constitution is all about: Not some document that expands at the whim, wishes, or ideology of the judge but rather a written contract, words, black and white with the American people. Judge Lynch—I do not want to presume anything here, particularly in this Chamber—Professor Lynch makes, in fact, the same point that my good friend from Alabama did.

The PRESIDING OFFICER. The time of the proponents of the nomination has expired.

Mr. SCHUMER. Mr. President, I ask unanimous consent that 1 additional minute of Senator LEAHY's time on another judge where there is not going to be any contest or discussion be given to me. I am not expanding the time.

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

Mr. SCHUMER. I thank Senator LEAHY in absentia for allowing me to do that. I hope he is not upset.

It is certainly the prerogative of my good friend from Alabama to interpret snatches of text from book reviews and tributes to conclude that maybe Professor Lynch has a judicial philosophy with which he disagrees, but this is the definitive and current statement on the issue by the nominee, and I think it prevails.

In conclusion, if Professor Lynch is confirmed, I believe Senator SESSIONS and I—and I have enjoyed working with him on so many issues—will look back 5 or 10 years and both approve of the work Judge Lynch has done, admire his faithfulness to the words of a document we both regard as sacred—and I believe he does as well—the Constitution, a document we are all sworn to uphold. I yield back any time and thank my colleague for the dialog and for making us think and explore as he always does.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. What is the time left on the Lynch nomination?

The PRESIDING OFFICER. The Senator from Alabama has 4 minutes.

Mr. SESSIONS. Mr. President, I note that Mr. Lynch's words are pretty explicit and leave little doubt. I am pleased to see before his hearing—talk about a death-bed conversion. His testimony sounds somewhat improved over the language here, but it does concern me when he dismisses concepts such as actually looking at dictionaries that refer to the time of the people who wrote the document and review words to see what they actually were intended to mean.

That is what a judge really ought to do, and Mr. Lynch dismisses that almost with contempt. We have to consider it awfully dangerous when a judge feels the principles of the Constitution of liberty, equality, and fairness are in the Constitution when that phrase is really not in the Constitution, and the danger of those words are they are great ideals, but they are general; they have no definitiveness, and they give a platform for a judge to leap off into different issues about which he may personally feel deeply and simply do so on the basis that it is fair or it is a question of equality: This is fairness so I will just rule this way.

We have preserved our Nation well by insisting that our judiciary remain faithful to the plain and simple words of the Constitution and the statutes involved.

NOMINATION OF TIMOTHY B. DYK

Mr. SESSIONS. Mr. President, I will use what time I have remaining on the Lynch nomination for the Dyk nomination, and I will yield the floor to Senator SMITH who wants to speak.

Mr. Dyk has been nominated to the Federal circuit here in Washington. Mr. Dyk is a good lawyer, apparently with a good academic background, and has certain skills and abilities that I certainly do not dispute. I do not have anything against him personally, but I do have serious concerns about this court. I do not believe we need another judge on this court.

The Federal circuit is a court of limited jurisdiction. It handles patent cases and Merit Systems Protection Board cases, certain international trade cases, and certain interlocutory orders from district courts. It is a specialized court and does not get involved in too many generalized cases.

We have analyzed the caseload of this circuit. I serve on the Administrative Oversight and Courts Subcommittee of the Senate Judiciary Committee with Senator CHUCK GRASSLEY, who is chairman. I have been a practicing prosecutor for 15 years in Federal court before Federal judges; that is where I spent my career. I know certain judges are overwhelmed with work, and I have observed others who may not be as overwhelmed with work.

I will go over some numbers that indicate to me without doubt that this circuit is the least worked circuit in America. It does not need another judge, and I will share this concept with fellow Members of the Senate.

They handle appeals in the Federal Circuit, appeals from other court cases and boards. In 1995, there were 1,847 appeals filed in the Federal Circuit. Four years later, in 1999, that number had fallen to 1,543 appeals, a 16-percent decline in cases filed.

Another way to look at the circuit is how many cases are terminated per judge. The Administrative Office of Courts provides a large statistical report. They analyze, by weighted case factors, judges and cases by circuits and districts and so forth. It is a bound volume. They report every year. The numbers are not to be argued with.

The Federal Circuit has by far the lowest number of dispositions per

judge. The Federal Circuit has 141 cases per judge terminated. There are 11 judges now on that circuit. As a matter of fact, those 141 cases were when the court had 10 judges. We now have 11 judges on that court, and we are talking about adding Mr. Dyk, who would be the 12th judge on that court, to take the numbers down even further.

The next closest circuit is a circuit that is also overstaffed—the D.C. Circuit. I have opposed nominees to the D.C. Circuit in Washington. Oddly enough, both the circuits that I believe are overstaffed and underworked are located in this city. The average case dispositions for a circuit judge in America are more than double that. Let me provide some examples.

The Third Circuit average number of terminations per judge is 312; the Fourth Circuit, 545; the Fifth Circuit, 668—that is four times what the Federal Circuit does—the Seventh Circuit, 352; Eighth Circuit, 440; Ninth Circuit, 455, the Tenth Circuit, 350; the Eleventh Circuit—my circuit, Florida, Alabama, and Georgia—820 cases, compared to 141. That is six times as many cases per judge in the Eleventh Circuit as in the Federal Circuit.

The taxpayers of this country need to give thought to whether or not we need to add a judge to this circuit. It is pretty obvious we ought to consider that. Terminations per judge on the Federal Circuit represent only 17 percent of the cases terminated by a judge on the Eleventh Circuit.

Senator GRASSLEY issued a report on March 30, 1999, ''On the Appropriate Allocation of Judgeships in the United States Court of Appeals.'' The report assessed the need to fill one vacancy on the Federal Circuit. The court already had 11 active judges of the 12 authorized.

The Federal Circuit also had five senior judges at that time. Senior judges contribute a lot to the workload. That is a pretty high number. Almost half as many judges are senior judges who come in on a less-work level. They don't handle the most important en banc cases, but they participate in drafting opinions. They have law clerks. Many of them do almost as many cases as an active judge. So they have five senior status judges. Maybe it is down to four now, but at that time there were five senior judges.

The Grassley report states:

> In fact, the current status of the circuit actually supports the argument that the court could do its job with a smaller complement of 11 judges. As such, the case has not yet been made that the current vacancy should be filled.

That remains true today. The Federal circuit has 11 active judges now and 4 senior judges.

On the issue of the cost of a judgeship, people ask, how much does it cost to add another judge? Just add a judge and pay his salary, $140,000, $150,000 a year? That is not too bad. However, the actual cost of a Federal judge is $1 million annually. They have two, three law clerks, secretaries, office space, libraries, computers, travel budgets, and everything that goes with being a Federal appellate judge. It is an expensive process. That number is a legitimate number, 1 million bucks.

We have judges in this country who are working night and day, but this circuit is not one of them. Before we do not fill some of those vacancies, before we do not add new judges to some of those districts—and it is not that many, but some are really overworked—we ought to think about whether we ought to continue a judge where we don't need one.

The Grassley report also dealt with the problem of having more judges than you need, sort of a collegiality question. The report said:

> Judge Tjoflat [chief judge at the Eleventh Circuit at one time] testified that some scholars maintain that a ''perfect'' appellate court size is about 7 to 9 judges, and when a court reaches 10 or 11 judges, ''you have an exponential increase in the tension on the court of the ability of the law not to be certain.'' Judges claimed that there is a marked decrease in collegiality when the appeals court is staffed with more than 11 or 12 judges. Chief Judge Posner of the Seventh Circuit thought that with 11 judges, the Seventh Circuit was ''at the limit of what a court ought to be'' in terms of size.

The Seventh Circuit had more than twice as many cases per judge as the Federal Circuit does today.

The Grassley report further stated there is a consistency cost with expanding courts:

> Not only is there a loss in collegiality the larger a court becomes, there is also an increase in work required by the judges to maintain consistency in the law. Judge Wilkinson felt that more judges would not lighten the burdens of a court, but would actually aggravate these burdens further.

The Federal Circuit, to which this judge would like to be appointed—and it would be a good position to draw that big Federal judicial salary and have the lowest caseload in America—has the lowest terminations per judge of any circuit court of appeals. It has a 16-percent decrease in overall caseload, with a clear recommendation from the Grassley subcommittee report that there is not a need to add another judge to this circuit.

I suggest that we not approve this judge, not because he is not a good person but because we don't need to burden the taxpayers with $1 million a year for the rest of his life to serve on a court that doesn't need another judge. In fact, they could probably get by with two or three fewer judges than they have right now and still have the lowest caseload per judge in America.

We don't have money to throw away. People act as though a million dollars isn't much money. A million dollars is a lot of money where I came from. I think we ought to look at that and put our money where we have to have some judges. There are some of those areas.

I thank the Chair for the time to express my thoughts on the Dyk matter and yield the remainder of my time to Senator SMITH from New Hampshire.

The PRESIDING OFFICER. The Senator from New Hampshire.

The PRESIDING OFFICER. Nineteen minutes remain for the Senator from Alabama. Fifteen additional minutes are under the control of the Senator from Utah.

Mr. SMITH of New Hampshire. Mr. President, I rise today in opposition to the nominations of both Mr. Dyk and Mr. Lynch. But I also rise to briefly discuss the role of the Senate in judicial nominations, the issue of advice and consent. What is the appropriate role for the Senate? Should we be out here opposing nominations? You can be criticized for it because they say: Well, the President is in the other party; therefore, every time you oppose a nomination, it is for political reasons.

The truth is, by either voting for or not asking for a recorded vote, I have allowed many Clinton nominees to move forward. But I think we have an obligation under the advise and consent clause of the Constitution that if we don't think the judge is qualified to be on the Court, or perhaps he or she is too much of an activist and not really upholding the Constitution as it was written, then I think we have an obligation to say that.

It is with some reluctance I must do that. That is my view. When I say ''qualified,'' we don't merely look at the educational background of the nominee or to the employment history to understand qualifications. I am more interested in the judicial philosophy: Is this nominee going to be an activist judge for one issue or another? Whether conservative or liberal, is that the purpose of a judge—to go on the Court and be an activist for some particular issue—or is it more appropriate for the judge to go on the Court and be an activist for the Constitution of the United States and interpret that Constitution correctly? The latter is what I believe is the appropriate thing to do.

As a member of the Judiciary Committee, I have searched through many of the nominees this President has sent forward. I must say I am shocked at the amount of judicial activists. We have had some great clashes in this body on Presidential nominees for the Court—Robert Bork, to name one, and Clarence Thomas was another. It seems that when the liberal side of the aisle goes after a judge, it is always appropriate, but if we go after a judge because we think he or she is too far to the left in terms of activism, then, of course, it is wrong.

But article II, section 2, of the Constitution states that the President ''shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the Supreme Court, and all other Officers of the United States, whose Appointments are not herein otherwise provided for, and which shall be established by Law.'' That means the lower courts, to put it in simple terms.

The Senate is not a rubber stamp for any nomination, nor should it be. We

have a right to speak out, and I specifically, along with Senator SESSIONS, asked for a recorded vote in the case of Mr. Dyk and Mr. Lynch because I believe the Senate should go on record. Sometimes if the nominees are not controversial but simply share a different philosophical view from mine and are not activist, and based on their background I believe they will look at the Constitution as fairly as possible, in an objective manner, I don't object to those nominees.

I don't expect President Clinton to appoint a judge I might appoint. I respect that, and I understand that. That is not the reason for the advise and consent clause, to simply disapprove every single nominee because you disagree with the President's politics.

The framers of our Constitution settled on a judicial selection process that would involve both the Senate and the President. Remember, these are lifetime appointments. There is no going back, unless some horrible thing happens in terms of malfeasance, where the judge is impeached. But for the most part, a judicial appointment is lifetime. A Federal judge is a Federal judge for life. So if a few of us come down to the Senate floor, as Senator SESSIONS and I have done, and talk about these nominees, I don't think that is so bad. They are appointed for life. So if we have concerns, I think they should be raised. That is legitimate on either side of the aisle.

Nominees who are a danger to the separation of powers, who have shown evidence of legislating from the bench, those are the kinds of nominees to whom I am opposed. I am not opposed to nominees based on a President's political philosophy. I am opposed to nominees who have shown evidence of legislating from the bench. That is a very important point to make.

I might also say, before discussing specifically the two nominees just for a moment, that there is some irony in this debate today because this is the first time nominations have come before the Senate for a vote since the President of the United States has been recommended for disbarment as an attorney by the State of Arkansas. Now, I don't know if that has happened in American history before. I don't believe so. So I think I am correct in saying this is the first time in American history that a sitting President has been recommended for disbarment from the State he came from, and then that same President is submitting nominees to the courts in our land.

I do not mean to imply anything by this in terms of the qualifications of the nominees, about their conduct in office or anything such as that. That is not the intention. The intention here is to point out that it is somewhat ironic that a man who showed total disregard for the law, according to the law in the State of Arkansas, would now be sending judges up to the Senate for approval. So I bring this to the attention of my colleagues because it is the first time in American history this has ever happened. We are standing here in judgment of people who are appointed by a President who has been recommended for disbarment.

The Arkansas bar, as you know, a day or so ago recommended this. A committee of the Arkansas Supreme Court recommended this past Monday that the President be disbarred because of "serious misconduct" in the Paula Jones sexual harassment case. A majority of the panelists who met Friday to consider two complaints against the President found that the President should be disciplined for false testimony about his relationship with Monica Lewinsky, the Arkansas Supreme Court said. He was, indeed, fined by another judge from Arkansas for lying under oath.

So it is ironic we are debating the qualifications of many fine jurists, frankly, before us today, and in the newspapers we read about how our President is facing disbarment. So it is a unique situation we face here and one I want everybody to understand.

We break a lot of ground here. We do a lot of things that have never been done before. We had an impeachment trial in the Senate a few months ago. The Senate, in its infinite wisdom, said the President was not guilty, but the Arkansas bar said otherwise. So it is a very interesting twist of fate that now nominees are being sent to the Senate by a man who is recommended for disbarment, and probably will be disbarred, from the practice of law in the State of Arkansas.

Let me conclude on a couple of points on the nominees. I have spent a lot of time on the nomination of Timothy Dyk, and I am very much opposed to Mr. Dyk being a District Judge for the U.S. Circuit Court of Appeals for the Federal Circuit. Some of the material I looked at I am not going to go into on the Senate floor. But a couple of things in which Mr. Dyk was involved concerned me.

In a Washington Post article appearing in May of 1984, the Post reported that Timothy Dyk "agreed to work for free for the anti-censorship lobby, People for the American Way, to sue the Texas Board of Education over the board's 10-year-old rule that evolution be taught as "only one of several explanations of the origins of mankind."

People for the American Way is pretty much a liberal activist, anti-Christian group that seeks to rid public education of any mention of God at all in its educational language and literature, or in schools.

The president for the People for the American Way, Ralph G. Neas, spoke in January of 1999 about his vision of the People for the American Way. Listen to what he said because you have to remember that Mr. Dyk worked for them pro bono, for nothing. Mr. Neas said:

> As you may know, People for the American Way has always carefully monitored the radical religious right and its political allies.

Mr. Neas believes that most if not all Republicans are members of the "radical right."

He further said:

> The effort by some elements of the conservative religious and political movements to undermine support for public education goes back decades before Phyllis Schlafly and Gary Bauer and Pat Robertson came on the scene, before the days of the Heritage Foundation, back before Newt Gingrich and the Contract with America.

As you can see by his comments, People for the American Way is now and has always been an anti-Christian, anti-conservative organization.

He continues by attacking ORRIN HATCH, Governor George Bush, and Senator JOHN MCCAIN for supporting schooling voucher legislation.

Let me repeat that. He attacked Senator JOHN MCCAIN, Senator ORRIN HATCH, and Governor George Bush for supporting school vouchers.

I guess Timothy Dyk might turn out to be one of the greatest judges in the history of the world, for all I know. I can't predict that. I am not in the business of predicting the future. I am trying to take a look at what I have before me to make a decision on whether or not a person is fit to be on the court.

I understand that the U.S. Chamber of Commerce is a staunch supporter, but I have to vote no because I don't believe that a potential judge who uses that kind of language and who makes those kinds of decisions with those kinds of organizations on a pro bono basis is the kind of person I want on the court.

I must say that there are thousands of judges—and thousands of people who want to be judges—all over America who serve, do it honorably, and interpret the Constitution as fairly and as equitably as possible.

Why is it that time and time again before this body come these outrageous judicial activists appointed by this President? Some have said, well, the other side of the aisle gave you a lot of judges during the Bush administration. A lot of those judges, if not most, were not judicial activists.

It is one thing to have a different philosophical view and to be nominated by a President of a different philosophical view. We are not interested in philosophy on the Supreme Court, or on any court. We are interested in supporting the Constitution and interpreting the Constitution the way the founders would have wanted us to do it. They are not your activists. I don't care about your activists. But I think when you hear people representing on a pro bono basis—for no money; you are doing it because you want to do it; you are not getting paid—there is a difference. When somebody retains you as a lawyer, you have every right to do that. That is the American way, and you have every right to do it pro bono. But it tells you about somebody when they represent somebody pro bono. Terrorists were represented pro bono by Mr. Dyk.

I think when you are looking at these things, you have to say to yourself, well, these are the people with whom he wants to surround himself with pro bono services. I guess I have to ask, isn't there anybody out there somewhere that we could have as a nominee who doesn't have to be out there talking about and criticizing Members of the Senate because they support school vouchers and are representing groups that do that, or even on the issue of evolution? I think it is going too far. I think it is sad, frankly, that we have to deal with it.

The other nominee before us who has been talked about already is Gerald Lynch for the Southern District of New York. The reason I oppose his nomination is for the same reasons.

As my colleague, Senator SESSIONS, quoted, Attorney Lynch wrote:

> Justice Brennan's belief that the Constitution must be given meaning for the present seems to me a simple necessity; his long and untiring labor to articulate the principles of fairness, liberty, and equality found in the Constitution in the way that he believed made most sense today seems far more honest and honorable than the pretense that the meaning of those principles can be found in eighteenth or nineteenth-century dictionaries.

That is a pretty legalistic phrase. Let's put it in English. It means what the founders said in the 1700s isn't relevant. It is not relevant. It is relevant today. What is relevant today is relevant today. And, frankly, the Constitution those guys wrote in the late 1700s doesn't apply to us today. The Constitution is not the same. It is totally wrong.

Why is it that we criticize those who wrote the Constitution when we attribute time and time again to some great people who profess to be scholars on the Constitution? They come down here on the Senate floor saying: You know, the founders didn't mean that; that isn't what they meant; they didn't mean to say that; if you look at it literally, it does not mean that.

When you go back and find the comments of the founders, over and over again the founders say exactly what they meant. Not only did they write it in the Constitution but they explained it in their own words in the debate. And they still say they didn't mean what they said.

I think if you find a document that was written by somebody and then you find the explanation, and it says what they meant—they said, ''This is what I meant''—that is pretty obvious.

I think we are seeing evidence here again of a person who will be another judicial activist who is going to say the Constitution isn't relevant today, so, therefore, I can put my interpretation into the Constitution. That is the kind of nominees that we are talking about here. This is very troubling.

That is why I rise today to oppose both the nominations of Timothy Dyk and Gerard Lynch, and I will also oppose a couple of other nominees in the future.

Mr. LEAHY. Mr. President, I am delighted to support the confirmation of Jerry Lynch to the District Court for the Southern District of New York. Professor Lynch is the Paul J. Kellner Professor of Law at Columbia Law School, the outstanding law school from which he received his law degree in 1975. He began his legal career by clerking on the Second Circuit Court of Appeals for Judge Feinberg and then on the United States Supreme Court for Justice Brennan.

He served as an Assistant U.S. Attorney in the Southern District of New York back in the early 1980's and as the Chief Appellate Attorney for that office. In 1990 he returned to the office at the request of President Bush's U.S. Attorney to head the Criminal Division of that office.

Even his opponents must describe him as ''a man of personal integrity and a man of considerable legal skill.'' That he is. He is also a person who served as a prosecutor during two Republican Administrations.

Professor Lynch is well aware that he has been nominated to the District Court and not to the United States Supreme Court and that he will be bound by precedent. He has committed to follow precedent and the law and not to substitute his own views. In his answers to the Judiciary Committee, he wrote:

> There is no question in my mind that the principal functions of the courts is the resolution of disputes and grievances brought to the courts by the parties. A judge who comes to the bench with an agenda, or a set of social problems he or she would like to ''solve,'' is in the wrong business. In our system of separation of powers, the courts exist to apply the Constitution and laws to the cases that are presented to them, not to resolve political or social issues. The bulk of the work of the lower courts consists of criminal cases and the resolution of private disputes and commercial matters.

In fact, in specific response to written questions from Senator SESSIONS, Professor Lynch wrote that he understands that the role of a district court judge requires him to follow the precedents of higher courts faithfully and to give them full force and effect, even if he personally disagrees with such precedents.

His opponents excerpt a couple lines of text from a 1984 book review and a eulogy to his former boss, Justice Brennan, rewrite them and argue that their revisions of his words indicate a judicial philosophy that he will not enforce the Constitution but his own policy preferences. They are wrong.

I have read the articles from which opponents excerpted out of context a phrase here and a phrase there to try to construct some justification for opposing this nominee. In his 1984 book review, Professor Lynch was criticizing a book that defended the legitimacy of constitutional policymaking by the judiciary. That's right: Professor Lynch was on the side of the debate that criticized personal policymaking by judges and counseled judicial restraint.

Professor Lynch criticized the author for a ''theory justifying judges in writing their own systems of moral philosophy into the Constitution.'' Nonetheless, opponents of this nominee turn the review on its head, as if Professor Lynch were the proponent of the proposition he was criticizing.

These opponents take a throw-away line out of context from the book review and miss the point of the review. What his critics miss is the fact that Professor Lynch argued against the Supreme Court being the politically activist institution that the book he is criticizing seeks to justify. Professor Lynch argues against judges, even Supreme Court Justices, becoming moral philosophers. He writes, following the excerpt on which his critics rely:

> [N]either of these claims has force when the Court speaks through the medium of moral philosophy. First, there is little reason to expect judges to be more likely than legislators to reach correct answers to moral questions. After all, judges possess no particular training or expertise that gives them better insight than other citizens into whether abortion is a fundamental right or an inexcusable wrong. Disinterestedness alone does not determine success in intellectual endeavor. . . .

Ignored by his critic is also the written answer that Professor Lynch furnished Senator SESSIONS explaining what he meant by the statement that is being misread and misinterpreted, again, by his opponents. Professor Lynch explained:

> The quoted statement comes from a book review in which I sharply criticize a book that makes the claim that courts have authority to enforce moral principles of its own choosing, a position I do not share. In the quoted passage, I was attempting to explain why the Supreme Court is given power to enforce the text of a written Constitution.

The other quote being criticized is taken from a short memorial to Justice Brennan, a man for whom Professor Lynch had clerked and whom he respected. The memorial was apparently written just after Justice Brennan's funeral. Professor Lynch wrote of Justice Brennan's humanity and his patriotism. Nonetheless, it appears that even this statement of tribute to a departed friend is grist for the mill of opponents looking for something they can declare objectionable.

Ignored by opponents is the direct response to Senator SESSIONS' question about the eulogy for Justice Brennan. Professor Lynch responded to Senator SESSIONS:

> The statement quoted comes from a eulogy to Justice Brennan on the occasion of his death. I do not believe that good faith attempts to discern the original intent of the framers are dishonest or dishonorable. Judges and historians daily make honorable and honest attempts to understand the thoughts of the framers.
>
> Too often, however, the history that lawyers present to courts is deliberately or inadvertently biased by the position that lawyers as advocates would like to reach, and such resort to partial and limited sources can be used to support results that accord with policy preferences. While Justice Brennan took positions that can be criticized as activist, it

is generally agreed that he was forthright in stating his approach.

Likewise ignored is Professor Lynch's statement to Senator SESSIONS: ''The judge's role is to apply the law, not to make it.''

Also ignored are the acknowledgments by Professor Lynch in the course of the memorial itself that the ''charge that Justice Brennan confused his own values with those of the Constitution does capture one piece of the truth'' and that the ''problem, and here is the heart of the argument against Brennanism, is that there will always be different interpretations of what those core shared values mean in particular situations.'' I commend Professor Lynch for his candor.

It is sad that Senators have come to oppose nominees and the Senate has refused to move forward on nominees because they clerked, as young lawyers just out of law school for a certain judge or because clients they represented during the course of their practice and while fulfilling their professional responsibilities had certain types of claims and charges against them or brought certain types of claims. That is what underlies the opposition to both this highly qualified nominee and to Fred Woocher, a nominee to an emergency vacancy on the District Court for the Central District of California.

Mr. Woocher participated in a confirmation hearing last November and has been denied consideration by the Judiciary Committee for more than six months. Mr. Woocher has had a distinguished legal career and is fully qualified to serve as a District Judge. But Mr. Woocher clerked for Justice Brennan after his academic studies at Yale and Stanford.

Apparently, Senators who are holding up consideration of Mr. Woocher likewise believe that those who do not favor the conservative activism of Justice Scalia or Chief Justice Rehnquist should oppose the appointment of people who clerked for such jurists. Certainly that is the point that they are establishing by their opposition to these outstanding nominees.

Any Senator is entitled to his or her opinions and to vote as he or she sees fit on this or any nominee. But the excerpts relied upon by opponents of Professor Lynch, from over 20 years of writing and legal work, do not support the conclusion that Professor Lynch is insensitive to the proper role of a judge or that he would ignore the rule of law or precedent. To charge that Judge Lynch would consider himself not to be bound by the plain words of the Constitution is to misperceive Jerry Lynch and ignore his legal career.

With respect to the unfounded charge that Professor Lynch would interpret the Constitution by ignoring its words, that is simply not true. Here is what Professor Lynch told Senator THURMOND at his confirmation hearing:

I believe, Mr. Chairman, that the starting place in interpreting the Constitution is with the language of the document. As with legislation passed by the Congress, it is the wording of the Constitution that was ratified by the people and that constitutes the binding contract under which our Government is created.

In attempting to understand the language, it is most important to look to the original intent of those who wrote it and the context in which it was written. At the same time, with respect to many of those principles, the Framers intended to adopt very broad principles. Sometimes the understanding of those principles changes over time.

In truth, the opposition to this nomination seems to boil down to the fact that Professor Lynch clerked for Justice Brennan, a distinguished and respected member of the United States Supreme Court, more than 20 years ago.

In light of the arguments made by the Senator of Alabama on the workload of the Federal Circuit, I wanted to add to the RECORD the letter from the Chamber of Commerce to the Subcommittee on Administrative Oversight and the Courts from last summer. Although these statistics are as out of date as those used by the Senator from Alabama, the letter makes several important points. The caseload of the Federal Circuit is not inflated by prisoner cases but is filled with complicated intellectual property cases and other complex litigation. I ask consent to print the August 1999 letter from the Chamber of Commerce in the RECORD.

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

CHAMBER OF COMMERCE OF THE UNITED STATES OF AMERICA,
Washington, DC, August 3, 1999.

Hon. CHARLES E. GRASSLEY,
Chairman, Subcommittee on Administrative Oversight and the Courts, Hart Senate Office Building, Washington, DC.

DEAR CHAIRMAN GRASSLEY: This letter again urges that the Judiciary Committee promptly consider the nomination of Timothy Dyk for the Federal Circuit and that that nomination be reported out of Committee before August recess. It has been almost sixteen months since Mr. Dyk was first nominated to the Federal Circuit, it has been nearly a year since he was first voted out of Committee. So far as the Chamber is aware, he is the only judicial nominee voted out of Committee last year who has been scheduled for a second hearing. We urge that a second hearing is unnecessary.

We understand that the principal concern about Mr. Dyk's nomination now relates to the need to fill the vacancy. There are now not one, but two vacancies on the Federal Circuit. We recommend that Mr. Dyk's nomination be acted upon promptly so that the Federal Circuit will not be seriously understaffed.

The question about the need to fill the vacancy was considered in the March 1999 Report on the Appropriate Allocation of Judgeships in the United States Courts of Appeals. The Report generally agrees that ''the best measure of when a court requires additional judges is how long it takes, after an appeal is filed with a court, to reach a final decision on the merits.'' (p.5) The Report also states that: Over the last five years, the Federal Circuit's ''mean disposition is the lowest of any circuit court. . . .''

But the Report's comparison between the Federal Circuit and the other Circuits is a comparison of apples and oranges. The Federal Circuit data appear to have been computed using a ''mean'' or average number, while the data for the other Circuits was computed using a median number. Over the most recent five-year period (1994–1998), using median data, the disposition time for the Federal Circuit exceeded that for the Second, the Third and the Eighth Circuits. The most recent data (for 1998) show that the median disposition time for the Federal Circuit equals or exceeds that from four other Circuits (the First, Third, Eighth and District of Columbia). Moreover, the median disposition time for the Federal Circuit increased 20%; from 7.9 months in 1994 to 9.5 months in 1998. These data directly support acting on the pending nomination.

To be sure the Federal Circuit has a smaller numerical caseload than other Circuits because the Federal Circuit, as Congress prescribed, does not hear criminal or prisoner cases. But it does have a heavy (and increasing) docket of intellectual property cases and other forms of complex litigation.

Congress intended to give the Federal Circuit exclusive jurisdiction over patent cases, and to be the court of last resort in the vast majority of those cases. (Supreme Court Review is unlikely because there can be no conflict with another Circuit). Under these circumstances, it is critical to the Congressional design and to the business community that the court not give short shrift to these important cases. There is a substantial risk that if the Federal Circuit is understaffed, and limited to ten judges, it will not have time to give these cases the attention that they deserve. The Chamber, as well as business-organizations such as Eastman Kodak, Ingersoll Rand and Lubrizol, expressed this concern to the Committee.

Finally, we understand Senator Grassley's concern that the Federal Circuit does not have a formal mediation program. We note that Mr. Dyk, in his first hearing, supported the creation of such a program, and that he has extensive experience in mediating intellectual property cases. He could make it important to the Court in that area, and we urge that the Court be allowed to secure the benefit of Mr. Dyk's services as soon as possible.

Sincerely,

LONNIE P. TAYLOR.

Mr. KOHL. Mr. President, I rise to support the long overdue confirmation of Tim Dyk to the Federal Circuit. The Judiciary Committee reported out Mr. Dyk in 1998 by an overwhelming, bipartisan margin. Unfortunately, Mr. Dyk's nomination died a slow death last Congress, as he waited in vain for confirmation by unanimous consent or, in the alternative, at least a floor vote.

This Congress, Mr. Dyk has had wait yet another year and a half for Senate consideration after his renomination and second overwhelming Judiciary Committee approval. This delay has been unfair to Mr. Dyk and his family, who have had to put their lives on hold as he awaits confirmation. It has also been unfair to the Federal Circuit, which will be enormously enhanced by his ascension. We are lucky Mr. Dyk was willing to wait; other outstanding candidates, however, may be dissuaded from making the already arduous sacrifices necessary to serve in the federal judiciary.

Finally, it now appears that Mr. Dyk is reaching the end of his long road to

confirmation and will soon take his deserved seat on the bench. He is an excellent candidate—a graduate of Harvard College and Harvard Law School, a law clerk to Chief Justice Earl Warren on the Supreme Court, and a litigator with a long, distinguished practice and a history of public service.

I strongly support this nominee and urge my colleagues to join me in supporting his confirmation.

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

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

NOMINATION OF BRADLEY SMITH

Mr. MCCONNELL. I yield myself whatever time I consume.

Mr. President, I begin my comments by rebutting some of the points made by colleagues on the other side of the Brad Smith nomination. One of the quotes used against Professor Smith out of context was that he said:

> The most sensible reform is the repeal of the Federal Election Campaign Act.

Using this quotation to imply that Professor Smith would repeal the FECA exemplifies the meritless arguments being used to block the nomination of the most qualified FEC nominee in the history of the Federal Election Commission.

When this statement is read in context and the ellipsis are removed, it is clear that Professor Smith is only talking about the contribution limits in the Federal Election Campaign Act. On that point he is in pretty good company: Chief Justice Warren Burger and Justice Hugo Black also held that view. Justices Scalia and Thomas hold that view. Professor George Priest of the Yale Law School, Professor John Lott of Yale Law School, Dean Kathleen Sullivan at Stanford Law School, Dean Nelson Polsby at George Mason Law School, and former Solicitor General and Justice of the Massachusetts Supreme Court and now Harvard law professor, Charles Fried, have all espoused this view on campaign contribution limits.

I assume all of them would by that argument be barred from serving on the Federal Election Commission. Of course, they would not be barred from serving on the Federal Election Commission, and neither should Professor Smith.

In holding this view, Mr. Smith is no more in disagreement with the law than the Brennan Center and Common Cause, Professor Neuborne, and others who think the law should allow expenditure limits. These people at the Brennan Center and Common Cause advocate a position contrary to the law as declared by the Supreme Court in Buckley and affirmed in Shrink PAC. Under the standard being applied to Mr. Smith, all of them are barred also from serving on the FEC. Clearly, that would be an absurd result.

The Democratic nominee before the Senate, Mr. McDonald, disagrees even more sharply with the Supreme Court than Professor Smith. In open and recorded meetings of the FEC on August 11, 1994, in response to a recitation of election laws interpreted by the Supreme Court, Mr. McDonald declared: The Court just didn't get it.

He doesn't care what the courts say. Clearly, we can't confirm him if disagreement with the law disqualifies an FEC nominee. If there is anyone who has displayed contempt for the law, it is Danny McDonald, not Brad Smith.

Mr. Smith has acknowledged that his view that there should be no contribution limits is no more the law than is the view of the Brennan Center and Common Cause and some of my colleagues that there should be expenditure limits. Moreover, he has made clear he would have no problem enforcing contribution limits.

When asked if he would pledge to uphold his oath, he said he would proudly and without reservation take that oath, and everyone who knows him, including Dan Lowenstein, former national board member of Common Cause, has no doubt that Brad Smith will faithfully enforce the laws written by Congress and interpreted by the courts.

Professor Smith's detractors fail to note that he has made clear in his testimony before the Rules Committee that if the Shrink Missouri case had been a Federal case and come before the FEC for an enforcement action, he would have had no problem voting for enforcement action in that kind of case.

So the notion that Smith ignored Shrink PAC in his testimony is completely unfounded. I refer my colleagues to page 40 of the Rules Committee Hearing Report dated March 8 of this year. Opponents argue Professor Smith says problems with election law have been ''exacerbated or created by the Federal Election Campaign Act'' as interpreted by the courts.

So what? Supreme Court Justices have expressed concern that the Federal Election Campaign Act as interpreted by the courts has had unintended consequences which have exacerbated or created problems with our campaign finance system. The Supreme Court Justices have said that. In Shrink PAC, Justice Kennedy opined: It is the Court's duty to face up to adverse, unintended consequences flowing from our prior decisions.

He goes on to assert, FECA and cases interpreting it have ''forced a substantial amount of political speech underground.'' Noting the problems created by the Federal Election Campaign Act, Justice Kennedy explained that under existing law ''issue advocacy, like soft money, is unrestricted—see Buckley at 42 to 44—while straightforward speech in the form of financial contributions paid to a candidate, speech subject to full disclosure and prompt evaluation by the public, is not * * * This mocks the First Amendment. Our First Amendment principles surely says that an interest thought to be the compelling reason for enacting a law is cast into grave doubt when a worse evil surfaces than the law's actual operation.

In my view, that system creates dangers greater than the one it has replaced.

So, I guess this passage would disqualify Justice Kennedy of the Supreme Court from serving on the Federal Election Commission. So, are we to punish Professor Smith for telling the truth? Professor Burt Neuborne of the Brennan Center has written that at least three extremely unfortunate consequences flow from Buckley.

Neuborne also writes that:

> Reformers overstate the level of downright dishonesty existing in our political culture; furtherer deepening public cynicism.

Then is Professor Neuborne prohibited from serving on FEC? We all know that many of the problems with the current system are caused by excessively low contribution limits. President Clinton, other Democrats, and many people from my own party have publicly acknowledged this reality and the need for raising hard money limits. So I guess all of those folks would also be disqualified from serving on the FEC.

Professor Smith is opposed also because he has written that the Federal election law is profoundly undemocratic and profoundly at odds with the first amendment.

It has been said that Professor Smith is unfit for the FEC because he believes that the Federal election law is profoundly at odds with the first amendment. Quoting his 1995 policy study from Cato Institute:

Here is the Supreme Court in Buckley. Justice Brennan, in fact, who is known to have written the opinion:

> The Supreme Court's decisions in Mills v. Alabama and Miami Herald Publishing v. Tornillo held that legislative restrictions on advocacy of the election and defeat of political candidates are wholly at odds with the first amendment.

So, now we are keeping Professor Smith off the FEC, it is argued, for quoting from the majority opinion in the Buckley case? From quoting from the majority opinion in the Buckley case? Before reformers began attacking Justice Brennan for authoring this quotation that Mr. Smith has cited, let me note that Justice Brennan's observation has been borne out by the fact that provisions of FECA are still being declared unconstitutional as recently as the first week of May, when the Tenth Circuit Court of Appeals declared unconstitutional the party-coordinated expenditure limits.

It is worth noting this was in a 1996 case on remand from the Supreme Court, a case known as Colorado Republican, in which the Supreme Court declared unconstitutional the party

independent expenditure limits in the Federal Election Campaign Act, despite reformer assertions that they were undoubtedly constitutional.

So, it is simply absurd to attack Professor Smith for quoting from a majority opinion in a Supreme Court case. But that is what Professor Smith's detractors are doing. They are saying he is unfit to serve on the Supreme Court—in this case the Federal Election Commission—because he quotes majority opinions that are binding laws and factually correct statements of how FECA has been treated by the courts.

I might also note that efforts to paint this quotation as an absolute statement of his views on the entire Federal Election Campaign Act also lack any merit. If one reads the article in which Bradley Smith recites this quotation by the Court, he makes clear that he supports many aspects of the Federal Election Campaign Act, including the statute's disclosure provisions. Arguments being asserted against Professor Smith are, at best, half truths constructred by reform groups, but many simply misstate Smith's position and reformers and their allies at the New York Times and the Washington Post persist in advancing these specious arguments, even after they have been shown to lack any merit whatsoever.

It seems that Professor Smith's detractors will say anything to get what they want without any regard for either facts or logic.

I also note even the intellectual leader of the reform movement, Burt Neuborne, has written that:

> The arguments against regulation are powerful and must be respected.

Professor Smith's opponents conclude he should not be confirmed because he has said:

> People should be allowed to spend whatever they want on politics.

Well, so what? Under current law, people can spend whatever they want in the form of independent expenditures. Parties can spend whatever they want in the form of independent expenditures and coordinated expenditures. Wealthy candidates such as Jon Corzine in New Jersey can spend whatever they want from their personal fortunes. Moreover, this statement clearly refers to expenditure limits. Since Buckley, the Supreme Court has consistently held expenditure limits unconstitutional. Although so-called reformers wish this were not the law, it is the law. So, again, we are punishing Professor Smith for stating what the law is, not what the reformers would like it to be.

I would also like to note that Burt Neuborne of the Brennan Center agrees with Brad Smith that contribution and spending limits have undemocratic effects. Neuborne has written:

> Contribution and spending limits and unfair allocation of public subsidies freeze the political status quo, providing unfair advantage to incumbents.

Even the Brennan Center acknowledges that disagreement over Buckley does not disqualify a person from interpreting Buckley. The Brennan Center has come under fire for its book ''Buckley Stops Here,'' and its views that the current Federal Election Campaign Act is flawed. I wonder if my colleagues on the other side of the aisle would vote against the executive director of the Brennan Center or the legal director of the Brennan Center who have criticized the current campaign finance law and the Supreme Court's decision in Buckley? The Brennan Center has committed blasphemy, equal to that of Professor Smith, by actually criticizing the reformers.

For example, Burt Neuborne, the Brennan Center's legal director, has stated:

> Reformers overstate the level of downright dishonesty existing in our political culture, further deepening public cynicism.

Moreover, Neuborne has written that:

> Contribution and spending limits freeze the political status quo by providing unfair advantages to incumbents.

Neuborne has gone after the Holy Grail here. He has actually criticized Congress and the Federal Election Campaign Act. Would those who oppose Brad Smith also oppose the Brennan Center?

I would hope not. In fact, the Brennan Center's own web page acknowledges that this type of reasoning is invalid. Let me quote the Brennan Center regarding disagreements over Buckley and the Federal Election Campaign Act:

> The fact that a person believes that the Court should revise its constitutional rulings does not mean that either side disrespects the law or is disqualified from interpreting Buckley. Moreover, there is no direct correlation between attitudes towards Buckley and constitutional analysis of proposed campaign finance reforms.

One of the most troubling solutions asserted during this confirmation debate is that if a nominee has personally questioned the law of Congress, then somehow that nominee is disqualified from government service. Implementing these new type of litmus tests for government service seems shortsighted and ill advised, to put it mildly. Certainly most Members of Congress would be disqualified from future service in the executive or judicial branch under this new test, since nearly everyday we question the wisdom of our laws and regularly vote in opposition to various laws.

This new litmus test barring government service for those who question the law would clearly exclude many fine and capable men and women. For example, it is not uncommon for Federal judges to personally disagree with Congress' efforts to establish mandatory minimum sentences or uniform sentences through the use of the Federal sentencing guidelines. Judge Jose Cabranes, of the Court of Appeals for the Second Circuit, is a widely respected legal scholar who has been mentioned by both Democrats and Republicans as a possible Supreme Court nominee.

Judge Cabranes, however, has been a frequent and outspoken critic of the law he follows every day. He has written a book and law review articles arguing that current Federal sentencing laws and guidelines are ill conceived and ''born of a naive commitment to the ideal of rationality.'' Judge Cabranes has stated:

> The utopian experiment known as the U.S. Sentencing Guidelines is a failure. . ..

Moreover, the respected Judge Cabranes disagrees with what has been popularly referred to as reform. Specifically, the judge explains that the sentencing reformers' ''fixation on reducing sentencing disparity. . .has been a mistake of tragic proportions. . ..[T]he ideal [of equal treatment] cannot be, and should not be, pursued through complex, mandatory guidelines. We reject the premise of [the] reformers. . ..''

Does this mean Judge Cabranes is unfit to be a Federal judge because he does not personally agree with the sentencing law he must follow every day from the bench? Is Judge Cabranes, who is an otherwise widely respected judge, unfit to serve because he disagrees with the reformers, the wisdom of Congress, and the sentencing laws? Of course not.

Let's look to the Supreme Court for a moment on the specific issue of campaign finance law where reasonable people have and do disagree.

In the landmark case of Buckley v. Valeo, the Court had the difficult task of harmonizing the Federal Election Campaign Act with the First Amendment to the Constitution. Ultimately, the Court's decision in Buckley established what has been the law of the land now for the past quarter-century. I think it is worth noting, however, that every Supreme Court Justice sitting in that case disagreed with the law Congress had passed.

Several of these renowned Justices even questioned the law that was ultimately established by the Court's interpretation in Buckley. For example, Justice Thurgood Marshall dissented in part. Justice Blackmun dissented in part. Justice White, Chief Justice Burger, and the current Chief Justice Rehnquist—all of these jurists disagreed with both the law Congress passed and the law the Court created through its interpretation in Buckley.

Several years after Buckley, Justice Marshall continued to question the law established in Buckley. Does that mean the Senate would have denied Justice Thurgood Marshall a seat on the FEC if he had desired such a seat? Would Justice Marshall be unfit to serve a fixed term on a bipartisan commission?

What about Chief Justice Burger who argued Congress did not have the power to limit contributions, require disclosure of small contributions, or publicly finance Presidential campaigns? If the

Chief Justice had wanted a seat on the FEC, would the Senate have rejected Chief Justice Burger as unfit to serve? After all, Chief Justice Burger's opinion is in contrast with that of the New York Times. Would Chief Justice Burger have been unfit to serve a fixed term on a bipartisan commission?

What about my fellow colleagues who question the Court's decision in Buckley? The junior Senator from California, for example, said on the floor of the Senate only a few months ago:

> I am one of these people who believe the Supreme Court ought to take another look at Buckley v. Valeo because I think it is off the wall.

Would my colleagues on the other side of the aisle oppose the junior Senator from California if she retired from the Senate and wanted to become an FEC Commissioner? After all, she disagrees with the law and with the Court's decision in Buckley. Would she be unfit to serve?

What about noted scholars such as Joel Gora, the associate dean of the Brooklyn Law School, who has criticized the Federal Election Campaign Act? Or Ira Glasser of the American Civil Liberties Union? Both Gora and Glasser were lawyers in the original Buckley case. Or Kathleen Sullivan, the dean of the Stanford Law School? Or Lillian BeVier of the University of Virginia Law School? Or Professor Larry Sabato of the University of Virginia and a former member of the 1990 Senate Campaign Finance Reform Panel named by Majority Leader George Mitchell? Would these respected scholars, who question the law and share many of Professor Smith's election law views, be disqualified from Government service at the FEC?

Professor Smith's sin, in the eyes of the reform industry, is twofold: One, he understands the constitutional limitations on the Government's ability to regulate political speech, and, two, he has personally advocated reform that is different from the approach favored by the New York Times.

Let me say loudly and clearly, I believe that neither an appreciation for the first amendment nor disagreement with the New York Times and Common Cause should disqualify an election law expert for service on the Federal Election Commission.

As the numerous letters that have been flooding to me at the committee establish, Professor Smith's views are well within the mainstream of constitutional jurisprudence and commend, not disqualify, him for Government service at the FEC. Personally, I think Professor Smith's views would be a breath of fresh air at a Commission whose actions have all too frequently been struck down as unconstitutional by the courts.

Let me point out that the world of campaign finance is generally divided into two camps of reasonable people who disagree with the Supreme Court's interpretation of the First Amendment in Buckley. One camp prefers more regulation; another camp prefers less regulation. Neither camp is perfectly happy with the current state of the law.

One camp is made up of the New York Times, Common Cause, the Brennan Center, and scholars such as Professors Ronald Dworkin, Daniel Lowenstein, and Burt Neuborne. I might add that reformers Neuborne and Lowenstein have both written strong letters in support of Brad Smith's scholarship and writings on campaign finance.

The other camp is occupied by citizen groups ranging from the ACLU to the National Right to Life Committee, and scholars such as Dean Kathleen Sullivan, and Professors Joel Gora, Lillian BeVier, and Larry Sabato. It is probably fair to say Danny McDonald is in one camp and Brad Smith is in the other. I definitely agree with one camp more than I do the other, but I do not think agreement with either camp makes a person a lawless radical or a wild-eyed fanatic. And, I certainly do not think membership in either camp should disqualify a bright, intelligent, ethical election law expert from service on a bipartisan Federal Election Commission.

Finally, and most importantly, the overwhelming letters of support for Brad Smith and his unequivocal testimony before the Rules Committee convince me without a doubt that Brad Smith understands that the role of an FEC Commissioner is to enforce the law as written and not to remake the law in his own image.

As I mentioned earlier, critics who have philosophical differences with Professor Smith should heed the words of Professor Daniel Kobil, a former board member of Common Cause. This is what he had to say:

> I believe that much of the opposition—
>
> Referring to Professor Smith—
>
> is based not on what Brad has written or said about campaign finance regulations, but on crude caricatures of his ideas. . . . Although I do not agree with all of Brad's views on campaign finance regulations, I believe that his scholarly critique of these laws is cogent and largely within the mainstream of current constitutional thought. . . . I am confident that he will fairly administer the laws he is charged with enforcing. . . .

Let me add the sentiments of Professor Daniel Lowenstein of UCLA Law School, also a former board member of Common Cause. This is what he had to say:

> Smith possesses integrity and vigorous intelligence that should make him an excellent commissioner. He will understand that his job is to enforce the law, even when he does not agree with it.

Let me say a few words about the Democrats' nominee to the FEC, Commissioner Danny McDonald. First, the obvious: McDonald and I are in different campaign finance reform camps. If I followed the new litmus test that is being put forth by some in this confirmation debate, then I would have no choice but to vigorously oppose his nomination.

I have serious questions about McDonald's 18-year track record at the FEC. Commissioner McDonald's views and actions have been soundly rejected by the Federal courts in dozens of cases.

One of these cases, decided earlier this year, Virginia Society for Human Life v. FEC, resulted in a nationwide injunction against an FEC regulation that Commissioner McDonald has endorsed for years.

Let me point out that this McDonald-endorsed regulation had already been struck down by several other Federal courts. Yet McDonald has continued to defy the Federal court rulings and stubbornly refuses to support changing the regulation. Two other cases, FEC v. Christian Action Network and FEC v. Political Contributions Data, Inc. resulted in the U.S. Treasury paying fines because the action taken by McDonald and the FEC was ''not substantially justified in law or fact.''

Just last Friday, the Tenth Circuit struck down yet another FEC enforcement action as unconstitutional.

I ask unanimous consent to print in the RECORD a list of a dozen cases where the Federal courts have rejected the actions of McDonald and the FEC as unconstitutional.

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

> Commissioner Mcdonald's views have been soundly rejected by the federal courts in dozens of cases. The following twelve cases are examples of the court's rejection of Mcdonald's views as unconstitutional.
>
> One of these cases, decided earlier this year, Virginia Society for Human Life v. FEC, resulted in a nationwide injunction against an FEC regulation that Commissioner Mcdonald has endorsed for years—in refinance of several court rulings declaring it unconstitutional.
>
> Two of these cases, FEC v. Christian Action Network and FEC v. Political Contributions Data, Inc. resulted in the U.S. Treasury *paying fines* because the action taken by Mcdonald and the FEC was ''not substantially justified in law or fact.''
>
> 1. Fed v. Colorado Republican Party, U.S. Supreme Court, 116 S. Ct. 2309 (1996).
> 2. Fed v. National Conservative PAC, U.S. Supreme Court, 470 U.S. 480 (1985).
> 3. Colorado Republican v. FEC, 10th Circuit Court of Appeals, 200 U.S. App, LEXIS 8952 (May 5, 2000).
> 4. FEC v. Christian Action Network, 4th Circuit Court of Appeals, 110 F.3d 1049 (1997) (Court fined FEC for baseless action).
> 5. Faucher v. FEC, 1st Circuit Court of Appeals, 928 F.2d 468 (1991).
> 6. Clifton v. FEC, 1st Circuit Court of Appeals, 114 F.3d 1309 (1997).
> 7. RNC v. FEC, D.C. Circuit Court of Appeals, 76 F.3d 400 (1996).
> 8. FEC v. Political Contributions Data, Inc., 2nd Circuit Court of Appeals, 943 F.2d 190 (1991). (Court fined FEC for baseless action).
> 9. FEC v. NOW, U.S. District Court for the District of Columbia, 713 F. Supp. 428 (1989).
> 10. FEC v. Survival Education Fund, U.S. District Court for the Southern District of New York, 1994 WL 9658 at *3 (1994).
> 11. Right to Life of Dutchess County v. FEC, U.S. District Court for the Southern District of New York, 6 F. Supp. 2d 248 (1988).

12. Virginia Society for Human Life v. FEC, United States District Court for the Eastern District of Virginia, 3:99CV559 (2000).

Mr. MCCONNELL. The list certainly does not contain all the cases where McDonald's views have been rejected by the Federal courts, but it should give Members on both sides of the aisle a sense for which nominee is truly out of step with the law, the courts, and the Constitution.

I ask unanimous consent to print in the RECORD a copy of a letter from a first amendment lawyer, Manuel Klausner, who has been honored with the Lawyer of the Year award for the Los Angeles Bar Association. Mr. Klausner details serious concerns about Commissioner McDonald's voting record at the FEC.

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

LAW OFFICES OF MANUEL S. KLAUSNER,
Los Angeles, CA, February 29, 2000.

Senator MITCH MCCONNELL,
Chairman, United States Senate Committee on Rules and Administration, Senate Russell Bldg., Washington, DC.

DEAR SENATOR MCCONNELL: I am an attorney in Los Angeles, and my practice emphasizes First Amendment, election law and civil rights litigation. By way of background, I am a founding editor of REASON Magazine and a trustee of the Reason Foundation. I serve as general counsel to the Individual Rights Foundation. This letter is written on my own behalf, and is not intended to reflect the views of Reason Foundation or the Individual Rights Foundation.

I was formerly a member of the faculty of the University of Chicago Law School and am a past recipient of the Lawyer-of-the-Year Award from the Constitutional Rights Foundation and the Los Angeles Bar Association. I have written and spoken on First Amendment and election law issues at law schools and conferences in the United States and Europe.

As an attorney well versed in the First Amendment, I am writing to urge you to reject the nomination of Danny Lee McDonald to the Federal Election Commission.

As you well know, for many years the FEC has sought to expand the scope of its jurisdiction beyond the limitations the First Amendment places on the agency's authority to regulate political speech. This has resulted in the FEC having the worst litigation record of any major government agency. It has also resulted in many citizens and citizen groups being needlessly persecuted for exercising their First Amendment rights. Some have blamed an overzealous general counsel for the FEC's long history of contempt for the First Amendment. But it must be remembered that, under the FECA, the general counsel cannot pursue litigation that impermissible chills free speech—unless commissioners such as Danny Lee McDonald vote to adopt and enforce unconstitutional regulations.

Commissioner McDonald's disregard for the rule of law in our constitutional system of government is illustrated by his role in the FEC's ongoing efforts to expand the definition of express advocacy. In *Buckley v. Valeo*, 424 U.S. 1, 44 (1976), the Supreme Court ruled that the FECA could be applied consistent with the First Amendment only if it were limited to expenditures for communications that include words which, in and of themselves, advocate the election or defeat of a candidate. This clear categorical limit served a fundamental purpose: It provided a way for people wishing to engage in open and robust discussion of public issues to know ex ante whether their speech was of a nature such that it had to comply with the regulatory regime established by the FECA. The Court did not want people to have their core First Amendment right to engage in discussion of public issues (even those intimately tied to public officials) burdened by the apprehension that, at some time in the future, their speech might be interpreted by the government as advocating the election of a particular candidate. Ten years after *Buckley*, in *FEC v. Massachusetts Citizens for Life, Inc.*, 479 U.S. 238 (1986), the Court reaffirmed the objective, bright-line express advocacy standard.

Despite these clear,unequivocal precedents from the Supreme Court regarding the bright-line, prophylactic standard for express advocacy, it is my view that Commissioner McDonald has flouted the rule of law. He has consistently supported FEC enforcement actions and regulations that seek to establish a broad, vague and subjective standard for express advocacy. In doing so, Commissioner McDonald seeks to create exactly the type of apprehension among speakers that the First Amendment (as interpreted by the Supreme Court) prohibits.

After the 1992 presidential election, Commissioner McDonald voted to pursue an enforcement action against the Christian Action Newtwork (CAN) for issue ads it ran concerning Governor Bill Clinton's views on family values. McDonald supported the suit against CAN despite the fact that the General Counsel conceded that CAN's advertisement ''did not employ 'explicit words,' 'express words' or 'language' advocating the election or defeat of a particular candidate for public office.'' *FEC v. Christian Action Network*, 110 F.3d 1049, 1050 (4th Cir. 1997). McDonald voted for the case to proceed on the theory that the ad constituted express advocacy—not because of any express calls to action used in it, but rather because of ''the superimposition of selected imagery, film footage, and music, over the non-prescriptive background language.'' Id. This was basically an effort to blur the objective standard for express advocacy into a vague, subjective ''totality of the circumstances'' test.

The United States District Court for the Western District of Virginia dismissed the FEC's complaint against CAN on the grounds that it did not state a well-founded legal claim. *FEC* v. *Christian Action Network*, 894 F. Supp. 946, 948 (1995). This was because the agencies's subjective theory of express advocacy was completely contrary to the bright-line standard articulated in *Buckley* and *MCFL*. Id. After this stern rebuff by the district court, Commissioner McDonald voted to appeal the case to the United States Fourth Circuit Court of Appeals. The Circuit Court summarily affirmed in a per curiam opinion. *FEC* v. *Christian Action Network*, 92 F.3d 1178 (4th Cir. 1996).

The Christian Action Network subsequently asked the court to order the FEC to pay the expenses it had incurred in defending against the FEC's baseless lawsuit. The Fourth Circuit ruled in CAN's favor, explaining that:

''In the face of unequivocal Supreme Court and other authority discussed, an argument such as that made by the FEC in this case, that 'no words of advocacy are necessary to expressly advocate the election of a candidate,' simply cannot be advanced in good faith (as disingenuousness in the FEC's submissions attests), much less with 'substantial justification.' ''

Commissioner McDonald's vote to authorize the CAN litigation was unfortunate, because taxpayers ended up footing the bill for CAN's defense of meritless litigation. His vote was particularly disturbing, because the CAN case was not the last time Commissioner McDonald voted to pursue litigation based on an impermissibly broad and subjective definition of express advocacy. *See, e.g., FEC* v. *Freedom's Heritage Forum*, No. 3:98CV–549–S (W.D. Ky September 29, 1999). Sadly the CAN litigation did not cause Commissioner McDonald to question his broad and subjective theory of express advocacy. While the CAN case was being litigated, Commissioner McDonald voted to enact a regulation that defines express advocacy in exactly the same broad and subjective terms that the courts have rejected. And despite this regulation being declared unconstitutional on several occasions, *see, e.g., Maine Right to Life Committee* v. *FEC*, 98 F.3d 1 (1st Cir. 1996), Commissioner McDonald has *repeatedly* voted against amending the agency's definition of express advocacy to comply with the law as declared by the courts of the United States. Earlier this year, the United States District Court for the Eastern District of Virginia issued a nationwide injunction against the FEC's enforcement of the broad and subjective definition of express advocacy that Commissioner McDonald has consistently supported. *Virginia Society for Human Life, Inc.* v. *FEC*, No. 3:99CV559 (E.D. Va. Jan. 4, 2000). Nevertheless, just a few weeks ago, Commissioner McDonald voted against reconsidering the agency's definition of express advocacy.

It must be noted that Commissioner McDonald cannot reasonably assert that his support for a broad and subjective definition of express advocacy is grounded in the Ninth Circuit's decision in *FEC* v. *Furgatch*, 807 F.2d 857 (9th Cir. 1987). As more than one court has made clear, *Furgatch* is an inherently suspect decision because it does not discuss or even mention the Supreme Court's ruling in *MCFL*, which was decided a month before *Furgatch*. But, even to the extent *Furgatch* is good law, the broad definition of express advocacy that Commissioner McDonald consistently supports goes *beyond* what even the *Furgatch* court permitted. The Fourth Circuit has aptly summarized the discrepancy between the broad FEC regulation defining express advocacy (which Commissioner McDonald voted to approve) and the loose definition used in Furgatch:

''It is plain that the FEC has simply selected certain words or phrases from Furgatch that give the FEC the broadest possible authority to regulate political speech * * * and ignored those portions of Furgatch * * * which focus on the words and text of the message.''

Moreover, the FEC itself has acknowledged that its broad definition of express advocacy is not fully supported by *Furgatch*. In its brief in opposition to Supreme Court review of *Furgatch* the FEC described as dicta the portions from *Furgatch* that made their way into the agency's express advocacy regulation. See FEC Brief in Opposition to Certiorari in Furgatch at 7. And just last year in FEC Agenda Document No. 99–40 at 2, the FEC's General Counsel conceded that the broad view of express advocacy Commissioner McDonald endorses is not completely supported by *Furgatch*, but only ''largely based'' on *Furgatch*. In short, neither the courts nor the FEC view *Furgatch* as fully justifying the definition of express advocacy that Commissioner McDonald endorses.

Unfortunately, the history of the FEC's express advocacy rulemaking is just one of many examples I could proffer of Commissioner McDonald's disregard for the Constitution and the rule of law. By supporting the agency's willful efforts to disregard the law as pronounced by the courts of the United States, Commissioner McDonald has

helped to create a situation in which an individual's First Amendment rights vary—depending upon where they happen to live in the United States. Of course, even people who reside in regions of the country where the controlling court of appeals has rejected the FEC's efforts to expand its jurisdiction over political speech, are still chilled from conveying their views on issues. After all, if they fund a public communication that is broadcast into a neighboring state that is in a federal circuit which has not ruled on the FEC's novel theories, they may find themselves the test case for that Circuit and be exposed to lengthy and costly litigation.

When federal agencies are allowed to create such a patchwork system of speech regulation, public confidence in the competence and integrity of the administrative state declines. People come to feel that their rights extend no further than the capricious whims of government bureaucrats.

It is for Congress in its capacity as the body charged with overseeing independent agencies to take the lead in remedying such problems and reining in agencies that are out of control. You can start reining in the FEC by making public officials such as Commissioner McDonald accountable for disregarding the rule of law and the constitutional rights of citizens. By rejecting the nomination of Danny Lee McDonald, Congress can signal that it will not tolerate FEC Commissioners who arrogantly refuse to honor their oath to uphold and defend the Constitution. By rejecting Danny Lee McDonald—a man who has for almost twenty years demonstrated contempt for the rights of ordinary Americans and the rulings of federal courts—Congress can begin to restore confidence that the Federal Election Commission will not continue to trample on core First Amendment rights.

Very truly yours,

MANUEL S. KLAUSNER.

Mr. MCCONNELL. I think Commissioner McDonald's voting record has displayed a disregard for the law, the courts, and the Constitution. It has hurt the reputation of the Commission, chilled constitutionally protected political speech, and cost the taxpayers money.

Equally troubling is the fact that Commissioner McDonald apparently chose to pursue the chairmanship of the Democratic National Committee while serving as a Commissioner to the Federal Election Commission.

On August 22, 1997, the General Counsel to the Democratic National Committee, Joseph Sandler, testified under oath that it was his understanding that Commissioner McDonald had pursued the ''chairmanship'' of the DNC in late 1996 or 1997. I must say I am very troubled by the fact that an FEC Commissioner, who is charged with displaying impartiality and good judgment, would seek the highest position in the Democratic National Committee while regulating the Democratic Party and its candidates and, I might add, while regulating the archrival of his party; that is, the Republican Party, and its candidates.

As the distinguished Minority Leader stated in a floor speech on February 28 of this year:

> [The] law states that [FEC] Commissioners should be ''chosen on the basis of their experience, integrity, impartiality and good judgment.''

I have serious questions about whether an FEC Commissioner exhibits ''impartiality and good judgment'' when he seeks the highest position in his political party and simultaneously regulates that party and its candidates and regulates the competitor party and its candidates.

All that being said, I am prepared to reject this new litmus test whereby we ''Bork'' nominations to a bipartisan panel based on their membership in a particular campaign finance camp. I am prepared to follow the tradition of respecting the other party's choice and to support Commissioner McDonald's nomination, assuming that McDonald's party grants similar latitude to the Republican choice.

In fact, I believe it is the very presence of Commissioners such as Mr. McDonald who make Professor Smith all the more necessary at the FEC. The FEC needs Brad Smith's constitutional expertise to help prevent the string of unconstitutional FEC actions which McDonald supported. As Dean Kathleen Sullivan stated in support of Brad Smith:

> I think it is a good thing . . . to have people who are very attuned to constitutional values in government positions[.]

So I say to my colleagues, I personally believe that Professor Smith's intelligence, his work ethic, his fairness, his knowledge of election law, and, to quote from the statute, his ''experience, integrity, impartiality and good judgment'' will be a tremendous asset to the FEC and to the American taxpayers who have been forced to pay for unconstitutional FEC actions.

Professor Smith is a widely respected, prolific author on Federal election law and, in my opinion, the most qualified nominee in the 25-year history of the Federal Election Commission. I am firmly convinced he would faithfully and impartially uphold the law and the Constitution as a Commissioner at the FEC, and I wholeheartedly support his nomination.

In the words of the Wall Street Journal:

> This Mr. Smith should go to Washington.

Mr. President, how much of my time do I have remaining?

The PRESIDING OFFICER. The Senator has 60 minutes remaining.

Mr. MCCONNELL. I reserve the remainder of my time and yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, first let me remind my colleagues that Mr. Smith, in an article he wrote in the Wall Street Journal, concluded his article by saying:

> The most sensible reform is a simple one: repeal of the Federal Elections Campaign Act.

I ask unanimous consent that the entire article of Wednesday, March 19, 1997, entitled ''Rule of Law, Why Campaign Finance Reform Never Works,'' by Bradley A. Smith, be printed in the RECORD.

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

[From the Wall Street Journal, Mar. 19, 1997]

RULE OF LAW

WHY CAMPAIGN FINANCE REFORM NEVER WORKS

(By Bradley A. Smith)

Think campaign finance reform isn't an incumbent's protection racket? Just look at the spending limits included in the Shays-Meehan and McCain-Feingld bills, the hot ''reform'' bills on Capitol Hill.

Shays-Meehan would limit spending in House races to $600,000. In 1996, every House incumbent who spent less than $500,000 won compared with only 3% of challengers who spent that little. However, challengers who spent between 0,000 and $1 million won 40% of the time while challengers who spent more than $1 million won five of six races. The McCain-Feingold bill, which sets spending limits in Senate races, would yield similar results. In both 1994 and 1996, every challenger who spent less than its limits lost, but every incumbent who did so won.

This anecdotal evidence supports comprehensive statistical analysis: The key spending variable is not incumbent spending, or the ratio of incumbent to challenger spending, but the absolute level of challenger spending. Incumbents begin races with high name and issue recognition, so added spending doesn't help them much. Challengers, however, need to build that recognition. Once a challenger has spent enough to achieve similar name and issue recognition, campaign spending limits kick in. Meanwhile the incumbent is just beginning to spend. In other words, just as a challenger starts to become competitive, campaign spending limits choke off political competition.

This is not to suggest that the sponsors of McCain-Feingold and Shays-Meehan sat down and tried to figure out how to limit competition. However, when it comes to political regulation and criticism of government, legislators have strong vested interests that lead them to mistake what is good for them with what is good for the country. Government is inherently untrustworthy when it comes to regulating political speech, and this tendency to use government power to silence political criticism and stifle competition is a major reason why we have the First Amendment.

The Supreme Court has recognized the danger that campaign finance regulation poses to freedom of speech, and for the past 20 years, beginning with Buckley v. Valeo, has struck down many proposed restrictions on political spending and advocacy, including mandatory spending limits. Supporters of campaign finance reform like to ridicule Buckley as equating money with speech. In fact, Buckley did no such thing.

Instead, Buckley recognized that limiting the amount of money one can spend on political advocacy has the effect of limiting speech. This is little more than common sense. For example, the right to travel would lose much of its meaning if we limited the amount that could be spent on any one trip to $100.

Shays-Meehan and McCain-Feingold are Congress's most ambitious attempt yet to get around Buckley. The spending limits in each bill are supposedly voluntary, so as to comply with Buckley, but in fact the provisions are so coercive as to be all but mandatory, which should make them unconstitutional.

For example, Shays-Meehan penalizes candidates who refuse to limit spending by restricting their maximum contributions to

just $250, while allowing their opponents to collect contributions of up to $2,000. Shays-Meehan also attempts to get around Buckley by restricting the ability of individuals to speak out on public issues. The bill would sharply limit financial support for the discussion of political issues where such discussion ''refers to a clearly identified candidate.'' In Buckley, the Supreme Court struck down a similar provision as unconstitutionally vague.

Fueling the momentum to regulate ''issue advocacy'' is Republican outrage over last year's advertising blitz by organized labor attacking the Contract With America and the GOP's stand on Social Security and Medicare. Even though the AFL–CIO's ads were ostensibly about issues, there is no doubt that they were aimed at helping Democrats regain control of the House.

Of course, the purpose of political campaigns is to discuss issues; and the purpose of discussing issues it to influence who holds office and what policies they pursue. Naturally, candidates don't like to be criticized, especially when they believe that the criticisms rely on distortion and demagoguery. But the Founders recognized that government cannot be trusted to determine what is ''fair or unfair'' when it comes to political discussion. The First Amendment isn't promise us speech we like, but the right to engage in speech that others may not like.

Recognizing that many proposed reforms run afoul of the Constitution, some, such as former Sen. Bill Bradley and current House Minority Leader Richard Gephardt, are calling for a constitutional amendment that would, in effect, amend the First Amendment to allow government to regulate political speech more heavily. This seems odd, indeed, for while left and right have often battled over the extent to which the First Amendment covers commercial speech or pornography, until now no one has ever seriously questioned that it should cover political speech.

If fact, constitutional or not, campaign finance reform has turned out to be bad policy. For most of our history, campaigns were essentially unregulated yet democracy survived and flourished. However, since passage of the Federal Elections Campaign Act and similar state laws, the influence of special interests has grown, voter turnout has fallen, and incumbents have become tougher to dislodge. Low contribution limits have forced candidates to spend large amounts of time seeking funds. Litigation has become a major campaign tactic, with ordinary citizens hauled into court for passing out homemade leaflets; and business and professional groups have been restrained from communicating endorsements to their dues-paying members.

The reformers' response is that more regulation is needed. If only the ''loopholes'' in the system could be closed, they argue, it would work. Of course, some of today's biggest loopholes were yesterday's reforms. Political action committees were an early 1970s reform intended to increase the influence of small donors. Now the McCain-Feingold bill seeks to ban them. (Even the bill's sponsors seem to recognize that this is probably unconstitutional—Sen. Feingold boasts that in anticipation of such a finding by the Supreme Court, the bill includes a fallback position.) Soft money, which both bills would sharply curtail, was a 1979 reform intended to help parties engage in grasroots political activity, such as get-out-the-vote drives.

When a law is in need of continual revision to close a series of ever-changing ''loopholes,'' it is probably the law, and not the people, that is in error. The most sensible reform is a simple one: repeal of the Federal Elections Campaign Act.

Mr. McCAIN. He begins by saying:

Think campaign finance reform isn't an incumbent's protection racket? Just look at the spending limits included in the Shays-Meehan and McCain-Feingold bills, the hot ''reform'' bills on Capitol Hill.

I will provide for the RECORD that as increases in spending have gone up, they have favored the incumbents, and more incumbents have been reelected over time. Mr. Smith is obviously wrong in his allegations as far as the facts are concerned. Then obviously he goes on to say at the end that campaign finance reform has turned out to be bad policy. He goes on to say:

For most of our history campaigns were essentially unregulated, yet democracy survived and flourished. However, since passage of the Federal Elections Campaign Act and similar State laws, the influence of special interests has grown, voter turnout has fallen, and incumbents have become tougher to dislodge.

That is an interesting view of history.

In 1974, we enacted campaign finance reform. The abuses of the 1972 campaign were well known. They were extremely egregious and everyone knows there was a movement across America to clean up those incredible abuses that took place in the 1972 campaign. I guess what Mr. Smith either doesn't know or has ignored is that for a long period after campaign finance reform was enacted, there were better campaigns in America. They were a lot cleaner. They were more participatory.

It was not until beginning in the middle to late 1980s, as smart people began to find loopholes, began to find ways around those campaign finance restrictions, that the influence of special interests grew, voter turnout fell, and incumbents became tougher to dislodge.

I am a student of history. One of the reasons why I am is because it has a tendency to repeat itself. There was a period late in the last century, actually in the 19th century, when the robber barons took over American politics. That is a matter of history and disputed by very few historians. Fortunately, a man came to the fore in American politics by the name of Theodore Roosevelt. His words are as true today as they were then.

I quote from his fifth annual message to the Congress, Washington, December 25, 1905:

All contributions by corporations to any political committee or for any political purpose should be forbidden by law. Directors should not be permitted to use stockholders' money for such purposes. And moreover, a prohibition of this kind would be, as far as it went, an effective method of stopping the evils aimed at the Incorrupt Practices Act.

On October 26, 1904, Theodore Roosevelt made the following statement:

I have just been informed that the Standard Oil people have contributed $100,000 to our campaign fund. This may be entirely untrue. But if true I must ask you to direct that the money be returned to them forthwith. . . . Moreover, it is entirely legitimate to accept campaign contributions, no matter how large they are, from individuals and corporations on the terms on which I happen to know that you have accepted them; that is, with the explicit understanding that they were given and received with no thought of any more obligation on the part of the National Committee or of the national administration than is implied in the statement that every man shall receive a square deal, no more, no less, and that this I shall guarantee him in any event to the best of my ability. . . . But we cannot under any circumstances afford to take a contribution which can be even improperly construed as putting us under an improper obligation, and in view of my past relations with the Standard Oil Company, I fear such a construction will be put upon receiving any aid from them.

On 1908, September 21, in a letter to the treasurer of the Republican National Committee, Theodore Roosevelt wrote:

I have been informed that you, or someone on behalf of the National Committee, have requested contributions both from Mr. Archibold and Mr. Harriman. If this is true, I wish to enter a most earnest protest, and to say that in my judgment not only should such contributions not be solicited, but if tendered, they should be refused; and if they have been accepted they should immediately be returned. I am not the candidate, but I am the head of the Republican administration, which is an issue in this campaign, and I protest earnestly against men whom we are prosecuting being asked to contribute to elect a President who will appoint an Attorney-General to continue these prosecutions.

Mr. President, in his State of the Union speech, President Roosevelt said on August 31, 1910:

Now, this means that our Government, National and State, must be freed from the sinister influence or control of special interests. Exactly as the special interests of cotton and slavery threatened our political integrity before the Civil War, so now the great special business interests too often control and corrupt the men and methods of government for their own profit. We must drive the special interests out of politics.

Mr. President, as I said, Theodore Roosevelt's words in those days were as true then as they are today. I believe we are again in the same situation we were in before when he was able to get an all-out prohibition of corporate contributions to American political campaigns. That law is still on the books. That law has never been repealed.

Why is it that tomorrow night there will be a fundraiser when individuals and corporations are allowed to contribute as much as $500,000 to enjoy the hospitality of the Democratic National Committee at the MCI Center? It is because the loopholes have been exploited. People such as our nominee, Mr. Smith, have made the process such that we can no longer expect the influence of special interests not to predominate here in our Nation's Capitol. Young Americans are tired of it. Young Americans are cynical, and they have become alienated.

The nomination of Mr. Smith has not gone unnoticed beyond the beltway. The irony of his appointment to the FEC has been the subject of numerous editorials since the name first surfaced as a potential nominee. Let me read to you some of these editorials, Mr. President.

The Palm Beach Post:

You wouldn't put Charlton Heston in charge of gun control, and you wouldn't put Bradley A. Smith in charge of enforcing the nation's campaign-finance laws.

Come to think of it, Republicans want to do both.

Mr. Smith, a law professor in Ohio, feels about soft money the way Mr. Heston feels about assault weapons: More is better. . . . Mr. Smith has advocated the abolition of Federal restrictions on campaign contributions. Yet, Republicans want to nominate Mr. Smith to the Federal Election Commission, which was founded in 1975 to enforce campaign restrictions first imposed after Watergate. . . .

The quote underpinning Mr. Smith's philosophy is, ''People should be allowed to spend whatever they want on politics.'' But when Mr. Smith talks about ''people,'' he means corporations and unions and political-action committees—the big donors who give with the all-too-realistic expectation that they will receive favors from Congress in return.

The story I quoted earlier from the New York Times mentioned that when the big donors were contacted by phone, they wanted to —guess what—talk about legislation before the Congress, for those who were soliciting donations.

The San Francisco Chronicle, April 17:

Seldom has the metaphor of the fox keeping watch over the chicken coop seemed more apt. Bradley Smith has built his career arguing that the 1974 Federal Election Campaign Act, the law regulating campaign expenditures enacted after the Watergate scandal, is unconstitutional and should be abolished.

In various articles, Mr. Smith, an obscure professor at Capital University in Columbus, Ohio, has argued that our nation only spends a ''minuscule amount'' on campaigns, a mere .05 percent of our Gross National Product. Rather than corrupting the process, Smith says campaign spending promotes democracy by generating interest in candidates and issues. . . . ''If anything, we probably spend too little,'' he wrote in one of several guest columns for the Wall Street Journal.

Smith might have remained little more than a professorial provocateur behind the safe ramparts of the ivory tower had not Republicans put forward his name to fill a vacant seat on the Federal Election Commission, the body created by the very law Smith thinks should be abolished.

Washington Post, February 11, 2000:

When the Supreme Court recently reaffirmed that reasonable campaign finance regulations were constitutional, President Clinton sought to portray himself as a fighter for reform. ''For years, I challenged Congress to pass regulations that would ban the raising of unregulated soft money and address back door spending by outside organizations.'' He said, ''Now I am again asking Congress to restore the American people's faith in their democracy and pass real reform this year.'' This week, however, the President nominated to the Federal Election Commission a law professor, Bradley Smith, who not only opposes further reform, but believes that most existing campaign finance law violates the first amendment. Quite simply, Mr. Smith doesn't believe in the bulk of the FEC's work. Mr. Clinton has no business putting him in charge of it.

Mr. President, this is from the New York Times, February 17, 2000:

A vote to confirm Mr. Smith is a vote to perpetuate big-money politics. Campaign restrictions are only as strong as the FEC's interest in enforcing them—an interest Mr. Smith plainly lacks. In an election year in which Washington's failure to end the corrupt soft-money system has become a rallying cause for John McCain's Presidential campaign, the Senate should not seat someone on the FEC who questions the need for change. Mr. Smith, as Mr. Gore aptly noted, ''publicly questions not only the constitutionality of proposed reform, but also the constitutionality of current limitations.'' Mr. Smith does not belong on the FEC, and anyone in the Senate who cares about fashioning a fair and honest system for financing campaigns should vote against his appointment.

Mr. President, I don't want to put too much credence and importance on Mr. Smith's appointment. But I do not see, after the record is replete with Mr. Smith's views concerning campaign finance reform, how anyone in this body who is a sincere supporter of campaign finance reform could possibly have the remotest idea of voting for Mr. Smith.

Finally, I have on this floor many times for too many years been arguing the constitutionality of placing limitations on campaign contributions.

The opponents, time after time, have taken the floor and said: Well, Buckley v. Valeo was only a 5–4 vote, a footnote, which perhaps has become one of the most famous footnotes in the history of any Supreme Court decision concerning exactly what the words are both for and against. Over time, for reasons that are not clear to me, the opponents of campaign finance reform raise the concern in many people's minds that the heart of McCain-Feingold is unconstitutional; in other words, the ability to place a limit on campaign contributions.

I didn't quite understand that because in 1907 there was a law on the books that banned corporate contributions. That has never been repealed, nor declared unconstitutional. There is a law on the books in 1947 banning union contributions to American political campaigns, and then of course there is the 1974 law.

On January 24 of this year, Shrink Missouri clearly and unequivocally in a 6–3 decision upheld the $1,000 limitation on a campaign contribution.

By limiting the size of the largest contributions, such restrictions are aimed at democratizing the influence money itself may bring to bear upon the electoral service.

The U.S. Supreme Court, in a majority opinion, goes on to say that in doing so, they seek to build public confidence in that process and broaden the base of a candidate's meaningful financial support by encouraging the public participation in open discussion that the first amendment itself presupposes.

Mr. Smith directly repudiates—and still does after the U.S. Supreme Court spoke unequivocally—a 6–3 decision by the U.S. Supreme Court. Yet my colleagues feel that he is fit to enforce a law that he directly repudiates.

This is a bit Orwellian, Mr. President.

The Court went on to say in unequivocal terms that the imposition of a $1,000 limit is certainly not only constitutional but should be constitutional because many of the Justices expressed their utter dismay at the state of campaign financing today in a rather forthright and candid manner, which is somewhat uncharacteristic of the U.S. Supreme Court. One of the Justices said, ''Money is not free speech. Money is property.''

On the one hand, a decision to contribute money to a campaign is a matter of first amendment concern, not because money is speech; it is not, but because it enables speech through contributions. The contributor associates himself with a candidate's cause and helps the candidate communicate a political message with which the contributor agrees and helps the candidate win by attracting the votes of similarly minded voters. Both political association and political communications are at hand.

On the other hand, restrictions upon the amount that any one individual can contribute to a particular candidate seek to protect the integrity of the electoral process, the means through which a free society democratically translates political speech into concrete government action.

Moreover, by limiting the size of the largest contributions, such restrictions aim to democratize the influence money itself may bring to bear upon the electoral process.

I don't mean to paraphrase the Supreme Court of the United States, but what they are saying is money in modest amounts is a way of participating in the political process, and it is a good and healthy thing.

One of the great events in politics in the American Southwest is to have a barbecue and everyone pays $10, $15, or $20 to attend. You not only participate in the political process, but you have made an investment in that candidate.

But when we are now at a point where $500,000 buys a ticket to a fundraiser, we have come a long way. We have come a long way. We have come to a Congress which is gridlocked by the special interests.

If you want to look at our failure to enact a Patients' Bill of Rights, if you want to look at our failure to enact modest gun control such as safety locks and instant background checks, if you want to look at our failure to enact meaningful military reform because we continue to buy weapons systems which the military doesn't want or need, and we have 12,000 enlisted families on food stamps, you can look at a broad array of legislation that should have been acted on by any reasonable group of men and women who are elected to represent the people. Instead, it is the special interests.

What is the message we are about to send to the American people when we affirm the appointment of Professor Brad Smith to the Federal Election Commission? We are saying that we are appointing a person for 5 years who not only repudiates the decision of the U.S.

Supreme Court but believes that at no time in our history have we needed to clean up the abuses of the campaign finance system, and clearly has no interest in removing the incredible corruption that possesses the political process today, and is not interested in the fact that young Americans have become cynical and even alienated from the political process, to wit: The 1998 election where we had the lowest voter turnout in history of 18- to 26-year-olds.

The message we are sending to America is: Americans, we are not ready yet to respond to the will of the people. We are still in the grips of special interests. Until we make their voices more clear and more strongly felt, the chances of reforming this system and returning the government to you is somewhat diminished.

I know my colleague who is on the floor, Senator FEINGOLD, and I will continue our efforts to bring McCain-Feingold and Shays-Meehan to the attention of this body for votes between now and when we go out of session. I don't know if we will be able to do that, but have no doubt about what we are trying to do and how we are trying to do it.

All we ask for is a vote up or down. We will agree to 15 or 20 minutes equally divided on both sides on this issue because it has been ventilated time after time on the floor of the Senate. For anyone who has some idea we are trying to hold up legislation or block legislation, all we are asking for is a vote. We know a majority of the Senate would vote in favor.

I think we are going to do something very wrong tomorrow. We are probably going to affirm a person to an office in which the American people place some trust in the enforcement of existing law. That person has made it clear that he is not interested in enforcing existing law, and, in fact, he believes that existing law is unconstitutional.

I think this is a very serious mistake. I hope the American people notice that this is something that will not work in their interests but will clearly work to maintain the status quo in our Nation's Capital.

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

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, although this, too, is an uphill battle, it is a good feeling to be on the floor again with my good friend, the Senator from Arizona, not only to fight this nomination, but also to signal the fact that we are ready to move forward on the campaign finance issue and a ban on soft money.

I think the debate today has turned out to be not only a good chance to review the inappropriateness of the Bradley Smith nomination, but to review what has happened this year on the campaign finance front, particularly the decision by the U.S. Supreme Court in the Shrink Missouri case, and of course, more importantly, the tremendous profile the Senator from Arizona has given to the campaign finance issue through his courageous campaign for President.

All of that is optimistic for the future. But today we have to continue the battle, as the Senator from Arizona has done, to try to prevent the Senate from making a terrible mistake with regard to the Federal Election Commission.

In that regard, let me first elaborate on one item the Senator from Kentucky addressed. Earlier today, the Senator from Kentucky quoted from a number of letters from law professors, allegedly in support of the nomination of Professor Brad Smith. One of those letters was from Burt Neuborne, a professor at NYU Law School and Legal Director at the Brennan Center for Justice, somebody for whom I have tremendous regard and respect. The Senator from Kentucky took great pleasure in quoting that letter because the Brennan Center has been very effective and outspoken in its opposition to Professor Smith.

I was a little surprised by the quote the Senator from Kentucky read from Professor Neuborne, although I noted that Professor Neuborne didn't seem to endorse Professor Smith for the FEC post in the portion of his letter the Senator from Kentucky read.

In the interim, I asked my staff to look into the letter. Although we have not actually seen a copy, it seems the letter quoted by the Senator from Kentucky on the floor was actually a letter in support of Professor Smith's effort to get tenure at his law school a few years ago. I hope I don't need to point out, Mr. President, that there is a big difference between tenure at a law school and a seat on the FEC. Law professors can be and often are provocative, even outrageous, in their views, but FEC Commissioners have to enforce and interpret the law as intended by Congress. It is a very different job from being a professor.

So I want the Record to be clear. Professor Neuborne's comments were quoted at least a bit out of context, and those comments had nothing to do with the decision that will soon be before the Senate on Professor Smith's nomination.

Now let me say a bit more about the nomination and its relationship to the issue of soft money, which the Senator from Arizona was addressing moments ago. I spoke earlier about some of the views of Brad Smith on our current election laws. Now I want to talk about his views on the major reform issue that faces the Congress this year, the proposed ban on soft money.

Professor Smith believes a ban such as the one contained in the McCain-Feingold bill would be unconstitutional. That is another reason I believe he should not be confirmed.

We have had a number of debates on the issue of campaign finance reform in the last few years. They have been hard fought and sometimes illuminating. Particularly interesting to me, I have noticed very frequently the arguments of opponents of reform have changed over time. The first few times the McCain-Feingold bill was brought to the floor, much of the argument was against the spending limits and benefits contained in the original bill. We heard the cry of ''welfare for politicians,'' over and over.

Then, when the bill was modified and spending limits for candidates were dropped, opponents of reform focused on provisions that would have restricted the use of unlimited corporate and union money to pay for phony issue ads that were really nothing more than campaign ads in disguise. Opponents complained that these provisions violated the first amendment. Then the accusation on this floor over and over again became that we reformers were the so-called ''speech police'' and the ''enemies of free speech.''

Last fall, however, Senator MCCAIN and I decided to exclusively focus our attention on the worst loophole in the law, the problem that has undermined the whole of our Nation's election laws, the unlimited soft money contributions to the political parties. We found few, if any, opponents who were actually willing to come to the floor during the latest debate to continue to press some kind of a constitutional attack on this bill.

The reason was very simple. There is no credible argument that a ban on soft money would be struck down by the Supreme Court. That view was supported by a letter to Senator MCCAIN and to me from 126 legal scholars. It was seconded by a letter from every living former president, executive director, legal director, and legislative director of the American Civil Liberties Union. Even one of the strongest and most consistent opponents of reform in this body, the Senator from Washington, Mr. GORTON, conceded on the floor that a ban on soft money is probably constitutional. He even conceded that.

Then we had the Supreme Court weighing in earlier this year in the Shrink Missouri case, reaffirming a portion of the Buckley decision that upheld contribution limits and stating in very strong and clear language that the Congress has the power to limit contributions to protect against actual or apparent corruption, the Court said:

> There is little reason to doubt that sometimes large contributions will work actual corruption of our political system, and no reason to question the existence of a corresponding suspicion among voters.

In my view, and I think in the view of any serious commentator on this subject, the Supreme Court's ruling in the Shrink Missouri case removes all doubt as to whether the Court would uphold the constitutionality of a ban on soft money. That is the centerpiece of the reform bill that has passed the House and is now awaiting Senate action. It is simply not credible to argue

that this same Court that just a couple of months ago so strongly upheld the Missouri contribution limits would somehow completely change its jurisprudence and turn around and strike down an act of Congress that would outlaw soft money. It is simply not credible.

But then there is Bradley Smith, the nominee before the Senate. In a paper for the Notre Dame Law School Journal of Legislation, published in 1998, he wrote the following:

> Regardless of what one thinks about soft money, or what one thinks about the applicable Supreme Court precedents, a blanket ban on soft money would be, under clear, well-established First Amendment doctrine, constitutionally infirm.

Professor Smith makes the argument that since the parties use soft money to run phony issue ads and since phony issue ads are constitutionally protected, somehow a ban on soft money must be constitutionally suspect.

The problem with this argument is that the justification for banning soft money has nothing to do with stopping the parties from running phony issue ads. The purpose of a soft money ban is to stop the erosion of public confidence in the political process that unlimited contributions from wealthy corporate, labor, and individual donors have caused—in other words, to put it in simple terms, terms that are not my own but those of the U.S. Supreme Court, to stop the appearance of corruption.

Banning soft money is not about attacking speech, it is about attacking corruption. The parties can continue to run all the phony issue ads they want after soft money is banned; they will just have to use hard money to pay for those ads.

Of course, Professor Smith doesn't agree that unlimited contributions can cause a corruption problem. But the Supreme Court most certainly does.

A majority of this Senate has voted repeatedly in favor of a soft money ban. I cannot imagine that same majority will, tomorrow, vote to confirm a nominee who believes such a ban is unconstitutional. That is why the vote on Mr. Smith is not simply a vote on an executive branch nominee, it is a vote on campaign finance reform

Here is the problem. If we succeed in passing a soft money ban this year, the FEC is going to have to promulgate regulations to implement that law. Numerous questions will undoubtedly arise on the mechanics of that ban. We need an FEC that will vote to enforce the law and to interpret it in a way that is consistent with congressional intent. I simply have no confidence that Mr. Smith will be able do that—how can he? It would be completely at odds with his own loudly professed principles. His view is that the whole exercise of prohibiting the parties from soliciting and receiving unlimited nonfederal contributions is illegitimate.

Shortly after his nomination, Mr. Smith was interviewed by the Capitol Hill newspaper, Roll Call. A story on February 14 of this year, stated as follows:

> But Smith said ''the reason most'' why he's agreed to take the position is to ''present the case that there's another way to talk about reform than reform being equivalent to more regulation.''

We are making a decision about putting someone on the Fec who is supposed to enforce the laws we pass. The purpose is not to send an advocate over to the FEC.

That's right, this nominee most wants to be on the regulatory body in charge of administering the statutes that Congress passes in order to present the view that we do not need more regulation. Not to implement Congress's will in passing reform, but to show there is another way of talking about reform. I do not want that kind of Commissioner writing the regulations that will put the soft money ban of the McCain-Feingold bill into practice.

I am not going to stand here and tell you that enactment of the McCain-Feingold bill is assured in this session of Congress. We have a lot of work still to do to convince enough of those who are now voting to permit a filibuster to block us to change their minds. But if you truly believe that soft money must be banished from our system, as you have voted so many times in the past few years, you must vote against the nomination of Brad Smith. Otherwise, you may very well be responsible for ineffective FEC enforcement of the ban which will let soft money back into the system, nullifying all that we have worked so hard to accomplish.

The Senator from Kentucky began his presentation this morning by in essence asking for sympathy for Professor Smith because he has inspired such strong opposition both in the Senate and from outside commentators. He suggests that because the opposition is so heated that it must be distorted. And he quoted from law professors who have written in to defend Professor Smith and criticize the opposition to him. He said that from all that has been said about Professor Smith, one would think he has horns and a tail. I want to reiterate this because I think this approach the Senator from Kentucky has used is unfair to all of us who have opposed Professor Smith. Frankly, I think it is I unfair to Professor Smith.

The opposition to Professor Smith is not personal. There is not a shred of a personal element to it and there never has been. It is based on his views, and in particular on his writings as a law professor and commentator on the election laws. The quotes I have called attention to today are not distortions, they are not taken out of context, they are not a caricature or a misrepresentation. These are Professor Smith's views, and he has reaffirmed them over and over again, including in the hearings held by the Rules Committee on his nomination. Yes, as we saw earlier, he has a beautiful family, and a beautiful dog, but that does not make his views on Federal election law any more acceptable to me or others who care about campaign finance reform.

Professor Smith has not disavowed the views he expressed in his many writings on campaign finance. He simply asks us to take on faith his promise that notwithstanding those views he will enforce the law. But it is not that simple. Issues come before the FEC that are not as clear cut as ''will you enforce the law or not?''

The FEC has to implement and administer the law. It has to promulgate regulations to cover complicated legal issue that come about because candidates and groups do their utmost to get around the law. It has to initiate investigations of suspicious activities, sometimes with great pressure brought by the parties to do nothing.

I simply do not have confidence that an academic who holds the views expressed so clearly by Professor Smith will discharge his duties in a way that will uphold the spirit as well as the letter of the law.

Let me also respond to the argument expressed by both the Chairman and the Ranking Member of the Rules Committee that his Senate is bound to rubber stamp the President's appointments because by tradition each party is entitled to choose the members of the Commission.

First of all, I will say that I was very disappointed that President Clinton put forward this nomination. I expected more from a President who claims to support campaign finance reform. And I am pleased that Vice-President GORE has announced his opposition to the nomination of Professor Smith. I hope some day that we will have a President who will break with tradition—and that's all it is—tradition, and nominate independents or people who are not strongly identified with the parties to the FEC. I don't think the FEC or the country are well served by the kind of ''balanced'' Commission that we now have, where the Democratic and Republican Commissioners reliably line up on opposite sides of issues that have a partisan flavor, and line up in lock step together on issues that implicate the rights of third parties. I would like to see Commissioners on both sides who have an appreciation of the importance of the campaign finance laws and will vote to ensure fairness in elections.

But until we have that kind of President, who is willing to stand up to the leadership of the parties, we still have the Senate's duty of Advice and Consent. Nowhere is it said in the Constitution that the power of Advice and Consent is any different for members of the FEC. Otherwise, why would we not just have the President nominate people and not have the Senate vote. It is an abdication of the Senate's duty, I believe, for us to give any less scrutiny to this nominee simply because it is paired with another nominee from the other party.

The Senator from Kentucky also claimed that a nominee for a spot on the FEC has never been defeated on the floor, and that is true. But it is not true that the wishes of each of the parties has always been respected. In the mid-1980s, the Republican Party, under pressure from the National Right to Work Committee, blocked the reappointment of a Democratic Commissioner, Thomas Harris, because of his work as a lawyer representing unions. President Reagan refused to renominate Harris, and after a lengthy stalemate, another nominee was suggested.

So much of the argument in favor of this nominee today has been based on this notion that to try to stop an FEC nomination is a complete break with precedent, that we have to simply rubberstamp this pairing of two FEC commissioners. The reality is contrary to the suggestion earlier today, the party of the Senator from Kentucky has not always acquiesced in the choice of the Democratic Party for its seats on the commission.

Let me finally just dispel one misconception that I think some might have about the negotiations and agreements that led to this debate, which is clearly tied to various judicial and other nominations. There is no requirement here that Professor Smith's nomination be approved by the Senate in order for these other nominations to go forward. That is a misconception that some, particularly on our side, may believe. It is simply not the case with regard to the unanimous consent agreement and the negotiations between the majority leader and minority leader. In fact, it would be an abdication of our responsibility not to vote on the merits of this particular nominee regardless of the other nominations whose consideration was linked to the consideration of this nomination.

With that I reserve the remainder of my time and I yield the floor.

Mr. President, I ask the time be charged equally as I suggest the absence of a quorum.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

MORNING BUSINESS

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

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

SOCIAL SECURITY

Mrs. BOXER. Mr. President, Senator GRAMS quoted a letter to President Clinton that I signed last year. He took this letter out of context. In supporting the public pension systems of state and local government workers, I called for the continuance of those plans—not for the creation of private, individual accounts.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Monday, May 22, 2000, the Federal debt stood at $5,673,857,621,024.05 (Five trillion, six hundred seventy-three billion, eight hundred fifty-seven million, six hundred twenty-one thousand, twenty-four dollars and five cents).

Five years ago, May 22, 1995, the Federal debt stood at $4,883,843,000,000 (Four trillion, eight hundred eighty-three billion, eight hundred forty-three million).

Ten years ago, May 22, 1990, the Federal debt stood at $3,092,808,000,000 (Three trillion, ninety-two billion, eight hundred eight million).

Fifteen years ago, May 22, 1985, the Federal debt stood at $1,750,663,000,000 (One trillion, seven hundred fifty billion, six hundred sixty-three million).

Twenty-five years ago, May 22, 1975, the Federal debt stood at $522,752,000,000 (Five hundred twenty-two billion, seven hundred fifty-two million) which reflects a debt increase of more than $5 trillion—$5,151,105,621,024.05 (Five trillion, one hundred fifty-one billion, one hundred five million, six hundred twenty-one thousand, twenty-four dollars and five cents) during the past 25 years.

ADDITIONAL STATEMENTS

CELEBRATING THE NALC NATIONAL FOOD DRIVE

• Mrs. BOXER. Mr. President, on the second Saturday of each May, letter carriers across the United States collect food donations on their postal routes to deliver to community food banks, shelters and pantries. I commend the National Association of Letter Carriers (NALC) for creating and sponsoring the largest one-day food drive in the country with over 100,000 letter carriers participating in more than 10,000 cities and towns.

Not only do America's postal workers perform an important function in our economy and in our daily lives, they make a difference in improving the lives of needy citizens. I extend my appreciation and thanks to NALC's leaders and members for their dedication and commitment to their strong tradition of community service.

The food drive started as small pilot program in 10 cities and, as a result of its huge success, was expanded nationwide. The program asks postal patrons to place a box or bag of food next to their mailboxes. The food is picked up, sorted at postal stations and then delivered to area food banks by letter carriers.

I am pleased to note that in my home state, the California State Association of Letter Carriers was among those state associations which donated the largest amount of food in the national drive. It is my hope that during the month of May and throughout the year, Americans will consider becoming involved in the NALC Food Drive and in other activities serving the less fortunate in our communities.•

ABC'S 50TH ANNIVERSARY

• Mr. HUTCHINSON. Mr. President, I rise today to congratulate the Associated Builders and Contractors (ABC) as they approach their 50th Anniversary. ABC was founded by seven contractors in Baltimore, Maryland on June 1, 1950, and is today a national trade association representing over 22,000 contractors, subcontractors, material suppliers and related firms from across the country and from all specialties in the construction industry.

ABC is the construction industry's voice for merit shop (open shop) construction as ABC is the only national association devoted to the merit shop philosophy. Merit shop companies employ approximately 80 percent, or four out of five, of all American construction workers and seek to provide the best management techniques, the finest craftsmanship, and the most competitive bidding and pricing strategies in the industry. ABC believes that union and merit shop contractors and their employees should work together in harmony and that work should be awarded to the lowest responsible bidder regardless of labor affiliation.

I greatly appreciate ABC's commitment to developing a safe workplace and high-performance work force through quality education and training with comprehensive safety and health programs. I also appreciate ABC's dedicated efforts to secure free enterprise, fair and open competition, less government, more opportunities for jobs, tax relief, increased training, and the elimination of frivolous complaints and over-regulation.

Accordingly, I thank ABC for their efforts and wish them continued success in their efforts to ensure that the American construction industry continues to afford the finest work product and greatest opportunity in the world.•

LOCAL LEGACIES PROJECT

• Mr. BAUCUS. Mr. President, I rise today to honor a select few individuals from my home state of Montana. I have personally nominated these individuals to represent Montana in the Library of Congress' Local Legacies Project as part of their Bicentennial Celebration. The Local Legacies project has allowed citizens to participate directly in this great celebration. The participants have documented America's grassroots heritage in every state, the U.S. Trusts and Territories, and the District of Columbia. Their documentation provides

a snapshot of the nation's unique traditions as we begin a new century. My nominees for Montana's Local Legacies have worked hard to represent the beauty and deeply rooted heritage of our rugged and wide open state. The survival of our heritage is important for knowing not only where we came from, but where we are going. And for this, I commend them.

Native Reign, is composed of Northern Cheyenne youth to promote the need for education, respect for the environment, development of personal skills, respect of tribal elders and a strong spiritual foundation. They have been supported by their adult leader Ken Bisonette and his efforts to make Native Reign the role model it has become. They combine traditional Native American dances, skits, with contemporary music to celebrate the history and traditions of the tribe. On April 9, 1999, they received the Governor's Award at the State Capitol Building in Helena from Montana Governor Marc Racicot for their success in showing Montana youth an alternative lifestyle to teen pregnancy, drugs and alcohol abuse, gangs, and violence. They are a role model for not only the young people of Montana, but for the rest of the United States as well. Congratulations Native Reign, you are truly a legacy!

Mike Logan, Montana's very own Cowboy Poet has contributed a book of poetry illustrated with original photographs he took during his travels throughout our breathtaking state. His book is entitled ''Montana Is . . .'' Mike wanted to share some of the beauty he had been privileged to experience and photograph in his 21 years living in Montana. As part of his introduction to the book, Mike states: ''I love everything about Montana. . . . I still feel like I'm spending every day in heaven.'' Words that ring so true to my own heart. Mike paints a verbal and visual picture true to the very poetic nature of Montana's scenic beauty and spectacular wildlife. I would encourage everyone to pick up his book and take a journey into Montana's rich heritage. Thank you Mike, your poetry is one more part of our history we are lucky to have!

The Metis Project: When they Awake—was created and produced by Helena Presents, a production, presentation and film center based in Helena, Montana. It is a celebration of the extraordinary legacy of fiddle music of the Metis people. The project explores the musical and social legacy of a tribe without boundaries, whose heritage results from marriage between Indians and Europeans throughout the Northern Plains from Sault St. Marie, Michigan, to Choteau, Montana, across both sides of the 49th parallel. Central to the project is the creation of a new musical work that references the indigenous American rhythms and diverse European fiddle heritage that is present in Metis music. The name of the presentation is based on a prediction of Louis Riel, a teacher, writer, and hero to the Metis people:

> My people will sleep for one hundred years, but when they awake, it will be the artists who give them their spirit back.

Composer and performers Philip Aaberg and Darol Anger collaborated with master Metis fiddler, Jimmie LaRocque to revive once again the melodious spirit of the Metis people. Gentlemen, I take my hat off to you!

Five St. Ignatius High School students from St. Ignatius, Montana, who present and preserve their area's native traditions using interviews with farmers and ranchers of the Mission Valley of Montana along with poignant photographs which paint a dramatic picture of farm life in the Mission Valley. The report summarizing their findings was written by their teacher Marta Brooks. Students in Brooks's English and history classes used the ''heritage education'' approach to the study of local culture. They collected stories, oral histories, historical documents, art and geological information that reflect the unity of landscape and culture. Montana's traditional farmers and ranchers are becoming a dying breed so because of the change in the local landscape with the inevitable change in the local culture the students were prompted to initiate this project as a way to document and preserve the area's native culture and traditions before they cease to exist. Thank you all for your efforts to immortalize our rich agricultural heritage. Your hard work brings a lot of pride to Montana!

Montana Horse Story, was brought to us through the use of still photography, film, and field reporting, by a mother/son team, Allison and Joshua Collins. Allison and Joshua are part of a company called Related Images. Their project documents the legacy of the horse for work, transportation, and recreation as preserved by various Montana events such as rodeo, the Miles City Bucking Horse Sale, Indian rodeo, and O-mok-see. Their work was last seen locally, in an exhibit of rodeo photography, at the Holter Museum, in Helena, Mt. Much like the other Local Legacies projects, Montana Horse Story pinpoints a vital part of Montana's rich traditions, that without it we would not be the people that we have become. Joshua and Allison, you have captured our spirit in some of its best moments. Without your talents and dedication, our story would never be heard. Thank you!

I conclude with one final remark: Without the hard work of all these individuals, Montana's rich cultural heritage may never be known. You should all be very proud of your efforts. I know Montanans are. And I most certainly am.●

NATIONAL SCHOLARSHIP MONTH

● Mr. GRAMS. Mr. President, our nation's prosperity and continued success are directly related to the education of our citizens. As the price tag of higher education continues to rise, the importance of financial aid programs has never been greater. To recognize those who help students achieve their goal of a higher education and to promote the accessibility of higher education to everyone, May has been designated as National Scholarship Month.

I would like to draw attention to one organization in particular that deserves accolades for its efforts to provide financial aid to students. The Minnesota-based Citizens' Scholarship Foundation of America (CSFA) is the nation's largest private sector scholarship and educational support organization. Since its founding in 1958, CSFA has distributed over $561 million to more than 572,000 students. Through more than 800 ''Dollars for Scholars'' chapters, the Foundation has established a grassroots network, with proven results.

I applaud the Foundation's tireless efforts to increase private sponsorship of scholarships to our nation's youth. I also congratulate and thank the dozens of Minnesota companies, organizations, and foundations that work with CSFA to help ensure that a higher education is an affordable education. Additionally, I join in CSFA's challenge to the communities, organizations, businesses, and individuals that already sponsor scholarships to double the number of awards, and I invite others to establish scholarship programs this year.

Mr. President, it is my hope that CSFA's leadership in the multitude of National Scholarship Month activities around the nation will broaden the support for private scholarship dollars and increase the level of participation. Today, I ask my colleagues to join me in celebrating the generosity of our nation's scholarship sponsors during this National Scholarship Month.●

BICENTENNIAL OF LIBRARY OF CONGRESS

● Mr. MOYNIHAN. Mr. President, I rise today to honor the Library of Congress on the occasion of its Bicentennial. Since April 24, 1800, when President John Adams created the Library, it has stood as the foremost research library in the world. But more importantly it has been a symbol of the public's freedom of access to information, an idea which is the bedrock of our Republic.

The history of the Library of Congress is filled with some rather compelling stories. The early days of the Library were turbulent, to say the least. In 1813, in what may not have been our nation's proudest moment, American troops burned the Parliament House and the Library of Canada in present day Toronto. Seeking revenge, a year later British troops stormed into Washington, burned the White House and the Capitol, including the original Library of Congress. Recognizing that this national treasure must be restored, the then retired Thomas Jefferson offered his personal library at Monticello as a replacement.

Today the Library is the most comprehensive library in the country, and

is almost completely open to the public. It is more than just Congress' library, it is the nation's source of knowledge.

This year we have been marking the Library's 200th anniversary. It comes as no surprise that the centerpiece of this year's Bicentennial celebration is the Local Legacies Project, a volunteer project that celebrates America's history, culture, and folklore. With this exhibit the Library will showcase important events, places, and people from around the nation—things that help define who we are as Americans and what this country is all about.

I am proud that five projects from across New York State which I designated have been included as part of the Local Legacies Project. They are the Little Falls Canal Celebration, Winter Olympics at Lake Placid (Olympic Regional Development Authority), Summer at Jones Beach (New York State Parks), ''Immigrant Life in New York'' (Lower East Side Tenement Museum), and the Allentown Arts Festival. I believe that these events, along with those other projects nominated by my colleagues from the New York Congressional Delegation, represent the diversity and rich history that is New York State.

The Lower East Side Tenement museum shows how New York City's large and diverse immigrant culture lived upon beginning their new lives in America. Jones Beach represents the many recreation opportunities our state offers and how families spend time together. The Little Falls Canal Celebration is about the history of our State's industrial development and the pride a local community has taken in that history. Were it not for the Erie Canal, New York would not be the Empire State. Lake Placid, home of two Winter Olympics is about New York's rich sports history. It also is a showcase for the beauty and majesty of the Adirondack Mountains. Finally, the Allentown Arts Festival is about our commitment to the arts, something which can be seen across the State but especially in Allentown.

It was one of the great and inspired choices of our predecessors in the Congress to purchase Thomas Jefferson's personal library, and thereafter establish the Library of Congress. As New Yorkers, with our Public Library, we truly understand the eminence of the Library of Congress. It is the largest research library in this country, and indeed the world. The Local Legacies Project is a fitting way to celebrate this great treasure. The Library is about preserving and disseminating knowledge about many things, but especially about this great nation. The Local Legacies project is about commemorating and showcasing that knowledge.●

THE MATCHMAKERS

● Mr. BOND. Mr. President, when journalists and political scientists write about the activities here, they often prepare articles about how a bill becomes a law. That is an interesting study, but it is only half of the story. In fact, it is equally interesting to see how a law becomes a program—how words on the law books are transformed into a working program that delivers services to our constituents.

The key to that process is people. Ultimately, someone has to take responsibility for carrying out the laws we craft here. Today I want to recognize a group of people who are aggressively working to give life to the HUBZone program we passed in 1997.

The HUBZone program seeks to use the Government's purchasing power to encourage economic growth and job creation in the Nation's most intransigent areas of poverty and unemployment. These areas often present the greatest challenge because they lack a strong customer base.

As a result, small businesses tend not to locate in these areas, preferring to set up their operations in more prosperous areas that have an established stream of customer traffic. The HUBZone program seeks to offset this imbalance by making the Government a customer to firms willing to invest in these hard-to-reach communities.

Over two years have passed since the HUBZone program was signed into law, but progress has been very slow. Recently the Small Business Administration certified the 1,000th HUBZone small business concern, a major milestone. However, the need is much greater. Without a large base of certified firms, the Government will not have enough participating companies to do business on the scale we envisioned in writing the program.

Because of this lack of certified companies, some agencies are throwing up their hands and opting not to carry out the HUBZone law. Without enough vendors to bid on contracts, some agencies are letting this tremendous new resource sit idle.

Defense Department agencies in the New England States have proved an exception to that rule. The Northeast Regional Council, which comprises small business officers from Defense agencies and Procurement Technical Assistance Centers, along with defense contractors large and small, created a special High Performance Team dubbed ''The Matchmakers'' to identify problems in implementing the HUBZone program and to work aggressively to solve them.

The Matchmakers found six components that were mismatched (''the hexa-mismatch problem''): contract requirements, suppliers, commodities, agency databases, education and benefits under the program, and the HUBZones themselves. For example, commodities to be purchased were not matched with suppliers who could provide them, and those suppliers were not necessarily matched to HUBZone areas that would make them eligible to participate.

Having distilled the problem to its most basic elements, the Matchmakers are now setting out to track down suppliers who could fill the agencies' procurement needs, identify those that are located in HUBZones, educate them about the program benefits, and get them to apply for certification.

Mr. President, this kind of aggressive action is exactly what is necessary to transform the HUBZone Act from mere words on a page into a program that helps real people and communities. Someday, when the HUBZone program is delivering benefits and creating jobs for people who currently do not have them, it will be essential to remember the people who made it possible. So that their names are not forgotten, I ask to include in the RECORD a list of the members of the Matchmakers High Performance Team, and I call the attention of my colleagues to their leadership and hard work.

Richard S. Alexander, Market Development Center, Bangor, ME

Ronald R. Belden, Kollsman Inc., Merrimack, NH

Deborah Bode, Kaman Aerospace Corporation, Bloomfield, CT

Ira M. Brand, Sanders-Lockheed Martin, Nashua, NH

Cynthia Busch, Market Development Center, Bangor, ME

Sean Crean, Small Business Administration, Augusta, ME

Carl E. Cromer, Defense Contact Management Command, Hartford, CT

Janette Fasano, Small Business Administration, Boston, MA

Joseph M. Flynn, New Hampshire Office of Business and Industrial Development, Concord, NH

John Forcucci, BBN Corporation, Cambridge, MA

Benita Fortner, Raytheon Company, Lexington, MA

Len Green, Massachusetts Small Business Development Center, Salem, MA

Keith Hubbard, Small Business Administration, Bedford, MA

Maridee N. Kirwin, GEO-Centers, Inc., Newton Center, MA

Gregory Lawson, State of Vermont Department of Economic Development, Montpelier, VT

Ken Lewis, Rhode Island Economic Development Corporation, Providence, RI

John H. McMullen, General Dynamics Government Services Corporation, Needham Heights, MA

David J. Rego, Naval Undersea Warfare Center Division Newport, Newport, RI

Barbara A. Riley, Textron Systems, Wilmington, MA

Michael Robinson, Massachusetts Procurement Technical Assistance Center, Amherst, MA

Philip R. Varney, Defense Contract Management Command, Boston, MA

Arlene M. Vogel, Connecticut Procurement Technical Assistance Center, New London, CT●

GEORGIA RESEARCH ALLIANCE HELPS CONVERT A VISION INTO REALITY

Mr. CLELAND. Mr. President, ten years ago the business, government and academic leaders in the state of Georgia had a vision. Their vision was to cultivate and develop a robust technology-driven economy and to make

Georgia's high-tech industry one of the best in the nation. I'm pleased to report that this vision is a reality today. Georgia is now the nation's leader in generating high-tech jobs and Atlanta is the undisputed high-tech capital of the Southeast! I'd like to pay tribute to the men and women of Georgia for their role in making these monumental achievements possible.

One of the leading organizations that is responsible for advancing Georgia's high-tech economy is the Georgia Research Alliance. The Alliance's mission is to develop Georgia's high-tech economy by enabling the states's research universities to become powerful engines of economic growth. The Alliance has carried out its mission over the past ten years by strategically investing $240 million in State and Federal funding and $65 million in matching funds from private sector firms, like Bell South, Merial Corporation and Georgia Power. These investments are paying big dividends. First, Georgia has utilized over $600 million in Federal grants and contracts for building a premier high-tech research infrastructure through focused investments in the State's research universities, creating endowments for eminent scholars, building state-of-the-art research facilities and equipping the State's research laboratories. The Alliance has also been responsible for creating a high-tech, business friendly environment that has created new businesses from the research findings developed in the State's universities and enticed eminent scholars to relocate to Georgia.

Another key achievement of the Alliance is growing high-tech jobs in the state. Since the Alliance began serving Georgia just ten years ago, the number of high-tech jobs in the state has more than doubled. These exceptional achievements have made Georgia the national leader in high-tech job growth and allowed Georgia to gain worldwide recognition for its ability to craft a state-of-the-art technology-based economy.

It is the efforts of many individuals, researchers and scholars, working with and for the Alliance, that have led to the successes this organization has attained. The Alliance has been responsible for attracting some of the best researchers and scholars in the world to help build Georgia's premier high-tech infrastructure. For example, Dr. Julia Hilliard, an Alliance Eminent Scholar in molecular biotechnology at Georgia State University, has come to Georgia with an interest in preventing the spread of herpes-B, which is one of the most feared occupational hazards in biomedical science. Dr. Rafi Ahmed at the Emory University School of Medicine is working to develop a vaccine that will permit the human immune system to respond with greater vigor when encountering a previously encountered pathogen. Included in this cutting-edge organization are world renowned researchers like Dr. Rao Tummala of the Georgia Institute of Technology, whose interests are the next generation electronic packaging, integral passive components, ultra high-density substrate technologies. These are only a few of the many dedicated researchers and scholars who are helping to shape Georgia's high-tech economy for the 21st century and are ensuring that Georgia becomes an even stronger world-class leader in high-tech development.

There are many others who are working on notable projects, from agricultural biotechnology to water and air quality enhancements to technology-based learning, to e-commerce and wireless communication. All of the Eminent Scholars who have chosen Georgia to undertake their research do so for one reason—the strategic course Georgia has chosen to make its high-tech economy world class by the year 2010.

The major drive in developing Georgia's technology economic sector has been the investment of hundreds of millions of dollars to establish new, leading-edge research programs, especially those involving collaboration between academic and industrial scientists and engineers. These investments have gone to developing research at Georgia's universities and have resulted in tremendous advances in technology related discoveries. These successes are continuing today by investments in people, laboratory construction and specialized instrumentation in support of collaborative research and development.

This year the Alliance is expected to invest an additional $34 million to continue the progress being made to develop Georgia's technology-based economy. This effort includes $29.5 million for laboratory construction in support of collaborative research and development conducted by eminent researchers. Another $3.75 million will be used to fund endowments that will be used to recruit five additional Eminent Scholars for Georgia. The remaining $750,000 will be spent to continue the Alliance's highly successful Technology Partnerships which encourage new relationships with industry and assist in the commercialization of university-based research.

One of the highly promising projects that is being considered for future development is a project at the University of Georgia to add world-class and cutting edge animal genomics technology to Georgia's research and business sectors. For another project, it is envisioned that a team of collaborating Eminent Scholars from Albany State University and Georgia State University will be researching solutions on how to effectively deal with water scarcity problems. To help combat global infectious diseases, a collaborative team of respected scholars from Emory University, the Medical College of Georgia, University of Georgia, Georgia State and Geogia Tech will create a unique research program which will lead to the development and commercialization of new vaccines, diagnostics and drugs to prevent and treat infectious diseases that threaten the health of the world's population and livestock. This is only a sample of the extraordinary projects that are envisioned for this year. Just wait until next year. The advancements made by these projects will no doubt create even more exciting high-tech initiatives in the future.

The Alliance, through its hard work and dedicated people, has received worldwide recognition for its achievements and is prepared more than ever before to attract and retain some of the best researchers in the world. The Alliance has already been responsible for generating over 80,000 new jobs since 1990, and they are creating more jobs than ever through the formation of new technology-based companies. These companies are being formed almost daily in Georgia by converting research technology developed in university and industry laboratories into new commercial applications. One example is AviGenics, Inc., a development-stage company formed to commercialize the results of novel laboratory technologies in chicken transgenesis discovered at The University of Georgia. The company's avian transgenesis platform is being used to improve poultry agronomic traits and helping the pharmaceutical industry by producing high volumes of pharmaceutically-important proteins in eggs. Another successful high-tech upstart is the Digital Furnace Corporation. Formed in mid-1998, Digital Furnace is a spin-off from the Broadband Telecommunications Center led by Georgia Research Alliance Eminent Scholar John Limb, who successfully developed broadband technology to interconnect and automate the entire home. These enterprises are benefitting directly from Georgia's investment in new, state-of-the-art laboratories that the Alliance helped to build.

Even established major information technology companies are being attracted to Georgia by the presence of our strong science and technology programs and the state's commitment to growing the pool of eminent scholars. Today companies like Lucent Technologies are seeking to capitalize on Georgia's high-tech infrastructure. Recently, Lucent Technologies chose Atlanta to be home for its new Wireless Laboratory. The decision was based largely on its ability to work in close partnership with Georgia's great researchers and the Alliance's commitment to establish an eminent scholar chair and invest in a wireless systems laboratory at Georgia Tech. These investments are resulting in Georgia Tech's and Lucent's researchers working in partnership to further develop wireless communication capabilities. This partnership is also helping to bridge the gap between a company's problems and the expertise available at our research universities which, in

turn, is resulting in high-tech job creation and retention for the state of Georgia.

The work of the Alliance has only begun and they have great plans to build on their current successes by creating a stronger technology infrastructure in the State in the future. Their goal, as it has been in the past, is to make Georgia's technology economic sector one of the top five in the nation by the year 2010. The outstanding successes of the men and women of the Alliance have already proven that they are capable of achieving this goal. Based on the successes they have already achieved, I believe they will reach their goal sooner than expected. Ladies and gentleman of the Georgia Research Alliance, I am very grateful for your contributions and I am looking forward to your continued successes. Thank you very much for making Georgia a world class leader in technology development and for making Georgia's technology economy one of the best in the nation.●

THE IMPACT OF OSTEOPOROSIS

● Mr. GRASSLEY. Mr. President, I'd like to take a few moments to address a health issue of critical importance to Americans, especially older women. Osteoporosis affects 28 million Americans, 80 percent of whom are women. Nearly one in every two women and one in every eight men over age 50 will experience an osteoporotic fracture in his or her lifetime. This disease measurably impact the ability of many older Americans to maintain the independence and mobility so integral to mental well-being.

Osteoporosis is estimated to cost the United States care system $14 billion annually. In my home state of Iowa, it is estimated that $2.9 billion will be spent over the next 20 years as a result of hip, wrist and vetebral fractures. Annual costs are expected to increase from $76 million in 1995 to more than $229 million in 2015.

According to the Iowa Department of Elder Affairs, Iowa is the state with the highest proportion of people considered to be the ''oldest old'' in the country. Twenty percent are 80 years of age and over. The people in this age segment are more frequently women. They are usually living alone; and they are probably the persons with the lowest incomes.

One of the most sobering facts is that osteoporosis is largely preventable. Prevention is a key element in fighting the disease, because while there are numerous treatments for osteoporosis, there is no cure. According to the National Osteoporosis Foundation, there are four ways an individual can prevent osteoporosis. First, maintain a balanced daily diet rich in calcium and vitamin D. Participate in weight-bearing exercise. Do not smoke or drink excessively. And finally, when appropriate, have your bone density tested and take any physician-prescribed medications. All this to say, osteoporosis is a disease which we in the Senate cannot afford to take lightly.

The National Osteoporosis Foundation has declared May to be National Osteoporosis Prevention Month. In my capacity as an honorary member of the foundation's board of trustees, I am glad to have the opportunity to come to the floor to raise the issue of osteoporosis and speak on the need for continued vigilance in battling this disease.

In addition to being National Osteoporosis Prevention Month, May also marks a one-year anniversary for a special group in Iowa. In May 1999, a group of Newton, Iowa, residents formed the Newton Support Group under the leadership of Peg Bovenkamp and with the help of Skiff Medical Center. The Newton group is the first Iowa support network affiliated with the National Osteoporosis Foundation. Today, the members of the Newton Support Group are participating in Newton's Senior Citizen's Health Fair. I wish them success as they provide information to older Iowans about osteoporosis prevention and treatment. It is my sincere hope that in coming years we will see similar groups form in other parts of my great state and throughout the region.

Throughout my years in Congress, I have championed effort to increase awareness and research funding for osteoporosis. In the 102nd Congress, I introduced legislation to increase research at the Arthritis Institute, form a research center on osteoporosis, and create a Health and Human Services interagency council to set priorities for osteoporosis research.

More recently, I cosponsored legislation which passed as part of the Balanced Budget Act (BBA) of 1997. The Bone Mass Measurement Coverage Standardization Act, as included in the BBA, provides Medicare reimbursement for bone mass density tests for vulnerable beneficiaries. This benefit took effect July 1, 1998. And, yesterday I sent a letter to the Health Care Financing Administration (HCFA) requesting information and the most recent data possible on program utilization.

Osteoporosis deeply affects the lives of older Americans, mostly women. And, it is preventable if healthy lifestyle choices are made at a young age. As we recognize National Osteoporosis Prevention Month, I would commend the National Osteoporosis Foundation, the Strong Women Inside and Out coalition, Peg Bovenkamp and the Newton Support Group, and all those working to raise awareness of the disease. It is my sincere hope that someday in the not too distant future, I can again come to the floor with news of a cure for osteoporosis. Until that time, I will continue supporting efforts to eradicate this devastating disease.●

THE HISTORIC WOMEN'S COLLEGES AND UNIVERSITY BUILDING PRESERVATION ACT

● Mr. COVERDELL. Mr. President, I rise to announce that I have added my name as a cosponsor to S. 2581, the Historic Women's Colleges and University Building Preservation Act, which supports the preservation and restoration of historic buildings at seven historically women's public colleges or universities. One of the colleges eligible under this bill is Georgia College and State University, which is located in Milledgeville, Georgia. This campus was founded in 1889 as the sister institution to Georgia Tech. At the time, its emphasis was on preparing young women for teaching or industrial careers.

Georgia College and State University has grown significantly over the years and is now the state's designated liberal arts university, with a mission of combining the educational experiences typical of esteemed private liberal arts colleges with the affordability of public education. The school serves as a residential learning community with an emphasis on undergraduate education and offers selected graduate programs as well.

Several historic buildings comprise the campus which is located in the heart of the historic district of the city, which served as my state's capital for much of the 19th Century. The former Governor's mansion, the old Baldwin County Courthouse, and several historic residence halls are all candidates for the $10 million proposed in this legislation.

Mr. President, the schools which would receive funding under S. 2581 serve as a reminder of the struggle women went through to obtain access to higher education in our Nation. It is important that we do not allow these campuses to fade into history. I encourage all of my colleagues in the Senate and House to fully support this important legislation.●

DRUG COURTS IN THE YEAR 2000

● Mr. CAMPBELL. Mr. President, today I want to recognize Drug Courts and highlight the invaluable role they play in our Nation's war on drugs. As I have done at this time of the year for the past two years, I take this opportunity to call my colleagues' attention to the significant contribution Drug Courts make. Above all, I want to take this opportunity to once again recognize and applaud the dedicated professionals who have made our Nation's Drug Courts the successes they are today.

As our Drug Courts enter their eleventh year of operation, they are as important as ever in our Nation's battle against drug abuse and the devastating impact drugs have on our Nation and its families. Over the past year 100-plus new Drug Courts have been established throughout the country, bringing the

total number to over 700. Additionally, Drug Courts are now expanding internationally, underscoring their value around the world.

I am especially glad to hear that some of our Drug Courts' best practices are now being tailored to the needs and values of native communities, which for many years have suffered disproportionally from the scourge of substance abuse. The kinds of programs offered by Drug Courts could play a vital role in breaking the ''Iron Triangle'' of substance abuse, gangs and crime that trap far too many of our Nation's Native Americans and others in a cycle of poverty and hopelessness.

Next week—from June 1st and 3rd, 2000—the National Association of Drug Court Professionals (NADCP) will host the 6th Annual NADCP Drug Court Training Conference entitled ''Expanding the Vision: The New Drug Court Pioneers.'' in San Francisco, California. The NADCP expects that this year's drug court conference will be the largest ever, with over 3,000 drug court professionals slated to attend.

This year, six individuals will receive the 2000 NADCP New Pioneers Award. I congratulate and thank each of these six outstanding people. I especially want to recognize an award recipient from my home state of Colorado, the Denver District Attorney, William Ritter, Jr.

The Denver Drug Court is the first—ever drug court system which now handles 75 percent of all drug cases filed in the city and county of Denver. All offenders, with the exception of illegal aliens, those arrested with a companion non-drug felony case or who have two or more prior felony convictions, are handled in this court. Most individuals are assessed within 24 hours of arrest. The pre-trial case managers monitor offenders on bond, while they await entry into the program. Over 8,000 participants have entered the program since it began operations on July 1, 1994.

As the Chairman of the Treasury and General Government Subcommittee, which funds the Office of National Drug Control Policy (ONDCP), I took the opportunity to visit the Denver Drug Court with ONDCP Director Barry McCaffrey. We met with the Drug Court professionals and observed their judicial procedures. We also saw first-hand how the court's programs have a direct impact on drug-abusing offenders. I believe the Denver Drug Court serves as a role model for the next generation of Drug Court practitioners

Drug Courts continue to revolutionize the criminal justice system. The strategy behind Drug Courts departs from traditional criminal justice practice by placing non-violent drug abusing offenders into intensive court supervised drug treatment programs instead of prison. Drug Courts aim to reduce drug abuse and crime by employing tools like comprehensive judicial monitoring, drug testing, supervision, treatment, rehabilitative services, as well as other sanctions and incentives for drug offenders.

Statistics show us that Drug Courts work. More than 70 percent of Drug Court clients have successfully completed the program or remain as active participants. Drug Courts are also cost-effective. They help convert many drug-using offenders into productive members of society. This is clearly preferable to lengthy or repeated incarceration, which traditionally has yielded few gains for those struggling with drugs or our Nation as a whole. Drug Courts are proving to be an effective tool in our fight against both drug abuse and other drug-related crime.

I urge my colleagues to join me in recognizing those Drug Court professionals who are improving their communities by dedicating themselves to this worthwhile concept and expanding the vision for the next generation of practitioners.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, 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 treaties, nominations, and withdrawals which were referred to the appropriate committees.

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

THE AGREEMENT ON SOCIAL SECURITY BETWEEN THE UNITED STATES OF AMERICA AND THE REPUBLIC OF CHILE—A MESSAGE FROM THE PRESIDENT—PM 108

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Finance.

To the Congress of the United States:

Pursuant to section 233(e)(1) of the Social Security Act, as amended by the Social Security Amendments of 1977 (Public Law 95–216, 42 U.S.C. 433(e)(1)) (the ''Act''), I transmit herewith the Agreement Between the United States of America and the Republic of Chile on Social Security, which consists of two separate instruments: a principal agreement and an administrative arrangement. The Agreement was signed at Santiago on February 16, 2000.

The United States-Chilean Agreement is similar in objective to the social security agreements already in force between the United States and Austria, Belgium, Canada, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Norway, Portugal, Spain, Sweden, Switzerland, and the United Kingdom. Such bilateral agreements provide for limited coordination between the United States and foreign social security systems to eliminate dual social security coverage and taxation, and to help prevent the loss of benefit protection that can occur when workers divide their careers between two countries. The United States-Chilean Agreement contains all provisions mandated by section 233 and other provisions that I deem appropriate to carry out the purposes of section 233, pursuant to section 233(c)(4) of the Act.

I also transmit for the information of the Congress a report prepared by the Social Security Administration explaining the key points of the Agreement, along with a paragraph-by-paragraph explanation of the provisions of the principal agreement and the related administrative arrangement. Annexed to this report is the report required by section 233(c)(1) of the Social Security Act, a report on the effect of the Agreement on income and expenditures of the U.S. Social Security program and the number of individuals affected by the Agreement. The Department of State and the Social Security Administration have recommended the Agreement and related documents to me.

WILLIAM J. CLINTON.
THE WHITE HOUSE, *May 22, 2000*.

THE AGREEMENT BETWEEN THE UNITED STATES OF AMERICA AND THE REPUBLIC OF KOREA ON SOCIAL SECURITY—MESSAGE FROM THE PRESIDENT—PM 109

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Finance.

To the Congress of the United States:

Pursuant to section 233(e)(1) of the Social Security Act, as amended by the Social Security Amendments of 1977 (Public Law 95–216, 42 U.S.C. 433(e)(1)) (the ''Act''), I transmit herewith the Agreement Between the United States of America and the Republic of Korea on Social Security, which consists of two separate instruments: a principal agreement and an administrative arrangement. The Agreement was signed at Washington on March 13, 2000.

The United States-Korean Agreement is similar in objective to the social security agreements already in force with Austria, Belgium, Canada, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Norway, Portugal, Spain, Sweden, Switzerland, and the United Kingdom. Such bilateral agreements provide for limited coordination between the United States and foreign social security systems to eliminate dual social security coverage and taxation and to

help prevent the loss of benefit protection that can occur when workers divide their careers between two countries. The United States-Korean Agreement contains all provisions mandated by section 233 and other provisions that I deem appropriate to carry out the purposes of section 233, pursuant to section 233(c)(4) of the Act.

I also transmit for the information of the Congress a report prepared by the Social Security Administration explaining the key points of the Agreement, along with a paragraph-by-paragraph explanation of the provisions of the principal agreement and the related administrative arrangement. Annexed to this report is the report required by section 233(e)(1) of the Social Security Act, a report on the effect of the Agreement on income and expenditures of the U.S. Social Security program and the number of individuals affected by the Agreement. The Department of State and the Social Security Administration have recommended the Agreement and related documents to me.

WILLIAM J. CLINTON.
THE WHITE HOUSE, *May 22, 2000*.

MESSAGES FROM THE HOUSE

At 12:12 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 1836. An act to extend the deadline for commencement of construction of a hydroelectric project in the State of Alabama.

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 1752. An act to make improvements in the operation and administration of the Federal courts, and for other purposes.

The message further announced that the House has passed the following bills, with amendment, in which it requests the concurrence of the Senate:

S. 430. An act to amend the Alaska Native Claims Settlement Act, to provide for a land exchange between the Secretary of Agriculture and the Kake Tribal Corporation, and for other purposes.

S. 1236. An act to extend the deadline under the Federal Power Act for commencement of the construction of the Arrowrock Dam Hydroelectric Project in the State of Idaho.

The message also announced that the House has agreed to the amendments of the Senate to the bill (H.R. 154) to allow the Secretary of the Interior and the Secretary of Agriculture to establish a fee system for commercial filming activities on Federal land, and for other purposes.

The message also announced that the House has agreed to the amendments of the Senate to the bill (H.R. 834) to extend the authorization for the Historic Preservation Fund and the Advisory Council on Historic Preservation, and for other purposes.

The message further announced that the House has agreed to the amendments of the Senate to the bill (H.R. 1832) to reform unfair and anticompetitive practices in the professional boxing industry.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 302. Concurrent resolution calling on the people of the United States to observe a National Moment of Remembrance to honor the men and women of the United States who died in the pursuit of freedom and peace.

At 2:21 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following joint resolution, without amendment:

S.J. Res. 44. Joint resolution supporting the Day of Honor 2000 to honor and recognize the service of minority veterans in the United States Armed Forces during World War II.

At 4:53 p.m., a message from the House of Representatives, delivered by Mr. Hayes, one of its reading clerks, announced that the Speaker has signed the following enrolled bills and joint resolution:

S. 1836. An act to extend the deadline for commencement of construction of a hydroelectric project in the State of Alabama.

S.J. Res. 44. An act supporting the Day of Honor 2000 to honor and recognize the service of minority veterans in the United States Armed Forces during World War II.

H.R. 154. An act to allow the Secretary of the Interior and the Secretary of Agriculture to establish a fee system for commercial filming activities on Federal land, and for other purposes.

H.R. 834. An act to extend the authorization for the Historic Preservation Fund and the Advisory Council on Historic Preservation, and for other purposes.

H.R. 1832. An act to reform unfair and anticompetitive practices in the professional boxing industry.

The enrolled bills and joint resolution were signed subsequently by the President pro tempore (Mr. THURMOND).

MEASURES REFERRED

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

H.R. 1752. An act to make improvements in the operation and administration of the Federal courts, and for other purposes; to the Committee on the Judiciary.

The following bill was referred to the Select Committee on Intelligence, pursuant to section 3(b) of Senate Resolution 400, 94th Congress, for a period not to exceed 30 days of session:

S. 2089. An act to amend the Foreign Intelligence Surveillance Act of 1978 to modify procedures relating to orders for surveillance and searches for foreign intelligence purposes, and for other purposes.

The following concurrent resolution was read and referred as indicated:

H. Con. Res. 302. Concurrent resolution calling on the people of the United States to observe a National Moment of Remembrance to honor the men and women of the United States who died in the pursuit of freedom and peace; to the Committee on the Judiciary.

ENROLLED BILL AND JOINT RESOLUTION PRESENTED

The Secretary of the Senate reported that on today, May 23, 2000, he had presented to the President of the United States, the following bill and joint resolution:

S. 1836. An act to extend the deadline for commencement of construction of hydroelectric project in the State of Alabama.

S.J. Res. 44. Joint resolution supporting the Day of Honor 2000 to honor and recognize the service of minority veterans in the United States Armed Forces during World War II.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BENNETT, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

H.R. 2260: A bill to amend the Controlled Substances Act to promote pain management and palliative care without permitting assisted suicide and euthanasia, and for other purposes (Rept. No. 106–299).

By Mr. MCCAIN, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

S. 1089: A bill to authorize appropriations for fiscal years 2000 and 2001 for the United States Coast Guard, and for other purposes (Rept. No. 106–300).

By Mr. MCCAIN, from the Committee on Commerce, Science, and Transportation, without amendment:

S. 2327: A bill to establish a Commission on Ocean Policy, and for other purposes (Rept. No. 106–301).

(By Mr. MCCAIN, from the Committee on Commerce, Science, and Transportation, with an amendment:

H.R. 1651: A bill to amend the Fishermen's Protective Act of 1967 to extend the period during which reimbursement may be provided to owners of United States fishing vessels for costs incurred when such a vessel is seized and detained by a foreign country (Rept. No. 106–302).

By Mr. HATCH, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 2089: A bill to amend the Foreign Intelligence Surveillance Act of 1978 to modify procedures relating to orders for surveillance and searchers for foreign intelligence purposes, and for other purposes.

By Mr. BENNETT, from the Committee on Appropriations, without amendment:

S. 2603: An original bill making appropriations for the Legislative Branch for the fiscal year ending September 30, 2001, and for other purposes (Rept. No. 106–304).

By Mr. STEVENS, from the Committee on Appropriations:

Special Report entitled ''Revised Allocation to Subcommittees of Budget Totals, Fiscal Year 2001'' (Report No. 106–303).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

By Ms. SNOWE (for herself and Ms. COLLINS):

S. 2602. A bill to provide for the Secretary of Housing and Urban Development to fund, on a 1-year emergency basis, certain requests for grant renewal under the programs for permanent supportive housing and shelter-plus-care for homeless persons; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. BENNETT:

S. 2603. An original bill making appropriations for the Legislative Branch for the fiscal year ending September 30, 2001, and for other purposes; placed on the calendar.

By Mr. DORGAN (for himself and Mr. ROCKEFELLER):

S. 2604. A bill to amend title 19, United States Code, to provide that rail agreements and transactions subject to approval by the Surface Transportation Board are no longer exempt from the application of the antitrust laws, and for other purposes; to the Committee on the Judiciary.

By Ms. COLLINS:

S. 2605. A bill to amend the Internal Revenue Code of 1986 to expand income averaging to include the trade or business of fishing and to provide a business credit against income for the purchase of fishing safety equipment; to the Committee on Finance.

By Mr. HOLLINGS (for himself, Mr. ROCKEFELLER, Mr. BRYAN, Mr. BREAUX, Mr. INOUYE, Mr. FEINGOLD, Mr. EDWARDS, Mr. KERREY, Mr. CLELAND, Mr. DURBIN, and Mr. BYRD):

S. 2606. A bill to protect the privacy of American consumers; to the Committee on Commerce, Science, and Transportation.

By Mr. WYDEN:

S. 2607. A bill to promote pain management and palliative care without permitting assisted suicide euthanasia, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. GRASSLEY (for himself and Mr. ROTH):

S. 2608. A bill to amend the Internal Revenue Code of 1986 to provide for the treatment of certain expenses of rural letter carriers; to the Committee on Finance.

By Mr. CRAIG (for himself and Mr. CRAPO):

S. 2609. A bill to amend the Pittman-Robertson Wildlife Restoration Act and the Dingell-Johnson Sport Fish Restoration Act to enhance the funds available for grants to States for fish and wildlife conservation projects, and to increase opportunities for recreational hunting, bow hunting, trapping, archery, and fishing, by eliminating chances for waste, fraud, abuse, maladministration, and unauthorized expenditures for administration and implementation of those Acts, and for other purposes; to the Committee on Environment and Public Works.

By Mr. HARKIN (for himself, Mr. THOMAS, Mr. CRAIG, and Mr. FEINGOLD):

S. 2610. A bill to amend title XVIII of the Social Security Act to improve the provision of items and services provided to medicare beneficiaries residing in rural areas; to the Committee on Finance.

By Mr. LEVIN:

S. 2611. A bill to provide trade adjustment assistance for certain workers; to the Committee on Finance.

By Mr. GRAHAM (for himself, Mr. GRASSLEY, Mr. THOMAS, Mr. BIDEN, and Mr. BAYH):

S. 2612. A bill to combat Ecstasy trafficking, distribution, and abuse in the United States, and for other purposes; to the Committee on the Judiciary.

By Mr. GRAHAM:

S. 2613. A bill to amend the Tariff Act of 1930 to permit duty drawbacks for certain jewelry exported to the United States Virgin Islands; to the Committee on Finance.

By Mr. THURMOND (for himself and Mr. HOLLINGS):

S. 2614. A bill to amend the Harmonized Tariff Schedule of the United States to provide for duty-free treatment on certain manufacturing equipment; to the Committee on Finance.

By Mr. KENNEDY (for himself and Mrs. HUTCHISON):

S. 2615. A bill to establish a program to promote child literacy by making books available through early learning and other child care programs, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. FEINGOLD (for himself, Mrs. BOXER, Mr. KOHL, Mr. WELLSTONE, Mrs. FEINSTEIN, and Mr. GRAMS):

S. Res. 309. A resolution expressing the sense of the Senate regarding conditions in Laos; to the Committee on Foreign Relations.

By Ms. SNOWE (for herself, Mr. WARNER, Mr. LEVIN, Mr. THURMOND, Mr. KENNEDY, Mr. MCCAIN, Mr. ROBB, Mr. SMITH of New Hampshire, Mr. REED, Mr. INHOFE, Mr. LIEBERMAN, Mr. SANTORUM, Mr. CLELAND, Mr. ROBERTS, Mr. HUTCHINSON, and Mr. SESSIONS):

S. Res. 310. A resolution honoring the 19 members of the United States Marine Corps who died on April 8, 2000, and extending the condolences of the Senate on their deaths; considered and agreed to.

By Mr. BOND (for himself, Mr. KERRY, Mr. ABRAHAM, Mr. BURNS, Ms. SNOWE, Ms. LANDRIEU, Mr. LIEBERMAN, Mr. EDWARDS, Mr. BINGAMAN, Mrs. MURRAY, and Mr. HARKIN):

S. Res. 311. A resolution to express the sense of the Senate regarding Federal procurement opportunities for women-owned small businesses; considered and agreed to.

By Mr. LOTT (for himself and Mr. DASCHLE):

S. Res. 312. A resolution to authorize testimony, document production, and legal representation in State of Indiana v. Amy Han; considered and agreed to.

By Mr. LOTT (for himself and Mr. DASCHLE):

S. Res. 313. A resolution to authorize representation by the Senate Legal Counsel in Harold A. Johnson v. Max Cleland, et al; considered and agreed to.

By Mr. BOND (for himself, Mr. ASHCROFT, and Mr. ROBERTS):

S. Con. Res. 114. A concurrent resolution recognizing the Liberty Memorial in Kansas City, Missouri, as a national World War I symbol honoring those who defended liberty and our country through service in World War I; to the Committee on Energy and Natural Resources.

By Mr. THOMAS (for himself and Mr. ENZI):

S. Con. Res. 115. A concurrent resolution providing for the acceptance of a statue of Chief Washakie, presented by the people of Wyoming, for placement in National Statuary Hall, and for other purposes; to the Committee on Rules and Administration.

By Mr. LOTT (for himself, Mr. DASCHLE, Mr. HELMS, Mr. BIDEN, Mr. GRAHAM, Mr. BAUCUS, Mr. HARKIN, Mr. JOHNSON, Mr. DODD, Mrs. FEINSTEIN, Mrs. MURRAY, and Mr. CONRAD):

S. Con. Res. 116. A concurrent resolution commending Israel's redeployment from southern Lebanon; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Ms. SNOWE (for herself and Ms. COLLINS):

S. 2602. A bill to provide for the Secretary of Housing and Urban Development to fund, on a 1-year emergency basis, certain requests for grant renewal under the programs for permanent supportive housing and shelter-plus-care for homeless persons; to the Committee on Banking, Housing, and Urban Affairs.

HOMELESS ASSISTANCE LEGISLATION

• Ms. SNOWE. Mr. President, I rise to introduce legislation designed to guarantee funding for Department of Housing and Urban Development (HUD) McKinney Act homeless assistance programs, including Shelter Plus Care and the Supportive Housing Program (SHP).

The legislation I am introducing today mirrors legislation introduced earlier this year in the House by Representative LAFALCE and included in the House version of the FY01 supplemental, which would renew existing Shelter Plus and SHP contracts and fund them under the budget for the HUD Section 8 housing assistance program.

The renewals funded under this legislation would provide grant funding for existing programs that support assistance to some of the most vulnerable Americans—the homeless. Without the resources that this bill is designed to provide, many who receive assistance today will literally be left out in the cold.

Keep in mind that these are not new programs—they are renewals. And they fund community initiatives already in place in cities and towns across the country that provide assistance to those in need. Under Shelter Plus and SHP, states are awarded grants for services such as subsidized housing for the homeless, many of whom are physically or mentally ill or disabled, or who suffer from substance abuse problems, as well as job training, shelters, health care, child care, and other services for this population. Some of the victims that are helped are children, low-income families, single mothers, and battered spouses. Many are also veterans.

I have witnessed first-hand the dislocation that can be caused by non-renewal. In January of last year, HUD issued homeless grant assistance announcements to most states but denied applications submitted by the Maine State Housing Authority and by the city of Portland, Maine leaving the state one of only four not to receive any funds. We were alarmed to learn that this would mean that many homeless agencies and programs could lose

funding altogether, and that in fact, over 70 homeless people with mental illnesses or substance abuse problems would lose housing subsidies.

The Maine congressional delegation immediately protested the decision to HUD Secretary Andrew M. Cuomo. HUD officials ultimately restored about $1 million in funding to the city of Portland, a portion of the city's request, but refused to restore any State homeless funding.

In 1998, Maine homeless assistance providers received about $3.5 million for HUD, and the State had simply requested $1.2 million for renewals and $1.27 million to meet additional needs in 1999. What did they get to meet these needs—nothing. In spite of the proven track record of homeless programs in Maine, including praise by Secretary Cuomo during an August 1998 visit to Maine, HUD completely zeroed out funding for Maine. Not a penny for these disadvantaged children, battered women, single mothers, disabled individuals, and veterans who sacrificed to preserve the freedoms we cherish.

This could happen anywhere, but it shouldn't. This is why I have also cosponsored legislation authored by my colleague from Maine, Senator COLLINS, to guarantee minimum funding for every state and assure a fairer, more equitable allocation of funding in the future. The legislation requires HUD to provide a minimum of 0.5 percent of funding to each state under title IV of the Stewart B. McKinney Homeless Assistance Act.

Without this assistance, basic subsidized housing and shelter programs suffer, and it is more difficult for states to provide job training, health care, child care, and other vital services to the victims of homelessness.

In 1988, 14,653 people were temporarily housed in Maine's emergency homeless shelters. Alarmingly, young people account for 30 percent of the population staying in Maine's shelters, which is approximately 135 homeless young people every night. Twenty-one percent of these young people are between 5–12 with the average age being 13.

It is vitally important that changes be made to our homeless policy to ensure that no state falls through the cracks in the future. As such, I urge my colleagues to join me in a strong show of support for the legislation I am proposing today. I hope this legislation will contribute to the dialogue under way as to how best to enhance federal homeless assistance initiatives, so that programs around the country can continue to provide vital services to the less fortunate among us.

Lastly, Mr. President, I would be remiss if I did not express my gratitude to Senator BOND, who chairs the Senate VA–HUD Subcommittee for his leadership and his support when HUD zeroed out funding for Maine's homeless programs. I am very grateful for his vision and leadership on issues of importance to homeless advocates nationwide. To that end, I am pleased that the Senate version of the fiscal year 2001 Agriculture Department appropriations report contains language expressing concern about the HUD policies that resulted in a number of local homeless assistance initiatives going unfunded in recent years, and urging HUD to ensure that expiring rental contracts are renewed. HUD is also directed to submit a report to Congress explaining why projects with expiring grants were rejected during the 1999 round.

I look forward to working with the Senate VA–HUD Appropriations Subcommittee as well as the Banking Committee as this year's legislative and appropriations process continues, and as we endeavor to craft a long-term solution to the homeless problem that is fiscally and socially responsible and improves the effectiveness of federal homeless programs for the future.

Once again, I applaud the leadership of the Senate VA–HUD and Banking panels on this important issue, and I am confident in their commitment to further improvements in the program.●

By Ms. COLLINS:

S. 2605. A bill to amend the Internal Revenue Code of 1986 to expand income averaging to include the trade or business of fishing and to provide a business credit against income for the purchase of fishing safety equipment; to the Committee on Finance.

TAX LEGISLATION FOR COMMERCIAL FISHERMEN

Ms. COLLINS. Mr. President, I rise today to introduce legislation designed to help commercial fishermen navigate the often choppy waters of the Internal Revenue Code.

The legislation I am introducing would make two commonsense changes to our tax laws. First, my legislation would extend a $1,500 tax credit to commercial fishermen to assist them in the purchase of important safety equipment.

Commercial fishermen engage in one of the most dangerous professions in America. They have a higher fatality rate than even firefighters, police officers, truck or taxi drivers. From 1994 to 1998, 396 commercial fishermen lost their lives while fishing. Last year, in the wake of catastrophic events that killed 11 fishermen over the course of only 1 month, the Coast Guard Fishing Vessel Casualty Task Force was convened. The task force issued a report that draws several conclusions about current fishing vessel safety. Despite the grim safety statistics surrounding the profession of fishing, the report concludes that most fishing deaths are preventable. One significant way to prevent these tragic deaths is to make safety equipment on commercial fishing vessels more widely available.

As those of us who represent States with commercial fishing industries may recall, in 1988, Congress passed the Commercial Fishing Industry Vessel Safety Act. This act required lifesaving and firefighting equipment to be placed on board all fishing boats. Unfortunately, the cost of some of the safety equipment has proven to be a serious practical impediment for many commercial fishermen. The margin of profit for some commercial fishermen is simply too narrow and they simply lack the funds required to purchase the expensive safety equipment they require.

Moreover, as the fishing industry has come under increasingly heavy Federal regulation, fishermen have often felt compelled to greatly increase their productivity on those days when they are permitted to fish. As a result, too many take dangerous risks in order to earn a living.

Just this last January, in my home State of Maine, a terrible and tragic incident highlighted the critical importance of safety equipment. Two very experienced fishermen tragically drowned off Cape Neddick when their commercial fishing vessel capsized during a storm. The sole survivor of this tragedy was the fisherman who was able to correctly put on an immersion suit, a safety suit that the Coast Guard has required on cold water commercial fishing boats since the early 1990s.

In fact, immersion suits, liferafts, and emergency locater devices have been credited with saving more than 200 lives since 1993. By providing a $1,500 tax credit for fishermen to purchase safety equipment, my legislation would encourage the wider availability and use of safety equipment on our Nation's commercial fishing boats. We should take this sensible step to help ensure that fishermen do not set off without essential safety gear.

The second provision of my bill would eliminate some of the perils that the Tax Code has that particularly affect commercial fishermen. I propose to allow fishermen to use income-averaging tax provisions that are now available to our Nation's farmers. For tax purposes, income averaging allows individuals to carry back income from a boom year to a prior less prosperous year. This tax treatment assists individuals who must adapt to wide fluctuations in their income from year to year by preventing them from being pushed into higher tax brackets in random good years.

Until 1986, both farmers and fishermen were covered under the Tax Code's income-averaging provisions. However, income averaging disappeared as part of the tax restructuring undertaken in 1986. In 1997, income-averaging provisions were again reintroduced into our Tax Code, but unfortunately, under the changes in the 1997 law, only farmers were permitted to benefit from this tax relief. The Tax and Trade Relief Extension Act of 1998 permanently extended this tax relief provision, but again only for our farmers.

Although I am very pleased that Congress has restored income averaging for our Nation's farmers, I do not believe our fishermen should be left out in the

cold and excluded from using income averaging. The legislation that I introduce today would restore fairness by extending income averaging to our fishermen as well as our farmers.

Parallel tax treatment for fishermen and farmers is appropriate for many reasons. Currently, unlike farmers, fishermen's sole tax protection to handle fluctuations in income are found in the Tax Code's net operating loss provisions. These provisions do not provide the tax benefits of income averaging and are so complex in their computation that it often defies the ability of any individual without a CPA after his or her name.

Most importantly, both farm and fishing income can fluctuate widely from year to year due to a wide range of uncontrollable circumstances, including market prices, the weather and, in the case of fishing, Government restrictions.

I urge my colleagues to help our fishermen cope with the fluctuations in their income by restoring this important tax provision and by extending a safety tax credit to help protect them from the hazards that their fishing profession entails.

By Mr. HOLLINGS (for himself, Mr. ROCKEFELLER, Mr. BRYAN, Mr. BREAUX, Mr. INOUYE, Mr. FEINGOLD, Mr. EDWARDS, Mr. KERREY, Mr. CLELAND, Mr. DURBIN, and Mr. BYRD):

S. 2606. A bill to protect the privacy of American consumers; to the Committee on Commerce, Science, and Transportation.

THE CONSUMER PRIVACY PROTECTION ACT

Mr. HOLLINGS. Mr. President, I rise today to introduce legislation to address one of the most pressing problems facing American consumers today—the constant assault on citizens' privacy by the denizens of the private marketplace. This legislation, the Consumer Privacy Protection Act of 2000, represents an attempt to provide basic, widespread, and warranted privacy protections to consumers in both the online and offline marketplace. On the Internet, our bill sets forth a regulatory regime to ensure pro-consumer privacy protections, coupling a strong federal standard with preemption of inconsistent state laws on Internet privacy. We need a strong federal standard to protect consumer privacy online, and we need preemption to ensure business certainty in the marketplace, given the numerous state privacy initiatives that are currently pending. Off the Internet, this bill extends privacy protections that are already on the books to similarly regulated industries or business practices, and requires a broad examination of privacy practices in the traditional marketplace to help Congress better understand whether further regulation is appropriate.

The introduction of this legislation comes as the Federal Trade Commission releases its eagerly awaited report on Internet Privacy. Released yesterday, that report concludes that Internet industry self-regulation efforts have failed to protect adequately consumer privacy. Accordingly, the report calls for legislation that requires commercial web sites to comply with the ''four widely accepted fair information practices'' of notice, consent, access, and security. The legislation that we introduce today accomplishes just that.

On the Internet, many users unfortunately are unaware of the significant amount of information they are surrendering every time they visit a web site. For many others, the fear of a loss of personal privacy on the Internet represents the last hurdle impeding their full embrace of this exciting and promising new medium. Nonetheless, millions of Americans every day utilize the Internet and put their personal information at risk. As the Washington Post reported on May 17, 2000:

> The numbers tell the story. About 44.4 million households will be online by the end of this year . . . up from 12.7 million in 1995, an increase of nearly 250 percent over five years. Roughly 55 million Americans log into the Internet on a typical day. . . . Industry experts estimate that the amount of Internet traffic doubles every 100 days. . . . These changes are not without a price. Along with wired life comes growing concern about intrusions into privacy and the ability to protect identities online.

As Internet use proliferates, there needs to be some regulation and enforcement to ensure pro-consumer privacy policies, particularly where the collection, consolidation, and dissemination of private, personal information is so readily achievable in this digital age. Indeed, advances in technology have provided information gatherers the tools to seamlessly compile and enhance highly detailed personal histories of Internet users. Despite these indisputable facts, industry has to this point nearly unanimously opposed even a basic regulatory framework that would ensure the protection of consumer privacy on the Internet—a basic framework that has been successfully adopted in other areas of our economy.

Our bill gives customers, not companies, control over their personal information on the Internet. It accomplishes this goal by establishing in law the five basic tenets of the long-established fair information practices standards—notice, consent, access, security, and enforcement. The premise of these standards is simple:

(1) Consumers should be given notice of companies' information practices and what they intend to do with people's personal information.

(2) Consumers should be given the opportunity to consent, or not to consent, to those information practices.

(3) Consumers should be given the right to access whatever information has been collected about them and to correct that information where necessary.

(4) Companies should be required to establish reasonable procedures to ensure that consumers' personal information is kept secure.

(5) A viable enforcement mechanism must be established to safeguard consumers' privacy rights.

While the Internet industry argues that the need for these protections are premature, the threat to personal privacy posed by advances in technology was anticipated twenty three years ago by the Privacy Protection Study Commission, which was created pursuant to the Privacy Act of 1974. In 1977, that Commission reported to the Congress and the federal government on the issue of privacy and technology. The Commission's portrait of the world in 1977 might well still be used today. That report found that society is increasingly dependant on ''computer based record keeping systems,'' which result in a ''rapidly changing world in which insufficient attention is being paid—by policy makers, system designers, or system users—to the privacy protection implications of these trends.'' The report went on to state that even where some privacy protections exist under the law, ''there is the danger that personal privacy will be further eroded due to applications of new technology. Policy makers must not be complacent about this potential. The economic and social costs of incorporating privacy protection safeguards into a record-keeping systems are always greater when it is done retroactively than when it is done at the system's inception.''

Today, twenty three years later, as we enter what America Online chairman Steve Case calls the ''Internet Century,'' the words of the Privacy Commission could not be more appropriate. Poll after poll indicates that Americans fear that their privacy is not being sufficiently protected on the Internet. Last September, the Wall St. Journal reported that Americans' number one concern (measured at 29 percent as we enter the 21st century was a fear of a loss of personal privacy. Just two months ago, Business Week reported that 57 percent of Americans believe that Congress should pass laws to govern how personal information is collected and used on the Internet. Moreover, a recent survey by the Federal Trade Commission found that 87 percent of respondents are concerned about threats to their privacy in relation to their online usage. And, while industry claims that self-regulation is working, only 15 percent of those polled by Business Week believed that the Government should defer to voluntary, industry-developed privacy standards.

Are these fears significant enough to require federal action? Absolutely, particularly in light of predictions by people such as John Chambers, the CEO of CISCO Systems, who forecasts that one quarter of all global commerce will be conducted online by 2010. As the Privacy Commission stated a quarter of a century ago, the ''economic and social costs'' of mandating pro-privacy protections will be far lower now than when the Internet is handling twenty

five percent of all global commerce. Besides if John Chambers is right, the Internet industry should embrace, rather than resist, strong privacy policies. Simply put, strong privacy policies represent good business. For example, a study conducted by Forrester Research in September 1999 revealed that e-commerce spending was deprived of $2.8 billion in possible revenue last year because of consumer fears over privacy.

Indeed, the fears and concerns reflected in these analyses are borne out in study after study on the privacy practices—or lack thereof—of the companies operating on the Internet. Last year, an industry commissioned study found that of the top 100 web sites, while 99 collect information about Internet users, only 22 comply with all four of the core privacy principles of notice, choice, access, and security. A broader industry funded survey reports that only 10 percent of the top 350 Web sites implement all four of these privacy principles. This week, our Committee will hold a hearing to receive the report of the Federal Trade Commission on its most recent analysis of the privacy policies of the Internet industry. While the industry will claim that they have made tremendous progress in their self-regulatory efforts, the FTC apparently, is not convinced—finding in its report release yesterday that ''only 20% of the busiest sites on the World Wide Web implement to some extent all four fair information practices in their privacy disclosures. Even when only Notice and Choice are considered, fewer than half of the sites surveyed (41%) meet the relevant standards.'' This record indicates that we should begin to consider passing pro-consumer privacy legislation this year. The public is clamoring for it, the studies justify it, and the potential harm from inaction is simply too great.

It is worth noting that advocates of self-regulation often claim that the collection and use of consumer information actually enhances the consumer experience on the Internet. While there may be some truth to that claim, many Internet users do not want companies to target them with marketing based on their personal shopping habits. Those individuals should be given control over whether and how their personal information is used via an ''opt-in'' mechanism. Moreover, even those consumers who targeted marketing and want to ''opt-in'' to those practices, may not be willing to accept what happens to their information after it is used for this allegedly benign purpose.

For example, should it be acceptable business behavior to sell, rent, share, or loan a historical record of a customers tobacco purchasing habits to an insurance company. Should an Internet user's surfing habits—including frequent visits to AIDS or diabetes, or other sensitive health-related websites be revealed to prospective employers willing to pay a fee for such information? Should online surfing habits that identify consumer shopping activities be merged with offline database information already existing on a consumer to form a highly detailed, intricate portrait of that individual? The answer to these questions most assuredly is no. And yet right now, there is no law, or regulation, that would prohibit these objectionable practices.

We are already seeing evidence of these practices in the marketplace today. For example, on February 2, 2000, the New York Times reported on a study by the California HealthCare Foundation that concluded that ''19 of the top 21 health sites had privacy policies but . . . most failed to live up to promises not to share information with third parties. . . . [N]one of the sites followed guidelines recommended by the Federal Trade Commission on collection and use of personal data.'' Despite these reports, industry continues to insist that government wait and see, and let self-regulation and the marketplace protect against these articulable harms. We say that is like letting the fox guard the henhouse.

At the same time, we must not ignore those members of the industry who at least place some importance on protecting consumer privacy on the Internet. For example, in contrast to most Internet and online service providers, American Online does not track its millions of users when they venture on the Internet and out of AOL's proprietary network. In addition, IBM—while opposing federal legislation—refuses to advertise on Internet sites that do not possess and post a clear privacy policy. These are the types of practices that government welcomes. Unfortunately, they are far and few between.

As a result, the time has come to permit consumers to decide for themselves whether, and to what extent, they desire to permit commercial entities access to their personal information. Industry will argue that this is an aggressive approach. They will assert that at most, Congress should give customers the right to ''opt-in'' only with respect to those information practices deemed to be ''sensitive''—such as the gathering of information regarding health, financial, ethnic, religious, or other particularly private areas. The problem with this suggestion is that it leaves it up to Congress and industry lawyers and lobbyists to define what is in fact ''sensitive'' for individual consumers.

A better approach is to give consumers an ''opt-in'' right to control access to all personally identifiable information that might be collected online. This approach allows consumers to make their own, personal, and subjective determination as to what they do or don't want known about them by the companies with which they interact. If industry is right that most people want targeted advertising, then most people will opt-in. Indeed, Alta Vista, a commonly used search portal on the Internet, employs an ''opt-in'' approach.

As if this evidence were not enough, we only need to look to the February 24, 2000, article in TheStreet.Com entitled, ''DoubleClick Exec Says Privacy Legislation Needn't Crimp Results.'' In that article, a leading Internet executive from DoubleClick, the Internet's most well known banner advertiser, states that his company would not ''face an insurmountable problem'' in attempting to operate under strict privacy rules. Complying with such rules is ''not rocket science,'' the executive stated, ''it's execution.'' He went on to state that his company could continue to be successful under an ''opt-in'' regulatory regime. This is a phenomenal admission that ''opt-in'' policies would not impede the basic functionality and commercial activity on the Internet. The admission is particularly stunning given that it comes from a company whose business model is to track consumer activities on the Internet so as to target them with specific advertising.

Moreover, evidence in the marketplace demonstrates that ''opt-out'' policies will not always lead to full informed consumer choice. First of all, ''opt-out'' policies place the burden on the consumer to take certain steps to protect the privacy of their personal information. Under an ''opt-out'' approach, the incentive exists for industry to develop privacy policies that discourage people from opting out. The policies will be longer, harder to read, and the actual ''opt-out'' option will often be buried under hundreds, if not thousands of words of text. Consider the recent article in USA Today on this very issue. Entitled, ''Privacy isn't Public Knowledge,'' this May 1, 2000, article outlines the difficulty consumers have in opting out of the information collection practices of Internet companies. While consumers may be informed if they actually locate and read the company's privacy policy that they are likely to be ''tracked by name . . . only with [their] 'permission,'" they may not be informed up front that it is assumed that they have granted such permission unless they ''opt-out.'' Moreover, to get through the hundreds of words of required reading to find the ''opt-out'' option, it turns out, according to this article, that you need a graduate level or college education reading ability to simply comprehend the policies in the first place. According to FTC Chairman Robert Pitofsky, ''Some sites bury your rights in a long page of legal jargon so it's hard to find them hard to understand them once you find them. Self-regulation that creates opt-out rights that cannot be found [or] understood is really not an acceptable form of consumer protection.'' One thing is clear from this article—''self-regulation'' is not working.

We know, however, that some companies do not collect personal information on the Internet. For example,

some banner advertisers target their messages and ads to computers but not to people individually. They do this by tracking the Internet activity of a particular Internet Protocol address, without ever knowing who exactly is behind that address. Thus, they can never share personal information about a consumer's preferences, shopping, or research habits online, because they don't know who that consumer is. According to the chief technology officer of Engage—a prominent banner advertiser—''We don't need to know who someone is to make the [online] experience relevant. We're trying to strike this balance between the consumer's need for privacy and the marketer's need to be effective in order to sustain a free Internet.'' Such a business practice is an example of marketplace forces providing better privacy protection and my legislation recognizes that. Accordingly, if companies are only collecting and using non-personal information online they could comply with this bill by providing consumers with an ''opt-out,'' rather than an opt-in option.

Under this legislation, companies would be required to provide updates to consumers notifying them of changes to their privacy policies. Companies would also be prohibited from using information that had been collected under a prior privacy policy, if such use did not comport with that prior policy and if the consumer had not granted consent to the new practices.

In addition, the bill would provide permanence to a consumer's decision to grant or withhold consent, and allow the effect of that decision to be altered only by the consumer. Consequently, companies would not be permitted to let their customer's privacy preferences expire, thereby requiring consumers to reaffirm their prior communication as to how they want their personal information handled.

Unfortunately, many privacy violations are often unknown by the very consumers whose privacy has been violated. Therefore, the legislation would provide whistleblower protection to employees of companies who come forward with evidence of privacy violations.

In order to enforce these consumer protections, our bill would call upon the Federal Trade Commission to implement and enforce the provisions of the legislation applicable to the Internet. The FTC is the sole federal agency with substantial expertise in this area. Not only has the FTC conducted extensive studies on Internet privacy and profiling on the Internet in recent years, but it recently concluded a comprehensive rulemaking to implement the fair information practice of notice, consent, access, and security, as required by the Childrens Online Privacy Protection Act (COPPA), which we enacted in 1998.

In addition, the legislation provides the attorneys general with the ability to enforce the bill on behalf of constituents in their individual states. And, while the legislation would preempt inconsistent state law, citizens would be free to avail themselves of other applicable remedies such as fraud, contractual breach, unjust enrichment, or emotional distress. Finally, the bill would permit individual consumers to bring a private right of action to enjoin Internet privacy violations.

While rules are clearly needed to protect consumer privacy on the Internet, we recognize that information is collected and shared in the traditional marketplace as well. The rate of collection, however, and the intrusiveness of the monitoring is nowhere near as significant as it is online. For example, when a consumer shops in a store in a mall and browses through items without purchasing anything, no one makes a list of his or her every move. To the contrary, on the Internet, every browse, observation, and individual click of the mouse may be surreptitiously monitored. Notwithstanding this distinction, it may be appropriate at some time to develop privacy protections for the general marketplace, in addition to those set forth in this bill for the Internet. That is why our bill asks the FTC to conduct an exhaustive study of privacy issues in the general marketplace and report to the Congress as to what rules and regulations, if any, may be necessary to protect consumers.

We are also learning that employers are increasingly monitoring their employees—both in and out of the workplace—on the phone, on the computer, and in their daily activities on the job. While employees may be justified in taking steps to ensure that their workers are productive and efficient, such monitoring raises implications for those workers' privacy. Accordingly, this legislation directs the Department of Labor to conduct a study of privacy issues in the workplace, and report to Congress as to what—if any—regulations may be necessary to protect worker privacy.

Additionally, the legislation extends some existing privacy protections that we already know are working in the offline marketplace. For example, the bill would extend the privacy protections consumers enjoy while shopping in video stores to book and record stores, as well as to the digital delivery of those products. The bill would also extend the privacy protections we put forth in the Cable Act of 1984 to customers who subscribe to multichannel video programming services via satellite. And, the legislation would codify the Federal Communications Commission's CPNI rules, to provide privacy protection to telephone customers. The bill would also ask the Federal Communications Commission to harmonize existing privacy rules that apply to disparate communications technologies so that the personal privacy of subscribers to all communications services are protected equally. Finally, the legislation would clarify that personal information could not be deemed an asset if the company holding that information avails itself of the protection of our bankruptcy laws.

The development of a strong and comprehensive privacy regime must also address the security of Internet-connected computers. This month, the world was bitten by the ''love bug,'' a computer virus that devastated computer systems in more than 20 countries and caused an estimated $10 billion in damages. One of the features of the ''love bug'' was an attempt to steal passwords stored on an infected hard drive for later use. If successful, the virus-writer could have gained access to thousands of Internet access accounts. The spread of the virus highlighted the vulnerability of interconnected computer systems to malicious persons intent on disrupting or compromising legitimate use of these systems.

The development of technology, policies, and expertise to effectively protect a computer system from illegitimate users is a cornerstone of privacy protection because a privacy policy is worthless if the company cannot adequately secure that information and control its dissemination. While it would be impossible for the Federal government to protect every web site from every threat, it can help users and operators of web sites by researching and developing better computer security technologies and practices. Therefore, I have included a title on computer security in this bill.

This title of the bill is an attempt to promote and enhance the protection of computers connected to the Internet. First, the bill would establish a 25-member computer security partnership council. This council would build on the public-private partnership proposed in the wake of February's denial of service attacks which shut down leading e-commerce sites like Yahoo! and E-bay. The council would identify threats and help companies share solutions. It would be a major source of public information on computer security and could help educate the general public and businesses on good computer protection practices. In addition, our bill calls on the Council to identify areas in which we have not invested adequately in computer security research. This study could be a blueprint for future research investments.

While the private sector has put significant resources into computer security research, the President's Information Technology Advisory Council has noted that current information technology research is often focused on the short-term and neglects long-term fundamental problems. This bill would authorize appropriations for the National Institute of Standards and Technology to invest in long-term computer security research needs. This research would complement private sector, market-driven research and could be conducted at NIST or through grants to

academic or private-sector researchers. The results of these investigations could power the next generation of advanced computer security technologies.

Of course those technologies will not protect government, or companies and their customers, unless there are well-trained professionals to operate and secure computer systems. The problem is particularly acute for the Federal government. According to a May 10th Washington Post article, the Federal government will need to replace or hire more than 35,000 high-tech workers by the year 2006. The last time I checked, the same people who could fill those government positions are in high demand from Silicon Valley and the Dulles Corridor companies, among other. Until the government is able to offer stock options, we will continue to struggle to fill these positions. Our bill would establish an ROTC-like program to train computer security professionals for government service. In exchange for loans or grants to complete an undergraduate or graduate degree in computer security, a student would be required to work for the government for a certain number of years. This would allow students to get high-quality computer security training, to serve as a Federal employee for a short time, and then, if they desire, to enter the private sector job market.

This legislation would also push the government to get its house in order and become an example for good computer security practices. It proposes increased scrutiny of government security practices and would establish an Award for Quality of Government Security Practices to recognize agencies and departments which have excellent policies and processes to protect their computer systems. The criteria for this award will be published by the National Institute of Standards and Technology (NIST) and should encourage government to improve security on its systems. In addition, these criteria could become a model for computer security professionals inside and outside the government.

Finally, the bill would tie research and theory to meaningful, on-the-ground protections for Internet users. The bill calls on NIST to encourage and support the development of software standards that would allow users to set up an individual privacy regime at the outset and have those preferences follow them—without further intervention—as they surf the web.

This bill asks a lot of private companies in protecting the personally-identifiable information of American citizens. It would be wrong for the Congress not to apply the same standard to itself as well. Title IX of the bill calls for the development of Senate and House rules on protecting the privacy of information obtained through official web sites.

Mr. President, I ask unanimous consent that the text of the Consumer Privacy Protection Act be printed in the RECORD.

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

S. 2606

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 ''Consumer Privacy Protection Act''.

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) The right to privacy is a personal and fundamental right worthy of protection through appropriate legislation.

(2) Consumers engaging in and interacting with companies engaged in interstate commerce have an ownership interest in their personal information, as well as a right to control how that information is collected, used, or transferred.

(3) Existing State, local, and Federal laws provide virtually no privacy protection for Internet users.

(4) Moreover, existing privacy regulation of the general, or offline, marketplace provides inadequate consumer protections in light of the significant data collection and dissemination practices employed today.

(5) The Federal government thus far has eschewed general Internet privacy laws in favor of industry self-regulation, which has led to several self-policing schemes, none of which are enforceable in any meaningful way or provide sufficient consumer protection.

(6) State governments have been reluctant to enter the field of Internet privacy regulation because use of the Internet often crosses State, or even national, boundaries.

(7) States are nonetheless interested in providing greater privacy protection to their citizens as evidenced by recent lawsuits brought against offline and online companies by State attorneys general to protect consumer privacy.

(8) Personal information flowing over the Internet requires greater privacy protection than is currently available today. Vast amounts of personal information about individual Internet users are collected on the Internet and sold or otherwise transferred to third parties.

(9) Poll after poll consistently demonstrates that individual Internet users are highly troubled over their lack of control over their personal information.

(10) Research on the Internet industry demonstrates that consumer concerns about their privacy on the Internet has a correlative negative impact on the development of e-commerce.

(11) Notwithstanding these concerns, the Internet is becoming a major part of the personal and commercial lives of millions of Americans, providing increased access to information, as well as communications and commercial opportunities.

(12) It is important to establish personal privacy rights and industry obligations now so that consumers have confidence that their personal privacy is fully protected on our Nation's telecommunications networks and on the Internet.

(13) The social and economic costs of imposing obligations on industry now will be lower than if Congress waits until the Internet becomes more prevalent in our everyday lives in coming years.

(14) Absent the recognition of these rights and the establishment of consequent industry responsibilities to safeguard those rights, consumer privacy will soon be more gravely threatened.

(15) The ease of gathering and compiling personal information on the Internet, both overtly and surreptitiously, is becoming increasingly efficient and effortless due to advances in digital communications technology which have provided information gatherers the ability to seamlessly compile highly detailed personal histories of Internet users.

(16) Consumers must have—

(A) clear and conspicuous notice that information is being collected about them;

(B) clear and conspicuous notice as to the information gatherer's intent with respect to that information;

(C) the ability to control the extent to which information is collected about them; and

(D) the right to prohibit any unauthorized use, reuse, disclosure, transfer, or sale of their information.

(17) Fair information practices include providing consumers with knowledge of any data collection clear and conspicuous notice of an entity's information practices, the ability to control whether or not those practices will be applied to them personally, access to information collected about them, and safeguards to ensure the integrity and security of that information.

(18) Recent surveys of websites conducted by the Federal Trade Commission and Georgetown University found that a small minority of websites surveyed contained a privacy policy embodying fair information practices such as notice, choice, access, and security.

(19) Americans expect that their purchases of written materials, videos, and music will remain confidential, whether they are shopping online or in the traditional workplace.

(20) Consumer privacy with respect to written materials, music, and movies should be protected vigilantly to ensure the free exercise of First Amendment rights of expression, regardless of medium.

(21) Under current law, millions of American cable customers are protected against disclosures of their personal subscriber information without notice and choice, whereas no similar protection is available to subscribers of multichannel video programming via satellite.

(22) Almost every American is a consumer of some form of communications service, be it wireless, wireline, cable, broadcast, or satellite.

(23) In light of the convergence of and emerging competition among and between wireless, wireline, satellite, broadcast, and cable companies, privacy safeguards should be applied uniformly across different communications media so as to provide consistent consumer privacy protections as well as a level competitive playing field for industry.

(24) Notwithstanding the recent focus on Internet privacy, privacy issues abound in the traditional, or offline, marketplace that merit Federal attention.

(25) The Congress would benefit from an exhaustive analysis of general marketplace privacy issues conducted by the agency with the most expertise in this area, the Federal Trade Commission.

(26) While American workers are growing increasingly concerned that their employers may be violating their privacy, many workers are unaware that their activities in the workplace may be subject to significant and potentially invasive monitoring.

(27) While employers may have a legitimate need to maintain an efficient and productive workforce, that need should not improperly impinge on employee privacy rights in the workplace.

(28) Databases containing personal information about consumers' commercial purchasing, browsing, and shopping habits, as well as their generalized product preferences, represent considerable commercial value.

(29) These databases should not be considered an asset with respect to creditors' interests if the asset holder has availed itself of the protection of State or Federal bankruptcy laws.

SEC. 3. PREEMPTION OF INCONSISTENT STATE LAW OR REGULATIONS.

(a) IN GENERAL.—Except as provided in subsection (b), this Act preempts any State law, regulation, or rule that is inconsistent with the provisions of this Act.

(b) EXCEPTIONS.—

(1) IN GENERAL.—Nothing in this Act preempts—

(1) the law of torts in any State;

(2) the common law in any State; or

(3) any State law, regulation, or rule that prohibits fraud or provides a remedy for fraud.

(2) PRIVATE RIGHT-OF-ACTION.—Notwithstanding subsection (a), if a State law provides for a private right-of-action under a statute enacted to provide consumer protection, nothing in this Act precludes a person from bringing such an action under that statute, even if the statute is otherwise preempted in whole or in part under subsection (a).

SEC. 4. TABLE OF CONTENTS.

The table of contents of this Act is as follows:

Sec. 1. Short title.
Sec. 2. Findings.
Sec. 3. Preemption of inconsistent State law or regulations.
Sec. 4. Table of contents.
Title I—Online Privacy
Sec. 101. Collection or disclosure of personally identifiable information.
Sec. 102. Notice, consent, access, and security requirements.
Sec. 103. Other kinds of information.
Sec. 104. Exceptions.
Sec. 105. Permanence of consent.
Sec. 106. Disclosure to law enforcement agency or under court order.
Sec. 107. Effective date.
Sec. 108. FTC rulemaking procedure required.
Title II—Privacy Protection for Consumers of Books, Recorded Music, and Videos
Sec. 201. Extension of video rental protections to books and recorded music.
Sec. 202. Effective Date.
Title III—Enforcement and Remedies
Sec. 301. Enforcement.
Sec. 302. Violation is unfair or deceptive act or practice.
Sec. 303. Private right of action.
Sec. 304. Actions by States.
Sec. 305. Whistleblower protection.
Sec. 306. No effect on other remedies.
Sec. 307. FTC Office of Online Privacy.
Title IV—Communications Technology Privacy Protections
Sec. 401. Privacy protection for subscribers of satellite television services for private home viewing.
Sec. 402. Customer proprietary network information.
Title V—Rulemaking and Studies
Sec. 501. Federal Trade Commission examination.
Sec. 502. Federal Communications Commission rulemaking.
Sec. 503. Department of Labor study of privacy issues in the workplace.
Title VI—Protection of Personally Identifiable Information in Bankruptcy
Sec. 601. Personally identifiable information not asset in bankruptcy.
Title VII—Internet Security Initiatives.
Sec. 701. Findings.
Sec. 702. Computer Security Partnership Council.
Sec. 703. Research and development.
Sec. 704. Computer security training programs.
Sec. 705. Government information security standards.
Sec. 706. Recognition of quality in computer security practices.
Sec. 707. Development of automated privacy controls.
Title VIII—Congressional Information Security Standards.
Sec. 801. Exercise of rulemaking power.
Sec. 802. Senate.
Title IX—Definitions
Sec. 901. Definitions.

TITLE I—ONLINE PRIVACY

SEC. 101. COLLECTION OR DISCLOSURE OF PERSONALLY IDENTIFIABLE INFORMATION.

An Internet service provider, online service provider, or operator of a commercial website on the Internet may not collect, use, or disclose personally identifiable information about a user of that service or website except in accordance with the provisions of this title.

SEC. 102. NOTICE, CONSENT, ACCESS, AND SECURITY REQUIREMENTS.

(a) NOTICE.—An Internet service provider, online service provider, or operator of a commercial website may not collect personally identifiable information from a user of that service or website unless that provider or operator gives clear and conspicuous notice in a manner reasonably calculated to provide actual notice to any user or prospective user that personally identifiable information may be collected from that user. The notice shall disclose—

(1) the specific information that will be collected;

(2) the methods of collecting and using the information collected; and

(3) all disclosure practices of that provider or operator for personally identifiable information so collected, including whether it will be disclosed to third parties.

(b) CONSENT.—An Internet service provider, online service provider, or operator of a commercial website may not—

(1) collect personally identifiable information from a user of that service or website, or

(2) except as provided in section 107, disclose or otherwise use such information about a user of that service or website,

unless the provider or operator obtains that user's affirmative consent, in advance, to the collection and disclosure or use of that information.

(c) ACCESS.—An Internet service provider, online service provider, or operator of a commercial website shall—

(1) upon request provide reasonable access to a user to personally identifiable information that the provider or operator has collected after the effective date of this title relating to that user;

(2) provide a reasonable opportunity for a user to correct, delete, or supplement any such information maintained by that provider or operator; and

(3) make the correction or supplementary information a part of that user's personally identifiable information for all future disclosure and other use purposes.

(d) SECURITY.—An Internet service provider, online service provider, or operator of a commercial website shall establish and maintain reasonable procedures necessary to protect the security, confidentiality, and integrity of personally identifiable information maintained by that provider or operator.

(e) NOTICE OF POLICY CHANGE.—Whenever an Internet service provider, online service provider, or operator of a commercial website makes a material change in its policy for the collection, use, or disclosure of personally identifiable information, it—

(1) shall notify all users of that service or website of the change in policy; and

(2) may not collect, disclose, or otherwise use any personally identifiable information in accordance with the changed policy unless the user has affirmatively consented, under subsection (b), to its collection, disclosure, or use in accordance with the changed policy.

(f) NOTICE OF PRIVACY BREACH.—

(1) IN GENERAL.—If an Internet service provider, online service provider, or operator of a commercial website commits a breach of privacy with respect to the personally identifiable information of a user, then it shall, as soon as reasonably possible, notify all users whose personally identifiable information was affected by that breach. The notice shall describe the nature of the breach and the steps taken by the provider or operator to remedy it.

(2) BREACH OF PRIVACY.—For purposes of paragraph (1), an Internet service provider, online service provider, or operator of a commercial website commits a breach of privacy with respect to personally identifiable information of a user if—

(A) it collects, discloses, or otherwise uses personally identifiable information in violation of any provision of this title; or

(B) it knows that the security, confidentiality, or integrity of personally identifiable information is compromised by any act or failure to act on the part of the provider or operator or by any function of the Internet service or online service provided, or commercial website operated, by that provider or operator that resulted in a disclosure, or possible disclosure, of that information.

(g) APPLICATION TO CERTAIN THIRD-PARTY OPERATORS.—The provisions of this section applicable to Internet service providers, online service providers, and commercial website operators apply to any third party, including an advertiser, that uses that service or website to collect information about users of that service or website.

SEC. 103. OTHER KINDS OF INFORMATION.

(a) IN GENERAL.—Except as provided in subsection (b), the provisions of sections 101 and 102 (except for subsections (b), (c), and (e)(2)) that apply to personally identifiable information apply also to the collection and disclosure or other use of information about users of an Internet service, online service, or commercial website that is not personally identifiable information.

(b) CONSENT RULE.—An Internet service provider, online service provider, or operator of a commercial website may not—

(1) collect information described in subsection (a) from a user of that service or website, or

(2) except as provided in section 107, disclose or otherwise use such information about a user of that service or website,

unless the provider or operator obtains that user's consent to the collection and disclosure or other use of that information. For purposes of this subsection, the user will be deemed to have consented unless the user objects to the collection and disclosure or other use of the information.

(c) APPLICATION TO CERTAIN THIRD-PARTY OPERATORS.—The provisions of this section applicable to Internet service providers, online service providers, and commercial website operators apply to any third party, including an advertiser, that uses that service or website to collect information about users of that service or website.

SEC. 104. EXCEPTIONS.

(a) IN GENERAL.—Sections 102 and 103 do not apply to the collection, disclosure, or use by an Internet service provider, online service provider, or operator of a commercial website of information about a user of that service or website—

(1) to protect the security or integrity of the service or website; or

(2) to conduct a transaction, deliver a product or service, or complete an arrangement for which the user provided the information.

(b) DISCLOSURE TO PARENT PROTECTED.—An Internet service provider, online service provider, or operator of a commercial website may not be held liable under this title, any other Federal law, or any State law for any disclosure made in good faith and following reasonable procedures in responding to a request for disclosure of personal information under section 1302(b)(1)(B)(iii) of the Children's Online Privacy Protection Act of 1998 to the parent of a child.

SEC. 105. PERMANENCE OF CONSENT.

The consent or denial of consent by a user of permission to an Internet service provider, online service provider, or operator of a commercial website to collect, disclose, or otherwise use any information about that user for which consent is required under this title—

(1) shall remain in effect until changed by the user;

(2) except as provided in section 102(e), shall apply to any revised, modified, new, or improved service provided by that provider or operator to that user; and

(3) except as provided in section 102(e), shall apply to the collection, disclosure, or other use of that information by any entity that is a commercial successor of that provider or operator, without regard to the legal form in which such succession was accomplished.

SEC. 106. DISCLOSURE TO LAW ENFORCEMENT AGENCY OR UNDER COURT ORDER.

(a) IN GENERAL.—Notwithstanding any other provision of this title, an Internet service provider, online service provider, operator of a commercial website, or third party that uses such a service or website to collect information about users of that service or website may disclose personally identifiable information about a user of that service or website—

(1) to a law enforcement agency in response to a warrant issued under the Federal Rules of Criminal Procedure, an equivalent State warrant, or a court order issued in accordance with subsection (c); and

(2) in response to a court order in a civil proceeding granted upon a showing of compelling need for the information that cannot be accommodated by any other means if—

(A) the user to whom the information relates is given reasonable notice by the person seeking the information of the court proceeding at which the order is requested; and

(B) that user is afforded a reasonable opportunity to appear and contest the issuance of requested order or to narrow its scope.

(b) SAFEGUARDS AGAINST FURTHER DISCLOSURE.—A court that issues an order described in subsection (a) shall impose appropriate safeguards on the use of the information to protect against its unauthorized disclosure.

(c) COURT ORDERS.—A court order authorizing disclosure under subsection (a)(1) may issue only with prior notice to the user and only if the law enforcement agency shows that there is probable cause to believe that the user has engaged, is engaging, or is about to engage in criminal activity and that the records or other information sought are material to the investigation of such activity. In the case of a State government authority, such a court order shall not issue if prohibited by the law of such State. A court issuing an order pursuant to this subsection, on a motion made promptly by the Internet service provider, online service provider, or operator of the commercial website, may quash or modify such order if the information or records requested are unreasonably voluminous in nature or if compliance with such order otherwise would cause an unreasonable burden on the provider or operator.

SEC. 107. EFFECTIVE DATE.

(a) IN GENERAL.—This title takes effect after the Federal Trade Commission completes the rulemaking procedure under section 109.

(b) APPLICATION TO PRE-EXISTING DATA.—

(1) IN GENERAL.—After the effective date of this title, and except as provided in paragraphs (2) and (3), sections 101, 102, and 103 apply to information collected before the date of enactment of this Act.

(2) COLLECTION OF BOTH KINDS OF INFORMATION.—Section 102(b)(1) and 103(b)(1) do not apply to information collected before the effective date of this title.

(3) ACCESS TO PERSONALLY IDENTIFIABLE INFORMATION.—Section 102(c) applies to personally identifiable information collected before the effective date of this title unless it is economically unfeasible for the Internet service provider, online service provider, or commercial website operator to comply with that section for the information.

SEC. 108. FTC RULEMAKING PROCEDURE REQUIRED.

The Federal Trade Commission shall initiate a rulemaking procedure within 90 days after the date of enactment of this Act to implement the provisions of this title. Notwithstanding any requirement of chapter 5 of title 5, United States Code, the Commission shall complete the rulemaking procedure not later than 270 days after it is commenced.

TITLE II—PRIVACY PROTECTION FOR CONSUMERS OF BOOKS, RECORDED MUSIC, AND VIDEOS

SEC. 201. EXTENSION OF VIDEO RENTAL PROTECTIONS TO BOOKS AND RECORDED MUSIC.

(a) IN GENERAL.—Section 2710 of title 18, United States Code, is amended by striking the section designation and all that follows through the end of subsection (b) and inserting the following:

"§ 2710. Wrongful disclosure of information about video, book, or recorded music rental, sale, or delivery

"(a) DEFINITIONS.—In this section:

"(1) The term 'book dealer' means any person engaged in the business, in or affecting interstate or foreign commerce, of renting, selling, or delivering books, magazines, or other written or printed material (regardless of the format or medium), or any person or other entity to whom a disclosure is made under subparagraph (D) or (E) of subsection (b)(2), but only with respect to the information contained in the disclosure.

"(2) The term 'recorded music dealer' means any person, engaged in the business, in or affecting interstate or foreign commerce, of selling, renting, or delivering recorded music, regardless of the format in which or medium on which it is recorded, or any person or other entity to whom a disclosure is made under subparagraph (D) or (E) of subsection (b)(2), but only with respect to the information contained in the disclosure.

"(3) The term 'consumer' means any renter, purchaser, or user of goods or services from a video provider, book dealer, or recorded music dealer.

"(4) The term 'ordinary course of business' means only debt-collection activities, order fulfillment, request processing, and the transfer of ownership.

"(5) The term 'personally identifiable information' means information that identifies a person as having requested or obtained specific video materials or services, specific books, magazines, or other written or printed materials, or specific recorded music.

"(6) The term 'video provider' means any person engaged in the business, in or affecting interstate or foreign commerce, of rental, sale, or delivery of recorded videos, regardless of the format in which, or medium on which they are recorded, or similar audio-visual materials, or any person or other entity to whom a disclosure is made under subparagraph (D) or (E) of subsection (b)(2), but only with respect to the information contained in the disclosure.

"(b) VIDEO, BOOK, OR RECORDED MUSIC RENTAL, SALE, OR DELIVERY.—

"(1) IN GENERAL.—A video provider, book dealer, or recorded music dealer who knowingly discloses, to any person, personally identifiable information concerning any consumer of such provider or seller, as the case may be, shall be liable to the aggrieved person for the relief provided in subsection (d).

"(2) DISCLOSURE.—A video provider, book dealer, or recorded music dealer may disclose personally identifiable information concerning any consumer—

"(A) to the consumer;

"(B) to any person with the informed, written consent of the consumer given at the time the disclosure is sought;

"(C) to a law enforcement agency pursuant to a warrant issued under the Federal Rules of Criminal Procedure, an equivalent State warrant, or a court order issued in accordance with paragraph (4);

"(D) to any person if the disclosure is solely of the names and addresses of consumers and if—

"(i) the video provider, book dealer, or recorded music dealer, as the case may be, has provided the consumer, in a clear and conspicuous manner, with the opportunity to prohibit such disclosure; and

"(ii) the disclosure does not identify the title, description, or subject matter of any video or other audio-visual material, books, magazines, or other printed material, or recorded music;

"(E) to any person if the disclosure is incident to the ordinary course of business of the video provider, book dealer, or recorded music dealer; or

"(F) pursuant to a court order, in a civil proceeding upon a showing of compelling need for the information that cannot be accommodated by any other means, if—

"(i) the consumer is given reasonable notice, by the person seeking the disclosure, of the court proceeding relevant to the issuance of the court order; and

"(ii) the consumer is afforded the opportunity to appear and contest the claim of the person seeking the disclosure.

"(3) SAFEGUARDS.—If an order is granted pursuant to subparagraph (C) or (F) of paragraph (2), the court shall impose appropriate safeguards against unauthorized disclosure.

"(4) COURT ORDERS.—A court order authorizing disclosure under paragraph (2)(C) shall issue only with prior notice to the consumer and only if the law enforcement agency shows that there is probable cause to believe that a person has engaged, is engaging, or is about to engage in criminal activity and that the records or other information sought are material to the investigation of such activity. In the case of a State government authority, such a court order shall not issue if prohibited by the law of such State. A court issuing an order pursuant to this subsection, on a motion made promptly by the video provider, book dealer, or recorded music dealer, may quash or modify such order if the information or records requested are unreasonably voluminous in nature or if compliance with such order otherwise would cause an

unreasonable burden on such video provider, book dealer, or recorded music dealer, as the case may be.''.

(b) CONFORMING AMENDMENTS.—

(1) Subsections (c) through (f) of section 2701 of title 18, United States Code, are amended by striking ''video tape service provider'' each place it appears and inserting ''video provider''.

(2) The item relating to section 2701 in the analysis for chapter 121 of title 18, United States Code, is amended to read as follows:

''2710. Wrongful disclosure of information about video, book, or recorded music rental or sales.''.

SEC. 202. EFFECTIVE DATE.

The amendments made by section 201 take effect 12 months after the date of enactment of this Act.

TITLE III—ENFORCEMENT AND REMEDIES

SEC. 301. ENFORCEMENT.

Except as provided in section 302(b) and section 2710(d) of title 18, United States Code, this Act shall be enforced by the Federal Trade Commission. Except as otherwise provided in this Act, a violation of this Act may be punished in the same manner as a violation of a regulation of the Federal Trade Commission.

SEC. 302. VIOLATION IS UNFAIR OR DECEPTIVE ACT OR PRACTICE.

(a) IN GENERAL.—The violation of any provision of title I is an unfair or deceptive act or practice proscribed by section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

(b) ENFORCEMENT BY CERTAIN OTHER AGENCIES.—Compliance with title I of this Act shall be enforced under—

(1) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), in the case of—

(A) national banks, and Federal branches and Federal agencies of foreign banks, by the Office of the Comptroller of the Currency;

(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25(a) of the Federal Reserve Act (12 U.S.C. 601 et seq. and 611 et seq.), by the Board; and

(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and insured State branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation;

(2) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), by the Director of the Office of Thrift Supervision, in the case of a savings association the deposits of which are insured by the Federal Deposit Insurance Corporation;

(3) the Federal Credit Union Act (12 U.S.C. 1751 et seq.) by the National Credit Union Administration Board with respect to any Federal credit union;

(4) part A of subtitle VII of title 49, United States Code, by the Secretary of Transportation with respect to any air carrier or foreign air carrier subject to that part;

(5) the Packers and Stockyards Act, 1921 (7 U.S.C. 181 et seq.) (except as provided in section 406 of that Act (7 U.S.C. 226, 227)), by the Secretary of Agriculture with respect to any activities subject to that Act; and

(6) the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.) by the Farm Credit Administration with respect to any Federal land bank, Federal land bank association, Federal intermediate credit bank, or production credit association.

(c) EXERCISE OF CERTAIN POWERS.—For the purpose of the exercise by any agency referred to in subsection (b) of its powers under any Act referred to in that subsection, a violation of title I is deemed to be a violation of a requirement imposed under that Act. In addition to its powers under any provision of law specifically referred to in subsection (b), each of the agencies referred to in that subsection may exercise, for the purpose of enforcing compliance with any requirement imposed under title I of this Act, any other authority conferred on it by law.

(d) ACTIONS BY THE COMMISSION.—The Commission shall prevent any person from violating title I in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this Act. Any entity that violates any provision of that title is subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act in the same manner, by the same means, and with the same jurisdiction, power, and duties as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of that title.

(e) EFFECT ON OTHER LAWS.—

(1) PRESERVATION OF COMMISSION AUTHORITY.—Nothing contained in this title shall be construed to limit the authority of the Commission under any other provision of law.

(2) RELATION TO COMMUNICATIONS ACT.—Nothing in title I requires an operator of a website or online service to take any action that is inconsistent with the requirements of section 222 or 631 of the Communications Act of 1934 (47 U.S.C. 222 or 551, respectively).

SEC. 303. PRIVATE RIGHT OF ACTION.

(a) PRIVATE RIGHT OF ACTION.—A person whose personally identifiable information is collected, disclosed or used, or is likely to be disclosed or used, in violation of title I may, if otherwise permitted by the laws or rules of court of a State, bring in an appropriate court of that State—

(1) an action to enjoin or restrain such violation;

(2) an action to recover for actual monetary loss from such a violation, or to receive $5,000 in damages for each such violation, whichever is greater; or

(3) both such actions.

(b) WILLFUL AND KNOWING VIOLATIONS.—If the court finds that the defendant willfully or knowingly violated title I, the court may, in its discretion, increase the amount of the award available under subsection (a)(2) to $50,000.

(c) EXCEPTION.—Neither an action to enjoin or restrain a violation, nor an action to recover for loss or damage, may be brought under this section for the accidental disclosure of information if the disclosure was caused by an Act of God, network or systems failure, or other event beyond the control of the Internet service provider, online service provider, or operator of a commercial website if the provider or operator took reasonable precautions to prevent such disclosure in the event of such a failure or other event.

(d) ATTORNEYS FEES; PUNITIVE DAMAGES.—Notwithstanding subsection (a)(2), the court in an action brought under this section, may award reasonable attorneys fees and punitive damages to the prevailing party.

SEC. 304. ACTIONS BY STATES.

(a) IN GENERAL.—

(1) CIVIL ACTIONS.—In any case in which the attorney general of a State has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by the engagement of any person in a practice that violates title I, the State, as parens patriae, may bring a civil action on behalf of the residents of the State in a district court of the United States of appropriate jurisdiction to—

(A) enjoin that practice;

(B) enforce compliance with the rule;

(C) obtain damage, restitution, or other compensation on behalf of residents of the State; or

(D) obtain such other relief as the court may consider to be appropriate.

(2) NOTICE.—

(A) IN GENERAL.—Before filing an action under paragraph (1), the attorney general of the State involved shall provide to the Commission—

(i) written notice of that action; and

(ii) a copy of the complaint for that action.

(B) EXEMPTION.—

(i) IN GENERAL.—Subparagraph (A) shall not apply with respect to the filing of an action by an attorney general of a State under this subsection, if the attorney general determines that it is not feasible to provide the notice described in that subparagraph before the filing of the action.

(ii) NOTIFICATION.—In an action described in clause (i), the attorney general of a State shall provide notice and a copy of the complaint to the Commission at the same time as the attorney general files the action.

(b) INTERVENTION.—

(1) IN GENERAL.—On receiving notice under subsection (a)(2), the Commission shall have the right to intervene in the action that is the subject of the notice.

(2) EFFECT OF INTERVENTION.—If the Commission intervenes in an action under subsection (a), it shall have the right—

(A) to be heard with respect to any matter that arises in that action; and

(B) to file a petition for appeal.

(c) CONSTRUCTION.—For purposes of bringing any civil action under subsection (a), nothing in this Act shall be construed to prevent an attorney general of a State from exercising the powers conferred on the attorney general by the laws of that State to—

(1) conduct investigations;

(2) administer oaths or affirmations; or

(3) compel the attendance of witnesses or the production of documentary and other evidence.

(d) ACTIONS BY THE COMMISSION.—In any case in which an action is instituted by or on behalf of the Commission for violation of title I, no State may, during the pendency of that action, institute an action under subsection (a) against any defendant named in the complaint in that action for violation of that rule.

(e) VENUE; SERVICE OF PROCESS.—

(1) VENUE.—Any action brought under subsection (a) may be brought in the district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code.

(2) SERVICE OF PROCESS.—In an action brought under subsection (a), process may be served in any district in which the defendant—

(A) is an inhabitant; or

(B) may be found.

SEC. 305. WHISTLEBLOWER PROTECTION.

(a) IN GENERAL.—No Internet service provider, online service provider, or commercial website operator may discharge or otherwise discriminate against any employee with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to the request of the employee) provided information to any Federal or State agency or to the Attorney General of the United States or of any State regarding a possible violation of any provision of title I.

(b) ENFORCEMENT.—Any employee or former employee who believes he has been

discharged or discriminated against in violation of subsection (a) may file a civil action in the appropriate United States district court before the close of the 2-year period beginning on the date of such discharge or discrimination. The complainant shall also file a copy of the complaint initiating such action with the appropriate Federal agency.

(c) REMEDIES.—If the district court determines that a violation of subsection (a) has occurred, it may order the Internet service provider, online service provider, or commercial website operator that committed the violation—

(1) to reinstate the employee to his former position;

(2) to pay compensatory damages; or

(3) take other appropriate actions to remedy any past discrimination.

(d) ATTORNEYS FEES; PUNITIVE DAMAGES.—Notwithstanding subsection (c)(2), the court in an action brought under this section, may award reasonable attorneys fees and punitive damages to the prevailing party.

(e) LIMITATION.—The protections of this section shall not apply to any employee who—

(1) deliberately causes or participates in the alleged violation; or

(2) knowingly or recklessly provides substantially false information to such an agency or the Attorney General.

(f) BURDENS OF PROOF.—The legal burdens of proof that prevail under subchapter III of chapter 12 of title 5, United States Code (5 U.S.C. 1221 et seq.) shall govern adjudication of protected activities under this section.

SEC. 306. NO EFFECT ON OTHER REMEDIES.

The remedies provided by this sections 303 and 304 are in addition to any other remedy available under any provision of law.

SEC. 307. FTC OFFICE OF ONLINE PRIVACY.

The Federal Trade Commission shall establish an Office of Online Privacy headed by a senior level position officer who reports directly to the Commission and its General Counsel. The Office shall study privacy issues associated with electronic commerce and the Internet, the operation of this Act and the effectiveness of the privacy protections provided by title I. The Office shall report its findings and recommendations from time to time to the Commission, and, notwithstanding any law, regulation, or executive order to the contrary, shall submit an annual report directly to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Commerce on the status of online and Internet privacy issues, together with any recommendations for additional legislation relating to those issues.

TITLE IV—COMMUNICATIONS TECHNOLOGY PRIVACY PROTECTIONS

SEC. 401. PRIVACY PROTECTION FOR SUBSCRIBERS OF SATELLITE TELEVISION SERVICES FOR PRIVATE HOME VIEWING.

(a) IN GENERAL.—Section 631 of the Communications Act of 1934 (47 U.S.C. 551) is amended to read as follows:

"SEC. 631. PRIVACY OF SUBSCRIBER INFORMATION FOR SUBSCRIBERS OF CABLE SERVICE AND SATELLITE TELEVISION SERVICE.

''(a) NOTICE TO SUBSCRIBERS REGARDING PERSONALLY IDENTIFIABLE INFORMATION.—At the time of entering into an agreement to provide any cable service, satellite home viewing service, or other service to a subscriber, and not less often than annually thereafter, a cable operator, satellite carrier, or distributor shall provide notice in the form of a separate, written statement to such subscriber that clearly and conspicuously informs the subscriber of—

''(1) the nature of personally identifiable information collected or to be collected with respect to the subscriber as a result of the provision of such service and the nature of the use of such information;

''(2) the nature, frequency, and purpose of any disclosure that may be made of such information, including an identification of the types of persons to whom the disclosure may be made;

''(3) the period during which such information will be maintained by the cable operator, satellite carrier, or distributor;

''(4) the times and place at which the subscriber may have access to such information in accordance with subsection (d); and

''(5) the limitations provided by this section with respect to the collection and disclosure of information by the cable operator, satellite carrier, or distributor and the right of the subscriber under this section to enforce such limitations.

''(b) COLLECTION OF PERSONALLY IDENTIFIABLE INFORMATION.—

''(1) IN GENERAL.—Except as provided in paragraph (2), a cable operator, satellite carrier, or distributor shall not use its cable or satellite system to collect personally identifiable information concerning any subscriber without the prior written or electronic consent of the subscriber.

''(2) EXCEPTION.—A cable operator, satellite carrier, or distributor may use its cable or satellite system to collect information described in paragraph (1) in order to—

''(A) obtain information necessary to render a cable or satellite service or other service provided by the cable operator, satellite carrier, or distributor to the subscriber; or

''(B) detect unauthorized reception of cable or satellite communications.

''(c) DISCLOSURE OF PERSONALLY IDENTIFIABLE INFORMATION.—

''(1) IN GENERAL.—Except as provided in paragraph (2), a cable operator, satellite carrier, or distributor may not disclose personally identifiable information concerning any subscriber without the prior written or electronic consent of the subscriber and shall take such actions as are necessary to prevent unauthorized access to such information by a person other than the subscriber or the cable operator, satellite carrier, or distributor.

''(2) EXCEPTIONS.—A cable operator, satellite carrier, or distributor may disclose information described in paragraph (1) if the disclosure is—

''(A) necessary to render, or conduct a legitimate business activity related to, a cable or satellite service or other service provided by the cable operator, satellite carrier, or distributor to the subscriber;

''(B) subject to paragraph (3), made pursuant to a court order authorizing such disclosure, if the subscriber is notified of such order by the person to whom the order is directed; or

''(C) a disclosure of the names and addresses of subscribers to any other provider of cable or satellite service or other service, if—

''(i) the cable operator, satellite carrier, or distributor has provided the subscriber the opportunity to prohibit or limit such disclosure; and

''(ii) the disclosure does not reveal, directly or indirectly—

''(I) the extent of any viewing or other use by the subscriber of a cable or satellite service or other service provided by the cable operator, satellite carrier, or distributor; or

''(II) the nature of any transaction made by the subscriber over the cable or satellite system of the cable operator, satellite carrier, or distributor.

''(3) COURT ORDERS.—A governmental entity may obtain personally identifiable information concerning a cable or satellite subscriber pursuant to a court order only if, in the court proceeding relevant to such court order—

''(A) such entity offers clear and convincing evidence that the subject of the information is reasonably suspected of engaging in criminal activity and that the information sought would be material evidence in the case; and

''(B) the subject of the information is afforded the opportunity to appear and contest such entity's claim.

''(d) SUBSCRIBER ACCESS TO INFORMATION.—A cable or satellite subscriber shall be provided access to all personally identifiable information regarding that subscriber that is collected and maintained by a cable operator, satellite carrier, or distributor. Such information shall be made available to the subscriber at reasonable times and at a convenient place designated by such cable operator, satellite carrier, or distributor. A cable or satellite subscriber shall be provided reasonable opportunity to correct any error in such information.

''(e) DESTRUCTION OF INFORMATION.—A cable operator, satellite carrier, or distributor shall destroy personally identifiable information if the information is no longer necessary for the purpose for which it was collected and there are no pending requests or orders for access to such information under subsection (d) or pursuant to a court order.

''(f) RELIEF.—

''(1) IN GENERAL.—Any person aggrieved by any act of a cable operator, satellite carrier, or distributor in violation of this section may bring a civil action in a district court of the United States.

''(2) DAMAGES AND COSTS.—In any action brought under paragraph (1), the court may award a prevailing plaintiff—

''(A) actual damages but not less than liquidated damages computed at the rate of $100 a day for each day of violation or $1,000, whichever is greater;

''(B) punitive damages; and

''(C) reasonable attorneys' fees and other litigation costs reasonably incurred.

''(3) NO EFFECT ON OTHER REMEDIES.—The remedy provided by this subsection shall be in addition to any other remedy available under any provision of law to a cable or satellite subscriber.

''(g) DEFINITIONS.—In this section:

''(1) DISTRIBUTOR.—The term 'distributor' means an entity that contracts to distribute secondary transmissions from a satellite carrier and, either as a single channel or in a package with other programming, provides the secondary transmission either directly to individual subscribers for private home viewing or indirectly through other program distribution entities.

''(2) CABLE OPERATOR.—

''(A) IN GENERAL.—The term 'cable operator' has the meaning given that term in section 602.

''(B) INCLUSION.—The term includes any person who—

''(i) is owned or controlled by, or under common ownership or control with, a cable operator; and

''(ii) provides any wire or radio communications service.

''(3) OTHER SERVICE.—The term 'other service' includes any wire, electronic, or radio communications service provided using any of the facilities of a cable operator, satellite carrier, or distributor that are used in the provision of cable service or satellite home viewing service.

''(4) PERSONALLY IDENTIFIABLE INFORMATION.—The term 'personally identifiable information' does not include any record of aggregate data that does not identify particular persons.

''(5) SATELLITE CARRIER.—The term 'satellite carrier' means an entity that uses the facilities of a satellite or satellite service licensed by the Federal Communications Commission and operates in the Fixed-Satellite Service under part 25 of title 47 of the Code of Federal Regulations or the Direct Broadcast Satellite Service under part 100 of title 47 of the Code of Federal Regulations, to establish and operate a channel of communications for point-to-multipoint distribution of television station signals, and that owns or leases a capacity or service on a satellite in order to provide such point-to-multipoint distribution, except to the extent that such entity provides such distribution pursuant to tariff under the Communications Act of 1934, other than for private home viewing.''.

(b) NOTICE WITH RESPECT TO CERTAIN AGREEMENTS.—

(1) IN GENERAL.—Except as provided in paragraph (2), a cable operator, satellite carrier, or distributor who has entered into agreements referred to in section 631(a) of the Communications Act of 1934, as amended by subsection (a), before the date of enactment of this Act, shall provide any notice required under that section, as so amended, to subscribers under such agreements not later than 180 days after that date.

(2) EXCEPTION.—Paragraph (1) shall not apply with respect to any agreement under which a cable operator, satellite carrier, or distributor was providing notice under section 631(a) of the Communications Act of 1934, as in effect on the day before the date of enactment of this Act, as of such date.

SEC. 402. CUSTOMER PROPRIETARY NETWORK INFORMATION.

Section 222 (c)(1) of the Communications Act of 1934 (47 U.S.C. 222 (c)(1)) is amended by striking ''approval'' and inserting ''express prior authorization''.

TITLE V—RULEMAKING AND STUDIES

SEC. 501. FEDERAL TRADE COMMISSION EXAMINATION.

(a) PROCEEDING REQUIRED.—The Federal Trade Commission shall—

(1) study consumer privacy issues in the traditional, offline marketplace, including whether—

(A) consumers are able, and, if not, the methods by which consumers may be enabled—

(i) to have knowledge that consumer information is being collected about them through their utilization of various offline services and systems;

(ii) to have clear and conspicuous notice that such information could be used, or is intended to be used, by the entity collecting the data for reasons unrelated to the original communications, or that such information could be sold, rented, shared, or otherwise disclosed (or is intended to be sold rented, shared, or otherwise disclosed) to other companies or entities; and

(iii) to stop the reuse, disclosure, or sale of that information;

(B) in the case of consumers who are children, the abilities described in clauses (i), (ii), and (iii) of subparagraph (A) are or can be exercised by their parents; and

(C) changes in the Commission's regulations could provide greater assurance of the offline privacy rights and remedies of parents and consumers generally;

(2) review responses and suggestions from affected commercial and nonprofit entities to changes proposed under paragraph (1)(C); and

(3) make recommendations to the Congress for any legislative changes necessary to ensure such rights and remedies.

(b) SCHEDULE FOR FEDERAL TRADE COMMISSION RESPONSES.—The Federal Trade Commission shall, within 6 months after the date of enactment of this Act, submit to Congress a report containing the recommendations required by subsection (a)(3).

SEC. 502. FEDERAL COMMUNICATIONS COMMISSION RULEMAKING.

(a) PROCEEDING REQUIRED.—The Federal Communications Commission shall initiate a rulemaking proceeding to establish uniform consumer privacy rules for all communications providers. The rulemaking proceeding shall—

(1) examine the privacy rights and remedies of the consumers of all online and offline technologies, including telecommunications providers, cable, broadcast, satellite, wireless, and telephony services;

(2) determine whether consumers are able, and, if not, the methods by which consumers may be enabled to exercise such rights and remedies; and

(3) change the Commission's regulations to coordinate, rationalize, and harmonize laws and regulations administered by the Commission that relate to those rights and remedies.

(b) DEADLINE FOR CHANGES.—The Federal Communications Commission shall complete the rulemaking within 6 months after the date of enactment of this Act.

SEC. 503. DEPARTMENT OF LABOR STUDY OF EMPLOYEE-MONITORING ACTIVITIES.

The Secretary of Labor shall study the extent and nature of employer practices that involving monitoring employee activities both at the workplace and away from the workplace, by electronic or other remote means, including surveillance of electronic mail and Internet use, to determine whether and to what extent such practices constitute an inappropriate violation of employee privacy. The Secretary shall report the results of the study, including findings and recommendations, if any, for legislation or regulation to the Congress within 6 months after the date of enactment of this Act.

TITLE VI—PROTECTION OF PERSONALLY IDENTIFIABLE INFORMATION IN BANKRUPTCY

SEC. 601. PERSONALLY IDENTIFIABLE INFORMATION NOT ASSET IN BANKRUPTCY.

Section 541(b) of title 11, United States Code, is amended—

(1) by striking ''or'' after the semicolon in paragraph (4)(B)(ii);

(2) by striking ''prohibition.'' in paragraph (5) and inserting ''prohibition; or''; and

(3) by inserting after paragraph (5) the following:

''(6) any personally identifiable information (as defined in section 901(6) of the Consumer Privacy Protection Act), or any compilation, or record (in electronic or any other form) of such information.''.

TITLE VII—INTERNET SECURITY INITIATIVES

SEC. 701. FINDINGS.

The Congress finds the following:

(1) Good computer security practices are an underpinning of any privacy protection. The operator of a computer system should protect that system from unauthorized use and secure any private, personal information.

(2) The Federal Government should be a role model in securing its computer systems and should ensure the protection of private, personal information controlled by Federal agencies.

(3) The National Institute of Standards and Technology has the responsibility for developing standards and guidelines needed to ensure the cost-effective security and privacy of private, personal information in Federal computer systems.

(4) This Nation faces a shortage of trained, qualified information technology workers, including computer security professionals. As the demand for information technology workers grows, the Federal government will have an increasingly difficult time attracting such workers into the Federal workforce.

(5) Some commercial off-the-shelf hardware and off-the-shelf software components to protect computer systems are widely available. There is still a need for long-term computer security research, particularly in the area of infrastructure protection.

(6) The Nation's information infrastructures are owned, for the most part, by the private sector, and partnerships and cooperation will be needed for the security of these infrastructures.

(7) There is little financial incentive for private companies to enhance the security of the Internet and other infrastructures as a whole. The Federal government will need to make investments in this area to address issues and concerns not addressed by the private sector.

SEC. 702. COMPUTER SECURITY PARTNERSHIP COUNCIL.

(a) ESTABLISHMENT.—The Secretary of Commerce, in consultation with the President's Information Technology Advisory Committee established by Executive Order No. 13035 of February 11, 1997 (62 F.R. 7231), shall establish a 25-member Computer Security Partnership Council.

(b) CHAIRMAN; MEMBERSHIP.—The Council shall have a chairman, appointed by the Secretary, and 24 additional members, appointed by the Secretary as follows:

(1) 5 members, who are not officers or employees of the United States, who are recognized as leaders in the networking and computer security business, at least 1 of whom represents a small or medium-sized company.

(2) 5 members, who are—

(A) not officers or employees of the United States, and

(B) not in the networking and computer security business,

at least 1 of whom represents a small or medium-sized company.

(3) 5 members, who are not officers or employees of the United States, who represent public interest groups or State or local governments, of whom at least 2 represent such groups and at least 2 represent such governments.

(4) 5 members, who are not officers or employees of the United States, affiliated with a college, university, or other academic, research-oriented, or public policy institution, with recognized expertise in the field of networking and computer security, whose primary source of employment is by that college, university, or other institution rather than a business organization involved in the networking and computer security business.

(5) 4 members, who are officers or employees of the United States, with recognized expertise in computer systems management, including computer and network security.

(c) FUNCTION.—The Council shall collect and share information about, and increase public awareness of, information security practices and programs, threats to information security, and responses to those threats.

(d) STUDY.—Within 12 months after the date of enactment of this Act, the Council shall publish a report which evaluates and describes areas of computer security research and development that are not adequately developed or funded.

(e) ADDITIONAL RECOMMENDATIONS.—The Council shall periodically make recommendations to appropriate government and private sector entities for enhancing the security of networked computers operated or maintained by those entities.

SEC. 703. RESEARCH AND DEVELOPMENT.

Section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g-3) is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) by inserting after subsection (b) the following:

''(c) RESEARCH AND DEVELOPMENT OF PROTECTION TECHNOLOGIES.—

''(1) IN GENERAL.—The Institute shall establish a program at the National Institute of Standards and Technology to conduct, or to fund the conduct of, research and development of technology and techniques to provide security for advanced communications and computing systems and networks including the Next Generation Internet, the underlying structure of the Internet, and networked computers.

''(2) PURPOSE.—A purpose of the program established under paragraph (1) is to address issues or problems that are not addressed by market-driven, private-sector information security research. This may include research—

''(A) to identify Internet security problems which are not adequately addressed by current security technologies;

''(B) to develop interactive tools to analyze security risks in an easy-to-understand manner;

''(C) to enhance the security and reliability of the underlying Internet infrastructure while minimizing any adverse operational impacts such as speed; and

''(D) to allow networks to become self-healing and provide for better analysis of the state of Internet and infrastructure operations and security.

''(3) MATCHING GRANTS.—A grant awarded by the Institute under the program established under paragraph (1) to a commercial enterprise may not exceed 50 percent of the cost of the project to be funded by the grant.

''(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Institute to carry out this subsection—

''(A) $50,000,000 for fiscal year 2001;

''(B) $60,000,000 for fiscal year 2002;

''(C) $70,000,000 for fiscal year 2003;

''(D) $80,000,000 for fiscal year 2004;

''(E) $90,000,000 for fiscal year 2005; and

''(F) $100,000,000 for fiscal year 2006.''.

SEC. 704. COMPUTER SECURITY TRAINING PROGRAMS.

(a) IN GENERAL.—The Secretary of Commerce, in consultation with appropriate Federal agencies, shall establish a program to support the training of individuals in computer security, Internet security, and related fields at institutions of higher education located in the United States.

(b) SUPPORT AUTHORIZED.—Under the program established under subsection (a), the Secretary may provide scholarships, loans, and other forms of financial aid to students at institutions of higher education. The Secretary shall require a recipient of a scholarship under this program to provide a reasonable period of service as an employee of the United States government after graduation as a condition of the scholarship, and may authorize full or partial forgiveness of indebtedness for loans made under this program in exchange for periods of employment by the United States government.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out this section—

(A) $15,000,000 for fiscal year 2001;

(B) $17,000,000 for fiscal year 2002;

(C) $20,000,000 for fiscal year 2003;

(D) $25,000,000 for fiscal year 2004;

(E) $30,000,000 for fiscal year 2005; and

(F) $35,000,000 for fiscal year 2006.

SEC. 705. GOVERNMENT INFORMATION SECURITY STANDARDS.

(a) IN GENERAL.—Section 20(b) of the National Institute of Standards and Technology Act (15 U.S.C. 278g-3(b)) is amended—

(1) by striking ''and'' after the semicolon in paragraph (4);

(2) by redesignating paragraph (5) as paragraph (6); and

(3) by inserting after paragraph (4) the following:

''(5) to provide guidance and assistance to Federal agencies in the protection of interconnected computer systems and to coordinate Federal response efforts related to unauthorized access to Federal computer systems; and''.

(b) FEDERAL COMPUTER SYSTEM SECURITY TRAINING.—Section 5(b) of the Computer Security Act of 1987 (49 U.S.C. 759 note) is amended—

(1) by striking ''and'' at the end of paragraph (1);

(2) by striking the period at the end of paragraph (2) and inserting in lieu thereof ''; and''; and

(3) by adding at the end the following new paragraph:

''(3) to include emphasis on protecting the availability of Federal electronic citizen services and protecting sensitive information in Federal databases and Federal computer sites that are accessible through public networks.''.

SEC. 706. RECOGNITION OF QUALITY IN COMPUTER SECURITY PRACTICES.

Section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g-3), as amended by section 703, is further amended—

(1) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively; and

(2) by inserting after subsection (c), the following:

''(d) AWARD PROGRAM.—The Institute may establish a program for the recognition of excellence in Federal computer system security practices, including the development of a seal, symbol, mark, or logo that could be displayed on the website maintained by the operator of such a system recognized under the program. In order to be recognized under the program, the operator—

''(1) shall have implemented exemplary processes for the protection of its systems and the information stored on that system;

''(2) shall have met any standard established under subsection (a);

''(3) shall have a process in place for updating the system security procedures; and

''(4) shall meet such other criteria as the Institute may require.''.

SEC. 707. DEVELOPMENT OF AUTOMATED PRIVACY CONTROLS.

Section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g-3), as amended by section 706, is further amended—

(1) by redesignating subsection (f) as subsection (g); and

(2) by inserting after subsection (e) the following:

''(f) DEVELOPMENT OF INTERNET PRIVACY PROGRAM.—The Institute shall encourage and support the development of one or more computer programs, protocols, or other software, such as the World Wide Web Consortium's P3P program, capable of being installed on computers, or computer networks, with Internet access that would reflect the user's preferences for protecting personally-identifiable or other sensitive, privacy-related information, and automatically execute the program, once activated, without requiring user intervention.''.

TITLE VIII—CONGRESSIONAL INFORMATION SECURITY STANDARDS.

SEC. 801. EXERCISE OF RULEMAKING POWER.

This title is enacted by the Congress—

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to that House; and it supersedes other rules only to the extent that it are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

SEC. 802. SENATE.

(a) IN GENERAL.—The Sergeant at Arms of the United States Senate shall develop regulations setting forth an information security and electronic privacy policy governing use of the Internet by officers and employees of the Senate in accordance with the following 4 principles of privacy:

(1) NOTICE AND AWARENESS.—Websites must provide users notice of their information practices.

(2) CHOICES AND CONSENT.—Websites must offer users choices as to how personally identifiable information is used beyond the use for which the information was provided.

(3) ACCESS AND PARTICIPATION.—Websites must offer users reasonable access to personally identifiable information and an opportunity to correct inaccuracies.

(4) SECURITY AND INTEGRITY.—Websites must take reasonable steps to protect the security and integrity of personally identifiable information.

(b) PROCEDURE.—

(1) PROPOSAL.—The Sergeant at Arms shall publish a general notice of proposed rulemaking under section 553(b) of title 5, United States Code, but, instead of publication of a general notice of proposed rulemaking in the Federal Register, the Sergeant at Arms shall transmit such notice to the President pro tempore of the Senate for publication in the Congressional Record on the first day on which the Senate is in session following such transmittal. Such notice shall set forth the recommendations of the Sergeant at Arms for regulations under subsection (a).

(2) COMMENT.—Before adopting regulations, the Sergeant at Arms shall provide a comment period of at least 30 days after publication of general notice of proposed rulemaking.

(3) ADOPTION.—After considering comments, the Sergeant at Arms shall adopt regulations and shall transmit notice of such action together with a copy of such regulations to the President pro tempore of the Senate for publication in the Congressional Record on the first day on which the Senate is in session following such transmittal.

(c) APPROVAL OF REGULATIONS.—

(1) IN GENERAL.—The regulations adopted by the Sergeant at Arms may be approved by the Senate by resolution.

(2) REFERRAL.—Upon receipt of a notice of adoption of regulations under subsection (b)(3), the presiding officers of the Senate shall refer such notice, together with a copy of such regulations, to the Committee on Rules and Administration of the Senate. The purpose of the referral shall be to consider whether such regulations should be approved.

(3) JOINT REFERRAL AND DISCHARGE.—The presiding officer of the Senate may refer the notice of issuance of regulations, or any resolution of approval of regulations, to one committee or jointly to more than one committee. If a committee of the Senate acts to

report a jointly referred measure, any other committee of the Senate must act within 30 calendar days of continuous session, or be automatically discharged.

(4) RESOLUTION OF APPROVAL.—In the case of a resolution of the Senate, the matter after the resolving clause shall be the following: ''the following regulations issued by the Sergeant at Arms on ———— ——, 2——— are hereby approved:'' (the blank spaces being appropriately filled in and the text of the regulations being set forth).

(d) ISSUANCE AND EFFECTIVE DATE.—

(1) PUBLICATION.—After approval of the regulations under subsection (c), the Sergeant at Arms shall submit the regulations to the President pro tempore of the Senate for publication in the Congressional Record on the first day on which the Senate is in session following such transmittal.

(2) DATE OF ISSUANCE.—The date of issuance of the regulations shall be the date on which they are published in the Congressional Record under paragraph (1).

(3) EFFECTIVE DATE.—The regulations shall become effective not less than 60 days after the regulations are issued, except that the Sergeant at Arms may provide for an earlier effective date for good cause found (within the meaning of section 553(d)(3) of title 5, United States Code) and published with the regulation.

(e) AMENDMENT OF REGULATIONS.—Regulations may be amended in the same manner as is described in this section for the adoption, approval, and issuance of regulations, except that the Sergeant at Arms may dispense with publication of a general notice of proposed rulemaking of minor, technical, or urgent amendments that satisfy the criteria for dispensing with publication of such notice pursuant to section 553(b)(B) of title 5, United States Code.

(f) RIGHT TO PETITION FOR RULEMAKING.—Any interested party may petition to the Sergeant at Arms for the issuance, amendment, or repeal of a regulation.

TITLE IX—DEFINITIONS

SEC. 901. DEFINITIONS.

In this Act:

(1) OPERATOR OF A COMMERCIAL WEBSITE.—The term ''operator of a commercial website''—

(A) means any person who operates a website located on the Internet or an online service and who collects or maintains personal information from or about the users of or visitors to such website or online service, or on whose behalf such information is collected or maintained, where such website or online service is operated for commercial purposes, including any person offering products or services for sale through that website or online service, involving commerce—

(i) among the several States or with 1 or more foreign nations;

(ii) in any territory of the United States or in the District of Columbia, or between any such territory and—

(I) another such territory; or

(II) any State or foreign nation; or

(iii) between the District of Columbia and any State, territory, or foreign nation; but

(B) does not include any nonprofit entity that would otherwise be exempt from coverage under section 5 of the Federal Trade Commission Act (15 U.S.C. 45).

(2) DISCLOSE.—The term ''disclose'' means the release of personally identifiable information about a user of an Internet service, online service, or commercial website by an Internet service provider, online service provider, or operator of a commercial website for any purpose, except where such information is provided to a person who provides support for the internal operations of the service or website and who does not disclose or use that information for any other purpose.

(3) RELEASE.—The term ''release of personally identifiable information'' means the direct or indirect, active or passive, sharing, selling, renting, or other provision of personally identifiable information of a user of an Internet service, online service, or commercial website to any other person other than the user.

(4) INTERNAL OPERATIONS SUPPORT.—The term ''support for the internal operations of a service or website'' means any activity necessary to maintain the technical functionality of that service or website.

(5) COLLECT.—The term ''collect'' means the gathering of personally identifiable information about a user of an Internal service, online service, or commercial website by or on behalf of the provider or operator of that service or website by any means, direct or indirect, active or passive, including—

(A) an online request for such information by the provider or operator, regardless of how the information is transmitted to the provider or operator;

(B) the use of a chat room, message board, or other online service to gather the information; or

(C) tracking or use of any identifying code linked to a user of such a service or website, including the use of cookies.

(3) COOKIE.—The term ''cookie'' means any program, function, or device, commonly known as a ''cookie'', that makes a record on the user's computer (or other electronic device) of that user's access to an Internet service, online service, or commercial website.

(4) FEDERAL AGENCY.—The term ''Federal agency'' means an agency, as that term is defined in section 551(1) of title 5, United States Code.

(5) INTERNET.—The term ''Internet'' means collectively the myriad of computer and telecommunications facilities, including equipment and operating software, which comprise the interconnected world-wide network of networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocols to such protocol, to communicate information of all kinds by wire or radio.

(6) PERSONALLY IDENTIFIABLE INFORMATION.—The term ''personally identifiable information'' means individually identifiable information about an individual collected online, including—

(A) a first and last name, whether given at birth or adoption, assumed, or legally changed;

(B) a home or other physical address including street name and name of a city or town;

(C) an e-mail address;

(D) a telephone number;

(E) a Social Security number;

(F) a credit card number;

(G) a birth date, birth certificate number, or place of birth;

(H) any other identifier that the Commission determines permits the physical or online contacting of a specific individual; or

(I) unique identifying information that an Internet service provider, online service provider, or operator of a commercial website collects and combines with an identifier described in this paragraph.

(7) INTERNET SERVICE PROVIDER; ONLINE SERVICE PROVIDER; WEBSITE.—The Commission shall by rule define the terms ''Internet service provider'', ''online service provider'', and ''website'', and shall revise or amend such rule to take into account changes in technology, practice, or procedure with respect to the collection of personal information over the Internet.

(8) OFFLINE.—The term ''offline'' refers to any activity regulated by this Act or by section 2710 of title 18, United States Code, that occurs other than by or through the active or passive use of an Internet connection, regardless of the medium by or through which that connection is established.

(9) ONLINE.—The term ''online'' refers to any activity regulated by this Act or by section 2710 of title 18, United States Code, that is effected by active or passive use of an Internet connection, regardless of the medium by or through which that connection is established.

Mr. EDWARDS. Mr. President, Big Browser is watching you. Almost every time, you or I or an American consumer surfs the Internet, someone is tracking our movements. And someone is compiling a databank of information about our preferences and could even be profiling us.

Maybe they're doing it to make our experience better. Most of the time, they probably are. But too often we are being profiled for profit, and at the expense of privacy.

I am proud to co-sponsor Senator HOLLINGS' legislation, the Consumer Privacy Protection Act, that would help consumers gain control of their most personal information. I believe that the measure we introduce today is a step in the right direction. It strikes the right balance. Privacy is protected, while critical elements of the information revolution are preserved. Consumer confidence in the Internet is bolstered, while businesses will not be overburdened by the requirements.

We can enjoy the convenience of online shopping and allow e-commerce to thrive without putting profits over privacy. Consumers, not dot.com companies, should control the use of confidential information about buying habits, credit card records and other personal information.

Mr. President, the time to act is now. If not, we may wake up one day to find our privacy so thoroughly eroded that recovering it will be almost impossible.

No one denies that the rapid development of modern technology has been beneficial. New and improved technologies have enabled us to obtain information more quickly and easily than ever before. Students can participate in classes that are being taught in other states, or even in other countries. Almost no product or piece of information is beyond the reach of Americans anymore. A farmer in Sampson County, North Carolina can go on the Internet and compare prices for anything he needs to run his business. Or he can look up critical weather information on the Internet. Or he can just order a hard-to-get book. Meanwhile, companies have streamlined their processes for providing goods and services.

But these remarkable developments can have a startling downside. They have made it easier to track personal information such as medical and financial records and buying habits. They have made it profitable to do so. And in turn, our ability to keep our personal information private is being eaten away.

The impact of this erosion ranges from the merely annoying—having your mailbox flooded with junkmail—to the actually frightening—having your identity stolen or being turned down for a loan because your bank got copies of your medical records. There are thousands of ways that the loss of our privacy can impact us. Many of them are intangible—just the discomfort of knowing that complete strangers can find out everything about you: where you shop, what books you buy, whether you have allergies, and what your credit rating is. These strangers may not do anything bad with the information, but they know all about you. I think privacy is a value per se. Our founding fathers recognized it, and so too do most Americans.

''Liberty in the constitutional sense,'' wrote Justice William O. Douglas, ''must mean more than freedom from unlawful governmental restraint; it must include privacy as well, if it is to be a repository of freedom. The right to be let alone is indeed the beginning of all freedom.''

Recent surveys indicate that the American public is increasingly uneasy about the degradation of their privacy. In a recent Business Week poll, 92 percent of Internet users expressed discomfort about Web sites sharing personal information with other sites. Meanwhile, an FTC report issued yesterday indicated that only 42 percent of the most popular Internet sites comply with the four key fair information practices—notice about what data is collected, consumer choice about whether the data will be shared with third-parties, consumer access to the data, and security regarding the transmission of data.

We must be vigilant that our privacy does not become a commodity to be bought and sold.

I would also like to point out one area of privacy protection that I have been deeply interested in. Last November, I introduced the Telephone Call Privacy Act. My bill would prevent telecommunications companies from using an individual's personal phone call records without their consent. Most Americans would be stunned to learn that the law does not protect them from having their phone records sold to third parties. Imagine getting a call one night—during dinner—and having a telemarketer try to sell you membership in a travel club because your phone calling patterns show frequent calls overseas. My legislation would prevent this from occurring without the individuals's permission.

This measure we introduce today also contains a provision relating to telephone privacy. It differs in at least one key respect from the legislation I previously introduced, but my hope is that as we discuss this issue over time, the differences will be resolved.

Mr. President, let me conclude by thanking Senators HOLLINGS and LEAHY for their leadership on this vital issue. Senator HOLLINGS has crafted the comprehensive and thoughtful proposal that we introduce today. Senator LEAHY has led a coalition of Senators interested in this issue. I look forward to working with them and my other colleagues in passing this measure.

Mr. CLELAND. Mr. President, the information highway began just a few years ago as a footpath and is now an unlimited lane expressway with no rush hour. People can now use the Internet to shop at virtual stores located thousands of miles away, find turn-by-turn directions to far away destinations and journey to hamlets, cities and states across the country—and indeed around the world—without ever leaving home.

While the virtual world is available to us with a few key strokes and mouse clicks, there is one area of the Internet that many are finding troublesome. It is the collection and use of personnel data. All too often web surfers are providing personal information about themselves at the websites they visit, without their knowledge and consent. There is so much information being collected every day that it would take a building the size of the Library of Congress to store it all in. That is a lot of information, much of which is very personal and I believe it must be kept that way.

Concern about one's privacy on the Internet is keeping people from fully enjoying this marvelous technology. According to a recent survey by the Center for Democracy & Technology, consumers' most pressing privacy issues are the sale of personal information and tracking people's use of the Web. In another recent survey, 66.7 percent of online ''window shoppers'' state that assurances of privacy will be the basis for their making online purchases. These surveys make the same point that was made when credit cards were first introduced to the American public. Back then, credit cards did not initially enjoy widespread usage because of a fear that others could misuse the card. From these studies' findings it can be reasoned that the Internet is experiencing the same effects because of privacy concerns. These concerns are translating into lost opportunity, for consumers as well as electronic businesses.

Most of the Dot Com companies doing business over the Internet today are very cognizant of the fact that privacy is a major concern for their customers. Many of these firms allow visitors to their web site to ''opt out,'' or elect not to provide data they consider private and do not wish to give. A Federal Trade Commission May 2000 Report to Congress found that 92 percent of a random sampling of websites were collecting great amounts of personal information from consumers and only 14% disclosed anything about how the information would be used. More interesting in this report was the finding that a mere 41% of the randomly selected websites notified the visitor of their information practices and offered the visitor choices on how their personal identifying information would be used. These report findings seem to suggest that industry efforts by themselves are not sufficient to control the gathering and dissemination of personal data.

There are some Dot Coms that are not concerned about the privacy of their customers. These firms are successfully collecting enormous amounts of data about a person and in turn sell it to others or use it to intensify the advertising aimed at that person. At one website visit, a company can collect some very interesting facts about the person who is on the other end. While surfing the web the other day, I hit on a website that was designed to provide me with information about my PC. The report the site provided opened my eyes about the types of information that could be obtained from a website visitor in less one minute. In this small amount of time it could tell what other sites I had visited, what sites I would likely visit in the future, what plug-ins are installed on my PC, how my domain is configured and a whole lot more information that I did not understand. Many consider this type of tracking capability akin to stalking. I believe that the information that can be collected by website administrators can create problems for people through a violation of trust and an invasion of privacy. Novice Internet users are generally unaware, as I was until visiting this site, of the extent of the information being collected on them. Even those who are aware of the capabilities of firms to collect private data are frightened by what can happen with the information once it is collected.

I am proud to be cosponsoring the Consumer Privacy Protection Act of 2000 that was introduced today by Senator HOLLINGS. This Act will legitimize the practices currently being used by many reputable firms who are collecting private data. Does it seem unreasonable that firms collecting private data should notify consumers of the firm's information practices, offer the consumer choices on how the personal information will be used, allow consumers to access the information that is collected on them and require the firms to take reasonable steps to protect the security of the information that is collected? I think not. Firms like Georgia-based VerticalOne are already performing under standards very similar to these. I believe that all firms should be held to the same standard and that a level playing field should be established for every firm that is collecting data. Taking these actions will translate into greater consumer confidence in the Internet.

Increasing the level of protection for private information to a level that the people of our nation can live with should be a welcome relief to those firms already providing fair privacy treatment of their site visitors. This Act certainly will be a relief to the people who are visiting their sites.

Passing this Consumer Privacy Protection Act will help prevent confusion by establishing a common set of standards for all firms to follow and all Americans to enjoy.

By Mr. WYDEN:

S. 2607. A bill to promote pain management and palliative care without permitting assisted suicide euthanasia, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

PAIN RELIEF PROMOTION ACT

• Mr. WYDEN. Mr. President, today I am introducing legislation which was actually authored by Senators NICKLES and HATCH, and which they have entitled the ''Pain Relief Promotion Act.'' Their bill which I am now introducing is identical to H.R. 2260 as reported out of the Judiciary Committee on April 27, 2000, as amended. Today, it has been referred by the Senate Parliamentarian to the Committee on Health, Education, Labor, and Pensions (HELP).

While I remain steadfastly opposed to the ''Pain Relief Promotion Act of 2000,'' I am introducing this bill for one reason: to call the Senate's attention to the fact that a far-reaching health policy bill—which many experts believe has the potential to sentence millions of sick and dying patients across the nation to needless pain and suffering—was mistakenly referred to a committee with insufficient health policy resources and no health policy jurisdiction. It is that bill which the Judiciary Committee reported and which, without consideration by the committee with health expertise, the Republican leadership wants to bring to the floor. The unintended consequence of this could be the tragic decline of the quality of pain care across our nation.

Some historical context might help my colleagues and their staff better understand how the Senate finds itself in this unfortunate situation, and the important issues that are at stake. On two separate occasions, the State of Oregon passed a ballot measure that would allow terminally ill persons, with less than six months left to live, to obtain a physician-assisted suicide if they met a variety of safeguard requirements. As a private citizen, I voted twice with the minority of my state in opposition to that measure.

In response to Oregon's vote, several of our congressional colleagues, including Senator NICKLES, Senator LIEBERMAN, and Congressman HENRY HYDE, promptly undertook legislative and other efforts to overturn Oregon's law. I do not, for the purposes of today, debate the merits of the Oregon law, or the merits of physician-assisted suicide, generally.

The original ''Pain Relief Promotion Act,'' S. 1272, was introduced in the Senate by Senator NICKLES, and referred to the Committee on Health, Education, Labor and Pensions (HELP) on June 23, 1999. That committee held one inconclusive hearing on October 13, 1999, at which time it was reported that Senators on both sides of the aisle wished to investigate the matter more thoroughly before acting on the legislation.

Then, on November 19, 1999, Bob Dove, the Senate Parliamentarian, made what he termed ''a mistake'' when he referred H.R. 2260— the virtually identical House-passed version of the ''Pain Relief Promotion Act''— to the Senate Judiciary Committee. Over the course of my service in the Senate, I have come to know Mr. Dove to be a man of integrity and fairness, and one of the most dedicated and enduring public servants in Washington, D.C. When he discovered his mistake, to his great credit, Mr. Dove did something all-too-rare in this town; he simply acknowledged his error. According to an article by the Associated Press on December 7, 1999, Mr. Dove stated plainly that he had mistakenly referred the bill to the Judiciary Committee, instead of the HELP Committee.

Lord knows I've made a few mistakes in my day, so I want to make clear that I harbor nothing but respect for Mr. Dove, and that I do not for one second question Mr. Dove's motives. But the mistake made on November 19, 1999, if left uncorrected, threatens unspeakably negative and long-lasting consequences for the future of health care in this nation.

The jurisdiction of the HELP Committee over the ''Pain Relief Promotion Act'' is clear. The Senate Manual describes the jurisdiction of this committee as including ''measures relating to education, labor, health, and public welfare''. The Senate Manual also describes the HELP Committee as having jurisdiction over aging, biomedical research and development, handicapped individuals, occupational safety and health, and public health.

According to the Senate Manual, the jurisdiction of the Judiciary Committee includes bankruptcy, mutiny, espionage, counterfeiting, civil liberties, constitutional amendments, federal courts and judges, government information, holidays and celebrations, immigration and naturalization, interstate compacts generally, judicial proceedings, local courts in territories and possessions, measures relating to claims against the United States, national penitentiaries, patent office, patents, copyrights trademarks, protection of trade and commerce against unlawful restraints and monopolies, revision and codification of the statutes of the United States, and state and territorial boundary lines.

The committee jurisdiction is not a close call, in this case. As the Senate's leading expert on jurisdiction has now demonstrated, this bill is fundamentally an issue of medical practice, which clearly is within the jurisdiction of the HELP Committee.

Congress has heard conflicting messages from respected medical experts on both sides of this debate about whether the ''Pain Relief Promotion Act'' may, in fact, have a chilling effect on physicians' pain management, thus actually increasing suffering at the end of life. Under the legislation, federal, state, and local law enforcement could receive training to begin scrutinizing physicians' end-of-life care. Many believe that the legislation sends the wrong signal to physicians and others caring for those who are dying, noting the disparity between the $5 million allotted for training in palliative care and the $80 million potentially available for law enforcement activities.

In addition, there is considerable concern that this legislation puts into statute perceptions about pain medication that the scientific world has been trying to change. Physicians often believe that the aggressive use of certain pain medications, such as morphine, will hasten death. Recent scientific studies show this is not the case. Dr. Kathleen M. Foley, Attending Neurologist in the Pain and Palliative Care Service at Memorial Sloan-Kettering Cancer Center and Professor of Neurology, Neuroscience and Clinical Pharmacology at the Cornell University, had this to say about the Nickles-Hatch legislation, ''In short, the underpinnings of this legislation are not based on scientific evidence. It would be unwise to institutionalize the myth into law that pain medications hasten death.''

Renowned medical ethicist, and Director of the Center for Bioethics at the University of Pennsylvania, Arthur L. Caplan, Ph.D., also appeared before the Senate Judiciary Committee on April 25, 2000. He testified that: ''Doctors and nurses may not always fully understand what the law permits or does not, but when the issue requires an assessment of intent in an area as fraught with nuances and pitfalls as end of life care then I believe that this legislation will scare many doctors and nurses and administrators into inaction in the face of pain.''

Dr. Scott Fishman, the Chief of the Division of Pain Medicine and Associate Professor of Anesthesiology at the University of California Davis School of Medicine wrote of the Hatch substitute: ''It is ironic that the 'Hatch substitute', which seeks to prevent physician assisted suicide, will ultimately impair one of the truly effective counters to physician assisted suicide, which is swift and effective pain medicine.''

Dr. Foley, who also assisted the Institute of Medicine committee that wrote the report ''Approaching Death,'' further testified that, ''The Pain Relief Promotion Act, by expanding the authority of the Controlled Substances Act, will disturb the balance that we have worked so hard to create. Physician surveys by the New York State Department of Health have shown that a strict regulatory environment negatively impacts physician prescribing practices and leads them to intentionally undertreat patients with pain

because of concern of regulatory oversight.''

The New England Journal of Medicine editorialized against these legislative approaches to overturning Oregon's law out of concern for its impacts on pain management nationwide, saying: ''Many doctors are concerned about the scrutiny they invite when they prescribe or administer controlled substances and they are hypersensitive to 'drug-seeking behavior' in patients. Patients, as well as doctors, often have exaggerated fears of addiction and the side effects of narcotics. Congress could make this bad situation worse.''

It is worth noting that many people and organizations with expertise in pain management and palliative care are both opposed to physician assisted suicide and opposed to the Nickles-Hatch bill. There are over thirty organizations representing doctors, pharmacists, nurses, and patients who oppose the legislation, including: American Academy of Family Physicians; American Academy of Hospice and Palliative Medicine, American Academy of Pharmaceutical Physicians; American Geriatrics Society; American Nurses Association; American Pain Foundation; American Pharmaceutical Association; American Society for Action on Pain; American Society of Health-System Pharmacists; American Society of Pain Management Nurses; College on Problems of Drug Dependence; Hospice and Palliative Nurses Association; National Foundation for the Treatment of Pain; Oncology Nursing Society; Society of General Internal Medicine; Triumph over Pain Foundation; California Medical Association; Massachusetts Medical Society; North Carolina Medical Society; Oregon Medical Association; Rhode Island Medical Association; San Francisco Medical Society; Indiana State Hospice and Palliative Care Association; Hospice Federation of Massachusetts; Kansas Association of Hospices; Maine Hospice Council; Maine Consortium of Palliative Care and Hospice; Missouri Hospice and Palliative Care Association; New Hampshire State Hospice Organization; New Jersey Hospice and Palliative Care Organization; New York State Hospice Organization; and, Oregon Hospice Association.

Physician-assisted suicide is not a cry for help from people experiencing the failure of patents, copyrights and trademarks. Physician-assisted suicide is a cry for help from people who, in many cases, are experiencing a failure in the health system. And those failures occur across our nation; not just in Oregon. In one study reported in the August 12, 1998, issue of JAMA, over 15 percent of oncologists admitted to participating in physician-assisted suicide or euthanasia. The February 1997 New England Journal of Medicine published a report finding that 53 percent of physicians in a large, San Francisco-based AIDS treatment consortium admitted assisting in a suicide at least once. Personally, I am troubled and saddened that so many of our loved ones are so dissatisfied with their end-of-life options that they seek physician-assisted suicide, instead.

Whether or not this Congress decides to overturn Oregon's law, I believe it is critical that whatever we do must result in a reduced demand for physician-assisted suicide, not only in Oregon, but across our nation. Many reputable experts believe the ''Pain Relief Promotion Act'' will cause physicians—far beyond Oregon's borders—to provide less aggressive pain care to their suffering and dying patients. If this occurs, not only will millions of our elderly and dying constituents suffer needlessly, we may unwittingly increase the demand for suicide at the end of life.

I urge my colleagues, regardless of where they stand on the issue of Oregon's law, to join with me in supporting the restoration of the HELP Committee's jurisdiction. It would be unconscionable for the Senate to fail to correct an honest mistake that could contribute to a devastatingly significant change in health policy. With so much at stake, shouldn't we follow the regular order of the Senate? Shouldn't we insist that the Senate's best qualified health policy experts fully consider the complex policy implications before taking such an extraordinary risk for our constituents, our friends, and our families?

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. 2607

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 ''Pain Relief Promotion Act of 2000''.

SEC. 2. FINDINGS.

Congress finds that—

(1) in the first decade of the new millennium there should be a new emphasis on pain management and palliative care;

(2) the use of certain narcotics and other drugs or substances with a potential for abuse is strictly regulated under the Controlled Substances Act;

(3) the dispensing and distribution of certain controlled substances by properly registered practitioners for legitimate medical purposes are permitted under the Controlled Substances Act and implementing regulations;

(4) the dispensing or distribution of certain controlled substances for the purpose of relieving pain and discomfort even if it increases the risk of death is a legitimate medical purpose and is permissible under the Controlled Substances Act;

(5) inadequate treatment of pain, especially for chronic diseases and conditions, irreversible diseases such as cancer, and end-of-life care, is a serious public health problem affecting hundreds of thousands of patients every year; physicians should not hesitate to dispense or distribute controlled substances when medically indicated for these conditions; and

(6) for the reasons set forth in section 101 of the Controlled Substances Act (21 U.S.C. 801), the dispensing and distribution of controlled substances for any purpose affect interstate commerce.

TITLE I—PROMOTING PAIN MANAGEMENT AND PALLIATIVE CARE

SEC. 101. ACTIVITIES OF AGENCY FOR HEALTHCARE RESEARCH AND QUALITY.

Part A of title IX of the Public Health Service Act (42 U.S.C. 299 et seq.) is amended by adding at the end the following:

''SEC. 903. PROGRAM FOR PAIN MANAGEMENT AND PALLIATIVE CARE RESEARCH AND QUALITY.

''(a) IN GENERAL.—Subject to subsections (e) and (f) of section 902, the Director shall carry out a program to accomplish the following:

''(1) Promote and advance scientific understanding of pain management and palliative care.

''(2) Collect and disseminate protocols and evidence-based practices regarding pain management and palliative care, with priority given to pain management for terminally ill patients, and make such information available to public and private health care programs and providers, health professions schools, and hospices, and to the general public.

''(b) DEFINITION.—In this section, the term 'pain management and palliative care' means—

''(1) the active, total care of patients whose disease or medical condition is not responsive to curative treatment or whose prognosis is limited due to progressive, far-advanced disease; and

''(2) the evaluation, diagnosis, treatment, and management of primary and secondary pain, whether acute, chronic, persistent, intractable, or associated with the end of life; the purpose of which is to diagnose and alleviate pain and other distressing signs and symptoms and to enhance the quality of life, not to hasten or postpone death.''.

SEC. 102. ACTIVITIES OF HEALTH RESOURCES AND SERVICES ADMINISTRATION.

(a) IN GENERAL.—Part D of title VII of the Public Health Service Act (42 U.S.C. 294 et seq.) is amended—

(1) by redesignating sections 754 through 757 as sections 755 through 758, respectively; and

(2) by inserting after section 753 the following:

''SEC. 754. PROGRAM FOR EDUCATION AND TRAINING IN PAIN MANAGEMENT AND PALLIATIVE CARE.

''(a) IN GENERAL.—The Secretary, in consultation with the Director of the Agency for Healthcare Research and Quality, may award grants, cooperative agreements, and contracts to health professions schools, hospices, and other public and private entities for the development and implementation of programs to provide education and training to health care professionals in pain management and palliative care.

''(b) PRIORITY.—In making awards under subsection (a), the Secretary shall give priority to awards for the implementation of programs under such subsection.

''(c) CERTAIN TOPICS.—An award may be made under subsection (a) only if the applicant for the award agrees that the program to be carried out with the award will include information and education on—

''(1) means for diagnosing and alleviating pain and other distressing signs and symptoms of patients, especially terminally ill patients, including the medically appropriate use of controlled substances;

''(2) applicable laws on controlled substances, including laws permitting health care professionals to dispense or administer controlled substances as needed to relieve

pain even in cases where such efforts may unintentionally increase the risk of death; and

''(3) recent findings, developments, and improvements in the provision of pain management and palliative care.

''(d) PROGRAM SITES.—Education and training under subsection (a) may be provided at or through health professions schools, residency training programs and other graduate programs in the health professions, entities that provide continuing medical education, hospices, and such other programs or sites as the Secretary determines to be appropriate.

''(e) EVALUATION OF PROGRAMS.—The Secretary shall (directly or through grants or contracts) provide for the evaluation of programs implemented under subsection (a) in order to determine the effect of such programs on knowledge and practice regarding pain management and palliative care.

''(f) PEER REVIEW GROUPS.—In carrying out section 799(f) with respect to this section, the Secretary shall ensure that the membership of each peer review group involved includes individuals with expertise and experience in pain management and palliative care for the population of patients whose needs are to be served by the program.

''(g) DEFINITION.—In this section, the term 'pain management and palliative care' means—

''(1) the active, total care of patients whose disease or medical condition is not responsive to curative treatment or whose prognosis is limited due to progressive, far-advanced disease; and

''(2) the evaluation, diagnosis, treatment, and management of primary and secondary pain, whether acute, chronic, persistent, intractable, or associated with the end of life; the purpose of which is to diagnose and alleviate pain and other distressing signs and symptoms and to enhance the quality of life, not to hasten or postpone death.''.

(b) AUTHORIZATION OF APPROPRIATIONS; ALLOCATION.—

(1) IN GENERAL.—Section 758 of the Public Health Service Act (as redesignated by subsection (a)(1) of this section) is amended, in subsection (b)(1)(C), by striking ''sections 753, 754, and 755'' and inserting ''sections 753, 754, 755, and 756''.

(2) AMOUNT.—With respect to section 758 of the Public Health Service Act (as redesignated by subsection (a)(1) of this section), the dollar amount specified in subsection (b)(1)(C) of such section is deemed to be increased by $5,000,000.

SEC. 103. DECADE OF PAIN CONTROL AND RESEARCH.

The calendar decade beginning January 1, 2001, is designated as the ''Decade of Pain Control and Research''.

SEC. 104. EFFECTIVE DATE.

The amendments made by this title shall take effect on the date of enactment of this Act.

TITLE II—USE OF CONTROLLED SUBSTANCES CONSISTENT WITH THE CONTROLLED SUBSTANCES ACT

SEC. 201. REINFORCING EXISTING STANDARD FOR LEGITIMATE USE OF CONTROLLED SUBSTANCES.

(a) IN GENERAL.—Section 303 of the Controlled Substances Act (21 U.S.C. 823) is amended by adding at the end the following:

''(i)(1) For purposes of this Act and any regulations to implement this Act, alleviating pain or discomfort in the usual course of professional practice is a legitimate medical purpose for the dispensing, distributing, or administering of a controlled substance that is consistent with public health and safety, even if the use of such a substance may increase the risk of death. Nothing in this section authorizes intentionally dispensing, distributing, or administering a controlled substance for the purpose of causing death or assisting another person in causing death.

''(2)(A) Notwithstanding any other provision of this Act, in determining whether a registration is consistent with the public interest under this Act, the Attorney General shall give no force and effect to State law authorizing or permitting assisted suicide or euthanasia.

''(B) Paragraph (2) applies only to conduct occurring after the date of enactment of this subsection.

''(3) Nothing in this subsection shall be construed to alter the roles of the Federal and State governments in regulating the practice of medicine. Regardless of whether the Attorney General determines pursuant to this section that the registration of a practitioner is inconsistent with the public interest, it remains solely within the discretion of State authorities to determine whether action should be taken with respect to the State professional license of the practitioner or State prescribing privileges.

''(4) Nothing in the Pain Relief Promotion Act of 2000 (including the amendments made by such Act) shall be construed—

''(A) to modify the Federal requirements that a controlled substance be dispensed only for a legitimate medical purpose pursuant to paragraph (1); or

''(B) to provide the Attorney General with the authority to issue national standards for pain management and palliative care clinical practice, research, or quality;

except that the Attorney General may take such other actions as may be necessary to enforce this Act.''.

(b) PAIN RELIEF.—Section 304(c) of the Controlled Substances Act (21 U.S.C. 824(c)) is amended—

(1) by striking ''(c) Before'' and inserting the following:

''(c) PROCEDURES.—

''(1) ORDER TO SHOW CAUSE.—Before''; and

(2) by adding at the end the following:

''(2) BURDEN OF PROOF.—At any proceeding under paragraph (1), where the order to show cause is based on the alleged intentions of the applicant or registrant to cause or assist in causing death, and the practitioner claims a defense under paragraph (1) of section 303(i), the Attorney General shall have the burden of proving, by clear and convincing evidence, that the practitioner's intent was to dispense, distribute, or administer a controlled substance for the purpose of causing death or assisting another person in causing death. In meeting such burden, it shall not be sufficient to prove that the applicant or registrant knew that the use of controlled substance may increase the risk of death.''.

SEC. 202. EDUCATION AND TRAINING PROGRAMS.

Section 502(a) of the Controlled Substances Act (21 U.S.C. 872(a)) is amended—

(1) by striking ''and'' at the end of paragraph (5);

(2) by striking the period at the end of paragraph (6) and inserting ''; and''; and

(3) by adding at the end the following:

''(7) educational and training programs for Federal, State, and local personnel, incorporating recommendations, subject to the provisions of subsections (e) and (f) of section 902 of the Public Health Service Act, by the Secretary of Health and Human Services, on the means by which investigation and enforcement actions by law enforcement personnel may better accommodate the necessary and legitimate use of controlled substances in pain management and palliative care.

Nothing in this subsection shall be construed to alter the roles of the Federal and State governments in regulating the practice of medicine.''.

SEC. 203. FUNDING AUTHORITY.

Notwithstanding any other provision of law, the operation of the diversion control fee account program of the Drug Enforcement Administration shall be construed to include carrying out section 303(i) of the Controlled Substances Act (21 U.S.C. 823(i)), as added by this Act, and subsections (a)(4) and (c)(2) of section 304 of the Controlled Substances Act (21 U.S.C. 824), as amended by this Act.

SEC. 204. EFFECTIVE DATE.

The amendments made by this title shall take effect on the date of enactment of this Act.●

By Mr. GRASSLEY (for himself and Mr. ROTH):

S. 2608. A bill to amend the Internal Revenue Code of 1986 to provide for the treatment of certain expenses of rural letter carriers; to the Committee on Finance.

LEGISLATION REGARDING THE TAXATION OF RURAL LETTER CARRIERS

● Mr. GRASSLEY. Mr. President, the U.S. Postal Service provides a vital and important communication link for the Nation and the citizens of my state of Iowa. Rural Letter Carriers play a special role and have a proud history as an important link in assuring the delivery of our mail. Rural Carriers first delivered the mail with their own horses and buggies, later with their own motorcycles, and now in their own vehicles. They are responsible for maintenance and operation of their vehicles in all types of weather and road conditions. In the winter, snow and ice is their enemy, while in the spring, the melting snow and ice causes potholes and washboard roads. In spite of these quite adverse conditions, rural letter carriers daily drive over 3 million miles and serve 24 million American families on over 66,000 routes.

Although the mission of rural carriers has not changed since the horse and buggy days, the amount of mail they deliver has, as the Nation's mail volume has continued to increase throughout the years, the Postal Service is now delivering more than 200 billion pieces of mail a year. The average carrier delivers about 2,300 pieces of mail a day to about 500 addresses. Most recently, e-commerce has changed the type of mail rural carriers deliver. This fact was confirmed in a recent GAO study entitled ''U.S. Postal Service: Challenges to Sustaining Performance Improvements Remain Formidable on the Brink of the 21st Century,'' dated October 21, 1999. As this report explains, the Postal Service expects declines in its core business, which is essentially letter mail, in the coming years. The growth of e-mail on the Internet, electronic communications, and electronic commerce has the potential to substantially affect the Postal Service's mail volume. First-Class mail has always been the bread and butter of the Postal Service's revenue, but the amount of revenue from First-Class letters will decline in the next few years. However, e-commerce is providing the Postal Service with another opportunity to increase another part of

its business. That's because what individuals and companies order over the Internet must be delivered, sometimes by the Postal Service and often by rural carriers. Currently, the Postal Service has about 33% percent of the parcel business. Carriers are now delivering larger volumes of business mail, parcels, and priority mail packages. But, more parcel business will mean more cargo capacity will be necessary in postal delivery vehicles, especially in those owned and operated by rural letter carriers.

When delivering greeting cards or bills, or packages ordered over the Internet, Rural Letter Carriers use vehicles they currently purchase, operate and maintain. In exchange, they receive a reimbursement from the Postal Service. This reimbursement is called an Equipment Maintenance Allowance (EMA). Congress recognizes that providing a personal vehicle to deliver the U.S. Mail is not typical vehicle use. So, when a rural carrier is ready to sell such a vehicle, it's going to have little trade-in value because of the typically high mileage, extraordinary wear and tear, and the fact that it is probably right-hand drive. Therefore, Congress intended to exempt the EMA allowance from taxation in 1988 through a specific provision for rural mail carriers in the Technical and Miscellaneous Revenue Act of 1988. That provision allowed an employee of the U.S. Postal Service who was involved in the collection and delivery of mail on a rural route, to compute their business use mileage deduction as 150% percent of the standard mileage rate for all business use mileage. As an alternative, rural carrier taxpayers could elect to utilize the actual expense method (business portion of actual operation and maintenance of the vehicle, plus depreciation). If EMA exceeded the allowable vehicle expense deductions, the excess was subject to tax. If EMA fell short of the allowable vehicle expenses, a deduction was allowed only to the extent that the sum of the shortfall and all other miscellaneous itemized deductions exceeded two percent of the taxpayer's adjusted gross income.

The Taxpayers Relief Act of 1997 further simplified the tax returns of rural letter carriers. This act permits the EMA income and expenses ''to wash,'' so that neither income nor expenses would have to be reported on a rural letter carrier's return. That simplified taxes for approximately 120,000 taxpayers, but the provision eliminated the option of filing the actual expense method for employee business vehicle expenses.

The lack of this option, combined with the dramatic changes the Internet has and will have on the mail, specifically on rural carriers and their vehicles, is a problem I believe Congress can and must address.

The mail mix is changing and already Postal Service management has, understandably, encouraged rural carriers to purchase larger right-hand drive vehicles, such as Sports Utility Vehicles (SUVs), to handle the increase in parcel loads. Large SUVs are much more expensive than traditional vehicles, so without the ability to use the actual expense method and depreciation, rural carriers must use their salaries to cover vehicle expenses. Additionally, the Postal Service has placed 11,000 postal vehicles on rural routes, which means those carriers receive no EMA.

These developments have created a situation that is contrary to the historical congressional intent of using reimbursement to fund the government service of delivering mail, and also has created an inequitable tax situation for rural carriers. If actual business expenses exceed the EMA, a deduction for those expenses should be allowed. To correct this inequity, I am introducing a bill today, along with Senator ROTH, that would reinstate the ability of a rural letter carrier to choose between using the actual expense method for computing the deduction allowable for business use of a vehicle, or using the current practice of deducting the reimbursed EMA expenses.

Rural carriers perform a necessary and valuable service and face many changes and challenges in this new Internet era. Let us make sure that these public servants receive fair and equitable tax treatment as they perform their essential role in fulfilling the Postal Service's mandate of binding the Nation together.

I urge my colleagues to join Senator ROTH and myself in supporting this legislation.●

By Mr. CRAIG (for himself and Mr. CRAPO):

S. 2609. A bill to amend the Pittman-Robertson Wildlife Restoration Act and the Dingell-Johnson Sport Fish Restoration Act to enhance the funds available for grants to States for fish and wildlife conservation projects, and to increase opportunities for recreational hunting, bow hunting, trapping, archery, and fishing, by eliminating chances for waste, fraud, abuse, maladministration, and unauthorized expenditures for administration and implementation of those acts, and for other purposes; to the Committee on Environment and Public Works.

THE WILDLIFE AND SPORT FISH RESTORATION PROGRAMS IMPROVEMENT ACT OF 2000

● Mr. CRAIG. Mr. President, I rise today to introduce legislation along with my colleague from Idaho, Senator CRAPO, that will eliminate government waste, conserve wildlife, and provide hunter safety opportunities.

We are all familiar with the Pittman-Robertson and Dingell-Johnson funds which impose an excise tax on firearms, archery equipment, and fishing equipment to conserve wildlife and provide funds to states for hunter safety programs. These funds were created decades ago with the support of both the sportsmen who pay the tax and the states who administer the projects.

The federal government collects the tax, which amounts to around half-a-billion dollars a year, and is authorized to withhold a percentage of the funds for administration of the program. This is how it should be. However, thanks to the thorough oversight of the program by Mr. YOUNG of Alaska, Chairman of the House Committee on Resources, it was uncovered that the U.S. Fish and Wildlife Service, the agency charged with administering the program, abused the vagueness of the law in exactly what constituted an administrative expense.

Under current law, the Service is authorized to withhold approximately $32 million a year to administer the program and, quite frankly, the law leaves it up to the Service as to what is an appropriate administrative expense. Mr. YOUNG discovered that the Service was spending this money on expenses that were outside the spirit of the law. These tax dollars paid by hunters and fishermen were being used for everything from foreign travel to grants to anti-hunting groups to endangered species programs that work against the interests of hunters. In addition, they created unauthorized grant programs, some of which have merit and are authorized in our bill, but all of which were created outside of the law.

Mr. President, I am not going to rehash all of the hearings that were held in the House on this issue. What I will say is that it was an embarrassment to the U.S. Fish and Wildlife Service, and, not until all but two members of the House supported legislation to fix the problems did the Service begin cooperating with Congress and admitting there were actions at the Service which they are not proud of.

In response to the waste, fraud, and abuse uncovered by his Committee, Mr. YOUNG introduced legislation to fix the problems. His legislation caps the administrative expenses at around half of the currently authorized level, sets in stone what is an authorized administrative expense, provides some specific money for hunter safety, authorizes a multi-state grant program, and creates a position of Assistant Director for Wildlife and Sport Fish Restoration Programs. His bill, H.R. 3671, passed the House on April 5th with an overwhelming vote of 423–2.

Mr. President, Senator CRAPO and I have taken the lead of the House by using their bill as a model and simply strengthened it for the sportsmen who pay the excise tax. By providing more money, $15 million per year, for hunter safety programs and providing a total of $7 million per year, $2 million more than the House, for the Multi-State Conservation Grant Program, this bill ensures that the money that sportsmen pay for wildlife conservation and hunter safety is actually used for those purposes.

Mr. President, this is a win-win for everyone—for wildlife and for tax payers—and I urge my colleagues to support it and work for its quick enactment.●

Mr. CRAPO. Mr. President, I rise today to introduce the Wildlife and

Sport Fish Restoration Programs Improvement Act of 2000 with my colleague, Senator LARRY CRAIG, to bring accountability back to the U.S. Fish and Wildlife Service's administration of the Pittman-Robertson Wildlife Restoration Act and the Dingell-Johnson Sportfish Restoration Act. For years, the Fish and Wildlife Service has apparently misused millions of dollars from these accounts, betraying the trust of America's sportsman.

Congressional investigations and a General Accounting Office audit of the U.S. Fish and Wildlife Service have revealed that, contrary to existing law, money has been routinely diverted to administrative slush funds, withheld from states, and generally misused for purposes unrelated to either sportfishing or wildlife conservation. In addition, the GAO called the Division of Federal Aid, ''if not the worst, one of the worst-managed programs we have encountered.'' As an avid outdoorsman, I am particularly disturbed by this abuse.

Since 1937, sportsman have willingly paid an excise tax on hunting, and later fishing, equipment. These hunters, shooters, and anglers paid this tax with the understanding that the money would be used for state fish and wildlife conservation programs. This partnership has been instrumental in providing generations of Americans a quality recreational experience. Through the years, it has been an experience that I have enjoyed with both my parents and my children.

The Federal Aid in Wildlife Restoration Program, commonly known as the Pittman-Robertson Act, provides funding for wildlife habitat restoration and improvement, wildlife management research, hunter education, and public target ranges. Funds for the Pittman-Robertson Act are derived from an 11 percent excise tax on sporting arms, ammunition, and archery equipment, and a 10 percent tax on handguns.

The Federal Aid in Sport Fish Restoration Program, often referred to as the Dingell-Johnson and Wallop-Breaux Acts, is funded through a 10 percent excise tax on fishing equipment and a 3 percent tax on electric trolling motors, sonor fish finders, taxes on motorboat fuels, and import duties on fishing and pleasure boats. Through the cost reimbursement program, states use these funds to enhance sport fishing. These enhancements come through fish stocking, acquisition and improvement of habitat educational programs, and development of recreational facilities that directly support sport fishing, such as boat ramps and fishing piers.

Under the law, revenue from these taxes are expected to be returned to state and local fish and game organizations for programs to manage and enhance sport fish and game species. The Fish and Wildlife Service is supposed to deduct only the cost of administering the programs, up to 8 percent of Pittman-Robertson revenues and 6 percent of Dingell-Johnson funds.

Unfortunatly, these funds have been misdirected and misused by the Fish and Wildlife Service. Through their investment in the Federal Aid program, America's hunters and fisherman have proved themselves to be our nation's true conservationists. Through its misuse of these funds, the Fish and Wildlife Service has proven itself to be a negligent steward of the public trust.

The Wildlife and Sport Fish Restoration Programs Improvement Act, would restore accountability to the administration of Federal Aid funds. By limiting the amount of revenue that may be used on administration, and the accounts that these funds may be used for, this bill will reign in the opportunities for misuse by the Fish and Wildlife Service. Our legislation will also make legal a multi-state conservation grant program to allow streamlined funding for projects that involve multiple states. Additionally, the bill will increase funding for firearm and bow hunter safety programs.

This bill seeks to re-establish a trust between the hunters and anglers who pay the excise taxes and the federal government. It is an opportunity to repair a system that has been lauded as one of the nation's most successful conservation efforts. I hope my colleagues will join with us in a bipartisan effort to restore accountability and responsibility to the Federal Aid programs and the Fish and Wildlife Service.

By Mr. HARKIN (for himself, Mr. THOMAS, Mr. CRAIG, and Mr. FEINGOLD):

S. 2610. A bill to amend title XVIII of the Social Security Act to improve the provision of items and services provided to Medicare beneficiaries residing in rural areas; to the Committee on Finance.

THE MEDICARE FAIRNESS IN REIMBURSEMENT ACT OF 2000

• Mr. HARKIN. Mr. President, I am pleased to be joined today by my colleagues, Senator THOMAS, Senator CRAIG and Senator FEINGOLD, to introduce the ''Medicare Fairness in Reimbursement Act of 2000.'' This legislation addresses the terrible unfairness that exists today in Medicare payment policy.

According to the latest Medicare figures, Medicare payments per beneficiary by state of residence ranged from slightly more than $3000 to well in excess of $6500. For example, in Iowa, the average Medicare payment was $3456, nearly a third less than the national average of $5,034. In Wyoming the situation is worse, with an average payment of approximately $3200.

This payment inequity is unfair to seniors in Iowa and Wyoming, and it is unfair to rural beneficiaries everywhere. The citizens of my home state pay the same Medicare payroll taxes required of every American taxpayer. Yet they get dramatically less in return.

Ironically, rural citizens are not penalized by the Medicare program because they practice inefficient, high cost medicine. The opposite is true. The low payment rates received in rural areas are in large part a result of their historic conservative practice of health care. In the early 1980's rural states' lower-than-average costs were used to justify lower payment rates, and Medicare's payment policies since that time have only widened the gap between low- and high-cost states.

Mr. President, late last year I wrote to the Health Care Financing Administration (HCFA) and I asked them a simple question. I asked their actuaries to estimate for me the impact on Medicare's Trust Funds, which at that time were scheduled to go bankrupt in 2015, if average Medicare payments to all states were the same as Iowa's.

I've always thought Iowa's reimbursement level was low. But HCFA's answer suprised even me. The actuaries found that if all states were reimbursed at the same rate as Iowa, Medicare would be solvent for at least 75 years, 60 years beyond their projections.

I'm not suggesting that all states should be brought down to Iowa's level. But there is no question that the long-term solvency of the Medicare program is of serious national concern. And as Congress considers ways to strengthen and modernize the Medicare program, the issue of unfair payment rates needs to be on the table.

The bill we are introducing today, the ''Medicare Fairness in Reimbursement Act of 2000'' sends a clear signal. These historic wrongs must be righted. Before any Medicare reform bill passes Congress, I intend to make sure that rural beneficiaries are guaranteed access to the same quality health care services of their urban counterparts.

Mr. President, our legislation does the following:

Requires HCFA to improve the fairness of payments under the original Medicare fee-for-services system by adjusting payments for items and services so that no state is greater than 105% above the national average, and no state is below 95% of the national average. An estimated 30 states would benefit under these adjustments, based on 1998 data from the Ways and Means Green Book.

Requires improvements in the collection and use of hospital wage data by occupational category. Experts agree the current system of collecting hospital data ''lowballs'' the payment received by rural hospitals. Large urban hospitals are overcompensated today because they have a much higher number of highly-paid specialists and subspecialists on their staff, while small rural hospitals tend to have more generalists, who aren't as highly paid.

Ensures that beneficiaries are held harmless in both payments and services.

Ensures budget neutrality.

Automatically results in adjustment of Medicare managed care payments to reflect increased equity between rural and urban areas.

This legislation simply ensures basic fairness in our Medicare payment policy. I urge my Senate colleagues, no matter what state you're from, to consider our bill and join us in supporting this common sense Medicare reform. Thank you.

Mr. President, I ask unanimous consent that the text of our bill be printed in the RECORD.

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

S. 2610

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 ''Medicare Fairness in Reimbursement Act of 2000''.

SEC. 2. IMPROVING FAIRNESS OF PAYMENTS UNDER THE MEDICARE FEE-FOR-SERVICE PROGRAM.

(a) Title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) is amended by adding at the end the following new sections:

''IMPROVING FAIRNESS OF PAYMENTS UNDER THE ORIGINAL MEDICARE FEE-FOR-SERVICE PROGRAM

''SEC. 1897. (a) ESTABLISHMENT OF SYSTEM.—Notwithstanding any other provision of law, the Secretary shall establish a system for making adjustments to the amount of payment made to entities and individuals for items and services provided under the original medicare fee-for-service program under parts A and B.

''(b) SYSTEM REQUIREMENTS.—

''(1) ADJUSTMENTS.—Under the system described in subsection (a), the Secretary (beginning in 2001) shall make the following adjustments:

''(A) CERTAIN STATES ABOVE NATIONAL AVERAGE.—If a State average per beneficiary amount for a year is greater than 105 percent (or 110 percent in the case of the determination made in 2000) of the national average per beneficiary amount for such year, then the Secretary shall reduce the amount of applicable payments in such a manner as will result (as estimated by the Secretary) in the State average per beneficiary amount for the subsequent year being at 105 percent (or 110 percent in the case of payments made in 2001) of the national average per beneficiary amount for such subsequent year.

''(B) CERTAIN STATES BELOW NATIONAL AVERAGE.—If a State average per beneficiary amount for a year is less than 95 percent (or 90 percent in the case of the determination made in 2000) of the national average per beneficiary amount for such year, then the Secretary shall increase the amount of applicable payments in such a manner as will result (as estimated by the Secretary) in the State average per beneficiary amount for the subsequent year being at 95 percent (or 90 percent in the case of payments made in 2001) of the national average per beneficiary amount for such subsequent year.

''(2) DETERMINATION OF AVERAGES.—

''(A) STATE AVERAGE PER BENEFICIARY AMOUNT.—Each year (beginning in 2000), the Secretary shall determine a State average per beneficiary amount for each State which shall be equal to the Secretary's estimate of the average amount of expenditures under the original medicare fee-for-service program under parts A and B for the year for a beneficiary enrolled under such parts that resides in the State

''(B) NATIONAL AVERAGE PER BENEFICIARY AMOUNT.—Each year (beginning in 2000), the Secretary shall determine the national average per beneficiary amount which shall be equal to the average of the State average per beneficiary amounts determined under subparagraph (B) for the year.

''(3) DEFINITIONS.—In this section:

''(A) APPLICABLE PAYMENTS.—The term 'applicable payments' means payments made to entities and individuals for items and services provided under the original medicare fee-for-service program under parts A and B to beneficiaries enrolled under such parts that reside in the State.

''(B) STATE.—The term 'State' has the meaning given such term in section 210(h).

''(c) BENEFICIARIES HELD HARMLESS.—The provisions of this section shall not effect—

''(1) the entitlement to items and services of a beneficiary under this title, including the scope of such items and services; or

''(2) any liability of the beneficiary with respect to such items and services.

''(d) REGULATIONS.—

''(1) IN GENERAL.—The Secretary, in consultation with the Medicare Payment Advisory Commission, shall promulgate regulations to carry out this section.

''(2) PROTECTING RURAL COMMUNITIES.—In promulgating the regulations pursuant to paragraph (1), the Secretary shall give special consideration to rural areas.

''(e) BUDGET NEUTRALITY.—The Secretary shall ensure that the provisions contained in this section do not cause the estimated amount of expenditures under this title for a year to increase or decrease from the estimated amount of expenditures under this title that would have been made in such year if this section had not been enacted.

''IMPROVEMENTS IN COLLECTION AND USE OF HOSPITAL WAGE DATA

''SEC. 1898. (a) COLLECTION OF DATA.—

''(1) IN GENERAL.—The Secretary shall establish procedures for improving the methods used by the Secretary to collect data on employee compensation and paid hours of employment for hospital employees by occupational category.

''(2) TIMEFRAME.—The Secretary shall implement the procedures described in paragraph (1) by not later than 180 days after the date of enactment of the Rural Health Protection and Improvement Act of 2000.

''(b) ADJUSTMENT TO HOSPITAL WAGE LEVEL.—By not later than 1 year after the date of enactment of the Rural Health Protection and Improvement Act of 2000, the Secretary shall make necessary revisions to the methods used to adjust payments to hospitals for different area wage levels under section 1886(d)(3)(E) to ensure that such methods take into account the data described in subsection (a)(1).

''(c) LIMITATION.—To the extent possible, in making the revisions described in subsection (b), the Secretary shall ensure that current rules regarding which hospital employees are included in, or excluded from, the determination of the hospital wage levels are not effected by such revisions.

''(d) BUDGET NEUTRALITY.—The Secretary shall ensure that any revisions made under subsection (b) do not cause the estimated amount of expenditures under this title for a year to increase or decrease from the estimated amount of expenditures under this title that would have been made in such year if the Secretary had not made such revisions.''.●

● Mr. THOMAS. Mr. President, I rise today to join my colleagues in introducing the ''Medicare Fairness in Reimbursement Act of 2000,'' which specifically addresses the current payment inequities of the Medicare program. I am pleased to have worked with Mr. HARKIN, Mr. CRAIG, and Mr. FEINGOLD in crafting this bill for rural Medicare beneficiaries.

This bill directs the Secretary of the Department of Health and Human Services to establish a payment system for Medicare's Part A and B fee-for-service programs that guarantees each state's average per beneficiary amount is within 95 percent and 105 percent of the national average. The reason for this seemingly drastic action is because the current payment disparities between states is unacceptable. According to 1998 data, Wyoming's per beneficiary spending is 36 percent below the national average of $5,000 while some other states receive almost 36 percent above the national average.

Mr. President, I understand that there are some legitimate cost differences among states in providing health care services to our seniors, but I do not believe there is justification for an inequity of this size. Seniors in Wyoming and other rural states have paid the same Medicare tax over the years as beneficiaries residing in urban states. However, the current Medicare payment system does not reflect the equal contributions made by all seniors.

The other section of this legislation requires the Secretary to make adjustments to the hospital wage index under the prospective payment system after developing and implementing improved methods for collecting the necessary hospital employee data.

I believe this legislation is an important piece of the overall Medicare reform puzzle. I feel strongly that any final legislation approved by the Senate to ensure Medicare is financially stable for current and future generations must also ensure all beneficiaries are treated fairly and equitably. Mr. President, the current system is not only far from long-term solvency, it is far from fair, especially to seniors living in rural states such as Wyoming.''●

By Mr. LEVIN:

S. 2611. A bill to provide trade adjustment assistance for certain workers; to the Committee on Finance.

TRADE ADJUSTMENT ASSISTANCE LEGISLATION

● Mr. LEVIN. Mr. President, I rise today to introduce a bill that will close a loop hole in the Trade Adjustment Assistance program for employees of the Copper Range Company, formerly the White Pine Company, a copper mine in White Pine, Michigan. My legislation will extend TAA benefits to those employees who were responsible for performing the environmental remediation that was required to close the facility.

My legislation is needed because these employees were unfairly excluded from the TAA certification that applied to other workers at the facility simply because the service they provide, environmental remediation, does not technically support the production of the article that the mine produced: copper. My legislation simply extends TAA coverage to those few workers

who remained at the facility with responsibility for the environmental remediation necessary to close the facility.

The Copper Range Company received NAFTA–TAA certification in 1995 when it began closing down. The company was still in the process of closing down in 1997 and received re-certification at that time. As of the end of 1999, there were still workers at the plant engaged in the final stages of closing down. Their work consisted of environmental remediation. When the plant applied for re-certification in September for purposes of covering these workers, the Department of Labor (DoL) denied the request because DoL said that the remaining workers were not performing a job ending because of transplant to another NAFTA country; they were performing environmental remediation, not production of copper.

Mr. President, this is an unfair catch-22 situation that must be rectified legislatively. The legislation I am introducing today would provide those few employees involved in the final stages of closing down the mine with the same TAA benefits their coworkers received. The total number of workers at issue is small and my legislative fix is straightforward. I hope this legislation can be adopted quickly so that these Michigan workers who have fallen through the cracks can access the TAA benefits they rightfully deserve.

I ask unanimous consent that the bill be printed in its entirety in the RECORD.

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

S. 2611

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

SECTION 1. TRADE ADJUSTMENT ASSISTANCE.

(a) CERTIFICATION OF ELIGIBILITY FOR WORKERS REQUIRED FOR CLOSURE OF FACILITY.—

(1) IN GENERAL.—Notwithstanding any other provision of law or any decision by the Secretary of Labor denying certification or eligibility for certification for adjustment assistance under title II of the Trade Act of 1974, a qualified worker described in paragraph (2) shall be certified by the Secretary as eligible to apply for adjustment assistance under such title II.

(2) QUALIFIED WORKER.—For purposes of this subsection, a ''qualified worker'' means a worker who—

(A) was determined to be covered under Trade Adjustment Assistance Certification TA–W–31,402; and

(B) was necessary for the environmental remediation or closure of a copper mining facility.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of enactment of this Act.●

By Mr. GRAHAM (for himself, Mr. GRASSLEY, Mr. THOMAS, Mr. BIDEN, and Mr. BAYH):

S. 2612. A bill to combat Ecstasy trafficking, distribution, and abuse in the United States, and for other purposes; to the Committee on the Judiciary.

THE ECSTASY ANTI-PROLIFERATION ACT OF 2000

● Mr. GRAHAM. Mr. President, I rise today, along with my colleagues, to introduce the Ecstasy Anti-Proliferation Act of 2000—legislation to combat the recent rise in trafficking, distribution and abuse of MDMA, a drug commonly known as Ecstasy.

The Office of National Drug Control Policy's Year 2000 Annual Report on the National Drug Control Strategy clearly states that the use of Ecstasy is on the rise in the United States, particularly among teenagers and young professionals. My state of Florida has been particularly hard hit by this plague. Ecstasy is customarily sold and consumed at ''raves,'' which are semi-clandestine, all-night parties and concerts. Young Americans are lulled into a belief that Ecstasy, and other designer drugs are ''safe'' ways to get high, escape reality, and enhance intimacy in personal relationships. The drug traffickers make their living off of perpetuating and exploiting this myth.

Mr. President, I want to be perfectly clear in stating that Ecstasy is an extremely dangerous drug. In my state alone, 189 deaths have been attributed to the use of club drugs in the last three years. In 33 of those deaths, Ecstasy was the most prevalent drug, of several, in the individual's system. Seven deaths were caused by Ecstasy alone. In the first four months of this year there have already been six deaths directly attributed to Ecstasy. This drug is a definite killer.

Numerous data also reflect the increasing availability of Ecstasy in metropolitan centers and suburban communities. In a speech to the Federal Law Enforcement Foundation earlier this year, Customs Commissioner Raymond Kelly stated that in the first few months of fiscal year 2000, the Customs Service had already seized over four million Ecstasy tablets. He estimates that the number will grow to at least eight million tablets by the end of the year which represents a substantial increase from the 500,000 tablets seized in fiscal year 1997.

The lucrative nature of Ecstasy encourages its importation. Production costs are as low as two to twenty-five cents per dose while retail prices in the U.S. range from twenty dollars to forty-five dollars per dose. Manufactured mostly in Europe—in nations such as The Netherlands, Belgium, and Spain where pill presses are not controlled as they are in the U.S.—Ecstasy has erased all of the old routes law enforcement has mapped out for the smuggling of traditional drugs.

Under current federal sentencing guidelines, one gram of Ecstasy is equivalent to only 35 grams of marijuana. In contrast, one gram of methamphetamine is equivalent to two kilograms of marijuana. This results in relatively short periods of incarceration for individuals sentenced for Ecstasy-related crimes. When the potential profitability of this drug is compared to the potential punishment, it is easy to see what makes Ecstasy extremely attractive to professional smugglers.

Mr. President, the Ecstasy Anti-Proliferation Act of 2000 addresses this growing and disturbing problem. First, the bill increases the base level offense for Ecstasy-related crimes, making them equal to those of methamphetamine. This provision also accomplishes the goal of effectively lowering the amount of Ecstasy required for prosecution under the laws governing possession with the intent to distribute by sending a message to Federal prosecutors that this drug is a serious threat.

Second, by addressing law enforcement and community education programs, this bill will provide for an Ecstasy information campaign. Through this campaign, our hope is that Ecstasy will soon go the way of crack, which saw a dramatic reduction in the quantities present on our streets after information of its unpredictable impurities and side effects were made known to a wide audience. By using this educational effort we hope to avoid future deaths like the one columnist Jack Newfield wrote about in saddening detail.

It involved an 18-year-old who died after taking Ecstasy in a club where the drug sold for $25 a tablet and water for $5 a bottle. Newfield speaks of how the boy tried to suck water from the club's bathroom tap that had been turned off so that those with drug induced thirst would be forced to buy the bottled water.

Mr. President, the Ecstasy Anti-Proliferation Act of 2000 can only help in our fight against drug abuse in the United States. We urge our colleagues in the Senate to join us in this important effort by cosponsoring this bill.●

● Mr. GRASSLEY. Mr. President, I am pleased to be joining my colleague, Senator GRAHAM, to cosponsor the Ecstasy Anti-Proliferation Act of 2000. This legislation is vital for the safety of our children and our nation. Around the country, Ecstasy use is exploding at an alarming rate from our big cities to our rural neighborhoods. According to Customs officials, Ecstasy is spreading faster than any drug since crack cocaine. This explosion of Ecstasy smuggling has prompted Customs to create a special task force, that focuses exclusively on the designer drug.

Along with my colleague Senator GRAHAM, I believe it is important that we act to stop the spread of this drug. I join with Senator GRAHAM in urging our colleagues to support the Ecstasy Anti-Proliferation Act of 2000, and pass this measure quickly. By enacting this important bill, we will get drug dealers out of the lives of our young people and alert the public to the dangers of Ecstasy.●

Mr. BIDEN. Mr. President, there is a new drug on the scene—Ecstasy, a synthetic stimulant and hallucinogen. It belongs to a group of drugs referred to

as ''club drugs'' because they are associated with all-night dance parties known as ''raves.''

There is a widespread misconception that Ecstasy is not a dangerous drug—that it is ''no big deal.'' I am here to tell you that Ecstasy is a very big deal. The drug depletes the brain of serotonin, the chemical responsible for mood, thought, and memory. Studies show that Ecstasy use can reduce serotonin levels by up to 90 percent for at least two weeks after use and can cause brain damage.

If that isn't a big deal, I don't know what is.

A few months ago we got a significant warning sign that Ecstasy use is becoming a real problem. The University of Michigan's Monitoring the Future survey, a national survey measuring drug use among students, reported that while overall levels of drug use had not increased, past month use of Ecstasy among high school seniors increased more than 66 percent.

The survey showed that nearly six percent of high school seniors have used Ecstasy in the past year. This may sound like a small number, so let me put it in perspective—it is just slightly less than the percentage of seniors who used cocaine and it is five times the number of seniors who used heroin.

And with the supply of Ecstasy increasing as rapidly as it is, the number of kids using this drug is only likely to increase. By April of this year, the Customs Service had already seized 4 million Ecstasy pills—greater than the total amount seized in all of 1999 and more than five times the amount seized in all of 1998.

Though New York is the East Coast hub for this drug, it is spreading quickly throughout the country. Last July, in my home state of Delaware, law enforcement officials seized 900 Ecstasy pills in Rehoboth Beach. There are also reports of an Ecstasy problem in Newark among students at the University of Delaware.

We need to address this problem now, before it gets any worse. That is why I am pleased to join Senators GRAHAM, GRASSLEY and THOMAS to introduce the ''Ecstasy Anti-Proliferation Act of 2000'' today. The legislation takes the steps—both in terms of law enforcement and prevention—to address this problem in a serious way before it gets any worse.

The legislation directs the federal Sentencing Commission to increase the recommended penalties for manufacturing, importing, exporting or trafficking Ecstasy. Though Ecstasy is a Schedule I drug—and therefore subject to the most stringent federal penalties—not all Schedule I drugs are treated the same in our sentencing guidelines. For example, selling a kilogram of marijuana is not as serious an offense as selling a kilogram of heroin. The sentencing guidelines differentiate between the severity of drugs—as they should.

But the current sentencing guidelines do not recognize how dangerous Ecstasy really is.

Under current federal sentencing guidelines, one gram of Ecstasy is treated like 35 grams of marijuana. Under the ''Ecstasy Anti-Proliferation Act'', one gram of Ecstasy would be treated like 2 kilograms of marijuana. This would make the penalties for Ecstasy similar to those for methamphetamine.

The legislation also authorizes a major prevention campaign in schools, communities and over the airwaves to make sure that everyone—kids, adults, parents, teachers, cops, clergy, etc.—know just how dangerous this drug really is. We need to dispel the myth that Ecstasy is not a dangerous drug because, as I stated earlier, this is a substance that can cause brain damage and can even result in death. We need to spread the message so that kids know the risk involved with taking Ecstasy, what it can do to their bodies, their brains, their futures. Adults also need to be taught about this drug—what it looks like, what someone high on Ecstasy looks like, and what to do if they discover that someone they know is using it.

Mr. President, I have come to the floor of the United States Senate on numerous occasions to state what I view as the most effective way to prevent a drug epidemic. My philosophy is simple: the best time to crack down on a drug with uncompromising enforcement pressure is before the abuse of the drug has become rampant. The advantages of doing so are clear—there are fewer pushers trafficking in the drug and, most important, fewer lives and fewer families will have suffered from the abuse of the drug.

It is clear that Ecstasy use is on the rise. Now is the time to act before Ecstasy use becomes our next drug epidemic. I urge my colleagues to join me in supporting this legislation and passing it quickly so that we can address the escalating problem of Ecstasy use before it gets any worse.

By Mr. THURMOND (for himself and Mr. HOLLINGS):

S. 2614. A bill to amend the Harmonized Tariff Schedule of the United States to provide for duty-free treatment on certain manufacturing equipment; to the Committee on Finance.

TO SUSPEND THE DUTY ON CERTAN EQUIPMENT USED IN THE MANUFACTURING INDUSTRY

Mr. THURMOND. Mr. President, I rise today to introduce a bill which will suspend the duties imposed on certain manufacturing equipment that is necessary for tire production. Currently, this equipment is imported for use in the United States because there are no known American producers. Therefore, suspending the duties on this equipment would not adversely affect domestic industries.

This bill would temporarily suspend the duty on tire manufacturing equipment required to make certain large off-road tires that fall between the sizes currently fabricated in the United States. These tires would be used primarily in agriculture.

Mr. President, suspending the duty on this manufacturing equipment will benefit the consumer by stabilizing the costs of manufacturing these products. In addition to permitting new production in this country, these duty suspensions will allow U.S. manufacturers to maintain or improve their ability to compete internationally. I hope the Senate will consider this measure expeditiously.

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

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

S. 2614

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

SECTION 1. SUSPENSION OF DUTY ON CERTAIN MANUFACTURING EQUIPMENT.

(a) IN GENERAL.—Subheadings 9902.84.79, 9902.84.83, 9902.84.85, 9902.84.87, 9902.84.89, and 9902.84.91 of the Harmonized Tariff Schedule of the United States are each amended—

(1) by striking ''4011.91.50'' each place it appears and inserting ''4011.91'';

(2) by striking ''4011.99.40'' each place it appears and inserting ''4011.99''; and

(3) by striking ''86 cm'' each place it appears and inserting ''63.5 cm''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) apply with respect to goods entered, or withdrawn from warehouse for consumption, on or after the date that is 15 days after the date of enactment of this Act.

By Mr. KENNEDY (for himself and Mrs. HUTCHISON):

S. 2615. A bill to establish a program to promote child literacy by making books available through early learning and other child care programs, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

THE BOOK STAMP ACT

• Mr. KENNEDY. Mr. President, literacy is the foundation of learning, but too many Americans today are not able to read a single sentence. Nearly 40 percent of the nation's children are unable to read at grade-level by the end of the third grade. In communities with high concentrations of at-risk children, the failure rate is an astonishing 60 percent. As a result, their entire education is likely to be derailed.

In the battle against literacy, it is not enough to reach out more effectively to school-aged children. We must start earlier—and reach children before they reach school. Pediatricians like Dr. Barry Zuckerman at the Boston Medical Center have been telling us for years that reading to children from birth through school age is a medical issue that should be raised at every well child visit, since a child's brain needs this kind of stimulation to grow to its full potential. Reading to young children in the years before age 5 has a profound effect on their ability

to learn to read. But too often the problem is that young children do not have access to books appropriate to their age. A recent study found that 60 percent of the kindergarten children who performed poorly in school did not own a single book.

The Book Stamp Act that Senator HUTCHISON and I are introducing today is a step to cure that problem. Our goal is to see that all children in this country have books of their own before they enter school.

Regardless of culture or wealth, one of the most important factors in the development of literacy is home access to books. Students from homes with an abundance of reading materials are substantially better readers than those with few or no reading materials available.

But it is not enough to just dump a book into a family's home. Since young children cannot read to themselves, we must make sure that an adult is available who interacts with the child and will read to the child.

In this day of two-parent working families, young children spend substantial time in child care and family care facilities, which provide realistic opportunities for promoting literacy. Progress is already being made on this approach. Child Care READS!, for example, is a national communications campaign aimed at raising the awareness of the importance of reading in child care settings.

The Book Stamp Act will make books available to children and parents through these child care and early childhood education programs.

The act authorizes an appropriation of $50 million a year for this purpose. It also creates a special postage stamp, similar to the Breast Cancer Stamp, which will feature an early learning character, and will sell at a slightly higher rate than the normal 33 cents, with the additional revenues designated for the Book Stamp Program.

The resources will be distributed through the Child Care and Development Block Grant to the state child care agency in each state. The state agency then will allocate its funds to local child care research and referral agencies throughout the state on the basis of local need.

There are 610 such agencies in the country, with at least one in every state. These non-profit agencies, offer referral services for parents seeking child care, and also provide training for child care workers. The agencies will work with established book distribution programs such as First Book, Reading is Fundamental, and Reach Out and Read to coordinate the buying of discounted books and the distribution of the books to children.

Also, to help parents and child care providers become well informed about the best ways to read to children and the most effective use of books with children at various stages of development, the agencies will provide training and technical assistance on these issues.

Our goal is to work closely with parents, children, child care providers and publishers to put at least one book in the hands of every needy child in America. Together, we can make significant progress in early childhood literacy, and I believe we can make it quickly.

We know what works to combat illiteracy. We owe it to the nation's children and the nation's future to do all we can to win this battle.

Mr. President, I ask unanimous consent that the full text of the bill and the accompanying letters of support be printed in the RECORD.

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

S. 2615

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 ''Book Stamp Act''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) Literacy is fundamental to all learning.

(2) Between 40 and 60 percent of the Nation's children do not read at grade level, particularly children in families or school districts that are challenged by significant financial or social instability.

(3) Increased investments in child literacy are needed to improve opportunities for children and the efficacy of the Nation's education investments.

(4) Increasing access to books in the home is an important means of improving child literacy, which can be accomplished nationally at modest cost.

(5) Effective channels for book distribution already exist through child care providers.

SEC. 3. DEFINITION.

In this Act:

(1) EARLY LEARNING PROGRAM.—The term ''early learning'', used with respect to a program, means a program of activities designed to facilitate development of cognitive, language, motor, and social-emotional skills in children under age 6 as a means of enabling the children to enter school ready to learn, such as a Head Start or Early Head Start program carried out under the Head Start Act (42 U.S.C. 9831 et seq.), or a State pre-kindergarten program.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of Health and Human Services.

(3) STATE.—The term ''State'' means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the United States Virgin Islands, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(4) STATE AGENCY.—The term ''State agency'' means an agency designated under section 658D of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858b).

SEC. 4. GRANTS TO STATE AGENCIES.

(a) ESTABLISHMENT OF PROGRAM.—The Secretary shall establish and carry out a program to promote child literacy and improve children's access to books at home and in early learning and other child care programs, by making books available through early learning and other child care programs.

(b) GRANTS.—

(1) IN GENERAL.—In carrying out the program, the Secretary shall make grants to State agencies from allotments determined under paragraph (2).

(2) ALLOTMENTS.—For each fiscal year, the Secretary shall allot to each State an amount that bears the same ratio to the total of the available funds for the fiscal year as the amount the State receives under section 658O(b) of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858m(b)) for the fiscal year bears to the total amount received by all States under that section for the fiscal year.

(c) APPLICATIONS.—To be eligible to receive an allotment under this section, a State shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(d) ACCOUNTABILITY.—The provisions of sections 658I(b) and 658K(b) of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858g(b), 9858i(b)) shall apply to States receiving grants under this Act, except that references in those sections—

(1) to a subchapter shall be considered to be references to this Act; and

(2) to a plan or application shall be considered to be references to an application submitted under subsection (c).

(e) DEFINITION.—In this section, the term ''available funds'', used with respect to a fiscal year, means the total of—

(1) the funds made available under section 416(c)(1) of title 39, United States Code for the fiscal year; and

(2) the amounts appropriated under section 9 for the fiscal year.

SEC. 5. CONTRACTS TO CHILD CARE RESOURCE AND REFERRAL AGENCIES.

A State agency that receives a grant under section 4 shall use funds made available through the grant to enter into contracts with local child care resource and referral agencies to carry out the activities described in section 6. The State agency may reserve not more than 3 percent of the funds made available through the grant to support a public awareness campaign relating to the activities.

SEC. 6. USE OF FUNDS.

(a) ACTIVITIES.—

(1) BOOK PAYMENTS FOR ELIGIBLE PROVIDERS.—A child care resource and referral agency that receives a contract under section 5 shall use the funds made available through the grant to provide payments for eligible early learning program and other child care providers, on the basis of local needs, to enable the providers to make books available, to promote child literacy and improve children's access to books at home and in early learning and other child care programs.

(2) ELIGIBLE PROVIDERS.—To be eligible to receive a payment under paragraph (1), a provider shall—

(A)(i) be a center-based child care provider, a group home child care provider, or a family child care provider, described in section 658P(5)(A) of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858n(5)(A)); or

(ii) be a Head Start agency designated under section 641 of the Head Start Act (42 U.S.C. 9836), an entity that receives assistance under section 645A of such Act to carry out an Early Head Start program or another provider of an early learning program; and

(B) provide services in an area where children face high risks of literacy difficulties, as defined by the Secretary.

(b) RESPONSIBILITIES.—A child care resource and referral agency that receives a contract under section 5 to provide payments to eligible providers shall—

(1) consult with local individuals and organizations concerned with early literacy (including parents and organizations carrying out the Reach Out and Read, First Book, and

Reading Is Fundamental programs) regarding local book distribution needs;

(2) make reasonable efforts to learn public demographic and other information about local families and child literacy programs carried out by the eligible providers, as needed to inform the agency's decisions as the agency carries out the contract;

(3) coordinate local orders of the books made available under this Act;

(4) distribute, to each eligible provider that receives a payment under this Act, not fewer than 1 book every 6 months for each child served by the provider for more than 3 of the preceding 6 months;

(5) use not more than 5 percent of the funds made available through the contract to provide training and technical assistance to the eligible providers on the effective use of books with young children at different stages of development; and

(6) be a training resource for eligible providers that want to offer parent workshops on developing reading readiness.

(c) DISCOUNTS.—

(1) IN GENERAL.—Federal funds made available under this Act for the purchase of books may only be used to purchase books on the same terms as are customarily available in the book industry to entities carrying out nonprofit bulk book purchase and distribution programs.

(2) TERMS.—An entity offering books for purchase under this Act shall be present to have met the requirements of paragraph (1), absent contrary evidence, if the terms include a discount of 43 percent off the catalogue price of the books, with no additional charge for shipping and handling of the books.

(d) ADMINISTRATION.—The child care resource and referral agency may not use more than 6 percent of the funds made available through the contract for administrative costs.

SEC. 7. REPORT TO CONGRESS.

Not later than 2 years of the date of enactment of this Act, the Secretary shall prepare and submit to Congress a report on the implementation of the activities carried out under this Act.

SEC. 8. SPECIAL POSTAGE STAMPS FOR CHILD LITERACY.

Chapter 4 of title 39, United States Code is amended by adding at the end the following:

"§ 416. Special postage stamps for child literacy

''(a) In order to afford the public a convenient way to contribute to funding for child literacy, the Postal Service shall establish a special rate of postage for first-class mail under this section. The stamps that bear the special rate of postage shall promote childhood literacy and shall, to the extent practicable, contain an image relating to a character in a children's book or cartoon.

''(b)(1) The rate of postage established under this section—

''(A) shall be equal to the regular first-class rate of postage, plus a differential of not to exceed 25 percent;

''(B) shall be set by the Governors in accordance with such procedures as the Governors shall by regulation prescribe (in lieu of the procedures described in chapter 36); and

''(C) shall be offered as an alternative to the regular first-class rate of postage.

''(2) The use of the special rate of postage established under this section shall be voluntary on the part of postal patrons.

''(c)(1) Of the amounts becoming available for child literacy pursuant to this section, the Postal Service shall pay 100 percent to the Department of Health and Human Services.

''(2) Payments made under this subsection to the Department shall be made under such arrangements as the Postal Service shall by mutual agreement with such Department establish in order to carry out the objectives of this section, except that, under those arrangements, payments to such agency shall be made at least twice a year.

''(3) In this section, the term 'amounts becoming available for child literacy pursuant to this section' means—

''(A) the total amounts received by the Postal Service that the Postal Service would not have received but for the enactment of this section; reduced by

''(B) an amount sufficient to cover reasonable costs incurred by the Postal Service in carrying out this section, including costs attributable to the printing, sale, and distribution of stamps under this section,

as determined by the Postal Service under regulations that the Postal Service shall prescribe.

''(d) It is the sense of Congress that nothing in this section should—

''(1) directly or indirectly cause a net decrease in total funds received by the Department of Health and Human Services, or any other agency of the Government (or any component or program of the Government), below the level that would otherwise have been received but for the enactment of this section; or

''(2) affect regular first-class rates of postage or any other regular rates of postage.

''(e) Special postage stamps made available under this section shall be made available to the public beginning on such date as the Postal Service shall by regulation prescribe, but in no event later than 12 months after the date of enactment of this section.

''(f) The Postmaster General shall include in each report provided under section 2402, with respect to any period during any portion of which this section is in effect, information concerning the operation of this section, except that, at a minimum, each report shall include information on—

''(1) the total amounts described in subsection (c)(3)(A) that were received by the Postal Service during the period covered by such report; and

''(2) of the amounts described in paragraph (1), how much (in the aggregate and by category) was required for the purposes described in subsection (c)(3)(B).

''(g) This section shall cease to be effective at the end of the 2-year period beginning on the date on which special postage stamps made available under this section are first made available to the public.''.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this Act $50,000,000 for each of fiscal years 2001 through 2005.

CHILDREN'S DEFENSE FUND,
E. STREET, NW,
Washington, DC, May 23, 2000.

Hon. EDWARD KENNEDY,
U.S. Senate,
Washington, DC.

DEAR SENATOR KENNEDY: The Children's Defense Fund welcomes the introduction of the Book Stamp Act. This legislation make books available in early learning/child care programs for young children and their parents. Reading to young children on a regular basis is a first step to ensure that they become strong readers. This bill gives parents access to books to make it more likely for them to read to their children. Thank you for recognizing how important reading is for our youngest children.

Sincerely yours,
MARIAN WRIGHT EDELMAN.

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4 TO 14.COM,
BROADWAY,
New York, NY, May 23, 2000.

Senator EDWARD M. KENNEDY,
U.S. Senate,
Washington, DC.

DEAR SENATOR: I sincerely commend you on your sponsoring the ''Book Stamp'' legislation.

As the CEO of a dot-com designed to help children learn, I am very aware of the ''digital divide'' that separates children from wealthier families from those growing up in poorer households. That disparity—that difference in opportunity—doesn't begin when children start using the computer and exploring the Internet. Rather, it starts much earlier, when very young children should have their first exposure and access exposed to books.

Unfortunately, far too many children—particularly children from lower income families—simply do not have books to call their own. They need books, lots of them, for brain development, to develop the basis and ''habit'' of reading, and to share in one of the true joys of childhood.

Ensuring that all children—particularly those under five years of age—have access to good books that they can call their own, is an essential ingredient of a healthy childhood. This legislation will help make that a reality.

As Susan Roman of the ALA once pointed out, ''Books are the on-ramp to the information super-highway.''

I commend you and Senator Hutchison for being real leaders in this crusade to make all children ready to meet the challenges of the 21st century.

Please let me know how I can help.

Sincerely,
STEVE COHEN,
President.

ASSOCIATION OF AMERICAN
PUBLISHERS, INC.,
Washington, DC, May 23, 2000.

Hon. EDWARD M. KENNEDY,
U.S. Senate,
Washington, DC.

DEAR TED: The American publishing industry enthusiastically supports the ''Book Stamp Act'' introduced by you and Senator Hutchison today. This important and timely legislation acknowledges the fact that young minds need as much nourishing as young bodies.

Every September, some 40 percent of American children who start school are not literacy-ready and, for most, that educational gap never closes. From a growing body of research, we have begun to understand how important it is for very young children to have books in their lives. At BookExpo America on June 3, for the first time, a distinguished group of early literacy experts, pediatricians, child-development professionals and children's publishers will come together to explore ways of improving access to quality books for the 13 million pre-school-age children in daycare and early education programs. The ''Book Stamp Act'' couldn't come at a better time.

We congratulate you on the introduction of the ''Book Stamp Act,'' and look forward to working with you to ensure its passage.

With warmest regards,

Sincerely,
PATRICIA S. SCHROEDER.

NATIONAL ASSOCIATION FOR THE
EDUCATION OF YOUNG CHILDREN,
Washington, DC, May 23, 2000.

Hon. EDWARD M. KENNEDY,
Hon. KAY BAILEY HUTCHISON,
U.S. Senate, Washington, DC.

DEAR SENATORS KENNEDY AND HUTCHISON: The National Association for the Education

of Young Children (NAEYC), representing over 100,000 individuals dedicated to excellence in early childhood education, commends you for your leadership in promoting early childhood literacy through the Book Stamps legislation you will introduce today.

Learning to read and write is critical to a child's success in school and later in life. One of the best predictors of whether a child will function competently in school and go on to contribute actively in our increasingly literate society is the level to which the child progresses in reading and writing. Although reading and writing abilities continue to develop throughout the life span, the early childhood years—from birth through age eight—are the most important period for literacy development. It is for this reason that the International Reading Association (IRA) and NAEYC joined together to formulate a position statement regarding early literacy development.

We are pleased that this bipartisan legislation will expand young children's access to books and support parent involvement in early literacy. By making books more affordable and accessible to young children in Head Start, in child care settings, and in their homes, we can help them not only learn to read and write, but also foster and sustain their interest in reading for their own enjoyment, information, and communication.

Sincerely,

ADELE ROBINSON,
Director of Policy Development.

READING IS FUNDAMENTAL, INC.,
Washington, DC, May 23, 2000.

DEAR SENATOR: Reading Is Fundamental's Board of Directors and staff urge you to support the passage of the Kennedy-Hutchison Book Stamp Act to help bridge the literacy gap for the nation's youngest and most at-risk children.

Educators, researchers and practitioners in the literacy arena have increasing focused on the 0–5 age range as the key to helping the nation's neediest children enter school ready to read and learn. We know that focus and attention will give them a far better chance at succeeding in life than many of their parents and older siblings had.

At RIF, we have increased our focus on providing books and literacy enhancing programs and services in recent years and we are actively pursuing working relationships and partnerships with the childcare community. We have launched a pilot program to create effective training system, called Care to Read for childcare providers and other early childhood caregivers. That program is now ready to help these caregivers provide appropriate environmental and literacy enhancing experiences for children. We are anxious to engage with NACCRA in working out ways to link this training with the Book Stamp Act initiative and share RIF's resources to help make this program effective.

RIF now provides books and essential literacy services to nearly 1,000,000 children and we know the need is critical for significant infusions of books and services to help reduce illiteracy among this at-risk population. We urge your strong support.

Yours truly,

RICHARD E. SELLS,
Senior VP and Chief Operating Officer.●

ADDITIONAL COSPONSORS

S. 345

At the request of Mr. ALLARD, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 345, a bill to amend the Animal Welfare Act to remove the limitation that permits interstate movement of live birds, for the purpose of fighting, to States in which animal fighting is lawful.

S. 429

At the request of Mr. DURBIN, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 429, a bill to designate the legal public holiday of ''Washington's Birthday'' as ''Presidents' Day'' in honor of George Washington, Abraham Lincoln, and Franklin Roosevelt and in recognition of the importance of the institution of the Presidency and the contributions that Presidents have made to the development of our Nation and the principles of freedom and democracy.

S. 779

At the request of Mr. ABRAHAM, the names of the Senator from Connecticut (Mr. DODD) and the Senator from New Mexico (Mr. BINGAMAN) were added as cosponsors of S. 779, a bill to provide that no Federal income tax shall be imposed on amounts received by Holocaust victims or their heirs.

S. 1118

At the request of Mr. SCHUMER, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 1118, a bill to amend the Agricultural Market Transition Act to convert the price support program for sugarcane and sugar beets into a system of solely recourse loans to provide for the gradual elimination of the program.

S. 1155

At the request of Mr. ROBERTS, the name of the Senator from Illinois (Mr. FITZGERALD) was added as a cosponsor of S. 1155, a bill to amend the Federal Food, Drug, and Cosmetic Act to provide for uniform food safety warning notification requirements, and for other purposes.

S. 1159

At the request of Mr. STEVENS, the names of the Senator from Vermont (Mr. JEFFORDS), the Senator from Louisiana (Ms. LANDRIEU) and the Senator from Iowa (Mr. HARKIN) were added as cosponsors of S. 1159, a bill to provide grants and contracts to local educational agencies to initiate, expand, and improve physical education programs for all kindergarten through 12th grade students.

S. 1351

At the request of Mr. GRASSLEY, the name of the Senator from Washington (Mr. GORTON) was added as a cosponsor of S. 1351, a bill to amend the Internal Revenue Code of 1986 to extend and modify the credit for electricity produced from renewable resources.

S. 1475

At the request of Mr. REED, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 1475, a bill to amend the Child Care and Development Block Grant Act of 1990 to provide incentive grants to improve the quality of child care.

S. 1487

At the request of Mr. AKAKA, the name of the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of S. 1487, a bill to provide for excellence in economic education, and for other purposes.

S. 1488

At the request of Mr. GORTON, the name of the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of S. 1488, a bill to amend the Public Health Service Act to provide for recommendations of the Secretary of Health and Human Services regarding the placement of automatic external defibrillators in Federal buildings in order to improve survival rates of individuals who experience cardiac arrest in such buildings, and to establish protections from civil liability arising from the emergency use of the devices.

S. 1762

At the request of Mr. COVERDELL, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 1762, a bill to amend the Watershed Protection and Flood Prevention Act to authorize the Secretary of Agriculture to provide cost share assistance for the rehabilitation of structural measures constructed as part of water resources projects previously funded by the Secretary under such Act or related laws.

S. 1795

At the request of Mr. SMITH of New Hampshire, his name was added as a cosponsor of S. 1795, a bill to require that before issuing an order, the President shall cite the authority for the order, conduct a cost benefit analysis, provide for public comment, and for other purposes.

S. 1800

At the request of Mr. GRAHAM, the name of the Senator from West Virginia (Mr. ROCKEFELLER) was added as a cosponsor of S. 1800, a bill to amend the Food Stamp Act of 1977 to improve onsite inspections of State food stamp programs, to provide grants to develop community partnerships and innovative outreach strategies for food stamp and related programs, and for other purposes.

S. 1810

At the request of Mrs. MURRAY, the name of the Senator from Florida (Mr. GRAHAM) was added as a cosponsor of S. 1810, a bill to amend title 38, United States Code, to clarify and improve veterans' claims and appellate procedures.

S. 1874

At the request of Mr. GRAHAM, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 1874, a bill to improve academic and social outcomes for youth and reduce both juvenile crime and the risk that youth will become victims of crime by providing productive activities conducted by law enforcement personnel during non-school hours.

S. 1880

At the request of Mr. KENNEDY, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 1880, a bill to amend the

Public Health Service Act to improve the health of minority individuals.

S. 1900

At the request of Mr. LAUTENBERG, the name of the Senator from Nebraska (Mr. KERREY) was added as a cosponsor of S. 1900, a bill to amend the Internal Revenue Code of 1986 to allow a credit to holders of qualified bonds issued by Amtrak, and for other purposes.

S. 1945

At the request of Mr. BOND, the name of the Senator from Illinois (Mr. FITZGERALD) was added as a cosponsor of S. 1945, a bill to amend title 23, United States Code, to require consideration under the congestion mitigation and air quality improvement program of the extent to which a proposed project or program reduces sulfur or atmospheric carbon emissions, to make renewable fuel projects eligible under that program, and for other purposes.

S. 1995

At the request of Mr. KOHL, the name of the Senator from Georgia (Mr. CLELAND) was added as a cosponsor of S. 1995, a bill to amend the National School Lunch Act to revise the eligibility of private organizations under the child and adult care food program.

S. 2018

At the request of Mrs. HUTCHISON, the names of the Senator from Connecticut (Mr. DODD) and the Senator from California (Mrs. BOXER) were added as cosponsors of S. 2018, a bill to amend title XVIII of the Social Security Act to revise the update factor used in making payments to PPS hospitals under the medicare program.

S. 2029

At the request of Mr. FRIST, the name of the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of S. 2029, a bill to amend the Communications Act of 1934 to prohibit telemarketers from interfering with the caller identification service of any person to whom a telephone solicitation is made, and for other purposes.

S. 2068

At the request of Mr. GREGG, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of S. 2068, a bill to prohibit the Federal Communications Commission from establishing rules authorizing the operation of new, low power FM radio stations.

S. 2070

At the request of Mr. FITZGERALD, the name of the Senator from Tennessee (Mr. FRIST) was added as a cosponsor of S. 2070, a bill to improve safety standards for child restraints in motor vehicles.

S. 2100

At the request of Mr. EDWARDS, the name of the Senator from Michigan (Mr. ABRAHAM) was added as a cosponsor of S. 2100, a bill to provide for fire sprinkler systems in public and private college and university housing and dormitories, including fraternity and sorority housing and dormitories.

S. 2181

At the request of Mr. BINGAMAN, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 2181, a bill to amend the Land and Water Conservation Fund Act to provide full funding for the Land and Water Conservation Fund, and to provide dedicated funding for other conservation programs, including coastal stewardship, wildlife habitat protection, State and local park and open space preservation, historic preservation, forestry conservation programs, and youth conservation corps; and for other purposes.

S. 2256

At the request of Mr. BIDEN, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 2256, a bill to amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to provide standards and procedures to guide both State and local law enforcement agencies and law enforcement officers during internal investigations, interrogation of law enforcement officers, and administrative disciplinary hearings, to ensure accountability of law enforcement officers, to guarantee the due process rights of law enforcement officers, and to require States to enact law enforcement discipline, accountability, and due process laws.

S. 2287

At the request of Mr. L. CHAFEE, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 2287, a bill to amend the Public Health Service Act to authorize the Director of the National Institute of Environmental Health Sciences to make grants for the development and operation of research centers regarding environmental factors that may be related to the etiology of breast cancer.

S. 2298

At the request of Mr. JEFFORDS, the name of the Senator from North Carolina (Mr. HELMS) was added as a cosponsor of S. 2298, a bill to amend title XVIII of the Social Security Act to clarify the definition of homebound with respect to home health services under the medicare program.

S. 2307

At the request of Mr. DORGAN, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 2307, a bill to amend the Communications Act of 1934 to encourage broadband deployment to rural America, and for other purposes.

S. 2308

At the request of Mr. MOYNIHAN, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 2308, a bill to amend title XIX of the Social Security Act to assure preservation of safety net hospitals through maintenance of the Medicaid disproportionate share hospital program.

S. 2311

At the request of Mr. JEFFORDS, the name of the Senator from South Carolina (Mr. THURMOND) was added as a cosponsor of S. 2311, supra.

At the request of Mr. KENNEDY, the names of the Senator from Florida (Mr. GRAHAM) and the Senator from Hawaii (Mr. AKAKA) were added as cosponsors of S. 2311, a bill to revise and extend the Ryan White CARE Act programs under title XXVI of the Public Health Service Act, to improve access to health care and the quality of health care under such programs, and to provide for the development of increased capacity to provide health care and related support services to individuals and families with HIV disease, and for other purposes.

S. 2321

At the request of Mr. ROCKEFELLER, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 2321, a bill to amend the Internal Revenue Code of 1986 to allow a tax credit for development costs of telecommunications facilities in rural areas.

S. 2330

At the request of Mr. ROTH, the names of the Senator from Utah (Mr. BENNETT), the Senator from Louisiana (Ms. LANDRIEU) and the Senator from Tennessee (Mr. THOMPSON) were added as cosponsors of S. 2330, a bill to amend the Internal Revenue Code of 1986 to repeal the excise tax on telephone and other communication services.

S. 2338

At the request of Mr. SCHUMER, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 2338, a bill to enhance the enforcement of gun violence laws.

S. 2357

At the request of Mr. REID, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 2357, a bill to amend title 38, United States Code, to permit retired members of the Armed Forces who have a service-connected disability to receive military retired pay concurrently with veterans' disability compensation.

S. 2365

At the request of Ms. COLLINS, the name of the Senator from Tennessee (Mr. FRIST) was added as a cosponsor of S. 2365, a bill to amend title XVIII of the Social Security Act to eliminate the 15 percent reduction in payment rates under the prospective payment system for home health services.

S. 2393

At the request of Mr. DURBIN, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 2393, a bill to prohibit the use of racial and other discriminatory profiling in connection with searches and detentions of individuals by the United States Customs Service personnel, and for other purposes.

S. 2408

At the request of Mr. BINGAMAN, the names of the Senator from California (Mrs. BOXER), the Senator from Massachusetts (Mr. KERRY), the Senator from

Washington (Mr. GORTON), the Senator from Delaware (Mr. BIDEN), and the Senator from Kansas (Mr. ROBERTS) were added as cosponsors of S. 2408, a bill to authorize the President to award a gold medal on behalf of the Congress to the Navajo Code Talkers in recognition of their contributions to the Nation.

S. 2417

At the request of Mr. CRAPO, the names of the Senator from Arizona (Mr. KYL), the Senator from Montana (Mr. BURNS) and the Senator from Maine (Ms. SNOWE) were added as cosponsors of S. 2417, a bill to amend the Federal Water Pollution Control Act to increase funding for State nonpoint source pollution control programs, and for other purposes.

S. 2419

At the request of Mr. JOHNSON, the names of the Senator from Illinois (Mr. DURBIN) and the Senator from North Dakota (Mr. CONRAD) were added as cosponsors of S. 2419, a bill to amend title 38, United States Code, to provide for the annual determination of the rate of the basic benefit of active duty educational assistance under the Montgomery GI Bill, and for other purposes.

S. 2420

At the request of Mr. GRASSLEY, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of S. 2420, a bill to amend title 5, United States Code, to provide for the establishment of a program under which long-term care insurance is made available to Federal employees, members of the uniformed services, and civilian and military retirees, and for other purposes.

S. 2447

At the request of Mr. WELLSTONE, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 2447, a bill to amend the Consolidated Farm and Rural Development Act to authorize the Secretary of Agriculture to make competitive grants to establish National Centers for Distance Working to provide assistance to individuals in rural communities to support the use of teleworking in information technology fields.

S. 2459

At the request of Mr. COVERDELL, the names of the Senator from Kansas (Mr. BROWNBACK), the Senator from Georgia (Mr. CLELAND), and the Senator from Tennessee (Mr. THOMPSON) were added as cosponsors of S. 2459, a bill to provide for the award of a gold medal on behalf of the Congress to former President Ronald Reagan and his wife Nancy Reagan in recognition of their service to the Nation.

S. 2465

At the request of Mr. WELLSTONE, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 2465, a bill to amend the Internal Revenue Code of 1986 to deny tax benefits for research conducted by pharmaceutical companies where United States consumers pay higher prices for the products of that research than consumers in certain other countries.

S. 2516

At the request of Mr. THURMOND, the names of the Senator from North Carolina (Mr. HELMS) and the Senator from Ohio (Mr. DEWINE) were added as cosponsors of S. 2516, a bill to fund task forces to locate and apprehend fugitives in Federal, State, and local felony criminal cases and give administrative subpoena authority to the United States Marshals Service.

S. 2554

At the request of Mr. GREGG, the name of the Senator from Alabama (Mr. SHELBY) was added as a cosponsor of S. 2554, a bill to amend title XI of the Social Security Act to prohibit the display of an individual's social security number for commercial purposes without the consent of the individual.

S. 2596

At the request of Mrs. HUTCHISON, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of S. 2596, a bill to amend the Internal Revenue Code of 1986 to encourage a strong community-based banking system.

S. 2599

At the request of Mr. ABRAHAM, the name of the Senator from New York (Mr. MOYNIHAN) was added as a cosponsor of S. 2599, a bill to amend section 110 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, and for other purposes.

S. CON. RES. 53

At the request of Mrs. FEINSTEIN, the names of the Senator from Michigan (Mr. LEVIN), the Senator from Minnesota (Mr. GRAMS), and the Senator from Massachusetts (Mr. KERRY) were added as cosponsors of S. Con. Res. 53, a concurrent resolution condemning all prejudice against individuals of Asian and Pacific Island ancestry in the United States and supporting political and civic participation by such individuals throughout the United States.

S. CON. RES. 111

At the request of Mr. NICKLES, the names of the Senator from Illinois (Mr. DURBIN) and the Senator from Nebraska (Mr. KERREY) were added as cosponsors of S. Con. Res. 111, a concurrent resolution expressing the sense of the Congress regarding ensuring a competitive North American market for softwood lumber.

S. CON. RES. 113

At the request of Mr. MOYNIHAN, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. Con. Res. 113, a concurrent resolution expressing the sense of the Congress in recognition of the 10th anniversary of the free and fair elections in Burma and the urgent need to improve the democratic and human rights of the people of Burma.

S. RES. 296

At the request of Mr. GRAHAM, the names of the Senator from New Mexico (Mr. DOMENICI) and the Senator from Oregon (Mr. WYDEN) were added as cosponsors of S. Res. 296, a resolution designating the first Sunday in June of each calendar year as ''National Child's Day.''

SENATE CONCURRENT RESOLUTION 114—RECOGNIZING THE LIBERTY MEMORIAL IN KANSAS CITY, MISSOURI, AS A NATIONAL WORLD WAR I SYMBOL HONORING THOSE WHO DEFENDED LIBERTY AND OUR COUNTRY THROUGH SERVICE IN WORLD WAR I

Mr. BOND (for himself, Mr. ASHCROFT, and Mr. ROBERTS) submitted the following concurrent resolution; which was referred to the Committee on Environment and Public Works:

S. CON. RES. 114

Whereas over 4 million Americans served in World War I, however, there is no nationally recognized symbol honoring the service of such Americans;

Whereas in 1919, citizens of Kansas City expressed an outpouring of support, raising over $2,000,000 in 2 weeks, which was a fundraising accomplishment unparalleled by any other city in the United States irrespective of population;

Whereas on November 1, 1921, the monument site was dedicated marking the only time in history that the 5 Allied military leaders (Lieutenant General Baron Jacques of Belgium, General Armando Diaz of Italy, Marshal Ferdinand Foch of France, General John J. Pershing of the United States, and Admiral Lord Earl Beatty of Great Britain) were together at one place;

Whereas during a solemn ceremony on Armistice Day in 1924, President Calvin Coolidge marked the beginning of a 3-year construction project by the laying of the cornerstone of the Liberty Memorial;

Whereas the 217-foot Memorial Tower topped with 4 stone ''Guardian Spirits'' representing courage, honor, patriotism, and sacrifice, rises above the observation deck, making the Liberty Memorial a noble tribute to all who served;

Whereas during a rededication of the Liberty Memorial in 1961, former Presidents Harry S. Truman and Dwight D. Eisenhower recognized the memorial as a constant reminder of the sacrifices during World War I and the progress that followed;

Whereas the Liberty Memorial is the only public museum in the United States specifically dedicated to the history of World War I; and

Whereas the Liberty Memorial is internationally known as a major center of World War I remembrance: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Liberty Memorial in Kansas City, Missouri, is recognized as a national World War I symbol, honoring those who defended liberty and our country through service in World War I.

• Mr. BOND. Mr. President, today I come to the floor to submit a resolution recognizing the Liberty Memorial in Kansas City, Missouri as a national World War I symbol. I am pleased that Senator ASHCROFT and Senator ROBERTS are joining me as original cosponsors.

Fighting in the trenches in Europe, America's sons and daughters defended liberty and our country through service in World War One. We want to ensure that the sacrifices they made are

not forgotten. The Liberty Memorial serves as a long-standing tribute to their accomplishments.

More than 4 million Americans served in World War One, however, the Liberty Memorial is the only major memorial and museum honoring their courage and loyalty. It is important to me that these men and women have an appropriate national symbol; they deserve to be recognized and honored. The Liberty Memorial serves as a constant reminder of the patriotism and sacrifice that the War evoked, both to the people of Kansas City, and across the country.

In 1919, Kansas Citians expressed an unprecedented outpouring of support, raising $2.5 million in less than two weeks. Three years later the five Allied military leaders met in Kansas City, marking the only time in history all five leaders came togther at one place. The leaders from Belgium, Italy, France, Great Brittan and the United States looked on, as the site for the Liberty Memorial was dedicated. Since that historic occasion, many other great world leaders have addressed the public at the Liberty Memorial including: Presidents Calvin Coolidge, Harry S Truman, Dwight D. Eisenhower, and William Howard Taft.

The Liberty Memorial opened to the public in 1926. It is an amazing structure; the impressive size and design puts it in a class with monuments here on the National Mall. The Memorial Tower is 217-feet-tall. The four Guardian Spirits: Honor, Courage, Patriotism, and Sacrifice, encircle the top of the tower. This is a great, inspirational work of art that serves as an outstanding tribute to America's sons and daughters of World War I.

In addition to the Memorial Tower, there is a Liberty Memorial Museum located within the complex. This museum promotes and encourages a better understanding of the sacrifices and progress made during World War I. While the Memorial undergoes a major renovation project, the museum is currently closed to the public. Upon its reopening, visitors from around the world can come to Kansas City to view the finest collection of World War I memorabilia in the United States. These fascinating displays are arranged to give visitors insight into America's role in the First World War.

The Memorial's history, consistent local support and its location in the Heart of America, makes the Liberty Memorial an ideal national tribute to all Americans who fought in World War One. I am proud to have such a distinguished Memorial in my home state of Missouri.

Mr. President, I urge the Senate to pass this resolution in a timely fashion so that we can properly honor the veterans of World War One with a national monument, and recognize the significance of the Liberty Memorial.●

SENATE CONCURRENT RESOLUTION 115—PROVIDING FOR THE ACCEPTANCE OF A STATUE OF CHIEF WASHAKIE, PRESENTED BY THE PEOPLE OF WYOMING, FOR PLACEMENT IN NATIONAL STATUARY HALL, AND FOR OTHER PURPOSES

Mr. THOMAS (for himself and Mr. ENZI) submitted the following concurrent resolution; which was referred to the Committee on Rules and Administration:

S. CON. RES. 115

Whereas Chief Washakie was a recognized leader of the Eastern Shoshone Tribe;

Whereas Chief Washakie contributed to the settlement of the west by allowing the Oregon and Mormon Trails to pass through Shoshone lands;

Whereas Chief Washakie, with his foresight and wisdom, chose the path of peace for his people;

Whereas Chief Washakie was a great leader who chose his alliances with other tribes and the United States Government thoughtfully; and

Whereas in recognition of his alliance and long service to the United States Government, Chief Washakie was the only chief to be awarded a full military funeral: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring),

SECTION 1. ACCEPTANCE OF STATUE OF CHIEF WASHAKIE FROM THE PEOPLE OF WYOMING FOR PLACEMENT IN NATIONAL STATUARY HALL.

(a) IN GENERAL.—The statue of Chief Washakie, furnished by the people of Wyoming for placement in National Statuary Hall in accordance with section 1814 of the Revised Statutes of the United States (40 U.S.C. 187), is accepted in the name of the United States, and the thanks of the Congress are tendered to the people of Wyoming for providing this commemoration of one of Wyoming's most eminent personages.

(b) PRESENTATION CEREMONY.—The State of Wyoming is authorized to use the rotunda of the Capitol on September 7, 2000, at 11:00 a.m., for a presentation ceremony for the statue. The Architect of the Capitol and the Capitol Police Board shall take such actions as may be necessary with respect to physical preparations and security for the ceremony.

(c) DISPLAY IN ROTUNDA.—The statue shall be displayed in the rotunda of the Capitol for a period of not more than 6 months, after which period the statue shall be moved to its permanent location in National Statuary Hall.

SEC. 2. TRANSCRIPT OF PROCEEDINGS.

(a) IN GENERAL.—The transcript of proceedings of the ceremony held under section 1 shall be printed, under the direction of the Joint Committee on the Library, as a Senate document, with illustrations and suitable binding.

(b) PRINTED COPIES.—In addition to the usual number, there shall be printed 6,555 copies of the ceremony transcript, of which 105 copies shall be for the use of the Senate, 450 copies shall be for the use of the House of Representatives, 2,500 copies shall be for use of the Representative from Wyoming, and 3,500 copies shall be for the use of the Senators from Wyoming.

SEC. 3. TRANSMITTAL TO GOVERNOR OF WYOMING.

The Clerk of the Senate shall transmit a copy of this concurrent resolution to the Governor of Wyoming.

Mr. THOMAS. Mr. President, today I rise along with Senator ENZI to submit a concurrent resolution allowing for the placement of Wyoming's second statue in Statuary Hall.

As many individuals from Wyoming know, Chief Washakie was a true warrior and statesman. Chief Washakie was born in 1798 and actively participated in the cultural and historic events that shaped the West before passing away in 1900. The value of his life experiences—which span three separate centuries—still resonate in my home state today.

Chief Washakie, a skilled orator and charismatic figure, was widely known for his ability to foresee what the future held for his people. As Chief of the Shoshone tribe for fifty years, Washakie was successful in protecting the interests of his people in the face of westward expansion. In 1868, Chief Washakie was instrumental in the signing of the Fort Bridger treaty—which granted the Shoshone more than three million acres of land in the Warm Valley of the Wind on the Wind River reservation. His legacy lives on today as many of his descendants continue to be involved in tribal matters throughout Wyoming.

It is fitting that Wyoming has chosen Chief Washakie to be honored in our Nation's Capitol. This resolution not only speaks to his achievements but also commemorates the very spirit on which our great country was founded.

Mr. ENZI. Mr. President, I rise with my colleague Senator THOMAS to submit a resolution authorizing Congress to accept Wyoming's second statue for National Statuary Hall, a statue of the great Chief of the Eastern Shoshone Tribe, Chief Washakie. The entire nation owes Chief Washakie a great debt of gratitude for his assistance in allowing settlers to pass over his tribe's lands during the great Western migration and for advancing the cause of peace between the United States and Native American nations.

The exact birthdate of Chief Washakie is not known, but it is believed that he was born in 1804 to a Flathead father and a Shoshone mother who lived in a Flathead tribe village. That village was attacked by the Blackfeet tribe and Washakie's father was killed in the battle. Washakie's mother was taken in by the Lemhi tribe of the Shoshone and Washakie and his sister remained with the Lemhis when his mother and the rest of his family rejoined the Flatheads.

Washakie made his name as a successful warrior. He devised a large rattle from a dried buffalo hide that was inflated and filled with stones that he used to frighten the horses of rival tribes in battle. He also aligned his nation with the United States and served the United States Army as a scout. It was that service which earned him a funeral with full military honors upon his death in 1900. He was the only Native American leader to be accorded such an honor.

Washakie united the Shoshones to battle threats presented by hostile

tribes, such as the Cheyenne and the Sioux tribes. This brought him to the attention of the United States Government and white men as someone they could do business with. He was a friend of many of the fur trappers who worked in Wyoming and his assistance with the other Native American tribes was invaluable. He also offered protection to wagon trains making their way across Wyoming. Chief Washakie sent members of his tribe to the Little Bighorn to reinforce Custer's troops during the battle, but were too late to prevent the massacre that took place.

Chief Washakie recognized that the white man could be a benefit to the Shoshone tribes. His forward thinking nature ensured that the Shoshone tribe received their current home as a reservation and was not required to relocate to an unfamiliar area. The Wind River Reservation in Western Wyoming is still home to the Eastern Shoshone tribe.

Wyoming has recognized Chief Washakie as one of our state's most notable citizens by granting him a very unique honor, the placement of a statue of him in the United States Capitol. He joins Esther Hobart Morris, the first female Justice of Peace in the nation and the woman who started the movement that led the Wyoming Territorial Legislature to grant women the right to vote in 1869. Chief Washakie also joins such esteemed company as patriots Samuel Adams and Ethan Allen, Senator John Calhoun and Henry Clay, and Presidents George Washington and Andrew Jackson to name just a few of the notable Americans with a place of honor in the Capitol. Congress extends its thanks to the people of Wyoming for providing the nation with this statue of one of our most important figures, Chief Washakie of the Shoshone Nation.

SENATE CONCURRENT RESOLUTION 116—COMMENDING ISRAEL'S REDEPLOYMENT FROM SOUTHERN LEBANON

Mr. LOTT (for himself, Mr. DASCHLE, Mr. HELMS, Mr. BIDEN, Mr. GRAHAM, Mr. BAUCUS, Mr. HARKIN, Mr. JOHNSON, Mr. DODD, Mrs. FEINSTEIN, Mrs. MURRAY, and Mr. CONRAD) submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 116

Whereas Israel has been actively seeking a comprehensive peace with all of her neighbors to bring about an end to the Arab-Israeli conflict;

Whereas southern Lebanon has for decades been the staging area for attacks against Israeli cities and towns by Hezbollah and by Palestinian terrorists, resulting in the death or wounding of hundreds of Israeli civilians;

Whereas United Nations Security Council Resolution 425 (March 19, 1978) calls upon Israel to withdraw its forces from all Lebanese territory;

Whereas the Government of Israel unanimously agreed to implement Security Council Resolution 425 and has stated its intention of redeploying its forces to the international border by July 7, 2000;

Whereas Security Council Resolution 425 also calls for ''strict respect for the territorial integrity, sovereignty and political independence of Lebanon within its internationally recognized boundaries'' and establishes a United Nations interim force to help restore Lebanese sovereignty; and

Whereas the Government of Syria currently deploys 30,000 Syrian troops in Lebanon: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) commends Israel for its decision to withdraw its forces from southern Lebanon and for taking risks for peace in the Middle East;

(2) calls upon the United Nations Security Council—

(A) to recognize Israel's fulfillment of its obligations under Security Council Resolution 425 and to provide the necessary resources for the United Nations Interim Force in Lebanon (UNIFIL) to implement its mandate under that resolution; and

(B) to insist upon the withdrawal of all foreign forces from Lebanese territory so that Lebanon may exercise sovereignty throughout its territory;

(3) urges UNIFIL, in cooperation with the Lebanese Armed Forces, to gain full control over southern Lebanon, including taking actions to ensure the disarmament of Hezbollah and all other such groups, in order to eliminate all terrorist activity originating from that area;

(4) appeals to the Government of Lebanon to grant clemency and assure the safety and rehabilitation into Lebanese society of all members of the South Lebanon Army and their families;

(5) calls upon the international community to ensure that southern Lebanon does not once again become a staging ground for attacks against Israel and to cooperate in bringing about the reconstruction and reintegration of southern Lebanon;

(6) recognizes Israel's right, enshrined in Chapter 7, Article 51 of the United Nations Charter, to defend itself and its people from attack and reasserts United States support for maintaining Israel's qualitative military edge in order to ensure Israel's long-term security; and

(7) urges all parties to reenter the peace process with the Government of Israel in order to bring peace and stability to all the Middle East.

SENATE RESOLUTION 309—EXPRESSING THE SENSE OF THE SENATE REGARDING CONDITIONS IN LAOS

Mr. FEINGOLD (for himself, Mrs. BOXER, Mr. KOHL, Mr. WELLSTONE, Mrs. FEINSTEIN, and Mr. GRAMS) submitted the following resolution; which was referred to the Committee on Finance:

S. RES. 309

Whereas Laos was devastated by civil war from 1955 to 1974;

Whereas the people of Laos have lived under the authoritarian, one-party government of the Lao People's Revolutionary Party since the overthrow of the existing Royal Lao government in 1975;

Whereas the communist government of the Lao People's Democratic Republic sharply curtails basic human rights, including freedom of speech, assembly, association, and religion;

Whereas political dissent is not allowed in Laos and those who express their political will are severely punished;

Whereas the Lao constitution protects freedom of religion but the Government of Laos in practice restricts this right;

Whereas Laos is not a signatory of the Universal Declaration of Human Rights or the International Covenant on Civil and Political Rights;

Whereas Laos is a party to international human rights treaties, including the International Convention on the Elimination of All Forms of Racial Discrimination and the Convention on the Political Rights of Women;

Whereas the 1999 State Department Report on Human Rights Practices in Laos finds that ''societal discrimination against women and minorities persist'';

Whereas the State Department's report also finds that the Lao government ''discriminates in its treatment of prisoners'' and uses ''degrading treatment, solitary confinement, and incommunicado detention against perceived problem prisoners'';

Whereas two American citizens, Houa Ly and Michael Vang, were last seen on the border between Laos and Thailand in April 1999 and may be in Laos; and

Whereas many Americans of Hmong and Lao descent are deeply troubled by the conditions in Laos: Now, therefore, be it

Resolved, That the Senate calls on the Government of the Lao People's Democratic Republic to—

(1) respect the basic human rights of all of its citizens, including freedom of speech, assembly, association, and religion;

(2) ratify the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights;

(3) fulfill its obligations under the international human rights treaties to which it is a party, including the International Convention on the Elimination of All Forms of Racial Discrimination and the Convention on the Political Rights of Women;

(4) take demonstrable steps to ensure that Hmong and other ethnic minorities who have been returned to Laos from Thailand and elsewhere in Southeast Asia are—

(A) accepted into Lao society on an equal par with other Lao citizens;

(B) allowed to practice freely their ethnic and religious traditions and to preserve their language and culture without threat of fear or intimidation; and

(C) afforded the same educational, economic, and professional opportunities as other residents of Laos;

(5) allow international humanitarian organizations, including the International Red Cross, to gain unrestricted access to areas in which Hmong and other ethnic minorities have been resettled;

(6) allow independent monitoring of prison conditions;

(7) release from prison those who have been arbitrarily arrested on the basis of their political or religious beliefs; and

(8) cooperate fully with the United States Government in the ongoing investigation into the whereabouts of Houa Ly and Michael Vang, two United States citizens who were last seen near the border between Laos and Thailand in April 1999.

SENATE RESOLUTION 310—HONORING THE 19 MEMBERS OF THE UNITED STATES MARINE CORPS WHO DIED ON APRIL 8, 2000, AND EXTENDING THE CONDOLENCES OF THE SENATE ON THEIR DEATHS

Ms. SNOWE (for herself, Mr. WARNER, Mr. LEVIN, Mr. THURMOND, Mr. KENNEDY, Mr. MCCAIN, Mr. ROBB, Mr. SMITH of New Hampshire, Mr. REED, Mr. INHOFE, Mr. LIEBERMAN, Mr. SANTORUM, Mr. CLELAND, Mr. ROBERTS,

Mr. HUTCHINSON, and Mr. SESSIONS) submitted the following resolution; which was considered and agreed to:

S. RES. 310

Whereas on April 8, 2000, an MV–22 Osprey aircraft crashed during a training mission in support of Operational Evaluation in Marana, Arizona, killing all 19 members of the United States Marine Corps onboard;

Whereas the Marines who lost their lives in the crash made the ultimate sacrifice in the service of the United States and the Marine Corps;

Whereas the families of these magnificent Marines have the most sincere condolences of the Nation;

Whereas the members of the Marine Corps take special pride in their esprit de corps, and this tremendous loss will resonate through the 3d Battalion, 5th Marine Regiment, 1st Marine Division, Marine Helicopter Squadron–1, and Marine Wing Communications Squadron 38, Marine Air Control Group 38, and the entire Marine Corps family;

Whereas the Nation joins the Commandant of the Marine Corps and the Marine Corps in mourning this loss; and

Whereas the Marines killed in the accident were the following:

(1) Sergeant Jose Alvarez, 28, a machinegunner assigned to 3d Battalion, 5th Marine Regiment, 1st Marine Division, of Uvalde, Texas.

(2) Major John A. Brow, 39, a pilot assigned to Marine Helicopter Squadron–1, of California, Maryland.

(3) Private First Class Gabriel C. Clevenger, 21, a machinegunner assigned to 3d Battalion, 5th Marine Regiment, 1st Marine Division, of Picher, Oklahoma.

(4) Private First Class Alfred Corona, 23, a machinegunner assigned to 3d Battalion, 5th Marine Regiment, 1st Marine Division, of San Antonio, Texas.

(5) Lance Corporal Jason T. Duke, 28, a machinegunner assigned to 3d Battalion, 5th Marine Regiment, 1st Marine Division, of Tempe, Arizona.

(6) Lance Corporal Jesus Gonzalez Sanchez, 27, an assaultman assigned to 3d Battalion, 5th Marine Regiment, 1st Marine Division, of San Diego, California.

(7) Major Brooks S. Gruber, 34, a pilot assigned to Marine Helicopter Squadron–1, of Jacksonville, North Carolina.

(8) Lance Corporal Seth G. Jones, 18, an assaultman assigned to 3d Battalion, 5th Marine Regiment, 1st Marine Division, of Bend, Oregon.

(9) 2d Lieutenant Clayton J. Kennedy, 24, a platoon commander assigned to 3d Battalion, 5th Marine Regiment, 1st Marine Division, of Clifton Bosque, Texas.

(10) Corporal Kelly S. Keith, 22, an aircraft crew chief assigned to Marine Helicopter Squadron–1, of Florence, South Carolina.

(11) Corporal Eric J. Martinez, 21, a field radio operator assigned to Marine Wing Communications Squadron 38, Marine Air Control Group 38, of Coconino, Arizona.

(12) Lance Corporal Jorge A. Morin, 21, an assaultman assigned to 3d Battalion, 5th Marine Regiment, 1st Marine Division, of McAllen, Texas.

(13) Corporal Adam C. Neely, 22, a rifleman assigned to 3d Battalion, 5th Marine Regiment, 1st Marine Division, of Winthrop, Washington.

(14) Staff Sergeant William B. Nelson, 30, a satellite communications specialist with Marine Air Control Group 38, of Richmond, Virginia.

(15) Private First Class Kenneth O. Paddio, 23, a rifleman assigned to 3d Battalion, 5th Marine Regiment, 1st Marine Division, of Houston, Texas.

(16) Private First Class George P. Santos, 19, a rifleman assigned to 3d Battalion, 5th Marine Regiment, 1st Marine Division, of Long Beach, California.

(17) Private First Class Keoki P. Santos, 24, a rifleman assigned to 3d Battalion, 5th Marine Regiment, 1st Marine Division, of Grand Ronde, Oregon.

(18) Corporal Can Soler, 21, a rifleman assigned to 3d Battalion, 5th Marine Regiment, 1st Marine Division, of Palm City, Florida.

(19) Private Adam L. Tatro, 19, a rifleman assigned to 3d Battalion, 5th Marine Regiment, 1st Marine Division, of Kermit, Texas: Now, therefore, be it

Resolved, That the Senate—

(1) has learned with profound sorrow of the deaths of 19 members of the United States Marine Corps in the crash of an MV–22 Osprey aircraft on April 8, 2000, during a training mission in Marana, Arizona, and extends condolences to the families of these 19 members of the United States Marine Corps;

(2) acknowledges that these 19 members of the United States Marine Corps embody the credo of the United States Marine Corps, ''Semper Fidelis'';

(3) expresses its profound gratitude to these 19 members of the United States Marine Corps for the dedicated and honorable service they rendered to the United States and the United States Marine Corps; and

(4) recognizes with appreciation and respect the loyalty and sacrifice these families have demonstrated in support of the United States Marine Corps.

SEC. 2. The Secretary of the Senate shall transmit an enrolled copy of this resolution to the Commandant of the United States Marine Corps and to the families of each member of the United States Marine Corps who was killed in the accident referred to in the first section of this resolution.

SENATE RESOLUTION 311—TO EXPRESS THE SENSE OF THE SENATE REGARDING FEDERAL PROCUREMENT OPPORTUNITIES FOR WOMEN-OWNED SMALL BUSINESSES

Mr. BOND (for himself, Mr. KERRY, Mr. ABRAHAM, Mr. BURNS, Ms. SNOWE, Ms. LANDRIEU, Mr. LIEBERMAN, Mr. EDWARDS, Mr. BINGAMAN, Mrs. MURRAY, and Mr. HARKIN) submitted the following resolution; which was considered and agreed to:

S. RES. 311

Whereas women-owned small businesses are the fastest growing segment of the business community in the United States;

Whereas women-owned small businesses will make up more than one-half of all business in the United States by the year 2010;

Whereas in 1994, the Congress enacted the Federal Acquisition Streamlining Act of 1994, establishing a Government-wide goal for small businesses owned and controlled by women of not less than 5 percent of the total dollar value of all prime contracts and subcontract awards for each fiscal year;

Whereas the Congress intended that the departments and agencies of the Federal Government make a concerted effort to move toward that goal;

Whereas in fiscal year 1999, the departments and agencies of the Federal Government awarded prime contracts totaling 2.4 percent of the total dollar value of all prime contracts; and

Whereas in each fiscal year since enactment of the Federal Acquisition Streamlining Act of 1994, the Federal departments and agencies have failed to reach the 5 percent procurement goal for women-owned small businesses: Now, therefore, be it

Resolved, That—

(1) the Senate strongly urges the President to adopt a policy in support of the 5 percent procurement goal for women-owned small businesses, and to encourage the heads of the Federal departments and agencies to undertake a concerted effort to meet the 5 percent goal before the end of fiscal year 2000; and

(2) the President should hold the heads of the Federal departments and agencies accountable to ensure that the 5 percent goal is achieved during fiscal year 2000.

SENATE RESOLUTION 312—TO AUTHORIZE TESTIMONY, DOCUMENT PRODUCTION, AND LEGAL REPRESENTATION IN STATE OF INDIANA V. AMY HAN

Mr. LOTT (for himself and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

S. RES. 312

Whereas, in the case of State of Indiana v. Amy Han, C. No. 99–148243, pending in the Indiana Superior Court of Marion County, Criminal Division, testimony has been requested from Lesley Reser and Lane Ralph, employees in the office of Senator Richard Lugar;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(2), the Senate may direct its counsel to represent employees of the Senate with respect to any subpoena, order, or request for testimony relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial or administrative process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistently with the privileges of the Senate: Now, therefore, be it

Resolved, That Lesley Reser and Lane Ralph, and any other employee of Senator Lugar's office from whom testimony may be required, are authorized to testify and produce documents in the case of State of Indiana v. Amy Han, except concerning matters for which a privilege should be asserted.

SEC. 2. The Senate Legal Counsel is authorized to represent Lesley Reser, Lane Ralph, and any other employee of Senator Lugar's office in connection with the testimony and document production authorized in section one of this resolution.

SENATE RESOLUTION 313—TO AUTHORIZE REPRESENTATION BY THE SENATE LEGAL COUNSEL IN HAROLD A. JOHNSON V. MAX CLELAND, ET AL.

Mr. LOTT (for himself and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

S. RES. 313

Whereas, Senator Max Cleland has been named as a defendant in the case of Harold A. Johnson v. Max Cleland, et al., Case No. 2000CV22443, now pending in the Superior Court of Fulton County, Georgia;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. § 288b(a) and 288c(a)(1), the Senate may direct its counsel to represent Members of the Senate in civil actions with respect to their official responsibilities: Now, therefore, be it

Resolved, That the Senate Legal Counsel is authorized to represent Senator Max Cleland in the case of Harold A. Johnson v. Max Cleland, et al.

NOTICE OF HEARING

SUBCOMMITTEE ON NATIONAL PARKS, HISTORIC PRESERVATION, AND RECREATION

Mr. THOMAS. Mr. President, I would like to announce for the information of the Senate and the public that an oversight hearing has been scheduled before the Subcommittee on National Parks, Historic Preservation, and Recreation of the Committee on Energy and Natural Resources. The purpose of this oversight hearing is to review the final rules and regulations issued by the National Park Service relating to Title IV of the National Parks Omnibus Management Act of 1998.

The hearing will take place on Thursday, June 8 at 2:30 p.m. in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, SD–364 Dirksen Senate Office Building, Washington, DC 20510–6150.

For further information, please contact Jim O'Toole or Kevin Clark of the committee staff at (202) 244–6969.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Tuesday, May 23, 2000, at 9:30 a.m., in open and closed session to receive testimony on U.S. Strategic Nuclear Force requirements.

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

COMMITTEE ON SMALL BUSINESS

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Committee on Small Business be authorized to meet during the session of the Senate on Tuesday, May 23, 2000, beginning at 10:00 a.m. in room 428A of the Russell Senate Office Building to hold a hearing entitled ''IRS Restructuring: A New Era for Small Business.''

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

SUBCOMMITTEE ON HOUSING AND TRANSPORTATION

Mr. McCONNELL. Mr. President, I ask unanimous consent that the subcommittee on Housing and Transportation of the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Tuesday, May 23, 2000, to conduct a hearing on ''consolidation of HUD's homeless assistance programs.''

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

SUBCOMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Subcommittee on Transportation and Infrastructure be authorized to meet during the session of the Senate on Tuesday, May 23, at 10 a.m., to receive testimony on the administration's Water Resources Development Act of 2000 proposal.

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

SUBCOMMITTEE ON WATER AND POWER

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Subcommittee on Water and Power of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Tuesday, May 23 at 2:30 p.m. to conduct a hearing. The subcommittee will receive testimony on S. 740, a bill to amend the Federal Power Act to improve the hydroelectric licensing process by granting the Federal Energy Regulatory Commission statutory authority to better coordinate participation by other agencies and entities, and for other purposes.

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

PRIVILEGES OF THE FLOOR

Mr. McCONNELL. Mr. President, I ask unanimous consent Christyne Bourne, a legal intern for the Rules Committee, be permitted to have access to the floor during the debate on the FEC nominations.

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

Mr. FEINGOLD. Mr. President, I ask unanimous consent that Tom McCormick, a legal intern on my staff, be granted floor privileges during the duration of the debate on the nominations that we are considering today and tomorrow.

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

ORDER FOR STAR PRINT—S. 2299

Mr. ALLARD. Mr. President, I ask unanimous consent that S. 2299 be star printed with the changes that are at the desk.

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

COMMENDING ISRAEL'S REDEPLOYMENT FROM SOUTHERN LEBANON

Mr. ALLARD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Con. Res. 116, submitted earlier by Senator LOTT and others.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 116) commending Israel's redeployment from southern Lebanon.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. ALLARD. Mr. President, I ask unanimous consent that the concurrent resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and any statements relating to the resolution be printed in the RECORD.

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

The concurrent resolution (S. Con. Res. 116) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

S. CON. RES. 116

Whereas Israel has been actively seeking a comprehensive peace with all of her neighbors to bring about an end to the Arab-Israeli conflict;

Whereas southern Lebanon has for decades been the staging area for attacks against Israeli cities and towns by Hezbollah and by Palestinian terrorists, resulting in the death or wounding of hundreds of Israeli civilians;

Whereas United Nations Security Council Resolution 425 (March 19, 1978) calls upon Israel to withdraw its forces from all Lebanese territory;

Whereas the Government of Israel unanimously agreed to implement Security Council Resolution 425 and has stated its intention of redeploying its forces to the international border by July 7, 2000;

Whereas Security Council Resolution 425 also calls for ''strict respect for the territorial integrity, sovereignty and political independence of Lebanon within its internationally recognized boundaries'' and establishes a United Nations interim force to help restore Lebanese sovereignty; and

Whereas the Government of Syria currently deploys 30,000 Syrian troops in Lebanon: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) commends Israel for its decision to withdraw its forces from southern Lebanon and for taking risks for peace in the Middle East;

(2) calls upon the United Nations Security Council—

(A) to recognize Israel's fulfillment of its obligations under Security Council Resolution 425 and to provide the necessary resources for the United Nations Interim Force in Lebanon (UNIFIL) to implement its mandate under that resolution; and

(B) to insist upon the withdrawal of all foreign forces from Lebanese territory so that Lebanon may exercise sovereignty throughout its territory;

(3) urges UNIFIL, in cooperation with the Lebanese Armed Forces, to gain full control over southern Lebanon, including taking actions to ensure the disarmament of Hezbollah and all other such groups, in order to eliminate all terrorist activity originating from that area;

(4) appeals to the Government of Lebanon to grant clemency and assure the safety and rehabilitation into Lebanese society of all

members of the South Lebanon Army and their families;

(5) calls upon the international community to ensure that southern Lebanon does not once again become a staging ground for attacks against Israel and to cooperate in bringing about the reconstruction and reintegration of southern Lebanon;

(6) recognizes Israel's right, enshrined in Chapter 7, Article 51 of the United Nations Charter, to defend itself and its people from attack and reasserts United States support for maintaining Israel's qualitative military edge in order to ensure Israel's long-term security; and

(7) urges all parties to reenter the peace process with the Government of Israel in order to bring peace and stability to all the Middle East.

HONORING NINETEEN MARINES AND EXTENDING CONDOLENCES OF THE SENATE ON THEIR DEATHS

Mr. ALLARD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 310, submitted earlier by Senator SNOWE, for herself and others.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 310) honoring the 19 members of the United States Marine Corps who died on April 8, 2000, and extending the condolences of the Senate on their deaths.

There being no objection, the Senate proceeded to consider the resolution.

Ms. SNOWE. Mr. President, I rise to speak on a resolution honoring the 19 Marines who died on April 8, 2000 during a training mission in Marana, AZ, and extending the condolences of the Senate to their families and the Marine Corps.

I thank Senators WARNER and LEVIN, and the 13 other Senators—from both sides of the aisle on the Armed Services Committee—for joining me in bipartisan support of this resolution.

At approximately 8 p.m. on Saturday, April 8, while conducting training as part of the weapons and tactics instructor course, during an operational evaluation of the MV–22 Osprey, the aircraft unexpectedly plunged to the ground during landing, killing all 19 marines on board.

Their deaths stunned the Nation. Among those who died were fathers, husbands, boyfriends, brothers, grandsons, nephews, uncles, and friends. These dedicated men were from Texas, Maryland, Oklahoma, California, North Carolina, Oregon, South Carolina, Arizona, Washington, Virginia, and Florida but were bound together in the brotherhood of arms known as the United States Marine Corps.

Since it was first established through a resolution by the Continental Congress on November 10, 1775, the United States Marine Corps has been defined by the fearless and indomitable spirit of those who have served. Sharing an enviable ''esprit de corps,'' marines have used the Marine Corps emblem of the eagle, globe, and anchor to transcend race, ethnicity, gender, geographic and economic background. Their tenacity, uncompromising will, and outspoken pride in being a marine have endeared them to the nation, and we, as a nation, grieve their loss.

Nowhere is this loss felt more deeply than by the families of these men. I thank them for their unrelenting support and sacrifice that they have made to their marine, to the Marine Corps, and to their Nation, and offer my sympathy for their loss. I also recognize the Marine Corps family—specifically the 3d Battalion, 5th Marine Regiment, 1st Marine Division, the Marine Helicopter Squadron–1, and the Marine Wing Communications Squadron 38, Marine Air Control Group 38—who served side by side with these marines and will continue to carry out the mission without them.

This tragic accident is a brutal reminder that there is no such thing as ''routine'' training for our men and women in the military. Every day, all around the world our armed forces risk their lives, in peace and in combat, to support and defend our great Nation, and they deserve our thanks and admiration.

Mr. President, this resolution recognizes the sacrifices of these magnificent 19 marines and their families who embody the Marine Corps credo ''Semper Fidelis'' always faithful. It is the opportunity for the Senate to publically thank their families and the Marine Corps for their dedication, loyalty, and sacrifice to our Nation, and to extend our condolences on this loss.

Mr. ALLARD. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and any statements relating to the resolution be printed in the RECORD.

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

The resolution (S. Res. 310) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 310

Whereas on April 8, 2000, an MV–22 Osprey aircraft crashed during a training mission in support of Operational Evaluation in Marana, Arizona, killing all 19 members of the United States Marine Corps onboard;

Whereas the Marines who lost their lives in the crash made the ultimate sacrifice in the service of the United States and the Marine Corps;

Whereas the families of these magnificent Marines have the most sincere condolences of the Nation;

Whereas the members of the Marine Corps take special pride in their esprit de corps, and this tremendous loss will resonate through the 3d Battalion, 5th Marine Regiment, 1st Marine Division, Marine Helicopter Squadron–1, and Marine Wing Communications Squadron 38, Marine Air Control Group 38, and the entire Marine Corps family;

Whereas the Nation joins the Commandant of the Marine Corps and the Marine Corps in mourning this loss; and

Whereas the Marines killed in the accident were the following:

(1) Sergeant Jose Alvarez, 28, a machinegunner assigned to 3d Battalion, 5th Marine Regiment, 1st Marine Division, of Uvalde, Texas.

(2) Major John A. Brow, 39, a pilot assigned to Marine Helicopter Squadron–1, of California, Maryland.

(3) Private First Class Gabriel C. Clevenger, 21, a machinegunner assigned to 3d Battalion, 5th Marine Regiment, 1st Marine Division, of Picher, Oklahoma.

(4) Private First Class Alfred Corona, 23, a machinegunner assigned to 3d Battalion, 5th Marine Regiment, 1st Marine Division, of San Antonio, Texas.

(5) Lance Corporal Jason T. Duke, 28, a machinegunner assigned to 3d Battalion, 5th Marine Regiment, 1st Marine Division, of Tempe, Arizona.

(6) Lance Corporal Jesus Gonzalez Sanchez, 27, an assaultman assigned to 3d Battalion, 5th Marine Regiment, 1st Marine Division, of San Diego, California.

(7) Major Brooks S. Gruber, 34, a pilot assigned to Marine Helicopter Squadron–1, of Jacksonville, North Carolina.

(8) Lance Corporal Seth G. Jones, 18, an assaultman assigned to 3d Battalion, 5th Marine Regiment, 1st Marine Division, of Bend, Oregon.

(9) 2d Lieutenant Clayton J. Kennedy, 24, a platoon commander assigned to 3d Battalion, 5th Marine Regiment, 1st Marine Division, of Clifton Bosque, Texas.

(10) Corporal Kelly S. Keith, 22, an aircraft crew chief assigned to Marine Helicopter Squadron–1, of Florence, South Carolina.

(11) Corporal Eric J. Martinez, 21, a field radio operator assigned to Marine Wing Communications Squadron 38, Marine Air Control Group 38, of Coconino, Arizona.

(12) Lance Corporal Jorge A. Morin, 21, an assaultman assigned to 3d Battalion, 5th Marine Regiment, 1st Marine Division, of McAllen, Texas.

(13) Corporal Adam C. Neely, 22, a rifleman assigned to 3d Battalion, 5th Marine Regiment, 1st Marine Division, of Winthrop, Washington.

(14) Staff Sergeant William B. Nelson, 30, a satellite communications specialist with Marine Air Control Group 38, of Richmond, Virginia.

(15) Private First Class Kenneth O. Paddio, 23, a rifleman assigned to 3d Battalion, 5th Marine Regiment, 1st Marine Division, of Houston, Texas.

(16) Private First Class George P. Santos, 19, a rifleman assigned to 3d Battalion, 5th Marine Regiment, 1st Marine Division, of Long Beach, California.

(17) Private First Class Keoki P. Santos, 24, a rifleman assigned to 3d Battalion, 5th Marine Regiment, 1st Marine Division, of Grand Ronde, Oregon.

(18) Corporal Can Soler, 21, a rifleman assigned to 3d Battalion, 5th Marine Regiment, 1st Marine Division, of Palm City, Florida.

(19) Private Adam L. Tatro, 19, a rifleman assigned to 3d Battalion, 5th Marine Regiment, 1st Marine Division, of Kermit, Texas: Now, therefore, be it

Resolved, That the Senate—

(1) has learned with profound sorrow of the deaths of 19 members of the United States Marine Corps in the crash of an MV–22 Osprey aircraft on April 8, 2000, during a training mission in Marana, Arizona, and extends condolences to the families of these 19 members of the United States Marine Corps;

(2) acknowledges that these 19 members of the United States Marine Corps embody the

credo of the United States Marine Corps, ''Semper Fidelis'';

(3) expresses its profound gratitude to these 19 members of the United States Marine Corps for the dedicated and honorable service they rendered to the United States and the United States Marine Corps; and

(4) recognizes with appreciation and respect the loyalty and sacrifice these families have demonstrated in support of the United States Marine Corps.

SEC. 2. The Secretary of the Senate shall transmit an enrolled copy of this resolution to the Commandant of the United States Marine Corps and to the families of each member of the United States Marine Corps who was killed in the accident referred to in the first section of this resolution.

REMOVAL OF INJUNCTION OF SECRECY—TREATY DOCUMENT NOS. 106–25 THROUGH 106–31

Mr. ALLARD. Mr. President, as in executive session, I ask unanimous consent that the Injunction of Secrecy be removed from the following treaties transmitted to the Senate on May 23, 2000, by the President of the United States: Investment Treaty with Bahrain (Treaty Document No. 106–25); Investment Treaty with Bolivia (Treaty Document No. 106–26); Investment Treaty with Honduras (Treaty Document No. 106–27); Investment Treaty with El Salvador (Treaty Document No. 106–28); Investment Treaty with Croatia (Treaty Document No. 106–29); Investment Treaty with Jordan (Treaty Document No. 106–30); Investment Treaty with Mozambique (Treaty Document No. 106–31).

Further, I ask unanimous consent that the treaties be considered as having been read for the first time, that they be referred with accompanying papers to the Committee on Foreign Relations and ordered to be printed, and that the President's messages be printed in the RECORD.

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

The messages of the President are as follows:

To the Senate of the United States:

With a view of receiving the advice and consent of the Senate to ratification, I transmit herewith the Treaty Between the Government of the United States of America and the Government of the State of Bahrain Concerning the Encouragement and Reciprocal Protection of Investment, with Annex, signed at Washington on September 29, 1999. I transmit also, for the information of the Senate, the report of the Department of State with respect to this Treaty.

The bilateral investment treaty (BIT) with Bahrain is the third such treaty between the United States and a Middle Eastern country. The Treaty will protect U.S. investment and assist Bahrain in its efforts to develop its economy by creating conditions more favorable for U.S. private investment and thus strengthen the development of its private sector.

The Treaty is fully consistent with U.S. policy toward international and domestic investment. A specific tenet of U.S. policy, reflected in this Treaty, is that U.S. investment abroad and foreign investment in the United States should receive national treatment. Under this Treaty, the Parties also agree to customary international law standards for expropriation. The Treaty includes detailed provisions regarding the computation and payment of prompt, adequate, and effective compensation for expropriation; free transfer of funds related to investments; freedom of investments from specified performance requirements; fair, equitable, and most-favored-nation treatment; and the investor's freedom to choose to resolve disputes with the host government through international arbitration.

I recommend that the Senate consider this Treaty as soon as possible and give its advice and consent to ratification of the Treaty at an early date.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *May 23, 2000*.

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Treaty Between the Government of the United States of America and the Government of the Republic of Bolivia Concerning the Encouragement and Reciprocal Protection of Investment, with Annex and Protocol, signed at Santiago, Chile, on April 17, 1998, during the Second Presidential Summit of the Americas. I transmit also, for the information of the Senate, the report of the Department of State with respect to this Treaty.

The bilateral investment treaty (BIT) with Bolivia is the sixth such treaty between the United States and a Central or South American country. The Treaty will protect U.S. investment and assist Bolivia in its efforts to develop its economy by creating conditions more favorable for U.S. private investment and thus strengthen the development of its private sector.

The Treaty is fully consistent with U.S. policy toward international and domestic investment. A specific tenet of U.S. policy, reflected in this Treaty, is that U.S. investment abroad and foreign investment in the United States should receive national treatment. Under this Treaty, the Parties also agree to customary international law standards for expropriation. The Treaty includes detailed provisions regarding the computation and payment of prompt, adequate, and effective compensation for expropriation; free transfer of funds related to investments; freedom of investments from specified performance requirements; fair, equitable, and most-favored-nation treatment; and the investor's freedom to choose to resolve disputes with the host government through international arbitration.

I recommend that the Senate consider this Treaty as soon as possible, and give its advice and consent to ratification of the Treaty at an early date.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *May 23, 2000*.

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Treaty Between the Government of the United States of America and the Government of the Republic of Honduras Concerning the Encouragement and Reciprocal Protection of Investment, with Annex and Protocol, signed at Denver on July 1, 1995. I transmit also, for the information of the Senate, the report of the Department of State with respect to this Treaty.

The bilateral investment treaty (BIT) with Honduras is the fourth such Treaty with a Central or South American country. The Treaty will protect U.S. investment and assist Honduras in its efforts to develop its economy by creating conditions more favorable for U.S. private investment and thus strengthen the development of its private sector.

The Treaty is fully consistent with U.S. policy toward international and domestic investment. A specific tenet of U.S. policy, reflected in this Treaty, is that U.S. investment abroad and foreign investment in the United States should receive national treatment. Under this Treaty, the Parties also agree to international law standards for expropriation. The Treaty includes detailed provisions regarding the computation and payment of prompt, adequate, and effective compensation for expropriation; free transfer of funds related to investments; freedom of investments from specified performance requirements; fair, equitable, and most-favored-nation treatment; and the investor's freedom to choose to resolve disputes with the host government through international arbitration.

I recommend that the Senate consider this Treaty as soon as possible, and give its advice and consent to ratification of the Treaty, with Annex and Protocol, at an early date.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *May 23, 2000*.

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Treaty Between the Government of the United States of America and the Government of the Republic of El Salvador Concerning the Encouragement and Reciprocal Protection of Investment, with Annex and Protocol, signed at San Salvador on March 10, 1999. I transmit also, for the information of the Senate, the report of the Department of State with respect to this Treaty.

The bilateral investment treaty (BIT) with El Salvador is the seventh such treaty with a Central or South American country. The Treaty will protect U.S. investment and assist El Salvador in its efforts to develop its

economy by creating conditions more favorable for U.S. private investment and thereby strengthening the development of its private sector.

The Treaty is fully consistent with U.S. policy toward international and domestic investment. A specific tenet of U.S. policy, reflected in this Treaty, is that U.S. investment abroad and foreign investment in the United States should receive national treatment. Under this Treaty, the Parties also agree to customary international law standards for expropriation. The Treaty includes detailed provisions regarding the computation and payment of prompt, adequate, and effective compensation for expropriation; free transfer of funds related to investments; freedom of investments from specified performance requirements; fair, equitable, and most-favored-nation treatment; and the investor's freedom to choose to resolve disputes with the host government through international arbitration.

I recommend that the Senate consider this Treaty as soon as possible, and give its advice and consent to ratification of the Treaty at an early date.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *May 23, 2000*.

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Treaty Between the Government of the United States of America and the Government of the Republic of Croatia Concerning the Encouragement and Reciprocal Protection of Investment, with Annex and Protocol, signed at Zagreb on July 13, 1996. I transmit also, for the information of the Senate, the report of the Department of State with respect to this Treaty.

The Bilateral Investment Treaty (BIT) with Croatia was the fourth such treaty between the United States and a Southeastern European country. The Treaty will protect U.S. investment and assist Croatia in its efforts to develop its economy by creating conditions more favorable for U.S. private investment and thus strengthen the development of its private sector.

The Treaty is fully consistent with U.S. policy toward international and domestic investment. A specific tenet of U.S. policy, reflected in this Treaty, is that U.S. investment abroad and foreign investment in the United States should receive national treatment. Under this Treaty, the Parties also agree to customary international law standards for expropriation. The Treaty includes detailed provisions regarding the computation and payment of prompt, adequate, and effective compensation for expropriation; free transfer of funds related to investments; freedom of investments from specified performance requirements; fair, equitable, and most-favored-nation treatment; and the investor's freedom to choose to resolve disputes with the host government through international arbitration.

I recommend that the Senate consider this Treaty as soon as possible, and give its advice and consent to ratification of the Treaty at an early date.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *May 23, 2000*.

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Treaty Between the Government of the United States of America and the Government of the Hashemite Kingdom of Jordan Concerning the Encouragement and Reciprocal Protection of Investment, with Annex and Protocol, signed at Amman on July 2, 1997. I transmit also, for the information of the Senate, the report of the Department of State with respect to this Treaty.

The bilateral investment treaty (BIT) with Jordan was the second such treaty between the United States and a country in the Middle East. The Treaty will protect U.S. investment and assist Jordan in its efforts to develop its economy by creating conditions more favorable for U.S. private investment and thus strengthen the development of its private sector.

The Treaty is fully consistent with U.S. policy toward international and domestic investment. A specific tenet of U.S. policy, reflected in this Treaty, is that U.S. investment abroad and foreign investment in the United States should receive national treatment. Under this Treaty, the Parties also agree to customary international law standards for expropriation. The Treaty includes detailed provisions regarding the computation and payment of prompt, adequate, and effective compensation for expropriation; free transfer of funds related to investments; freedom of investments from specified performance requirements; fair, equitable, and most-favored-nation treatment; and the investor's freedom to choose to resolve disputes with the host government through international arbitration.

I recommend that the Senate consider this Treaty as soon as possible, and give its advice and consent to ratification of the treaty at an early date.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *May 23, 2000*.

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Treaty Between the Government of the United States of America and the Government of Mozambique Concerning the Encouragement and Reciprocal Protection of Investment, with Annex and Protocol, signed at Washington on December 1, 1998. I transmit also, for the information of the Senate, the report of the Department of State with respect to this Treaty.

The bilateral investment treaty (BIT) with Mozambique is the first such treaty between the United States and a country in Southern Africa. The Treaty will protect U.S. investment and assist Mozambique in its efforts to develop its economy by creating conditions more favorable for U.S. private investment and thus strengthen the development of its private sector.

The Treaty is fully consistent with U.S. policy toward international and domestic investment. A specific tenet of U.S. policy, reflected in this Treaty, is that U.S. investment abroad and foreign investment in the United States should receive national treatment. Under this Treaty, the Parties also agree to customary international law standards for expropriation. The Treaty includes detailed provisions regarding the computation and payment of prompt, adequate, and effective compensation for expropriation; free transfer of funds related to investments; freedom of investments from specified performance requirements; fair, equitable, and most-favored-nation treatment; and the investor's freedom to choose to resolve disputes with the host government through international arbitration.

I recommend that the Senate consider this Treaty as soon as possible and give its advice and consent to ratification of the Treaty at an early date.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *May 23, 2000*.

FEDERAL PROCUREMENT OPPORTUNITIES FOR WOMEN-OWNED BUSINESSES

Mr. ALLARD. Mr. President, I ask unanimous consent that the Senate now proceed to the immediate consideration of S. Res. 311, submitted earlier by Senator BOND and Senator KERRY.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 311) to express the sense of the Senate regarding Federal procurement opportunities for women-owned small businesses.

There being no objection, the Senate proceeded to consider the resolution.

Mr. BOND. Mr. President, I rise in support of the Senate Resolution I introduce today which calls attention to the Federal Government's failure to meet the statutory goal to award 5 percent of Federal contract dollars to women-owned small businesses. I am very pleased that members of the Senate Committee on Small Business have cosponsored this Resolution, including the committee's ranking member, Senator KERRY, Senator BURNS, Senator SNOWE, Senator LANDRIEU, Senator LIEBERMAN, Senator EDWARDS and Senator ABRAHAM, who authored last year's initiative in the committee to help women reach the 5-percent goal. In addition, Senators BINGAMAN and MURRAY have joined us as cosponsors of the resolution.

This is Small Business Week 2000. It is very appropriate that we recognize the important roles played of women-owned small businesses in our Nation's

economy and communities. The number of small businesses owned and controlled by women is expanding at a very rapid rate, and today, they total 38 percent of all businesses in the United States. Importantly, their numbers are expanding at such a pace that it is anticipated women-owned small businesses will make up over 50 percent of all businesses by 2010. That is an astounding statistic.

In 1994, Congress recognized the important role women-owned small businesses play in our economy. During the consideration of the Federal Acquisition Streamlining Act, FASA, the Senate approved a provision directing that 5 percent of all Federal procurement dollars be awarded each year to women-owned small businesses. The goal includes 5 percent of prime contract dollars and 5 percent of subcontract dollars and was included in the final FASA Conference Report and enacted into law.

The Federal departments and agencies have failed to meet the 5 percent goal since it was enacted by Congress in 1994. After Senator ABRAHAM chaired a committee field hearing in Michigan on the state of women business owners, he offered an amendment addressing the failure of the Federal departments and agencies to meet the 5 percent goal during the Committee on Small Business markup of the ''Women's Business Centers Sustainability Act of 1999,'' S. 791. The amendment was adopted unanimously by the Committee and enacted into law, Public Law 106–165. It directed the General Accounting Office to undertake an audit of the Federal procurement system and its impact on women-owned small businesses, which is underway at this time.

The statistics for Federal procurement for FY 1999 have been released. Again, the 5 percent goal for women-owned small businesses was not met—and again the Federal departments and agencies fell over 50 percent short of the goal—reaching only 2.4 percent. The failure of the Administration to meet this goal, which is designed to produce opportunities for start-up and growing small, women-owned businesses, is disturbing. Over 5 years have passed since the enactment of FASA, and the Federal Government continues to respond by taking baby steps toward meeting this Congressionally-mandated goal.

The resolution before the Senate today urges the President to adopt an administration policy in support of the 5-percent goal. Further, the resolution urges the President to go to the heart of the problem—to those Federal departments and agencies that are not carrying their share of the burden in meeting the goal. Specifically, the resolution asks the President to hold the head of each department and agency accountable for meeting the 5-percent goal.

Is it asking too much to require cabinet secretaries and agency heads to work harder to comply with a statutory goal? Of course not. It's all a matter of priorities. And I think supporting women-owned business should and must be a priority for each and every cabinet secretary and agency head. In other words, we are demanding performance not promises.

Were it not for the growth of the small business community over the past decade, our economy would not be its booming self. Women-owned small businesses have contributed significantly to our economic strength and stability. We need to help stimulate this growth to strengthen further the foundation of our business success. The 5 percent Federal procurement goal is a significant component to help women-owned business to start-up and flourish.

We should not lose sight of the fact that our laws are not keeping up with the new realities of business, particularly for women-owned businesses, who are heating up the economy. We need to be ever vigilant and remain alert to changes in the business climate so that laws and government policies are relevant and helpful. We in Congress should be prepared to jettison antiquated laws. And we need to recognize that occasionally the best government policy will be to step aside to avoid hindering progress and growth.

Future Congresses and Administrations will have a tremendous impact on the success of women-owned businesses. That is why I am joining with Senators KERRY, OLYMPIA SNOWE, MARY LANDRIEU, DIANNE FEINSTEIN, and KAY BAILEY HUTCHISON to convene a National Women's Business Summit on June 4–5, 2000, in Kansas City, Missouri. The summit will give women small business owners the opportunity to help formulate national policies on women's small business issues by gathering input from women business leaders, elected officials and other experts. Results and recommendations from this summit will be communicated directly to the Congress. More information about the summit can be found on my Senate office Web site at www.senate.gov/bond.

As we begin Small Business Week, I hope my colleagues in the Senate will take a moment and recognize the important role small businesses play in our economy. And I urge them to reinforce their support for the 5-percent Federal procurement goal and women-owned small businesses by voting in favor of the Senate resolution.

Mr. KERRY. Mr. President, women-owned businesses have scored a double victory today. President Clinton and a bi-partisan coalition of Senators have unveiled separate but complementary national policies to increase procurement opportunities for businesses owned by women.

Though on its face Federal procurement may not sound like an important issue to the general public, or even a term that many recognize, it is one of the most lucrative, yet difficult, markets for small businesses to access, particularly those owned by women and under-represented minorities. For example, in 1999, women-owned businesses made up 38 percent of all businesses but received only 2.4 percent of the $189 billion in Federal prime contracts. We can do better. And, before we enact new laws, we should promote and enforce the ones we have.

First, I want to offer my strong support and sincere compliments to President Clinton for signing an executive order today that reaffirms and strengthens the executive branch's commitment to meeting the five-percent procurement goal for women-owned businesses. His staff has worked for months with the Small Business Administration, SBA, the National Women's Business Council, the Women's Coalition for Access to Procurement, Women First, Women's Construction Owners and Executives, and the Women's Business Enterprise National Council to draft a feasible plan to help Federal agencies and departments increase the number of contracts awarded to businesses owned by women. Announcing that plan this afternoon is timely.

Today I join my colleague Senator BOND to introduce a resolution that encourages the President to adopt a policy that reinforces and enforces a procurement law Congress passed in 1994. That law, the Federal Acquisition Streamlining Act, established a government-wide goal for all heads of Federal departments and agencies to award five percent of their prime and subcontracts to women-owned businesses. First, this resolution asks the President to adopt a policy that supports the law and encourages agencies and departments to meet the goal. Second, this resolution asks the President to reinforce the law by holding the heads of agencies and departments accountable for meeting the five-percent goal.

I believe the President's executive order goes beyond the Senate's request and establishes a strong system within the Federal Government for increasing the number of contracts that go to women-owned businesses. I think it is very smart to hire an Assistant Administrator for Women's Procurement within the SBA's Office of Government Contracting. Increasing opportunities for women-owned businesses is a full-time job and devoting staff to this area is good use of resources.

I also think it is good policy for the Assistant Administrator to evaluate the agencies' contracting records on a semi-annual basis. This has two benefits. One, it encourages the procurement offices to run their operations like good small businesses. If you ask, most business owners will tell you that a key to running a successful business is having a solid business plan and regularly measuring your costs against revenues and projecting adequate inventory or staff to meet the demands of your products or services. I think it is a very good idea for contracting officers to do the same. Two, this policy

allows the SBA to work with an agency that is not meeting its goal midway through the year rather than finding out at the end of the year when it is too late.

Lastly, I like the Administration's plan because it takes a holistic approach to procurement. Rather than just focusing on the agencies and departments, it requires the Assistant Administrator to organize training and development seminars that teach women entrepreneurs about the complex world of Federal procurement and the SBA's procurement programs. It will be much easier for women-owned businesses to compete for Federal contracts if they understand the process and how to find out about opportunities.

I think it is important to note that while the government as a whole is not contracting as it should with women-owned firms, there are some outstanding exceptions. Some Federal agencies have taken the lead in working with women owned firms, and should be congratulated. According to the Federal Procurement Data System, the Department of Housing and Urban Development, the Consumer Product Safety Commission, the Federal Mine Safety & Health Review Commission, the Nuclear Regulatory Commission, and the Small Business Administration have all not only met the five percent goal, but have come in at around fifteen percent or better. That is three times the goal set by Congress.

These Federal agencies know that working with women-owned firms is not simply an altruistic exercise. These firms are strong, dependable and do good work. These firms provide a solid service to their customer, and the Federal contracting officers know it. In total, 20 Federal agencies either met or exceeded the five percent goal.

Therefore, we know that it is indeed possible for Government agencies to meet the five percent goal. With this resolution, it is our hope that agencies will work harder, following the examples of the agencies I discussed earlier, to contract with women-owned firms.

I've supported many initiatives over the years to increase resources and opportunities for businesses owned by women. Most recently, I supported Senator LANDRIEU's legislation to reauthorize the National Women's Business Council for 3 years, and to increase the annual appropriation from $600,000 to $1 million. Part of that increase will be used to assist Federal agencies meet the five-percent procurement goal for women-owned businesses. The Council has provided great leadership in this area, making increased contracting opportunities a priority since it was created in 1988, and earned praise from Democrats and Republicans for two extensive procurement studies it published in 1998 and 1999. The first study tracked 11 years of Federal contracting so that we have measurable data, and the second study identified and analyzed public and private sector practices that have been successful in increasing contracting opportunities for women business owners. The additional resources will allow the Council to build on that study and put the information to good use, ultimately increasing competitive contracting opportunities for businesses owned by women.

In addition to supporting reauthorization of the National Women's Business Council, last year I introduced the Women's Business Centers Sustainability Act of 1999. Now public law, that legislation is helping Centers address the funding constraints that have been making it increasingly difficult for them to sustain the level of services they provide after they graduate from the Women's Business Centers program and no longer receive federal matching funds. It is important to note that SBA requires Women's Business Centers to provide procurement training.

As part of that bill, we passed an amendment addressing Federal procurement opportunities for women-owned small businesses. The amendment expressed the sense of the Senate that the General Accounting Office should conduct an audit on the federal procurement system for the preceding three years. Unlike the Council's previous studies and reports that focused on data and best practices, this report was to focus on why the agencies haven't met the congressionally mandated five-percent procurement goal for small businesses owned by women.

Mr. President, the Federal agencies have begun to make progress since Congress enacted the five-percent procurement goal, but I want the contracting managers to remember that this goal is a minimum, not a maximum. Out of the more than 9 million businesses owned by women in this country, I believe that the Federal Government can find ones that are qualified and reliable, with good products and services, to fill their contracts if they make it a priority.

I believe that the President's Executive Order establishes a strong system within the Federal Government for increasing the number of contracts that go to women-owned businesses, and I look forward to seeing the Federal departments and agencies meet the five-percent goal this year, as the Senate resolution emphasizes.

I ask unanimous consent that this statement and a copy of the Executive Order be printed in the RECORD.

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

EXECUTIVE ORDER

INCREASING OPPORTUNITIES FOR WOMEN-OWNED SMALL BUSINESSES

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Small Business Act, 15 U.S.C. 631, et seq., section 7106 of the Federal Acquisition Streamlining Act of 1994 (Public Law 103–355), and the Office of Federal Procurement Policy, 41 U.S.C. 403, et seq., and in order to strengthen the executive branch's commitment to increased opportunities for women-owned small businesses, it is hereby ordered as follows:

Section 1. Executive Branch Policy. In order to reaffirm and strengthen the statutory policy contained in the Small Business Act, 15 U.S.C. 644(g)(1), it shall be the policy of the executive branch to take the steps necessary to meet or exceed the 5 percent Government-wide goal for participation in procurement by women-owned small businesses (WOSBs). Further, the executive branch shall implement this policy by establishing a participation goal for WOSBs of not less than 5 percent of the total value of all prime contract awards for each fiscal year and of not less than 5 percent of the total value of all subcontract awards for each fiscal year.

Sec. 2. Responsibilities of Federal Departments and Agencies. Each department and agency (hereafter referred to collectively as ''agency'') that has procurement authority shall develop a long-term comprehensive strategy to expand opportunities for WOSBs. Where feasible and consistent with the effective and efficient performance of its mission, each agency shall establish a goal of achieving a participation rate for WOSBs of not less than 5 percent of the total value of all prime contract awards for each fiscal year and of not less than 5 percent of the total value of all subcontract awards for each fiscal year. The agency's plans shall include, where appropriate, methods and programs as set forth in section 4 of this order.

Sec. 3. Responsibilities of the Small Business Administration. The Small Business Administration (SBA) shall establish an Assistant Administrator for Women's Procurement within the SBA's Office of Government Contracting. This officer shall be responsible for:

(a) working with each agency to develop and implement policies to achieve the participation goals for WOSBs for the executive branch and individual agencies;

(b) advising agencies on how to implement strategies that will increase the participation of WOSBs in Federal procurement;

(c) evaluating, on a semiannual basis, using the Federal Procurement Data System (FPDS), the achievement of prime and subcontract goals and actual prime and subcontract awards to WOSBs for each agency;

(d) preparing a report, which shall be submitted by the Administrator of the SBA to the President, through the Interagency Committee on Women's Business Enterprise and the Office of Federal Procurement Policy (OFPP), on findings based on the FPDS, regarding prime contracts and subcontracts awarded to WOSBs;

(e) making recommendations and working with Federal agencies to expand participation rates for WOSBs, with a particular emphasis on agencies in which the participation rate for these businesses in less than 5 percent;

(f) providing a program of training and development seminars and conferences to instruct women on how to participate in the SBA's 8(a) program, the Small Disadvantaged Business (SDB) program, the HUBZone program, and other small business contracting programs for which they may be eligible;

(g) developing and implementing a single uniform Federal Government-wide website, which provides links to other websites within the Federal system concerning acquisition, small businesses, and women-owned businesses, and which provides current procurement information for WOSBs and other small businesses;

(h) developing an interactive electronic commerce database that allows small businesses to register their businesses and capabilities as potential contractors for Federal agencies, and enables contracting officers to

identify and locate potential contractors; and

(i) working with existing women-owned business organizations, State and local governments, and others in order to promote the sharing of information and the development of more uniform State and local standards for WOSBs that reduce the burden on these firms in competing for procurement opportunities.

Sec. 4. Other Responsibilities of Federal Agencies. To the extent permitted by law, each Federal agency shall work with the SBA to ensure maximum participation of WOSBs in the procurement process by taking the following steps:

(a) designating a senior acquisition official who will work with the SBA to identify and promote contracting opportunities for WOSBs;

(b) requiring contracting officers, to the maximum extent practicable, to include WOSBs in competitive acquisitions;

(c) prescribing procedures to ensure that acquisition planners, to the maximum extent practicable, structure acquisitions to facilitate competition by and among small businesses, HUBZone small businesses, SDBs, and WOSBs, and providing guidance on structuring acquisitions, including, but not limited to, those expected to result in multiple award contracts, in order to facilitate competition by and among these groups;

(d) implementing mentor-protege programs, which include women-owned small business firms; and

(e) offering industry-wide as well as industry-specific outreach, training, and technical assistance programs for WOSBs including, where appropriate, the use of Government acquisitions forecasts, in order to assist WOSBs in developing their products, skills, business planning practices, and marketing techniques.

Sec. 5. Subcontracting Plans. The head of each Federal agency, or designated representative, shall work closely with the SBA, OFPP, and others to develop procedures to increase compliance by prime contractors with subcontracting plans proposed under section 8(d) of the Small Business Act (15 U.S.C. 637(d)) or section 834 of Public Law 101–189, as amended (15 U.S.C. 637 note), including subcontracting plans involving WOSBs.

Sec. 6. Action Plans. If a Federal agency fails to meet its annual goals in expanding contract opportunities for WOSBs, it shall work with the SBA to develop an action plan to increase the likelihood that participation goals will be met or exceeded in future years.

Sec. 7. Compliance. Independent agencies are requested to comply with the provisions of this order.

Sec. 8. Consultation and Advice. In developing the long-term comprehensive strategies required by section 2 of this order, Federal agencies shall consult with, and seek information and advice from, State and local governments, WOSBs, other private-sector partners, and other experts.

Sec. 9. Judicial Review. This order is for internal management purposes for the Federal Government. It does not create any right or benefit, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies, its officers, its employees, or any other person.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *May 23, 2000.*

Mr. ABRAHAM. Mr. President, today I join my colleagues from the Senate Small Business Committee, Chairman KIT BOND and Ranking Member JOHN KERRY, in support of increased involvement of women-owned small businesses in the Federal procurement process.

I have had the opportunity to speak with many women business leaders in Michigan on this matter, and the general opinion is that there are certain doors that are closed to women business owners. In a field hearing I held in Michigan last summer on issues to women in business, I found that many times women business owners face the same problems as men in the private sector. However, when looking at the representation of women in terms of federal procurement dollars, the difference is striking.

Six years after posting a modest five-percent goal of Federal procurement dollars for women-owned small businesses, Federal departments and agencies have fallen far short. Last year, only 2.4 percent of the total dollar value of all Federal prime contracts went to women business owners. This shortfall is staggering when taking into account that women-owned small businesses are the fastest growing segment of the business community in the United States. In fact, by the year 2010, women-owned small businesses are expected to make up more than one-half of all businesses in the United States.

As a result of this striking information, I introduced an amendment to last year's Women Business Centers Sustainability Act that called for a GAO report studying the trends, barriers and possible solutions to this deficiency. I am proud to report that this report stands to be completed by the end of the year. However, this alone will not provide Federal procurement opportunities for women-owned small businesses. The administration must become actively involved in demanding Federal departments and agencies accomplish the five-percent procurement goal.

Mr. President, I have been advocating this issues for quite some time now. My colleagues and I in the Senate Small Business Committee have consistently supported efforts empowering the spirit of entrepreneurship in American women. In my view, these actions must be adopted and enforced on all levels of government.

I hope my colleagues in the Senate will join me in encouraging the President to hold the heads of the Federal departments and agencies accountable to ensure that the five percent goal is achieved during this fiscal year.

Mr. BURNS. Mr. President, today I join Senator BOND, Senator KERRY, and others in support of a Senate resolution urging the President to adopt a policy to ensure that the 5-percent Federal procurement goal for women-owned small businesses is met.

In 1994, Congress enacted the Federal Acquisition Streamlining Act, establishing a Government-wide goal for small businesses owned and controlled by women. This act allows for no less than five percent of the total dollar value of all prime contracts and subcontract awards for each year.

Over the past few years, we have witnessed the growth of women-owned businesses, including federal contracts. Over the past ten we've seen thousands of women entrepreneurs start or expand their own businesses. It is important we realize that women-owned businesses are the fastest growing segment of the business community in the United States. In fact, in the next ten years, it is expected that women-owned businesses will make up more than one-half of all businesses in the United States.

This week has been designated as Small Business Week, therefore it is only fitting that the Senate should pass this resolution to symbolize the Senate's concern that the Federal departments and agencies have not made adequate effort in meeting the five percent goal established in 1994 as part of the Federal Acquisition Streamlining Act. I fully support this Senate resolution and urge Federal agencies to make a concerted effort to meet this 5-percent goal.

Mr. ALLARD. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and any statements relating to the resolution be printed in the RECORD.

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

The resolution (S. Res. 311) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 311

Whereas women-owned small businesses are the fastest growing segment of the business community in the United States;

Whereas women-owned small businesses will make up more than one-half of all business in the United States by the year 2010;

Whereas in 1994, the Congress enacted the Federal Acquisition Streamlining Act of 1994, establishing a Government-wide goal for small businesses owned and controlled by women of not less than 5 percent of the total dollar value of all prime contracts and subcontract awards for each fiscal year;

Whereas the Congress intended that the departments and agencies of the Federal Government make a concerted effort to move toward that goal;

Whereas in fiscal year 1999, the departments and agencies of the Federal Government awarded prime contracts totaling 2.4 percent of the total dollar value of all prime contracts; and

Whereas in each fiscal year since enactment of the Federal Acquisition Streamlining Act of 1994, the Federal departments and agencies have failed to reach the 5 percent procurement goal for women-owned small businesses: Now, therefore, be it

Resolved, That—

(1) the Senate strongly urges the President to adopt a policy in support of the 5 percent procurement goal for women-owned small businesses, and to encourage the heads of the Federal departments and agencies to undertake a concerted effort to meet the 5 percent goal before the end of fiscal year 2000; and

(2) the President should hold the heads of the Federal departments and agencies accountable to ensure that the 5 percent goal is achieved during fiscal year 2000.

APPOINTMENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, in accordance with 22 U.S.C. 1928a–1928d, as amended, appoints the following Senators as members of the Senate Delegation to the NATO Parliamentary Assembly during the Second Session of the 106th Congress, to be held in Budapest, Hungary, May 26–30, 2000: The Senator from Iowa (Mr. GRASSLEY), Acting Chairman; the Senator from Pennsylvania (Mr. SPECTER); the Senator from Wyoming (Mr. ENZI); and the Senator from Ohio (Mr. VOINOVICH).

AUTHORIZING ACTION IN STATE OF INDIANA V. AMY HAN

Mr. ALLARD. Mr. President, I ask unanimous consent that the Senate now proceed to the immediate consideration of S. Res. 312, submitted earlier by Senator LOTT and Senator DASCHLE.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 312) to authorize testimony, document production, and legal representation in State of Indiana v. Amy Han.

There being no objection, the Senate proceeded to consider the resolution.

Mr. LOTT. Mr. President, this resolution concerns a request for testimony in a criminal action in Indiana Superior Court for the County of Marion. In the case of State of Indiana v. Amy Han, the county prosecutor has charged the defendant with two counts of criminal trespass on Senator LUGAR'S Indianapolis office. Pursuant to subpoenas issued on behalf of the county prosecutor, this resolution authorizes two employees in Senator LUGAR'S office who witnessed the events giving rise to the trespass charges, and any other employee in the Senator's office from whom testimony may be required, to testify and produce documents at trial, with representation by the Senate Legal Counsel.

Mr. ALLARD. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and a statement of explanation be printed in the RECORD.

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

The resolution (S. Res. 312) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 312

Whereas, in the case of State of Indiana v. Amy Han, C. No. 99–148243, pending in the Indiana Superior Court of Marion County, Criminal Division, testimony has been requested from Lesley Reser and Lane Ralph, employees in the office of Senator Richard Lugar;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(2), the Senate may direct its counsel to represent employees of the Senate with respect to any subpoena, order, or request for testimony relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial or administrative process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistently with the privileges of the Senate: Now, therefore, be it

Resolved, That Lesley Reser and Lane Ralph, and any other employee of Senator Lugar's office from whom testimony may be required, are authorized to testify and produce documents in the case of State of Indiana v. Amy Han, except concerning matters for which a privilege should be asserted.

SEC. 2. The Senate Legal Counsel is authorized to represent Lesley Reser, Lane Ralph, and any other employee of Senator Lugar's office in connection with the testimony and document production authorized in section one of this resolution.

AUTHORIZING ACTION IN HAROLD A. JOHNSON V. MAX CLELAND, ET AL.

Mr. ALLARD. Mr. President, I ask unanimous consent that the Senate now proceed to the immediate consideration of S. Res. 313, submitted earlier by Senators LOTT and DASCHLE.

The PRESIDING OFFICER (Mr. BROWNBACK). The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 313) to authorize representation by the Senate Legal Counsel in Harold A. Johnson v. Max Cleland, et al.

There being no objection, the Senate proceeded to consider the resolution.

Mr. LOTT. Mr. President, a pro se plaintiff has commenced a civil action against Senator CLELAND and a state official in Georgia state court seeking an order removing them from office on the purported ground that their election by plurality vote, while expressly authorized by Georgia statutes, violates the Georgia Constitution. This suit is the plaintiff's second challenge to Georgia's current election laws. Having lost his first challenge against the State Board of Elections, the plaintiff now is bringing an identical challenge to the Georgia election laws through the use of the ancient writ of quo warranto.

Senator CLELAND, who was elected to the Senate almost four years ago, in 1996, in an election that was not the subject of any election contest brought before the Senate, is sued solely because of his official capacity as a sitting Senator. This quo warranto action in essence challenges his taking of the oath of office, as well as the Senate's action in seating him. As such, it falls appropriately within the Senate Legal Counsel's statutory responsibility to represent Members of the Senate in civil actions in which they are sued in their official capacity.

The writ of quo warranto can have no applicability to United States Senators or Representatives, as Article I, section 5 of the United States Constitution commits to each House of Congress the sole power to seat and remove its Members. This action is also barred by the speech or debate clause.

This resolution would authorize the Senate Legal Counsel to represent Senator CLELAND to seek his dismissal from this matter.

Mr. ALLARD. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and a statement of explanation be printed in the RECORD.

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

The resolution (S. Res. 313) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 313

Whereas, Senator Max Cleland has been named as a defendant in the case of Harold A. Johnson v. Max Cleland, et al., Case No. 2000CV22443, now pending in the Superior Court of Fulton County, Georgia;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(1), the Senate may direct its counsel to represent Members of the Senate in civil actions with respect to their official responsibilities: Now, therefore, be it

Resolved, That the Senate Legal Counsel is authorized to represent Senator Max Cleland in the case of Harold A. Johnson v. Max Cleland, et al.

NATIONAL CHILD'S DAY

Mr. ALLARD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 561, S. Res. 296.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 296) designating the first Sunday in June of each calendar year as ''National Child's Day''.

There being no objection, the Senate proceeded to consider the resolution, which had been reported from the Committee on the Judiciary, with an amendment, as follows:

(The part of the bill intended to be stricken is shown in boldface brackets and the part of the bill intended to be inserted is shown in italic.)

S. RES. 296

Whereas the first Sunday of June falls between Mother's Day and Father's Day;

Whereas each child is unique, a blessing, and holds a distinct place in the family unit;

Whereas the people of the United States should celebrate children as the most valuable asset of the United States;

Whereas the children represent the future, hope, and inspiration of the United States;

Whereas the children of the United States should be allowed to feel that their ideas and

dreams will be respected because adults in the United States take time to listen;

Whereas many children of the United States face crises of grave proportions, especially as they enter adolescent years;

Whereas it is important for parents to spend time listening to their children on a daily basis;

Whereas modern societal and economic demands often pull the family apart;

Whereas, whenever practicable, it is important for both parents to be involved in their child's life;

Whereas encouragement should be given to families to set aside a special time for all family members to engage together in family activities;

Whereas adults in the United States should have an opportunity to reminisce on their youth to recapture some of the fresh insight, innocence, and dreams that they may have lost through the years;

Whereas the designation of a day to commemorate the children of the United States will provide an opportunity to emphasize to children the importance of developing an ability to make the choices necessary to distance themselves from impropriety and to contribute to their communities;

Whereas the people of the United States should emphasize to children the importance of family life, education, and spiritual qualities;

Whereas because children are the responsibility of all people of the United States, everyone should celebrate children, whose questions, laughter, and dreams are important to the existence of the United States; and

Whereas the designation of a day to commemorate the children will emphasize to the people of the United States the importance of the role of the child within the family and society: Now, therefore, be it

Resolved, That the Senate—

(1) designates [the first Sunday in June of each year] *June 4, 2000*, as ''National Child's Day''; and

(2) requests the President to issue a proclamation calling on the people of the United States to observe the day with appropriate ceremonies and activities.

Amend the title to read as follows: ''Designating June 4, 2000, as 'National Child's Day' ''.

Mr. ALLARD. Mr. President, I ask unanimous consent that the resolution, as amended, be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, the title amendment be agreed to, and any statements relating thereto be printed in the RECORD.

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

The committee amendment was agreed to.

The resolution (S. Res. 296), as amended, was agreed to.

The preamble was agreed to.

The title was amended so as to read: ''Designating June 4, 2000, as 'National Child's Day.' ''

ORDERS FOR WEDNESDAY, MAY 24, 2000

Mr. ALLARD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 10 a.m. on Wednesday, May 24. I further ask that on Wednesday, immediately following the prayer, the Journal of proceedings be approved to date, the morning hour be deemed to have expired, and the time for the two leaders be reserved for their use later in the day. I further ask consent that the Senate then proceed to a period of morning business until 11 a.m., with Senators speaking therein for up to 5 minutes each, with the following exceptions: Senator DURBIN, or his designee, from 10 to 10:30 a.m.; Senator THOMAS, or his designee, from 10:30 to 11 a.m.

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

UNANIMOUS CONSENT AGREEMENT—S. 2603

Mr. ALLARD. Mr. President, I ask unanimous consent that the Senate begin consideration of S. 2603, the legislative branch appropriations bill, at 11 a.m.

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

PROGRAM

Mr. ALLARD. Mr. President, for the information of all Senators, the Senate will convene at 10 a.m. on Wednesday and be in a period of morning business until 11 a.m. Following morning business, the Senate will begin debate on the legislative branch appropriations bill. It is hoped that an agreement can be made regarding debate time and amendments so that a vote can occur during tomorrow's session of the Senate. There are approximately 40 minutes of debate remaining on executive nominations, with up to six votes to occur tomorrow afternoon. To accommodate the party dinners Wednesday night, votes will occur prior to 6 p.m.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. ALLARD. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:01 p.m., adjourned until Wednesday, May 24, 2000, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate May 23, 2000:

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

DON HARRELL, OF NEW YORK, TO BE A MEMBER OF THE FEDERAL RETIREMENT THRIFT INVESTMENT BOARD FOR A TERM EXPIRING SEPTEMBER 25, 2002, VICE JEROME A. STRICKER, TERM EXPIRED.

DEPARTMENT OF ENERGY

MILDRED SPIEWAK DRESSELHAUS, OF MASSACHUSETTS, TO BE DIRECTOR OF THE OFFICE OF SCIENCE, DEPARTMENT OF ENERGY. (NEW POSITION)

INSTITUTE OF AMERICAN INDIAN & ALASKA NATIVE CULTURE & ARTS DEVELOPMENT

JAYNE G. FAWCETT, OF CONNECTICUT, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT FOR A TERM EXPIRING MAY 19, 2006, VICE ALFRED H. QOYAWAYMA, TERM EXPIRED.

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To Be Admiral

VICE ADM. ROBERT J. NATTER, 0000

WITHDRAWALS

Executive messages transmitted by the President to the Senate on May 23, 2000, withdrawing from further Senate consideration the following nominations:

DEPARTMENT OF COMMERCE

Nicholas P. Godici, of Virginia, to be an Assistant Commissioner of Patents and Trademarks, vice Philip G. Hampton, II, which was sent to the Senate on January 31, 2000.

DEPARTMENT OF ENERGY

Mildred Spiewak Dresselhaus, of Massachusetts, to be Director of the Office of Energy Research, vice Martha Anne Krebs, which was sent to the Senate on April 13, 2000.