

take every penny of Social Security surplus this year, he is going to take every penny of Social Security surplus next year, every penny the next year, every penny the next year, every penny the next year—virtually every penny for the next 10 years. This is a course that is a disaster. It is time for people to stand up and speak out and face up to this fiscal disaster.

I thank my colleagues and yield the floor.

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#### LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred in Westbury, NY. On September 19, 2001, a 42-year-old man was charged with a bias crime after assaulting a gas-station attendant. Police reported that the victim was punched in the head by the assailant after he had questioned the attendant about his ethnicity.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

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#### THE TEN WORST "BAD APPLE" GUN DEALERS IN AMERICA

Mr. LEVIN. Mr. President, earlier this week, the Brady Campaign to Prevent Gun Violence released a report entitled "The Ten Worst Bad Apple Gun Dealers in America." This report analyzed national crime gun trace data from 1989 through 1996 gathered by the U.S. Bureau of Alcohol, Tobacco, Firearms and Explosives and identified the 10 gun dealers who sold the most crime guns and exhibited sales patterns that ATF considers to be indicative of gun trafficking. According to the Brady Campaign, most gun dealers are never associated with illegal activities, but guns sold by these 10 dealers turn up in the wrong hands over and over again.

According to the report, one dealer in Indianapolis, IN, sold 398 guns later used in crimes from 1989 through 1996. These guns were involved in at least 7 homicides, 12 assaults, and 2 robberies. In addition, the Brady campaign found that between October 2001 and January 2002, one man used two straw purchasers to buy 25 handguns from this dealer and then resold them on the streets of Chicago. Another trafficker used straw buyers to obtain 12 and 9 guns on two different occasions in 2002.

Another gun dealer identified in the Brady report, this one in West Mil-

waukee, WI, sold 554 guns later used in crimes. These guns were involved in at least 27 homicides, 101 assaults, and 9 robberies. From 1994 to 1996, 1 straw purchaser bought 10 guns from this dealer. Several of the weapons have been recovered from violent criminals, including a murderer, a rapist, an armed robber who later raped a woman at gunpoint, a man who shot at a police officer, and three juvenile shooting suspects.

The Brady report highlights the potential damage and abuse that just 10 bad apple dealers can cause. The Brady report reveals the disregard of a few in the gun industry for even basic self-regulation. The Lawful Commerce in Arms Act that recently passed the House and that has been referred to the Senate Judiciary Committee would shield negligent and reckless gun dealers from many legitimate civil lawsuits. Certainly, those in the industry who conduct their business negligently or recklessly should not be shielded from the civil consequences of their actions.

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#### INVESTIGATING PREWAR INTELLIGENCE

Mr. ROCKEFELLER. Mr. President, for almost a week now the Senate has been debating the appropriations bill for the Department of Defense. Several amendments have been offered regarding the need to determine the accuracy of our pre-war intelligence and the use of that intelligence by the Executive—specifically, a reference in the President's State of the Union message that has now been acknowledged to be erroneous. I want to take a few minutes to comment on some of these continuing questions regarding the accuracy of pre-war intelligence which became a part of the public debate soon following the invasion of Iraq. I have worked with Chairman ROBERTS to find a bipartisan approach to reviewing these issues. On June 20 we reached agreement on the terms of reference for what was by then an ongoing inquiry. I had proposed a broader, more formal approach but after some discussion agreed to proceed with a structured review and see where the information led us.

The committee has been poring through the volumes of material provided by the intelligence community and interviewing relevant officials, and has held two closed hearings and one briefing.

But as this process has moved forward it has become increasingly clear that a business as usual, oversight review is not going to be able to address our expanding appreciation of the scope of the problem. Every day brings new information, often from the press, which requires us to make sure that we have the right charter and organization for this inquiry.

Tuesday it was the story, reported in the Washington Post, that a four-star general was sent to Niger last year to

inquire about the security of Niger's uranium. According to the article, the general said that he came away convinced that Niger's uranium stock was secure. Obviously, there is much to be learned about this. Why was he sent? What was his mission? Who was aware of the trip? And what happened to the general's report when he returned?

This revelation follows on the heels of a week of accusations, denials, admissions and recriminations among the senior members of the administration's national security team about who was responsible for language related to Iraqi uranium purchases appearing in the President's 2003 State of the Union speech. By week's end, Director Tenet had stepped forward to accept responsibility. His statement, however, raised many other questions about how this information was handled by those outside the intelligence community.

The credibility of the intelligence related to Iraq and Niger first came to public attention in March when the IAEA determined the documents supporting the charges to be fraudulent. I immediately asked Director Mueller to have the FBI investigate the counter-intelligence implications of this revelation. Subsequently, Senator ROBERTS joined me in asking the Inspectors General at the CIA and State Department to investigate how this information was handled by the intelligence community.

These investigations, however, will answer only questions of how we came into possession of these documents and what the intelligence agencies did with them. They cannot, because of the reach of these investigative organizations, deal with the questions that have dominated the public debate in recent days. How did information, known to be dubious at best, find its way into the President's State of the Union speech? Who is responsible for inserting the information? Were reservations properly conveyed to senior officials? If not, why not? If so, why were those reservations not heeded?

It seems clear that the White House staff played a key role in this episode. Unless we follow the evidence wherever it leads, we will end up reporting to the American people only part of the story. And the Niger episode is just the first example of what we can expect as we get further into this process.

I am committed to a complete, bipartisan investigation that covers the full spectrum from collection to the analysis and use of prewar intelligence about Iraq. I believe that the Senate Intelligence Committee has the authority to conduct that investigation. But it has to be willing to use the full authority that the Senate has given it, or to ask the Senate if it needs any additional authority.

We should bite the bullet and authorize a formal investigation, explicitly state that it will examine the full range of activities concerning prewar intelligence—which includes the use of that intelligence—and provide for the

direction, organization and resources that will assure a complete and probing examination of all facts.

In short, it is now clear that this is not an ordinary oversight review but should be a full-fledged investigative effort, with a clear charter and with sufficient staffing and resources. We must do whatever is necessary to get to the bottom of this, and answer the fundamental questions of how intelligence was used to support this war.

#### ALGERIA EARTHQUAKE RESOLUTION

Mr. INHOFE. Mr. President, on May 21st of this year a devastating earthquake shook lives in Algeria and across the world. Two thousand two hundred people were killed, 10,000 were injured, and 200,000 more were left homeless. In response, support from the international community has been overwhelming. The United Nations Disaster Assessment and Coordination Team estimates that 85 international flights from 27 different countries landed in Algiers to assist in the emergency relief effort. Officials in Algeria state that more than 30,000 government workers and 10,000 military personnel were involved in relief activities. The United States alone has given over \$1.3 million in assistance, providing blankets, tents, and medical supplies.

Furthermore I am pleased that many businesses from my home state of Oklahoma are now helping in the reconstruction. They will bring to Algeria the best resources and equipment available to help rebuild the fallen cities. LWPB Architects, Atkins-Benham Constructors and Terex Road Building Group are among the participating companies.

I am pleased to cosponsor this resolution by my colleague from Kansas that expresses our deepest sympathies for the victims of this tragedy. It is our hope that through this international partnership, Algeria will arise a stronger nation.

#### SIXTH CIRCUIT JUDICIAL NOMINEES

Mr. DURBIN. Mr. President, last week I came to the floor to object to the majority leader's attempt to file a discharge petition on four of President Bush's judicial nominees to the Sixth Circuit. I want to clarify the basis of my objection because my comment was taken out of context by the majority leader and Senator MCCONNELL yesterday on the Senate floor.

I said last week that the four nominees should not be moved out of the committee because they haven't yet had a hearing. That is indeed one basis for our objection. I am not aware of any judicial nominee who has been voted on without having a hearing—that is just not the way the judicial confirmation process works.

But I also said that I was objecting on behalf of Senators LEVIN and

STABENOW, who have not returned the blue slips on these four nominees because they believe that President Clinton's nominees to the Sixth Circuit were unfairly denied hearings and votes. The Michigan Senators do not wish to proceed with President Bush's nominees until a fair and just resolution has been reached.

I think this is a valid argument. In the 1990s, the Republicans blocked 65 of President Clinton's judicial nominees many by home-State Senators who refused to return blue slips. I believe that this blockage was a coordinated attempt by Republicans to stall out the clock so that a Republican President might have the chance to fill those vacancies with right-wing ideologues after the 2000 election.

President Clinton nominated three people to the Sixth Circuit who were never given a hearing or a vote, including two people from Michigan. One of President Clinton's Michigan nominees, Helene White, waited 4 years and never received a hearing or vote. The other Michigan nominee, Kathleen McCree Lewis, waited 2 years and never received a hearing or a vote.

Why didn't these two highly qualified women ever receive a hearing or a vote? Because then-Michigan Senator Spencer Abraham didn't return their blue slips. Now the Bush White House is trying to reap the benefits of Senator Abraham's delay tactics.

The Republicans are ignoring the blue slip process today, but they honored the Blue Slip policy in the 1990s as if it were the gospel. Not once did a Clinton judicial nominee get confirmed if their blue slips were not returned. Here is what the Judiciary Committee Chair, Senator HATCH, said on the Senate Floor in October 1999:

After a fair and thorough review in committee and after paying the deference to the President to obtain a vote on the floor, I consider the position of a nominee's home State Senators. These Senators are in a unique position to evaluate whether a nominee instills the confidence in the people of a State necessary to be a successful Federal judge in that State. . . . Thus, there has developed a general custom and practice of my giving weight to the Senators from a nominee's home State. . . . When the President has not adequately consulted with the Senate, it takes longer to gain the consensus necessary to move the nominee. And when both home State Senators of a nominee oppose a nominee on the floor of the Senate, it is almost impossible to vote for the confirmation of that nominee.

Senator HATCH summed it all up in an interview he gave with NPR in 1997. He said: "The policy is that if a Senator returns a negative blue slip, that person's gonna be dead."

Now that the shoe is on the other foot, the Republicans have backed away from the blue slip policy because they have a higher mission: packing the courts with right-wing ideologues.

Not since President Roosevelt's Court-packing plan in 1937 has this country seen a President who has played politics with the courts the way President Bush has. Over the past 2

years, he has nominated some of the most ideologically driven people in the Nation to important judgeships.

They advocate extreme positions that would turn back the clock on women's rights, gay rights, workers' rights, consumer protection, and environmental protection.

Maybe President Bush has selected these people because he wants to pacify the far right wing of his party. Or maybe he truly shares their extreme beliefs.

The bottom line is this: the Republicans are changing the rules for their own partisan gain. They are violating two longstanding principles with the Michigan nominees: 1. not honoring the blue slip process that they so zealously honored when the shoe was on the other foot, and 2. not honoring the Judiciary Committee confirmation process by attempting to confirm these nominees without giving them hearings or a committee vote.

There is an easy resolution to the problem that the Republicans have created. As Senator STABENOW said earlier today on the Senate floor, she and Senator LEVIN have made numerous proposals—including the creation of a bipartisan selection commission like Wisconsin's—to select Michigan's judicial nominees. Unfortunately, the White House has rejected these very reasonable proposals.

I hope that the Bush White House will reconsider its position and work with the Michigan Senators to ensure justice and fairness for the people of Michigan.

In the meantime, it is not appropriate to have hearings on the Michigan nominees.

One final note: The debate over the Michigan nominees should not overshadow the fact that the Senate has confirmed the vast majority of President Bush's nominees. To date, we have confirmed 139 of his judicial appointments 134 to Article III courts, and 5 to the Article I Court of Federal Claims. We have held up just two nominees.

So the score is 139 to 2.

Democrats are accused of being obstructionist, yet we have confirmed so many of President Bush's judges that we now have the lowest judicial vacancy rate in 13 years.

#### PRESCRIPTION DRUG AND MEDICARE IMPROVEMENT ACT

##### PHYSICIAN REFERRALS

Mr. KOHL. Section 453 of S. 1, the Prescription Drug and Medicare Improvement Act, makes changes to current law regarding physician referrals to hospitals in which they have an ownership or investment interest. I would like to engage in a colloquy with my distinguished colleagues, Mr. FEINGOLD and Mr. BAUCUS, the Ranking Member of the Senate Finance Committee, related to the "exception" language included in the bill.

Specifically, I would like to know whether the "exception" language is