France and not we that becomes isolated in consequence. We cannot win this war without the active support of most, at least, of the world's major powers who see themselves to some extent as our rivals. And we will require at least the acquiescence of much of the rest of the world, including the Islamic world, whose governments are the terrorists' primary targets but many of whose ordinary people feel at least some sympathy for the terrorists' proclaimed objectives.

Well, that brings us back to our starting point this evening; our relationship with the world's other major powers. Anti-proliferation efforts and the war against terrorism cannot be conducted successfully by the U.S. alone. Therefore, it is necessary for us simultaneously to conduct our relationships and to contain our rivalries with these powers—perhaps it would be more accurate to say their rivalries with us—in the traditional manner on one level, even as we seek to lead them in a priority joint campaign against a global threat which some of them do not regard as seriously as we, but which has or soon will target all of them.

To some extent, this is happening even now. France, with which we have serious and perhaps enduring differences of a geopolitical nature, is cooperating with us in intelligence sharing in relation to the war on terrorism. China, which views us as a rival for influence in East Asia, is beginning to cooperate with us in dealing with the nuclear threat posed by its North Korean ally. And China and our old adversary, Russia, identify their campaigns against separatism amongst their Moslem minorities with our war on terrorism—a very uncomfortable fit for us.

The United Nations Security Council, seen after 9/11 as the logical instrument for organizing the world consensus against terrorism, proved incapable in the face of discord over Iraq among its permanent members. It was therefore bypassed, for much the same reason that it was bypassed during most of the cold war. Its structure no longer reflects the realities of the current global state system—if it ever did—and it is unlikely to realize its full potential until it, along with the entire United Nations system, is restructured. The UN today is a shambles, and not merely because Nauru with 6,000 citizens has the same General Assembly vote as China's 1.2 billion, nor because Libya is elected to chair the UN Human Rights Commission, or Iraq the Disarmament Commission or Syria becomes a non-permanent member of the Security Council, or that the UN and its agencies spend vast amounts of their time, effort and resources debating and implementing annual resolutions directed exclusively against Israel. No, the UN is a shambles because so much of what it does is irrelevant to the world's major issues that it lacks credibility even among those of its members who are chiefly responsible for its distortions.

But before we dismiss the UN as entirely irrelevant let us recall a few salient truths:

Metternich could conduct the Congress of Vienna, Bismarck the Congress of Berlin and Wilson the Versailles peace conference with four other principles and reshape the world. We are relatively far more powerful than any of those principals were, but we cannot be as effective as they were then in our war against terrorism, even with the co-operation of the 15 members of the Security Council.

The world has become so small and dangerous a place that we cannot even consider trying to stabilize it without the active participation of much of the rest of the world.

Therefore, if the UN did not already exist it would have to be invented. Only we, with our enormous power and influence, can make it work to focus the world's attention upon the current version of the threat from outer space.

So here we are, the most powerful nation the world has ever known; and what is our number one global problem? A collection of small to medium third world countries none of which has ever won a war against anyone, with economies a tiny fraction of ours, most of whose people are still living in the Middle Ages, and rag-tag gangs of fanatics and criminals which, if they should ever acquire the world's most powerful weapons, may be undeterrable and unappeasable and may use these weapons rather than submit.

The real authority in our world may be distributed—albeit unevenly—among six major powers. But neither we, as the first among them, nor a majority of them as in Bismark's alliance system nor all of them acting together, as in Vienna, Berlin, Versailles or last year in Security Council Resolution 1441, can absolutely ensure our safety. But we have no alternative but to try to create sufficient harmony among the world's principal powers to turn back the dark forces that threaten civilization.

TRIBUTE TO ASSISTANT U.S. ATTORNEY THOMAS P. SWANTON

Mr. SPECTER. Mr. President, I pay tribute to a very distinguished lawyer, Thomas P. Swanton, who has been in my office for more than 2 years on assignment from the Department of Justice, and I thank the Attorney General and the Department of Justice for this program which enables Senators to have excellent legal service and gives a different perspective to those who are assigned to a Senate office.

Tom Swanton is an extraordinary lawyer. He has come to my office with extensive trial skills and has done extraordinary work on counseling in my office, on post-9/11 legislation, on working on nominations, on legislative packages involving the death penalty, and the war on terrorism.

He has worked hard on these issues—each time jumping in feet first, soaking up knowledge, and moving legislation forward in this often complicated process. From his first assignment, he earned the respect of my staff, as well as mine.

Tom's primary duty consisted of working as my legal counsel for Judiciary matters where he handled a wide variety of issues. He also proved to be of invaluable assistance in crafting several pieces of post-September 11 legislation, all the while leading an investigation on terrorism financing. His skills and judgment in this arena are exceptional. My staff and I were constantly impressed with the wealth of knowledge he demonstrated.

Tom also provided a tremendous service to the people of Pennsylvania in working on issues such as class action reform and the Patents Bill of Rights. He demonstrated a remarkable amount of enthusiasm and initiative throughout his entire fellowship.

His dedication to each project was remarkable, and the assistance he provided to my office will not be easily matched. However, for Tom this level of dedication is par for the course. Since his graduation from West Point in 1983, he has consistently served our country. Prior to his service with the U.S. Attorney's office, Tom served in the United States Army and is currently a LTC in the Army Reserve.

Tom's personal record is equally distinguished. Those who know him well consistently praise his qualities as a devoted husband and father of four beautiful children.

I urge my colleagues to join me today in commending Tom Swanton for his service as a legal fellow and for his devotion and leadership to our country.

TERRORIST PROSECUTION ACT

Mr. SPECTER. Mr. President, this morning a group of Senators met with Israeli Prime Minister Ariel Sharon in a very informative session as part of Prime Minister Sharon's visit to the United States where yesterday he met with President Bush.

An item which has been worked on for many years has been the effort to try in the U.S. courts Palestinian terrorists who murder U.S. citizens abroad. The Terrorist Prosecution Act, which I wrote back in 1986, provides for exterritorial jurisdiction where U.S. courts have jurisdiction to try a Palestinian terrorist who murders an American citizen.

There are two prominent cases which could lend themselves to this approach. One case involves a Palestinian terrorist who is in the United States, where we have jurisdiction over him, where we need the cooperation of Israel in providing the witnesses. It was a matter which I discussed this morning with the Prime Minister, and we are working to see if we can secure that kind of cooperation. It was pointed out that sort of cooperation has been present in the past, and we are seeking to bring that about here.

Another possible prosecution would involve a Palestinian terrorist who confessed on television, so there is no issue about the voluntariness of his confession. There is a potential problem in that Israel opposes the death penalty and characteristically will extradite only where there is assurance from the country receiving the individual that the death penalty will not be sought. I believe there are exceptions under Israeli law where Israeli national security is involved. I believe the threat of the war on terrorism would qualify under that section.

There is a second aspect, and that is the vindication of U.S. rights where American citizens are murdered by Palestinian terrorists in Israel. I think there is a very real issue about vindicating U.S. interests. We are going to continue to pursue that line.

One other observation in the brief amount of time remaining. The meeting between President Bush and Prime Minister Ariel Sharon was a very warm and a very good meeting. One of the items which I think bears a little focus is the unusual rapport between these two men, where President Bush referred to Prime Minister Sharon by his

first name ''Ariel,'' and Prime Minister Sharon reciprocated by referring to President Bush as ''George.'' I think that signifies an unusually warm relationship.

It brings to mind comments by Prime Minister Begin who visited the United States back in June of 1982 and met with a group of Senators, and at that time made a comment that President Reagan had asked Prime Minister Begin to call President Reagan ''Ron.'' Prime Minister Begin said that he deferred, which led President Reagan to say to Prime Minister Begin: Well, Menachem, if you don't call me Ron, I won't call you Menachem.

Prime Minister Begin went through that circle but refused to call the President by his first name, referring to the President as a Head of State.

I think it is a very encouraging sign when the President of the United States and the Prime Minister of Israel are on a first name basis. That bodes very well for the relationship.

I note the time of 1 o'clock has arrived.

The ACTING PRESIDENT pro tempore. The time controlled by the Senator from Kentucky has expired.

Mr. SPECTER. Mr. President, I yield the floor in any event.

EXECUTIVE SESSION NOMINATION OF MIGUEL A. ESTRADA TO BE UNITED STATES CIRCUIT JUDGE FOR THE DISTRICT OF COLUMBIA CIRCUIT

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. SCHUMER. Mr. President, I believe the regular order is for the minority to be given a half hour on the proposal to proceed with the Estrada nomination; is that correct?

The PRESIDING OFFICER (Mr. HAGEL). The Senator from New York has one-half hour under his control.

Mr. SCHUMER. Mr. President, we are back to voting on whether to proceed with the Estrada nomination. Before I get into the merits of Mr. Estrada, I want the record to show that we have now confirmed 140 of the President's nominees. By the end of the week, it could be over 150. By the end of the week, we may be blocking as many as 4. So right now it is 140 to 4 and could be at the end of the week 150 to 4. That is a record that even Yankee fans would be jealous of.

We have this view of some, including the White House, that we are obstructionist because we have tried to block 4 out of 140 nominees. My guess is if James Madison or George Washington or Benjamin Franklin or any of the Founding Fathers were looking down on this Chamber, they would say: Why are they blocking so few? We wanted the President and the Senate to come together on judicial nominees.

It outlines in the Federalist Papers that the Founding Fathers didn't want the President to have sole power to choose judges, nor did they want the Senate to be a rubber stamp. In fact, one of the first nominees, John Rutledge from South Carolina, was rejected by the Senate, which contained a goodly number of the Founding Fathers themselves because they were appointed to the Senate in those days right from the Constitutional Convention. Rutledge was rejected because of his views on the Jay Treaty.

So this idea that unless we find the candidate to have some kind of criminal record or has done something unethical, we should not be examining that record or speaking to that record makes a good deal of sense. President Bush is a classic case of what the Founding Fathers were worried about in the way he has chosen his nominees because the Founding Fathers, I believe, wanted nominees to be from the American mainstream. They wanted them to interpret the law, not to make law.

There have been times when judges have leaned to the far left—the 1960s and 1970s—and they now lean to the far right. The bench becomes infused with ideologues and ideologies, and those judges want to make law, not interpret law—very much against what our Founding Fathers wanted. That has been the case of President Bush. I don't think it is disputed that he has nominated judges through an ideological prism more than any President in our history. You don't have a sprinkling of Democrats or liberals or even moderates—you have a few moderates, but the overwhelming majority of the President's judges have been hard core, hard right. A few of them have been so far over that they don't deserve nomination. They include Miguel Estrada and Priscilla Owen, and they include, in my opinion, two nominees we may vote on later this week: Carolyn Kuhl, and the attorney general of Alabama, Pryor.

If you look at the records of these judges and you put scales, left to right, 10 being the most liberal and 1 being the most conservative, these judges are ones, to be charitable. When Bill Clinton nominated judges, he nominated mainly sixes and sevens, people who tended to be a little more liberal, but were moderate and mainstream—very few legal aid lawyers or ACLU charter members, much more prosecutors and partners in law firms.

This President, for whatever reason, has chosen to nominate judges way over to the far right side.

I am proud of what we have done in this Chamber. I am proud that we are bringing some moderation to the bench. I am proud that we are following the wishes of the Founding Fathers and not just being a rubber stamp. For those who try to beat us with a two-by-four, by calling names, by saying we are anti-Black, anti-Hispanic, anti-Catholic, anti-women, when we oppose a judge who happens to be of that description, we are not going to win. We believe in what we are doing. We believe it is mandated by the Constitution. We believe we are following the will of the American people who don't want judges either too far left or too far right.

I assure you, Mr. President, and I assure President Bush, and I assure my colleagues in the Senate that we will continue to do this. You can prolong this and put up all the visuals and nasty ads you want, like the one just run by one of the President's associates in Maine, accusing those who will vote against Mr. Pryor of being anti-Catholic, including good Catholics in this Chamber. That is wrong. In fact, I think it is reprehensible. But I tell the other side, not only will it not work, if anything it strengthens our desire to do the right thing.

Let's talk about Miguel Estrada. This nominee was unusual in this sense: He had no real record because he had not been a judge previously, nor written law articles. By many reports, his views were very extreme. But when I approached the hearings for his nomination, and when many colleagues did, we were willing to see what he thought. The bottom line is that he didn't tell us what he thought. The bottom line is that when he was asked very simple questions on issues that he had an obligation to expound upon, such as: What is your view of the first amendment; how broad or narrow should it be; what is your view of the commerce clause; what is your view of the relationship between the States and the Federal Government; he kept hiding behind this idea that canon 5 of lawyers ethics says you should not comment on a pending case if you are nominated to be a judge, so that he could not comment on anything. If Mr. Estrada were asked how should Enron be treated, he would rightfully say: I cannot answer that because I might judge Enron on the bench. But if he is asked what his views on corporate ethics are, of course, he has an obligation to answer that question. He did not. And doing so was an affront, not to any one individual, but to our Constitution.

If Mr. Estrada were correct, then probably most of the judges we have nominated in the last two decades should be cited for violation of canon 5. They all answered these questions. Judges nominated by President Bush before and after Estrada have answered these questions. So why would Mr. Estrada not come clean and tell people what he thought? Why would he not do what every American has to do?

When every American applies for a job, the employer says: Please fill out this questionnaire. Can you imagine someone saying I refuse to fill out the questionnaire in getting the job? It would be rare to do that. That is what he did. He is applying for a job—not just any job, but one of the most important jobs this Government has—a Federal judge, with awesome power. He kept refusing to fill in the job application form by answering the questions we had asked.

We then came to the question: How could we tell what his views were? We