

Mr. HARKIN. Yes, I have received a good many calls as well. And, I have to say that I would be very concerned, as I know the Senator from Utah is, if anything in the bill we are considering, S. 1082, would overturn DSHEA, a law we fought side-by-side to see enacted.

Mr. ENZI. It might be helpful if I explained the provision you are discussing, as my office has received many calls as well and I believe the callers are not informed about this matter. Subtitle B of title II of S. 1028 establishes the Reagan-Udall Foundation for the Food and Drug Administration. That simple purpose of that non-profit Foundation is to lead collaborations among the FDA, academic research institutions and industry designed to bolster research and development productivity, provide new tools for improving safety in regulated product evaluation, and in the long term make the development of those products more predictable and manageable.

Mr. KENNEDY. That is exactly the purpose of the Foundation, which was included in the drug safety legislation Senator ENZI and I introduced last year. The Foundation will be financially supported by industry and philanthropic donated funds. A chief scientist at FDA will promote intramural research and coordinate it with efforts at the Foundation.

Mr. HATCH. That explanation is very helpful. What, specifically, would the role of the Foundation be with respect to dietary supplements?

Mr. KENNEDY. Let me make absolutely clear that the Reagan-Udall Foundation will in no way override, overturn or conflict with the Dietary Supplement Health and Education Act. Nothing in this bill would have that effect.

Mr. ENZI. Yes, we took great pains to make certain there would be no conflict with DSHEA. Regarding foods, and dietary supplements are generally regulated as foods, the general directive of the Foundation is to identify holes in the evaluation of food safety and identify ways to address those deficiencies through collaborative research with industry.

Mr. HARKIN. So to make this absolutely clear, what you are saying is that the bill we are debating would in no way interfere with consumers' access to dietary supplements?

Mr. HATCH. To add to that point, it seems that the language could, in fact, help dietary supplement consumers, because it would allow collaboration between government and industry to conduct research on issues that might be helpful to supplement consumers?

Mr. KENNEDY. Yes, that is the case.

Mr. ENZI. I agree with Chairman KENNEDY's assessment.

Mr. HATCH. I thank you for those assurances and that clarification.

Mr. HARKIN. This has been a very helpful discussion, because Senator HATCH and I could never support legislation that would interfere with DSHEA and we are glad to receive the

assurances of the chairman and the ranking Republican on the committee.

MORNING BUSINESS

Mr. MENENDEZ. Madam President, I ask unanimous consent that there now be a period of morning business with Senators permitted to speak therein for up to 10 minutes each.

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

DEPARTMENT OF JUSTICE

Mr. LEAHY. Madam President, when I was a young law student at Georgetown, the event that stands out the most in my memory was a morning that I and a few other young law students working at various agencies for the summer had with the then Attorney General. It was Attorney General Robert Kennedy. In that meeting, he stressed to us over and over again the professionalism of the Department of Justice and how the professionals had to stay out of any kind of partisan politics and that he would insist upon it.

I was inspired by that meeting. I think it probably shaped my decision to go into public life more than any other single meeting I had.

I ask unanimous consent that an article in today's USA Today by Ronald Goldfarb entitled "Crossing the Line at Justice" be printed in the RECORD.

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

[From USA Today, Wednesday, May 2, 2007]

CROSSING A LINE AT JUSTICE

(By Ronald Goldfarb)

The current agonies of Attorney General Alberto Gonzales call to mind a dramatic moment in the Robert F. Kennedy Justice Department. Members of his organized crime section were in RFK's office reviewing our pending investigations and cases. One of our group advised Kennedy that his grand jury investigations were about to lead to the indictment of the then-mayor of a large Midwestern city, one that had voted for his brother John Kennedy in the close presidential election of 1960.

When my colleague completed his report about the big scalp about to be added to our list of political corruption cases, RFK was quiet. It happened that the scalp in question belonged to President Kennedy's ambassador-designate to Greece. The attorney general smiled slightly and facetiously remarked: "Well, that's nice. Now my brother's going to have to put me on the Supreme Court." The indictment went forward and included others in the city's political (Democratic) machine. All were convicted.

That anecdote is relevant today as the Senate Judiciary Committee considers the attorney general's recent dismissals of several U.S. attorneys. When it comes to the proper administration of justice in the Department of Justice, there are politics and there are politics.

THE TWO P'S

Capital "P" politics—that is, party politics, such as the partisan personal shenanigans of Gonzales meddling with the independence of competent prosecutors' discretion in response to political pressures—are improper and have no place in the justice

system. Small "p" politics, the imposition of discretionary preferences, policies and priorities in the focus of prosecutorial discretion, generally are proper. Partisans must accept them, like it or not. They are not the basis for replacing attorneys general.

The distinction is important. When the Justice Department that I served in during the Kennedy administration came to office, "political" priorities changed. The internal security division, active and robust during the Eisenhower administration when loyalty was a major concern, was de-emphasized and eventually was deactivated. The organized crime and the civil rights sections, small and quiet in earlier years, grew into major centers of departmental work and were the centerpiece of RFK's regime. That kind of priority setting is proper.

Administrations come to office offering change. Like these changes or not, people cannot claim they involve improper politics. Critics have the right to change administrations with their votes in subsequent elections. Had Al Gore been elected, no doubt environmental prosecutions would have taken front and center in the department's efforts.

After Sept. 11, 2001, homeland security would have been any attorney general's special interest, RFK's included. So if one deplores the values and priorities of the John Ashcroft and Gonzales administrations at Justice, USA Patriot Act excesses and the like, the recourse will be at the 2008 voting machines.

On the other hand, capital "P" party politics have no place in any Justice Department. That is the unique indictment of Gonzales, and one that should lead to his replacement. All attorneys general face political pressure to act against their parties' political enemies and to protect their friends. Those are the moments of truth for all attorneys general, the one that Gonzales failed, to the embarrassment of even his own party representatives.

RFK'S TESTS

When RFK was attorney general, two comparable moments stand out in my memory. In one, his notorious father's long-time attorney—James Landis, "a virtual member of the immediate family," according to one biography—was charged with failing to file his tax returns for five years. Immense pressures were put on Kennedy to find an excuse not to indict the aging and prestigious former Harvard law dean. RFK stayed out of the decision-making process, and Landis pleaded guilty and received a brief incarceration. But for his close association with the Kennedys, Landis probably would not have suffered so. Everyone wanted to help Landis, but they were super self-conscious about the propriety of doing so.

A similar moment arose when an investigation showed that the brother of the influential congressman from New York, Eugene Keogh, had abused his office as a New York state supreme court judge. Kennedy agonized over the political pressures on him; he worried that the not open-and-shut case might not be winnable, after major political embarrassment to Kennedy loyalists. To his credit, Keogh told Kennedy he knew he'd do the right and fair thing. The attorney general's aides pressed him to do what he'd do in any other non-political case. Judge J. Vincent Keogh was indicted and convicted. That is the only way an attorney general can keep the balance of justice even and credible.

Gonzales needed aides who spoke to him with comparable candor and rectitude. Instead, he is falling on his sword over the U.S. attorney firings that he administered without knowing, as he has testified, much about them at the time. Like former vice presidential aide Lewis "Scooter" Libby in the