

U.S.C.A.A.N. 1989, 1992. Of course, the orderly staggering of terms intended by Congress would be frustrated if vacancies created through death or resignation could be filled with commissioners appointed for new six year terms. Ultimately, the balance between continuity and change sought by Congress in allowing a fixed number of new members to be appointed at regular intervals would give way to a process in which Presidents and commissioners alike could "game the system" by timing resignations and appointments.

In our conversation yesterday, I explained the legal position of the White House and the Department of Justice. I also explained, that President Bush has selected an individual—Peter Kirsanow—whom he intends to appoint to succeed Ms. Wilson. Mr. Kirsanow is an extraordinarily well-qualified individual. He is a partner with a major Cleveland law firm and has served as chair of the Center for New Black Leadership and as labor counsel for the City of Cleveland. Because there is a vacancy on the Commission, the President intends to appoint Mr. Kirsanow as a commissioner as soon as possible.

You maintained, however, that you support Ms. Wilson in her decision to purport not to vacate her position and to continue service and to attend the Commission's upcoming meeting on December 7. Moreover, you informed me that you do not consider yourself to be bound by opinions of the Department of Justice nor do you intend to abide by them or to follow the directives of the President in this matter. You further informed me that you will refuse to administer the oath of office to the President's appointee. I advised you that any federal official authorized to administer oaths generally could swear in Mr. Kirsanow.

Finally, you stated that, even if Ms. Wilson's successor has been lawfully appointed and has taken the oath of office, you will refuse to allow him to be seated at the Commission's next meeting. You went so far as to state that it would require the presence of federal Marshals to seat him.

I respectfully urge you to abandon this confrontational and legally untenable position. As to questions regarding Ms. Wilson's status, we view these as a matter between Ms. Wilson and the White House. With respect to Mr. Kirsanow, any actions blocking him from entering service following a valid appointment would, in my opinion, violate the law. The President expects his appointee to take office upon taking the oath and to attend upcoming meetings as a duly appointed commissioner. The President also expects all sworn officers of the United States government to follow the law.

In sum, the law and official documents make clear that Ms. Wilson's term expired last week, November 29, 2001, and that she is no longer a member of the U.S. Commission on Civil Rights. As soon as Mr. Kirsanow takes the statutory oath, the incumbent commissioners and staff should treat the President's new appointee as a full member of the Commission.

Sincerely,

ALBERTO R. GONZALES,  
*Counsel to the President.*

#### OUR CONSTITUTION

Mr. CARPER. Madam President, let me begin by saying plainly and unabashedly that I love our flag. I wear an American flag lapel pin to work every single day. We fly "Old Glory" at

our home throughout the year and display it proudly in each of my Senate offices. The American flag is even displayed on the minivan that I drive all over our State. It is the symbol of our freedom and a reflection of our pride in our great Nation.

But while our flag is the symbol of our freedom, our Nation's Constitution is its guarantee. It is the foundation on which was built the longest living experiment in democracy in the history of the world. Though written by man, I believe it to be divinely inspired. Before beginning 23 years of service as a naval flight officer, I took the same oath as each of the men and women now fighting overseas. We swore to protect our Nation's safety and honor and defend our Constitution against all enemies both foreign and domestic. The men and women of our armed forces past and present each pledged to lay down their lives in defense of the freedoms our Constitution provides. I can think of no greater honor, no more solemn a commitment, than this pledge.

On a cold December 7, 214 years ago, Delawareans stood proudly and declared their belief in the right of self-government by becoming the first to ratify the United States Constitution. Each year we celebrate this act of leadership, courage, and wisdom. While our constitution has proved the most durable model for democracy, at the time, it was a revolutionary and some thought risky step forward. For the power of its words and the brilliance of its logic is matched only by the astounding scope of what it sought to achieve, to "establish Justice, insure domestic Tranquility, provide for the common defense, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity."

It was truly a miraculous undertaking, and we celebrate that Delaware had the courage to lead the world in embracing this new standard excellence in self-government.

But as we reflect on this bold step towards freedom, there is a stain on our celebration.

After the Constitution's ratification, the Bill of Rights sought to provide greater and more lasting liberties than any single document before or since. In 1789, the Federal Government sent the articles that would make up the Bill of Rights to States for ratification. While other States sent their approval of ratification back to the Federal Government on separate parchment, in their enthusiasm, Delaware's leaders signed their approval directly on their copy of the document and returned it to the Federal Government. While other states are now able to display their copies of the original Bill of Rights, Delaware's is locked in a drawer in the National Archives near College Park, Maryland. Our State and this document deserve better. I call

today on the National Archives to return this copy of the Bill of Rights to its place of ratification. I ask that in the spirit of celebration surrounding Delaware Day, the National Archives return to us this important part of our State's history.

We are witnessing a time of renewed respect for our Nation at home and abroad. In fact, in all of my life, I've never witnessed a warmer embrace of our flag or a greater sense of pride for our country than we've seen since September 11. Almost everywhere we turn, we see signs of this renewed national pride on our homes, office buildings, factories, schools, construction sites, on the vehicles we drive, and as well at thousands of sporting events, parades and gatherings across our country. A spirit of patriotism has swept across our Nation in a way that I've never seen. It is both comforting and inspiring to me and, I know, to Americans everywhere.

This December, let us pause in thanks to those wise Delawareans who started our Nation along the road to becoming the most successful and long-lasting democracy in world history. They gave us a great gift for which we, and much of the world, will be forever thankful.

#### BRADY ACT SUCCESSES

Mr. LEVIN. Madam President, November 30 was the eighth anniversary of the signing of the Brady Handgun Violence Prevention Act. The passage of that legislation was a watershed event in the fight against gun violence. According to the Centers for Disease Control statistics cited by the Brady Campaign to Prevent Gun Violence, since the Brady Law went into effect, the number of gun deaths in the United States has dropped 27 percent, from 39,595 in 1993 to 28,874 in 1999. Even more dramatically, the number of gun homicides dropped by more than 40 percent from 18,253 in 1993 to 10,828 in 1999.

While the Brady Law is not the only reason for the decrease, its impact on gun violence cannot be overlooked. Keeping guns out of criminal hands saves lives. The law's requirement that gun purchasers undergo a criminal background check before they can buy a firearm has stopped literally hundreds of thousands of criminals and others prohibited by law from purchasing a gun.

The obvious success of the Brady Law should spur us to do more to stop gun violence. A logical step would be to extend the Brady Law's mandatory criminal background check provisions. As it stands, the law only applies to guns sold by Federal firearms licensees. It does not cover gun sales by unlicensed private sellers at gun shows. Despite the evidence that background checks save lives, lobbyists from the National Rifle Association and their allies have fought against legislation to