

Grant D. Aldonas, of Virginia, to be Under Secretary of Commerce for International Trade.

EXECUTIVE OFFICE OF THE PRESIDENT

Robert Glenn Hubbard, of New York, to be a Member of the Council of Economic Advisers.

NOMINATION OF DANIEL BRYANT

Mr. LEAHY. Mr. President, Dan Bryant is well-known to many of us, especially those of us serving on the Judiciary Committee. We knew him first as an able member of the House Judiciary Committee staff and through his work as the Chief Counsel of the House Judiciary Committee's Subcommittee on Crime, working under Chairman HYDE and Congressman McCOLLUM. At his confirmation hearing, Mr. HYDE, Mr. CONYERS, Senator BIDEN and both Senators from Virginia all came to testify on his behalf.

Mr. Bryant is respectful of the Senate and, I feel, all Senators. We are already working with Mr. Bryant as he is serving as a consultant to the Department while his nomination is pending. His history and current work give me every reason to support his nomination. I look forward to working with him in the days and months ahead. His is a most demanding job. I congratulate Dan and his family on his confirmation by the U.S. Senate.

NOMINATION OF LARRY THOMPSON

Mr. LEAHY. Mr. President, I am delighted that the Senate Judiciary Committee unanimously reported the nomination of Larry Thompson to be Deputy Attorney General to the Senate. The Deputy Attorney General is number two in command at the Department of Justice and plays a key role as a top advisor to the Attorney General. Former Deputies include William Rogers and Byron White, Nicholas Katzenbach and Warren Christopher, Harold Tyler, Jamie Gorelick and Eric Holder.

The Deputy has traditionally assumed responsibility for the day-to-day operations of the Department. The Deputy often has direct oversight of a number of divisions and units within the Department, including the FBI and those with criminal jurisdiction. The Deputy position may assume even greater significance in this Administration, since we have not seen any indication that there will be an Associate Attorney General with whom the Deputy might share those leadership responsibilities.

I know that Mr. Thompson is a strong conservative. I have confidence that we can work together. I believe him when he indicates that he is prepared to have a candid and responsive relationship with the Judiciary Committee, including the Democratic Senators.

I know that Mr. Thompson served previously as a United States Attorney and that he appreciates, as those of us who served as local prosecutors understand, where the front lines of law en-

forcement are, how they must be supported and that partisan politics have no business in law enforcement.

It was not only his testimony but the testimony of Mr. Thompson's home State Senators that I found compelling. Both Senator CLELAND and Senator MILLER came to the Committee and gave strong support. Those statements matter. His home state Senators would be expected to know him best and it was clear to me that they know him well.

Senator CLELAND's endorsement was without reservation. Senator MILLER described him as a consummate professional, quiet yet strong, someone who exercises enormous common sense, a person of great substance and little ego, and one who will put principle ahead of politics every time. We were assured that Larry Thompson comes with no agenda, and will base every decision on what is right, not what is popular or politically expedient.

With those kinds of endorsements and assurances, and with the frank exchanges that we had during the course of the hearing process, I feel confident in supporting the nomination of Larry Thompson. I look forward to working with Mr. Thompson in the days ahead and I congratulate Mr. Thompson and his entire family on his confirmation by the U.S. Senate.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

ORDERS FOR MONDAY, MAY 14, 2001

Mr. BENNETT. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 12 noon on Monday, May 14. I further ask unanimous consent that on Monday, immediately following the prayer, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate then begin a period of morning business with Senators speaking for up to 10 minutes each with the following exceptions: Senator DURBIN or his designee, 12 noon to 1, and Senator THOMAS or his designee, 1 to 2.

Further, I ask unanimous consent that at 2 p.m. the Senate resume consideration of S. 1, the education bill, and Senator REID be recognized in order to call up amendment No. 460.

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

PROGRAM

Mr. BENNETT. For the information of all Senators, when the Senate con-

venes at 12 noon on Monday, there will be 2 hours of morning business. Following morning business, the Senate will resume consideration of the education bill and the Reid amendment No. 460. Under the order, if it is agreed to, there will be up to 1 hour of debate on the amendment which will then be laid aside.

Also on Monday, Senator CLELAND will be recognized at 4 p.m. to resume debate of his modified amendment No. 376. A vote in relation to the Reid amendment will begin at 5:30 p.m. and following that vote and some closing remarks, a vote is expected in relation to the Cleland amendment. Senators should therefore be on notice that at least the two votes will occur on Monday evening at 5:30 p.m.

ADJOURNMENT UNTIL MONDAY,
MAY 14, 2001

Mr. BENNETT. If there is no further business to come before the Senate, I now ask unanimous consent the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 5:47 p.m., adjourned until Monday, May 14, 2001, at 12 noon.

NOMINATIONS

Executive nominations received by the Senate May 10, 2001:

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

CARI M. DOMINGUEZ, OF MARYLAND, TO BE A MEMBER OF THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION FOR A TERM EXPIRING JULY 1, 2001, VICE JOYCE ELAINE TUCKER, TERM EXPIRED.

CARI M. DOMINGUEZ, OF MARYLAND, TO BE A MEMBER OF THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION FOR A TERM EXPIRING JULY 1, 2006. (REAPPOINTMENT)

FEDERAL COMMUNICATIONS COMMISSION

MICHAEL K. POWELL, OF VIRGINIA, TO BE A MEMBER OF THE FEDERAL COMMUNICATIONS COMMISSION FOR A TERM OF FIVE YEARS FROM JULY 1, 2002. (REAPPOINTMENT)

CONFIRMATIONS

EXECUTIVE NOMINATIONS CONFIRMED BY THE SENATE MAY 10, 2001:

DEPARTMENT OF COMMERCE

KENNETH I. JUSTER, OF THE DISTRICT OF COLUMBIA, TO BE UNDER SECRETARY OF COMMERCE FOR EXPORT ADMINISTRATION.

GRANT D. ALDONAS, OF VIRGINIA, TO BE UNDER SECRETARY OF COMMERCE FOR INTERNATIONAL TRADE.

EXECUTIVE OFFICE OF THE PRESIDENT

ROBERT GLENN HUBBARD, OF NEW YORK, TO BE A MEMBER OF THE COUNCIL OF ECONOMIC ADVISERS.

DEPARTMENT OF JUSTICE

LARRY D. THOMPSON, OF GEORGIA, TO BE DEPUTY ATTORNEY GENERAL.

DANIEL J. BRYANT, OF VIRGINIA, TO BE AN ASSISTANT ATTORNEY GENERAL.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

EXTENSIONS OF REMARKS

SIKH ACTIVIST MANN SHOULD APOLOGIZE FOR THREAT ISSUED BY A LEADER OF HIS PARTY

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 9, 2001

Mr. TOWNS. Mr. Speaker, on Saturday, April 29, a number of Sikh leaders got together for Khalistan Day celebrations in Stockton, California. Overall, the event was very successful and it featured a number of outstanding speakers, including Dr. Gurmit Singh Aulakh, President of the Council of Khalistan, and Dr. Awatar Singh Sekhon, the Managing Editor of the International Journal of Sikh Affairs. Unfortunately, something that happened to Dr. Sekhon seriously marred this otherwise successful, celebratory event.

According to Burning Punjab, an online news service, a leading supporter of Member of Parliament Simranjit Singh Mann made a "death threat" against Dr. Sekhon after Dr. Sekhon strongly criticized Mr. Mann. Most of us in this House have been subjected to strong criticism but we have never threatened our critics nor would we permit our supporters to do so. That is not the democratic way.

Mr. Mann, a former member of the Punjab police who has become an Indian politician, has been silent on this event. If Mr. Mann wants to be taken seriously as a leader in a democratic state, he must condemn the threat that his supporter made and issue an apology on behalf of his party to Dr. Sekhon. Otherwise, people will see that there is no difference between Mr. Mann and other Indian politicians.

The Indian government's oppression of Sikhs, Christians, Muslims, and other religious minorities in India has been very well documented. Has that oppression now extended to an effort to suppress their critics in free countries like ours?

TRIBUTE TO BILL WALSH

HON. ZOE LOFGREN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 9, 2001

Ms. LOFGREN. Mr. Speaker, I rise to congratulate Bill Walsh, the vice president and general manager of the San Francisco 49ers, who has been named San Jose State University's 2001 Tower Award winner. The Tower Award is presented annually to an individual "who has made a significant contribution to the university community through his or her outstanding work."

Bill Walsh has twice graduated from San Jose State University: once with a bachelor's degree in education in 1955, and then with a

master's degree in the same field in 1959. Mr. Walsh began his coaching career as an assistant at Monterey Peninsula Junior College in 1955, before heading back to San Jose State as a graduate assistant in 1956.

After stints at the University of California and Stanford, Bill Walsh joined the Oakland Raiders as the offensive backfield coach. His illustrious career includes coaching slots with the Bengals and Chargers organizations.

Hired in 1979 as the head coach, Bill Walsh coached the San Francisco 49ers to three Super Bowl championships in the 1980s and was a 1993 inductee into the Pro Football Hall of Fame. Mr. Walsh retired from active coaching in the NFL in 1988 with a career record of 102 wins, 63 losses. Bill Walsh now serves as an assistant to the coaching staff of the 49ers.

Bill Walsh was one of only 14 coaches in the history of pro football to be elected to the NFL Hall of Fame, and the first coach in team history to reach the 100-win plateau. He was twice named NFL Coach of the Year and was later named NFL Coach of the Decade for the 1980s. He is the author of two books, "Finding the Winning Edge" and "Building A Champion."

San Jose State University president Robert Caret said of Bill Walsh, "[his] role as a coach, an author and as an executive in the industry has brought a new level of professionalism to the sports industry. It is a great source of pride that he is an alumnus of the university." I congratulate Bill Walsh on this truly prestigious award, and thank him for his support of San Jose State University. My family and I wish him the best.

ONE SWAP FUND TRANSACTION CONTINUES TO AVOID LAW

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 9, 2001

Mr. NEAL of Massachusetts. Mr. Speaker, I introduced legislation in the previous Congress to eliminate a tax avoidance technique available only to the very wealthy. This technique involves the use of swap funds. Today I am introducing this legislation again.

Legislation to shut down this particular practice was enacted in 1967, 1976, and again in 1997. In 1967 Congress enacted a law to prevent swap funds from being transacted in the form of a corporation, as was popular at the time. This led to the swap fund transaction being resurrected in the form of a partnership, which was closed down in 1976. Subsequently, the industry developed methods to get around both laws by manipulating the 80 percent test for investment companies. The Taxpayer Relief Act of 1997 closed these transactions down by broadening the definition of financial assets that are taken into account

for purposes of the 80 percent test. Obviously, the point here is that three times Congress has acknowledged the tax avoidance potential of this transaction, and three times Congress has made a public policy decision to close this shelter down. And three times Congress has failed.

Swap funds are designed to permit individuals with large blocks of appreciated stock to diversify their portfolio without recognizing gain and paying tax. In this transaction, a fund is established into which wealthy individuals with large blocks of undiversified stock transfer their stock. In exchange for the transferred stock, these individuals receive an equivalent interest in the funds' diversified portfolio. In effect, these individuals have now diversified their holdings by mixing their shares of stock with different shares of stock from other individuals, without having to sell that stock and pay tax on the gain like ordinary Americans.

The swap fund transaction is complicated, and is limited to individuals with large blocks of stock. For example, one offering was limited to subscriptions of \$1 million, although the general partner retained the right to accept subscriptions of lesser amounts. This, however, does not mean an individual with only a million dollars in stock could invest in the swap fund. In order to avoid Securities and Exchange Commission registration requirements, these transactions are often limited to sophisticated investors who under SEC regulations, according to a 1998 prospectus, must have total investment holdings in excess of \$5 million.

As outlined above, current law tries to stop swap funds involving a corporation or a partnership that is in investment company. An investment company is a corporation or partnership where the contribution of assets results in a diversification of the investor's portfolio, and more than 80 percent of the assets of which are defined by law as includable for purposes of this test.

In the most current form of the swap fund transaction, that limitation is avoided by holding at least 21 percent of assets in preferred and limited interests in limited partnerships holding real estate. In fact, the purpose of the fund is clearly identified by the prospectus, which states that "the value of the Private Investments will constitute at least 21% of the total value of the Fund's portfolio, so that the Fund will satisfy the applicable requirements of the Code and the Treasury Regulations governing the nonrecognition of gain for federal income tax purposes in connection with the contribution of appreciated property to a partnership." As in past years, the bill I am introducing addresses the specific transaction being used; that is, the bill would eliminate the latest avoidance technique by providing that such investments would be treated as financial assets for purposes of the 80 percent test.

The second part of this bill at long last recognizes the inadequacy of the above approach, given its 32 year record of failure. This

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