litigation when we passed the Private Securities Litigation Reform Act of 1995 (PSLRA).

This bill makes the standard we adopted in the Reform Act the national standard for securities fraud lawsuits. In particular, the Reform Act adopted a heightened pleading requirement. That heightened uniform pleading standard is the standard applied by the Second Circuit Court of Appeals. At the time we adopted the Reform Act, the Second Circuit pleading standard was the highest standard in the country. Neither the Managers of Reform Act nor the Managers of this bill (and I was a Manager of both) intended to raise the pleading standard above the Second Circuit standard, as some have suggested. The Statement of Managers for this bill makes this clear when it states: ''It was the intent of Congress, as was expressly stated during the legislative debate on the PSLRA, and particularly during the debate on overriding the President's veto, that the PSLRA establish a heightened uniform federal standard based upon the pleading standard applied by the Second Circuit Court of Appeals.'' This language is substantially identical to language contained in the Report on S. 1260 by the Senate Banking Committee, which I chair.

The references in the Statement of Managers to the ''legislative debate on the PSLRA, and particularly . . . the debate on overriding the President's veto,'' are statements clarifying Congress's intent to adopt the Second Circuit pleading standard. The President vetoed the Reform Act because he feared that the Reform Act adopted a pleading standard higher than the Second Circuit's. We overrode that veto because, as the post-veto legislative debate makes clear, the President was wrong. The Reform Act did not adopt a standard higher than the Second Circuit standard; it adopted the Second Circuit standard. And that is the standard that we have adopted for this bill as well.

The Statement of Managers also makes explicit that nothing in the Reform Act or this bill alters the liability standards in securities fraud lawsuits. Prior to adoption of the Reform Act, every Federal court of appeals in the Nation to have considered the issue—ten in number—concluded that the scienter requirement could be met by proof of recklessness. It is clear then that under the national standard we create by this bill, investors can continue to recover for losses created by reckless misconduct.●

THE COAST GUARD REAUTHORIZATION ACT

● Mr. McCAIN. Mr. President, I rise in support of the Coast Guard Reauthorization Act. The House recently passed an amended version of the Senate Coast Guard bill. While I support the overall reauthorization of the Coast Guard, I want to comment on several provisions contained in the House passed bill.

There is currently an administrative process in place to convey excess Federal government property. I believe that legislation which mandates the transfer or disposal of Federal property under terms which circumvent the established administrative procedures is inappropriate. Consequently, the Senate bill used discretionary language to address certain conveyances requested by individual Senators. However, the House bill includes mandatory legislative conveyances. In this case only, I am accepting the mandatory language because I am satisfied that the Coast Guard is willing and prepared to make each of these particular conveyances.

Another important difference between the House and Senate passed bills relates to drug interdiction. I sponsored an amendment in the Senate bill which would have established criminal sanctions for the knowing failure to obey an order to land an airplane. As a former pilot, let me clearly state that this provision was not designed to put any pilot at risk of an arbitrary or random forced landing. Arbitrary or random forced landings are impermissible under the Senate provision. As with all aviation legislation in which I have been involved, safety is a top priority. Under current law, if a Federal law enforcement officer who is enforcing drug smuggling or money laundering laws witnesses a person loading tons of cocaine onto a plane in Mexico, sees the plane take off and enter the United States, he may issue an order to land, and if the pilot knowingly disobeys that order, there is currently no criminal penalty associated with such a failure to obey the order.

The criminal sanctions contained in the Senate bill would only be applied to a person who knowingly disobeyed an order to land issued by a Federal law enforcement agent who is enforcing drug smuggling or money laundering laws. The bill would also require the Federal Aviation Administration (FAA) to write regulations defining the means by and circumstances under which it would be appropriate to order an aircraft to land. One of the FAA's essential missions is aviation safety. Accordingly, the FAA would be required to ensure that any such order is clearly communicated in accordance with international standards. Moreover, the FAA would be further required to specify when an order to land may be issued based on observed conduct, prior information, or other circumstances. Therefore, orders to land would have to be justifiable, not arbitrary or random. Orders to land would only be issued in cases where the authorized federal law enforcement agent has observed conduct or possesses reliable information which provides sufficient evidence of a violation of Federal drug smuggling or money laundering laws. If enacted, I would take every step possible to ensure that this provision does not diminish safety in any way.

Last year, 430 metric tons of cocaine entered the United States from Mexico. In 1995, drugs cost taxpayers an estimated $109 billion. The average convicted drug smuggler was sentenced to only 4.3 years in jail, and is expected to serve less than half of that sentence. It is incumbent on all of us to fight the war on drugs with every responsible and safe measure at our disposal. The provision in the Senate bill would help those men and women who fight the war on drugs at our borders by providing an additional penalty for those who knowingly disobey the law.

A provision included in both the House and Senate bill relates to the International Safety Management Code (ISM Code). On July 1, 1998, the owners and operators of passenger vessels, tankers and bulk carriers were required to have in place safety management systems which meet the requirements of the ISM Code. On July 1, 2002, all other large cargo ships and self-propelled mobile offshore drilling units will have to comply. Companies and vessels not ISM Code-certified are not permitted to enter U.S. waters.

Shipowners required to comply with the ISM Code have raised concerns that the ISM Code may be misused. The IBM code requires a system of internal audits and reporting systems which are intended to encourage compliance with applicable environmental and vessel safety standards. However, the documents produced as a result of the ISM Code would also provide indications of past non-conformities. Obviously, for this information to be useful in rectifying environmental and safety concerns, it must be candid and complete. However, this information, prepared by shipowners or operators, may be used in enforcement actions against a shipowner or operator, crews and shoreside personnel by governmental agencies and may be subject to discovery in civil litigation.

The provision in both the Senate and House bills would require the Secretary to conduct a study to examine the operation of the ISM Code, taking into account the effectiveness of internal audits and reports. After completion of the study, the Secretary is required to develop a policy to achieve full compliance with and effective implementation of the ISM Code. Under the provision, the public shall be given the opportunity to participate in and comment on the study. In addition, it may be appropriate for the Secretary to form a working group of affected private parties to assist in the development of the study and the issuance of the required policy and any resulting legislative recommendations. Any private citizen who is a member of any such working group cannot receive any form of government funds, reimbursement or travel expenses for participation in, or while a member of, the working group.●

(On page S12590 of the Wednesday, October 14, 1998, edition of the RECORD,

Mr. REID's statement was erroneously attributed to Mr. DASCHLE. The permanent RECORD will be corrected to reflect the following:)

TRIBUTE TO DANA TASCHNER

• Mr. REID. Mr. President, I rise today to call attention to the outstanding achievements of a Nevadan who has dedicated himself to helping individuals who often lack the means to help themselves. Dana Taschner has achieved national recognition as a champion for victims of domestic violence and civil rights abuses. He is a 38 year-old lawyer from Reno who chooses cases that are relatively small-scale, but representative of many of the problems facing Americans. Time and again, Mr. Taschner has had the courage and initiative to take on cases that more prominent firms are hesitant to handle for political or monetary reasons. Dana Taschner truly brings honor to his profession.

Mr. Taschner's devotion to fighting oppression recently earned him the American Bar Association's Lawyer of the Year award. He was chosen from a pool of approximately 245,000 other lawyers in North America, competing with litigators with much higher profiles and greater wealth. In 1993, Mr. Taschner took on the Los Angeles Police Department and succeeded in forcing them to change their policy regarding police officers who commit domestic violence. In this case, he represented 3 orphans whose father, an L.A. police officer, murdered their mother and then took his own life. Taschner was able to overcome his own painful childhood memories of domestic abuse and secure the orphans a settlement. He argued that the department should not have returned the officer's gun after he had beaten his wife and threatened to kill her. He also forced the department to treat these matters as criminal cases, rather than internal affairs.

In this era of cynicism and self-promotion, I believe we must take steps to encourage and reward sincerity. Dana Taschner's unwavering dedication to his clients can be seen in his personal relationships with them, relationships that often outlive the outcome of the case. As an attorney myself, I have seen firsthand how much our country needs people in my field who care enough about their clients to commit themselves personally, as well as professionally. Many litigators find it much easier to take the cases that bring financial gain, rather than attempting to help the true victims of injustice.

I am proud that his colleagues have lavished accolades upon Mr. Taschner, but I believe it is a much greater sign of his success that his clients put their faith in him. Dana Taschner, whose integrity and selfless devotion to fairness truly embody our American justice system, is a role model for us all.•

ORDERS FOR WEDNESDAY, OCTOBER 21, 1998

Mr. STEVENS. I now ask unanimous consent that when the Senate completes its business today, it stand in recess until 9 a.m. on tomorrow, Wednesday, October 21. And I further ask unanimous consent that the time for the two leaders be reserved at that time.

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

PROGRAM

Mr. STEVENS. Mr. President, for the information of all Senators, the Senate will reconvene tomorrow, Wednesday, at 9 a.m. and immediately proceed to a rollcall vote on the passage of the omnibus appropriations bill. Following that vote, several Members will be recognized to speak in relation to the omnibus bill. At the conclusion of those remarks, the Senate may consider any legislative or executive items that may be cleared for action at that time.

RECESS UNTIL 9 A.M. TOMORROW

Mr. STEVENS. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in recess under the previous order.

There being no objection, the Senate, at 4:33 p.m., recessed until Wednesday, October 21, 1998, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate October 20, 1998:

FEDERAL HOUSING FINANCE BOARD

DOUGLAS L. MILLER, OF SOUTH DAKOTA, TO BE A DIRECTOR OF THE FEDERAL HOUSING FINANCE BOARD FOR A TERM EXPIRING FEBRUARY 27, 2002, VICE LAWRENCE U. COSTIGLIO, TERM EXPIRED.

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be brigadier general

COL. KENNETH L. FARMER, JR., 0000