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House of Representatives

The House met at 10 a.m.

The Reverend Wayne Jenkins, Pastor, First Baptist Church, Alexandria, Virginia, offered the following prayer:

Dear Father, I lift to You the Members of Congress, their staff members, their spouses and their children. I pray that You draw them into personal relationship with You today. Reveal Yourself to them. Fill them with Your Holy Spirit.

By the authority of Jesus Christ, cast out all dark and evil spirits. Allow no influence to come near to them except that which is first filtered through the light of Your Son, Jesus Christ. Cover them with the blood of Christ. Seal them with the cross of Christ. Redeem them by Your grace. Transform them by Your power. Teach them by Your wisdom. Unite them by Your love. Lead them by Your purpose. Focus them on Your vision. Remind them of their total dependence upon You. Sustain them by Your word. Sanctify them for Your Holy Service. Encourage them by Your counsel. Protect them by Your sovereignty.

Father, I entrust them to You and I pray this prayer through Your Son, Jesus Christ. In the name of the Father and the Son and the Holy Spirit, Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Oklahoma (Mr. CARSON) come forward and lead the House in the Pledge of Allegiance.

Mr. CARSON of Oklahoma led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

THE REVEREND WAYNE JENKINS

(Mr. CARSON of Oklahoma asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CARSON of Oklahoma. Mr. Speaker, it is a great pleasure today to welcome Pastor Wayne Jenkins from First Baptist Church of Alexandria, Virginia, as our guest chaplain.

Pastor Jenkins has served as the Pastor for Education and Married Adults for 8 years. His wife of 34 years, Carolyn Jenkins, is the Minister of Education at Downtown Baptist Church in Alexandria, and they have two adult children, Rand Jenkins who works with the Baptist General Convention of Texas and lives in Fort Worth with his wife, Denise, and Clare Jenkins, who serves on my staff as a legislative assistant.

A man of strong faith, members of his church and community recognize Pastor Jenkins as a wise spiritual leader and encourager. As Pastor of Education and Married Adults, Pastor Jenkins enjoys a wide range of ministry at First Baptist and impacts lives through counseling, teaching and preaching. Pastor Jenkins leads a growing ministry for developing Christians, starting 40 new Bible study classes in 5 years and baptizing 82 into the faith last year. Throughout his career of over 30 years, Pastor Jenkins has demonstrated consistent church leadership and a passion for God's service.

Admired by his parishioners and loved by his family, it is my pleasure to introduce Pastor Jenkins today, and I thank him for giving us a wonderful word to start our business this morning.

TRUSTING REPUBLICAN PRINCIPLES TO CHANGE AMERICA

(Mr. DELAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DELAY. Mr. Speaker, America's success in reforming the dysfunctional welfare system during the mid-1990s is one of our House Republican majority's proudest hours. We reached out with the hand of hope to millions of Americans who lost control of their own destinies as they fell, trapped within the grip of a destructive Federal-funded life-style of apathy and ambivalence.

Welfare reform gave millions of families a powerful message of inspiration and achievement. They had not been written off. They were not trapped behind. They were not the perpetual prisoners of perverse incentives.

Our House Republican majority said, Your American dream is alive and we appeal to each of you to discover your passion and follow your heart. Millions of formerly dependent people seized the challenge. They lifted their family to security, stability, and they discovered the inherent nobility of work, all types of work. There is virtue in hard work of any kind. A job done well earns our respect in any arena.

This success also taught Republicans a potent lesson. When we trust our principles, they work. By applying Republican principles to social policy, we demonstrated that our approach works even better in practice than it appeared on paper or theory. And our principles will work just as well when we apply them to many of the other difficult social problems that are diminishing young lives, straining families, and weakening our broader society.

We need to be confident. We need to engage our Republican approach to individual empowerment across the full spectrum of problems that we are confronting as a country. And we need to

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guard against the erosion of the important principles that are turning lives around in cities, counties and States from north to south, ocean to ocean.

Specifically, we have to promote work to foster independence; improve young lives by lifting children from the grip of poverty; strengthen families by fostering respect for the institution of marriage; and finally, to boost the fortunes of every single American by unleashing a broad economic expansion that will spread opportunity to every willing worker.

Mr. Speaker, that is our dream for the people of this country, fulfilling America's promise for every man, woman and child.

SUPPORT DEMOCRATIC SUBSTITUTE OF H.R. 4, PERSONAL RESPONSIBILITY, WORK AND FAMILY PROMOTION ACT OF 2003

(Ms. LORETTA SANCHEZ of California asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. LORETTA SANCHEZ of California. Mr. Speaker, I rise today to comment on H.R. 4, the Personal Responsibility, Work, and Family Promotion Act of 2003 and to voice my support for the Democratic substitute.

The Republican bill is an unfunded mandate for the States. H.R. 4 will cost the States a total of $11.1 billion, with my State, California, being hit the hardest with almost $2.5 billion.

In contrast, the Democratic bill properly funds employment services and quality child care for families. The Democratic bill would replace the current caseload reduction credit with an employment credit, which means we would reward States for moving people into jobs, not just off the welfare rolls.

Finally, the Democratic proposal ensures fairness for legal immigrant families. It removes the 5-year ban on States to help legal immigrants with Federal TANF funds, Medicaid services for pregnant women and children, and SSI benefits for disabled children.

Mr. Speaker, speaking as a daughter of immigrants who are now U.S. citizens, it is un-American to enact laws that discriminate against those who come here legally looking for a chance to start a new life.

CONGRATULATING ELDER HIGH SCHOOL FOOTBALL TEAM

(Mr. CHABOT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CHABOT. Mr. Speaker, on the blustery, frigid evening of November 30, 2002, the Elder High School football team made their championship dreams a reality. The Elder Panthers overcame the weather, a 4-hour bus ride, and a spirited Warren Harding team to return the Ohio State football championship to Cincinnati for the first time since Princeton High School won in 1987.

Thousands of Elder faithful flocked to Fawcett Stadium to urge the Panthers to victory. Those who could not make the cross-State trip sat glued to their TVs, hanging onto every play. From the opening kickoff to the game-saving defensive stand, fans were thrilled by the championship effort and heart displayed by the young men from Elder.

Mr. Speaker, Elder's hard-fought and inspiring victory has brought pride and honor to Price Hill, and to our entire community. Football fans throughout the Cincinnati area congratulate the Panthers and share in their celebration. As a former LaSalle Lancer myself, let me conclude by saying, Go Panthers.

RESOLUTION OF INQUIRY

(Mr. KUCINICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KUCINICH. Mr. Speaker, this morning I will be introducing a resolution of inquiry which demands the President transmit to the House of Representatives the complete Iraqi declaration on its weapons of mass destruction, that was provided to the United Nations on December 7, 2002.

If the administration is intent on taking this country into a war, I believe it is incumbent upon them to make the document which was portrayed as evidence of an Iraqi threat available for all to evaluate. As of today, neither Congress nor the media nor the American people have seen the full Iraqi declaration of weapons of mass destruction. Instead, we have only heard interpretations of the document from the White House and the United Nations.

Let the American people and we, their elected Representatives, who under our Constitution have the power to declare war, determine the justification for war, let the primary documents be transmitted in their complete and unedited form and be brought to the light of day.

Mr. Speaker, the American people have the right to see this information. Congress has the right to see this information, and the administration has an obligation to show it before sending any of our sons and daughters into battle.

DERAIL AMTRAK FUNDING

(Mr. KENNEDY of Minnesota asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KENNEDY of Minnesota. Mr. Speaker, I rise today to bring to the attention of my colleagues a grave error I feel is being made in the negotiations of the Omnibus Appropriations Act.

Mr. Speaker, I ask my colleagues to go to their computers, check a travel Web site or call their travel agent and find out how much it would cost to fly from Orlando to Los Angeles. When I did this last night, I found nine different flights that cost less than the average per-passenger loss the Federal Government subsidizes on the Amtrak Sunset long-haul route. To put it simply, the government would save money if we bought a plane ticket for every person taking the Sunset Limited from Orlando to Los Angeles.

Mr. Speaker, our country is at war with terrorism and may soon have to go to war with Iraq. Our economy is slowly recovering from the double whammy of recession and the 9/11 attacks. There are tough choices to be made and scarce resources available from which to fund our key priorities. We cannot continue to provide unaccountable and never-ending sums of money for Amtrak, a system which refuses to reform itself.

TRIBUTE TO COACH ROBERT HUGHES

(Mr. FROST asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FROST. Mr. Speaker, I rise today to pay tribute to Coach Robert Hughes of Dunbar High School in Fort Worth, one of the greatest legends in Texas sports history.

Last night, before 7,000 fans, Coach Hughes earned his 1,275th win, surpassing legendary Coach Morgan Wooten of DeMatha High School in Maryland, to become the winningest high school boys basketball coach in U.S. history. During that time, his team has lost just 248 games.

Coach Hughes' remarkable career began almost half a century ago, in 1958, at I.M. Carroll High School in Fort Worth. Coach Hughes won his first State championship in 1963. More State titles would follow in 1965, 1967, and 1993. Coach Hughes has been coaching for Dunbar since 1973, and he continues to serve as a role model for young players and students who take pride in calling themselves Wildcats.

After more than 20 district titles, Coach Hughes clearly is not finished yet. Last night Dunbar earned its fourth consecutive Texas Division 7–4A basketball title and is off to the playoffs. His team is 39–1 this year.

It is a pleasure to honor Coach Hughes. Go Wildcats in the playoffs.

□ 1015

A HIGHER CALLING

(Mr. PENCE asked and was given permission to address the House for 1 minute.)

Mr. PENCE. Mr. Speaker, it was made official last week: our alert status is high. For many Americans, this call for high vigilance has resulted in high anxieties. And in these days of war and rumors of war, we are even hearing the voice of our enemy echo across the airwaves of the world.

But I offer, Mr. Speaker, that we need to hear a different voice today. It is the voice that comforted our founders and has comforted every American hero throughout our history. As the Psalmist wrote so many years ago, ''He who dwells in the shelter of the Most High will rest in the shadow of the Almighty. He will say, 'He is my refuge and my fortress, my God in whom I trust.' He will save you from the fowler's snare, from the deadly pestilence; he will cover you with his feathers, and under his wings you will find refuge.''

May the favor of the Lord our God rest upon our President, our troops in the field, and all those brave men and women who serve in every Federal place in this Nation this day.

THE WAR ON TERRORISM

(Mr. MCDERMOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MCDERMOTT. Mr. Speaker, tomorrow we are going to pass the welfare reform act without a single hearing in the subcommittee or in the full committee. It simply went to the Rules Committee and will come to the floor without debate in this House.

I implore you, Mr. Speaker, to bring the domestic security enhancement bill to the committee and then to the floor with full debate before you try and run it through in the confusion around some terrorist act.

I give two quotes and let people decide who said what. The first is: ''The people can always be brought to the bidding of the leaders. That is easy. All you have to do is tell them they are being attacked and denounce the pacifists for lack of patriotism and exposing the country to danger. It works the same way in any country.''

The second quote is: ''To those who scare peace-loving people with phantoms of lost liberty, my message is this: 'Your tactics only aid terrorists, for they erode our national unity and diminish our resolve.'''

The first is a quote from Hermann Goering, the propagandist for the Nazis. The second is John Ashcroft. Consider the similarity. We do not need to lose more of our liberties to defend ourselves in this country.

BURMA

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, I rise today on behalf of the ethnic minorities of Burma, otherwise known as Myanmar. In January, I visited the Thai-Burma border and met with refugees, democracy activists, prisoner-of-conscience groups and others working to help the people of Burma. Sadly, the international community has failed to recognize that there is, under international legal definitions, a campaign of genocide against the ethnic minorities by the ruling SPDC dictatorship in Burma.

We met with victims' groups, land mine victims, orphans, rape victims and others. One little boy I met was an 8-year-old orphan. He had seen both of his parents killed, then he was trafficked over the border into Thailand and there he escaped to the refugee camps. This little boy was so traumatized that he could not even smile. I saw many children like him.

Mr. Speaker, the U.S. Government and the international community must do something to assist the people of Burma and stop the brutality. Otherwise, we will all be responsible for the successful genocide campaign ethnic cleansing going on by the vicious military of the SPDC.

ELIMINATE THE UNFAIR DOUBLE TAXATION ON DIVIDEND INCOME

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, I rise today to call for an end to the unfair double taxation on dividend income. President Bush has made it known that it is fundamentally wrong to tax any income twice.

Many would like to play class warfare politics with this issue, but that argument simply does not stand up. Since 1990, stock ownership in the United States has doubled. Today in America more than half of all households own stock and half of all dividend income is owned by seniors. Economists anticipate that the stock market will rise between 10 and 20 percent once this unfair double taxation is eliminated. This creates more capital for spending and investment which leads to job creation.

I thank President Bush and Federal Reserve Chairman Greenspan for their leadership on this issue. Also, I want to commend Grover Norquist, president of Americans for Tax Reform, for his outspoken advancement of a more fair tax system. That is why I have introduced H.R. 225, the Double Taxation Elimination Act of 2003. I ask my colleagues to join me in stopping this unfair double taxation on dividend income.

THE JUDICIAL NOMINATION OF MIGUEL ESTRADA

(Mr. CHOCOLA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CHOCOLA. Mr. Speaker, I rise today to support Miguel Estrada to be United States circuit judge for the District of Columbia circuit. Mr. Estrada was nominated nearly 21 months ago. He has argued 15 cases before the United States Supreme Court. He would also be the first Hispanic judge on the U.S. Court of Appeals for the D.C. circuit. Mr. Estrada has served in the Justice Department under Presidents of both political parties as a Federal prosecutor and as the assistant to the Solicitor General.

Despite all of that, to date the Senate has not acted on the nomination of Miguel Estrada, along with many other judicial nominations. There is no question that Miguel Estrada is highly qualified to serve on the Federal bench.

Mr. Speaker, it is time to give the President what he has asked for and what the American people deserve, a great judge in Miguel Estrada.

HONORING LEGENDARY WICHITA, KANSAS, RADIO PERSONALITY MICHAEL C. ''OL' MIKE'' OATMAN

(Mr. TIAHRT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TIAHRT. Mr. Speaker, I rise today to honor a man who had a tremendous impact on the country music industry, was a strong advocate for Wichita, Kansas, and was a great friend to many, including me.

Michael C. Oatman, or Ol' Mike as we all knew him, left this Earth on January 27. Although we wish he could have spent more time with us, he certainly made the most of the time that he had.

Mike was born in west Texas where he began a legendary radio career. In 1964 he moved to Wichita and built not only a radio empire but a reputation that earned him love and respect. His morning show of 36 years was popular not because of the music he played but because of the man who played the music.

Ol' Mike received just about every award a radio broadcaster could earn. All of those honors pale in comparison, though, to his final reward. Mike accepted Christ as his personal Lord and savior and now is in a much better place. And oh how I wish I could have been at those pearly gates to see St. Peter's response when he was introduced to the tee-legged, toe-legged, bee-legged, bow-legged, curly-haired, pee-williker Ol' Mike. That was Ol' Mike's radio show sign-on and was certainly as unique as the man himself.

We will miss you, Mike, but we will keep our old Hank Williams records and look you up when we join you on those streets of gold.

ON THE ISSUE OF THE MIGUEL ESTRADA CONFIRMATION

(Mr. GINGREY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GINGREY. Mr. Speaker, I rise today to address the House on a very important matter. I would like to speak about Miguel Estrada, President Bush's nomination for the United States Court of Appeals for the District of Columbia. I applaud the nomination. Miguel Estrada would not only be the first Hispanic to sit on this court but

more importantly he is a very well-qualified nominee. Miguel Estrada has argued 15 cases before the Supreme Court. He received a ''well-qualified'' rating from the American Bar Association, the highest rating possible. He has also received an ''outstanding'' rating in every performance category during his tenure in the Solicitor General's office under a previous administration.

It is interesting to note that five of eight judges currently serving on the D.C. circuit had no previous judicial experience. Mr. Speaker, it is clear Miguel Estrada is a well-qualified candidate for the bench. Yet the Senate has still not acted on this important appointment.

THE JUDICIAL NOMINATION OF MIGUEL ESTRADA

(Mr. BURNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURNS. Mr. Speaker, I rise today to discuss an issue that affects all Americans: judicial nominations. It is imperative that we in this Congress take a stand today and say enough is enough, that together we will end the politics of ethnic and gender exploitation and begin an era where our constitutional prerogatives override personal or party political ambition.

Mr. Speaker, the judiciary is the branch of the Federal Government that people rely on for impartiality and sound judgment. If they must be impartial, then as a coequal branch of government, we should be impartial in selecting them. It stands to reason that America's diversity extends to the judiciary, not simply for diversity's sake but because citizens of this great Nation have the right to be judged by their peers. As Americans are diverse, so should be its jurists.

Mr. Speaker, in the past 2 years we have seen nominees for the Federal bench swept aside not because of ideological disagreements or their prior decision-making record, but due to political calculations about the effect their ethnicity or gender may have on the next election. The base politics of ethnicity and gender, couched in rhetoric of ideological bias, is destroying qualified nominees' potential for good public service.

Mr. Speaker, let us go forth today and end ethnic and gender political maneuvering and begin an era of true impartiality in our judicial system and improved public service for our fellow citizens.

ON MEDICAID ''CASH AND COUNSELING'' DEMONSTRATION PROJECT: CONSUMER DIRECTED CARE WORKS

(Mr. STEARNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEARNS. Mr. Speaker, Medicaid is a mounting expense and a source of frustration to beneficiaries, providers, and taxpayers. Our States need long-term solutions, not short-term cash infusions. But there is good news. There are regulations in Medicaid, section 1115 waivers. These give States more flexibility to design and implement programs that work. One success story has the potential to save money and even more importantly instill choice into the program.

Florida, Arkansas, and New Jersey have a demonstration project called the Cash and Counseling Program. It permits participants, with minimal assistance, to direct their own health care and manage the funds allocated for their needs. In Florida, it is entirely voluntary for frail elders, the developmentally disabled and physically disabled. The eligible are given their own personal cash allowance to spend on established health care purchases. This is resulting in choice, heightened personal responsibility, and potential cost savings. I commend Governor Jeb Bush for his success and only hope that Cash and Counseling is expanded across this Nation.

REGARDING THE NOMINATION OF MIGUEL ESTRADA

(Mr. BRADLEY of New Hampshire asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BRADLEY of New Hampshire. Mr. Speaker, I rise today to support the nomination of Miguel Estrada to the United States Court of Appeals for the District of Columbia. Mr. Estrada has proven himself to be an extremely qualified candidate for this position. A lawyer with a distinguished educational background, Mr. Estrada has argued 15 cases before the United States Supreme Court, all before the age of 40, which is truly an accomplishment. In addition, he has received a unanimous ''well qualified'' evaluation from the American Bar Association, its highest ranking.

Mr. Estrada has spent time at the Justice Department under both Republican and Democratic administrations and has demonstrated a commitment to upholding the integrity of the law. He has been called ''an extraordinarily legal talent'' and ''genuinely compassionate'' by a former Solicitor General, two accolades which lend much support and credibility to his nomination.

□ 1030

SUPPORTING THE NOMINATION OF MIGUEL ESTRADA

(Mr. KINGSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KINGSTON. Mr. Speaker, what is the deal with the Democrats and Miguel Estrada? Is it racism or is it that they just do not like the guy? Because he is definitely qualified to sit on the D.C. Court.

He would be the first Hispanic on that court. He graduated magna cum laude from Harvard, graduated Phi Beta Kappa from Columbia College. He has argued 15 cases before the Supreme Court and was unanimously rated ''well qualified'' by the American Bar Association and called an extraordinary legal talent by the Clinton Solicitor General.

So what seems to be the problem, Democrats?

Let us go on further. He is 41 years old. He has been in private practice 7 years. He was a U.S. attorney for 2 years. He worked for the U.S. Justice Department. But do the Members know what? He is Hispanic, and what the Democrats are saying is because he has no prior judicial experience. That is interesting because out of the seven judges on the D.C. judicial court circuit, five of the seven did not have judicial experience. Is it not interesting that two of the Supreme Court justices did not have judicial bench experience? And yet this Hispanic guy comes along, and suddenly the Democrats are really concerned about judicial experience.

Mr. Speaker, I urge the Democrats to let this nominee go and put him on the D.C. Court. We need people like this. He is an American success story, and I applaud President Bush for nominating him.

RECESS

The SPEAKER pro tempore (Mr. CULBERSON). Pursuant to clause 12(a) of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 10 o'clock and 32 minutes a.m.), the House stood in recess subject to the call of the Chair.

□ 1505

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mrs. BIGGERT) at 3 o'clock and 5 minutes p.m.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Record votes on postponed questions will be taken later today.

RECOGNIZING THE COURAGE AND SACRIFICE OF UNITED STATES ARMED FORCES HELD AS PRISONERS OF WAR DURING THE VIETNAM CONFLICT AND CALLING FOR A FULL ACCOUNTING OF THOSE WHO REMAIN UNACCOUNTED FOR

Mr. HUNTER. Madam Speaker, I move to suspend the rules and agree to the resolution (H. Res. 62) recognizing the courage and sacrifice of those members of the United States Armed Forces who were held as prisoners of war during the Vietnam conflict and calling for a full accounting of the 1,902 members of the Armed Forces who remain unaccounted for from the Vietnam conflict.

The Clerk read as follows:

H. RES. 62

Whereas recent world events have brought Americans closer together, while reinvigorating our patriotism, reminding us of our precious liberties and freedoms, and giving us a greater appreciation for the men and women of the United States Armed Forces who daily defend our homeland;

Whereas the honor and valor of past and present members of the United States Armed Forces have inspired many young people, once again, to serve their country;

Whereas participation by the United States Armed Forces in combat operations in Southeast Asia during the Vietnam conflict resulted in more than 700 American military personnel being taken prisoner by enemy forces;

Whereas American military personnel who were taken prisoner were held in numerous prisoner of war facilities, the most notorious of which was Hoa Lo Prison in downtown Hanoi, Vietnam, which was dubbed by prisoners held there as the ''Hanoi Hilton'';

Whereas on January 23, 1973, the United States and North Vietnam jointly announced the terms of a cease-fire agreement, which included the release of prisoners of war;

Whereas the return of the American prisoners of war to the United States and to their families and comrades was designated Operation Homecoming;

Whereas on February 12, 1973, the first group of American prisoners of war were released at airfields near Hanoi and Loc Ninh, and the last Operation Homecoming repatriation took place on April 1, 1973;

Whereas many American military personnel who were taken prisoner as a result of combat in Southeast Asia have not returned to their loved ones and their fate remains unknown;

Whereas American military personnel who were prisoners of war in Southeast Asia were routinely subjected to brutal mistreatment, including beatings, torture, starvation, and denial of medical attention and outside information, and were frequently isolated from each other and prohibited from communicating with one another;

Whereas the prisoners, at great personal risk, nevertheless devised a means to communicate with each other through a code transmitted by tapping on cell walls;

Whereas the prisoners held in the Hanoi Hilton included then-Major Samuel R. Johnson, United States Air Force, now a Member of Congress from the Third District of Texas, who was shot down on April 16, 1966, while flying his 25th mission over North Vietnam, who spent more than half of his time as a prisoner in solitary confinement, conducted himself with such valor as to be labeled by the enemy as a die-hard resister, and, notwithstanding the tremendous suffering inflicted upon him, demonstrated an unfailing devotion to duty, honor and country, who, during his military career, was awarded two Silver Stars, two Legions of Merit, the Distinguished Flying Cross, one Bronze Star with ''V'' device for valor, two Purple Hearts, four Air Medals, and three Outstanding Unit awards, who retired from active duty in 1979 in the grade of colonel, and who personifies the verse in Isaiah 40:31, ''They shall mount with wings as eagles'';

Whereas the American military personnel who were prisoners of war during the Vietnam conflict truly represent all that is best about America;

Whereas the 30th anniversary of Operation Homecoming begins on February 12, 2003, and ends on April 1, 2003;

Whereas the world acknowledges that the words inscribed by an American prisoner of war in a Hanoi Hilton cell, ''Freedom has a taste to those who fight and die for it that the protected will never know'', are bitterly true and eternally appreciated; and

Whereas the Nation owes a debt of gratitude to these patriots and their families for their courage, heroism, and exemplary service: Now, therefore, be it

Resolved, That the House of Representatives—

(1) expresses its deepest gratitude for, and calls upon all Americans to reflect upon and to show their gratitude for, the courage and sacrifice of the brave members of the United States Armed Forces, including particularly Sam Johnson of Texas, who were held as prisoners of war during the Vietnam conflict;

(2) urges States and localities to honor the courage and sacrifice of those prisoners of war with appropriate ceremonies and activities;

(3) acting on behalf of all Americans, will not forget the 1,902 members of the United States Armed Forces who remain unaccounted for from the Vietnam conflict and will continue to press for a full accounting of all of these members; and

(4) honors all of the members of the United States Armed Forces who have fought and died in the defense of freedom.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. HUNTER) and the gentleman from Arkansas (Mr. SNYDER) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. HUNTER).

GENERAL LEAVE

Mr. HUNTER. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H. Res. 62.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. HUNTER. Madam Speaker, I yield myself such time as I may consume.

I rise in strong support of this resolution authored by the distinguished majority leader and gentleman from Texas (Mr. DELAY). It recognizes the courage and sacrifice of American military personnel held prisoner during the Vietnam conflict and especially highlights the courage and sacrifice of one of our own, the gentleman from Texas (Mr. SAM JOHNSON), a POW for 7 years.

Madam Speaker, I yield 5 minutes to the gentleman from Texas (Mr. DELAY).

Mr. DELAY. Madam Speaker, I thank the gentleman for yielding me this time. I greatly appreciate the chairman for bringing this resolution to the floor at this time. It is a timely resolution, as we all know.

Madam Speaker, most of us feel something very special for the gentleman from Texas (Mr. SAM JOHNSON). We feel a profound sense of gratitude to every American who has suffered greatly in defense of freedom. And prisoners of war frequently suffer levels of abuse that most of us could scarcely imagine, let alone endure.

Each of our American prisoners of war should know that the people of this country cherish their service. They have our solemn gratitude and our solemn appreciation.

Let me say a few words about my friend, the gentleman from Texas (Mr. SAM JOHNSON), because there is a lesson in SAM's story for the rest of us. Even during the most trying and emotionally wrenching experiences that life can possibly confront us with, the eternal qualities endure and they will sustain us.

SAM emerged from those years of brutality with his essential virtues only that much stronger. His captors attempted to strip away the qualities that took him to Vietnam, but the torturers' twisted objective utterly failed, because far from eroding SAM's defining principles, the abuse only tempered his convictions and raised them to a new plane upon which they were forever beyond the reach of evil or intimidation.

SAM JOHNSON came home with his love of country, his passion for family, his reverence for freedom, and his faith in the Lord immensely strengthened.

And, as it was for SAM JOHNSON in the Hanoi Hilton, so too will it be for the United States during our war against tyranny and terrorism. Our enemies may think that acts of brutality and mass murder will divert Americans from our purpose, but they do not understand America. As SAM JOHNSON and most Texans would tell them, we have drawn our line in the sand and will never back down until every last terrorist stands before judgment.

Thank you, SAM JOHNSON, for your service to your country. God bless you, and God bless America.

Mr. SNYDER. Madam Speaker, I yield 5 minutes to the gentleman from New York (Mr. MCNULTY).

Mr. MCNULTY. Madam Speaker, I thank the gentleman (Mr. SNYDER) for yielding me this time, and I thank the gentleman from Texas (Mr. DELAY) for bringing this important resolution to the floor.

As I get older, I work more on trying to keep my priorities straight. Among them are remembering that had it not been for all of the men and women who wore the uniform of the United States military through the years, people like me would not have the privilege of going around bragging, as I often do, about how we live in the freest and

most open democracy on the face of the Earth. Freedom is not free. We have paid a tremendous price for it.

I try not to let a day go by without remembering with deepest gratitude all of those who, like my own brother Bill, made the supreme sacrifice. I'm thankful to all those who wore the uniform of the United States military, put their lives on the line for us and all that we hold dear, and then came back home and rendered outstanding service in our communities, and raised beautiful families to carry on in their fine traditions.

Today, most especially, we salute and pay tribute to all those who endured torture on our behalf as prisoners of war. Chief among them are my friend and colleague from the Committee on Ways and Means, the gentleman from Texas (Mr. SAM JOHNSON), Senator JOHN MCCAIN, and Ambassador Pete Peterson.

I join my colleagues in saluting them for what they went through remembering all of those who endured torture on our behalf as prisoners of war, and renewing our collective commitment to account for all of the American military personnel who are still missing in action.

Mr. HUNTER. Madam Speaker, I yield 1½ minutes to the gentlewoman from Texas (Ms. GRANGER), and this was at the request of the gentleman from Texas (Mr. SAM JOHNSON), that we have the best-looking Texans go first. We made a mistake with the gentleman from Texas (Mr. DELAY), but we are going to make up for it now.

Ms. GRANGER. Madam Speaker, since September 11, 2001, Americans have had great lessons in what it means to be a hero. We realize more than ever that we owe a debt of gratitude to those patriots and their families who fight to protect our freedoms.

Today, I am rising to particularly recognize a man whose life is a lesson in heroism.

I did not know SAM JOHNSON before I campaigned to join him here in the Congress, but I knew him from his reputation and his record.

After I came to Washington, I read the book he wrote of his experiences in Vietnam. Although it is not a long book, and I am a pretty fast reader, I could not read it all in one sitting as I often do, because I would have to put the book down to wipe my eyes, because I have never known anyone to go through what he went through in the name of America.

He is being recognized today on the 30th anniversary of his release from a North Vietnamese prison camp in Hanoi, where he spent 7 years as a prisoner of war, 7 long years, 3½ in solitary confinement and 2½ in leg irons. During that time, he was a hero to all he came in contact with.

How did he come in contact with his fellow prisoners? By tapping a code on the wall and by memorizing 374 names of other prisoners, because he never lost hope of getting out of that confinement and bringing those names home.

For his service, he was awarded two Silver Stars, two Legions of Merit, the Distinguished Flying Cross, one Bronze Star with Valor, two Purple Hearts, four Air Medals, three Outstanding Unit Awards, and the admiration, respect, and the appreciation of millions of Americans and Vietnamese.

That makes SAM a tough son of a gun, but he is also a man of great depth and great faith. On the 47th day of his confinement, a typhoon blew the window open for the first time and he said, ''I saw the sunrise, the trees; it was God in all His glory.''

I think God's glory shines through SAM JOHNSON. He is a hero to all of us and he certainly has been that to me.

□ 1515

Mr. SNYDER. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise and join my colleagues in support of House Resolution 62, which recognizes the courage and sacrifices of American prisoners of war during the Vietnam conflict and calls for a full accounting of those who remain unaccounted for from the Vietnam conflict.

Thirty years ago today the first group of American prisoners of war was officially released from captivity in Vietnam. Operation Homecoming began on February 12, 1973; and the last repatriation occurred on April 1, 1973. Who can forget those dramatic news photographs of families being reunited with their POWs, their loved ones. In less than 2 months, over 500 Americans returned to the United States.

During the Vietnam War, over 700 American military personnel were taken prisoner by enemy forces. The first prisoner of war in the Southeast Asia conflict occurred in Laos on March 23, 1961. For some like Floyd Thompson, who was the longest held POW, it would be nearly a decade before his family saw him again. Many were held in infamous prison facilities, such as the Hoa Lo prison, which was referred to by the prisoners as the Hanoi Hilton. Many Members of the House have visited the Hanoi Hilton.

On January 23, 1973, the United States and North Vietnam agreed to a cease fire and a return of the prisoners of war. Operation Homecoming resulted in the release and return of 591 Americans. One of the prisoners held, and the one we particularly honor today, was then-Major SAM JOHNSON of the United States Air Force, now a Member of Congress from Texas' third district. He was shot down on April 16, 1966, while flying his 25th mission over Vietnam.

He was labeled a die-hard resister and spent the majority of his time as a prisoner of war in solitary confinement. During his captivity, SAM demonstrated an unshakeable devotion to duty, honor, and country. He retired from the Air Force with the grade of colonel in 1979. It is clearly an honor and privilege to serve with SAM in the House of Representatives.

My colleague mentioned the book that SAM wrote. It is called ''Captive Warrior: A Viet Nam POW Story.'' This is a young-looking version of Congressman JOHNSON here on the front, and I will take the liberty of at least plugging the book.

Texas A&M University Press is where I got my copy, and like my preceding colleague, it is an unadulterated and captivating version of what the life of these men was like in captivity.

Back home, Madam Speaker, I do a talk primarily in schools. I call it my congressional heroes speech in which I have blown up photos of Members of Congress and talk about a 1-, 2-, or 3-minute summary of their life. One of the people I talk about is Floyd Spence, our great and beloved chairman, now passed away, and his courage in the face of having an organ transplant, one of the first in the country that had, I believe, a lung transplant.

One of the people I talk about is SAM, and I make the point that SAM and I often disagree on political issues on the floor of this House. And when you see those votes where it is 220 to 190, well, I am usually in the 190 and he is in the 220; but the differences in policy and politics does not change the fact that SAM JOHNSON is truly one of America's heroes and I will continue to talk about him.

I also mention a former colleague of ours, Pete Peterson from Florida, who was also a prisoner of war during the Vietnam conflict, shot down on September 10, 1966. He also had a distinguished career in the Air Force and retired as a colonel in 1981. He left Congress and served with distinction as our Nation's first ambassador to Vietnam following the Vietnam conflict. I met with him in Hanoi as many Members did, and he is also a very fine American.

Also a note, Madam Speaker, about civilians. We recognize the sacrifices and courage of our servicemembers who were held as POWs. Twenty-five civilians were also released as prisoners of war during Operation Homecoming. Twelve were released prior to the operation and four escaped. Of the 97 individuals listed by the services that were not returned during Operation Homecoming, 80 were servicemembers but 17 were civilians.

Madam Speaker, recent world events remind us that our freedoms are not free. Men and women in uniform volunteer to protect the liberties and ideals that we hold dear, but there are risks. In our recognition today of our colleague, Congressman SAM JOHNSON, and his former colleagues that served as POWs, once again brings home the sacrifices that are made. We use SAM today as our symbol of all the POWs from that conflict, and we salute them today.

Madam Speaker, I reserve the balance of my time.

Mr. HUNTER. Madam Speaker, I yield 1 minute to the gentleman from Illinois (Mr. CRANE).

Mr. CRANE. Madam Speaker, I thank the gentleman for yielding me time.

Madam Speaker, I rise in strong support of this resolution to honor all of our prisoners of war from the Vietnam conflict. In particular, I want to join the House in paying a special tribute to my good friend and colleague, the gentleman from Texas (Mr. SAM JOHNSON). SAM's service to his country has spanned the Korean War and the Vietnam War, where he was a prisoner of war for 7 years.

In his office on Capitol Hill, SAM has a photo of his favorite plane. On it is inscribed part of a special Bible verse from Isaiah, ''They shall mount up with wings as eagles,'' an inscription that embodies the continuing spirit of this great patriot in our midst and one which should inspire all Americans with the courage to face the critical, difficult challenges facing this Nation in the days ahead.

It is my distinct honor and privilege to serve with SAM in this great body and on the Committee on Ways and Means. SAM, you are a true champion for all Americans and a true hero to me. America is better off for your service, and I am very proud to call you my friend.

Mr. SNYDER. Madam Speaker, I yield 3 minutes to the gentleman from Texas (Mr. HALL).

Mr. HALL. Madam Speaker, I certainly want to recognize the gentleman from Texas (Mr. SAM JOHNSON). He is a friend of mine. He is a neighbor of mine. Our boundaries are contiguous. They talk about redistricting and I have always said, If they ever put me in SAM's district, he will have the best campaign manager in the world. It would be me because no one would want to run against this great man with his history, his background, the gifts he has given to this country, the suffering that he has suffered for this country.

I rise in support of this resolution and call for a full accounting of the 1,902 members of our Armed Forces who still remain unaccounted for in unmarked graves or uncharted jails somewhere out there. Among those we honor today are SAM JOHNSON and a number of others that together they put together a series of codes of communication with one another.

This resolution marks the 30th anniversary of his return home from being held captive for 7 years. Can you imagine that? Seven years. I think almost half of that in solitary.

If you have ever shaken hands with him you will feel the hands of a man who has had every bone in both of his hands broken, probably from holding the bars and being hit with bamboo, being beaten and treated unmercifully at the hands of an enemy.

In April 1966 during his 25th combat mission over North Vietnam, Major JOHNSON was shot down. He was taken prisoner. He was taken near Hanoi where he and his fellow POWs were subjected day and night to physical and mental abuse but refused to give up sensitive information on the American military campaign, using tap codes at the camp where they were able to keep in contact with one another.

Mr. JOHNSON began his career in the United States Air Force after graduating from my alma mater, Southern Methodist University. He served his country with distinction in the Vietnam War as well as the Korean War.

Listen to this: he earned two Silver Stars, two Legions of Merit, the Distinguished Flying Cross, one Bronze Star of Valor, two Purple Hearts, four Air Medals and two Outstanding Unit Awards. He also served as a director of the Air Force Fighter Weapons School, popularly known as Top Gun and coauthored the first Air Force tactics manual for fighter pilots.

I am honored to count the gentleman from Texas (Mr. SAM JOHNSON) as my good friend and his wife as our good friend. I hold him in high regard and respect very much the work he has done in strong support of our men and women in the military. As one of the few men and women in Congress who has fought in combat, he is a valued and respected advisor on military readiness for all of us here on this floor.

I also appreciate his tireless work on retirement, health and labor issues. Since being elected to Congress he has risen to the post of the highest-ranking Texas member on the Committee on Ways and Means and the Committee on Education and the Workforce, where he serves as chairman on the Subcommittee on Employer-Employee Relations.

Madam Speaker, I proudly support this resolution and join my colleagues today in honoring this man and the men and women who served in Vietnam. The gentleman from Texas (Mr. SAM JOHNSON) is a true American. I am also proud to record our thoughts today on behalf of those on all wars and remember SAM JOHNSON, who school children, 200 years from now, will read about this great man. God bless him.

Mr. HUNTER. Madam Speaker, I yield 2½ minutes to the gentleman from South Carolina (Mr. WILSON) in the wake of that eloquent statement by the gentleman from Texas (Mr. HALL).

Mr. WILSON of South Carolina. Madam Speaker, I thank the gentleman for yielding me time.

Madam Speaker, as we celebrate the 30th anniversary of the gentleman from Texas' (Mr. SAM JOHNSON) return from Vietnam after nearly 7 years of brutal captivity, I am confident his courageous example will serve as an inspiration to our pilots preparing for possible attacks against Saddam Hussein.

Congressman JOHNSON's devotion to his comrades and his country during 2,500 days of captivity should also serve as a reminder to all Americans of the support our servicemen and women deserve before, during, and after war.

Our voluntary Armed Forces are replete with men and women of extraordinary devotion to duty who are willing to following Congressman SAM JOHNSON's example of steadfast devotion to duty in the face of torturous conditions. We must unite as a Nation in support of our troops as we face a time of great danger to our freedom from terrorists at home and abroad.

Like Congressman JOHNSON, we can rely on our troops' dedication to protect our way of life. We need to do our duty to ensure that they have the material and moral support they need to accomplish the difficult task ahead.

Congressman JOHNSON's service demonstrated the highest virtues of patriotism. It is humbling to me as a current member of the South Carolina Army National Guard and a source of pride as I am the father of three sons in the military service who strives to follow Congressman JOHNSON's historic and heroic example.

We thank Congressman JOHNSON for his service to our country. It is an honor to know you. It is an honor to have you as chairman of the subcommittee that I serve on in the Committee on Education and the Workforce. God bless you.

Mr. SNYDER. Madam Speaker, I yield 2 minutes to the gentleman from Georgia (Mr. BISHOP).

Mr. BISHOP of Georgia. Madam Speaker, I thank the gentleman for yielding me time.

Madam Speaker, through this resolution we express our deepest gratitude to those who endured the cruel conditions as POWs in Vietnam, to their families who suffered at home, and to the sacrifice of every American who defends our freedom.

Our congressional colleagues, the gentleman from Florida, Mr. PETERSON; Senator JOHN MCCAIN of Arizona; and the gentleman from Texas (Mr. SAM JOHNSON) spent bitter years in the Hanoi Hilton in Vietnam.

In my area of southwest Georgia, the Andersonville Historic Site where the Nation's Prisoner of War Museum and memorial are located tell the story intensely of the suffering and the limitless courage of our prisoners of war throughout history.

One of my boyhood friends was a fighter pilot lost for 30 years on a combat mission in Vietnam whose remains were just recently found. One of my constituents was a soldier serving on the joint task force in Southeast Asia who lost his life last year in an air crash during a search mission. I knew these wonderful young men personally, and I know what their families went through.

Madam Speaker, this resolution pledging never to rest until we have a full accounting for every American lost in action honors the services and the sacrifices that literally made America the home of the free, the land of the brave.

Madam Speaker, I am proud to stand here today to give tribute to our colleague, SAM JOHNSON, and others and all Americans who have served as prisoners of war and to also salute ex-prisoners of war who worked so hard to

dedicate the memorial in Andersonville to the cause that our men and women sacrificed for as prisoners of war. I thank them for this honor. I thank them for what they do and the sacrifices they have made.

Mr. HUNTER. Madam Speaker, I yield 45 seconds to the distinguished gentleman from North Carolina (Mr. BALLENGER).

Mr. BALLENGER. Madam Speaker, I am privileged to speak today in honor of my friend, the gentleman from Texas (Mr. SAM JOHNSON). The gentleman is one of the kindest, most thoughtful human beings I know, a principled and unwaivering man. He fights like a lion for what he holds dear. He is truly a man of mettle and conviction.

□ 1530

SAM is also a war hero if ever there was one. I cringe when I think of the incredible price he paid for the freedom of this great Nation, 7 years as a prisoner of war. We all owe him a debt of gratitude.

Today Congress recognizes SAM JOHNSON's sacrifice and his service to America. In so doing, we again acknowledge freedom at its high cost and remember those soldiers who did not return home. Fortunately for us, SAM did.

I thank the Chair for the chance to honor SAM.

Mr. HUNTER. Madam Speaker, I yield 1 minute to the gentleman from Texas (Mr. HENSARLING).

Mr. HENSARLING. Madam Speaker, I thank the gentleman for yielding me the time.

Madam Speaker, I rise on this occasion to salute the tremendous courage and profound sacrifices that American POWs made for our country during the Vietnam conflict. One of those courageous POWs is my friend and our distinguished colleague, Congressman SAM JOHNSON of Texas.

Forced to endure severe torture, solitary confinement, malnutrition and attempts by their captors to force confessions for propaganda, SAM JOHNSON and countless other American POWs conducted themselves with uncommon courage and heroic strength of character.

I recall a veterans breakfast that Congressman JOHNSON attended in my District with our distinguished colleague, the gentleman from California (Mr. CUNNINGHAM), a fellow Vietnam veteran. While trying to convey the ideals that kept him going as he once thought capture by the North Vietnamese was imminent, the gentleman from California (Mr. CUNNINGHAM) was choked by emotion.

Putting his arm around him, SAM JOHNSON finished his sentence, stating those ideals simply and eloquently, ''God and country, God and country.'' Every veteran in the room rose to their feet in standing ovation.

Madam Speaker, as a Texan and as an American, I am proud to rise and salute patriot SAM JOHNSON.

Mr. SNYDER. Madam Speaker, I have no speakers, and I yield 4 minutes of our time to the gentleman from California (Mr. HUNTER) to use as he sees fit.

The SPEAKER pro tempore (Mrs. BIGGERT). Is there objection to the request of the gentleman from Arkansas?

There was no objection.

Mr. HUNTER. Madam Speaker, I want to thank the gentleman from Arkansas (Mr. SNYDER) for his bipartisan gesture and great work on this particular issue.

Madam Speaker, I yield 45 seconds to the gentleman from Florida (Mr. STEARNS).

(Mr. STEARNS asked and was given permission to revise and extend his remarks.)

Mr. STEARNS. Madam Speaker, I am going to quote SAM JOHNSON's wife. I do not think anybody today has done that. Let me tell my colleagues what Shirley says: ''When he makes up his mind he's going to do something, he doesn't make a big deal of it. He just does it.''

These words, of course, stood true in perhaps one of Mr. JOHNSON's greatest tests, the hellish 82 months he spent as a prisoner of war in the Hanoi Hilton. Bound by a faith in God and a love of country, Congressman SAM JOHNSON is a man who has given 29 years to the United States Air Force, 52 years to his wife Shirley, and a lifetime to his country.

SAM, congratulations on the 30-year anniversary of freedom and patriotism for this country. I am proud to serve with him on the Air Force Caucus, which he helped to start.

Resilient, courageous, steadfast, a patriot, and a friend; SAM JOHNSON is all of these things to me. He is a man of unwavering commitment to the betterment of this country. As both a statesman and an airman, SAM JOHNSON has fought both for the sovereignty of democracy and our children's future. From the battlefields of Korea and Vietnam to the Halls of Congress, this ''Top Texan'' has never lost sight of his objective, because in his wife Shirley's words, ''When he makes up his mind he's going to do something, he doesn't make a big deal out of it. He just does it.'' These words of course stood true in perhaps one of Mr. JOHNSON's greatest test, the hellish 82 months he spent as a prisoner of war at the Hanoi Hilton. Under constant physical and mental duress SAM JOHNSON never forgot his commitment to his family, his men, and his country. One of the 12 remaining combat tested members of Congress, Mr. JOHNSON represents an elite club of men who have taken up arms in the defense of our way of life. We gather today to commemorate the 30th anniversary of Mr. JOHNSON's release from imprisonment and the amazing things he has accomplished in those short 30 years. Bound by faith in God and a love of Country, Congressman SAM JOHNSON is a man who has given 29 years to the Air Force, 52 to his wife, and a lifetime to his country.

Mr. HUNTER. Madam Speaker, I yield 45 seconds to another gentleman from Texas (Mr. BARTON).

Mr. BARTON of Texas. Madam Speaker, February 12, 1973, I was a graduate student at the Krannert School in Purdue University up in West Lafayette, Indiana, just another day for me; for Lieutenant Colonel SAM JOHNSON, it was the first day he had been able to breathe free air in over 7 years.

If we look in the dictionary under ''patriot,'' we ought to see SAM JOHNSON. If we look in the dictionary under ''hero,'' we ought to see SAM JOHNSON.

Director of the Top Gun school; Thunderbird pilot; decorated for two wars, Vietnam and Korea; holder of two Silver Stars; two Legions of Merit; the Distinguished Flying Cross; one Bronze Star with Valor; two Purple Hearts; four Air Medals; and three outstanding unit citations.

By any means he is a hero. He is an American patriot. He is my friend. I am glad he is in the House of Representatives. God bless you, SAM and Shirley Johnson.

Mr. HUNTER. Madam Speaker, in the wake of that eloquent statement by the gentleman from Texas (Mr. BARTON), I yield 45 seconds to the gentleman from Texas (Mr. BURGESS).

Mr. BURGESS. Madam Speaker, I stand here to recognize a distinguished Member of the House of Representatives, a 29-year veteran of the United States Air Force, Colonel SAM JOHNSON, who is my next-door neighbor in North Texas.

Today marks the 30th anniversary of Congressman JOHNSON's return from Vietnam as a result of Operation Homecoming, the project that brought home hundreds of men and women who had sacrificed their lives for our great country and served in Vietnam.

It is a tremendous honor for me to serve in this Chamber with Colonel JOHNSON. He is a true American hero, a man who sacrificed his life for the betterment of all of us and this country. He knows the true meaning of freedom because he fought for it, and he spent 7 long years as a POW in Vietnam, over half of that in solitary confinement.

He has dedicated his life to God, his country and his family. Congressman JOHNSON is a fine example to our future generations of a hero. Congressman JOHNSON was willing to give of his life in the fight for freedom.

Today and every day, when I look at the American flag, the flag that he fought for, I will remember the sacrifice that he made.

Mr. HUNTER. Madam Speaker, I yield 45 seconds to the gentleman from Minnesota (Mr. KLINE).

Mr. KLINE. Madam Speaker, I rise today to join my colleagues in honoring the extraordinary accomplishments of a true hero. On the 30th anniversary of his return from captivity, SAM JOHNSON deserves a far greater tribute than we can offer today. However, the debt of honor we owe to this great American compels us to do our part to bring attention to the impact his example and leadership provide to each of us.

Every person in this room, in the gallery and on the floor, has served his

country, but even the achievements of those of us with a lifetime of military service pale in comparison to the service and sacrifice exemplified by Congressman SAM JOHNSON. Not one individual in this room has attained the level of service and sacrifice exemplified by the gentleman from Texas. He is an American hero.

It has been a privilege to know SAM during my brief tenure as a Member of Congress. I look forward to learning from his wisdom as we serve together.

His service is exemplary, his experience unparalleled. I rise to honor this American hero.

Mr. SNYDER. Madam Speaker, I yield 2 minutes to the gentlewoman from Indiana (Ms. CARSON).

Ms. CARSON of Indiana. Madam Speaker, I thank the gentleman for yielding me the time; and thanks to my colleagues who had the compassion and the wisdom to bring forth this very vital resolution before the House today.

I wanted to add my gratitude and my applause to the Honorable SAM JOHNSON for the yeoman service that he has given to this great United States, the gentleman from Texas, and oftentimes when I have barely been able to get over to the floor, he walks through the tunnels with a great deal of pride and strength, and I just admire him so much. He does not know the many ways that he has given me the momentum to walk on here to the House.

Along with Congressman JOHNSON and all of the other wonderful women and men who have made this extreme sacrifice in terms of serving our country to preserve its freedom, I wanted to give my thanks and gratitude to that yeoman group of people and to pray for the safe return of those yet unfound.

I would also like to add, Madam Speaker, that I come from the State of Indiana. The lieutenant governor there is the Honorable Joe Kernan, and Mr. Kernan entered the United States Army in 1969 and served as a naval flight officer on the USS *Kitty Hawk*, and in May of 1972, he was shot down by the enemy when he was engaged in a reconnaissance mission over North Vietnam.

He was held as a prisoner of war for months. He was repatriated in 1973 and continued on active duty until December 1974.

For his service, the Honorable Joe Kernan has received numerous awards, including the Commendation Medal, two Purple Hearts and the Distinguished Flying Cross. He is also a graduate of Notre Dame in Indiana.

So there are countless unnamed and unrecognized heroes who are similarly situated, and I just wanted, on behalf of the people that I represent, the proud State of Indiana, to add my support to this needed resolution.

Mr. HUNTER. Madam Speaker, I yield 45 seconds to the gentleman from Texas (Mr. CARTER), another one of SAM's Texas colleagues.

Mr. CARTER. Madam Speaker, I thank the gentleman for yielding me the time.

Madam Speaker, as a freshman member of the Texas delegation, I am honored to be serving alongside Congressman SAM JOHNSON. It was on this day 30 years ago that SAM arrived home after almost 7 years as a prisoner of war in Vietnam. He spent his first 3½ years as a prisoner of war in solitary confinement.

SAM managed to survive these years while maintaining a strong sense of pride and an unrelenting faith in God, country and duty. Not only is SAM a Vietnam veteran, he is a testament to the greatness of American military men and women.

Upon returning with his fellow officers, his first words were, ''Lieutenant Colonel SAM JOHNSON reporting for duty, sir.'' SAM reported for duty, and to this day he has never left his post serving America.

I thank SAM for all the sacrifices he has made and for the example he makes for this House.

Mr. SNYDER. Madam Speaker, I yield myself such time as I may consume.

If I might, reference was made earlier to SAM's wife. I know this is a very small book, but I have here a picture of Shirley and SAM from 1952, and our staff member Debra Wada says SAM is even better looking today than he was here in 1952.

Madam Speaker, I reserve the balance of my time.

Mr. HUNTER. Madam Speaker, I yield 45 seconds to the gentleman from Texas (Mr. CULBERSON), another one of SAM's Texas colleagues.

Mr. CULBERSON. Madam Speaker, the book of Proverbs teaches that the greatest profession, the most valuable profession on Earth, is our good name, and by that measure, SAM JOHNSON is one of the wealthiest men in America.

It has been my privilege to serve with SAM in the Texas house, to sit next to him on the floor there, and my great privilege to serve with him here; and I have seen firsthand SAM's devotion to duty, to his country, to honor, to his core principles. SAM JOHNSON does not take polls to help him decide how to vote.

He has been a mentor to me, to all of us who serve with him. We love him and admire him, and we are immensely grateful to him for his service to this Nation, and it truly is one of the great privileges of my life that I have had the privilege to be here with him, to serve with him; and I salute him and thank him so much for his service to this country.

Mr. SNYDER. Madam Speaker, I yield whatever time I have remaining to the gentleman from California (Mr. HUNTER) for purposes of control.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

Mr. HUNTER. Madam Speaker, first, I thank my colleague for that gracious gesture. How much time do we have remaining?

The SPEAKER pro tempore. The gentleman from California (Mr. HUNTER) has 12¾ minutes remaining.

Mr. HUNTER. Madam Speaker, I yield 45 seconds to the gentleman from Pennsylvania (Mr. PITTS).

Mr. PITTS. Madam Speaker, those of us who have served our country in the war understand in our hearts what every American understands in his head. We understand the words carved in stone down at the Korean War memorial, the words, ''Freedom is not free.''

Thousands of Americans have died in a war, but of those who did not die, few have gone through what our friend and colleague SAM JOHNSON went through in Vietnam. For years he suffered torture, imprisonment and solitary confinement. They worked on him relentlessly to break his spirit, but the spirit of SAM JOHNSON could not be broken. He refused to betray his country. He refused to give up his faith in God.

I had the privilege of visiting in that prison where he was in solitary 2 weeks ago. It was a horrible place. SAM is a living hero. He is an example to us all. He is living proof that what America stands for is right and just and good.

I thank SAM for his service to our country, and as a fellow vet, I salute him.

Madam Speaker, those of us who have served our country in war understand in our hearts what every American understands in his head. We understand what it says—carved in stone—on the Korean War Memorial down at the other end of the National Mall. The words ''FREEDOM IS NOT FREE.'' Thousands of families have died in war. But of those who did not die, few have gone through what our friend and colleague SAM JOHNSON went through in Vietnam.

For years he suffered torture, imprisonment, and solitary confinement. They worked on him relentlessly to break his spirit. But the spirit of SAM JOHNSON could not be broken. He refused to betray his country. And he refused to give up his belief & faith in his God.

I visited that prison 2 weeks ago in Hanoi. Sam is a living hero. He is an example to us all. Thank you SAM. SAM, I salute you.

Mr. HUNTER. Madam Speaker, I yield 45 seconds to the gentleman from Indiana (Mr. BURTON).

Mr. BURTON of Indiana. Madam Speaker, I thank the gentleman for yielding me the time.

I have not read this book ''Captive Warriors'' yet, but I am going to read it. I have known the gentleman for many years, and I have never been able to get out of him a lot of the things that happened to him in Vietnam, but I want him to know that from other people I have learned that he really is a hero, and he is a credit not only to the service of this country, the armed services, but he is a credit to this House as well.

One of the proudest things that I can say about being a Member of Congress is, SAM JOHNSON is my friend.

□ 1545

Mr. HUNTER. Madam Speaker, I yield myself 2½ minutes.

In that great book, ''The Bridges at Toko Ri,'' one of James Michener's main characters was the commander of an aircraft carrier. After the hero in the book had flown off against those bridges at Toko Ri in North Korea and been lost, he stood on the ship and he asked where does America find these men who are willing to go in the service, in this case in the U.S. Navy, who fly off these small pitching aircraft carriers, fly to a distant target, heavily defended, and if they are successful in penetrating all that flack and air cover they try to get back and find that little postage stamp out at sea and make a successful landing?

That book was set against the backdrop of a war that was not widely heralded in the United States: the Korean War. It was a time when a lot of folks were focusing on having a rush-back from World War II, having families and building lives and getting jobs and building businesses; and we were not concentrating on that area of the world, that conflict. Yet a lot of Americans gave their lives. That question that was asked, where does America get these men, could just as easily have been a question about those great people that flew off the tarmac in those TAC air bases and strategic air bases or long-range air bases that flew missions over North Vietnam. SAM JOHNSON is one of those guys, a guy from San Antonio, Texas.

Madam Speaker, it has been brought out in all this discussion of whether we should have a draft and who participates and who bears the burden and who does not bear the burden that there is a disparate burden of defending this country, and that is why I think it is important for all of us to look to SAM because he is a model of our finest citizens. And like the gentleman from California (Mr. CUNNINGHAM), the gentleman from Pennsylvania (Mr. PITTS), and others who have been pilots, like a lot of our great veterans who have been here in this body, he embodies that call to a higher duty, a duty that is most of the time inconvenient, and some of the times dangerous, but always the most important duty that one can fulfill on behalf of this country, and that is protecting us, giving us our security.

Madam Speaker, I yield 45 seconds to the gentleman from Indiana (Mr. BUYER).

Mr. BUYER. Madam Speaker, I could not resist this tribute to the gentleman from Texas (Mr. SAM JOHNSON).

When I think of many of America's heroes, individuals who were challenged, when you give your reflection, you know you were challenged. When America's children ask the questions: Who are our heroes? Do mentors still exist? Are there living idols? The answer is yes.

Sam lived his life in such a manner that his character is formed with the virtues and values that have been tested. I am privileged to serve here in this body with him, and I know that he represents a lot of his comrades who served with him, some of whom were not the lucky ones because they did not get to come home. I know SAM holds them close to his breast in memory, along with their families.

It is a true and distinct honor to serve in this body with you, SAM. Godspeed, my friend.

Mr. HUNTER. Madam Speaker, I yield 1 minute to the gentleman from Delaware (Mr. CASTLE).

Mr. CASTLE. Madam Speaker, I thank the gentleman for yielding me this time, and I would also like to pay tribute to those who were held prisoners of war during the Vietnam conflict.

I do not know a lot of those individuals, obviously Senator MCCAIN; but I do know SAM JOHNSON, who is a representative of that, and I know that he has all the strengths that one could ever want in an American.

Sam and I are a little different politically, shall we say. I am a little more moderate than he is. He can be pretty tough on some issues. And no matter what I say today, he will probably still not vote the way I would want him to all the time. But sitting next to him in the Committee on Education and the Workforce, I can still say for certain that he is a person of tremendous character.

To go through the experience that he has gone through, to represent all the interests of defending our country, and then to come back to be able to contribute the way he has on a regular basis is something in his system that I do not think the average person has in his or her system. And for all those reasons I have to believe that all the others who went through that must have been men of incredible strength and character.

So it has been an honor and a pleasure and a privilege to work with SAM, and to work with all the others. But I just wanted to also say thanks to SAM for his service to this country.

Madam Speaker, I rise today to pay tribute to the military personnel who were held captive during the Vietnam conflict, and to those who have yet to be accounted for.

Today, as we consider the prospects of a war with Iraq, it is important that we remain mindful of the great sacrifices our past soldiers have made in the defense of freedom.

The Vietnam conflict has often been categorized as a dark spot in our nation's history, yet for the U.S. soldiers who suffered from unspeakable acts while prisoners within Vietnam, the pain that they carry with them is not a part of history; it is as real today as it was thirty years ago. And for the 1,902 Members of the U.S. Armed Forces who remain unaccounted for, we must emphasize our commitment to not forget their continued sacrifices.

In the midst of such uncertainty, we must honor the POWs who languished in horrible conditions until their release in beginning in February of 1973, during ''Operation Homecoming.'' A part of them may have been left behind in Vietnam, but in the end, they were able to rely upon the courage and determination that makes the U.S. Armed Services the best in the world, and ultimately survive to return home to their country and to their families.

Today, I want to remember these POWs and the 1,902 Members of the U.S. Armed Forces who remain unaccounted for. And I would also like to pay tribute to my friend SAM JOHNSON, who was among those released during the first day of Operation Homecoming.

SAM, whose distinguished service to his country did not end after his return, followed up an illustrious career in the Air Force with a successful career as a developer, a Texas Legislator, and a Member of Congress since 1991. I have served with SAM on the Education and Workforce Committee and value his friendship and resolve.

Like many others, who could have shrunken away from the duties of society because of the war, SAM rose above and celebrated his cherished freedom. Now a distinguished public leader, SAM has endured the horrors of war for our country, and in turn has given us much hope and optimism for the future of our nation.

In conclusion, I want to thank SAM for his service to the United States; and I want to honor all of those who were POWs in Vietnam. You all served your country admirably and we must not rest until everyone is accounted for.

Mr. HUNTER. Madam Speaker, how much time do we have remaining?

The SPEAKER pro tempore (Mrs. BIGGERT). The gentleman from California (Mr. HUNTER) has 7¼ minutes remaining.

Mr. HUNTER. Madam Speaker, I yield myself 1 minute.

Madam Speaker, I would just like to say that the gentleman from California (Mr. CUNNINGHAM), I know if he possibly could he would be here speaking for his old buddy, SAM JOHNSON, another great pilot and the only Mig ace from Vietnam, and a guy who really, really loves SAM JOHNSON.

Madam Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. SAM JOHNSON), the man who is the subject of this resolution.

Mr. SAM JOHNSON of Texas. Madam Speaker, I thank the gentleman so much, and all our colleagues; but you know, this is not about me. This is about our American fighting men that keep America free, the guys and gals the world over. And they are all over the world right now, defending freedom not just for the United States of America but for the world.

I have been a member of the U.S.-Russia Commission on POWs and MIAs now for almost 10 years. We are trying to find out what happened to our missing in action, to those who did not return home from World War II, Korea, the Cold War, Vietnam and Iraq, if we have one there. So we have not given up on anyone, and I think that is what America stands for. It stands behind its military. We will go to extreme measures to make sure we recover our people and/or find out what happened to them. We are still pursuing that effort. There are as many as 70,000 from World War II that are missing in action, some 8,000 from Korea, some 1,800 from Vietnam, and maybe one from Iraq.

So this Nation is the greatest Nation in the world, and I and my colleagues who fought for it would say that, even though we were POWs, if we were required to go fight for this Nation again for the freedoms we enjoy, we would do it in a New York minute. So I thank all my colleagues for recognizing the POWs and for recognizing our servicemen and women around the world and all the great things they do for us, and many thanks as well for helping me in this House of Representatives to make this a better Nation for all of us to live in. We are free and independent, one Nation under God.

God bless you all. Thank you for today.

Mr. HASTERT. Madam Speaker, there just aren't enough words to describe a man who has led such an adventurous, challenging, and courageous life as SAM JOHNSON. He is a decorated war hero, a distinguished public servant, and a dedicated husband, father, and grandfather.

There have been many great public servants who have passed through these great Halls of Congress, and SAM is certainly one of them. These are men and women who have worked tirelessly for their constituents, who have faced difficult challenges, and who rarely, if ever succumbed to the challenges that have come before them, even when it seemed impossible. SAM JOHNSON has brought honor, dignity and respect to this great institution.

During his 29 years as a U.S. Air Force pilot, SAM flew combat missions in both the Korean and Vietnam Wars, and was a prisoner of war in Hanoi for almost seven years. His service in the military earned him many medals that serve as reminders to us all of his courage and personal sacrifice for our country. In total, he was bestowed with fifteen medals and awards, all of which were given to him for the heroism he displayed during both wars. In fact, today is the 30-year anniversary of his arrival back to America after his long torturous imprisonment in Vietnam. It was this day thirty years ago that SAM left that distant land and returned home to his loved ones.

I will always remember SAM to be a man of great accomplishments, a gentleman that I have had the honor to serve with for over ten years. He will be remembered not only for his public service to those in Texas, but also for his selfless sacrifice for all Americans. Thank you SAM.

Mr. CUNNINGHAM. Madam Speaker, I rise in support of this resolution recognizing the courage and sacrifice of those who were held prisoners of war in Vietnam on the 30th anniversary of their release, and calling for a full accounting of those who never returned. This remembrance has a special meaning—not just for those like myself who served in Vietnam and saw the horrors inflicted by our enemy, but for those held captive so long, it is an especially emotional day. And I rise in honor of each of those POWS, for their service to this nation and the sacrifice that stands today as a testament to the greatness of our free nation.

On this fitting occasion, I also want to honor one of those POWs, a great friend and hero of mine and many Americans, and our colleague, SAM JOHNSON. SAM and I shared long careers as fighter pilots before coming to Congress. Although we continue to argue to this day over the accomplishments of Navy versus Air Force fighters, we have developed a strong bond over those shared experiences and our commitment to carry forward the lessons we learned from them.

SAM, and I have travelled together extensively, speaking to veterans' groups and working to ensure that Americans understand the importance of supporting the military—particularly at times like these when our troops are defending freedom around globe. As one who was shot down in combat myself, I know how difficult it is to talk about those harrowing experiences—and you won't hear that from SAM, nor him boasting that record of service or sacrifice. But it is clear from the historical records and the testimony of those who served with him that he is an American hero, and more that worthy of the numerous military awards and national recognition he ultimately earned. From his numerous combat missions and enemy kills, to the inner strength that earned him the label ''die hard'' by his captors, SAM stands out as an example of true American strength. On this anniversary of Operation Homecoming, I want to recognize SAM'S accomplishments, his bravery, courage, sacrifice and service to this nation. Godspeed, my friend, from this Navy pilot.

Mr. SIMMONS. Madam Speaker, I rise today in support of H. Res. 62, recognizing the members of the United States Armed Forces who were held prisoners of war during the Vietnam War, while calling for a full accounting of the 1,902 members of the Armed Forces who remain unaccounted for from the Vietnam War.

As a member of the House Armed Services Committee, and a veteran of the Vietnam War, I take great care in this matter. For generations, Americans have taken extraordinary steps to account for all members of our Armed Forces who were lost fighting to preserve the freedoms we enjoy today.

I wish to share with my colleagues the compelling story of Captain Arnold Holm, a native of Waterford, Connecticut, whose recovery case remains active. Captain Holm was declared killed in Vietnam when his helicopter was shot down on June 11, 1972. Arnie Holm was a sports star in high school, when to Springfield College on a sports scholarship and left to enlist in the U.S. Army. He was fighting for what he believed in when his helicopter was hit in the summer of 1972. In an even more tragic twist, a second helicopter, sent to execute a rescue mission for Capt. Holm and his men, was also shot down, resulting in the death of pilot Lt. McQuade and his entire crew.

After relations with the Vietnamese government improved, missions to discover and recover the remains of nearly 2,000 personnel lost in Vietnam began. While the crash sites of Capt. Holm and Lt. McQuade were very close to one another, only the remains of Lt. McQuade were recovered. This year the United States will support a recovery mission in Vietnam to seek and recover Capt. Holm.

As we consider legislation to recognize the sacrifice made by Prisoners of War, we also commit again to accounting for all armed services members who remain Missing in Action. We must find and return the remains of Capt. Holm, and all MIAs, so that their families and friends see the real commitment our government has for our men and women in uniform.

Mr. REYES. Madam Speaker, I wish to voice my strong support for House Resolution 62, which honors the observance of the 30th Anniversary of Operation Homecoming. This resolution honors the courage and sacrifice of those members of the United States Armed Forces who were held as prisoners of war during Vietnam and returned home as part of Operation Homecoming.

For most Americans, it is difficult to conceive of the harsh reality that these prisoners of war had to endure. And it is important to appreciate the sacrifice that these men made, and that service members today are prepared to make, in defense of our freedoms.

The first group of American prisoners of the Vietnam War returned home as part of Operation Homecoming on February 12, 1973 and the last returned in April of the same year. These American prisoners of war fought for our country with valor and sacrifice. Mr. SAM JOHNSON, our very own esteemed colleague, is among these heroes.

After entering the U.S. Air Force at the young age of 20, Mr. JOHNSON was held captive as a prisoner of war in Hanoi. For seven years, half of that time in solidarity confinement, this brave individual was held captive, until returning back home on February 12, 1973, 30 years ago this day, as part of Operation Homecoming.

Mr. JOHNSON returned home a hero with several distinctions including two Silver Stars, two Legions of Merit, the Distinguished Flying Cross, one Bronze Star with Valor, Two Purple Harts, four Air Medals, and three Outstanding Unit Awards. The service he offered to his country is one that we, as a nation, recognize as the greatest sacrifice for the survival of freedom and liberty. He has dedicated his career to the safety and security of his country, and has further dedicated his professional life to civic service.

Ironically, JOHNSON was one of the lucky ones. He came back home. Almost two thousand members of the United States Armed Forces remain unaccounted for. We must never forget their sacrifices and we must continue the effort to determine what became of them.

As a veteran of the Vietnam War, and as the U.S. Representative of a district that proudly includes nearly 60,000 veterans, I urge my colleagues and everyone across the nation to remember the ordeals experienced by our former prisoners of war. They carried a great burden so that we might live in freedom and prosperity.

Mr. BOEHNER. Mr. Speaker, I rise today in support of the resolution; but more than that, I rise to honor my dear friend and colleague, SAM JOHNSON of Texas,

Thirty years ago today, SAM was released from captivity as a prisoner of war in Hanoi during the Vietnam War. He spent nearly seven years as a prisoner—half of that time in solitary confinement. His experiences in Hanoi were nothing short of remarkable.

For example: while held captive, SAM committed to memory 374 names of other prisoners of war by tapping a special code on the wall.

Why? In case some got out.

In Hanoi, he also endured unspeakable torture—72 days in leg stocks, followed by another two and a half years in leg irons, and of course, 42 months in solitary confinement.

After his three and a half years in solitary confinement ended, SAM was finally allowed to return to a joint cell. According to a fellow prisoner of war, he walked into the room with the

two other detained American officers, stood at attention with tears in his eyes, and simply said, ''Lieutenant Colonel SAM JOHNSON reporting for duty, sir.''

Madam Speaker, there's no better way to describe a hero than retelling that story.

Today, I am proud to serve with SAM on the House Education and the Workforce Committee. Together, we're working to reform our education, pension, and health care laws for generations to come.

SAM is an effective subcommittee chair, an astute legislator, and a terrific representative of his constituents at home in Texas. His continued to service to his nation is most admirable.

To SAM, I thank you for your 29-year career in the Air Force, your courage and sacrifice, and your continued commitment to this country by serving in its Congress. On this important anniversary, I salute you and wish you and your wife Shirley the very best in the years to come.

Mr. COLLINS. Madam Speaker, I have the privilege to sit on the Ways and Means Committee here in Congress with SAM JOHNSON. I consider him to be my friend. More than that. He is a true American Hero. You see, SAM JOHNSON was an F-4 Fighter-Bomber pilot in Vietnam. SAM was shot down and captured by the North Vietnamese in 1966. For the next 7 and a-half years he was a prisoner of war in what the POW's referred to as Alcatraz. This was a prison for the strongest willed of American prisoners of war. A place where the Vietcong would try to break the will of those who stood against it.

For three years of his time, SAM was in solitary confinement. Other than the frequent times when the enemy took him and brutally tortured him, he never had any contact with another human being for that entire time.

To communicate with one another, the prisoners developed a system of taps with their fingers on the walls and floors of their cells. This allowed them to provide each other their names and ranks so that if one of them should escape or be released, they would be able to tell American intelligence who was alive and in what prison they were being housed.

While in Alcatraz, SAM met another pilot. This pilot was also in the camp for 7 and a-half years, three of which were spent in solitary confinement. Colonel Jeremiah Denton also endured years of torture, abuse, degradation, untreated injuries, malnutrition, years of separation from his wife and family, and conditions that most human beings would consider impossible to survive.

Both of these men were in Vietnam to serve their country. To fight for American interests and to bring democracy to an oppressed people. While some back home were protesting the war, these men didn't let that influence their mission. They were heroes who stood strong, never renouncing their nation. They always supported the United States throughout.

During an interview with the media during his imprisonment, Denton was asked about his support of U.S. policy concerning the war. He replied: ''I don't know what is happening now in Vietnam, because the only news sources I have are North Vietnamese, but whatever the position of my government is, I believe in it, I support it, and I will support it as long as I live.''

When the prisoners were released in 1973, they were flown to Clark Field in the Philippines before being flown home. President Ronald Reagan summarized that moment best in his State of The Union Address before Congress in 1982:

He said, ''We don't have to turn to our history books for heroes. They are all around us. One who sits among you here tonight epitomized that heroism at the end of the longest imprisonment ever inflicted on men of our armed forces. Who will ever forget that night when we waited for the television to bring us the scene of that first plane landing at Clark Field in the Philippines—bringing our POWs home. The plane door opened and Jeremiah Denton came slowly down the ramp. He caught sight of our flag, saluted, and said, 'God Bless America,' then thanked us for bringing him home.''

As the senior officer on the plane, Denton was asked to go to the mircrophone and say a few words. What he said that day fully captures that American spirit which so motivates young men and women to serve their country. ''We are honored to have had the opportunity to serve our country under difficult circumstances. We are profoundly grateful to our Commander-in-Chief and to our Nation for this day. God bless America.''

It is no wonder to me that the American people elected Jeremiah Denton to the United States Senate, and SAM JOHNSON to the United States House of Representatives. But their story is repeated countless times in the thousands of American prisoners of war who returned home after that long conflict and after other wars and conflicts throughout the years.

It is repeated in every voice of every serviceman and woman who takes an oath to support and defend the Constitution of the United States. It is echoed in every snap of the American flag as it flaps in the wind, and seen meandering through the rows of crosses in every military cemetery in which American soldiers, sailors, airmen, and Marines are buried.

You see, America has never been an oppressor nation. Each time troops have been sent to battle, it has been to carry on the ideals of freedom and liberty. Each free breath we take, every moment we live without oppression makes that sacrifice worthwhile.

Yes, serving your country can be hard. Just ask SAM JOHNSON and Jeremiah Denton. But if it was easy, everyone would do it. It is the fact that it is hard that makes it worth doing.

Since the fall of Saigon in 1975, we have failed to locate 1,948 Americans in Vietnam, including 38 civilians.

It is our duty, as a nation, and as a Congress, to continue pursuing every available avenue, until we have located and brought home every one of our service personnel from Vietnam.

One veteran we were able to bring home after many years summed up this duty best before he disappeared in 1970.

Major Michael O'Donnell, who flew many rescue missions in his helicopter while in Vietnam, expressed it this way.

''If you are able, save for them a place inside of you and save one backward glance when you are leaving for the places they can no longer go. Be not ashamed to say you loved them, though you may or may not have always. Take what they have left and what they have taught you with their dying and keep it with your own. And in that time when men decide and feel safe to call the war insane, take one moment to embrace those gentle heroes you left behind.''

After many years, Major O'Donnell's remains were finally returned home in 1995 and positively identified in 2001.

It is my hope that some day, we can say that every one of our men and women who have served their nation has finally come home.

Madam Speaker: It is my honor to stand on this floor today and express my profound gratitude for the service of our men and women in our armed forces. Their commitment and sacrifice are the ultimate price for our security and liberty. It is my prayer that every one of them would come home to us healthy and safe. It is my commitment that if that is not possible, we will still bring them all home so they may rest among those they served in the peace they helped to forge. To me, that is the greatest memorial we can provide for these brave souls.

In closing, I just want to echo the sentiment of my colleagues in saying to every POW and MIA; you are not forgotten.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. HUNTER) that the House suspend the rules and agree to the resolution, H. Res. 62.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. HUNTER. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

RESIGNATION AS MEMBER OF COMMITTEE ON EDUCATION AND THE WORKFORCE

The SPEAKER pro tempore laid before the House the following resignation as a member of the Committee on Education and the Workforce:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, February 11, 2003.

Hon. J. DENNIS HASTERT,
Speaker of the House of Representatives, Washington, DC.

DEAR MR. SPEAKER: I respectfully request permission to resign from the House Committee on Education and the Workforce effective immediately. Thank you for your consideration of this request.

Sincerely,

MARK SOUDER,
Member of Congress.

The SPEAKER pro tempore. Without objection, the resignation is accepted.

There was no objection.

RESIGNATION AS MEMBER OF COMMITTEE ON SCIENCE

The SPEAKER pro tempore laid before the House the following resignation as a member of the Committee on Science:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, February 11, 2003.

Hon. J. DENNIS HASTERT,
Speaker of the House of Representatives, Washington, DC.

DEAR DENNY: As discussed with you and your staff, in response to your request I am happy to accept a position on the Budget Committee as its Vice-Chairman.

It is my understanding this requires me to temporarily resign, or go ''on leave,'' from the Committee on Science, but that I will be able to retain my position and seniority on that committee for the future.

I am grateful for this opportunity and appreciate the confidence you have placed in me.

Sincerely,

CHRISTOPHER SHAYS,
Member of Congress.

The SPEAKER pro tempore. Without objection, the resignation is accepted.

There was no objection.

RESIGNATION AS MEMBER OF COMMITTEE ON VETERANS' AFFAIRS

The SPEAKER pro tempore laid before the House the following resignation as a member of the Committee on Veterans' Affairs:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, February 12, 2003.

Hon. DENNIS HASTERT,
Speaker of the House of Representatives, Washington, DC.

DEAR SPEAKER HASTERT: With this letter, please accept my resignation from the House Committee on Veterans Affairs, effective immediately.

Should you have any questions, please feel free to contact me.

Sincerely,

JIM GIBBONS,
Member of Congress.

The SPEAKER pro tempore. Without objection, the resignation is accepted.

There was no objection.

APPOINTMENT OF MEMBERS TO SELECT COMMITTEE ON HOMELAND SECURITY

The SPEAKER pro tempore. Pursuant to section 4 of House Resolution 5, 108th Congress, and the order of the House of January 8, 2003, the Chair announces the Speaker's appointment of the following Members of the House to the Select Committee on Homeland Security:

Mr. COX of California, Chairman;
Ms. DUNN of Washington;
Mr. YOUNG of Florida;
Mr. YOUNG of Alaska;
Mr. SENSENBRENNER of Wisconsin;
Mr. TAUZIN of Louisiana;
Mr. DREIER of California;
Mr. HUNTER of California;
Mr. ROGERS of Kentucky;
Mr. BOEHLERT of New York;
Mr. SHAYS of Connecticut;
Mr. SMITH of Texas;
Mr. WELDON of Pennsylvania;
Mr. GOSS of Florida;
Mr. CAMP of Michigan;
Mr. LINCOLN DIAZ-BALART of Florida;
Mr. GOODLATTE of Virginia;
Mr. ISTOOK of Oklahoma;
Mr. KING of New York;
Mr. LINDER of Georgia;
Mr. SHADEGG of Arizona;
Mr. SOUDER of Indiana;
Mr. THORNBERRY of Texas;
Mr. GIBBONS of Nevada;
Ms. GRANGER of Texas;
Mr. SESSIONS of Texas;
Mr. SWEENEY of New York;
Mr. TURNER of Texas;
Mr. THOMPSON of Mississippi;
Ms. LORETTA SANCHEZ of California;
Mr. MARKEY of Massachusetts;
Mr. DICKS of Washington;
Mr. FRANK of Massachusetts;
Ms. HARMAN of California;
Mr. CARDIN of Maryland;
Ms. SLAUGHTER of New York;
Mr. DEFAZIO of Oregon;
Mrs. LOWEY of New York;
Mr. ANDREWS of New Jersey;
Ms. NORTON of the District of Columbia;
Ms. LOFGREN of California;
Ms. MCCARTHY of Missouri;
Ms. JACKSON-LEE of Texas;
Mr. PASCRELL of New Jersey;
Mrs. CHRISTENSEN of the Virgin Islands;
Mr. ETHERIDGE of North Carolina;
Mr. GONZALEZ of Texas;
Mr. LUCAS of Kentucky;
Mr. LANGEVIN of Rhode Island; and
Mr. MEEK of Florida.

□ 1600

DO-NOT-CALL IMPLEMENTATION ACT

Mr. TAUZIN. Madam Speaker, pursuant to the previous order of the House, I call up the bill (H.R. 395) to authorize the Federal Trade Commission to collect fees for the implementation and enforcement of a ''do-not-call'' registry, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The text of H.R. 395 is as follows:

H.R. 395

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Do-Not-Call Implementation Act''.

SEC. 2. TELEMARKETING SALES RULE; DO-NOT-CALL REGISTRY FEES.

The Federal Trade Commission may promulgate regulations establishing fees sufficient to implement and enforce the provisions relating to the ''do-not-call'' registry of the Telemarketing Sales Rule (16 C.F.R. 310.4(b)(1)(iii)), promulgated under the Telemarketing and Consumer Fraud and Abuse Prevention Act (15 U.S.C. 6101 et seq.). Such regulations shall be promulgated in accordance with section 553 of title 5, United States Code. Fees may be collected pursuant to this section for fiscal years 2003 through 2007, and shall be deposited and credited as offsetting collections to the account, Federal Trade Commission—Salaries and Expenses, and shall remain available until expended. No amounts shall be collected as fees pursuant to this section for such fiscal years except to the extent provided in advance in appropriations Acts. Such amounts shall be available for expenditure only to offset the costs of activities and services related to the implementation and enforcement of the Telemarketing Sales Rule, and other activities resulting from such implementation and enforcement.

SEC. 3. FEDERAL COMMUNICATIONS COMMISSION DO-NOT-CALL REGULATIONS.

Not later than 180 days after the date of enactment of this Act, the Federal Communications Commission shall issue a final rule pursuant to the rulemaking proceeding that it began on September 18, 2002, under the Telephone Consumer Protection Act (47 U.S.C. 227 et seq.). In issuing such rule, the Federal Communications Commission shall consult and coordinate with the Federal Trade Commission to maximize consistency with the rule promulgated by the Federal Trade Commission (16 C.F.R. 310.4(b)).

SEC. 4. REPORTING REQUIREMENTS.

(a) REPORT ON REGULATORY COORDINATION.—Within 45 days after the promulgation of a final rule by the Federal Communications Commission as required by section 3, the Federal Trade Commission and the Federal Communications Commission shall each transmit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report which shall include—

(1) an analysis of the telemarketing rules promulgated by both the Federal Trade Commission and the Federal Communications Commission;

(2) any inconsistencies between the rules promulgated by each such Commission and the effect of any such inconsistencies on consumers, and persons paying for access to the registry; and

(3) proposals to remedy any such inconsistencies.

(b) ANNUAL REPORT.—For each of fiscal years 2003 through 2007, the Federal Trade Commission and the Federal Communications Commission shall each transmit an annual report to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report which shall include—

(1) an analysis of the effectiveness of the ''do-not-call'' registry as a national registry;

(2) the number of consumers who have placed their telephone numbers on the registry;

(3) the number of persons paying fees for access to the registry and the amount of such fees;

(4) an analysis of the progress of coordinating the operation and enforcement of the ''do-not-call'' registry with similar registries established and maintained by the various States;

(5) an analysis of the progress of coordinating the operation and enforcement of the ''do-not-call'' registry with the enforcement activities of the Federal Communications Commission pursuant to the Telephone Consumer Protection Act (47 U.S.C. 227 et seq.); and

(6) a review of the enforcement proceedings under the Telemarketing Sales Rule (16 C.F.R. 310), in the case of the Federal Trade Commission, and under the Telephone Consumer Protection Act (47 U.S.C. 227 et seq.), in the case of the Federal Communications Commission.

The SPEAKER pro tempore (Mrs. BIGGERT). Pursuant to the order of the House of Tuesday, February 11, 2003, the gentleman from Louisiana (Mr. TAUZIN) and the gentlewoman from Illinois (Ms. SCHAKOWSKY) each will control 30 minutes.

The Chair recognizes the gentleman from Louisiana (Mr. TAUZIN).

GENERAL LEAVE

Mr. TAUZIN. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and insert extraneous material on H.R. 395.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

Mr. TAUZIN. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, whatever happened to the quiet evening at home? Most people have experienced it, that annoying ring on the phone just as dinner goes to the table. When one answers, it is not a call from a friend or family member or even from work, it is someone calling to sell something, a telemarketer.

Today we have before us of a bill that will allow hundreds of thousands of American citizens to enjoy the peace and quiet of their own home. H.R. 395, the Do-Not-Call Implementation Act, authorizes the Federal Trade Commission to establish a national do-not-call registry that will allow consumers to opt out of unwanted and harassing telemarketing calls. This landmark do-not-call list will provide consumers with one central contact to stop unwanted telemarketing calls. The new do-not-call list will be a free service to all American consumers, and those telemarketers who choose to ignore the do-not-call registry will face stiff penalties of up to $11,000 for each violation.

In order to coordinate the do-not-call programs among all of the agencies with jurisdiction over telemarketing, H.R. 395 directs the Federal Communications Commission to complete its pending do-not-call rulemaking within 180 days. The bill further directs the FCC to consult and coordinate with the Federal Trade Commission to ensure that both regulations are as similar as possible. This coordination will not only prevent consumer confusion, but it will provide the telemarketing industry with coordinated rules upon which to function.

Lastly, H.R. 395 sets out reporting requirements for both the Federal Trade Commission and the Federal Communications Commission. Without the passage of H.R. 395, the FTC will be forced to wait until the year 2004 to implement its national do-not-call list.

I am hopeful the other body will act swiftly to pass H.R. 395 so all Americans can enjoy the benefits of the national do-not-call list sooner rather than later. In fact, if anyone holds this legislation up, we are prepared to give out their home phone number to all who want to give them a call.

Today Congress is answering the call from consumers for help in combating annoying and harassing telemarketing calls. Therefore, to empower the American consumer, I ask that Members support H.R. 395, the Do-Not-Call Implementation Act.

Madam Speaker, I reserve the balance of my time.

Ms. SCHAKOWSKY. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise in support of this bipartisan legislation, and I thank the gentleman from Louisiana (Mr. TAUZIN) and, I am proud to say, my chairman as a new member of the Committee on Energy and Commerce; the gentleman from Florida (Mr. STEARNS), chairman of the subcommittee; and the ranking member, the gentleman from Michigan (Mr. DINGELL), who strongly supports this legislation, for their outstanding leadership in advancing this proconsumer bill.

As a new member of the Committee on Energy and Commerce and as ranking Democratic member of the Subcommittee on Commerce, Trade and Consumer Protection, I look forward to working with my colleagues to implement this important measure.

Madam Speaker, we all appreciate the precious time we have at home with our families after a long day of work, but who has not had that time interrupted by commercial telemarketers? We all know from personal experience how intrusive these calls can be. I hear complaints from many of my constituents who are tired of receiving telemarketing calls at home. They should be able to stop these calls, if they so choose, and the FTC's creation of a national list will make it easier for people to enjoy peace and quiet at home.

This proconsumer legislation authorizes the Federal Trade Commission to collect fees from telemarketers to create a national do-not-call registry. Consumers who do not wish to be solicited at home can put themselves on the registry. Telemarketers are required to check the database every 3 months and remove names that appear on the list from their call list.

In December, the FTC amended the Telemarketing Sales Rules to create a national do-not-call list. This legislation will help the FTC implement this important initiative. I am pleased that the FTC's proposal will protect the First Amendment rights of telemarketers. Telemarketers will be able to continue to solicit consumers who do not put themselves on the list. Telemarketers will still be allowed to call those who are on the do-not-call list when an existing business relationship exists. However, all solicitors who qualify for this exception have to honor requests from individuals if they ask not to be contacted in the future.

It is my understanding that the FTC hopes to have the list up and running within the next few months. And this legislation protects the ability of legitimate charities and not-for-profit organizations to make calls, and they are not regulated by this legislation. However, even if in those circumstances any person asks not to be called again by that organization, that request must be honored.

So, again, I support this legislation. I urge all Members to vote in favor of its passage. I also want to urge appropriators to provide full funding for this program in the omnibus appropriations bill. I hope that they will consider incorporating the text of this legislation in the conference report.

Madam Speaker, I reserve the balance of my time.

Mr. TAUZIN. Madam Speaker, I yield the balance of my time to the gentleman from Florida (Mr. STEARNS), the chairman of the Subcommittee on Commerce, Trade and Consumer Protection, and ask unanimous consent that he may control that time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

Mr. STEARNS. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, the gentleman from Louisiana (Mr. TAUZIN) has outlined the reason for this bill, and obviously I support it. It is under the jurisdiction of my subcommittee, the Subcommittee on Commerce, Trade and Consumer Protection, and it authorizes the Federal Trade Commission to collect the needed fees to maintain such a national registry. It is a very important bill, and as such, I seek all of my colleagues' support this afternoon.

I commend the chairman of the Federal Trade Commission for taking the initiative on this issue, and its hard work in promulgating the recent amendments to the Telemarketing Sales Rule. Specifically, the do-not-call amendments. As a Member that has championed consumer information privacy legislation for the past 2 years in my subcommittee, and we have had six hearings on it, I think a national do-not-call list is important. Although small, it is a step towards further enhancing consumers' privacy.

There is no question that I, along with most of my constituents, welcome any effective measure designed to protect us from unwanted telephone solicitations. A national do-not-call list goes a long way in fulfilling our want for a little peace and quiet at the family dinner table. It is important that the national do-not-call list truly be a one-stop shopping experience for the consumer.

As directed by H.R. 395, the Federal Trade Commission must work to ensure harmonization among the myriad of States and Federal telemarketing rules and do-not-call lists. That is not an easy job. As it now stands, I understand that 28 States have their own do-not-call lists, and the Federal Communications Commission may be considering another.

I strongly encourage the FTC chairman, Chairman Muris, to work very closely with the FCC on its national do-not-call registry proposed rulemaking so that if the FCC was to promulgate its own rule, it is substantially harmonized and in agreement

with the Federal Trade Commission rule.

For American consumers to enjoy one-stop shopping when seeking to protect him- or herself from unwanted telephone solicitation, there ought to be a single national registry governed by one set of Federal rules. I think we need a single national list for all interstate calls so there is only one toll-free number or one Web site address and one government agency we, as consumers, need to remember and go to for assistance. Passage of H.R. 395 is an important step in making that possible.

In closing, I reiterate my strong support for an effective national do-not-call list. I think the Federal Trade Commission's do-not-call amendments to the Telemarketing Sales Rule creating a national registry is a giant step in the right direction and, as such, deserves our support. I urge Members to support the bill.

Madam Speaker, I reserve the balance of my time.

Ms. SCHAKOWSKY. Madam Speaker, I yield 4 minutes to the gentleman from Massachusetts (Mr. MARKEY), a very eloquent member of the Committee on Energy and Commerce.

Mr. MARKEY. Madam Speaker, I congratulate the gentlewoman from Illinois (Ms. SCHAKOWSKY), the gentleman from Michigan (Mr. DINGELL), the gentleman from Florida (Mr. STEARNS), the gentleman from Louisiana (Mr. TAUZIN), and all of the members of the majority and minority for coming together to work out a very important piece of legislation.

This is a bill which I think is long overdue and is going to be very well received in every single home across our country, because the legislation authorizes the Federal Trade Commission, after its recent decision, to create a national telemarketing do-not-call database. This do-not-call database proposal is a winner for millions of consumers who are plagued by unsolicited commercial telemarketing calls at home or on their mobile phones, and it is important that we give the Federal Trade Commission the support it needs to implement this new policy as soon as possible, and that is what we are doing today here on the House floor.

The bill the House considers today permits the Federal Trade Commission to proceed on a timely basis and begin implementation of the database process this year while also ensuring that the Federal Communications Commission finally gets its regulatory task done so that no major corporate telemarketing loopholes remain.

I am pleased to be a cosponsor of this legislation. Every Member who has worked on this legislation deserves a lot of credit. After having first proposed a national do-not-call database registry in legislation that the Congress successfully enacted in 1991, I believe its implementation is action that is long overdue. Consumers across the country will finally be able to put an effective ''no soliciting'' sign on their home phone or cell phone and bring to a halt the seemingly nightly ritual of phone calls interrupting dinner or precious family time. Those telephone rings invade the tranquility of the home and the do-not-call database will help consumers restore peace.

Rather than having consumers act as veritable slaves of those rings, forced to get up and to answer insistent and incessant telemarketing calls time after time, the do-not-call database will effectively make consumers the ''Lord of the Rings.'' They can put an end to those calls. They can protect their own domain.

Consumers have waited a long time for the benefits of the same digital and telecommunications technology that has so advanced the ability of telemarketers to efficiently and cost-effectively reach consumers to also be harnessed on behalf of consumers to help them address legitimate privacy concerns.

□ 1615

I see the gentleman from Texas (Mr. BARTON) over there. There are Members on the left and right, Democrat and Republican, that want privacy in their own homes. This has no ideology. Every American believes they have that inherent right.

Finally, I want to commend Federal Trade Commission Chairman Timothy Muris for his pro-consumer action in promulgating the FTC's recent do-not-call rules, as they will give the consumers who are often plagued by unwanted, intrusive, unsolicited telemarketing a powerful new tool in which to battle such intrusions. Again my congratulations to everyone who worked on this important legislation.

Mr. STEARNS. Madam Speaker, I yield 2½ minutes to the gentleman from Texas (Mr. BARTON), the distinguished chairman of the Subcommittee on Energy and Air Quality.

(Mr. BARTON of Texas asked and was given permission to revise and extend his remarks.)

Mr. BARTON of Texas. Madam Speaker, I want to commend Subcommittee Chairman STEARNS, Ranking Member SCHAKOWSKY, the gentleman from Louisiana (Mr. TAUZIN) of the full committee, and the gentleman from Michigan (Mr. DINGELL) of the full committee for bringing this bill to the floor. I am a cosponsor. I think there are improvements that could be done to the bill, but I think it is a good step in the right direction.

I have been in the Congress for 18 years. I have been on the Committee on Energy and Commerce for the last 16 of those 18 years. I was one of the Congressmen who led the fight in committee to make sure that caller ID could be used as an option for those that wished to know who was calling them. I also helped lead the fight in committee to make sure that if somebody was trying to call you and blocked their identity, you could block their call, that block-the-blocker technology. This is another step in that protection of privacy that the gentleman from Massachusetts (Mr. MARKEY) talked about, so that when you are in the privacy of your home, if you choose to not have any unsolicited phone calls coming into your home, you can sign up for this.

I have signed up for the do-not-call list in Texas. I have lived in the same house for the last 14 years. I have subscribed to the Dallas Morning News that entire time. And until recently I continued to get solicitation calls from the Dallas Morning News asking me to subscribe to the Dallas Morning News. Maybe with the do-not-call list in Texas and the do-not-call list at the national level, I will not get that call. Unfortunately, I will still get a phone call from Majority Leader TOM DELAY. I have raised substantial sums of money for the NRCC, but I do get solicitation calls asking me to help Majority Leader DELAY continue to raise necessary funds for various good political causes. That is one of the exceptions.

So there are things that we could do to improve the bill, but it is a good step in the right direction and I hope that we pass this bill on a bipartisan basis unanimously because it is a good piece of legislation.

Again I want to commend the gentleman from Florida (Mr. STEARNS) for his excellent leadership and the gentlewoman from Illinois (Ms. SCHAKOWSKY) for her leadership on this necessary piece of legislation.

Ms. SCHAKOWSKY. Madam Speaker, I yield 2 minutes to the gentleman from Maryland (Mr. WYNN), a great consumer advocate and member of the Committee on Energy and Commerce.

Mr. WYNN. Madam Speaker, I am also delighted to join my colleagues in supporting the Do-Not-Call Implementation Act. Let me commend the gentleman from Florida (Mr. STEARNS), our subcommittee chairman, as well as our newest and quite-generous-with-her-flattery new subcommittee ranking member, the gentlewoman from Illinois (Ms. SCHAKOWSKY), for her leadership on this bill.

As we debate great global and national issues, this may not seem to be such a big deal. On the other hand, if you have worked hard all day, fought through traffic to get home to be with your wife and family to sit down to a simple dinner and you get a phone call from someone from Acme advertising something that you really do not want, this is a very big deal. It is something that Congress can and, I am pleased to say, is taking care of. We are doing something about this, the annoyance of unwanted solicitations.

I get lots of complaints about it. I think it is a great idea that we are addressing this issue. As an elected official, I am not usually home at dinnertime; I am usually here in Washington or out in the district at some event. But when I go home, when I am home

on those rare occasions and I am trying to have dinner and I get a call, I get quite annoyed. So I know how folks feel. But it is also people who work at home who are trying to conduct their own business who are interrupted. It is also seniors who are at home and are maybe anxious or nervous or sitting alone. They get these repeatedly aggravating calls which they have to struggle to get up to answer only to find someone from Acme on the line.

This is a good piece of consumer legislation. Combined with what the States have already done in 27 States and what the FCC and FTC can do, we can have a blanket of protection around consumers from the annoyance of unwanted calls. I am really pleased to see Congress acting so swiftly. I thank Chairman TAUZIN as well as Ranking Member DINGELL for their leadership. I think it is a great piece of legislation, I am proud to support it, and I look forward to its rapid implementation.

Mr. STEARNS. Madam Speaker, I yield 2½ minutes to the distinguished gentleman from Indiana (Mr. BUYER).

Mr. BUYER. Madam Speaker, in my home State of Indiana, our own no-call registry has been met with great success. While in Indiana there are over 6 million people, a little over 1.2 million phone lines in Indiana have registered to stop these unwanted telephone solicitations. I want to thank Indiana Attorney General Steve Carter for not only his leadership but also his persistence to succeed in this endeavor on behalf of consumers.

I am very pleased that the Federal Government is now responding to the concerns of consumers with legislation that will work to restrict these unwanted callers. It is my understanding that Indiana's no-call registry is more stringent than the Federal guidelines that are presently being proposed. It is also my understanding that those agencies crafting the Federal no-call guidelines, the FTC and the FCC, have no intent to preempt State law. I would urge both agencies to abide by this understanding.

Last July, I wrote a letter to FTC Chairman Muris asking that any creation of a Federal do-not-call registry would clearly express that the Federal rule would in no way preempt State law. And last month the entire Indiana delegation sent a letter to FCC Chairman Powell making the very same request. So while the creation of a national do-not-call registry delivers to the consumer the assurance that they may once again answer the phone in peace, I do hope that those States that have created their own do-not-call registries for the benefit of consumers will not be negatively affected in this rulemaking process.

Mr. STEARNS. Madam Speaker, I yield 2½ minutes to the distinguished gentleman from New Jersey (Mr. FRELINGHUYSEN).

Mr. FRELINGHUYSEN. I thank the gentleman for yielding me this time.

Madam Speaker, I rise in strong support of this bill. I would first like to commend the chairman from Louisiana and the ranking member from Michigan, as well as the gentleman from Massachusetts, for bringing this important piece of legislation to the floor. As we have heard, this bill will give the Federal Trade Commission the authority to collect fees from telemarketers, long overdue, to implement and run the national do-not-call list which was created by the amendment to the telemarketing sales rule effective December 18.

The FTC has got it right. Something has to be done to protect consumers from the many annoying calls telemarketers place at all hours of the day and night, 7 days a week. These calls are indeed an invasion of privacy, not to mention that many of these callers are unscrupulous and prey on older Americans.

The Federal Trade Commission's national do-not-call list is a one-stop shop for consumers who are fed up with annoying and often intrusive telemarketing calls. Consumers by registering their telephone number with the FTC's list will eliminate, we hope, about 80 percent of all telemarketing calls.

Madam Speaker, I would also like to thank the FTC for working closely with me to include provisions of my ''Know Your Caller'' legislation which makes it illegal for telemarketers to block their numbers on caller ID devices. Consumers pay a monthly fee to subscribe to the caller ID service because they want to protect their personal privacy and their pocketbooks; but until now they have had little recourse to protest intrusions on their privacy because most telemarketers intentionally block their identity from being transmitted to caller ID devices.

Madam Speaker, as a Member of Congress and, more importantly, as a consumer, I applaud the FTC's amendment to the telemarketing sales rule; and I applaud and thank the committee for sponsoring this bill.

Ms. SCHAKOWSKY. Madam Speaker, I yield 3 minutes to the gentleman from New Jersey (Mr. HOLT), who is not only a distinguished member of our class to the House of Representatives but the only Member of Congress who is a rocket scientist.

Mr. HOLT. Madam Speaker, I thank the gentlewoman for yielding me this time, and I concur with the remarks of my colleague from New Jersey who just spoke. I rise in support of H.R. 395, the Do-Not-Call Implementation Act; and I would like to salute Chairman TAUZIN and Ranking Member DINGELL for introducing what my colleagues will tell you, and my constituents especially will tell you, is important legislation. I cannot count the number of e-mails, phone calls, and letters I receive from constituents, many of them irate, complaining about telemarketing. The residents of my district have pleaded with me to do something so that they can have a peaceful family dinner, not interrupted by credit card solicitations or the latest condominium offerings on some tropical locale. I know what they are talking about, because frequently my dinner is interrupted by these calls, too. They have been described as nuisances, extremely annoying, and by stronger language.

We should not stop companies from developing and using innovative ways to sell their products and services, but there is little question that this kind of telemarketing is out of hand. It has become a form of harassment. Just as citizens have the right to tell door-to-door solicitors to leave their property, Americans should have the right to tell telemarketers to stop calling and to make it happen.

The Do-Not-Call Implementation Act will be widely appreciated. It does not prohibit telemarketing. It does not stop companies from using phone solicitation to sell legitimate products and services. It empowers individuals by creating a realistic and enforceable way for them to get their names off telemarketing lists.

We have had do-not-call lists on the books, legislation, for more than a decade. But when Congress first mandated such lists, the FCC chose to leave creation and maintenance up to individual businesses, making enforcement next to impossible. That is why the Do-Not-Call Implementation Act is a great step forward in creating a real nationwide do-not-call list.

Finally, Madam Speaker, people will be able to opt out of telemarketing by registering online or making a simple phone call. Telemarketers will face serious consequences for noncompliance. I think a fine of $11,000, up to that amount, for each call will get their attention. It is about time that the Federal Government protect the citizens from this unwanted harassment. After we are successful in implementing this, I hope we will turn our attention to electronic mail spam.

Mr. STEARNS. Madam Speaker, I yield 2½ minutes to the gentleman from Illinois (Mr. KIRK).

Mr. KIRK. Madam Speaker, I rise today in support of the Do-Not-Call Implementation Act. We have do-not-call lists now in 21 States, but we seem to have the calls only increasing in frequency. The fact that these calls seem to occur at the most inopportune times and, thanks to predictive dialing software, often result in an immediate disconnection only adds to the frustration of consumers.

I am very pleased that the Federal Trade Commission is amending the telemarketing sales rules to create a central do-not-call registry. As a new member of the appropriations subcommittee that funds the Federal Trade Commission, I am committing my efforts to make sure that this effort is fully funded so that we can implement this needed legislation.

I want to commend Chairman TAUZIN, Ranking Member DINGELL, and

also subcommittee Ranking Member SCHAKOWSKY for her efforts on this. I think working together in a bipartisan way, we will ensure that the Federal Trade Commission not only has the underlying legislation but also the appropriations to make sure that every person's castle can be a quiet home and that we do not have to worry about the telemarketing barbarians at the gate every single evening.

Ms. SCHAKOWSKY. Madam Speaker, I am happy to yield 2 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE), who has stood up for the rights of consumers so many times on this floor.

□ 1630

Ms. JACKSON-LEE of Texas. Madam Speaker, I want to thank the distinguished gentlewoman for yielding me this time, and I congratulate her again for her membership on the Committee on Energy and Commerce and her very rightful position dealing with consumer advocacy.

This is a legislative initiative that I wanted to applaud and speak to because I live in a community that has a substantial number of senior citizens. I have had the occasion to be engaged with these senior citizens in town hall meetings when they have held up mail or they have said, I got a call and how should I respond; or maybe unfortunately some have already responded, and that is by sending money, by buying whatever the individual was trying to sell or be frightened for not being able to secure it.

This legislation is extremely important and balanced.

Certainly we realize that telemarketing is an industry, that people work in telemarketing, that many of my constituents, likewise in hourly wages, survive by being telemarketers. We want them to continue to be able to do their work. At the same time, I think it is important that as they do their work, they also respect those who may be intimidated by the process.

I am grateful that the legislation was thoughtful, that it seeks to balance by providing the FTC with the responsibility of imposing user fees on telemarketers, for establishing and maintaining a national do-not-call list. What is wrong with consumers having a choice, being able to be on the list? So therefore I would like to add my support to this legislation.

And before I go to my seat, I wanted to also make sure that I acknowledged the legislation previously on the floor regarding the POWs and to acknowledge the 30 years after Mr. SAM JOHNSON of my State found his way home and to simply say how appreciative we are of the service of our men and women, in particular those who were willing or understood that even though they were prisoners of war, they were never forgotten.

So I thank him for his service, and I add my support to H.R. 395 and to the proceeding legislation.

Ms. SCHAKOWSKY. Madam Speaker, I look forward to all our colleagues supporting this legislation.

Madam Speaker, I yield back the balance my time.

Mr. LARSON of Connecticut. Madam Speaker, I rise today in strong support of the Do Not Call Implementation Act, H.R. 395, which will authorize the Federal Trade Commission to establish a landmark national do-not-call registry that will allow consumers to opt-out of unwanted and harassing telemarketing calls. With passage of this bill, our families will be able to wind down their long days by eating a peaceful dinner without the incessant calling that so often annoys and disrupts our time with our families.

Electronic market capabilities and strategies have become more aggressive as technology has advanced and action needs to be taken to protect the peace and privacy of people in their homes. I feel that this legislation, which is similar to a Connecticut law, goes a long way in accomplishing that. The intention of telemarketers and others are by no means sinister, but Americans must have the means to protect themselves from different kinds of intrusions, including the frequent bothersome telemarketing calls interrupting a family dinner, which this legislation would enable them to do. As different kinds of technology continue to move forward, we must be vigilant in ensuring that the personal privacy rights of our citizens are not being encroached upon.

The larger issue of privacy in our nation does not end with this legislation, obviously, but rather this bill becomes one of several tools that Congress has been able to employ to protect our citizens. There are still other avenues of privacy that must continue to be safeguarded including wireless services, financial information as well as computers and communications. This legislation is certainly an important step in this direction.

I urge my colleagues to support this legislation.

Ms. HOOLEY of Oregon. Madam Speaker, I rise today in support of privacy protections for consumers nationwide as we consider the Do-Not-Call Implementation Act. My home state of Oregon is one of a growing number of states that have recognized the growing importance of protecting consumer privacy. Oregon's legislature has parlayed its respect for individual privacy into legislation regulating telemarketing calls. Like those in more than two dozen other states, Oregon's lawmakers have seen fit to compile a list of individuals who no longer wish to receive unsolicited telemarketing calls. And, they have vested the attorney general with the power to levy harsh sanctions on those firms who call listed consumers anyway. Oregon's law is powerful and effective because it allows for the local enforcement of telemarketing rules with narrow exceptions. Only political organizations and a few not-for-profit groups are exempt from the restrictions on calls placed to listed consumers.

It is important to me that Federal legislation authorizing the creation of a national ''do not call'' registry does not unnecessarily widen the carefully carved exceptions of state laws like Oregon's. States that have developed strong protections on privacy should not see their rules watered down. I sincerely hope and expect that FTC will show deference to determinations made by states as it coordinates the national ''do not call'' registry with existing state lists. Consumers deserve the continued benefit of well-designed state laws. Though Oregon has a strong ''do not call'' system in place, I realize that many consumers live in places without state law protections. It is for these consumers that creation of a national ''do not call'' database is most vital. In Oregon, more than 125,000 people have added their names to the state managed ''do not call'' list. This is evidence of the widespread public appeal of being able to vastly reduce the number of sales calls to which one is subjected. Subsequently, I have no doubt that many Americans would consider a national ''do not call'' list a welcome weapon in fending off nightly invasions of their peace and privacy by telemarketers.

In short, a national ''do not call'' registry would extend to all Americans the benefits already realized by subscribers to similar lists in varying states. I've heard firsthand from Oregonians about the success of their ''do not call'' list. I would very much like the expanded opportunity for privacy of ''do not call'' lists to be available nationwide. In the twenty-first century, our names, addresses, phone numbers and spending habits have all become commodities for commercial trade. Our telephones often function as much as a marketing tool for salesmen as a tool for our convenience. As a rule, unwanted sales calls come at the most inopportune time, steal our time from our families and children, and reduce the quality of our lives. We should make sure that Americans have real tools for mitigating the damage that telemarketing calls can have. That is why I support a national ''do not call'' registry that respects strong state privacy protections. That's why I support the recognition of those state lists by the FTC. And that's why I support the rights of consumers to control telemarketer access to their phones.

Ms. McCARTHY of Missouri. Madam Speaker, today members of the House will approve H.R. 395, the Do-Not-Call Implementation Act. this measure is designed to return privacy to consumers, but more must be done to close loopholes and fully protect consumers from unwanted telemarketing phone calls to their home.

My main interest in the implementation of a national Do Not Call registry is to ensure that such a list improves rather than diminishes the laws already in place in 27 states, including my State of Missouri. Missouri's Do Not Call list, which was implemented on July 1, 2001, gives consumers the ability to choose whether they would like to receive unsolicited telemarketers calls. 1,133,636 phone lines have registered with the Missouri Attorney General's office as of this February to avoid unsolicited phone calls, more than half of the households in the State. These results are representative of other states that have implemented a Do Not Call list.

More than 90 percent of the reported ''violations'' of the state law are not illegal, which confuses consumers. This is due to freedom of speech which enables political, charitable, and government regulated businesses to make unsolicited phone calls. Financial services companies and phone companies are not regulated by the Missouri Attorney General, thus these entities can legally solicit anyone in Missouri by phone. These loopholes, as well as others permitting ''consultations'' but not

sales, have allowed unsolicited calling to continue, even of those consumers who have registered on the state Do Not Call list. I urge the Federal Trade commission (FTC) and Federal Communications Commission (FCC) to follow the spirit of H.R. 395 and restrict calls by regulated industries such as credit card companies and phone companies which account for a majority of the telemarketing calls. In addition, the FTC and FCC must work to transfer state Do Not Call lists to the federal list so that consumers who have signed up locally will not have to do so nationally. Even though not explicitly stated in the bill, a rule to provide this convenience will enhance the effectiveness of this effort.

FTC Chairman Timothy Muris told the Energy and Commerce Committee that the Federal Do Not Call list is to be funded by the telemarketers who must purchase an updated Federal Do Not Call list every three months, ensuring protection to consumers. The text of H.R. 395 does not explicitly state this, thus the measure leaves room for loopholes for specific telemarketers. I look forward to studying the required FTC & FCC reports to Congress ensuring that H.R. 395 successfully protects those who choose not to receive telemarketer calls. H.R. 395 should follow the original intent of state Do Not Call laws and use Federal jurisdiction to close loopholes that states cannot.

Mr. UDALL of New Mexico. Madam Speaker, I am pleased that the House is taking action today on H.R. 395, the Do-Not-Call Implementation Act, to help establish a national do-not-call registry. I strongly support this important legislation that will greatly benefit consumers by providing them with a simpler, more effective and efficient way to notify telemarketers that they do not want to receive unsolicited phone calls.

According to the FTC, consumer complaints regarding unwanted telemarketing calls increased over one thousand percent between 1998 and 2002. Although telemarketers are currently already required to maintain do-not-call lists, the FTC's decision to create a national do-not-call registry is a critical step towards further decreasing the hundreds of annoying and unwanted telemarketing calls that consumers receive each year. The do-not-call registry would allow consumers to list their phone numbers to notify all telemarketers that they no longer want to receive unsolicited calls, rather than having to contact each telemarketer individually.

Among other provisions, H.R. 395 provides a five-year authorization for the FTC to collect offsetting fees from telemarketers to pay for a National ''do-not-call'' registry, which is estimated to cost $16 million annually. It also requires important consultation and coordination between the FTC and FCC to maximize consistency of its rules. both of these provisions, and passage of this bill, are important steps toward making a national do-not-call registry a reality.

I urge my colleagues to join me in support of this important legislation.

Mr. DINGELL. Madam Speaker, H.R. 395, the ''Do-Not-Call Implementation Act,'' authorizes the Federal Trade Commission (FTC) to collect fees to fund its national do-not-call registry. Unwanted sales calls have become a nuisance that many consider an invasion of privacy. A national do-not-call registry will allow consumers to limit these unwanted intrusions and once again answer their telephones without aggravation.

Consumers, charities, telemarketing companies, local governments and other interested parties, have voiced their complaints and communicated their concerns. In the Telemarketing and Consumer Fraud and Abuse Prevention Act, passed in 1994, we gave the FTC the discretion to create a national do-not-call program. Based on that authority, the FTC has considered a wide range of complicated issues and has produced a reasoned result. I urge the appropriations in the Omnibus Appropriations Conference to include full funding of this program now. In fact, I have no objection under these circumstances to inserting H.R. 395 itself into the Conference Report.

As the FTC launches the do-not-call registry, we must monitor its progress closely. By any measure, coordinating the efforts of the Federal Trade Commission, the Federal Communications Commission and state authorities into one national system will be a challenge. The rewards, however, can be great. As these many parts work together as one, we can achieve a comprehensive program that will empower consumers without unnecessarily burdening industry.

This is an important issue to consumers across the nation that should not be delayed any further.

Mr. COSTELLO. Madam Speaker, I rise today in strong support of H.R. 395, the Do-No-Call Implementation Act of 2003. This legislation authorizes the Federal Trade Commission (FTC) to collect fees from telemarketers for the implementation and enforcement of a national do-not-call registry. This legislation also requires that the Federal Communications Commission (FCC) finalize its rules for such a list in coordination with the FTC to ensure there are no inconsistencies in the regulations.

Unfortunately, we have all experienced those annoying unsolicited phone calls as we sit down to enjoy dinner with our families. A national registry will help limit unwelcome phone calls and restore a sense of control over the telephone where it belongs, with the consumer. The FTC's decision to develop such a registry comes after nearly a year of analysis, in which more than 60,000 public comments were received, the overwhelming majority of which supported a national do-not-call list. A national list will provide consumers with a quick and efficient mechanism to remove their names from telemarketing lists. Consumers will be able to register for free online or by calling a toll-free number. This will be less burdensome than forcing consumers to make such requests on a company-by-company basis, and will work in concert with states such as Illinois that either have or are implementing such lists.

I have received numerous messages from my constituents in the 12th District of Illinois concerning their frustrations with telemarketers. A national do-not-call list will answer a long-felt consumer need for better control over telemarketing calls to the home. I urge my colleagues to support this pro-consumer legislation.

Mr. TOWNS. Madam Speaker, today, along with my colleagues, Mr. UPTON and Mrs. WILSON, as original co-sponsors, I re-introduce the ''Telecommunications Development Fund Improvement Act.''

The Telecommunications Act of 1996 included an important provision, which I co-sponsored with the former Subcommittee Chair, Mr. Fields, to expand the availability of investment capital to small businesses in the telecommunications industry working to develop new technologies to improve telecommunications services to under-served urban and rural communities. The 1996 Act created the Telecommunications Development Fund (''TDF'') and financed the Fund from interest collected on the initial deposits the FCC required of all bidders in the FCC's spectrum auctions.

Currently, in order to qualify to participate in FCC auctions of spectrum for telecommunications services, the FCC requires prospective bidders to deposit a specified dollar amount with the FCC. Under the legislation adopted in 1996, the FCC places these deposits—sometimes called ''up-front payments''—in an interest-earning account. A ''successful bidder'' is identified through the auction process. The ''deposits'' of the unsuccessful bidders that had been held by the FCC are returned to these bidders without interest. The principal amount of the successful bidder's deposit is paid to the U.S. Treasury. The interest earned on the upfront payments of all the bidders is remitted to the TDF.

Prior to the 1996 Act, tens of millions of dollars of bidders' deposits had been held in non-interest bearing accounts. By requiring that these funds be held in interest-bearing accounts, Congress provided a mechanism to finance the important goals of the TDF without any budgetary impact, without requiring any appropriations and without imposing either new taxes or fees. To date, fifty million dollars has been collected—at no cost to the taxpayer or the regulated industry—from interest earned on spectrum bidder's deposits. But more could be done to make telecommunications products and services available to under-served communities—rural and inner city—of every kind.

Once the successful bidder has been identified through the auction, a formal licensing process gets underway. At that time, the successful bidder is required to increase the amount of the deposit held by the Federal Government to 20 percent of the amount of the successful bid. The remainder of the successful bid is payable when the license is issued. Typically, a number of months pass between when the successful bidder is identified and when the license is formally issued by the FCC. The interest that could be earned on the additional deposits—sometimes called ''down payments''—during the licensing process represents a significant source of funding for the TDF.

Unfortunately, despite the language of the 1996 Act—which makes no distinction between bidders' ''up-front payments'' and successful bidders' ''down payments,'' referring to both simply as ''deposits,''—the FCC has not required increased ''down payment'' deposits of initially successful bidders to also be placed in interest bearing accounts for the benefit of the TDF. As a consequence, small telecommunications companies, and the people in under-served urban and rural areas that might have been the beneficiaries of the technology these companies are working to develop, have been deprived of access to tens of millions of dollars of additional investment capital that the TDF could have made available. This additional source of investment capital would have come from the interest that could have been earned on the additional down payment deposits during the period between the identification of the successful bidder and the issuance of the license.

The Telecommunications Development Fund Reform Act (''TDFIA'') rectifies this drafting oversight to close the loophole created by the FCC. The TDFIA renames the bidders' initial deposits as ''up-front payments'' and preserves existing law treatment of the interest earned on these payments. The TDFIA also defines the additional deposits made by successful bidders as ''down payments'' and treats these down payments the same way as existing law treats the bidders' initial deposits/up-front payments, i.e., the down payment funds will be required to be placed in an interest-bearing escrow account and, upon issuance of the license, the interest earned will be required to be remitted to the TDF.

The amendments made by the TDFIA are purely prospective in effect, applying only to future FCC spectrum auctions. The amendments would have no effect on existing down payments held by the FCC in connection with previously conducted auctions. In particular, the TDFIA would have no effect on the controversy or pending litigation related to the so-called ''NextWave'' licenses, and would not affect any bidder's entitlement to a refund of deposited funds or any bidder's claim for payment of interest on any refund.

The FCC does not oppose these provisions of the TDFIA.

Finally, the 1996 Act requires the TDF to satisfy the requirements of the Federal Credit Reform Act of 1990 (''FCRA''), 2 U.S.C. § 661 et seq., prior to making loans. Except for this reference, the FCRA applies only to loans made by Federal Government agencies.

One of the purposes of the FCRA was to ''place the cost of [Federal] credit programs on a budgetary basis equivalent to other Federal spending.'' 2 U.S.C. § 661(2). Consistent with this purpose, among the provisions of the FCRA are requirements for ''budgetary authority'' in an appropriations act to cover the cost of new Federal loans or loan guarantees, 2 U.S.C. § 661c(b), and application of budgetary accounting requirements to loans subject to the FCRA, 2 U.S.C. § 661c(d). These requirements have no logical application to the TDF's funds, which are not subject to congressional appropriations or the Federal budget process. The Office of Management and Budget, to which administration and oversight of the FCRA is entrusted, concurs with this view.

Imposing the requirements of the FCRA on loans made by the TDF has erected an insurmountable barrier to the use of loans by the TDF as a financing option, notwithstanding the intent of the 1996 Act that the TDF be authorized to make loans to credit-worthy small businesses. By making TDF subject to FCRA, TDF would be required to obtain appropriations before it could make loans to prospective borrowers. Requiring the TDF to comply with the FCRA makes no sense from a policy standpoint (TDF receives no appropriated funds) and can only be explained as a drafting error.

The TDFIA repeals this requirement to enable the TDF to enjoy the same flexibility in making loans as any other non-governmental entity. The amendment to the TDF's loan authority made by the TDFIA preserves the requirement that the TDF comply with any other ''applicable'' Federal law in making loans to eligible small businesses. The amendment to the TDF's loan authority made by the TDFIA is narrowly focused and does not affect the existing substantive criteria of the 1996 Act under which the TDF is authorized to make loans.

Madam Speaker, I hope that the Commerce Committee will schedule hearings on this important technical amendment to the 1996 Telecommunications Act and report the Bill to the full House for consideration early in this Session. I invite my colleagues to join me in passing this important legislation at a time when infusion of additional capital investment into struggling small telecommunications companies may help create jobs, stimulate new technology and expand telecommunications services to under-served urban and rural areas of the nation suffering from the current economic slowdown. This legislation can stimulate important economic activity without enactment of new taxes, appropriation of additional federal funds or any adverse effect on the federal budget deficit. I recommend it to my colleagues for their consideration and thank Mr. UPTON and Mrs. WILSON for their support of this worthy endeavor.

Mr. STEARNS. Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mrs. BIGGERT). All time having expired, pursuant to the order of the House of Tuesday, February 11, 2003, the bill is considered read for amendment and the previous question is ordered.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. STEARNS. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Ms. Wanda Evans, one of his secretaries.

AMERICAN SPIRIT FRAUD PREVENTION ACT

Mr. STEARNS. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 346) to amend the Federal Trade Commission Act to increase civil penalties for violations involving certain proscribed acts or practices that exploit popular reaction to an emergency or major disaster declared by the President, and to authorize the Federal Trade Commission to seek civil penalties for such violations in actions brought under section 3 of that Act.

The Clerk read as follows:

H.R. 346

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''American Spirit Fraud Prevention Act''.

SEC. 2. INCREASE IN PENALTIES FOR UNFAIR OR DECEPTIVE ACTS OR PRACTICES EXPLOITING REACTION TO CERTAIN EMERGENCIES AND MAJOR DISASTERS.

(a) VIOLATIONS OF PROHIBITION AGAINST UNFAIR OR DECEPTIVE ACTS OR PRACTICES.—Section 5(m)(1) of the Federal Trade Commission Act (15 U.S.C. 45(m)(1)) is amended by adding at the end the following:

''(D) In the case of a violation involving an unfair or deceptive act or practice in an emergency period or disaster period, the amount of the civil penalty under this paragraph shall be double the amount otherwise provided in this paragraph, if the act or practice exploits popular reaction to the national emergency, major disaster, or emergency that is the basis for such period.

''(E) In this paragraph—

''(i) the term 'emergency period' means the period that—

''(I) begins on the date the President declares a national emergency under the National Emergencies Act (50 U.S.C. 1601 et seq.); and

''(II) ends on the expiration of the 1-year period beginning on the date of the termination of the national emergency; and

''(ii) the term 'disaster period' means the 1-year period beginning on the date the President declares an emergency or major disaster under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).''.

(b) VIOLATIONS OF OTHER LAWS ENFORCED BY THE FEDERAL TRADE COMMISSION.—Section 13 of the Federal Trade Commission Act (15 U.S.C. 53) is amended by adding at the end the following:

''(e)(1) If a person, partnership, or corporation is found, in an action under subsection (b), to have committed a violation involving an unfair or deceptive act or practice in an emergency period or a disaster period, and if the act or practice exploits popular reaction to the national emergency, major disaster, or emergency that is the basis for such period, the court, after awarding equitable relief (if any) under any other authority of the court, shall hold the person, partnership, or corporation liable for a civil penalty of not more than $22,000 for each such violation.

''(2) In this subsection—

''(A) the term 'emergency period' means the period that—

''(i) begins on the date the President declares a national emergency under the National Emergencies Act (50 U.S.C. 1601 et seq.); and

''(ii) ends on the expiration of the 1-year period beginning on the date of the termination of the national emergency; and

''(B) the term 'disaster period' means the 1-year period beginning on the date the President declares an emergency or major disaster under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).''.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida (Mr. STEARNS) and the gentlewoman from Illinois (Ms. SCHAKOWSKY) each will control 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. STEARNS).

GENERAL LEAVE

Mr. STEARNS. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on this legislation and to insert extraneous material in the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. STEARNS. Madam Speaker, I yield myself such time as I may consume.

In the weeks since September 11, 2001, this Nation has mourned, has been angry, has been anxious, and has been very generous in response to the needs of those who were affected. This American spirit has reached record levels and now stands as symbolic as this Nation's greatness and ability to support a just cause, the relief of the victims and their families.

But we have also seen the darker side of humanity. Reports of people using this tragedy and the generous American spirit for their own gain have appeared. Scam artists and frauds know that in the aftermath, Americans are all too eager to help. They also appear in the wake of hurricanes, earthquakes, floods, and other such similar disasters.

The Department of Justice, the Federal Trade Commission, and the States' attorneys general already have some powers to prosecute those engaged in fraud and deceptive practices, but we must make it clear that we will severely punish those who aim to take advantage of America's charity or an organization's good name during such an emergency.

Congress must also make sure that consumers are not inundated with false and deceptive claims about goods and services that would exploit the circumstances of an emergency or of such a disaster. Whether it is selling Cipro and other drugs under false information or offering fraudulent terrorist insurance, these practices must carry a penalty commensurate with their nature. We cannot let stand the detestable actions of so few that mar the pride and patriotism we all share over the phenomenal generosity and outpouring of support from across the United States and world. And we cannot let the fear and anxiety of our citizens be preyed upon by scam artists peddling their cheats and their swindles.

Madam Speaker, I have no doubt that the victims of any tragedy, their families and their friends and all Americans are as humbled as I am with the response of this country to disasters. Now we need to ensure that those who would abuse this determined American spirit are equally staggered at our response.

The American Spirit Fraud Prevention Act would double the penalties that the Federal Trade Commission would levy during times of presidentially declared emergencies and disasters if the offending action aims to exploit the crisis.

These times, Madam Speaker, sadly occur more often than one might think, and the attempts to profit from them follow just as regularly. All hope of profit and gain must be removed from the equation for these people.

I personally would like to thank the gentleman from New Hampshire (Mr. BASS) for taking the initiative on this very important bill authoring H.R. 346, the American Spirit Fraud Prevention Act.

Madam Speaker, I reserve my time.

Ms. SCHAKOWSKY. Madam Speaker, I yield myself as much time as I may consume.

I rise in strong support of H.R. 346, the American Spirit Fraud Prevention Act, and I also want to commend the gentleman from New Hampshire (Mr. BASS) for his leadership on this issue, as well as my colleagues on the Committee on Energy and Commerce for ensuring this measure's swift passage through the committee.

September 11 was the worst attack and loss this country has ever experienced on our own soil. Countless lives were lost, and the Nation was confronted with a new reality, a harsh sense of our vulnerabilities. It was the single darkest day this Nation has faced. The one saving grace, the one ray of hope that helped combat the pain, suffering, and sadness of the Nation was the heroism, leadership, and commitment displayed by Americans who were determined to help.

Some helped by giving their lives, and their stories will inspire us forever. Others from across the country helped by giving. Americans made generous donations to provide aid to victims of the terrorist attacks. Over $1 billion was raised for relief efforts and aid to victims' families in the wake of September 11, from donations, large and small, made by the American public.

Unfortunately, however, some in our country demonstrated the shameful side of humanity by attempting to illegally profit from the tragedy. Those individuals tried to exploit the generosity demonstrated by so many through fraudulent solicitations in which they claimed to be representing organizations benefiting the victims or providing emergency response services. While those despicable acts are already illegal, it is important for the Congress on behalf of our constituents to send a clear message that such behavior will be subjected to even more severe penalties in the future.

Under this measure the maximum civil fines for actions of fraud and attempts to profit from national emergencies in violation of the Federal Trade Commission Act will be doubled. These increased penalties will apply to all violations that occur within 1 year of the time the President declares a disaster and all violations that occurred during and up to 1 year after the expiration of a presidential emergency declared under the National Emergencies Act.

Madam Speaker, the public is caring and committed. We care about the well-being of our neighbors, and we are committed to do what we can to ensure prosperity and security for this Nation, and we will not tolerate those who undermine and abuse the American spirit.

I urge all of my colleagues to join me in supporting this measure.

Madam Speaker, I yield the balance of my time.

Mr. STEARNS. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. STEARNS) that the House suspend the rules and pass the bill, H.R. 346.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. STEARNS. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, this 15-minute vote on H.R. 346 will be followed by 5-minute votes on the two questions previously postponed.

Votes will be taken in the following order:

H.R. 346, by the yeas and nays;

House Resolution 62, by the yeas and nays; and

H.R. 395, by the yeas and nays.

The vote was taken by electronic device, and there were—yeas 422, nays 1, not voting 11, as follows:

[Roll No. 24]

YEAS—422

Abercrombie	Calvert	Doyle
Ackerman	Camp	Dreier
Aderholt	Cannon	Duncan
Akin	Cantor	Dunn
Alexander	Capito	Edwards
Andrews	Capps	Ehlers
Baca	Capuano	Emanuel
Bachus	Cardin	Emerson
Baird	Cardoza	Engel
Baker	Carson (IN)	English
Baldwin	Carson (OK)	Eshoo
Ballance	Carter	Etheridge
Ballenger	Case	Evans
Barrett (SC)	Castle	Everett
Bartlett (MD)	Chabot	Farr
Barton (TX)	Chocola	Fattah
Bass	Clay	Feeney
Beauprez	Clyburn	Filner
Becerra	Coble	Flake
Bell	Cole	Fletcher
Bereuter	Collins	Foley
Berkley	Combest	Forbes
Berman	Conyers	Ford
Berry	Cooper	Fossella
Biggert	Costello	Frank (MA)
Bilirakis	Cox	Franks (AZ)
Bishop (GA)	Cramer	Frelinghuysen
Bishop (NY)	Crane	Frost
Bishop (UT)	Crenshaw	Gallegly
Blackburn	Crowley	Garrett (NJ)
Blumenauer	Culberson	Gerlach
Blunt	Cummings	Gibbons
Boehlert	Cunningham	Gilchrest
Boehner	Davis (AL)	Gillmor
Bonilla	Davis (CA)	Gingrey
Bonner	Davis (FL)	Gonzalez
Bono	Davis (IL)	Goode
Boozman	Davis (TN)	Goodlatte
Boswell	Davis, Jo Ann	Gordon
Boucher	Davis, Tom	Goss
Boyd	Deal (GA)	Granger
Bradley (NH)	DeFazio	Graves
Brady (PA)	DeGette	Green (TX)
Brady (TX)	Delahunt	Green (WI)
Brown (OH)	DeLauro	Greenwood
Brown (SC)	DeLay	Grijalva
Brown, Corrine	DeMint	Gutierrez
Brown-Waite, Ginny	Deutsch	Gutknecht
Burgess	Diaz-Balart, L.	Hall
Burns	Diaz-Balart, M.	Harman
Burr	Dicks	Harris
Burton (IN)	Doggett	Hart
Buyer	Dooley (CA)	Hastings (FL)
	Doolittle	Hastings (WA)

Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Janklow
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sanchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velazquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NAYS—1

Paul

NOT VOTING—11

Allen
Cubin
Dingell
Ferguson
Gephardt
Kilpatrick
Lowey
Simpson
Smith (MI)
Taylor (NC)
Tiberi

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mrs. BIGGERT) (during the vote). Members are reminded that there are less than 2 minutes remaining on the clock.

□ 1701

Mr. FLAKE changed his vote from ''nay'' to ''yea.''

So (two-thirds having voted in favor thereof), the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

□ 1704

RECOGNIZING THE COURAGE AND SACRIFICE OF UNITED STATES ARMED FORCES HELD AS PRISONERS OF WAR DURING THE VIETNAM CONFLICT AND CALLING FOR A FULL ACCOUNTING OF THOSE WHO REMAIN UNACCOUNTED FOR

The SPEAKER pro tempore (Mrs. BIGGERT). The pending business is the question of suspending the rules and agreeing to the resolution, H. Res. 62.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. HUNTER) that the House suspend the rules and agree to the resolution, H. Res. 62, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 424, nays 0, not voting 10, as follows:

[Roll No. 25]

YEAS—424

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Andrews
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clay
Clyburn
Coble
Cole
Collins
Combest
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Filner
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Janklow
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sanchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velazquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner

Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—10

Allen
Baca
Cubin
Dingell
Ferguson
Gephardt
Kilpatrick
Simpson
Smith (MI)
Tiberi

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are reminded there is less than 2 minutes remaining on the clock.

□ 1710

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. BACA. Mr. Speaker, on rollcall No. 25, I was detained in the Chamber when the time elapsed on the vote. Had I not been detained and as a veteran, I would have voted "yea."

DO-NOT-CALL IMPLEMENTATION ACT

The SPEAKER pro tempore. The pending business is the question on the passage of the bill, H.R. 395, on which the yeas and nays were ordered.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the passage of the bill.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 418, nays 7, not voting 9, as follows:

[Roll No. 26]

YEAS—418

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clay
Clyburn
Coble
Cole
Collins
Combest
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Filner
Fletcher
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Janklow
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (WI)
Ryun (KS)
Sabo
Sanchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Stupak
Sullivan
Sweeney
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velazquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NAYS—7

Bishop (UT)
Flake
Paul
Ryan (OH)
Strickland
Tancredo
Terry

NOT VOTING—9

Allen
Cubin
Dingell
Ferguson
Gephardt
Kilpatrick
Larson (CT)
Simpson
Tiberi

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mrs. BIGGERT) (during the vote). Members are reminded that 2 minutes are remaining on the vote clock.

□ 1717

Mr. TANCREDO changed his vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. LARSON of Connecticut. Mr. Speaker, on rollcall No. 26, on final passage of H.R. 395, had I been present, I would have voted "yea."

PERSONAL EXPLANATION

Ms. KILPATRICK. Mr. Speaker, unfortunately, personal business required me to return to the district this evening before the House considered votes on legislative business for which the "yeas and neas" were ordered. Had I been present, I would have cast my votes as follows: Rollcall No. 24 (H.R. 346), The American Spirit Fraud Prevention Act, "yea"; rollcall No. 25 (H. Res. 62), A resolution recognizing Vietnam prisoners of war, "yea"; and on rollcall No. 26, H.R. 395, The Do-Not-Call Implementation Act, "yea."

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 4, PERSONAL RESPONSIBILITY, WORK, AND FAMILY PROMOTION ACT OF 2003

Mr. DREIER, from the Committee on Rules, submitted a privileged report (Rept. No. 108–9) on the resolution (H. Res. 69) providing for consideration of the bill (H.R. 4) to reauthorize and improve the program of block grants to States for temporary assistance for needy families, improve access to quality child care, and for other purposes, which was referred to the House Calendar and ordered to be printed.

ELECTION OF MEMBER TO COMMITTEE ON EDUCATION AND THE WORKFORCE

Mr. DOOLITTLE. Madam Speaker, I offer a resolution (H. Res. 70) and ask unanimous consent for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 70

Resolved, That the following Member be and is hereby elected to the following standing committee of the House of Representatives: Education and the Workforce: Mr. Burns.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will entertain 1-minute requests.

CONFIRM MIGUEL ESTRADA AS FEDERAL JURIST

(Mr. DRIER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER. Madam Speaker, I have taken this time during 1-minutes to simply rise in strong support of some very important work that is taking place, and that is the prospect of confirming Miguel Estrada.

I do not personally know this man, but I wanted to say, Madam Speaker, that I have read about his record and I have talked to many people who know him very well; and I happen to believe that he would be a superb jurist. And having spoken with people of both political parties, I have heard very good things about him. And I would simply like for the record to make it clear that I believe that he would be a phenomenally good jurist, and I hope very much that will take place.

APPOINT MIGUEL ESTRADA AS FEDERAL JUDGE

(Mr. DOOLITTLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOOLITTLE. Madam Speaker, I too join my colleague from California (Mr. DREIER). I do not know personally Mr. Estrada, but I understand he is considered to be quite outstanding by all those who have known him. It is remarkable. It is also my understanding that at the age of 17 he came from Honduras and had very limited English abilities, and then he ended up going to a university and graduating from Harvard Law School magna cum laude and served as an editor of the Harvard Law Review. He was, I understand, an official in the Clinton administration, actually in the Solicitor General's office and has support from former Clinton administration people and has support from, I believe, the past six or seven Solicitors General of the United States. Truly a premiere candidate to serve in this important U.S. Court of Appeals for the D.C. circuit.

I just wanted to register my support for this individual, someone who is very outstanding, a great American, the first Hispanic to be appointed to the court of appeals. It would be outstanding, Madam Speaker, and I appreciate the opportunity to voice my support for him today.

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. PEARCE). Under the Speaker's announced policy of January 7, 2003, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

SUPPORTING MIGUEL ESTRADA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arizona (Mr. FRANKS) is recognized for 5 minutes.

Mr. FRANKS of Arizona. Mr. Speaker, Thomas Jefferson said, ''The great object of my fear is the Federal Judiciary. That body, step by step, holding what it gains, is engulfing insidiously the special governments into the jaws of that which feeds them.''

And today, Mr. Speaker, the object of my fear is an unrestrained judiciary, a judiciary too quick to abandon the ideals of our forefathers and the tenets of our Constitution, a judiciary swelling with unchecked authority.

The heart of a republic rests on its judiciary, Mr. Speaker, and the confirmation of Miguel Estrada is vital to this Republic. He is a brilliant attorney who has repeatedly upheld and has been upheld repeatedly and will continue to be upheld. He also upholds the virtues of this Nation's sacred Constitution.

Arriving from Honduras at age 18, speaking no English, this man has become the personification of the American dream. And I urge the President to stand strong in his support of Miguel Estrada and to stand strong in his support of making sure that we maintain a judiciary in this country that reads the law for what it is.

For if our judiciary continues on the path that it is, Mr. Speaker, I think perhaps the rest of us can go home. I just call upon the President to be encouraged and to recognize that there are Americans that are very grateful to him for the courage that he shows and for the clarity that he shows in his appointments.

Mr. Speaker, I hope that this appointment and this confirmation can go forward unfettered.

□ 1730

EXPLORING SPACE MORE EFFICIENTLY

The SPEAKER pro tempore (Mr. PEARCE). Under a previous order of the House, the gentlewoman from Texas (Ms. JACKSON-LEE) is recognized for 5 minutes.

Ms. JACKSON-LEE of Texas. Mr. Speaker, now, some more than 7 days after the fateful return of the Columbia seven, those of us from Texas and around the Nation are quick to understand the headline in a local newspaper that says, Astronauts, the hero next door. For those of us in Texas, these were, in fact, our neighbors, our friends, certainly those who many worshiped with. But today, now more than ever, we recognize that these individuals were willing to give the ultimate sacrifice, and that was their lives, for the betterment of humanity.

Unfortunately, what tragedy causes us to do is to reflect, to understand that what we often take for granted is, in fact, precious and unique. It is unique to send man, woman, humanity into space. It is unique what the United States has been able to do now for almost 40 years.

I want to applaud the NASA employees' commitment that they have as a unified group. I know that they are hurting because of this tragedy.

I have always said over the last 7 days that it is important for us to heal and to be able to acknowledge the pain that the families are feeling, but today was appropriate for the first congressional hearing to be held; and I thank the Members of the other body and the chairman of the House Committee on Science and the ranking member for convening us today to begin the process of reality.

The words that I often say are that we find fault without blame, that we are not afraid to acknowledge mistakes and that we make it better. For example, it is important to note that there is now some interest in an orbital plane, a very good vehicle, but we must be reminded that what the space shuttle meant was not just a transportation vehicle, but it was a floating laboratory where scientists, medical professionals and others were able to engage in science and research that helped to create better lives for all of us, research in diabetes, research in HIV/AIDS, heart disease, cancer, stroke, research in prostate cancer and breast cancer.

So we cannot fail to understand the mission and out of fear or expeditiousness move to another vehicle because we are concerned about this tragedy. Be concerned and get the facts.

We understand that the shuttle cost $450 million. The fatality rate is about 1 in 57. On the other hand, we realize that there are better ways of enhancing the safety. One of them, of course, is finding the facts and being able to provide the resources for putting the United States at the cutting edge of science. I cannot imagine that because of where we are that we will not listen to the families who issued the statement, ''The human space flight must continue.'' That should be the legacy.

Yet we must not fall away from the fact that in 1994 a commissioned NASA study by Stanford and Carnegie-Mellon said that 15 percent of tiles could cause 85 percent of failure, or of the observations of a NASA engineer in 1997 that said debris striking the tile would cause damage. Let us not run away from facts or the mistakes.

I believe that we have seen a considerable imbalance of funding. I am gratified by the increase that we see coming in the 2004 fiscal year proposal, and I hope the Congress will recognize

that in addition to the moneys we need and have received, or will receive, for the investigation, let us put NASA and the space program and human space flight on the track it needs to be.

Let us not forget the dream that we would go to Mars, we would go to the moon, but most importantly, what we would do would enhance humanity with the research and understanding of these bright and outstanding men and women who are willing to give us the ultimate sacrifice.

Can we as Americans and the United States Congress do any less for them? Yes, these are ordinary people who have been chosen to do extraordinary things. These are the astronauts, the heroes next door. We cannot falter, we cannot stop or stumble. We must pay tribute to their legacy by exploring space more efficiently, more safely and with the resources we need to have.

HONORING BISHOP BORGESS HIGH SCHOOL AND ACADEMY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. MCCOTTER) is recognized for 5 minutes.

Mr. MCCOTTER. Mr. Speaker, as our Nation's space program has touched the lives of all Americans with both triumph and tragedy, I rise today to honor the special bond of courage and discovery between our seven *Columbia* astronauts and Mr. Ronald Ferenczi's science class at Bishop Borgess High School, which is located in my district.

In conjunction with NASA's initiatives to foster a love of scientific knowledge and exploration amongst America's youth, Mr. Ronald Ferenczi's science class created a space experiment to study the effects of solar radiation on the T–4 virus, antibiotics and related drugs and materials. Then, to their delight and awe, the students' ingenious experiment was then chosen for inclusion on *Columbia*'s mission of discovery, and brimming with curiosity and pride, the students eagerly watched and awaited *Columbia*'s return, until . . .

Mr. Speaker, our Nation's space program, buoyed by courage and dedicated to discovery, echoes the journey of life, for cradled within our frail vessels, our lives constitute courageous voyages of discovery about our world and about ourselves; and as with every worthy journey of discovery, the road ahead is often hard and as often filled with triumph as it is with tragedy.

Consequently, how we cope and continue along our path of self-discovery is now and will always be our greatest trial and our greatest triumph because the courageous endurance of unfathomable suffering on the path to self-discovery is now and will always be the greatest moral measure of humanity.

In conclusion, then, to Mr. Ferenczi and his students at Bishop Borgess Academy whose names are Jason Bowens, Tangie Brooks, Evan Collins, Christopher Hill, Lawrence Nelson, Melvin Packer, Ashleigh Roberts, Darryl Earthen, Arielle Williams, Kelsey Dean, Martez Mitchell and Pauline Smith, I offer my sincerest accolades on their accomplishment.

My deepest condolences on their suffering, and I join them in thanking *Columbia*'s fallen crew, not only for what they have taught us about space, but for what they have taught us about ourselves. May we honor their memory by continuing their voyage of discovery.

MAKING AMERICAN PEOPLE SAFER IN THEIR HOMES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. DEFAZIO) is recognized for 5 minutes.

Mr. DEFAZIO. Mr. Speaker, Americans are nervous. The United States is on Orange Alert. The reports are that stores have sold out of duct tape, plastic sheeting, bottled water, minimal supplies for people to defend themselves against the unthinkable, chemical or biological attack, and to make themselves safe in their homes. Americans do not feel safe in their homes or here in the United States of America.

We are told by intelligence sources and the FBI that there are hundreds of al Qaeda operatives at large in the United States of America who they are either tracking or cannot find. Yesterday Osama bin Laden, their fanatical leader, gave a speech urging them to attack, suicide attacks against the United States of America.

Osama bin Laden. My colleagues remember him. Remember, the President wanted, dead or alive; we will get him; we will bring him to justice. The President is not allowed to mention his name anymore. It has been more than 10 months since the President has mentioned the name Osama bin Laden because his administration has failed miserably in finding and bringing him to justice. In all probability, he has been given safe haven by the intelligence services in Pakistan, and he, according to our intelligence services and his operatives, according to our FBI and others, presents the greatest threat to the security of Americans and the most immediate threat to the security of Americans.

There are other threats that are out there that are making people nervous. We have here a poster from a rally in Pyongyang a week ago Saturday. Now, Kim Jong-il, psychopathic leader and oppressor of the people of North Korea, he has thrown out the U.N. inspectors, thrown them out, and he is actively pursuing more, not a, more nuclear weapons. He already has them. He is actively building more missiles of longer range.

We were told today by Mr. Tenet he may have already achieved a missile that can reach the western United States and target my home State in addition to Alaska and Hawaii.

He has threatened preemptive strikes against the United States of America or, minimally, against our 36,000 troops who are trying to safeguard the people of South Korea from this fanatic. This is a poster from a rally a week ago Saturday, and it says here, Merciless Punishment to the American Empire, and it depicts the United States Capitol being blown up by a North Korean soldier.

But this is a back-burner issue with the Bush administration. It pales in the face of the real threat to America. Osama bin Laden? No. Saddam Hussein, who is in a box, without nuclear weapons, without the capability of delivering whatever chemical-biological weapons he might have had hidden and he is shuffling around his country, trying to keep them away from the inspectors who are on the ground in Iraq, unlike the inspectors who were thrown out of North Korea.

But the Bush administration says, Do not worry, we will get around to this someday, sometime, maybe later, through diplomacy. This could be settled through diplomacy, a maniac who has nuclear weapons and is encouraging rallies, showing the United States Capitol being blown up, someone who has the capability of actually doing that; we can solve that diplomatically, but somehow we cannot work through the U.N. and the inspectors in Iraq.

We have got Saddam Hussein in a box. Get more inspectors in there. Get the overflights going. Keep him in that box, work with our allies. Keep him in that box. Sooner or later, the inspectors will find and destroy his weapons just as they did in the 1990s. Yeah, he is playing games. Yeah, he is hiding stuff. He did that then. We found it. We destroyed it. We can do that again.

Is the United States so diminished in the eyes of this administration and others that we cannot contain a threat like Saddam Hussein and deal with extraordinary threats like this up front, and find and apprehend and bring to justice Osama bin Laden and his operatives? I think not.

I think the American people have real doubts about this rush to war and real doubts about the priorities that this administration is putting on the threats to our Nation and our country.

I hope the administration begins to deal more seriously with this problem and gets out there and finds Osama bin Laden, and I will support those efforts, and then continue to contain and defang Saddam Hussein. That would make the American people safer in their homes.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Nebraska (Mr. TERRY) is recognized for 5 minutes.

(Mr. TERRY addressed the House. His remarks will appear hereafter in the Extentions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Indiana (Ms. CARSON) is recognized for 5 minutes.

(Ms. CARSON of Indiana addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

TRIBUTE TO FOUR BRAVE MEN OF U.S. ARMY'S 160TH SPECIAL OPERATIONS AVIATION REGIMENT

(Mr. COOPER asked and was given permission to address the House for 1 minute.)

Mr. COOPER. Mr. Speaker, I rise today to pay tribute to four remarkable men, four brave men from the U.S. Army's 106th Special Operations Aviation Regiment who gave their lives recently while in service to our country.

On Thursday, January 30, 2003, the four-member crew was participating in training operations near Bagram Air Base in Afghanistan when their MH–60 Blackhawk helicopter crashed. The elite Night Stalker 160 SOAR unit, which is stationed at Fort Campbell near my home district in Tennessee, honored these four aviators at a memorial service last week. Chief Warrant Officer 3 Mark O'Steen, Chief Warrant Officer 2 Thomas Gibbons, Staff Sergeant Daniel Leon Kisling, Jr., and Sergeant Gregory Michael Frampton were remembered as deeply patriotic and devoted family men.

Their tragic loss will not be forgotten among family members, friends or fellow soldiers that they left behind, nor will it fade from the memories of those who live and work in Fort Campbell. Each of these men made the greatest sacrifice a soldier can make, to give his life for the cause of preserving our freedom.

I thank them for serving our country proudly and honorably.

□ 1745

LEGISLATION ESTABLISHING DELTA BLACK BELT REGIONAL AUTHORITY

The SPEAKER pro tempore (Mr. PEARCE). Under a previous order of the House, the gentleman from Alabama (Mr. DAVIS) is recognized for 5 minutes.

Mr. DAVIS of Alabama. Mr. Speaker, I rise tonight on behalf of the 635,000 citizens in my congressional district, which is one of the three poorest congressional districts in the United States of America. As we focus on this budget and all the pressing economic needs in our country, we ought to remember that there is a class of Americans whose needs often go unaddressed in this body and elsewhere. It is the millions of Americans who live in the Black Belt of the South, or the Delta Region of the South.

Just yesterday, I introduced legislation that I hope will crystallize attention on this problem that has gone for too long without a voice. We have a Delta Regional Authority in this country that is very ably led by Pete Johnson of the State of Mississippi. I seek to expand that authority to create a Delta Black Belt Regional Authority, and I seek that this body make a commitment that would be unprecedented in terms of its investment of resources in the southern and central parts of this country.

This legislation, if enacted, would ask that $100 million be appropriated in the first fiscal year to 552 counties and 14 States in this country of ours. I recognize that I come before this Congress asking that this commitment be made at a time when the priorities of the President are very different. Across the South we see economic development programs being cut. We see the enterprise communities and the empowerment zones that have been so critical in my State and so critical in the States of so many of my colleagues zeroed out, eliminated from funding. We see funding for rural hospitals cut back. Our priorities, I would submit, are firmly and fundamentally wrong on all these issues.

Too many people are losing their jobs. Too many companies are closing in the South. And I would submit that at this point we have two Souths. We have one that is prosperous, we have one that is growing, one that is in touch with the modern economy that we have. We have another one that is languishing; we have another one that has lagged behind. It is the second South that I represent in the seventh district of Alabama.

We need to make a commitment that when 40 percent of the people in various counties live in poverty, we need to make a commitment that when too many children in the South live in school districts that are underfunded, that we put their concerns at the top of our agenda. We can talk all we want about economic development, but until we find ways to grow the physical infrastructure of the South and, more importantly, capitalize and build the human infrastructure of the South, we will see two Souths. We will see the South that I represent lag behind.

When the President talks about compassionate conservatism, he does it with great eloquence. But his budgetmakers need to meet his speech-makers. We need to make a commitment that we will put resources and that we will give these resources a chance to work in a part of our country that has gone ignored.

This legislation, and I have circulated ''Dear Colleague'' letters to many of the Members of the House, has a chance of passage if we remember two priorities: First of all, that this entire country is anchored and weighted down if the rural South continues to lag; and second of all, that no country can be strong when too many of the people who live in its borders are weak. No country can be strong when too many of the people who live in its borders are weak. There is too much weakness in the South tonight. There is too much poverty in the South tonight. And it is time that we make an unprecedented national commitment in this area.

This legislation would do one final thing. It would give local communities, through a constituent representation board that I would put in this legislation, it would give them an opportunity to control 20 percent of the funding that would be allocated to this new authority. It is important that the people who live on the ground, who do the work in our community and faith-based organizations have a chance to control and direct resources. It is important that they have an opportunity to control the way Federal funds are spent. Too many people are locked out of this process. Too many people are in situations where their voices go unheard as we think about how we spend economic development dollars.

So I speak tonight on behalf of the rural South. I speak on behalf of the millions of children who live in poverty in that region, and I call for a national commitment beyond any that we have made.

IN SUPPORT OF MIGUEL ESTRADA'S CONFIRMATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. PENCE) is recognized for 5 minutes.

Mr. PENCE. Mr. Speaker, the history of our Nation was forged in the balmy summer of 1787 in what was at the time the statehouse of Pennsylvania in Philadelphia. There the geniuses who created the Constitution of the United States created three separate branches of government and a system of checks and balances within that government that would provide for the common defense, promote the general welfare, and ensure the blessings of liberty for not only themselves but we, their posterity.

Central to that balance of power, Mr. Speaker, was the notion of an independent judiciary, which, at the level of the Federal Court, would be governed by the appointment of the President of the United States. But again it was not without checks and balances, Mr. Speaker, because the Senate itself, under the Constitution, was given the authority to review the qualifications of individuals that the chief executive would appoint for the judiciary.

And so our Nation proceeded from the basement home of the Supreme Court, which is still in this building today, back when it met just off the House Chamber for one day a year, to the august building and the awesome legacy of the U.S. Supreme Court today. And yet, Mr. Speaker, somewhere along the way, about the time of my youth, our Supreme Court seems, as it has done at different times in its history, the Dred Scott case comes to mind, the Supreme Court seems to

have gotten out of step with the American people, banning innocuous voluntary prayer in the schools in the 1960s; and, as a pro-life American, striking down the laws against abortions in all 50 States in 1973.

Many, and me included, Mr. Speaker, believe that we have a judiciary that has begun to move left when America stayed as a center-right Nation in its philosophies. But we counted on the checks and balances, Mr. Speaker. We counted on the ability, through elections, to correct that imbalance for these lifetime-appointed jurists. When 1980 came along, a center-right majority elected Ronald Reagan President of the United States, and that President nominated to the Court individuals who reflected that philosophy, that center-right majority philosophy in America.

And that is when we all heard of Judge Bork. Because that was at a time, it seems to me, Mr. Speaker, and we are seeing it lived out again at the other end of this building this very night, when the Senate of the United States as an institution departed from its historic role of evaluating the qualifications of appointees to the Court to evaluating their thoughts, evaluating their ideology. Before, throughout American history, the ideology or the views of appointees to the Court were decided in elections. The President's values would no doubt be reflected in his appointees to all parts of the government. But beginning in the 1980s, with Judge Bork's defeat as a Supreme Court nominee, we saw a different impact on the process, an activist Senate joining with an activist Court.

This plays out again today in the nomination of an extraordinary man, Miguel Estrada, President Bush's nominee to the U.S. Court of Appeals for the District of Columbia, without a doubt the second most powerful court in the United States of America. This young man, an immigrant born and raised in Honduras, law degree, magna cum laude from Harvard Law, is an American success story, no less than my own immigrant grandfather was, who came to these shores, worked hard, and lived the American Dream. Miguel Estrada is an extraordinary example of the American Dream.

I rise today, Mr. Speaker, to, however impolite, simply urge his confirmation in the Senate and his expeditious review by our colleagues.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair must remind Members that their remarks in debate may not include characterizations of the Senate or its actions or urge a course of action on the Senate.

TRIBUTE TO THE REVEREND DR. HENRY DELANEY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. BURNS) is recognized for 5 minutes.

Mr. BURNS. Mr. Speaker, I rise today to pay tribute to a great American. The Reverend Dr. Henry Delaney is an African American pastor in Savannah, Georgia. While I have not known the Reverend Delaney for long, what I have seen of him and his ministry has been mightily impressive. But I ask that you not just take my word for it. Many other national leaders in our country have recognized Reverend Delaney, including Senator LAMAR ALEXANDER from the State of Tennessee. Mr. ALEXANDER recognized Mr. Delaney in a chapter of his book entitled ''We Know What to Do.''

I would like to read a short excerpt from that chapter this evening. I have taken a few editorial liberties for the sake of clarity for this tribute.

Of Reverend Delaney Mr. ALEXANDER wrote: ''If you roll back the Federal Government, then who is going to do what needs to be done? Henry Delaney, that's who. He already has. He has reminded us how to confront the drug plague and shut down crack houses. He did it with faith and commerce and mostly private funding. He has achieved dramatic results without millions in Federal aid and without trampling anyone's rights.

''Henry moved to one of the poorest sections of Savannah, Georgia, in 1989. It is fair to say that a lesser person would have been daunted by what Reverend Delaney found in Savannah. He moved into a house on 32nd Street that had been boarded up and occupied by crack addicts. He inherited a ramshackle church whose property was about to be foreclosed on by the Department of Housing and Urban Development. His congregation consisted of 216 members, many of whom were afraid to attend church because of the drug dealers who overran the area.

''Reverend Delaney quickly went to work to improve the situation. He sought loans so he could start buying up the houses where the drug dealers lived. He bought five of them on one side of the street and eight in the next block. He kicked out the drug dealers and he started moving in pastors.

''His wife Ethel helped him repair the church and Members of the congregation pitched in to renovate the houses. With every house they overhauled, they expanded their drug-free zone. The church activities expanded and membership leaped to 3,000 members. Delaney now has 16 ministers of the gospel, all of whom live within two blocks of his church.

''His converts includes some of the very drug dealers that he evicted. One was shot 16 times when he was caught in a crossfire from a drug deal gone bad at a car wash. He had a miraculous recovery and now he never misses a Sunday morning service. They say that no one in the congregation sings ''Amazing Grace'' with more feeling.

''Reverend Delaney is educating inner-city kids in Savannah who otherwise would not be in school, who would drop out and be rejected or be expelled. Ethel Delaney, meanwhile, opened the Saint Paul's Community Cultural Center, or what she calls a Christian charm school for girls. Since they don't accept Federal money, both schools instill a heavy dose of discipline and religion.

''Henry also runs a homeless shelter for young men who are recovering drug addicts and recent parolees from prison, helping them find jobs and keeping them clean from drugs. What is different is the evangelistic fervor Reverend Delaney brings to this task. Many of these fellas have gone through the 28-day detox programs, but within 4 or 5 days, they are back at it. So every week, Monday, Wednesday and Friday, he keeps them busy with evening worship. On Tuesday, they have Bible study. On Sunday they attend church regularly. So far it has worked very well.

''He calls his shelter the Hallelujah House. This is how you have to conduct a war against drugs, using a series of trenches. It starts in the family. If you fail there, you have to take them off the streets, and you have to reassemble them at the workplace.

''Of all the uphill battles he and his wife wage, Henry is most perplexed by the Nation's failure to focus consistently on the drug issue. His is a voice from the inner city of Savannah that we should be listening to. In the 1970s, when national voices suggested that marijuana was cool and drugs were okay, kids used drugs. In the early 1980s, when national leadership and some of the media said it wasn't okay, drug use began to decrease.

□ 1800

Simply put, it is virtually impossible for people like Henry and Ethel Delaney to succeed if the streets of Savannah are awash with cocaine and crack. Keeping drugs out of the country is a matter of Federal law enforcement and foreign policy.

Of course, those local efforts depend on men like Henry Delaney. We need to learn from Henry Delaney and use his example to inspire others to achieve the same success in their communities.

So while there is no shortage of experts on national drug policy, it is probably time we started paying attention to the real experts like Reverend Delaney. He now has 60 preachers affiliated with his church, not all of them ordained, but his goal is to keep buying up the crack houses, moving in his ministers, and pushing out the drug dealers a block at a time until they are on the other side of the county line.

Mr. Speaker, we need more Henry Delaneys in this world.

The SPEAKER pro tempore (Mr. PEARCE). Under a previous order of the

House, the gentleman from Nebraska (Mr. OSBORNE) is recognized for 5 minutes.

(Mr. OSBORNE addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

VETERANS ISSUES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. STRICKLAND) is recognized for 5 minutes.

Mr. STRICKLAND. Mr. Speaker, I rise this evening to talk about the shocking and shabby treatment that this administration is directing toward our Nation's veterans. I would like to share some of the reasons I would make such a statement.

Approximately a year ago this administration decided they were going to raise the copay on prescription drugs that veterans would have to pay from $2 to $7 a prescription. So if a veteran goes to a VA hospital today, they are likely to see this poster up on the bulletin board, ''Did you know the medication copayment has changed from $2 to $7?''

I thought that was outrageous, and I introduced legislation in the last Congress to reduce that copayment back to $2, but in the President's most recent budget, he does not just want to charge veterans $7 a prescription, he wants to increase that to $15 per prescription. Think about that. In less than 2 years, the copayment will have gone from $2 to $7 to $15 a prescription.

Many of the veterans in Ohio get 10 or more prescriptions a month. If we multiply $15 times 10, that is $150 a month, and then veterans frequently get 3 months supply at a time. That is $150 times 3, for many veterans who are living on fixed income. It is shameful. It is shabby treatment.

Now, what else have they tried to do to veterans? Well, about a year ago they put out a memo from the VA headquarters saying that all of the health care providers were forbidden from marketing services that veterans are entitled to receive. In other words, the health care providers can no longer participate in community health fairs. They can no longer send out newsletters describing their services to veterans. They can no longer go to an American Legion post, for example, and sign up veterans for health care services. It is a gag order.

I call it the ''if they do not ask, we will not tell'' policy. If the veteran does not ask what they are entitled to receive, the VA will not tell them what they are entitled to receive. Furthermore, they will prohibit their health care providers from simply giving out that information.

Then, a few weeks ago, the VA decided to have a new category of veterans; priority 8, they called them. They said if you are a veteran and you are honorably discharged and you have served this country, but you make $26,000–$27,000 a year, you can no longer enroll in the VA health care system. Sorry, veteran, you paid the price, you have served the country, you have been honorably discharged, but we do not want to have anything to do with you because you make too much money. You make $26,000–$27,000 a year.

It gets worse. In the President's most recent budget, they are proposing that veterans who make as little as $24,000 a year, and they are referring to them as high-income veterans, would be required to pay a $250 annual enrollment fee just to participate in the VA health care system.

Here is what they are doing. They are saying, we are not going to tell veterans what you are entitled to receive, but if you happen to find out about our services, we are going to increase your copay from $2 to $15 a prescription. And then if you make $24,000 a year, which does not sound like a lot of money to me, not compared to those of us who make about $150,000 a year, but if you make $24,000 a year, we want to force you to pay a $250-per-year enrollment fee. And we want to increase the cost of going to a VA outpatient clinic from $15 to $20.

I think Members get the point. It is as if this administration has declared war on our Nation's veterans.

It is a shameful situation, and I urge this Congress to look at this veterans budget and to reevaluate what we are trying to do; and what we are suggesting needs to be done.

PUBLICATION OF THE RULES OF THE COMMITTEE ON TRANSPORTATION INFRASTRUCTURE 108TH CONGRESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Alaska (Mr. YOUNG) is recognized for 5 minutes.

Mr. YOUNG of Alaska. Mr. Speaker, in accordance with clause 2(a) of Rule XI of the Rules of the House, I am submitting for printing in the RECORD a copy of the Rules of the Committee on Transportation and Infrastructure for the 108th Congress, adopted on February 12, 2003.

Rules of the Committee on Transportation and Infrastructure

United States House of Representatives

108th Congress

(Adopted February 12, 2003)

RULE I. GENERAL PROVISIONS.

(a) APPLICABILITY OF HOUSE RULES.—

(1) IN GENERAL.—The Rules of the House are the rules of the Committee and its subcommittees so far as applicable, except that a motion to recess from day to day, and a motion to dispense with the first reading (in full) of a bill or resolution, if printed copies are available, are non-debatable privileged motions in the Committee and its subcommittees.

(2) SUBCOMMITTEES.—Each subcommittee is part of the Committee, and is subject to the authority and direction of the Committee and its rules so far as applicable.

(3) INCORPORATION OF HOUSE RULE ON COMMITTEE PROCEDURE.—Rule XI of the Rules of the House, which pertains entirely to Committee procedure, is incorporated and made a part of the rules of the Committee to the extent applicable.

(b) PUBLICATION OF RULES.—The Committee's rules shall be published in the Congressional Record not later than 30 days after the Committee is elected in each odd-numbered year.

(c) VICE CHAIRMAN.—The Chairman shall appoint a vice chairman of the Committee and of each subcommittee. If the Chairman of the Committee or subcommittee is not present at any meeting of the Committee or subcommittee, as the case may be, the vice chairman shall preside. If the vice chairman is not present, the ranking member of the majority party on the Committee or subcommittee who is present shall preside at that meeting.

RULE II. REGULAR, ADDITIONAL, AND SPECIAL MEETINGS.

(a) REGULAR MEETINGS.—

(1) IN GENERAL.—Regular meetings of the Committee shall be held on the first Wednesday of every month to transact its business unless such day is a holiday, or the House is in recess or is adjourned, in which case the Chairman shall determine the regular meeting day of the Committee for that month.

(2) NOTICE.—The Chairman shall give each member of the Committee, as far in advance of the day of the regular meeting as the circumstances make practicable, a written notice of such meeting and the matters to be considered at such meeting.

(3) CANCELLATION OR DEFERRAL.—If the Chairman believes that the Committee will not be considering any bill or resolution before the full Committee and that there is no other business to be transacted at a regular meeting, the meeting may be canceled or it may be deferred until such time as, in the judgment of the Chairman, there may be matters which require the Committee's consideration.

(4) APPLICABILITY.—This paragraph shall not apply to meetings of any subcommittee.

(b) ADDITIONAL MEETINGS.—The Chairman may call and convene, as he or she considers necessary, additional meetings of the Committee for the consideration of any bill or resolution pending before the Committee or for the conduct of other committee business. The Committee shall meet for such purpose pursuant to the call of the Chairman.

(c) SPECIAL MEETINGS.—If at least three members of the Committee desire that a special meeting of the Committee be called by the Chairman, those members may file in the offices of the Committee their written request to the Chairman for that special meeting. Such request shall specify the measure or matter to be considered. Immediately upon the filing of the request, the clerk of the Committee shall notify the Chairman of the filing of the request. If, within 3 calendar days after the filing of the request, the Chairman does not call the requested special meeting to be held within 7 calendar days after the filing of the request, a majority of the members of the Committee may file in the offices of the Committee their written notice that a special meeting of the Committee will be held, specifying the date and hour thereof, and the measure or matter to be considered at that special meeting. The Committee shall meet on that date and hour. Immediately upon the filing of the notice, the clerk of the Committee shall notify all members of the Committee that such meeting will be held and inform them of its date and hour and the measure or matter to be considered; and only the measure or matter specified in that notice may be considered at that special meeting.

(d) PROHIBITION ON SITTING DURING JOINT SESSION.—The Committee may not sit during a joint session of the House and Senate or during a recess when a joint meeting of the House and Senate is in progress.

RULE III. MEETINGS AND HEARINGS GENERALLY.

(a) OPEN MEETINGS.—Each meeting for the transaction of business, including the markup of legislation, and each hearing of the Committee or a subcommittee shall be open to the public, except as provided by clause 2(g) of Rule XI of the Rules of the House.

(b) MEETINGS TO BEGIN PROMPTLY.—Each meeting or hearing of the Committee shall begin promptly at the time so stipulated in the public announcement of the meeting or hearing.

(c) ADDRESSING THE COMMITTEE.—A Committee member may address the Committee or a subcommittee on any bill, motion, or other matter under consideration—

(1) only when recognized by the Chairman for that purpose; and

(2) only for 5 minutes until such time as each member of the Committee or subcommittee who so desires has had an opportunity to address the Committee or subcommittee.

A member shall be limited in his or her remarks to the subject matter under consideration. The Chairman shall enforce this subparagraph.

(d) PARTICIPATION OF MEMBERS IN SUBCOMMITTEE MEETINGS AND HEARINGS.—All members of the Committee who are not members of a particular Subcommittee may, by unanimous consent of the members of such Subcommittee, participate in any subcommittee meeting or hearing. However, a member who is not a member of the Subcommittee may not vote on any matter before the Subcommittee, be counted for purposes of establishing a quorum, or raise points of order.

(e) BROADCASTING.—Whenever a meeting for the transaction of business, including the markup of legislation, or a hearing is open to the public, that meeting or hearing shall be open to coverage by television, radio, and still photography in accordance with clause 4 of Rule XI of the Rules of the House. Operation and use of any Committee internet broadcast system shall be fair and nonpartisan and in accordance with clause 4(b) of Rule XI of the Rules of the House and all other applicable rules of the Committee and the House.

(f) ACCESS TO THE DAIS AND LOUNGES.—Access to the hearing rooms' daises and to the lounges adjacent to the Committee hearing rooms shall be limited to Members of Congress and employees of Congress during a meeting or hearing of the Committee unless specifically permitted by the Chairman or ranking minority member.

(g) USE OF CELLULAR TELEPHONES.—The use of cellular telephones in the Committee hearing room is prohibited during a meeting or hearing of the Committee.

RULE IV. POWER TO SIT AND ACT; POWER TO CONDUCT INVESTIGATIONS; OATHS; SUBPOENA POWER.

(a) AUTHORITY TO SIT AND ACT.—For the purpose of carrying out any of its functions and duties under Rules X and XI of the Rules of the House, the Committee and each of its subcommittees, is authorized (subject to paragraph (d)(1))—

(1) to sit and act at such times and places within the United States whether the House is in session, has recessed, or has adjourned and to hold such hearings; and

(2) to require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandums, papers, and documents, as it deems necessary.

(b) AUTHORITY TO CONDUCT INVESTIGATIONS.—

(1) IN GENERAL.—The Committee is authorized at any time to conduct such investigations and studies as it may consider necessary or appropriate in the exercise of its responsibilities under Rule X of the Rules of the House and (subject to the adoption of expense resolutions as required by Rule X, clause 6 of the Rules of the House) to incur expenses (including travel expenses) in connection therewith.

(2) MAJOR INVESTIGATIONS BY SUBCOMMITTEES.—A subcommittee may not begin a major investigation without approval of a majority of such subcommittee.

(c) OATHS.—The Chairman of the Committee, or any member designated by the Chairman, may administer oaths to any witness.

(d) ISSUANCE OF SUBPOENAS.—

(1) IN GENERAL.—A subpoena may be issued by the Committee or subcommittee under paragraph (a)(2) in the conduct of any investigation or activity or series of investigations or activities, only when authorized by a majority of the members voting, a majority being present. Such authorized subpoenas shall be signed by the Chairman of the Committee or by any member designated by the Committee. If a specific request for a subpoena has not been previously rejected by either the Committee or subcommittee, the Chairman of the Committee, after consultation with the ranking minority member of the Committee, may authorize and issue a subpoena under paragraph (a)(2) in the conduct of any investigation or activity or series of investigations or activities, and such subpoena shall for all purposes be deemed a subpoena issued by the Committee. As soon as practicable after a subpoena is issued under this rule, the Chairman shall notify all members of the Committee of such action.

(2) ENFORCEMENT.—Compliance with any subpoena issued by the Committee or subcommittee under paragraph (a)(2) may be enforced only as authorized or directed by the House.

(e) EXPENSES OF SUBPOENAED WITNESSES.—Each witness who has been subpoenaed, upon the completion of his or her testimony before the Committee or any subcommittee, may report to the offices of the Committee, and there sign appropriate vouchers for travel allowances and attendance fees. If hearings are held in cities other than Washington, D.C., the witness may contact the counsel of the Committee, or his or her representative, before leaving the hearing room.

RULE V. QUORUMS AND RECORD VOTES; POSTPONEMENT OF VOTES

(a) WORKING QUORUM.—One-third of the members of the Committee or a subcommittee shall constitute a quorum for taking any action other than the closing of a meeting pursuant to clauses 2(g) and 2(k)(5) of Rule XI of the Rules of the House, the authorizing of a subpoena pursuant to paragraph (d) of Committee Rule IV, the reporting of a measure or recommendation pursuant to paragraph (b)(1) of Committee Rule VII, and the actions described in paragraphs (b), (c) and (d) of this rule.

(b) QUORUM FOR REPORTING.—A majority of the members of the Committee or a subcommittee shall constitute a quorum for the reporting of a measure or recommendation.

(c) APPROVAL OF CERTAIN MATTERS.—A majority of the members of the Committee or a subcommittee shall constitute a quorum for approval of a resolution concerning any of the following actions:

(1) A prospectus for construction, alteration, purchase or acquisition of a public building or the lease of space as required by section 3307 of title 40, United States Code.

(2) Survey investigation of a proposed project for navigation, flood control, and other purposes by the Corps of Engineers (section 4 of the Rivers and Harbors Act of March 4, 1913, 33 U.S.C. 542).

(3) Construction of a water resources development project by the Corps of Engineers with an estimated Federal cost not exceeding $15,000,000 (section 201 of the Flood Control Act of 1965).

(4) Deletion of water quality storage in a Federal reservoir project where the benefits attributable to water quality are 15 percent or more but not greater than 25 percent of the total project benefits (section 65 of the Water Resources Development Act of 1974).

(5) Authorization of a Natural Resources Conservation Service watershed project involving any single structure of more than 4,000 acre feet of total capacity (section 2 of P.L. 566, 83rd Congress).

(d) QUORUM FOR TAKING TESTIMONY.—Two members of the Committee or subcommittee shall constitute a quorum for the purpose of taking testimony and receiving evidence.

(e) RECORD VOTES.—A record vote may be demanded by one-fifth of the members present.

(f) POSTPONEMENT OF VOTES.—

(1) IN GENERAL.—In accordance with clause 2(h)(4) of Rule XI of the Rules of the House, the Chairman of the Committee or a subcommittee, after consultation with the ranking minority member of the Committee or subcommittee, may—

(A) postpone further proceedings when a record vote is ordered on the question of approving a measure or matter or on adopting an amendment; and

(B) resume proceedings on a postponed question at any time after reasonable notice.

(2) RESUMPTION OF PROCEEDINGS.—When proceedings resume on a postponed question, notwithstanding any intervening order for the previous question, an underlying proposition shall remain subject to further debate or amendment to the same extent as when the question was postponed.

RULE VI. HEARING PROCEDURES.

(a) ANNOUNCEMENT OF HEARING.—The Chairman, in the case of a hearing to be conducted by the Committee, and the appropriate subcommittee chairman, in the case of a hearing to be conducted by a subcommittee, shall make public announcement of the date, place, and subject matter of such hearing at least one week before the hearing. If the Chairman or the appropriate subcommittee chairman, as the case may be, with the concurrence of the ranking minority member of the Committee or subcommittee as appropriate, determines there is good cause to begin the hearing sooner, or if the Committee or subcommittee so determines by majority vote, a quorum being present for the transaction of business, the Chairman shall make the announcement at the earliest possible date. The clerk of the Committee shall promptly notify the Daily Digest Clerk of the Congressional Record as soon as possible after such public announcement is made.

(b) WRITTEN STATEMENT; ORAL TESTIMONY.—So far as practicable, each witness who is to appear before the Committee or a subcommittee shall file with the clerk of the Committee or subcommittee, at least 2 working days before the day of his or her appearance, a written statement of proposed testimony and shall limit his or her oral presentation to a summary of the written statement.

(c) MINORITY WITNESSES.—When any hearing is conducted by the Committee or any subcommittee upon any measure or matter, the minority party members on the Committee or subcommittee shall be entitled, upon request to the Chairman by a majority of those minority members before the completion of such hearing, to call witnesses selected by the minority to testify with respect to that measure or matter during at least one day of hearing thereon.

(d) SUMMARY OF SUBJECT MATTER.—Upon announcement of a hearing, to the extent

practicable, the Committee shall make available immediately to all members of the Committee a concise summary of the subject matter (including legislative reports and other material) under consideration. In addition, upon announcement of a hearing and subsequently as they are received, the Chairman shall make available to the members of the Committee any official reports from departments and agencies on such matter.

(e) QUESTIONING OF WITNESSES.—The questioning of witnesses in Committee and subcommittee hearings shall be initiated by the Chairman, followed by the ranking minority member and all other members alternating between the majority and minority parties. In recognizing members to question witnesses in this fashion, the Chairman shall take into consideration the ratio of the majority to minority members present and shall establish the order of recognition for questioning in such a manner as not to disadvantage the members of the majority nor the members of the minority. The Chairman may accomplish this by recognizing two majority members for each minority member recognized.

(f) PROCEDURES FOR QUESTIONS.—

(1) IN GENERAL.—A Committee member may question a witness at a hearing—

(A) only when recognized by the Chairman for that purpose; and

(B) subject to subparagraphs (2) and (3), only for 5 minutes until such time as each member of the Committee or subcommittee who so desires has had an opportunity to question the witness.

A member shall be limited in his or her remarks to the subject matter under consideration. The Chairman shall enforce this paragraph.

(2) EXTENDED QUESTIONING OF WITNESSES BY MEMBERS.—The Chairman of the Committee or a subcommittee, with the concurrence of the ranking minority member, or the Committee or subcommittee by motion, may permit a specified number of its members to question a witness for longer than 5 minutes. The time for extended questioning of a witness under this subdivision shall be equal for the majority party and minority party and may not exceed one hour in the aggregate.

(3) EXTENDED QUESTIONING OF WITNESSES BY STAFF.—The Chairman of the Committee or a subcommittee, with the concurrence of the ranking minority member, or the Committee or subcommittee by motion, may permit committee staff for its majority and minority party members to question a witness for equal specified periods. The time for extended questioning of a witness under this subdivision shall be equal for the majority party and minority party and may not exceed one hour in the aggregate.

(4) RIGHT TO QUESTION WITNESSES FOLLOWING EXTENDED QUESTIONING.—Nothing in subparagraph (2) or (3) affects the right of a Member (other than a Member designated under subparagraph (2)) to question a witness for 5 minutes in accordance with subparagraph (1)(B) after the questioning permitted under subparagraph (2) or (3).

(g) ADDITIONAL HEARING PROCEDURES.—Clause 2(k) of Rule XI of the Rules of the House (relating to additional rules for hearings) applies to hearings of the Committee and its subcommittees.

RULE VII. PROCEDURES FOR REPORTING BILLS, RESOLUTIONS, AND REPORTS.

(a) FILING OF REPORTS.—

(1) IN GENERAL.—The Chairman of the Committee shall report promptly to the House any measure or matter approved by the Committee and take necessary steps to bring the measure or matter to a vote.

(2) REQUESTS FOR REPORTING.—The report of the Committee on a measure or matter which has been approved by the Committee shall be filed within 7 calendar days (exclusive of days on which the House is not in session) after the day on which there has been filed with the clerk of the Committee a written request, signed by a majority of the members of the Committee, for the reporting of that measure or matter. Upon the filing of any such request, the clerk of the Committee shall transmit immediately to the Chairman of the Committee notice of the filing of that request.

(b) QUORUM; RECORD VOTES.—

(1) QUORUM.—No measure, matter, or recommendation shall be reported from the Committee unless a majority of the Committee was actually present.

(2) RECORD VOTES.—With respect to each record vote on a motion to report any measure or matter of a public character, and on any amendment offered to the measure or matter, the total number of votes cast for and against, and the names of those members voting for and against, shall be included in the Committee report on the measure or matter.

(c) REQUIRED MATTERS.—The report of the Committee on a measure or matter which has been approved by the Committee shall include the items required to be included by clauses 2(c) and 3 of Rule XIII of the Rules of the House.

(d) ADDITIONAL VIEWS.—If, at the time of approval of any measure or matter by the Committee, any member of the Committee gives notice of intention to file supplemental, minority, or additional views, that member shall be entitled to not less than two additional calendar days after the day of such notice (excluding Saturdays, Sundays, and legal holidays) in which to file such views in accordance with clause 2(1) of Rule XI of the Rules of the House.

(e) ACTIVITIES REPORT.—

(1) IN GENERAL.—The Committee shall submit to the House, not later than January 2 of each odd-numbered year, a report on the activities of the Committee under Rules X and XI of the Rules of the House during the Congress ending on January 3 of such year.

(2) CONTENTS.—Such report shall include separate sections summarizing the legislative and oversight activities of the Committee during that Congress.

(3) OVERSIGHT SECTION.—The oversight section of such report shall include a summary of the oversight plans submitted by the Committee pursuant to clause 2(d) of Rule X of the Rules of the House, a summary of the actions taken and recommendations made with respect to each such plan, and a summary of any additional oversight activities undertaken by the Committee, and any recommendations made or actions taken thereon.

(f) OTHER COMMITTEE MATERIALS.—

(1) IN GENERAL.—All Committee and subcommittee prints, reports, documents, or other materials, not otherwise provided for under this rule, that purport to express publicly the views of the Committee or any of its subcommittees or members of the Committee or its subcommittees shall be approved by the Committee or the subcommittee prior to printing and distribution and any member shall be given an opportunity to have views included as part of such material prior to printing, release, and distribution in accordance with paragraph (d) of this rule.

(2) DOCUMENTS CONTAINING VIEWS OTHER THAN MEMBER VIEWS.—A Committee or subcommittee document containing views other than those of members of the Committee or subcommittee shall not be published without approval of the Committee or subcommittee.

(3) DISCLAIMER.—All Committee or subcommittee reports printed pursuant to legislative study or investigation and not approved by a majority vote of the Committee or subcommittee, as appropriate, shall contain the following disclaimer on the cover of such report: ''This report has not been officially adopted by the Committee on (or pertinent subcommittee thereof) and may not therefore necessarily reflect the views of its members.''.

RULE VIII. ESTABLISHMENT OF SUBCOMMITTEES; SIZE AND PARTY RATIOS.

(a) ESTABLISHMENT.—There shall be 6 standing subcommittees. These subcommittees, with the following sizes (including delegates) and majority/minority ratios, are:

(1) Subcommittee on Aviation (48 Members: 26 Majority and 22 Minority).

(2) Subcommittee on Coast Guard and Maritime Transportation (15 Members: 8 Majority and 7 Minority).

(3) Subcommittee on Economic Development, Public Buildings, and Emergency Management (11 Members: 6 Majority and 5 Minority).

(4) Subcommittee on Highways, Transit, and Pipelines (57 Members: 31 Majority and 26 Minority).

(5) Subcommittee on Railroads (28 Members: 15 Majority and 13 Minority).

(6) Subcommittee on Water Resources and Environment (36 Members: 20 Majority and 16 Minority).

(b) EX OFFICIO MEMBERS.—The Chairman and ranking minority member of the Committee shall serve as ex officio voting members on each subcommittee.

(c) RATIOS.—On each subcommittee there shall be a ratio of majority party members to minority party members which shall be no less favorable to the majority party than the ratio for the full Committee. In calculating the ratio of majority party members to minority party members, there shall be included the ex officio members of the subcommittees.

RULE IX. POWERS AND DUTIES OF SUBCOMMITTEES.

(a) AUTHORITY TO SIT.—Each subcommittee is authorized to meet, hold hearings, receive evidence, and report to the full Committee on all matters referred to it or under its jurisdiction. Subcommittee chairmen shall set dates for hearings and meetings of their respective subcommittees after consultation with the Chairman and other subcommittee chairmen with a view toward avoiding simultaneous scheduling of full Committee and subcommittee meetings or hearings whenever possible.

(b) CONSIDERATION BY COMMITTEE.—Each bill, resolution, or other matter favorably reported by a subcommittee shall automatically be placed upon the agenda of the Committee. Any such matter reported by a subcommittee shall not be considered by the Committee unless it has been delivered to the offices of all members of the Committee at least 48 hours before the meeting, unless the Chairman determines that the matter is of such urgency that it should be given early consideration. Where practicable, such matters shall be accompanied by a comparison with present law and a section-by-section analysis.

RULE X. REFERRAL OF LEGISLATION TO SUBCOMMITTEES.

(a) GENERAL REQUIREMENT.—Except where the Chairman of the Committee determines, in consultation with the majority members of the Committee, that consideration is to be by the full Committee, each bill, resolution, investigation, or other matter which relates to a subject listed under the jurisdiction of any subcommittee established in Committee Rule VIII referred to or initiated by the full Committee shall be referred by the Chairman to all subcommittees of appropriate jurisdiction within two weeks. All bills shall

be referred to the subcommittee of proper jurisdiction without regard to whether the author is or is not a member of the subcommittee.

(b) RECALL FROM SUBCOMMITTEE.—A bill, resolution, or other matter referred to a subcommittee in accordance with this rule may be recalled therefrom at any time by a vote of a majority of the members of the Committee voting, a quorum being present, for the Committee's direct consideration or for reference to another subcommittee.

(c) MULTIPLE REFERRALS.—In carrying out this rule with respect to any matter, the Chairman may refer the matter simultaneously to two or more subcommittees for concurrent consideration or for consideration in sequence (subject to appropriate time limitations in the case of any subcommittee after the first), or divide the matter into two or more parts (reflecting different subjects and jurisdictions) and refer each such part to a different subcommittee, or make such other provisions as he or she considers appropriate.

RULE XI. RECOMMENDATION OF CONFEREES.

The Chairman of the Committee shall recommend to the Speaker as conferees the names of those members (1) of the majority party selected by the Chairman, and (2) of the minority party selected by the ranking minority member of the Committee. Recommendations of conferees to the Speaker shall provide a ratio of majority party members to minority party members which shall be no less favorable to the majority party than the ratio for the Committee.

RULE XII. OVERSIGHT.

(a) PURPOSE.—The Committee shall carry out oversight responsibilities as provided in this rule in order to assist the House in—

(1) its analysis, appraisal, and evaluation of—

(A) the application, administration, execution, and effectiveness of the laws enacted by the Congress; or

(B) conditions and circumstances which may indicate the necessity or desirability of enacting new or additional legislation; and

(2) its formulation, consideration, and enactment of such modifications or changes in those laws, and of such additional legislation, as may be necessary or appropriate.

(b) OVERSIGHT PLAN.—Not later than February 15 of the first session of each Congress, the Committee shall adopt its oversight plans for that Congress in accordance with clause 2(d)(1) of Rule X of the Rules of the House.

(c) REVIEW OF LAWS AND PROGRAMS.—The Committee and the appropriate subcommittees shall cooperatively review and study, on a continuing basis, the application, administration, execution, and effectiveness of those laws, or parts of laws, the subject matter of which is within the jurisdiction of the Committee, and the organization and operation of the Federal agencies and entities having responsibilities in or for the administration and execution thereof, in order to determine whether such laws and the programs thereunder are being implemented and carried out in accordance with the intent of the Congress and whether such programs should be continued, curtailed, or eliminated. In addition, the Committee and the appropriate subcommittees shall cooperatively review and study any conditions or circumstances which may indicate the necessity or desirability of enacting new or additional legislation within the jurisdiction of the Committee (whether or not any bill or resolution has been introduced with respect thereto), and shall on a continuing basis undertake future research and forecasting on matters within the jurisdiction of the Committee.

(d) REVIEW OF TAX POLICIES.—The Committee and the appropriate subcommittees shall cooperatively review and study on a continuing basis the impact or probable impact of tax policies affecting subjects within the jurisdiction of the Committee.

RULE XIII. REVIEW OF CONTINUING PROGRAMS; BUDGET ACT PROVISIONS.

(a) ENSURING ANNUAL APPROPRIATIONS.—The Committee shall, in its consideration of all bills and joint resolutions of a public character within its jurisdiction, ensure that appropriations for continuing programs and activities of the Federal Government and the District of Columbia government will be made annually to the maximum extent feasible and consistent with the nature, requirements, and objectives of the programs and activities involved.

(b) REVIEW OF MULTI-YEAR APPROPRIATIONS.—The Committee shall review, from time to time, each continuing program within its jurisdiction for which appropriations are not made annually in order to ascertain whether such program could be modified so that appropriations therefore would be made annually.

(c) VIEWS AND ESTIMATES.—The Committee shall, on or before February 25 of each year, submit to the Committee on the Budget—

(1) its views and estimates with respect to all matters to be set forth in the concurrent resolution on the budget for the ensuing fiscal year which are within its jurisdiction or functions; and

(2) an estimate of the total amount of new budget authority, and budget outlays resulting therefrom, to be provided or authorized in all bills and resolutions within its jurisdiction which it intends to be effective during that fiscal year.

(d) BUDGET ALLOCATIONS.—As soon as practicable after a concurrent resolution on the budget for any fiscal year is agreed to, the Committee (after consulting with the appropriate committee or committees of the Senate) shall subdivide any allocations made to it in the joint explanatory statement accompanying the conference report on such resolution, and promptly report such subdivisions to the House, in the manner provided by section 302 of the Congressional Budget Act of 1974.

(e) RECONCILIATION.—Whenever the Committee is directed in a concurrent resolution on the budget to determine and recommend changes in laws, bills, or resolutions under the reconciliation process, it shall promptly make such determination and recommendations, and report a reconciliation bill or resolution (or both) to the House or submit such recommendations to the Committee on the Budget, in accordance with the Congressional Budget Act of 1974.

RULE XIV. RECORDS.

(a) KEEPING OF RECORDS.—The Committee shall keep a complete record of all Committee action which shall include—

(1) in the case of any meeting or hearing transcripts, a substantially verbatim account of remarks actually made during the proceedings, subject only to technical, grammatical, and typographical corrections authorized by the person making the remarks involved; and

(2) a record of the votes on any question on which a record vote is demanded.

(b) PUBLIC INSPECTION.—The result of each such record vote shall be made available by the Committee for inspection by the public at reasonable times in the offices of the Committee. Information so available for public inspection shall include a description of the amendment, motion, order, or other proposition and the name of each member voting for and each member voting against such amendment, motion, order, or proposition, and the names of those members present but not voting.

(c) PROPERTY OF THE HOUSE.—All Committee hearings, records, data, charts, and files shall be kept separate and distinct from the congressional office records of the member serving as Chairman of the Committee; and such records shall be the property of the House and all members of the House shall have access thereto.

(d) AVAILABILITY OF ARCHIVED RECORDS.—The records of the Committee at the National Archives and Records Administration shall be made available for public use in accordance with Rule VII of the Rules of the House. The Chairman shall notify the ranking minority member of the Committee of any decision, pursuant to clause 3(b)(3) or clause 4(b) of such rule, to withhold a record otherwise available, and the matter shall be presented to the Committee for a determination on written request of any member of the Committee.

(e) AUTHORITY TO PRINT.—The Committee is authorized to have printed and bound testimony and other data presented at hearings held by the Committee. All costs of stenographic services and transcripts in connection with any meeting or hearing of the Committee shall be paid as provided in clause 1(c) of Rule XI of the House.

RULE XV. COMMITTEE BUDGETS.

(a) BIENNIAL BUDGET.—The Chairman, in consultation with the chairman of each subcommittee, the majority members of the Committee, and the minority members of the Committee, shall, for each Congress, prepare a consolidated Committee budget. Such budget shall include necessary amounts for staff personnel, necessary travel, investigation, and other expenses of the Committee.

(b) ADDITIONAL EXPENSES.—Authorization for the payment of additional or unforeseen Committee expenses may be procured by one or more additional expense resolutions processed in the same manner as set out herein.

(c) TRAVEL REQUESTS.—The Chairman or any chairman of a subcommittee may initiate necessary travel requests as provided in Committee Rule XVII within the limits of the consolidated budget as approved by the House and the Chairman may execute necessary vouchers thereof.

(d) MONTHLY REPORTS.—Once monthly, the Chairman shall submit to the Committee on House Administration, in writing, a full and detailed accounting of all expenditures made during the period since the last such accounting from the amount budgeted to the Committee. Such report shall show the amount and purpose of such expenditure and the budget to which such expenditure is attributed. A copy of such monthly report shall be available in the Committee office for review by members of the Committee.

RULE XVI. COMMITTEE STAFF.

(a) APPOINTMENT BY CHAIRMAN.—The Chairman shall appoint and determine the remuneration of, and may remove, the employees of the Committee not assigned to the minority. The staff of the Committee not assigned to the minority shall be under the general supervision and direction of the Chairman, who shall establish and assign the duties and responsibilities of such staff members and delegate such authority as he or she determines appropriate.

(b) APPOINTMENT BY RANKING MINORITY MEMBER.—The ranking minority member of the Committee shall appoint and determine the remuneration of, and may remove, the staff assigned to the minority within the budget approved for such purposes. The staff assigned to the minority shall be under the general supervision and direction of the ranking minority member of the Committee who may delegate such authority as he or she determines appropriate.

(c) INTENTION REGARDING STAFF.—It is intended that the skills and experience of all

members of the Committee staff shall be available to all members of the Committee.

RULE XVII. TRAVEL OF MEMBERS AND STAFF.

(a) APPROVAL.—Consistent with the primary expense resolution and such additional expense resolutions as may have been approved, the provisions of this rule shall govern travel of Committee members and staff. Travel to be reimbursed from funds set aside for the Committee for any member or any staff member shall be paid only upon the prior authorization of the Chairman. Travel shall be authorized by the Chairman for any member and any staff member in connection with the attendance of hearings conducted by the Committee or any subcommittee and meetings, conferences, and investigations which involve activities or subject matter under the general jurisdiction of the Committee. Before such authorization is given there shall be submitted to the Chairman in writing the following:

(1) The purpose of the travel.

(2) The dates during which the travel is to be made and the date or dates of the event for which the travel is being made.

(3) The location of the event for which the travel is to be made.

(4) The names of members and staff seeking authorization.

(b) SUBCOMMITTEE TRAVEL.—In the case of travel of members and staff of a subcommittee to hearings, meetings, conferences, and investigations involving activities or subject matter under the legislative assignment of such subcommittee, prior authorization must be obtained from the subcommittee chairman and the Chairman. Such prior authorization shall be given by the Chairman only upon the representation by the chairman of such subcommittee in writing setting forth those items enumerated in subparagraphs (1), (2), (3), and (4) of paragraph (a) and that there has been a compliance where applicable with Committee Rule VI.

(c) TRAVEL OUTSIDE THE UNITED STATES.—

(1) IN GENERAL.—In the case of travel outside the United States of members and staff of the Committee or of a subcommittee for the purpose of conducting hearings, investigations, studies, or attending meetings and conferences involving activities or subject matter under the legislative assignment of the Committee or pertinent subcommittee, prior authorization must be obtained from the Chairman, or, in the case of a subcommittee from the subcommittee chairman and the Chairman. Before such authorization is given there shall be submitted to the Chairman, in writing, a request for such authorization. Each request, which shall be filed in a manner that allows for a reasonable period of time for review before such travel is scheduled to begin, shall include the following:

(A) The purpose of the travel.

(B) The dates during which the travel will occur.

(C) The names of the countries to be visited and the length of time to be spent in each.

(D) An agenda of anticipated activities for each country for which travel is authorized together with a description of the purpose to be served and the areas of Committee jurisdiction involved.

(E) The names of members and staff for whom authorization is sought.

(2) INITIATION OF REQUESTS.—Requests for travel outside the United States may be initiated by the Chairman or the chairman of a subcommittee (except that individuals may submit a request to the Chairman for the purpose of attending a conference or meeting) and shall be limited to members and permanent employees of the Committee.

(3) REPORTS BY STAFF MEMBERS.—At the conclusion of any hearing, investigation, study, meeting, or conference for which travel has been authorized pursuant to this rule, each staff member involved in such travel shall submit a written report to the Chairman covering the activities and other pertinent observations or information gained as a result of such travel.

(d) APPLICABILITY OF LAWS, RULES, POLICIES.—Members and staff of the Committee performing authorized travel on official business shall be governed by applicable laws, resolutions, or regulations of the House and of the Committee on House Administration pertaining to such travel, and by the travel policy of the Committee.

RECOGNIZING SHERIFF O'BRIEN'S 30 YEARS OF SERVICE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Oregon (Ms. HOOLEY) is recognized for 5 minutes.

Ms. HOOLEY of Oregon. Mr. Speaker, I stand today to recognize someone in my district, John O'Brien, who is the sheriff of Lincoln County. It is in honor of his 30 years of law enforcement in Lincoln County. I extend a sincere thank-you to Sheriff O'Brien on my own behalf and on behalf of all of the citizens of Lincoln County.

Our laws are of little utility if no one makes sure they are followed. Seldom do we take the time to recognize the routine achievements that allow our Nation to function as it should. Many times it is only the pitfalls, the unfortunate breakdowns in our system, that draw attention to law enforcement. Such fickle evaluation of our law enforcement officers is manifestly unjust. The fact is that the grand majority of our days are without incident. The rule of law reigns. The people reject upheaval.

These points demonstrate that the greatest victories of law enforcement are its contributions to regularity. We never recognize the people who give us plain, old, ordinary days. Perhaps we should.

Accordingly, it is with great pride that I congratulate Sheriff John O'Brien. His bravery, dedication and service in building a safer and stronger community have provided the people with Lincoln County with thousands of wonderfully uneventful days.

Sheriff O'Brien's career demonstrates a commitment to public service to which every officer of the law should aspire. John O'Brien began his career as a sheriff's deputy on February 6, 1973. The people of Lincoln County elected him to the office of Sheriff in 1994 and have subsequently seen fit to elect him to second and third terms. As all of us are aware, voters are properly cautious in selecting the people who represent them.

An official's first election often indicates a willingness in the people to chance their own best interests on someone who has shown that he has the ability to succeed. That official's second election is very often a barometer of the official's contact with the electorate during his term of service. With his third election comes proof that he has served his constituents to their satisfaction.

This is the satisfaction of Lincoln County reflected in its overwhelming choice of Sheriff O'Brien as the public face of law enforcement in their community. The confidence of Lincoln County's voting public in Sheriff O'Brien attests to the success of his efforts and his responsiveness to the people he serves.

I would like to tell a little story about John O'Brien. Every time, at the coast, at Lincoln County, John is always at my meetings. And I keep asking him, ''John, you are always here.'' He says, ''I just want you to know that we are here, what our needs are, and I want you to understand about our community.''

To this day, John O'Brien remains an active protector of Lincoln County's public safety. He has risen to meet the challenges of an increasingly difficult job. Changing times have altered the issues with which Sheriff O'Brien is faced, but he has shown the ability to adapt and battle new problems with modern solutions.

Lincoln County has in recent years encountered an increase in the manufacture and sale of methamphetamines. Sheriff O'Brien has turned this growing problem into an opportunity to spearhead innovative new crime-reduction strategies. Through his work with the federally supported Lincoln Interagency Narcotics Team, Sheriff O'Brien has encouraged the sharing of resources and information between county agencies with an interest in reducing drug traffic. This work not only demonstrates Sheriff O'Brien's desire to get results, but also his complete disregard for who receives credit for those results. His willingness to work with other agencies in facing down a dangerous trend is evidence of a cooperative spirit and a will to succeed that we honor here today.

Mr. Speaker, Sheriff O'Brien is worthy of recognition today for more than simply putting in his time. While 30 years of service in the public interest is a feat in itself, Sheriff O'Brien's true contribution has been in its effect on Lincoln County. Today we recognize that Lincoln County is a better place to live, to work and raise a family because of the devotion of Sheriff John O'Brien.

I thank John for his 30 years of service given in the pursuit of safety, justice and peace.

PUBLICATION OF THE RULES OF THE COMMITTEE ON RESOURCES 108TH CONGRESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. POMBO) is recognized for 5 minutes.

Mr. POMBO. Mr. Speaker, I request that the Committee Rules for the Committee on Resources be submitted for the RECORD.

RULES FOR THE COMMITTEE ON RESOURCES

RULE 1. RULES OF THE HOUSE: VICE CHAIRMEN

(a) Applicability of House Rules.

(1) The Rules of the House of Representatives, so far as they are applicable, are the rules of the Committee and its Subcommittees.

(2) Each Subcommittee is part of the Committee and is subject to the authority, direction and rules of the Committee. References in these rules to ''Committee'' and ''Chairman'' shall apply to each Subcommittee and its Chairman wherever applicable.

(3) House Rule XI is incorporated and made a part of the rules of the Committee to the extent applicable.

(b) Vice Chairmen.—Unless inconsistent with other rules, the Chairman shall appoint a Vice Chairman of the Committee and the Subcommittee Chairman will appoint Vice Chairmen of each of the Subcommittees. If the Chairman of the Committee or Subcommittee is not present at any meeting of the Committee or Subcommittee, as the case may be, the Vice Chairman shall preside. If the Vice Chairman is not present, the ranking Member of the Majority party on the Committee or Subcommittee who is present shall preside at that meeting.

RULE 2. MEETINGS IN GENERAL.

(a) Scheduled Meetings.—The Committee shall meet at 10 a.m. every Wednesday when the House is in session, unless canceled by the Chairman. The Committee shall also meet at the call of the Chairman subject to advance notice to all Members of the Committee. Special meetings shall be called and convened by the Chairman as provided in clause 2(c)(1) of House Rule XI. Any Committee meeting or hearing that conflicts with a party caucus, conference, or similar party meeting shall be rescheduled at the discretion of the Chairman, in consultation with the Ranking Minority Member. The Committee may not sit during a joint session of the House and Senate or during a recess when a joint meeting of the House and Senate is in progress.

(b) Open Meetings.—Each meeting for the transaction of business, including the markup of legislation, and each hearing of the Committee or a Subcommittee shall be open to the public, except as provided by clause 2(g) and clause 2(k) of House Rule XI.

(c) Broadcasting.—Whenever a meeting for the transaction of business, including the markup of legislation, or a hearing is open to the public, that meeting or hearing shall be open to coverage by television, radio, and still photography in accordance with clause 4 of House Rule XI. The provisions of clause 4(f) of House Rule XI are specifically made part of these rules by reference. Operation and use of any Committee Internet broadcast system shall be fair and nonpartisan and in accordance with clause 4(b) of House Rule XI and all other applicable rules of the Committee and the House.

(d) Oversight Plan.—No later than February 15 of the first session of each Congress, the Committee shall adopt its oversight plans for that Congress in accordance with clause 2(d)(1) of House Rule X.

RULE 3. PROCEDURES IN GENERAL.

(a) Agenda of Meetings; Information for Members.—An agenda of the business to be considered at meetings shall be delivered to the office of each Member of the Committee no later than 48 hours before the meeting. This requirement may be waived by a majority vote of the Committee at the time of the consideration of the measure or matter. To the extent practicable, a summary of the major provisions of any bill being considered by the Committee, including the need for the bill and its effect on current law, will be available for the Members of the Committee no later than 48 hours before the meeting.

(b) Meeting and Hearings to Begin Promptly.—Each meeting or hearing of the Committee shall begin promptly at the time stipulated in the public announcement of the meeting or hearing.

(c) Addressing the Committee.—A Committee Member may address the Committee or a Subcommittee on any bill, motion, or other matter under consideration or may question a witness at a hearing only when recognized by the Chairman for that purpose. The time a Member may address the Committee or Subcommittee for any purpose or to question a witness shall be limited to five minutes, except as provided in Committee rule 4(g). A Member shall limit his remarks to the subject matter under consideration. The Chairman shall enforce the preceding provision.

(d) Quorums.

(1) A majority of the Members shall constitute a quorum for the reporting of any measure or recommendation, the authorizing of a subpoena, the closing of any meeting or hearing to the public under clause 2(g)(1), clause 2(g)(2)(A) and clause 2(k)(5)(B) of House Rule XI, and the releasing of executive session materials under clause 2(k)(7) of House Rule X. Testimony and evidence may be received at any hearing at which there are at least two Members of the Committee present. For the purpose of transacting all other business of the Committee, one third of the Members shall constitute a quorum.

(2) When a call of the roll is required to ascertain the presence of a quorum, the offices of all Members shall be notified and the Members shall have not less than 15 minutes to prove their attendance. The Chairman shall have the discretion to waive this requirement when a quorum is actually present or whenever a quorum is secured and may direct the Chief Clerk to note the names of all Members present within the 15-minute period.

(e) Participation of Members in Committee and Subcommittees.—All Members of the Committee may sit with any Subcommittee during any hearing, and by unanimous consent of the Members of the Subcommittee may participate in any meeting or hearing. However, a Member who is not a Member of the Subcommittee may not vote on any matter before the Subcommittee, be counted for purposes of establishing a quorum or raise points of order.

(f) Proxies.—No vote in the Committee or its Subcommittees may be cast by proxy.

(g) Record Votes.—Record votes shall be ordered on the demand of one-fifth of the Members present, or by any Member in the apparent absence of a quorum.

(h) Postponed Record Votes.

(1) Subject to paragraph (2), the Chairman may, after consultation with the Ranking Minority Member, postpone further proceedings when a record vote is ordered on the question of approving any measure or matter or adopting an amendment. The Chairman shall resume proceedings on a postponed request at any time after reasonable notice, but no later than the next meeting day.

(2) Notwithstanding any intervening order for the previous question, when proceedings resume on a postponed question under paragraph (1), an underlying proposition shall remain subject to further debate or amendment to the same extent as when the question was postponed.

(3) This rule shall apply to Subcommittee proceedings.

(i) Motions.—A motion to recess from day to day and a motion to dispense with the first reading (in full) of a bill or resolution, if printed copies are available, are nondebatable motions of high privilege.

(j) Layover and Copy of Bill.—No measure or recommendation reported by a Subcommittee shall be considered by the Committee until two calendar days from the time of Subcommittee action. No bill shall be considered by the Committee unless a copy has been delivered to the office of each Member of the Committee requesting a copy. These requirements may be waived by a majority vote of the Committee at the time of consideration of the measure or recommendation.

(k) Access to Dais and Conference Room.—Access to the hearing rooms' daises and to the conference rooms adjacent to the Committee hearing rooms shall be limited to Members of Congress and employees of Congress during a meeting of the Committee.

(i) Cellular Telephones.—The use of cellular telephones is prohibited on the Committee dais or in the Committee hearing rooms during a meeting of the Committee.

RULE 4. HEARING PROCEDURES.

(a) Announcement.—The Chairman shall publicly announce the date, place, and subject matter of any hearing at least one week before the hearing unless the Chairman, with the concurrence of the Ranking Minority Member, determines that there is good cause to begin the hearing sooner, or if the Committee so determines by majority vote. In these cases, the Chairman shall publicly announce the hearing at the earliest possible date. The Chief Clerk of the Committee shall promptly notify the Daily Digest Clerk of the Congressional Record and shall promptly enter the appropriate information on the Committee's web site as soon as possible after the public announcement is made.

(b) Written Statement; Oral Testimony.—Each witness who is to appear before the Committee or a Subcommittee shall file with the Chief Clerk of the Committee or Subcommittee Clerk, at least two working days before the day of his or her appearance, a written statement of proposed testimony. Failure to comply with this requirement may result in the exclusion of the written testimony from the hearing record and/or the barring of an oral presentation of the testimony. Each witness shall limit his or her oral presentation to a five-minute summary of the written statement, unless the Chairman, in consultation with the Ranking Minority Member, extends this time period. In addition, all witnesses shall be required to submit with their testimony a resume or other statement describing their education, employment, professional affiliations and other background information pertinent to their testimony.

(c) Minority Witnesses.—When any hearing is conducted by the Committee or any Subcommittee upon any measure or matter, the Minority party Members on the Committee or Subcommittee shall be entitled, upon request to the Chairman by a majority of those Minority Members before the completion of the hearing, to call witnesses selected by the Minority to testify with respect to that measure or matter during at least one day of hearings thereon.

(d) Information for Members.—After announcement of a hearing, the Committee shall make available as soon as practicable to all Members of the Committee a tentative witness list and to the extent practicable a memorandum explaining the subject matter of the hearing (including relevant legislative reports and other necessary material). In addition, the Chairman shall make available to the Members of the Committee any official reports from departments and agencies on the subject matter as they are received.

(e) Subpoenas.—The Committee or a Subcommittee may authorize and issue a subpoena under clause 2(m) of House Rule XI if

authorized by a majority of the Members voting. In addition, the Chairman of the Committee may authorize and issue subpoenas during any period of time in which the House of Representatives has adjourned for more than three days. Subpoenas shall be signed only by the Chairman of the Committee, or any Member of the Committee authorized by the Committee, and may be served by any person designated by the Chairman or Member.

(f) Oaths.—The Chairman of the Committee or any Member designated by the Chairman may administer oaths to any witness before the Committee. All witnesses appearing in hearings may be administered the following oath by the Chairman or his designee prior to receiving the testimony: ''Do you solemnly swear or affirm that the testimony that you are about to give is the truth, the whole truth, and nothing but the truth, so help you God?''.

(g) Opening Statements; Questioning of Witnesses.

(1) Opening statements by Members may not be presented orally, unless the Chairman or his designee makes a statement, in which case the Ranking Minority Member or his designee may also make a statement. If a witness scheduled to testify at any hearing of the Committee is a constituent of a Member of the Committee, that Member shall be entitled to introduce the witness at the hearing.

(2) The questioning of witnesses in Committee and Subcommittee hearings shall be initiated by the Chairman, followed by the Ranking Minority Member and all other Members alternating between the Majority and Minority parties. In recognizing Members to question witnesses, the Chairman shall take into consideration the ratio of the Majority to Minority Members present and shall establish the order of recognition for questioning in a manner so as not to disadvantage the Members of the Majority or the Members of the Minority. A motion is in order to allow designated Majority and Minority party Members to question a witness for a specified period to be equally divided between the Majority and Minority parties. This period shall not exceed one hour in the aggregate.

(h) Materials for Hearing Record.—Any materials submitted specifically for inclusion in the hearing record must address the announced subject matter of the hearing and be submitted to the relevant Subcommittee Clerk or Chief Clerk no later than 10 business days following the last day of the hearing.

(i) Claims of Privilege.—Claims of common-law privileges made by witnesses in hearings, or by interviewees or deponents in investigations or inquiries, are applicable only at the discretion of the Chairman, subject to appeal to the Committee.

RULE 5. FILING OF COMMITTEE REPORTS.

(a) Duty of Chairman.—Whenever the Committee authorizes the favorable reporting of a measure from the Committee, the Chairman or his designee shall report the same to the House of Representatives and shall take all steps necessary to secure its passage without any additional authority needing to be set forth in the motion to report each individual measure. In appropriate cases, the authority set forth in this rule shall extend to moving in accordance with the Rules of the House of Representatives that the House be resolved into the Committee of the Whole House on the State of the Union for the consideration of the measure; and to moving in accordance with the Rules of the House of Representatives for the disposition of a Senate measure that is substantially the same as the House measure as reported.

(b) Filing.—A report on a measure which has been approved by the Committee shall be filed within seven calendar days (exclusive of days on which the House of Representatives is not in session) after the day on which there has been filed with the Committee Chief Clerk a written request, signed by a majority of the Members of the Committee, for the reporting of that measure. Upon the filing with the Committee Chief Clerk of this request, the Chief Clerk shall transmit immediately to the Chairman notice of the filing of that request.

(c) Supplemental, Additional or Minority Views.—Any Member may, if notice is given at the time a bill or resolution is approved by the Committee, file supplemental, additional, or minority views. These views must be in writing and signed by each Member joining therein and be filed with the Committee Chief Clerk not less than two additional calendar days (excluding Saturdays, Sundays and legal holidays except when the House is in session on those days) of the time the bill or resolution is approved by the Committee. This paragraph shall not preclude the filing of any supplemental report on any bill or resolution that may be required for the correction of any technical error in a previous report made by the Committee on that bill or resolution.

(d) Review by Members.—Each Member of the Committee shall be given an opportunity to review each proposed Committee report before it is filed with the Clerk of the House of Representatives. Nothing in this paragraph extends the time allowed for filing supplemental, additional or minority views under paragraph (c).

(e) Disclaimer.—All Committee or Subcommittee reports printed and not approved by a majority vote of the Committee or Subcommittee, as appropriate, shall contain the following disclaimer on the cover of the report:

''This report has not been officially adopted by the {Committee on Resources} {Subcommittee} and may not therefore necessarily reflect the views of its Members.''.

RULE 6. ESTABLISHMENT OF SUBCOMMITTEES; FULL COMMITTEE JURISDICTION; BILL REFERRALS.

(a) Subcommittees.—There shall be five standing Subcommittees of the Committee, with the following jurisdiction and responsibilities:

Subcommittee on National Parks, Recreation and Public Lands

(1) Measures and matters related to the National Park System and its units, including Federal reserve water rights.

(2) The National Wilderness Preservation System, except for wilderness created from forest reserves from the public domain.

(3) Wild and Scenic Rivers System, National Trails System, national heritable areas and other national units established for protection, conservation, preservation or recreational development administered by the Secretary of the Interior, other than coastal barriers.

(4) Military parks and battlefields, national cemeteries administered by the Secretary of the Interior, parks in and within the vicinity of the District of Columbia and the erection of monuments to the memory of individuals.

(5) Federal outdoor recreation plans, programs and administration including the Land and Water Conservation Fund, except those in public forests.

(6) Plans and programs concerning non-Federal outdoor recreation and land use, including related plans and programs authorized by the Land and Water Conservation Fund Act of 1965 and the Outdoor Recreation Act of 1963, except those in public forests.

(7) Preservation of prehistoric ruins and objects of interest on the public domain and other historic preservation programs and activities, including national monuments, historic sites and programs for international cooperation in the field of historic preservation.

(8) Matters concerning the following agencies and programs: Urban Parks and Recreation Recovery Program, Historic American Buildings Survey, Historic American Engineering Record, and U.S. Holocaust Memorial.

(9) Public lands generally, including measures or matters relating to entry, easements, withdrawals, grazing and Federal reserved water rights.

(10) Forfeiture of land grants and alien ownership, including alien ownership of mineral lands.

(11) Cooperative efforts to encourage, enhance and improve international programs for he protection of the environment and the conservation of natural resources otherwise within the jurisdiction of the Subcommittee.

(12) General and continuing oversight and investigative authority over activities, policies and programs within the jurisdiction of the Subcommittees.

Subcommittee on Forests and Forest Health

(1) Forest reservations, including management thereof, created from the public domain.

(2) Public forest lands generally, including measures or matters related to entry, easements, withdrawals and grazing.

(3) Federal reserved water rights on forest reserves.

(4) Wild and Scenic Rivers System, National Trails System, national heritage areas and other national units established for protection, conservation, preservation or recreational development administered by the Secretary of Agriculture.

(5) Federal and non-Federal outdoor recreation plans, programs and administration in public forests.

(6) Cooperative efforts to encourage, enhance and improve international programs for the protection of the environment and the conservation of natural resources otherwise within the jurisdiction of the Subcommittee.

(7) General and continuing oversight and investigative authority over activities, policies and programs within the jurisdiction of the Subcommittee.

Subcommittee on Fisheries Conservation, Wildlife and Oceans

(1) Fisheries management and fisheries research generally, including the management of all commercial and recreational fisheries, the Magnuson-Stevens Fishery Conservation and Management Act, interjurisdictional fisheries, international fisheries agreements, aquaculture, seafood safety and fisheries promotion.

(2) Wildlife resources, including research, restoration, refuges and conservation.

(3) All matters pertaining to the protection of coastal and marine environments, including estuarine protection.

(4) Coastal barriers.

(5) Oceanography.

(6) Ocean engineering, including materials, technology and systems.

(7) Coastal zone management.

(8) Marine sanctuaries.

(9) U.N. Convention on the Law of the Sea.

(10) Sea Grant programs and marine extension services.

(11) Cooperative efforts to encourage, enhance and improve international programs for the protection of the environmental and the conservation of natural resources otherwise within the jurisdiction of the Subcommittee.

(12) General and continuing oversight and investigative authority over activities, policies and programs within the jurisdiction of the Subcommittee.

Subcommittee on Water and Power

(1) Generation and marketing of electric power from Federal water projects by Federally chartered or Federal regional power marketing authorities.

(2) All measures and matters concerning water resources planning conducted pursuant to the Water Resources Planning Act, water resource research and development programs and saline water research and development.

(3) Compacts relating to the use and apportionment of interstate waters, water rights and major interbasin water or power movement programs.

(4) All measures and matters pertaining to irrigation and reclamation projects and other water resources development and recycling programs, including policies and procedures.

(5) Indian water rights and settlements.

(6) Cooperative efforts to encourage, enhance and improve international programs for the protection of the environment and the conservation of natural resources otherwise within the jurisdiction of the Subcommittee.

(7) General and continuing oversight and investigative authority over activities, policies and programs within the jurisdiction of the Subcommittee.

Subcommittee on Energy and Mineral Resources

(1) All measures and matters concerning the U.S. Geological Survey, except for the activities and programs of the Water Resources Division or its successor.

(2) All measures and matters affecting geothermal resources.

(3) Conservation of United States uranium supply.

(4) Mining interests generally, including all matters involving mining regulation and enforcement, including the reclamation of mined lands, the environmental effects of mining, and the management of mineral receipts, mineral land laws and claims, long-range mineral programs and deep seabed mining.

(5) Mining schools, experimental stations and long-range mineral programs.

(6) Mineral resources on public lands.

(7) Conservation and development of oil and gas resources of the Outer Continental Shelf.

(8) Petroleum conservation on the public lands and conservation of he radium supply in the United States.

(9) Measures and matters concerning the transportation of natural gas from or within Alaska and disposition of oil transported by the trans-Alaska oil pipeline.

(10) Rights of way over public lands for underground energy-related transportation.

(11) Cooperative efforts to encourage, enhance and improve international programs for the protection of the environment and the conservation of natural resources otherwise within the jurisdiction of the Subcommittee.

(12) General and continuing oversight and investigative authority over activities, policies and programs within the jurisdiction of the Subcommittee.

(b) Full Committee.—The Full Committee shall have the following jurisdiction and responsibilities:

(1) Environmental and habitat measures and matters of general applicability.

(2) Measures relating to the welfare of Native Americans, including management of Indian lands in general and special measures relating to claims which are paid out of Indian funds.

(3) All matters regarding the relations of the United States with Native Americans and Native American tribes, including special oversight functions under Rule X of the Rules of the House of Representatives.

(4) All matters regarding Native Alaskans and Native Hawaiians.

(5) All matters related to the Federal trust responsibility to Native Americans and the sovereignty of Native Americans.

(6) All matters regarding insular areas of the United States.

(7) All measures or matters regarding the Freely Associated States and Antarctica.

(8) Cooperative efforts to encourage, enhance and improve international programs for the protection of the environment and the conservation of natural resources otherwise within the jurisdiction of the Full Committee under this paragraph.

(9) All measures and matters retained by the Full Committee under Committee rule 6(e).

(10) General and continuing oversight and investigative authority over activities, policies and programs within the jurisdiction of the Committee under House Rule X.

(c) Ex-officio Members.—The Chairman and Ranking Minority Member of the Committee may serve as ex-officio Members of each standing Subcommittee to which the Chairman or the Ranking Minority Member have not been assigned. Ex-officio Members shall have the right to fully participate in Subcommittee activities but may not vote and may not be counted in establishing a quorum.

(d) Powers and Duties of Subcommittees.—Each Subcommittee is authorized to meet hold hearings, receive evidence and report to the Committee on all matters within its jurisdiction. Each Subcommittee shall review and study, on a continuing basis, the application, administration, execution and effectiveness of those statutes, or parts of statutes, the subject matter of which is within that Subcommittee's jurisdiction; and the organization, operation, and regulations of any Federal agency or entity having responsibilities in or for the administration of such statutes, to determine whether these statutes are being implemented and carried out in accordance with the intent of Congress. Each Subcommittee shall review and study any conditions or circumstances indicating the need of enacting new or supplemental legislation within the jurisdiction of the Subcommittee.

(e) Referral to Subcommittees; Recall.

(1) Except as provided in paragraph (2) and for those matters within the jurisdiction of the Full Committee, every legislative measure or other matter referred to the Committee shall be referred to the Subcommittee of jurisdiction within two weeks of the date of its referral to the Committee. If any measure or matter is within or affects the jurisdiction of one or more Subcommittees, the Chairman may refer that measure or matter simultaneously to two or more Subcommittees for concurrent consideration or for consideration in sequence subject to appropriate time limits, or divide the matter into two or more parts and refer each part to a Subcommittee.

(2) The Chairman, with the approval of a majority of the Majority Members of the Committee, may refer a legislative measure or other matter to a select or special Subcommittee. A legislative measure or other matter referred by the Chairman to a Subcommittee may be recalled from the Subcommittee for direct consideration by the Full Committee, or for referral to another Subcommittee, provided Members of the Committee receive one week written notice of the recall and a majority of the Members of the Committee do not object. In addition, a legislative measure or other matter referred by the Chairman to a Subcommittee may be recalled from the Subcommittee at any time by majority vote of the Committee for direct consideration by the Full Committee or for referral to another Subcommittee.

(f) Consultation.—Each Subcommittee Chairman shall consult with the Chairman of the Full Committee prior to setting dates for Subcommittee meetings with a view towards avoiding whenever possible conflicting Committee and Subcommittee meetings.

(g) Vacancy.—A vacancy in the membership of a Subcommittee shall not affect the power of the remaining Members to execute the functions of the Subcommittee.

RULE 7. TASK FORCES, SPECIAL OR SELECT SUBCOMMITTEES

(a) Appointment.—The Chairman of the Committee is authorized, after consultation with the Ranking Minority Member, to appoint Task Forces, or special or select Subcommittees, to carry out the duties and functions of the Committee.

(b) Ex-Officio Members.—The Chairman and Ranking Minority Member of the Committee may serve as ex-officio Members of each Task Force, or special or select Subcommittee if they are not otherwise members. Ex-officio Members shall have the right to fully participate in activities but may not vote and may not be counted in establishing a quorum.

(c) Party Ratios.—The ratio of Majority Members to Minority Members, excluding ex-officio Members, on each Task Force, special or select Subcommittee shall be as close as practicable to the ratio on the Full Committee.

(d) Temporary Resignation.—A Member can temporarily resign his or her position on a Subcommittee to serve on a Task Force, special or select Subcommittee without prejudice to the Member's seniority on the Subcommittee.

(e) Chairman and Ranking Minority Member.—The Chairman of any Task Force, or special or select Subcommittee shall be appointed by the Chairman of the Committee. The Ranking Minority Members shall select a Ranking Minority Member for each Task Force, or standing, special or select Subcommittee.

RULE 8. RECOMMENDATION OF CONFEREES.

Whenever it becomes necessary to appoint conferees on a particular measure, the Chairman shall recommend to the Speaker as conferees those Majority Members, as well as those Minority Members recommended to the Chairman by the Ranking Minority Member, primarily responsible for the measure. The ratio of Majority Members to Minority Members recommended for conferences shall be no greater than the ratio on the Commerce.

RULE 9. COMMITTEE RECORDS.

(a) Segregation of Records.—All Committee records shall be kept separate and distinct from the office records of individual Committee Members serving as Chairmen or Ranking Minority Members. These records shall be the property of the House and all Members shall have access to them in accordance with clause 2(e)(2) of House Rule XI.

(b) Availability.—The Committee shall make available to the public for review at reasonable times in the Committee office the following records:

(1) transcripts of public meetings and hearings, except those that are unrevised or unedited and intended solely for other use of the Committee; and

(2) the result of each record vote taken in the Committee, including a description of the amendment, motion, order or other proposition vote on, the name of each Committee Member voting for or against a proposition, and the name of each Member present but not voting.

(c) Archived Records.—Records of the Committee which are deposited with the National Archives shall be made available for public use pursuant to House Rule VII. The Chairman of the Committee shall notify the Ranking Minority Member of any decision, pursuant to clause 3(b)(3) or clause 4(b) of House Rule VII, to withhold, or to provide a time, schedule or condition for availability of any records otherwise available. At the written request of any Member of the Committee, the matter shall be presented to the Committee for a determination and shall be subject to the same notice and quorum requirements for the conduct of business under Committee rule 3.

(d) Records of Closed Meetings.—Not withstanding the other provisions of this rule, no records of Committee meetings or hearings which were closed to the public pursuant to the Rules of the House of Representatives shall be released to the public unless the Committee votes to release those records in accordance with the procedure used to close the Committee meeting.

(e) Classified Materials.—All classified materials shall be maintained in an appropriately secured location and shall be released only to authorized persons for review, who shall not remove the material from the Committee offices without the written permission of the Chairman.

RULE 10. COMMITTEE BUDGET AND EXPENSES.

(a) Budget.—At the beginning of each Congress, after consultation with the Chairman of each Subcommittee and the Ranking Minority Member, the Chairman shall present to the Committee for its approval a budget covering the funding required for staff, travel, and miscellaneous expenses.

(b) Expense Resolution.—Upon approval by the Committee of each budget, the Chairman, acting pursuant to clause 6 of House rule X, shall prepare and introduce in the House a supporting expense resolution, and take all action necessary to bring about its approval by the Committee on House Administration and by the House of Representatives.

(c) Amendments.—The chairman shall report to the Committee any amendments to each expense resolution and any related changes in the budget.

(d) Additional Expenses. Authorization for the payment of additional or unforeseen Committee expenses may be procured by one or more additional expense resolutions processed in the same manner as set out under this rule.

(e) Monthly Reports.—Copies of each monthly report, prepared by the Chairman for the Committee on House Administration, which shows expenditures made during the reporting period and cumulative for the year, anticipated expenditures for the projected Committee program, and detailed information on travel, shall be available to each Member.

RULE 11. COMMITTEE STAFF.

(a) Rules and Policies.—Committee staff members are subject to the provisions of clause 9 of House Rule X, as well as any written personnel policies the Committee may from time to time adopt.

(b) Majority and Nonpartisan Staff.—The Chairman shall appoint, determine the remuneration of, and may remove, the legislative and administrative employees of the Committee not assigned to the Minority. The legislative and administrative staff of the Committee not assigned to the Minority shall be under the general supervision and direction of the Chairman, who shall establish and assign the duties and responsibilities of these staff members and delegate any authority he determines appropriate.

(c) Minority Staff.—The Ranking Minority Member of the Committee shall appoint, determine the remuneration of, and may remove, the legislative and administrative staff assigned to the Minority within the budget approved for those purposes. The legislative and administrative staff assigned to the Minority shall be under the general supervision and direction of the Ranking Minority Member of the Committee who may delegate any authority he determines appropriate.

(d) Availability.—The skills and services of all Committee staff shall be available to all Members of the Committee.

RULE 12. COMMITTEE TRAVEL.

In addition to any written travel policies the Committee may from time to time adopt, all travel of Members and staff of the Committee or its Subcommittees, to hearings, meetings, conferences and investigations, including all foreign travel, must be authorized by the Full Committee Chairman prior to any public notice of the travel and prior to the actual travel. In the case of Minority staff, all travel shall first be approved by the Ranking Minority Member. Funds authorized for the committee under clauses 6 and 7 of House Rule X are for expenses incurred in the Committee's activities within the United States.

RULE 13. CHANGES TO COMMITTEE RULES.

the rules of the Committee may be modified, amended, or repealed, by a majority vote of the Committee, provided that 48 hours written notice of the proposed change has been provided each Member of the Committee prior to the meeting date on which the changes are to be discussed and voted on. A change to the rules of the Committee shall be published in the Congressional Record no later than 30 days after its approval.

RULE 14. OTHER PROCEDURES.

The Chairman may establish procedures and take actions as may be necessary to carry out the rules of the Committee or to facilitate the effective administration of the Committee, in accordance with the rules of the Committee and the rules of the House of Representatives.

MISGUIDED ADMINISTRATION POLICIES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas (Mr. BERRY) is recognized for 5 minutes.

Mr. BERRY. Mr. Speaker, I come to the floor this evening with a heavy heart. I came to Washington, D.C., in 1993 as part of the Clinton administration. We worked hard for 8 years. We passed on to the next administration a $5 trillion surplus. We passed on to the next administration peace and prosperity.

Today it is not that way. The great country singer Merle Haggard has a song that he sings; it is called ''Rainbow Stew.'' One of the verses in there says when a President goes through the White House door and does what he says that he will do, we will all be drinking that free Bubble-up and eating that rainbow stew.

When the President came here a few weeks ago and gave us the State of the Union, one of the things he promised was that we would not pass our problems on to another Congress or on to another generation. And yet just a week ago Monday we are presented with a proposed budget from that same President that is nothing more than an assault on our children, on working people, on veterans.

We are asking our young men and women to go on the battlefield, and at the same time we just heard the gentleman from Ohio (Mr. STRICKLAND) tell us what the President is proposing to do to veterans.

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He said, ''We're not going to pass this problem on to the next generation.'' Yet in his own budget, by his own Office of Management and Budget, we are faced with about another $468 billion in debt. Check with the CRS. The percent of the gross domestic product that the nation of Brazil has in debt is 60 percent. The percent of debt that the United States of America has of our gross domestic product is 62 percent. And that is what we owe today. That does not include 300-plus billion-dollar deficits for as long as anyone can imagine. Yet the President presents us with this idea that we can have it all: it's rainbow stew. Just reach out there and grab you some. Have a big drink. It's free Bubble-up. We can cut taxes, we can fight at least two wars, maybe more, we can provide everything that anybody is going to possibly dream up, and nobody has to pay. We'll just keep borrowing money.

I have a button back there at my desk that they told me I could not wear when I came on the floor to make a speech. It says, How much is the debt tax? How much are we going to pile on our children and grandchildren? How much of a debt are we going to continue to just put on our children and grandchildren that they cannot pay? No nation, I submit to you, Mr. Speaker, can be free and powerful and broke, and that is where we are headed.

I have been on this floor many times. I have heard people make great patriotic remarks, declare their intense love for this country; and I share that love. I think the Founders, our Founding Fathers, would absolutely be disgusted with what we are doing right now, with the idea that we are going to borrow ourselves into financial oblivion by just continuing to borrow money and borrow money and borrow money and not even acknowledge that we have got a problem.

It is time, Mr. Speaker, that we recognize that we cannot continue to do this irresponsible thing.

THE PRESIDENT'S BUDGET

The SPEAKER pro tempore (Mr. PEARCE). Under a previous order of the House, the gentleman from Mississippi (Mr. TAYLOR) is recognized for 5 minutes.

Mr. TAYLOR of Mississippi. Mr. Speaker, I appreciate the opportunity to speak. I very much want to thank the gentleman from Arkansas (Mr. BERRY) for what he had to say. I too heard the President of the United States just a couple of weeks ago stand

in this well and tell the American people we would not pass our problems on to the next generation. Maybe the President does not read his own budget. I would hope he does. He signs it before he sends it to us. Maybe the President is not aware that since the passage of his budget and his tax cuts that our Nation's debt has increased by $758,108,651,628.89. The first $2 trillion budget in American history incidentally was not submitted by a guy named Dukakis or a wild-eyed liberal named McGovern. It was submitted by George W. Bush. The first $2.25 trillion budget in American history was not submitted by a wild-eyed liberal. It was submitted by George Bush.

Mr. Speaker, I would hope someone in this body would explain to me that when the tax cuts take place with great fanfare, they take place during the middle of the day or during prime time TV. But when my Republican colleagues want to raise the debt limit and burden the next generation with these bills, that vote takes place about 3 or 4 in the morning. You will notice there will not be a reporter up there. Most of our constituents will be asleep. If they are proud of raising the debt and seeing to it that an even larger percentage of our Nation's budget is squandered on interest and we are squandering a billion a day, that is a thousand times a thousand times a thousand, then why will you schedule a vote to raise the debt at 3 or 4 o'clock in the morning? Why will you change the House rules so that now, by just the adoption of the President's budget, we automatically raise the debt if you are proud of that?

Mr. Speaker, please explain to me and explain to the American people why a group of people is elected to govern this country who promised to balance the budget, who promised to be fiscally responsible, yet in the over 1,400 days that Speaker HASTERT has been Speaker of this House of Representatives, he will not even schedule one vote on a balanced budget amendment to the United States Constitution. We vote to condemn people across the world. We vote to commend people across the world. We have cast 25 votes since this session started. The way I figure it, thus far Congress is being paid $1,000 per vote this year. But you cannot find time, Mr. Speaker, to schedule a vote on the most important thing of all, which is balancing the American budget so that this generation does not ask the next generation to pay our bills.

Mr. Speaker, answer back. Would you go out and buy a car, go out and buy a Lexus and say, I don't care what it costs, I don't care what the interest payments are because my grandkid is going to pay for it? Would you go buy a house? The same deal. I want the most expensive house in town; I don't care what the interest payments are because my kid is going to pay for it. That is the way you are running this country.

What is particularly sad is that you promised the American people you would not do that. That is how you got in the majority. And then you flat turned around and did just the opposite. You will not let us vote on the balanced budget amendment, you are running up $300 billion a year deficits, and your only answer to that is more debt and more tax cuts.

I will remind you, Mr. Speaker, in every other conflict in American history, when we asked our young people to put their lives on the line, the rest of Americans were asked to pay the bill, right then and there. And quite frankly, the wealthiest Americans were asked to pay the most. The inheritance tax was a wartime tax. The luxury taxes were all wartime taxes. The folks who got to stay home and enjoy the benefits of America paid while someone else did the fighting. But at least they paid.

What do you say now, Mr. Speaker? You say those who have the most should pay even less and, by the way, the kids from across town, the kids from across the tracks, let them go get shot in Afghanistan, let them go get shot in Colombia protecting a pipeline owned by Occidental Petroleum. Let that kid get shot in Iraq and, by the way, send him the bill for this war when he gets home.

Mr. Speaker, there are a lot of good people in this body. A majority of people in this body came to this body saying they were going to be fiscally responsible. Where are they now? Where are they going to be tomorrow when we vote on a $300 billion bill that not one Member has read, that no one has any idea what sort of stuff is buried in it? Mr. Speaker, where are they going to be tomorrow? Because if those people care about their country, they will let us vote on a balanced budget amendment. If they care about their country, they will vote down this bill tomorrow until they have had a chance to read it. If they care about our country, they will quit sticking our kids with their bills.

IN RECOGNITION OF RESCUE TASK FORCE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. HUNTER) is recognized for 5 minutes.

Mr. HUNTER. Mr. Speaker, there is a movie that I saw recently which depicted three actors who became troubleshooters and helped to save a small town in Mexico. The name of the movie was ''The Three Amigos.'' As I recall, they had a slogan that wherever there was injustice or poverty, they would be there. In reality, in real life, there are two amigos who have organized a small task force that is called Rescue Task Force and where there are problems in the world, where people are sick or need medical help or they are victims of a crossfire in a real shooting war, the two amigos are there.

In fact, they are with us today in these Chambers, Mr. Speaker. It is Gary Becks, who works on my staff, and Wendell Cutting, my chief of staff in my congressional district. Wendell is the cochairman of this task force and does it without any remuneration. They have gone to places like Albania. They were the first people into the Kosovo conflict. They went into the first refugee camp, a camp in which every single child had some type of an illness or a malady. They were the first people to distribute food and medicine. And they were the first people to go up into the very remote camps through what was basically a no-man's land where a number of nongovernmental organizations had taken rifle fire just a few days before.

If you look at the outline of what Rescue Task Force does, you can look at the pictures and see Gary Becks dressing wounds in Afghanistan. You can see Wendell in the slums of Thailand teaching sanitation. You can see them both distributing help in Kosovo. You can see them establishing the first-ever dental clinic in the area of the Nicaraguan-Honduran border.

Mr. Speaker, I am very proud of these two gentlemen and this organization, Rescue Task Force. They also started the program we call Hands Across the Border, where they have directed literally tons and millions of dollars' worth of medical supplies and food and toys for people who hurt, to quote the President, in Mexico. They have gone around the world.

Interestingly, Mr. Speaker, a lot of us in this city are listening to people who are explaining to us why other nations in the world may not like us right now in this particular phase of our foreign policy in the Middle East and explaining that the United States needs to reach out and to educate people as to what we do and what we stand for. I would say, Mr. Speaker, that nobody reaches out as effectively nor is as good an ambassador as these folks, not only in Rescue Task Force but hundreds of American charitable organizations who bring food and medical supplies to Africa, to Afghanistan, to other vast areas of the world, very distant areas where it is obvious that they are not going to receive anything in return. In fact, if you looked at the situation in Afghanistan and you looked at the roster of nations that were supplying humanitarian help in Afghanistan, before the military operations, before we had to go in and find the al Qaeda, you will find the Americans leading the list, supplying most of the food, most of the medicine, and that is reflective of what Rescue Task Force does.

I am very proud of Rescue Task Force, Mr. Speaker. I think it is representative of the goodness that this country has and the willingness of our people to reach out and give some of their resources to other people around the world with no intention to ever receive anything in return except the

good feelings that come from their values, that come to anyone who reaches out to help someone in need.

WHY DEFICITS MEAN SOMETHING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee (Mr. TANNER) is recognized for 5 minutes.

Mr. TANNER. Mr. Speaker, I am a member of the Blue Dog Coalition, as everybody knows. The gentleman from Texas (Mr. STENHOLM) is here with me. The gentleman from Arkansas (Mr. BERRY) was here earlier, as was the gentleman from Mississippi (Mr. TAYLOR). This is going to be a first in a series of, I hope, enlightened or enlightening exercises that we do with regard to why deficits mean something in this country.

I heard some of the most astounding rhetoric I have ever heard in my life when there are some in this town who say deficits do not matter. We are going to try to point out why they do over the next few weeks.

Mr. Speaker, do you realize that today we are passing on to our children and our grandchildren an 18 percent mortgage on this country? We have literally mortgaged our children's future by our spending habits and our inability or our lack of courage to raise the necessary funds to pay for what my generation wants.

□ 1830

The President has submitted a budget that is another $300 billion in the red. Let me just say why that matters.

We already are paying, as a people, a billion dollars a day in interest on past consumption. If we do the math on that, there are 129.9 million individual taxpayers in this country, that means that every individual taxpayer last year paid on average $2,556 on the debt, interest on the debt, a debt tax that will continue to go up under these present economic policies that we are asked to follow.

It gets even worse than that, though, because what happens is, every time we borrow money, we have put a tax increase not only on us, but on our children and grandchildren, that can never be repealed because the interest must be paid. It is a tax increase every day we sit here spending more money or not having the courage to raise the money we need to protect this country and the people who live here.

Every day we do that is another tax on our children and us and our grandchildren that cannot be repealed. That is what the debt tax is. That is what the interest tax is.

And it really is ironic that people would sit here and say, we are not going to pass on the problems of this Congress on this day, in this hour, to those who come after us. If our forefathers had done to us what we are doing to our children and grandchildren, we would not have the standard of living we have today, that we have had and enjoyed. We would not have the opportunities, because we would not have the discretionary income for education, for health care, for veterans, for the world class military that we all know is necessary for the defense of this country.

We will not have that money. It will continue to go out in the form of interest payments.

What the gentleman from Arkansas (Mr. BERRY) said about Brazil, we are not creditworthy were it not for the full faith, credit and confidence of the people of this country in terms of what we have done in borrowing money. It is a shame what is going on each and every day.

The gentleman from Mississippi (Mr. TAYLOR) asked for a balanced budget amendment vote, 1,400-some pages. We do not have one. This Congress, if it does not come face to face with the fact that we are spending a lot of money that we did not count on because of 9–11 that we have to spend to protect this country, our first and foremost obligation as Members of Congress, if they do not come face to face with that and understand that we have to get the money up to pay for it or else pass it on to our children in the form of a debt tax that can never be repealed, then we have shamefully failed not only our oath of office, but we have shamefully failed those who will follow us.

And each and every day a billion dollars goes out of this place to pay interest, and each and every day we operate in the red, it is more piled on. That is why deficits matter and that is what the Blue Dogs are going to be talking about over the next few weeks.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. PUTNAM) is recognized for 5 minutes.

(Mr. PUTNAM addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

THE NATIONAL DEBT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. STENHOLM) is recognized for 5 minutes.

Mr. STENHOLM. Mr. Speaker, just a few days ago the President stood in where the Clerk of the House stands and told the Nation that we will not pass along our problems to other Congresses, other Presidents and other generations. I stood and applauded that statement because I agree with my President. I agree with my commander in chief.

Then I was somewhat disappointed, considerably disappointed, when the administration's budget came through projecting a $307 billion deficit for next year and deficits as far as the eye can see. The President's budget protects cumulative deficits of over $2.1 trillion from 2002 through 2011. That is a $7.7 trillion deterioration of our fiscal matters of this country in 2 years.

The Blue Dogs stood on this floor and opposed the economic game plan that we are now under. We were not prophetic. We agreed with the majority party on the spending, but we were not even allowed to have our budget on the floor, and we have heard nothing but rhetoric ever since.

But now the results of the economic game plan are coming in, and I want everyone to understand, 60 percent of the deterioration has occurred because of 9–11–01 and the military homeland defense needs of this country and the recession. But 40 percent of that deterioration has occurred because of the economic game plan that we are now under.

I personally happen to agree with the President's leadership regarding solving the Social Security problem while we still had a chance. Again, I am ready to step forward in a bipartisan way and work with my colleagues to take care of that debt for our children. But that is not what we are talking about today. That is not what is being proposed and talked about in the budget.

After 4 years of reduction in the debt held by the public and warnings by administration and Republican after Republican in Congress that the government would pay off the debt too quickly 2 years ago, debt held by the public will exceed $5 trillion by 2008, a 50 percent increase, a debt tax increase on the American people that every taxpayer will have to pay, a debt tax increase under the administration's budget that is being proposed.

The administration requested the statutory debt limit be increased for the second time in less than a year. That ought to tell us something. When we are having to increase the debt limit so we can borrow more money, it ought to tell us there is something wrong with the game plan that we are now following.

The greatest danger of the deficits in the President's budget is that it will make it harder to address the challenges facing Social Security and Medicare when our baby boom generation begins to retire in the next decade. Instead of saving money to prepare for those costs, we will already be in a deep hole when the $18 trillion liability facing those programs begins to come due. The analytical prospectus volume of the President's budget, the administration warned us, as the baby boomers reach retirement age in large numbers, the deficit is projected to rise steadily as a percent of GDP. Deficits will grow from 2.2 percent of GDP in 2020 to 5.4 percent in 2030 to 8.8 percent in 2040 under the President's budget policies. How can we continue to ignore that today?

The debt tax is real. It is an increase. But instead of our paying for it today, what are we saying? We are going to give this generation another tax cut. And no one, including the President's

own budget analysis, shows that it is going to do anything other than increase the debt.

And we are not even talking about paying for the war, the war that we all pray will not come, but it looks like it is; and I am behind my commander in chief 100 percent. But the rhetoric of the economy in the budget does not match the rhetoric of what is needed as the gentleman from Mississippi (Mr. TAYLOR) spoke so eloquently on a moment ago. The debt tax consumed 18 percent of all government revenues to pay interest on the $6.4 trillion debt last year. That debt tax will go up to 19.5 percent by 2008 under the economic game plan that we are being asked to support.

I ask my colleagues as one Democrat who used to vote with you and we passed the balanced budget constitutional amendment in 1995, what has happened to you? What has caused you to suddenly start saying, deficits do not matter, balancing the budget does not matter?

The Blue Dogs stand ready to work with our President and with the majority in seeing that we do not increase the taxes on our children through the debt tax.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Hawaii (Mr. CASE) is recognized for 5 minutes.

(Mr. CASE addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

SUPPORTING THE NOMINATION OF MIGUEL ESTRADA

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Tennessee (Mrs. BLACKBURN) is recognized for 5 minutes.

Mrs. BLACKBURN. Mr. Speaker, I rise this morning in support of the nomination of Miguel Estrada. If Miguel Estrada were considered for Federal bench on merits alone, we would not be still debating his qualifications. He would already be serving.

Estrada was given the very highest recommendation by the American Bar Association, not what those who seek to tar and feather him would consider a right wing organization. While we prefer our Tennessee law schools, we do know that some consider Harvard to be a pretty good alternative. Mr. Estrada not only graduated from Harvard, but was the editor of the Law Review. Again, Harvard is not what Estrada's critics would consider a right wing organization. And in what can only be described as a stellar career, he went on to clerk for Supreme Court Justice Anthony Kennedy, who is also not considered by those on the left to be part of the right wing.

I think my point is clear. Partisan politics are behind the attacks on his character and the delay in his nomination.

With the country on alert for terrorist attacks, a potential conflict in Iraq, and effort on the way to enact economic stimulus, it is time to stand behind this extremely qualified candidate.

CHENEY TASK FORCE RECORDS AND GAO AUTHORITY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. WAXMAN) is recognized for 5 minutes.

Mr. WAXMAN. Mr. Speaker, last Friday, February 7, the General Accounting Office abandoned its efforts to obtain basic records about the operation of the Vice President's Task Force on Energy Policy. This action received only limited attention, and few people fully understand its profound consequences.

When we have divided government, the public can expect Congress to conduct needed oversight over the executive branch. But today we are living in an era of one-party control. This means the House and the Senate are not going to conduct meaningful oversight of the Bush administration. When there is one-party control of both the White House and Congress, there is only one entity that can hold the administration accountable, and that is the independent General Accounting Office. But now GAO has been forced to surrender this fundamental independence.

When GAO decided not to appeal the District Court decision in Walker v. Cheney, it made a fateful decision. In the Comptroller General's words, GAO will now require ''an affirmative statement of support from at least one full committee with jurisdiction over any records they seek to access prior to any future court action by GAO.'' Translated, what this means is that GAO will bring future actions to enforce its rights to documents only with the blessings of the majority party in Congress.

This is a fundamental shift in our system of checks and balances. For all practical purposes, the Bush administration is now immune from effective oversight by the Congress. Some people say GAO should never have brought legal action to obtain information about the energy task force, but in reality GAO had no choice.

The Bush administration's penchant for secrecy has been demonstrated time and time again. The Department of Justice has issued a directive curtailing public access to information under the Freedom of Information Act. The White House has restricted access to Presidential records. The administration has refused to provide information about the identity of over 1,000 individuals detained in the name of homeland security.

The White House deliberately picked this fight with GAO in order to secure its power to run the government in secret. From the start, the White House assumed a hostile and uncompromising position, arguing that GAO's investigation ''would unconstitutionally interfere with the functioning of the executive branch.'' Even when GAO voluntarily scaled back its request, dropping its demand for minutes and notes, the Vice President's office was intransigent. Faced with an administration that had no interest in reaching an accommodation, GAO was left with no choice. Reluctantly on February 22, 2002, GAO filed its first-ever lawsuit against the executive branch to obtain access to information.

□ 1845

In December, the district court in the case issued a sweeping decision in favor of the Bush administration, ruling that GAO had no standing to sue the executive branch. The judge in the case was a recent Bush appointee who served as a deputy to Ken Starr during the Independent Counsel investigation of the Clinton administration. The judge's reasoning contorted the law, and it ignored both Supreme Court and appellate court precedent recognizing GAO's right to use the courts to enforce its statutory rights to information.

Before deciding whether to pursue an appeal, the Comptroller General consulted with congressional leaders. He found no support from Republican leaders for an appeal.

This hypocrisy is simply breathtaking. During the 1990s, it was the Republicans in Congress who embarked on a concerted effort to undermine the authority of the President. Congressional committees spent over $15 million investigating the White House. They demanded and received information on the innermost workings of the White House. They subpoenaed top White House officials to testify about the advice they gave the President. They forced the White House to disclose internal White House documents, memos, e-mails, phone records, and even lists of guests at White House movie showings. They abused congressional powers, and they launched countless GAO investigations.

But now that President Bush and Vice President CHENEY are in office—

The SPEAKER pro tempore (Mr. PEARCE). The time of the gentleman has expired.

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent to proceed for 1 additional minute.

The SPEAKER pro tempore. The Chair cannot entertain the motion. The gentleman's time has expired.

THE BUSH RECESSION AND ITS IMPACT ON MINORITY WORKERS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WATSON) is recognized for 5 minutes.

Ms. WATSON. Mr. Speaker, I yield to the gentleman from California (Mr. WAXMAN).

CHENEY TASK FORCE RECORDS AND GAO AUTHORITY

Mr. WAXMAN. Mr. Speaker, I thank the gentlewoman for yielding, because

I want to make this point very clearly that now that the President is Bush and the Vice President is Cheney, suddenly the priorities of the Republicans have changed. Oversight is no longer of interest to them. In fact, it is something to be avoided at all costs, including sacrificing the independence of GAO. Even when GAO asked for the most basic information, what private interest met with the White House task force, the answer is that GAO is not entitled to ask these questions.

Consider this irony. In their eagerness to undermine the Clinton White House, Republicans in Congress tried to tear down the Presidency. Now, in their eagerness to protect the Bush White House, they are willing to tear down Congress.

The implications of GAO's decision are enormous when they decided not to appeal; and without a realistic threat of legal action, GAO loses most of its leverage. This is a sea change in GAO's mission. It is no longer fundamentally nonpartisan nor fundamentally independent.

Mr. Speaker, I include for the record three short documents into the RECORD. They are an exchange of correspondence with the Comptroller General on this issue and a fact sheet on the Walker versus Cheney case that my staff has provided.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES, COMMITTEE ON GOVERNMENT REFORM,
Washington, DC, January 31, 2003.

Hon. DAVID M. WALKER,
Comptroller General, General Accounting Office, Washington, DC.

DEAR DAVE: I am writing to follow up on our conversation about the Walker versus Cheney litigation.

I have great admiration for the work you have done as Comptroller General. You have reinvigorated the organization and given it a new sense of purpose, accomplished important restructuring, and addressed pressing human capital needs.

But now you face another—and in some ways even more significant—challenge: how you respond to the district court decision in Walker versus Cheney. This decision goes to the very heart of GAO's independence.

As you have indicated to me (and your lawyers have indicated to my staff), you will read the decision as narrowly as possible if you decide not to appeal. The narrow reading is that the case does not apply when you are acting pursuant to a request from a committee. If you decide not to appeal, you will take the position that GAO can still use the courts to uphold its statutory rights to information when supported by a committee of Congress.

While I understand the desire to minimize the impact of the district court decision, allowing the decision to stand would do irreparable damage to GAO's independence. As Comptroller General, you have a 15-year tenure, so that you can exercise independent judgment and conduct independent investigations. You are not simply an agent of congressional committees: GAO exists, to quote your mission statement, ''to ensure the executive branch's accountability to the Congress under the Constitution and the federal government's accountability to the American people.''

If you do not appeal, you will in effect have sacrificed the independent that is essential to your mission. At best, you will be able to pursue effective investigations only when your work is supported by the majority in Congress. Investigations that are requested by the minority would become second-class investigations because GAO would have no ability to compel—or to threaten credibly to compel—the production of information in the face of executive branch recalcitrance.

Allowing the district court decision to stand would also do permanent damage to the Comptroller General's statutory authority to conduct self-initiated work. Under Walker versus Cheney, this essential independence is crippled because you would have no standing to assert your independent rights of access to agency information.

Now is exactly the time when an independent GAO is most important. When the White House is controlled by one party and Congress by another party, the public can rely on Congress to conduct oversight of the administration. But when—as now—there is one-party control of both the White House and Congress, congressional oversight will be minimal. If GAO is not available to conduct independent oversight, there simply won't be any.

The need for GAO independence is especially important given the inclinations of the current Administration. This Administration has taken a uniquely hostile approach to oversight and public disclosure. The Administration regularly ignores requests from members of Congress for information, resists GAO efforts to obtain records, and has even issued a directive curtailing public access to information under the Freedom of Information Act. This penchant for secrecy makes GAO's independence of paramount importance.

Given the current political alignment in Washington, it is clear what the easy decision would be: don't appeal. But the core values of GAO are ''accountability, integrity, and reliability.'' I urge you to make your final decision on the basis of these core principles.

Sincerely,

HENRY A. WAXMAN,
Ranking Minority Member.

U.S. GENERAL ACCOUNTING OFFICE,
Washington, DC, February 7, 2003.

Hon. HENRY B. WAXMAN,
Ranking Minority Member, Committee on Government Reform, House of Representatives.

DEAR MR. WAXMAN: Thank you for your letter dated January 31, 2003, regarding the district court decision in *Walker* v. *Cheney* and your kind words on GAO's performance during my tenure as Comptroller General of the United States (CG).

I am announcing my decision today and have attached a copy of our press statement for your information (attachment). This decision, like my initial decision to file suit last February, was by no means an easy one to make because many factors needed to be considered, including legal, institutional and other issues. In addition, there were good arguments to be made both for and against an appeal. Please be assured that my decision was based on what, in my best judgment, is in the best overall interests of the Congress, the GAO, and the American public. I also feel comfortable that it is fully consistent with GAO's core values of ''accountability, integrity, and reliability.''

As noted in the attached statement, we strongly disagree with the district court decision. We do not, however, agree with your characterization of the opinion. In addition, we do not believe that the district court opinion will have a significant adverse effect on our ability to serve the Congress and the American people. Furthermore, with regard to GAO's policy of not disenfranchising the minority, the Court's decision did not address, and does not affect, our engagement acceptance policy or the CG's authority to conduct self-initiated work.

As you know, in enacting 31 U.S.C. §716, the Congress gave GAO the independent right to sue to compel the production of information irrespective of whether the request is made by a committee, a member, or is self-initiated by the CG. As the attachment notes, the district court's decision in *Walker* v. *Cheney* does not set a binding precedent on GAO's overall right to sue in the future. Importantly, it does not affect GAO's statutory audit authority, access rights, or the obligation of agencies to provide GAO information. As a result, we remain willing and able, should the facts and circumstances warrant, to file suit to press our access rights in connection with a different matter in the future. In addition, the court's decision does not affect GAO's ability to issue demand letters and statutory reports to the Congress in connection with an agency's refusal to disclose information to which we are entitled. There are also traditional remedies available to the Congress that can, have, and, we trust, will continue to be employed to aid our audit and access authority. However, as I noted when we met, given the district court's decision, and other considerations, as a matter of procedural prudence, I believe it would be appropriate to have an affirmative statement of support from at least one full committee with jurisdiction over any records access matter prior to any future court action by GAO. Furthermore, now that I have been in office for over four years, I believe it is appropriate to work with you and other Congressional leaders to review and update our current Congressional protocols and address certain other related matters.

We appreciate your past understanding and support and we trust that we can count on that same understanding and support in the future. I would be pleased to meet with you to discuss my decision should you so desire. In addition, I look forward to meeting with you soon to discuss our Congressional protocols and related matters.

Sincerely yours,

DAVID M. WALKER,
Comptroller General of the United States.

Attachment.

FACT SHEET—WALKER V. CHENEY

In December 2002, federal district court Judge John Bates issued a ruling in Walker verses Cheney that holds that GAO lacks ''standing'' to enforce its statutory rights to information. This ruling may do serious damage to GAO's ability to serve Congress. The court's ruling is so sweeping that the issue in the case is no longer about the actions of the Cheney energy task force: it's about the role of GAO.

GAO's ability to assist Congress in overseeing the executive branch is imperiled. Under the logic employed in the court's ruling. GAO has no standing to compel the executive branch to provide any documents or information. Thus, federal agencies may use the decision to argue that GAO cannot enforce its requests for information. In effect, agencies are likely to take the position that they—not GAO—can dictate what information is shared with GAO. According to the Congressional Research Service, the decision ''could greatly limit the ability of GAO to compel production of information from the executive branch'' and ''the executive branch could become significantly less responsive to future GAO inquiries.''

Other core GAO powers are also in jeopardy. GAO has statutory authority to demand important records from the private sector, such as information from Medicare or

Medicaid providers or from federal contractors. Using the logic in the court's ruling, private companies being audited by GAO may argue that GAO does not have standing to enforce these rights.

Another important function of GAO is its role in preventing improper ''impoundments'' by the executive branch. The Impoundment Control Act sets forth the limited circumstances under which the executive branch can defer expending appropriated funds. To ensure compliance with these limits, the law authorizes GAO to sue the executive branch if the law is violated. This core GAO authority could also be challenged by the executive branch under the court's ruling.

The court's decision even challenges Congress' ability to sue the executive branch. The opinion says that ''no court has ever ordered the Executive Branch to produce a document to Congress or its agents'' and dismisses Department of Justice opinions which conceded Congress' ability to sue to enforce a subpoena. According to CRS, the decision ''casts doubt on the ability of committees of the Senate and of the House of Representatives to bring suit to enforce subpoenas.'' If the decision is not reversed, CRS says that it ''conceivably could be cited by the executive branch—or even a private party—for the broad proposition that the legislative branch does not have standing to enforce its demands for information in the courts.''

No congressional remedy is available. In effect, the court ruled that Congress violated Article III of the Constitution when it authorized GAO to sue for access to information. This is not an issue that Congress can rectify by enacting more explicit legislation. If the opinion stands, a constitutional amendment could be required to revive GAO's powers.

There is a significant likelihood that the district court's decision will be overturned on appeal. The court's opinion is not well reasoned or well supported:

1. The court failed to recognize that heads of executive agencies routinely assert ''institutional'' injuries in litigation. The court rejects the Comptroller General's standing because the Comptroller General is asserting an ''institutional'' interest in obtaining information, not a personal injury. But heads of agencies always assert ''institutional'' interests in litigation. If standing required a ''personal'' stake in the litigation, the Attorney General and heads of other executive agencies could not bring legal action to assert federal rights. The court never explains why GAO's institutional interests asserted by agencies when they bring lawsuits to enforce their statutory rights to information.

2. The court improperly dictates to Congress how it must collect information needed for legislative purposes. The court's decision relies heavily on the fact that Congress did not vote to authorize the Walker v. Cheney litigation. The court does not hold that such a vote would be sufficient to gave GAO standing, but it does hold that GAO cannot have standing without such a vote. This is an unprecedented intrusion into the internal operations of the legislative branch. Congress determined by statute that it was appropriate to create GAO to assist members in collecting information and conducting oversight, just as Congress has created CBO to assist members on budget issues and CRS to assist members with their research needs. Congress also determined by statute that GAO should have the power to sue agencies for information, if necessary. No provision of the Constitution forbids Congress from creating congressional agencies to assist members in carrying out their duties, and no provision bars Congress from giving these agencies authorities, such as the ability to sue to obtain information, necessary to carry out their assigned duties. There is no precedent for the district court to prohibit Congress from doing so in this case.

3. The court ignored key precedents. The district court completely ignore Bowsher versus Merck, 460 U.S. 824 (1983). In this case, the Supreme Court upheld GAO's rights to obtain certain records from a drug company, rejecting the company's request for a declaratory judgment that GAO was not entitled to the records. The district court's holding that enforcing GAO's rights to information would violate the standing requirements of Article III conflicts fundamentally with the Supreme Court's decision to enforce these very rights in Bowsher versus Merck. The district court also ignores United States versus McDonnell Douglas Corp., 751 F.2d 220 (8th Cir, 1984), and United States versus Abbott Laboratories, 597 F.2d 672 (7th Cir. 1979), which upheld GAO's statutory right to bring a lawsuit to compel a contractor to provide records.

4. Raines v. Byrd is distinguishable. The district court relies on Raines versus Byrd, 521 U.S. 811 (1997), a case in which several members sued to challenge the constitutionality of the line-item veto. But there are three fundamental differences between the Raines case and this one. First, GAO is seeking access to information and not trying to prevent an abstract, generalized harm like diminution of congressional authority. The Supreme Court has held that the denial of information is a concrete injury that conveys standing. Second, the line-item veto at issue in the Raines case had not yet been exercised. In essence, the congressional plaintiffs were seeking an advance ruling that any exercise of the authority would be unlawful. In this case, there is a specific dispute over specific documents that is being litigated. Third, the Raines decision placed some importance on the fact that the members were not authorized to represent Congress, and in fact both houses of Congress opposed their lawsuit. Here, by contrast, Congress has specifically delegated to GAO the power to sue.

As a practical matter, GAO may be bound by the ruling if it does not appeal. Under GAO's statute, the D.C. district court is the only court where GAO can litigate claims against agencies for refusing to provide information, so this is not a situation in which GAO can gain a strategic advantage by looking for another venue to litigate the issues in question. If the decision is not appealed and GAO files another access suit in the future, the district court judge might rule that the issue of GAO's standing has been decided and cannot be re-litigated. Even if the judge allows the question of standing to be re-argued, the judge is likely to follow the precedent set by Judge Bates's ruling, and any appellate court would question why GAO did not appeal the initial ruling. If no appeal is taken, GAO could be permanently bound by the decision.

An appeal leaves open other grounds for decision. The government offered many arguments in the litigation, including statutory claims such as the one that GAO's authority to obtain ''agency'' records does not extend to the Office of the Vice President. These other issues go the merits of the dispute about GAO's right to the energy task force records. A decision on these other grounds, even if adverse to GAO, would not have the profound impact on the operations of GAO that the district court's ruling potentially has.

Ms. WATSON. Mr. Speaker, the American economy has been mired in recession since March of 2001. This past December saw the unemployment rate rise to 6 percent, meaning that one in every 17 American workers was out of work.

One of the most troubling aspects of this rescission is the amount of time that workers have been idle. During the Clinton economic expansion of the 1990s, America dramatically reduced long-term unemployment, those workers who had been out of work 27 weeks or more. From February of 1993 until February of 2001, roughly the amount of time Bill Clinton was in office, long-term unemployment fell by two-thirds. That is 1.2 million long-term unemployed Americans who went back to work.

But in less than 2 years of this administration, there is a recession and the administration has managed to completely erase those gains. By this past December, the administration's economic mismanagement has managed to push long-term unemployment back up to where it was when his father was in office.

I remember feeling a certain amount of deja vu after having another President Bush in office. But I do not think that many people realized that this administration would mismanage the economy so badly that we would return to economic stagnation reminiscent of the early 1990s.

But these broader economic statistics only tell half the story. During the Clinton expansion of the 1990s, minority communities made enormous strides in breaking out of poverty, as more African Americans, Asian Americans, and Latinos found good jobs in the prosperous economy.

Since the beginning of this recession, however, these numbers have turned around sharply. More than one in 10 African American workers are now out of a job. American workers of minority heritage have historically worked at the edges of the economy. Because of the jobs they possess, too many of these workers are forced to bear the full brunt of swings in the labor market.

We need to get America back to work. We have to help this President realize that his fiscal and economic policies have not helped America out of the recession, and it is possible that it has been prolonged.

The budget that this President has submitted to Congress is a sweetheart deal for the President's wealthiest supporters. Meanwhile, budgets at all levels of government, Federal, State and local, are swimming in red ink. The President's budget, in effect, hides a $1 trillion tax increase. His budget borrows against the future, leaving us with a $1 trillion bill that Americans will have to pay over the next decade in higher taxes, higher interest rates, and lower growth.

We will only get out of this recession when average Americans get money back into their pockets. I urge the President to rethink his failed economic policies and get America back to work.

NATIONAL DRUG CONTROL STRATEGY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on the Judiciary, Committee on Agriculture, Committee on Armed Services, Committee on Financial Services, Committee on Energy and Commerce, Committee on Education and the Workforce, Committee on Government Reform, the Committee on International Relations, Committee on Transportation and Infrastructure, Committee on Ways and Means, Committee on Veterans' Affairs, the Permanent Select Committee on Intelligence, and the Select Committee on Homeland Security:

To the Congress of the United States:

I am pleased to transmit the 2003 National Drug Control Strategy, consistent with the Office of National Drug Control Policy Reauthorization Act of 1998 (21 U.S.C. 1705).

A critical component of our Strategy is to teach young people how to avoid illegal drugs because of the damage drugs can do to their health and future. Our children must learn early that they have a lifelong responsibility to reject illegal drug use and to stay sober. Our young people who avoid drugs will grow up best able to participate in the promise of America.

Yet far too many Americans already use illegal drugs, and most of those whose drug use has progressed—more than five million Americans—do not even realize they need help. While those who suffer from addiction must help themselves, family, friends, and people with drug experience must do their part to help to heal and to make whole men and women who have been broken by addiction.

We know the drug trade is a business. Drug traffickers are in that business to make money, and this Strategy outlines how we intend to deny them revenue. In short, we intend to make the drug trade unprofitable wherever we can.

Our Strategy is performance-based, and its success will be measured by its results. Those results are our moral obligation to our children. I ask for your continued support in this critical endeavor.

GEORGE W. BUSH.
THE WHITE HOUSE.

WHITE HOUSE DRUG POLICY, THE DEFICIT, AND SUPPORTING THE NOMINATION OF MIGUEL ESTRADA

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentleman from Georgia (Mr. KINGSTON) is recognized for 60 minutes as the designee of the majority leader.

Mr. KINGSTON. Mr. Speaker, I certainly appreciate the opportunity to address the House tonight. I wanted to start off by commenting on some of the comments that were made by our colleagues on the Democrat side of the House; but before I do that, I wanted to comment about the message that we just received from the President of the United States.

Mr. Speaker, as you know, the President has listed as one of his priority items this year to have a compassionate, conservative model to end drug addiction. His idea is let us reach out to people who are unfortunately trapped by drug addiction and let us work it through local agencies and local volunteers and local charitable groups, get people off drugs and stop addiction so they can go on to have productive lives.

I think it is just an example of the compassionate conservative side of George Bush, attacking drug abuse on one side, but doing it with a human face and a gentle hand guiding people to get off drugs. I think it is a good program, and I look forward to working with it and seeing more of the proposal.

Mr. Speaker, I also wanted to comment, we heard many Democrats tonight talking about the deficits. I want the Democrats, the Blue Dog Democrats who are the more moderate Democrats in this body, I want them to know that I would like to work with them on reducing the deficit.

I was disappointed last year when the Democrats did not offer a budget. I think that kind of hurt them, hurt their own credibility of leadership, frankly, because I think that when you come to Congress, you have to vote yes, you have to vote no, but you have to participate and you have got to get involved in the process. I do not believe it is right just to be present. You have got to engage.

So I hope this year that the Blue Dog Caucus will offer a deficit-free budget. I know it is very difficult, because we are in a time of war; and I think in a time of war that deficits, unfortunately, are to be expected. That is why what we are trying to do with the Republican budget is make sure that it puts us on the glidepath back into getting out of the red and into the black.

So I am excited to work on a bipartisan basis with the Democrats on this, if they can come up with ideas. That is what we are here for. Put your ideas on the table, and let us do what is best for the American people. It does not matter which party gets credit for it.

Now, having said that, that I want to work with the Democrats on that, I also want to work with the Democrats on something else that is not really before the House per se, but it is before the American people, and that is the nomination of a young potential judge named Miguel Estrada.

Mr. Speaker, it is unfortunate that the Democrats are rejecting the nomination of the first Hispanic on the D.C. court. I think it is unfortunate for the diversity of the court and for racial relations in general; but, more importantly, somehow that they seem to be attacking the American dream.

Here is a young guy that comes to America when he is 17 years old. He is an immigrant from Honduras.

By the time he is 41, he is nominated to be the first Hispanic to sit on the D.C. court. He graduated Phi Beta Kappa from Columbia College and magna cum laude from Harvard Law. By the age of 40 he had argued 15 cases before the Supreme Court and was rated ''well-qualified'' by the American Bar Association.

He has worked at the Department of Justice for both Republicans and Democrats, and he has been called an ''extraordinary legal talent'' and ''genuinely compassionate'' by the Clinton Solicitor General. But he is held up over in the Senate.

I am joined tonight by some colleagues from the great State of Florida, just south of the State of Georgia, the gentlewoman from Florida (Ms. HARRIS), the gentleman from Florida (Mr. MARIO DIAZ-BALART) and the gentleman from Florida (Mr. FEENEY) who is here somewhere, who is the former speaker of the Florida House.

I would be honored to yield to whoever is ready, the gentleman from Florida (Mr. Diaz-Balart) and then the gentlewoman from Florida (Ms. HARRIS). I want to hear your comments on this important nomination.

Mr. MARIO DIAZ-BALART of Florida. Mr. Speaker, I want to thank the distinguished gentleman from Georgia for yielding.

Would it be all right if before I get into the specifics, I tell you a little bit about what it feels like to be a freshman, what I have learned? I have experienced some very interesting things while I have been here in Washington.

Mr. KINGSTON. Mr. Speaker, I am going to reclaim the time to say this to the gentleman from Florida. I am going to be honored to hear what it is like from both of you as a freshman, but I want to underscore for the folks back home that you are experienced legislators. The Secretary of State has been in the limelight many times before, and the gentleman's brother is the gentleman from Florida (Mr. LINCOLN DIAZ-BALART), who is also a Member of Congress, and who reminded us last night that the gentleman's family came to America as immigrants when he was the age of 4.

Mr. MARIO DIAZ-BALART of Florida. I thank the gentleman. The gentleman is right, I have been in the State legislature for a number of years, and the private sector; and I have to admit I have been kind of caught off guard by some things in the few weeks I have been up here in D.C.

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Some things that kind of hit me kind of in a strange way, I have to admit, maybe it is just because of the Washington phenomenon, is how I hear

things thrown out there that are not based on facts. The gentleman just mentioned some of the qualifications of Miguel Estrada. I do not know of a more qualified individual.

The man, as the gentleman well said, got here when he was 17 years old, worked and studied; he was not a rich man, barely spoke the language, worked and studied and was able to educate himself, was able to graduate from Columbia University with honors, Harvard Law School with honors, worked in the Clinton administration. The people that he worked with have said publicly, in writing, that he is a decent individual, that he is a hard-working individual, that he is a talented individual, and yet I say to the gentleman from Georgia, then I hear some strange accusations coming out there which, frankly, I am not used to.

Because where we served, and coincidentally, the three others of us who happen to be here right now, as the gentleman from Georgia mentioned, are from Florida and the three of us served in the Florida legislature together, and it was a wonderful experience. And we have heated debates there, but we are used to at least basing those debates on facts. Yet, let us kind of analyze some of these ''accusations du jour'' that we have heard about Mr. Miguel Estrada.

We have heard from others in this process, some members of the minority party, that one of the reasons that Mr. Miguel Estrada should not be a judge, because he is not qualified to be a judge, is because he is a Hispanic individual who got here, as I repeat, when he was 17 years old and has lived, really lived, his part of the American dream through hard work, sacrifice, dedication. He was not given anything. He earned it. He earned it. Yet, there are some who have said, well, Mr. Estrada is not Hispanic enough. He is only Hispanic in name.

Mr. KINGSTON. Mr. Speaker, if the gentleman will yield, I am from Georgia, I am not Hispanic, the gentleman from Florida is Hispanic. What does not being Hispanic enough mean? Does that mean that one's mama was not and one's dad was? The Democrat thinking, how could one not be Hispanic enough? I mean one is either Hispanic or not.

I do not know. I hope the gentleman will tell me, because I would certainly appreciate him clarifying this, because I am a Republican, and Democrats probably can understand this better than me, but maybe the gentleman has some insight for all of us.

Mr. MARIO DIAZ-BALART of Florida. Mr. Speaker, I can understand the reason for that very interesting question.

By the way, let me tell the gentleman a little bit about myself. I was born in southern Florida of Cuban parents, so I am Hispanic. I am American, obviously, 100 percent American, of Hispanic descent.

Mr. Estrada was born in Honduras, Central America, came over here, and he was a naturalized American citizen. He came here when he was 17 years old. He was not born an American here like I was; he was naturalized. He did not speak much English until after he got here at the age of 17.

And then there are others, by the way, some of them like me born here; some of them, by the way, who do not speak Spanish fluently who then claim that Mr. Estrada is not Hispanic enough.

I consider myself, and I am very proud of my heritage, but I think it would be ludicrous if I, who was born in the United States, who obviously was born, thank God, was born in the United States, thank God was born an American, was born into freedom, was born in the land of opportunity, I think it would be ludicrous and frankly maybe a bit offensive if I were to say to the gentleman from Georgia, to somebody that the gentleman and I know who was not born in the United States, who got here when he was 17, who is a Hispanic, whose mother, by the way, got here carrying a 3-year-old child when she came to this country, I think it would be frankly offensive.

I think, sir, that the gentleman would be offended if I said that about somebody, that that person is not Hispanic enough. Who am I to say that a man who got here when he was 17 years old, barely speaking English, from Honduras is not Hispanic enough. That is irresponsible. That is offensive to me, sir.

But it is just not only that. Here is a person who got here at 17, has lived his part of the American dream, and I do not think anybody can argue that he has been a successful lawyer, who again worked even in the Clinton administration, and the people that worked with him, his bosses, his co-workers have said in writing that he is extremely qualified and he is fair.

But then some of these other people that are accusing Mr. Estrada with some ridiculous, baseless accusations like the one that I just mentioned. To me, that one is more than ridiculous; it is offensive. It is offensive, by the way, to all of us of Hispanic heritage, but it is offensive and should be offensive to everybody who believes in equality and the American dream, and that anybody here, anybody here who works and sacrifices and loves this country can be an American, and we should not be judging them if they are too Hispanic or not Hispanic enough.

Again, I think that is offensive.

Mr. KINGSTON. If the gentleman will yield, as I understand it, that seems to be his biggest crime, because he is well qualified. But there seems to be this racial litmus test that the Democrats are putting on him.

I wanted to invite the gentlewoman from Florida (Ms. HARRIS) or the gentleman from Florida (Mr. FEENEY) to jump in. The floor is open.

Ms. HARRIS. Mr. Speaker, I rise today to salute the embodiment of an American dream.

Born and raised in Honduras, Miguel Estrada arrived in the United States at age 17 as an immigrant who knew little English, but who understood the essence of America. Five years later, as a result of his unparalleled drive, perseverance and vision, he earned a Bachelor's Degree magna cum laude and Phi Beta Kappa from Columbia College in New York City.

Within the following 5 years, he had graduated magna cum laude again from Harvard Law School, where he had served as editor of the Harvard Law Review and had become a clerk for the Supreme Court of the United States. He became an eminent practicing attorney who had argued 15 cases before the Supreme Court of the United States before he was age 40.

He served both in the Republican and Democratic Justice Departments, demonstrating a matchless strength of character and an incomparable depth of professional integrity. Ron Kind, who served as chief of staff to Vice President Gore and the Solicitor General for President Clinton, described Miguel Estrada as ''An extraordinary legal talent and genuinely compassionate.''

On May 9, 2001, President Bush nominated Miguel Estrada to serve in the United States Court of Appeals for the District of Columbia circuit. He would become the first Hispanic in history to serve on that court, which is widely recognized as the second highest court in the land. The American Bar Association unanimously awarded its highest rating to Miguel Estrada, deeming him well qualified to serve in this capacity.

Mr. Speaker, the Senate has not acted on this outstanding opportunity Mr. Estrada's nomination presents to our Nation. As a judge on the U.S. District Court for the D.C. circuit, his story would inspire Americans of all backgrounds, while his legal acumen would provide our system of justice with an eminently talented defender and advocate.

Mr. KINGSTON. Mr. Speaker, I yield to the gentleman from Florida (Mr. FEENEY).

Mr. FEENEY. Mr. Speaker, I want to congratulate the gentleman from Georgia for joining the Florida delegation this evening, and I want to thank him for his wonderful dialogue last night with my colleague from Florida. I am glad to be here with two great friends and colleagues from the Sunshine State.

I want to tell my colleagues that one of the reasons that my colleague here tonight from south Florida is so passionate about this issue is that his family shares something that apparently Mr. Estrada is now going through, and that is suffering because of their political philosophy. This is not just persecution of a man by denying him access to the door of the Federal bench because of his ethnic background or because he has assimilated into the American dream too quickly.

But there also is a component here, as we know, that has a philosophical

component. There is a litmus test not just on how Hispanic one is that is being set up by the critics of Miguel Estrada, this incredible leader and a great American, but there is an also a litmus test that is based on a certain philosophy that they are terrified will be lived from the bench, and that is that there are some that would like to see the bench turned into a completely activist judiciary, full of biases where unelected judges would become a super legislature. They would rewrite the Constitution. They would ignore the laws passed by Congress or ignore those that they did not like.

For example, if we look at the First Amendment alone, there is an establishment clause that basically is very clear. It says that ''Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof.'' Because of that, we have liberal activists saying that judges should impose, because they know full well elected members in our great democracy that would never impose a provision that would say you cannot recite the Pledge of Allegiance, words like ''one Nation under God.'' This is a liberal activist judiciary. And the real goal here, if I can tell my colleagues and the Speaker, is that we want to have a litmus test, according to the critics of Miguel Estrada, so that unless you are prepared to substitute your political bias and your judgment for that of the elected representatives of the people, then they do not want you on the bench.

And I will hopefully engage in a dialogue with the gentleman from Georgia and with my colleagues from Florida so that we can talk about some of the real, underlying reasons why this is going to become such a huge battle here in the Capitol.

I will finish with this, if I may, and that is that lot of us do not want; we joined a great justice, Antonin Scalia who, in his wonderful book, ''A Matter of Interpretation,'' says, you should not have a judge who is going to have a conservative interpretation of the Constitution or a liberal interpretation or a strict interpretation or a loose interpretation, but a textural interpretation.

In other words, we want judges that will apply the rule of law, that will read the statutes that we as an elected body pass, that will look at the text of the United States Constitution, that will, in their fairness and wisdom and incredible credentials like Miguel Estrada has, will be able to protect the wonderful Constitution that we have.

Unfortunately, there are some critics of Miguel Estrada that do not want an independent judiciary; they want a litmus test by philosophy of judicial liberal activism, and I find that offensive as well.

Mr. KINGSTON. Mr. Speaker, I wanted to get back to the gentleman from Florida (Mr. MARIO DIAZ-BALART), because I wanted to say I was talking to the gentleman's brother last night, and one of the things we discussed is that I was blessed as a child growing up in Athens, Georgia. There were a lot of Cuban families who had to leave Cuba because of Castro, and they came to Athens, Georgia, among other places, but a lot to Athens. Many could not speak English, and they were very similar to families all over Georgia and Florida. Their parents, regardless of what their jobs were in Cuba, they basically lost often their professional licenses. A doctor or a lawyer, they had to step down a notch or two. But their kids assimilated quickly.

Those kids never forgot what freedom was and what it was like to lose it, those families. If anything, I found, particularly among, I would say, those types of immigrants, more patriotism than they afford Americans. They were all Americans, but still they did not forget that lesson of having freedom pulled out from under them.

So, in my opinion, you have somebody who lives in America by choice, like Miguel Estrada; he came here when he was 17, he could have left when he was 21. He could have told his parents, I am not staying here in America. But he left Honduras, he came here.

I never met the man, but I would be willing to bet that he is probably one of the most patriotic, God-fearing, pro-American citizens that we have out there today. That has been my experience with so many of the wonderful immigrants who have made this country what it is today.

I wanted to hear what the gentleman has to say, because it is just amazing that the gentleman's family, two sons who grow up to be United States Congressmen, the gentleman was telling me earlier, one is an investment banker, probably making more money than the ones in Congress, and then the other one is a newscaster, probably reporting to the world what the two in Congress are doing wrong, so you are covered either way. But that is a wonderful American success story and American dream, just like Miguel Estrada.

Mr. Speaker, I think the Democrats are not just attacking Hispanics with this, they are attacking the American dream.

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Mr. MARIO DIAZ-BALART of Florida. Mr. Speaker, I want to thank the honorable gentleman from Georgia (Mr. KINGSTON) for those words.

I have had the opportunity to speak to Miguel Estrada, and what you say is just so on target. He is a patriot. He is 100 percent American. He is one who came here by choice, who did not ask for anything other than an opportunity to live in freedom. And he worked hard and he studied hard and he has become one of the most prestigious attorneys in the country.

And a little while ago you were also saying how strange is the distinguishing factor that Miguel Estrada has that he is treated differently for.

My distinguished colleague from Florida mentioned, I think, some of the reasons why he is being treated differently, but I must add a couple facts to this conversation that we are having today. I have mentioned in the beginning how that is something that I have not seen a lot coming from the other side.

I have heard stories. I have heard accusations, but no facts because one of the accusations that I keep hearing is that, well, Miguel Estrada cannot be a judge in this court because he has not been a judge in a different court and, therefore, he is not qualified. But I did a little bit of research, and I found that five of the eight judges on that same court where the President has nominated Miguel Estrada were not judges before. They had no previous judicial experience, with all due respect. If that is what makes you qualified, where was the outrage for the other five judges, or is it only if you are Hispanic do you have to have previous experience as a judge? And if you are, you cannot serve on that court and there is no outrage.

Furthermore, I did a little bit more research, and I found that two current Justices of the Supreme Court were not judges before either, wonderful members that we respects and admire: former Justice Byron White, a respected member of that illustrious body; and the other one by the way is the current Chief Justice of the Supreme Court of the United States. So if the requirement, if what makes you acceptable to be a judge and that you are not acceptable, I should say, if you do not have previous experience, where was the outrage from these individuals who say that Miguel Estrada is not qualified because he did not serve as a judge before when the other five in that same court were nominated and approved and when those Supreme Court Justices were nominated and also approved?

See, there is a double standard. And I do not know if the double standard is because of his idealogy. I can state that his nomination has been sitting there for about 600-plus days. The distinguished members of the other party had ample opportunity to sit down with him to discuss these issues because now they are saying, we should have more hearings. Why is it now? They were in control of the Senate until just a couple months ago. Why did they not have hearings before if they wanted some questions answered? Oh, no, they did not want hearings then because they were just trying to torpedo the nomination of this individual. He is a fine American and a fine human being.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. PEARCE). The Chair must remind Members that remarks in debate may not include characterizations of the Senate or its actions.

Mr. KINGSTON. As tempting as it might be.

Mr. MARIO DIAZ-BALART of Florida. I am a freshman. I apologize for that.

Mr. KINGSTON. Mr. Speaker, I wanted to underscore what the gentleman is saying that Mr. Estrada is on 632 days awaiting action by the other body, and yet it is not happening.

Now a similar nominee about 3 years ago, and I mean exactly similar, a man named Merrick Garland, who was also Phi Beta Kappa, also editor of the Harvard Law Review, also graduated from Harvard Law School magna cum laude, was a clerk of the U.S. Court of Appeals, a law clerk of the U.S. Supreme Court, everything except this guy was 44. Mr. Estrada is 41. Everything else is similar, and it took him 100 days to get through. And Mr. Estrada comes along, seems like the only difference is he is Hispanic, 632 days.

Mr. MARIO DIAZ-BALART of Florida. Again, it begs a difference. You have these incredible double standards. You have the double standards of judges that did not have previous judicial experience, were nominated and approved for the same court that Mr. Estrada was nominated before. They were not judges before, and yet now there are some people saying that that is what disqualifies Mr. Estrada.

You have certain people saying that Mr. Estrada, who, I repeat, was born in Honduras who came here at age 17, barely speaking English, worked hard, studied hard, became a model American and a wonderful attorney, even worked in the Clinton administration and actually for more than one President. And now they are saying that, well, this individual is not Hispanic enough. Why this double standard?

You have some people that have said that, for example, that the ABA's rating provided the gold standard, American Bar Association's rating provides, they said, the gold standard for how a judge should be measured, whether one is qualified or not. Well, now those same people are saying that Mr. Estrada is not qualified even though Mr. Estrada got the highest possible rating from the ABA unanimously. So why the double standard? Why is this individual being treated differently than others just like him with the same or less qualifications, with the same or less merits? Why is he being treated differently?

The gentleman mentioned the case a little while ago of a very similar case where he went right through the process. Nobody asked him any questions, and if you look at those questions that were asked, they were pretty amazing they were asked. They were total softballs. And yet Mr. Estrada, who nobody has been able to say anything negative about his record, about his integrity, about how he has lived his life, how he has really lived a piece of this American Dream. And for these accusations that come out of left field, ridiculous, unfounded, kind of really almost funny accusations to come out against this fine human being, this wonderful gentleman who has done nothing but work hard, study hard, work hard, live the American Dream, has given of himself because he has worked with two different Presidential administration, for false accusations, for baseless accusations, for double standards to be used against him, so that he does not become the first Hispanic on that court, it is frankly very sad.

Mr. KINGSTON. It is an outrage.

Mr. FEENEY. It is not just the fact that Miguel Estrada, if the critics have their way, will be denied the opportunity to be the first Hispanic ever to serve on that great court but it is the way it is happening.

There have been several committee hearings. Normally judges at this level receive at most one or two committee hearings. They have had many more than that. But with respect to the problem and the issues they have had, they have been unable to identify any sin that this man is guilty of, either philosophically, with respect to his integrity, his background, his impeccable qualifications. And so what they have engaged in, the critics of this great man, is a whispering campaign. And they are trying, not to vote down the nominee, what they are suggesting, these critics, is that we will not have a vote at all. And after all, if the real reason you are sabotaging the opportunity for Miguel Estrada to go to the bench is not something you will admit in public, then do not have a vote. If it is something that you are willing to stand up with honor and respect in debate in a free forum in front of the entire world, then go into debate and have that vote. That is the democratic process.

But to use a procedural mechanism to deny the opportunity of a great man to get a fair vote up or down, my great colleague from Florida suggested that this incredible, a man has a 15-to-nothing highly qualified vote from the American Bar Association, but on top of that the American Bar Association says this: ''Vote them up or down. But do not hang them out to dry.''

The people that want to hang Miguel Estrada out to dry are afraid to explain to the American people in a public vote why they oppose the nomination.

Now, whether it is for, as some of us suspect, that terror that a great Hispanic leader that loves the Constitution and a textual defense of the Constitution may not be the liberal activist they want or whether it is some other political reason, that this would be a great opportunity to show the American people that folks from all different backgrounds, diversity, ethnicity, religions and philosophies can be great jurists, I do not know exactly what their real motives are and we will never know until we have a fair vote under the democratic process that all of us can all judge up or down.

ANNOUNCEMENT OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair reminds Members to refrain from remarks that characterize actions of the Senate.

Mr. KINGSTON. Mr. Speaker, how much time do we have remaining?

The SPEAKER pro tempore. The gentleman has 35 minutes.

Mr. MARIO DIAZ-BALART of Florida. The honorable gentleman from Georgia, if I may, I want to make sure everybody understands something very important, as I think most people know. With a name like Diaz-Balart, yes, I am of Hispanic heritage. It is something I am very proud of. And with a name like that, I cannot hide nor do I want to. But I am not here to support Miguel Estrada because he is a Hispanic. Absolutely not. I think it would be a sad day if we were here pushing for people based on their race or their religion or their ethnicity.

I am here to support Miguel Estrada because of his qualifications, because he is highly qualified. The honorable gentleman from Florida just mentioned that the bar association, what they said and how they qualified him as the highest qualifications that a lawyer can have, unanimously again, that is why he should be a judge. Because he has worked in the Solicitor General's office and he has been in front of the Supreme Court of the United States 15 times, I believe, has been fighting in cases in front of the Supreme Court in front of the United States, something that many lawyers do not do once in a lifetime. He has done it, I believe, approximately 15 times. Because his academic credentials are unbelievable, unbelievable, I know that a lot of the critics that he has cannot compare his experience in front of the Supreme Court, his academic credentials with theirs, his success as a lawyer with theirs.

I am supporting Miguel Estrada because of his qualifications. But what I have to admit, sir, is hard for me to swallow. Just like I am not supporting him because he is a Hispanic, I am supporting him because he is so highly qualified as everybody has said, including, by the way, people like Seth Waxman, the former Solicitor General to President Clinton who has said, ''He was a model of professionalism and competence.'' Like Ronald Klain, the former counselor to Vice President Al Gore, a familiar face to the gentleman from Florida (Mr. FEENEY) and I in the State of Florida, as we well recall, not one who can be accused of being a right winger by any stretch of the imagination. He said, ''Miguel will rule justly towards all.''

The former Assistant General for the Office of Legal Counsel for President Clinton, Mr. Randolph Moss said, ''A very principled guy, very honest and ethical.''

That is why I am here supporting Miguel Estrada. That is why the President of the United States nominated him for this important position. But I have to tell you something. Just like he should not be supported, endorsed or get that position because he is Hispanic, he should not be denied that position simply because he is Hispanic. And that I think is highly offensive.

Mr. KINGSTON. And that, I believe, that is why House Members are speaking out on something that really does not come before the House. But we see it as the Democrats are after this guy, apparently because he is Hispanic, apparently because they do not like his views as an American, apparently because he challenges their concept of the American Dream.

In the welfare state mentality you do not want people to climb the ladder. In the welfare state, the big-government approach is keep people down, keep them low. You do not want them upwardly mobile, and then they will depend on the government. They will depend on our largesse. But that is the pattern he has broken. He has shown in America that you can make it in America. It is a great country. In America you can be proud and free and independent. I think that challenges so many of the liberals in this town; and they do not like him, particularly because he is Hispanic. And I think that is just a sad situation.

Mr. FEENEY. I thank the gentleman from Georgia (Mr. KINGSTON). I think that is especially true, that this man is a great role model.

As we have been discussing here tonight, Miguel Estrada was not born in America, much like Secretary Mel Martinez of Housing and Urban Development who comes from my community. We are so proud of our home son here in the Cabinet.

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This is a wonderful man who was not born on American soil, but I can tell my colleagues Mel Martinez defines what it is to be part of the American spirit and to be a success story. Much like Secretary Powell, who was not born specifically on the continental mainland of the United States, but now is a model for all of us, not just in the military, but his leadership internationally.

Now here is an opportunity for a young Hispanic man at the age of 17 to come live the American dream and be the first Hispanic on this very prestigious court, and some people are terrified that the bottle of success without handouts or welfare or any system of, for example, racial quotas, this man can have a huge success and a wonderful career because of his own merits and his deep belief in the United States system and our government.

One thing, if I may, I want to talk about not just the litmus test that we mentioned earlier of whether Miguel Estrada is Hispanic enough, because we do not understand what that means, but I want to talk about the fact that the litmus test is based on a certain nominee's judicial philosophy.

I would suggest to my colleagues that everybody I know supports the notion of judicial independence. The problem is, some of the critics of Miguel Estrada support the notion of judicial independence meaning the judges should be independent by the written words in the statutes and the Constitution and they should be free to essentially make it up as they go along.

Others of us believe deeply that judicial independence is critical, that we not have an over-excessive interference from one branch to the other. I do not believe the executive, for example, ought to be able to fire justices when they do not agree with them. The Constitution prohibits that. I do not believe that the Congress, if we were mad at a particular judge or a bench, should be able to reduce their salaries to punish them, and our Constitution prohibits that.

The Founding Fathers thought deeply about the judicial independence from other branches, but they also believed deeply that the judges should never be independent from the laws and the Constitution as written, and I want to quote Thomas Jefferson in a letter to Thomas Ritchie, ''A judiciary independent of a king or executive alone is a good thing, but independence of the will of the Nation is a solecism, at least in a republican government.''

The bottom line here is that I believe that many of the opponents of Miguel Estrada are terrified of this man because he believes deeply that the Founding Fathers wrote what they meant and meant what they wrote. And I will share one more example of a judiciary. I am still with the First Amendment. We will go through all of the amendments, if my colleagues like, in terms of judicial excessiveness and lack of willingness to stick to the text, but I already started with one portion of the First Amendment, and I want to go to another, the freedom of speech clause.

Liberal activists have argued, for example, that freedom of speech protects Nazis that want to march through Skokie, Illinois, a place that had many victims of the Holocaust reside there, and yet the freedom of speech provision prohibits and the First Amendment prohibits school children from singing Silent Night as part of a Christmas choir play. I think that sort of overreaching is the kind of liberal activism that the opponents of Miguel Estrada are insisting on as their litmus test before they will support his or any other nomination.

Mr. KINGSTON. Well, I agree with the gentleman. The last thing we need is more whacked-out judges from California, no offense to the good judges there, but they seem to certainly have their quota of people who say we cannot pledge allegiance under God, and it is really not, let us keep public buildings religious-neutral.

What they want is religious free zones, and yet here we in Congress, this very day as we will tomorrow, as we did yesterday, we started out with a prayer. I am standing beneath the sign that says In God We Trust. Our money says, In God We Trust, and yet these same judges would have all that purged from the land because it is apparently harming somebody somewhere somehow.

Mr. FEENEY. If my colleague will yield on that point, I just said that the people that are criticizing Miguel Estrada, when they do not even want to have a vote, they want to suggest we ought to have these weird interpretations of the establishment clause, and yet the very people that enacted this Constitution, in my hometown where I was born, in Philadelphia, thanks to Ben Franklin, a great Philadelphian, who said this at the Constitutional Convention when he suggested that they ought to begin every day, as they put together the most wonderful document that ever defined the relationship between free individuals and their government, here is what he said as they suggested that they start with prayer.

He said, How can it be, basically referring to Matthew, that a sparrow cannot fall to the earth without God's watchful eye, and yet we can create this document without his watchful assistance? I am paraphrasing Mr. Franklin because, of course, we do not have the specific records from that convention.

But the bottom line is that the people who put our Constitution together do not want us here today, as they lie above us in heaven for their great deeds, they do not want us to allow the legislative branch to hijack the judicial branch and impose a litmus test that judges have to ignore, the written words of either statutes or the Constitution.

We are doing our constitutional duty by speaking out, and I thank the gentleman for the opportunity to be here.

Mr. KINGSTON. Well, I thank the gentleman and Mr. DIAZ-BALART.

Mr. MARIO DIAZ-BALART of Florida. Mr. Speaker, I do want to just leave one thought here tonight, which is a sad thought because the facts speak for themselves.

We are seeing what is going on with the nomination of Miguel Estrada and the false accusations, baseless accusations, almost funny accusations, that have been leveled against him. But what is really sad to me is that while our friends, the partisans on the Democratic side, claim to advocate for diversity, they fight to block the nomination of a well-qualified Hispanic. While our friends, our partisan Democrats, take credit all the time for helping the advancement of minorities to high positions in government, they block the first Hispanic, I repeat, the first Hispanic on the Nation's second highest court.

It is important to note, though, that a filibuster, a parliamentary process to avoid the votes against Miguel Estrada is not only the rejection of a highly qualified Hispanic, it is a rejection of diversity. It is a very sad day, very sad day, for our country if this stands. I am optimistic that it will not. I am hopeful that they will dig deep in their souls and realize what they are doing.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. PEARCE). Members should avoid any improper references to Senate proceedings.

Mr. KINGSTON. Mr. Speaker, let me give this quote from a member of the other body. ''The country is at Orange Alert. People are stockpiling water and duct tape.''

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The gentleman must refrain from that quotation.

Mr. KINGSTON. Mr. Speaker, I can quote somebody without attributing it to it, I thought. Point of clarification, excuse me.

The SPEAKER pro tempore. The gentleman may not quote the Senator by name or otherwise.

Mr. KINGSTON. Thank you, Mr. Speaker, and I will stand admonished.

Think about this. The country is at Orange Alert. People are very concerned about what is going on in Washington, D.C. In the district that I represent, we have 18,000 soldiers who are already in Kuwait in the Middle East. We have thousands of wives and children and family left behind. We have an economy where the interest rates are not seeming to get the thing going. We have got a budget that is going to be in deficit.

We have got problems, and yet there are those in the other body that want to filibuster somebody who has graduated from Harvard magna cum laude, who was rated by the American Bar Association as highly qualified, and that is the priority during an Orange Alert, wartime, of a bad economy?

I agree with the gentleman from Florida (Mr. MARIO DIAZ-BALART), it is a sad day, but I am hoping that we can get this thing turned around, and I am hoping that people like the gentleman speaking out is going to make a difference.

I wanted to, if the gentlemen have time, make a comment on a piece of legislation we are going to be passing tomorrow in the House, and I think it is very important, and I want their comments because when the gentlemen were elected as freshmen in December, we were all up here meeting them and one of their members said to me, I think it was the gentleman from Arizona (Mr. FRANKS), he said, Tell me, you have been in Congress 10 years, what do you think the most important thing that you have done is, what is the most significant piece of legislation?

It is a hard question. There are a lot of things that have gone on that I voted for and I voted against and debated on and had the privilege to debate on, and yet I said, probably welfare reform is the most significant, the one that has affected the most lives in a very positive sense.

In 1994, when so many of us got to Congress, there were 14 million people on welfare; in 2001, 5 million. That is 5 million too many, and yet the reality is, 9 million less people are on welfare. It appears to be significant, the principles in our welfare reform package which we will be voting on tomorrow, promoting work, improving child well-being, promoting healthy marriages and strengthening families, fostering hope and opportunity. Those are the principles behind welfare reform which we have stuck to, and I think it is very important to keep these in mind.

And, of course, none of this was easy. The Democrat leader, the gentlewoman from California (Ms. PELOSI), in 1995 said, I hope children throughout this country never have to feel the pain of this legislation. I hope it does not pass, and indeed, she and so many others of the liberal welfare supporting establishment, the status quo supporters, they fought against the legislation, and yet here is a real case.

Tanya, a single mother, went on public assistance when her twin girls were a year old, but since completing her program with CalWORKS, which is a job training program, she completed it last year, Tanya has been able to earn enough money to purchase her own home. Here is Tanya and here are her two girls. I wonder if that is who the distinguished Democrat leader was referring to, because they do not look like they are miserable or in pain or unhappy. In fact, they are probably very proud to have their own home.

I know the gentlemen, as members of the Florida legislature, were involved in this, and they saw many successes from welfare reform on the State level.

Mr. FEENEY. The gentleman from Georgia is so right. This is one of the greatest success stories of my legislative career. I am sure my colleague from south Florida will tell the gentleman the same thing.

Because of what the Congress did, we in the State of Florida were able to enact reforms that actually took some 780,000 Floridians off the welfare rolls, off of complete dependence on government and basically created opportunities and freedom and work and jobs for them. And we now are down to less than 150,000, almost a 75 percent reduction. We are so terribly proud of that.

As the gentleman knows, the old system of welfare was set up by compassionate people, by people with big hearts, but what they really did not realize is what the effect of the system that they built actually had on individual decision-making. Because as the gentleman from Georgia knows, poor people are not dumb. They respond to the same incentives as the rest of us.

If we look at the old welfare state in America, what it told, particularly and primarily young women with children, what it told them was this, look at it like a contract lawyer would look at it. It said, we will give you free gifts from government. We will give you AFDC checks, housing assistance, food stamps. We will give you health care for your children, some 72 other entitlement programs that you may be eligible for. But in order to get these free gifts for taxpayers, you have got to promise us a couple of simple things.

Number one, promise that you will not get married to anybody who is working because if you do, we will take all of your health care for your children away; we will take your AFDC checks, your food stamps. All these other benefits will disappear.

Number two, you have to promise us that you will not go to work yourself, because if you go to work, we will take away your health care benefits for your children; we will take away your food stamps, your AFDC checks, your housing assistance.

The third thing that this contract wants you to know is that if you have additional children while you are stuck in the system, we will give you bonuses.

Poor people are not dumb, my colleague knows that. They responded to the incentives we set up.

So we took advantage of the opportunities provided by the great leadership here in the Capitol, allowing the States, under the 10th amendment and principles of Federalism, to try to solve our welfare mess, and what we have done is this. We have gone from 750,000 Floridians stuck on this horrible system of perverse incentives that got them into a trap that they just could not crawl out of, and we have gotten them into free opportunities.

Let me tell my colleagues who the beneficiaries are of this, if I may as I close, on how grateful I am that you gave Florida the opportunity while I was there and while my colleague from south Florida was there.

Taxpayers are huge beneficiaries because they do not have to support people that are out there successfully working in their environment. Families are beneficiaries because many men actually are no longer the enemy of people that need help. We have designed a system that can reunite the mom and dad. That is great for the entire family. It is especially great for the mom and the dad that can spend time together and the children that can have the benefits of a two-parent family, which we know is so important.

□ 1945

Third is the huge benefits to single moms, who now get up at a certain time, get cleaned up, get showered, get off to a job where they are contributing members of society and taxpayers. They do not have to feel like they are enslaved by a system they cannot get out of. Those are all beneficiaries.

But the most important benefits I would suggest we have not even seen yet. Because we have a whole generation of young children in Florida and throughout the country that are growing up not watching their role model or their main parent watching TV all day or engaging in some more pernicious behavior, such as drugs, prostitution or black-marketing. They are watching the people that are raising them get into the work system, be part of the

American Dream, pay taxes, and be contributing members of society. I believe that there is a long-term dividend in the psychology and the culture of young children thanks to what we accomplished on welfare reform.

I am so honored to be here now as we work hard to reenact this liberating bill, and I thank the gentleman for his leadership.

Mr. KINGSTON. Mr. Speaker, I thank the gentleman for his comments, and I now yield to the gentleman from Florida (Mr. MARIO DIAZ-BALART).

Mr. MARIO DIAZ-BALART of Florida. Mr. Speaker, one of the things that my dear friend and colleague, the honorable gentleman from Florida, central Florida, and, if I may add, a wonderful part of the State, that is a free plug while I can, stated something that is very true. The poor who are stuck in this cycle of dependence to this horrendous system that we had before, the old welfare system, did not want to be that way. We have to be very clear about this. Poor people that were on welfare did not want to be dependent on government.

Unlike what some would like to believe, that these are people that did not want to work, that were just there because that was their choice, that was their number one choice, no, these are good people. These were people that wanted to work, but all they needed was an opportunity; and yet they were stuck in this system that forced them to stay in that system. They could not save money to buy a piece of property because they would lose their benefits. So, therefore, they had to stay in the system. That is the cruelty of this sad joke that was the old welfare system. And the people that really hurt, yes, the taxpayers had to pay a lot of money for this broken system, but the people that were really hurt were those that were forced into the cycle of dependence, dependence on government.

So now, where are those people? Where are they? Millions of them, millions of Americans, are now working. They are earning a living in the free marketplace. It is not easy; it is tough. Hey, life is difficult. They have got to work hard. We know that. But they are working hard, and they are proud of it. They are paying taxes and they are leading by example. So, yes, this is wonderful for the taxpayers, but let me just say that it was even more wonderful for those millions of Americans that were finally allowed to break out of this vicious cycle of dependence and of poverty. That is the untold story, I think, in this wonderful experiment that was called welfare reform, that I think worked better than any of us ever suspected.

We knew that the system was broken. In Florida, we knew that the old system was broken. I did not expect the results to be so dramatic, so unbelievably dramatic. Imagine if in the rest of government we could get increased performance by 75 percent, or close to 75 percent, as we did in Florida of people getting off welfare and getting to work. That would be a miracle in government. We would all be ecstatic. That happened in welfare reform. And the true recipients of this wonderful experiment, the ones that broke out of the cycle of poverty, are those poor people, poor decent Americans that for a generation were told that they would always be there.

My colleagues may well recall the naysayers. The gentleman just pointed out a couple of those naysayers, saying this is going to destroy the country; that it was going to destroy the poor people. No, it helped more than anybody else those poor people who are now working, earning a living, and are a part of the American Dream. It helped the taxpayers by giving them a little bit of relief, and it was a wonderful thing for the country.

And as my colleague, the gentleman from Florida (Mr. FEENEY), just said a little while ago, I am so proud first to have been a part of it in Florida when the United States Congress and the leadership of the United States Congress gave our State the opportunity to participate and break the dependence on government and that cycle of poverty for millions of people, hundreds of thousands of people in the State of Florida. I am also so proud to now be here; and, hopefully, we will be a small part in making sure that this wonderful reform moves forward so that we can continue to help those that are truly needy; those that really need the help; and, yes, also create a system that breaks that cycle of dependency and of poverty.

Mr. KINGSTON. Well, Mr. Speaker, the gentleman spoke of naysayers. Here is what the gentleman from New York (Mr. RANGEL) said, who is the ranking member on the Committee on Ways and Means, a distinguished man, but clearly wrong on this: ''The only losers we have now are the kids.''

And yet here is another face of poverty, another success story: Mr. Bruce Mullins lost his home and entered the Welfare to Work program in September 1998. He now has a life of joy and promise for himself and his two children. Here is a picture of Mr. Mullins and his kids, and they do not look like losers. They look very happy.

The gentleman from New York (Mr. NADLER), a friend of mine, as they all are, but friends can be wrong, in 1996 said, ''I am saddened that today it seems clear that this House will abdicate its moral duty and knowingly vote to let children go hungry in America.'' Pretty harsh words. Pretty wild predictions.

Mr. FEENEY. Mr. Speaker, if the gentleman will yield for just a second. Sadly, the truth of the matter is we have been told by our Surgeon General and other experts that the biggest problem children have in America today is not hunger but obesity. After 6 or 7 years of welfare reform, we need to get back to exercising, working out, and into good nutrition. But certainly hunger is not the major problem we have with today's youth after 6 years of welfare reform.

Mr. KINGSTON. Mr. Speaker, here are some interesting statistics: 3.6 million fewer Americans live in poverty today than they did in 1996; 2.7 million fewer children live in poverty today than in 1996, including 1 million African American children. These are statistics, incidentally, by the U.S. Census Bureau, not by the Republican Party or the committees in charge; but these are stats that I think people in the honest spirit of debate need to talk about.

I think it is good to have criticism and opposition on legislation, because I would think that it makes the legislation better. We should bring our ideas to Washington. Both of my colleagues are from Florida and have served in the State legislature together, but one is from south Florida and the other from central Florida. When I served in Georgia, I was from south Georgia, or coastal Georgia, which I still am, but when we come up here we are taking on a bigger role. We bring our ideas, be it from south or central Florida or coastal Georgia, we bring them up here and, if they are so good, doggone it, we ought to be able to get 218 people to agree with us. And if they are not founded in substance and fact, probably we are not going to get that to happen.

So I think criticism is good, but I think it has to be founded on facts; and that is one of the things we do not have around here.

Mr. Speaker, we are running short on time, but I know we have a few minutes, and certainly if the gentleman from Florida (Mr. MARIO DIAZ-BALART) wanted to add a few comments.

Mr. MARIO DIAZ-BALART of Florida. Mr. Speaker, I just wanted to thank my dear friend, the honorable gentleman from Georgia, for this opportunity.

I do want to end just again reminding all my friends and all our friends in this august Chamber and also the Chamber next door that we have a historic opportunity, a historic opportunity to pass welfare reform in order to continue the gains that we have made in the past. We also have a historic opportunity to do something that has never happened, which is to have the first Hispanic in the D.C. Court of Appeals. It would be a wonderful thing for all Hispanics, but more importantly it would be a wonderful thing for the entire country, a beautiful sign that diversity is acceptable and accepted.

Mr. KINGSTON. Mr. Speaker, I thank both gentlemen from Florida, and I appreciate their time this evening.

BLACK HISTORY MONTH

The SPEAKER pro tempore (Mr. PEARCE). Under the Speaker's announced policy of January 7, 2003, the gentleman from Maryland (Mr. CUMMINGS) is recognized for 60 minutes as the designee of the minority leader.

Mr. CUMMINGS. Mr. Speaker, I rise today in my role as Chair of the Congressional Black Caucus for the 108th Congress to talk about Black History Month and the state of our union for Americans of color.

Throughout the month, we should all take a moment to remember the heroes whose legacies of service have shaped this great country, America.

We should remember Rosa Parks, a leading force behind the 1955 Montgomery bus boycott. Activist Fannie Lou Hamer, the daughter of sharecroppers who fought for African American suffrage in Mississippi. Dr. Charles Drew, whose blood plasma research has saved millions of lives. Their bravery and sacrifice must not be forgotten.

While we celebrate the past, we also should honor the African American women and men who are making a difference today. We should thank Marion Wright Edelman for her tireless work on behalf of America's children. We should salute the nearly 300,000 African American men and women who proudly serve in our military. We should express our gratitude to the hundreds of thousands of African American police officers, firefighters, and first responders who dedicate their lives to serving and protecting us. Their constant acts of sacrifice serve as a model for all of us.

During Black History Month, the Congressional Black Caucus embraces this year's theme as determined by the Association for the Study of African American Life, whose theme is: The Souls of Black Folk: Centennial Reflections. We encourage all Americans to commemorate our shared past and work together toward creating a more just and fair society.

Mr. Speaker, tonight, I, along with my colleagues, want to take this time to reflect on the state of our union and focus on the issues that are central to the lives of most Americans; issues like education of our children, access to health care, for any who might need it, prescription drug coverage for our seniors, civil rights protections for all Americans, economic security and national security.

During the 108th Congress, we will face many challenges. We will face the challenges of securing our homeland, getting our economy going again, putting people back to work, closing the education and health care gaps that exist in our communities, providing prescription drug coverage for our seniors, and thwarting those who want to roll back civil rights protections.

Mr. Speaker, it gives me great honor and it is a privilege to yield to the gentleman from North Carolina (Mr. BALLANCE).

Mr. BALLANCE. Mr. Speaker, I thank the gentleman for yielding to me, our distinguished Chair of the CBC. I am honored and, indeed, I am right proud that in the middle of a month that has been set aside as Black History Month to stand in the well of the House of Representatives of the United States of America representing 619,000 citizens of rural, poor, eastern North Carolina, known as the first congressional district.

I am honored to be here as a freshman member of the 108th Congress. It is amazing that princes and kings and clowns that caper in sawdust rings, and ordinary people like a young boy who grew up on a tenant farm in Bertie County under civil rights, the 13th and 14th amendments to the United States Constitution, the Voting Rights Act, the Civil Rights Act, all of the great decisions of the United States Supreme Court guaranteeing that we hold these truths to be self-evident; that all men, including Africans in America, are created equal and that they are endowed by their creator with certain unalienable rights, among them life, liberty and the pursuit of happiness.

□ 2000

And I want to say that as we have struggled to gain equal rights and civil rights and to celebrate those rights and to build on those rights and to have the opportunities to work, to earn our living, to pay our taxes, to build institutions, to build businesses, to send our children to college, yes, to historically black universities founded by people fresh out of slavery, and even to those universities that at times in the past have denied our entry.

Is it not amazing, as we stand here tonight, there are great debates going on in these halls of this prestigious institution known as the United States Congress, and I am told that the debate that was going on a minute ago about issues of welfare reform that this majority and this Congress, this Republican majority, Mr. Speaker, is going to use brute power and minutia rules to deny freshman Members like me my civil rights and to deny my constituents their rights, their constitutional rights, to have an opportunity to debate those issues involved in the welfare rights reform bill.

That is to say, in this great, and I will call it the ''great depression'' that we are going into, where we are losing jobs all over this country because the party in power wants to give a tax cut to some rich Americans, and therefore we have no jobs. And now we have a bill that is going to say that people who cannot get a job have to work even longer hours or they will be thrown off the welfare rolls whether they deserve this assistance or not. Would it not be one of my civil rights?

And I know it is my constitutional right as a Member of this body to have an opportunity to debate that issue, to debate whether or not we are going to have funds to provide child care adequate so that those parents who are threatened to be thrown off welfare will indeed have an opportunity to go to work or to go to school.

Yes, in the midst of this Black History Month, we celebrate the birthday of Abraham Lincoln, the author of the Emancipation Proclamation. President Lincoln, a member of the Republican Party, a party that supported civil rights at one time, a party that supported the enfranchisement of African Americans and former slaves. Yet as we stand here today, the leader of that former great party and the President of our country has come out foursquare against the concept of affirmative action; and therefore I will contend that he is against Black History Month.

Why do I say that? What is Black History Month if it is not affirmative action? There was a time when those who wrote history left out of the pages of history about people of color, and so Carter G. Woodson came along, and as he read the history books, as he read the tabloids, he did not see anybody in the books that looked like him, and he saw none of the great works that Africans were doing in America. And so he started what became Black History Week, affirmative action, and then it became Black History Month, affirmative action.

And now we have an opportunity under a plan that has been approved by the United States Supreme Court to say that race can be one factor in deciding admissions to the University of Michigan, and we find that the President is opposed.

I am going to close by saying it is a long journey from Africa to America. It is a long journey from slavery to freedom. It is a long journey from the back of the bus to being the driver and owner of the bus company. But we have made it, and I contend that one reason we did was because of those human rights that were at one time properly enforced, and I hope and I pray that they will be in the future.

Mr. CUMMINGS. Mr. Speaker, I want to thank the gentleman and to say to him that several members of the caucus were moved, I think it was just yesterday, when the gentleman was talking about how at one time he was plowing fields and did not imagine himself in the Congress of the United States of America. And so many members of the Congressional Black Caucus have similar stories, have come through very, very difficult times and are doing everything in our power every day and every hour to make sure our children and our children's children have these same opportunities.

One area that is clearly of great importance to the souls of black folks would be our health care, and we are very honored to have in our Congressional Black Caucus the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN), whom I will yield to.

Mrs. CHRISTENSEN. Mr. Speaker, I thank the gentleman for yielding.

As amazing as it is, the words of the distinguished African American scholar, Dr. W.E.B. Dubois, resound as loudly today as they did when he first wrote them more than 100 years ago. How appropriate and on target are his words as he remarks on the lack of health care for African American at that time and as we compare them to our situation today.

I want to take the liberty, though, of focusing on his treatise on the ''Philadelphia Negro'' because in chapter 10 we see in his description a clear indictment of this Nation's health care system as it existed in the African American experience. One hundred years ago, and shamefully still today it has been bereft of both health and care. In short, while there have been some advances in the last 100 years, on the whole, nothing has changed.

Several recent surveys, for example, clearly show that the general public even today thinks that health status and access to care is equal among all population groups. In this, we echo what Dubois wrote over 100 years ago that ''the fact of high death rates and other signs of neglect of the laws of physical health have not yet been apprehended by the general public,'' he wrote. After a wealth of articles and scientific and lay journals, reports commissioned by this body and with the Congressional Black Caucus and other organizations representing people of color giving voice to the inequities in health at every opportunity, my question is, is anyone listening?

Infant mortality in our community is 2.3 times more than in those of our white counterparts. AIDS affects African American eight times more than it does whites. Death rates from heart disease are 30 percent higher in blacks. Our incidence of diabetes is more than twice as much as in the white population. The black male has the lowest life expectancy of any population group in our country, and in our hemisphere only men in Haiti have a lower life expectancy than those in our Nation's Capital.

The chapter on Negro health also focuses on the lack of reliable or complete statistics, which is still an issue that is very relevant today. Just last week we cosponsored a Hill briefing on the Institute of Medicine's report on public health for the 21st century. In that briefing, the importance of collecting accurate data for minorities and using this data to build research, treatment, and prevention infrastructures was stressed. It is essential if we are ever to close the gaps in health status, as we must, that we collect and analyze important data on race, ethnicity, and other socioeconomic factors that are relevant or cause them.

Dubois also spoke of poor health infrastructure, as he termed it, ''the lack of nearly all measures to prevent the spread of disease.'' This is the state still of our deteriorating health care infrastructure in our community and many rural communities. A chilling thought in days such as these, where we are on high alert for a chemical or biological terrorist attack. If our communities are not prepared to protect our residents and respond to any such attack on their behalf, then no one is prepared and no one can be protected.

We in this caucus recognize, as Dubois did back then, that health does not exist in an unhealthy environment, and our Congressional Black Caucus agenda reflects that. ''Broadly speaking,'' he wrote, ''the Negro, as a class, dwell in the most unhealthful parts of the city'' and have ''a large degree of poverty.'' We still have the lowest income levels, the highest unemployment, and many of us still live near toxic sites.

But the most compelling statement in that chapter in the Philadelphia Negro, which I would ask us all to contemplate as we go through yet another term, another budget process in the face of these glaring disparities in health is this:

Dr. Dubois wrote: ''The most difficult social problem in the matter of Negro health is the peculiar attitude of the Nation toward the well-being of the race. There have, for instance, been few other cases in the history of civilized people where human suffering has been viewed with such peculiar indifference.''

Given the many deaths caused by the lack of health insurance in this, the last industrialized nation that does not guarantee health care to its residents, given the cuts or level funding of programs designed to address our health care deficiencies, the refusal of the department and this body to target dollars to build capacity in our, the most affected, communities, the movement to remove the words ''minority'' and ''disparity'' from the health lexicon, and the failure to respond adequately to the recommendations of several Institute of Medicine reports on the inequities of health care among people of color and those who speak different languages in this country, I think it is appropriate for us to ask ourselves the question whether this attitude has indeed ever changed in the more than 100 years since those words were written.

Mr. CUMMINGS. I thank the gentlewoman.

Tonight, as we celebrate Black History Month, we look at all aspects of African American history and again reflecting on our theme, the Souls of Black Folks Centennial Reflection, we have the gentleman from Alabama (Mr. DAVIS), one of our new Members, who has been just a tremendous asset to us, and we are anxiously looking forward to continuing to work with him.

Mr. DAVIS of Alabama. Mr. Speaker, I thank the gentleman from Maryland (Mr. CUMMINGS) for yielding to me.

I have the distinction of representing the Seventh District of Alabama which, as so many people should know if they do not, is the home of the civil rights movement in this country. It is the battlefield where so many of the battles were fought in the 1960s: The City of Birmingham where 40 years ago this April, children were marshaled in defense of equality in this country, and they were met with literally the teeth of dogs and the bite of fire hoses; Selma, Alabama, where 38 years ago individuals had to march across a bridge under a threat and rumor of sniper fire in order to petition for their right to vote.

Montgomery, Alabama, is no longer in my district, but it is my hometown, and of course it is the city where Dr. King picked up the torch of the civil rights movement in part of the 20th century and gave it so much of its vibrancy and so much of its currency.

What is striking about my district in 2003 is that if Martin Luther King could somehow come back and visit west Alabama and visit the battlegrounds on which he fought, he would see cities and counties that look very much the same as they did four decades ago.

□ 2015

The rate of poverty in four counties in my district hovers around 40 percent, 40 percent in times of economic growth and 40 percent in times of economic decline. It is a constant condition of despair.

We have talked about health care tonight. Eight hospitals in my district have closed their doors in the last 2 years, and suffice it to say that the disproportionate number of people who have been disenfranchised on the health care front in my district have been people of color.

If Dr. King could somehow travel through the streets of Birmingham today, he would find parts of that inner-city that look exactly as they did 40 years ago. He would see young black men, able-bodied, casting about looking for some anchor in their life, looking for some economic anchor in their life.

Too much of my district, which has its urban and rural components, too much of my district looks like America looked in 1963; and that does not say as much as it should say about where this dream stands. Forty years after the fact, 40 years after the battles of 1963, America stands frozen in so many ways.

I had an opportunity to give a speech to a high school class in Selma, Alabama, on Martin Luther King Day. Selma is a racially divided city. It is a city that is 60 percent black, 40 percent white. As I stood in the gymnasium, Mr. Speaker, I looked around the gymnasium as I got to the part in the speech where I talked about Dr. King's legacy of integration, and it struck me all of a sudden that every single student sitting in that gymnasium was black. In a public school, 49 years after Brown v. Board of Education, 38 years after the Selma to Montgomery march, the legacy is a segregated public school system. And with inequality comes disparity in resources; with separateness comes a separateness in resources.

The dream is in an interesting state today, because too much of America is financially unchanged, unchanged in every measure that we could possibly draw on the floor of this House.

People sometimes wonder why we have a Congressional Black Caucus. People sometimes wonder why we have Black History Month. They wonder why there is a need to continue to talk

about these things. And my answer to them is this: as long as we have a country where the conditions of one's life are determined in large measure by the conditions of one's birth, the American Dream is not what it ought to be. As long as we have a country where the lifespan of a black child born today differs dramatically from that of a child of any other race born today in this country, there is a story that still needs to be told.

Some say, including Justice Scalia, that we can get past the problem of race if we stop talking about it. That sounds good, but that is not the world that we live in. The world that we live in is one in which we have to keep talking about these struggles, because so many people have never lived them; but they have also never lived the lessons of that time.

We are the country that we are today; we are the envy of the world because of a very simple promise. The promise of America is that wherever you begin, you have an opportunity to rise. That is the rhetorical reality of our country. Until it becomes the political reality and the economic reality and the social reality, we fall short of the American Dream, and the state of this union is in some disrepair.

So I call on all people of conscience to recognize that America has work to do. I call on all people of conscience to recognize that there are battles that still need to be fought. Because until we smooth out the gaps in this society, until we tear down the walls that continue to divide us, the legacy that we honor and the dream that we honor is incomplete. There is work that needs to be done, and that is the unfinished task of this caucus.

Mr. CUMMINGS. I want to thank the gentleman.

The gentleman mentioned Martin Luther King. Certainly we are very proud of all that Dr. Martin Luther King did. One of the things he said is that a citizen must assert the full measure of his citizenship, and the very things that this Congressional Black Caucus stands for are merely asserting the full measure of our citizenship.

One thing about asserting the full measure of your citizenship, you have to serve, and you have to serve this country, and African Americans have played very significant roles in the military, have played very significant roles in exploration, in space.

I am very pleased now to yield to the distinguished gentleman from the great State of New Jersey (Mr. PAYNE).

Mr. PAYNE. Mr. Speaker, I thank the gentleman very much. Let me commend the chairman of the Congressional Black Caucus for the outstanding job that he has done in the short time that he has been in that position. I think that we will reach all kinds of heights with his leadership.

Mr. Speaker, as we commemorate Black History Month this year, there is a sober and anxious mood in our Nation. Our communities are worried about the uncertain state of the economy, the loss of jobs, the growing budget deficit, the budget cuts, which threaten to eliminate vital services for our children, students and for our senior citizens.

We are going to work diligently in the months ahead to address these pressing concerns and to try to prevent the gains that African Americans have made from being reversed.

We have all been touched by the recent tragedy which took the lives of seven astronauts aboard the Space Shuttle *Columbia*. They represented the best of our Nation and our world: courage, diversity, optimism, and the pursuit of scientific knowledge for the betterment of humanity.

Among the crew were a young woman from India who immigrated to the United States of America to follow her dream, and with the *Columbia* mission she became the only Indian woman to travel into space; an Israeli man whom his country loved, the first Israeli astronaut, a symbol of national pride for Israel; and an African American astronaut from New York who was formerly a lieutenant colonel in the Air Force, Michael Anderson.

He was an outstanding student of physics and astronomy who was selected by NASA in 1998 to make his first flight, which was aboard the Space Shuttle *Endeavour*. It traveled 3.6 million miles in space during 138 orbits around this world to reach the Mir Space Station.

In 1998, there is a picture on my wall that I took with Michael Anderson when he came to my Washington office to discuss how he could try to get more African American boys and girls involved in the space program, in physics, in mathematics, and he was talking about promoting more interest in NASA.

In fact, there was another African American astronaut whose name was Robert E. McNair, who was one of the seven crew members killed on the *Challenger* that exploded 73 seconds after its launch on January 28, 1986. On this mission he was supposed to carry out extensive studies on Halley's Comet.

Another African astronaut, Frederick D. Gregory, served as the commander of the Space Shuttle *Discovery*, which also performed important missions for NASA.

The first African American woman to join the space program, Dr. Mae Jemison, traveled aboard the Space Shuttle *Endeavour* on September 12, 1992. Dr. Jemison is a chemical engineer, a scientist, physician and astronaut, who worked as a Peace Corps volunteer, a medical officer in Sierra Leon and Liberia in West Africa.

Looking back in history this month, we pause to remember the men and women who laid the groundwork, often at great personal risk, for the benefit of future generations.

We are reminded that African Americans have achieved greatness in many fields: law, medicine, physics, the military, education, journalism, music, theater and literary arts.

But we must remember outstanding men like Ralph Bunche, the United Nations Undersecretary who became the first African American to receive the Nobel Peace Prize.

We honor the memory of Thurgood Marshall, the first African American to become an Associate Justice of the U.S. Supreme Court with the great May 17, 1954 case that he argued.

While we are speaking of firsts, let us congratulate our colleague, the gentlewoman from Ohio (Mrs. JONES), who made history last month by becoming the first African American woman to earn a seat on the prestigious House Committee on Ways and Means.

We also pause to continue the debt of gratitude we owe to strong women of the past, like Sojourner Truth, the abolitionist and orator who risked her life, and Harriet Tubman, who helped conduct the Underground Railroad.

As a former teacher, I am committed to passing along stories of African American heroes to our children and grandchildren, so that they may dream of achieving great things in their lives.

I am proud of the fact that my brother, William Payne, who serves in the New Jersey State Assembly, authored a bill which was signed into law which the Governor of New Jersey, which establishes the New Jersey Amistad Commission to develop teacher-training programs to promote educational and awareness projects regarding the things that African Americans have done and their descendants, and the African Americans' contribution to the development of this country.

The commission will work to promote a more comprehensive study of African American history by revising the history books of New Jersey and promoting more extensive classroom discussion. The Amistad Commission is named after the enslaved crew of the ship *Amistad*, who organized an uprising in 1939 to gain their freedom. The crew had their case successfully argued before the United States Supreme Court.

As I conclude today, as our Nation awaits and watches the possibility of war which continues to loom, Black History Month is a good time to reflect that many African Americans have given service to our country.

African Americans fought in every major battle of the Revolutionary War: Lexington, Concord, Bunker Hill, Trenton, Long Island, Valley Forge, and Yorktown. Crispus Attucks, an African American, on March 5, 1770, was the first person to give blood at Boston Commons where he was brought down by the British when he protested taxation without representation.

It was a black Minuteman, Peter Salem, at the battle of Bunker Hill, when they said don't fire until you see the whites of their eyes, who brought down Major Pitcairn, who led the British military.

In the Civil War we had many top African Americans. In 1862, the First Kansas Colored Volunteers won one of the first battles at Island Mound, Missouri. There were 168,000 black combat troops in addition to 200,000 members of service units in the War Between the States.

One out of four Union Navy personnel was black. The black calvary, with the Buffalo Soldiers, showed their importance at the Battle of San Juan Hill, where they prevented the Rough Riders, Teddy Roosevelt, from being annihilated at San Juan Hill. It was the Buffalo Soldiers that saved him, but we heard very little about them. As a matter of fact, they had a lower desertion and alcoholism rate than any other calvary people in our history.

Concluding, W.E.B. DuBois in World War I said, in spite of the problems, ''first your country, then your rights,'' and urged African Americans to go to war.

The 369th Regiment from Harlem spent 181 days in the trenches, a half a year, without relief. This is history that no one knows about. And no one ever spent 181 days in the trenches. Yet a person who lived a block from me, Mr. Needham Roberts, along with Private Henry Johnson, captured 30 Germans and held them for weeks, and people still do not know how they were able to keep this large number of Germans at bay.

My Uncle John Garrett was in the invasion of Normandy. When that was over, D-Day, they allowed the white troops to march through the Arch of Triumph; but the black troops were brought up a day later, and they were unable to march through the Arch of Triumph.

President Eisenhower, then general of the Army, wrote a letter to every combatant on D-Day, except African Americans. My uncle did not get a letter. But my Uncle John Garrett, we brought that to the attention of President Clinton, and all of the surviving D-Day African American veterans who we could find, and we worked with the gentleman from New York (Mr. RANGEL) and his Committee on Veterans Affairs that he was working on, we found many African Americans, and President Clinton sent the letter that chief of our Army, Eisenhower, at the time refused, only because they were black.

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Mr. CUMMINGS. Mr. Speaker, one of the things I wanted to emphasize, the gentleman spoke about the astronaut who recently perished, coming to his office and talking about having more young African American boys and girls go into science and math, and that is one of the reasons why we even do this this evening, to remind our children of all of the great things that African Americans have done, so that they can follow on that path and have models to emulate.

Speaking of a model to emulate, I am very pleased to yield to my friend and colleague from the great State of Georgia (Mr. BISHOP), who is going to address and will continue on with some of the things that the gentleman from New Jersey (Mr. PAYNE) was talking about with regard to our contributions, military contributions.

Mr. BISHOP of Georgia. Mr. Speaker, by learning about the good and the bad things that happened in our past, we gain a deeper understanding about how to correct the bad and preserve and strengthen the good. That is why the study of history is important. It tells us about the past and it guides us to a better future, for he who understands his past controls his future.

Black History Month is important for just this reason. I commend the gentleman from Maryland (Mr. CUMMINGS) and the members of the Congressional Black Caucus for arranging tonight's Special Order, and I thank all of our colleagues for their support and for their participation.

At a time when our country is intensely focused on national security, I will talk about some of the many African American contributions to our Nation's safety and well-being. Many have lost their lives in combat. They are part of a long tradition of service and sacrifice. As the gentleman from New Jersey (Mr. PAYNE) pointed out, that goes back to the Revolutionary War when more than 5,000 blacks served on the front lines.

By World War II, with black leaders calling on black citizens to fight fascism abroad and racism at home, more than a fifth of our men and women in uniform were, in fact, African American. Today, more than ever, blacks are at the forefront of defending the Nation, from the lower ranks to the top echelons of military leadership.

One of the trailblazers was Henry O. Flipper, the first black graduate of West Point. Henry Flipper was born in Thomasville in an area of southwest Georgia that I now have the privilege of representing. Although he was born into slavery and had little opportunity to acquire a formal education, his brilliance, his courage, and steadfast forbearance enabled him to secure an appointment to West Point and to graduate with distinction after years of mistreatment and ostracism.

Although he had an exemplary record on the western frontier while serving as the only black among the Army's 2,100 officers, he was unjustly dismissed from the military. Nothing stopped him, however. He went on to have an illustrious career as an engineer, a surveyor, a government official, playing a significant role in the development of the oil industry, the railroads, and the Nation's expansion in those formative years.

At the time of his death in Atlanta in 1940, he was a forgotten man. But in later years, he has been remembered with memorials at West Point, in Thomasville, Georgia, ceremonies at the Pentagon and at the White House as someone who resourcefully and bravely paved the way for others.

Lieutenant Flipper served at the time of the legendary Buffalo Soldiers, the thousands of black cavalrymen who were deployed in the West for some 20 years to protect settlers, escort wagon trains, assist homesteaders in remote areas, even carrying the mail when no one else would, playing an invaluable role in our Nation's growth and development in the late 19th century.

These young men, mostly in their early 20s, came from many States in the aftermath of the Civil War, who endured harsh and often dangerous conditions in the performance of their duty and they were greatly relied upon. There are countless stories, like the time 34 Buffalo Soldiers came to the rescue of a railroad camp which was under attack by a Cheyenne war party during the Indian wars. The soldiers broke through an encirclement of more than 100 warriors and successfully defended the workers, who were all saved. Many were seriously injured, one fatally. But, as always, they did their duty bravely.

Many of the senior military leaders who were still in office when the Tuskegee Airmen were formed in 1941 would have been familiar with the story of the Buffalo Soldiers and their record of service. Certainly the Buffalo Soldiers helped pave the way.

The military was still segregated at the outbreak of World War II, and the all-black fighter group that was activated at the Tuskegee Army Airfield had to deal with racism and prejudice every day. But the commitment of the pilots and the crews and the support personnel never wavered. They steadfastly went about their duties, about their business, and eventually flew scores of combat missions in Italy and other areas of Europe. They fought heroically, though some were lost. They proved to be tremendously effective in bringing down hundreds of enemy planes and providing support for ground troops advancing in Germany.

Today, we express the thanks of a grateful Nation to the soldiers, sailors, and airmen of all races and creeds and ethnic backgrounds whose service and sacrifice have kept us free and kept us strong for more than 2 centuries, and to those on the home front who also fought to make freedom available for all.

Today, we also pay tribute to those thousands of African Americans who are now engaged in protecting our national security here in the homeland and those deployed around the world. God bless you, and may God continue to bless your service to America.

Mr. CUMMINGS. Mr. Speaker, I would just say to the gentleman it was the great theologian Zwingli who said, so often people who make tremendous contributions make them when they are unseen, unnoticed, unappreciated, and unapplauded. And I appreciate the gentleman lifting the names of so many who have given so much to this country.

Eleanor Roosevelt once observed that human rights must begin in small

places close to home. They are the world of the individual person where every man, woman, and child seeks equal justice, equal opportunity, and equal dignity without discrimination. Unless these rights have meaning there, she said, they have little meaning anywhere.

It is my great pleasure to yield to the gentleman from North Carolina (Mr. WATT), who has given his blood, sweat and tears to making sure that the rights of all Americans are protected.

Mr. WATT. Mr. Speaker, it is a great pleasure to join with my colleagues this evening in participating in this Black History Month Special Order. In my neighborhood, we do not only celebrate Black History Month in February; it is a year-round, ongoing celebration.

The thing that always gives me great pleasure when I rise on this floor and participate in this 1 hour of comment with my colleagues is that I am always fascinated that I learn a lot from my colleagues of their experiences and other things that I did not know about the history of the African American people in this country. I am tremendously proud to be a member of the Congressional Black Caucus and this body.

Our celebration of black history is a daily event because we understand that we stand on the shoulders of Martin Luther King and Frederick Douglass and W.E.B. Dubois and Sojourner Truth and Fannie Lou Hamer and Rosa Parks who sat down so that we could stand up, and those four gentlemen from my congressional district in Greensboro, North Carolina, who sat in at the fountain, at the counter there, and started a movement that spread throughout our Nation to guarantee that the fight for justice and equality would continue.

Unfortunately, most of what we have talked about, a lot of what we have talked about today, suggests that many of the inequities, many of the injustices, many of the inequities still continue today. It is on that that I want to focus a little bit because some of our colleagues would have us believe, and our President, I think, would have us believe that the era of addressing these inequities is over, that there is no need to have an affirmative action program anymore.

I have often wondered, if you started a race at one point and you started somebody 100 yards ahead and the other participant in the race 100 yards behind, how long would it take and how fast would they have to run to make up that 100 yards. There is, I am sure, a mathematical formula that could anticipate that. Unfortunately, we cannot run faster, we cannot learn quicker, we cannot make up the economic disparities that exist. We cannot make up the health disparities that my colleague, the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) has described, that continue to exist, by running the same pace without some kind of adjustments being made.

We could not make up our position in this Congress of the United States from North Carolina from 1898 until 1992 without an affirmative action that took into account that racism existed and disparities existed and the unwillingness of part of our community to vote for another part of our community.

So I think Martin Luther King and Frederick Douglass and W.E.B. Dubois and Sojourner Truth and all of these people that we pay tribute to during our Black History Month celebration would not want us to dwell necessarily on giving them honor because they were not about honor. They were about justice and equality and running faster and trying to catch up to close that gap. Unfortunately, that gap continues to exist today in education, in economic disparities, in health care.

As part of our obligation as members of this caucus, and as part of our obligation as Members of this Congress, not only members of the Congressional Black Caucus, to assure that what took 200 years or 300 years to create, we do not assume can be wiped out with running faster for 30 or 40 years. It is going to take a long time to make up these disparities, and I applaud my colleagues for continuing to run faster and work harder and to work for equality as all of these people on whose shoulders we stand worked for equality.

We must continue to do the same.

Mr. CUMMINGS. Mr. Speaker, I want to thank the gentleman, and I want to thank him for working so hard on the very issue that you just spoke about.

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I am very pleased, Mr. Speaker, to yield to my distinguished colleague from the great State of California who has made it her mission to address the issue of AIDS in Africa and made it her mission to address many, many concerns of people who have often been left out and unheard, the great lady from the State of California (Ms. LEE).

Ms. LEE. Mr. Speaker, I thank the gentleman for that very humbling introduction and for his leadership in putting together this very important Black History Month Special Order, also for his really steady and magnificent leadership of the Congressional Black Caucus.

Mr. Speaker, today we do stand at the crossroads in our battle against the global AIDS pandemic. Now because this is Black History Month, I would like to take a minute and set forth the historical record with regard to this issue and the role of the Congressional Black Caucus in bringing the African and the Caribbean AIDS pandemic to the attention of the United States Congress, the Clinton administration and the Bush administration.

After years of hard work on the part primarily of the Congressional Black Caucus and our friends in the activist and the NGO community, we are finally seeing the issue of AIDS in Africa and the Caribbean in the national spotlight. Now, several years ago my friend, a former colleague we all know and respected, Congressman Ron Dellums, and several American and South African activists developed a very comprehensive plan to combat AIDS in Africa.

Now, we envisioned creating an AIDS Marshall Plan in Africa that would mirror the original Marshall plan that helped our friends and allies in Europe rebuild from the aftermath of World War II. So I have introduced the AIDS Marshall Plan as legislation. Let me just say that each and every member of the Congressional Black Caucus signed on as co-sponsor. I think that is a historical fact that needs to be recorded.

As my colleagues on the Congressional Black Caucus, especially the gentlewoman from California (Ms. WATERS), the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN), the gentleman from New Jersey (Mr. PAYNE), as the CBC took up the cause in Congress and Ron Dellums forged ahead outside of Congress, the gentleman from Iowa (Mr. LEACH) helped us fashion the AIDS Marshall Plan into the legislative framework for a global trust fund to be housed at the World Bank. Finally in 2000, we began to see some progress as our pushing and prodding gained support for the issue in this House.

In July of 2000, we were successful in adding $42 million to the FY 2001 foreign ops bill for global AIDS spending, which was really a small amount compared to the actual need; but it took a monumental effort on the part of the Congressional Black Caucus, the activist community, and our minority leader, the gentlewoman from California (Ms. PELOSI).

Soon after, thanks to our consistent consultations with President Clinton and other administration officials, we won passage of the Global AIDS and Tuberculosis Relief Act, which was signed into law in the summer of 2000 and which formally committed the United States to seeking the establishment of the global trust fund to fight HIV and AIDS. This was in August of 2000.

The passage of this bill was a major achievement and really I must say a vindication of the very hard work that went into the initial AIDS Marshall Plan put forth by Congressman Ron Dellums.

Now in the last Congress, we made great strides towards the passage of other comprehensive global AIDS bills, and we really managed to engaged this administration and our colleagues in the House and the Senate on this issue. Most importantly, we witnessed the international community, led by Secretary General Kofi Annan embrace the newly established global AIDS fund to fight AIDS, tuberculosis and malaria, again, an achievement which the Congressional Black Caucus is very proud of.

Now, in many ways the result and the leadership of primarily the Congressional Black Caucus' work over the last 5 years was evident at the State of the Union address 2 weeks ago when President Bush announced an emergency plan for AIDS relief in Africa and the Caribbean that would devote 15 billion over 5 years to treating those who were infected and those who are not. But our work on this issue does not end here, and we still have a long way to go before we can truly claim victory over this horrendous disease.

There are still an estimated 29.4 million Africans and 440,000 Caribbeans living with HIV and AIDS. Over a third of the populations of many sub-Saharan African countries are infected with AIDS, and in the Caribbean nearly 90 percent of all the AIDS cases are in Haiti.

In Africa and in the Caribbean, however, we are not just fighting against AIDS, but we are fighting tuberculosis, malaria and other diseases, high rates of infant mortality, the lack of access to health care, underfunded education systems, underdeveloped agricultural capacity, poor infrastructure and excessively high debt burdens. All of these developmental issues are tied to HIV and AIDS, and all of them contribute to its spreads in one way or another. That is why the fight for us continues.

The President's initiative represents a major step in a marathon, and we intend to make sure that the United States and the international community finishes the race. We cannot compromise on the substance of what our response to the pandemic should be, and in particular we will continue to push for your funding for the global fund because multilateral institutions do work and they deserve our support.

In conclusion, Mr. Speaker, let me say that during this Black History Month I hope that we all, members of the Black Caucus, this entire body, rededicate ourselves to the ideals that so many sung and unsung African American heroes and sheroes have lived and died for, and that is for liberty and justice for all.

Mr. CUMMINGS. Mr. Speaker, might I inquire as to how much time we have remaining.

The SPEAKER pro tempore (Mr. PEARCE). The gentleman has 4 minutes remaining.

Mr. CUMMINGS. Mr. Speaker, I grant time to the gentleman from New York, who has fought issues with regard to education (Mr. OWENS) for many, many years and has stood at the forefront of that issue and many other issues.

Mr. OWENS. Mr. Speaker, I want to thank the chairman also for sponsoring this Special Hour on Black History Month, and I want to discuss a few milestones and events in African American history that are related to education and that should not be forgotten.

We should not forget that one time to teach reading to a slave was a crime. If you want to know why we are in a position where we need affirmative action, if you want to know why at present the median net worth of white families in America is $120,000 while the median net worth of black families is America is only $17,000 then take a look at where we had to come from.

For 232 years it was a crime to teach a slave to read, and then we went through a period where we had to endure separate but equal; but separate but equal was never equal. I came from the Southern schools, the Southern schools. All my life I was in Southern schools, and there was a point where the books and desks and everything that we had had been used for 5 or 6 years by white schools before they were shipped to the black schools. So in every way there was no equality.

We should remember this. We went through separate but equal, and now we are in a situation where it is official neglect. The money, the resources necessary for education is not there. We have a lot of rhetoric supporting public education where most of our black youngsters are educated, but we do not have any resources.

My time is short so I will have to cut this sort. I just want to say that education is a civil rights issue of our time. It is a civil rights issue we must focus on. The slaves who were set free understood very well the most important thing for them to do was to read. People who learned to read had a great deal of status in the new free-slave communities, and we have to get back to that in our African American communities.

Education must be our first priority. It is the only way out of poverty. It is the only way to achieve political equality.

Mr. CUMMINGS. Mr. Speaker, our last speaker is a lady from the great State of Texas, who I yield the balance of our time to. But we just remind America that as we celebrate Black History Month, every day black history should be celebrated. Without further ado, I yield the balance of our time to the great lady from the State of Texas (Ms. JACKSON-LEE), who is also the first vice chair of the Congressional Black Caucus.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the distinguished gentleman. And I will count the conclusion, Mr. Speaker, to be the beginning. And that is to acknowledge that we are just beginning to explain to America some of the issues that still plague us but also offer to America a sense of hope, that we are Americans, African Americans who believe in this country and believe in America's promise.

That is why I think it is appropriate to cite from the letter in the Birmingham jail of Martin Luther King. And when he wrote this letter on toilet paper as he was incarcerated, he was responding to the clergy who had condemned him for coming from Atlanta to Birmingham to agitate in Birmingham. He simply said, ''We have waited for more than 340 years for our constitutional and God-given rights.''

And so I conclude this evening with a beginning and that is that we must continue to fight for our civil rights. And we hope that we can educate America that even though it appears that the civil rights era is over we begin anew. It is extremely important to recognize that the Kerner Report written in 1968 is in actuality a statement of America today. Oh, yes, we have made achievements. We are very gratified that we have leaders in academics, leaders of corporation, leaders in science; but yet we still find an unequal community as it relates to criminal offenses and judgments, racial profiling, the now attack on affirmative action which I believe is an attack out of lack of understanding and ignorance. Because if you understood the University of Michigan's very astute and very precise program, Mr. Speaker, you would understand that it is equal to giving 20 points for being an alumnus child, 20 points for living in northern Michigan, 20 points for speaking a different language. It is not in any essence a quota or preference. It is an outreach to make sure the university reflects America.

So we say today that even though we had Brown v. Board of Education in 1954 and many of us thought we had integrated America's school, we are in fact going backwards by showing a large degree of segregation. It means that our work is just beginning, Mr. Speaker. It means that I call upon my colleagues here in the United States Congress to join us not in celebrating African American History Month on a day or night when the members of the Congressional Black Caucus rise to speak to you, but let us do it in our actions by working with us to ensure the Supreme Court does not rule affirmative action unconstitutional. Let us encourage Republicans and Democrats to file briefs that will support the idea of a color blind society and an outreach society that ensures a diversity as it should be.

In conclusion, let me suggest to you, Mr. Speaker, that we are reminded of the words of Martin Luther King explaining why we cannot wait. We cannot wait because we are still unequal. The scale is still unbalanced, and it is necessary that we fight not isolated as one community against another but as Americans recognizing that this Nation is better by understanding our history, being able to suggest that our history is American history, and fighting with us for America to reach its promise.

Mr. Speaker, my entire statement is as follows:

Mr. Speaker, I rise today to discuss an issue that is timely: the State of Civil Rights. I am pleased that the Congressional Black Caucus has reserved this hour to focus on Black History Month. This year's theme is the ''State of the Union 2003.'' We heard recently the President's State of the Union. The President did not speak to the real State of the Union for African Americans.

We celebrate Black History Month at a time when our civil rights are under attack. I joined many of my colleagues in filing an amicus brief in support of the affirmative action plan of the University of Michigan. Affirmative action is under attack in this country more than 30 years after the Supreme Court's decision in Baake.

Nearly 35 years ago, President Lyndon B. Johnson issued Executive Order 11365 to establish the National Advisory Commission on Civil Disorders to respond to the civil unrest in urban cities. The problems identified by the commission: disparities in police practices, unemployment and underemployment, inadequate housing and poor education remain problems in the African American community three decades later.

The 1968 Report of the National Advisory Commission, also known as the Kerner Commission Report, recommended expanding opportunities for higher education and removing the financial barriers to higher education. Yet, here we are, three decades later, defending affirmative action efforts, battling high unemployment rates in the African American community, dealing with poor housing and deteriorating education in urban areas for children in K–12.

Affirmative action has moved to the center of public debate with the challenge to the University of Michigan's affirmative action program. It has become the catchall phase for those who challenge efforts to promote diversity.

Affirmative action is a set of tools used to give qualified individuals equal access and equal opportunity to employment or education. It means taking positive steps to end discrimination so that managers or other people who make hiring decisions have to give every candidate a reasonable chance to compete. What it does not mean is quotas or preference for unqualified applicants.

I would like to remind my colleagues that before the release of the Kerner Commission Report, affirmative action law can be traced back to the early 1960s, when the Warren Court, and then the Burger Court, dealt with the problem of integration in America's public schools. The basic statutory framework for affirmative action in employment and education services is the Civil Rights Act of 1964. Public and private employers with 15 or more employees are subject to a comprehensive code of equal employment opportunity regulations under Title IV of the 1964 Act.

Affirmative action is needed to address present day discrimination, and the problems that women and minorities must contend with when they apply for jobs, educational opportunities or try to move up the corporate ladder. We need affirmative action because discrimination still exists and is holding America back from achieving the highest principles of fairness and equality.

It dismays me that affirmative action is under such intense scrutiny. If the Supreme Court rules against the University of Michigan, opportunities to enter the doors of our great higher educational institutions will be denied to thousands of minorities. This is truly a watershed case, and I am disappointed that the President has come out publicly against the school's affirmative action plan. The University of Michigan established a sound and well thought through admissions plan both in the undergraduate school and the law school. This was clearly a solid use of affirmative action. The school followed the spirit of the law and considered a range of variables in admitting students, including unique talents, interests, experiences, leadership qualities and underrepresented minority status.

We do not live in a colorblind society. The 14th amendment to the U.S. Constitution guarantees that no state shall ''deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.''

When affirmative action works, qualified women and minorities have a fair chance at employment, education, and business opportunities.

The 1968 Kerner Commission found that the extent of underlying socio-economic problems caused racial strife. While I believe that African Americans have made tremendous strides, we still have a long way to go to reach true equality. African Americans on a daily basis face prejudice, police brutality, and racial profiling. Unfortunately, we are not often in the position to seek redress through the judicial system. The judicial nominees to our nation's courts are becoming more and more conservative. I opposed the Pickering nomination and I oppose the Estrada nomination.

Socio-economic barriers still exist in the African American community. There are 36.4 million African Americans in the country, according to the latest census. This is 12.9 percent of the total population, yet the poverty rate for African Americans is 22.7 percent.

African American History Month is a celebration of people who have gone before us and on whose shoulders we stand, of people who stand among us today transfixed on a goal to achieve even more. It is a time to pause and renew our commitment to realize the progress and achievements of our people and to go much further as we write our own chapter. A time to continue the legacy of African American History.

President John F. Kennedy said in 1963 that ''Every American ought to have the right to be treated as he would like to be treated, as one would wish to be treated, as one would wish his children to be treated.'' I believe those words ring true today 40 years later.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I commend my colleague, Mr. CUMMINGS for reserving this special order to celebrate Black History Month, a commemoration that dates back to 1926 when Black Americans celebrated Negro History Week.

Mr. Speaker, it is my hope that the citizens of the United States, especially young African-Americans, recognize how we've grown and developed since then. And also realize and appreciate the important contributions of their forebears and contemporaries to the development of this nation and American society.

I am proud to stand before you today to salute two outstanding citizens from my childhood home to Waco and congressional district of Dallas. James Andrew Harris was born on March 26, 1932 in Waco, Texas. As a graduate of Houston-Tillotson College in Austin with a chemistry degree, Mr. Harris worked in the Nuclear Chemistry Division of the Lawrence Radiation Laboratory at the University of California. There he was part of the team that discovered and identified elements 104-Rutherfordium and 105-Dubnium on the Periodic Table of Elements.

Dr. Otis Boykin was born in 1920 and raised in Dallas. His mother was a homemaker and his father a carpenter. Dr. Otis attended Fisk University and the Illinois Institute of Technology. Unfortunately, his parents could not afford his tuition and he dropped out of college after two years. Thereafter, Dr. Boykin built electrical devices used today in all guided missiles and IBM computers. He also developed a control unit for an artificial heart simulator (pacemaker) that helps millions of cardiovascular patients. Otis Boykin will be remembered as one of the greatest inventors of the twentieth century.

Mr. Speaker, today I am worried that given the current educational settings of our country, future Otis Boykins and James Andrew Harrises will not have the opportunity to pursue their dreams or realize their talents.

I want to focus briefly on what is going to happen in my State of Texas. It is reported that at least $2.7 billion must be cut from Texas public education over the next two years to balance the state budget without a major increase in taxes or fees. The University of Texas at Austin will hire fewer professors, forcing students to scramble for the classes they want. At Texas Women's University, fewer police officers may patrol the campus. Some intercollegiate sports may disappear from Collin County Community College. Tuition will probably rise at Dallas County Community Colleges. Universities, medical schools, community colleges and the Texas Higher Education Coordinating Board collectively must slash $343.8 million in the middle of the school year.

Mr. Speaker, one University of North Texas official summarized the current situation very clearly: ''The monster came through our door, and now he's sitting on our lap.''

I am further concerned as I read new stories, such as a Washington Post article which recently indicated that Oregon is on the verge of cutting as many as 24 days from its school year. The United States ranks 18th among the industrial nations in school year length. How can we expect American schoolchildren to learn in 180 days as much as Korean children learn in 220? They cannot!

Just a couple of weeks ago we listened to President Bush's well-written, well-delivered State of the Union address. Yes, it was nice to hear words about diversity, higher education, making college more affordable, and leaving no child behind. But words are cheap! What has been done to increase the diversity of our populations in higher education? What is being done to make higher education more affordable? And how will we ensure that no child is really left behind in our elementary and secondary public school education system?

Mr. Speaker we should invest in the education of under-privileged young people here at home. It will improve not only our educational system, but our society as a whole. So many Otis Boykins and James Andrew Harrises will have the opportunity to revolutionize technology that affects people's everyday lives.

Again, thank you to Congressman CUMMINGS for organizing tonight's special orders.

GENERAL LEAVE

Mr. CUMMINGS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within

which to revise and extend their remarks and include extraneous material on my special order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

ABC CODES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. PALLONE) is recognized for 5 minutes.

Mr. PALLONE. Mr. Speaker, the billing code system in the United States permits insurance reimbursement for health services and facilitates review of patient access and utilization of benefits.

Mr. Speaker, the way we determine health policy, evaluate health care services and codify those services for reimbursement impacts our health care system in dramatic ways. In health care reimbursement, if there is no code for the product, it will not get reimbursed.

Many Americans use complementary and alternative health care procedures, including nursing, chiropractic, acupuncture, naturopathic medicine, nutritional and botanical therapies. Too often there is no insurance reimbursement or inadequate reimbursement for these health-promoting services. And one reason is because there is no standardized tool to code these services and products. As a consequence, those who can afford it pay out of pocket and those who cannot are denied access.

Right now the Current Procedure Terminology code, or CPT codes as it is called, is the only approved coding standard available for insurance reimbursement. It is geared strictly to services provided by physicians and does not have the capability to represent services by other licensed providers including nurses. The CPT codes cover only about a quarter of all health care services used by Americans, leaving out three quarters of all health care products and services used to stay healthy and prevent disease. This creates critical gaps in knowledge about the health care marketplace.

On January 16, Health and Human Services Secretary Thompson authorized a pilot test of a new coding practice in accordance with the provisions and regulations governing the Health Insurance Portability Act that facilitates electronic transactions. These new codes supplement CPT codes and support tracking, measurement and analysis of the economic and health outcomes of complementary and alternative medicine, nursing and other forms of integrated health care. We have the opportunity as a result of this action to make major strides in addressing pressing issues in health care, accessibility, quality and cost management.

Mr. Speaker, this new technology is a set of alphabetic codes, called ABC codes, that function in a manner similar to the bar codes in the retail industry. This innovative new technology can provide us as health policy-makers with a more complete and accurate picture of the way U.S. health care is managed, financed, and delivered in terms of what works and what does not.

□ 2100

Head-to-head comparisons of conventional, complementary and alternative care are necessary to identify and advance the most health-promoting and cost-effective health care practices.

Mr. Speaker, I learned about the ABC codes because they address many health care services that have been largely ignored and undervalued and because studies show it is much more cost-effective to prevent disease than to treat it after it has developed.

The developers of ABC codes have designed ABC codes to fit into existing health care data fields, software application and information systems. So the cost and burden of implementation is small, but the benefits are large, and ABC codes help payers identify when reimbursement is justified as it relates to whether the provider is licensed under State law.

Mr. Speaker, I urge everyone to pay close attention to this pilot program to learn of the value of integrating complementary health care and assisting us in developing a model of care that is more cost-effective and health promoting.

SENATE CONFIRMATION OF MIGUEL ESTRADA

The SPEAKER pro tempore (Mr. PEARCE). Under the Speaker's announced policy of January 7, 2003, the gentleman from Colorado (Mr. MCINNIS) is recognized for 60 minutes.

Mr. MCINNIS. Mr. Speaker, I would like to yield to the majority leader, the gentleman from Texas (Mr. DELAY). I think his comments are especially pertinent this evening in consideration of the debate that is going on in this Capitol. So I yield to the gentleman.

Mr. DELAY. I greatly appreciate the gentleman giving me some of his time. The gentleman is on this floor on a very regular basis making some very important remarks about very important issues, and he will continue that, but the gentleman is right, Mr. Speaker.

Tonight is a very, very important night. There is a debate going on in this town that is highly important to the future of this country. The debate is so important that I hope the American people are tuning in and understand what is going on in this country.

Because, Mr. Speaker, there is a gentleman that has been nominated to serve on the D.C. Court of Appeals bench. The gentleman's name is Miguel Estrada. Miguel Estrada is exactly the type of highly qualified lawyer that America needs on the bench in this country. His story also mirrors America's best heritage of individual achievement and the blessings available to those who choose to hitch their futures to our republic. He represents the best tradition of hard work, perseverance, dedication and integrity. He built a strong record of academic excellence in leading universities.

The left often opposes conservative judicial nominees on the basis of an unfavorable rating from the American Bar Association, but in this case, Mr. Speaker, even the ABA recognizes that Miguel Estrada is well qualified. In fact, Al Gore's close legal adviser and former chief of staff Ron Klain had this to say about Estrada: Miguel is a person of outstanding character, tremendous intellect and with a deep commitment to the faithful application of precedent. The challenges that he has overcome in his life have made him genuinely compassionate, genuinely concerned for others and genuinely devoted to helping those in need.

Former President Bill Clinton's Solicitor General Seth Waxman said, During the time Mr. Estrada and I worked together, he was a model of professionalism and competence. In no way did I ever discern that the recommendations Mr. Estrada made or the analyses he propounded were colored in any way by his personal views or indeed that they reflected any consideration other than the long-term interests of the United States. I have great respect both for Mr. Estrada's intellect and for his integrity.

There, Mr. Speaker, we have it. Objective observers from the other side of the aisle recognize that Miguel Estrada is a highly qualified and intellectually gifted legal superstar who would immediately raise the standard of the bench on his first day.

There is no substantive basis for opposing his candidacy beyond the vicious and intellectually dishonest tenets of an all-consuming leftist ideology that is driven entirely by an appetite to destroy anyone standing beyond its control.

The left is inflamed by any prospective judicial candidate with the courage to oppose their unrelenting, small-minded, intolerant hostility to the traditional foundations of American life: faith in God, reverence for tradition, respect for the true rule of law and the recognition that we are all ultimately accountable for our actions.

That last point in particular, Mr. Speaker, summons the deepest venom and bile from the left. They attempted over the four decades beginning in the 1960s to put forth a vast and sordid swindle upon the American people. The left claim that men and women could take any action, that they could ignore our most sacred and sacrosanct traditions, that in service of convenience they could callously destroy and step forward without consequences.

Now we know better. We know that the left's malevolent campaign to undermine the notion of truth itself comes at a frightful price. Their malignant hold over the intellectual life of

this country must be exercised, and men and women who are willing to speak the truth offer our only hope of reclaiming our culture from the grip of a hedonistic, reckless and destructive descent into nihilism.

They oppose anyone who would reject the long reckless reach of the plaintiff's bar into everyday lives with frivolous and destructive lawsuits. The left are wracked with malice by the prospects that a Republican judicial appointee would approach the Constitution with reverence as a fixed defining document that offers a true north for the breadth and reach of the Federal Government.

The left prefers instead legal anarchists who approach the Constitution as a malleable document, subject to political manipulation and susceptible to the faddist legal theories of the moment.

Because Miguel Estrada is committed to upholding our founding principles and preserving the integrity of the rule of law, the left is targeting him for destruction. This we cannot and we will not allow.

Mr. Speaker, I must say that the other body is working late into the night, and I hope that the American people will tune in to C–SPAN that is carrying the other body's debate because it is a critical debate to what is going on in this country today. It is a critical debate, a debate that the Nation is having today, a debate that is so vitally important to the future of this country.

To take a man from Honduras, an immigrant that has worked his way up, realizing the American dream, going to college, getting his law degree, working in courts and working for the President of the United States, trying to advance an agenda that is vitally important to American people; but because he may have a name that is different than most, because he is a Hispanic, he is a danger to the left, and they are treating him as dangerous.

Mr. Speaker, I think it is vitally important that we as Americans stand and support Miguel Estrada in his quest to serve on the D.C. Court of Appeals, and I would urge this House to stand up with Estrada on this evening, a very important evening for this country, and I thank the gentleman for yielding.

Mr. MCINNIS. Mr. Speaker, before the gentleman leaves, I would like to point out a couple of things about Mr. Estrada.

First of all, the American Bar Association has given him the highest qualifications. These are the people that go in, regardless of race and economic status, they take a look at their legal qualifications. He is at the top of the book. He is at the top of the group. He is at the top.

Second of all, I think it is very important some of the gentleman's remarks. He is a leader, a recognized leader in the Hispanic community. Why are they picking on him? They cannot pick on him because of substance. I think there is a double standard back here.

The Democrats on one hand stand and say they feel strongly about the Hispanic community, but when the going gets tough, where are they to be found? It is people like my colleagues sitting over here that have enough guts to stand up when something is going wrong and say, how can you do this? Or the American Bar, which by the way is nonpartisan, has said he ranks at the very top. And here we have the Democrats taking on what is going to be the first opportunity for a Hispanic in the history of our country to be named into this position, and it is the Democrats who take one of the most highly qualified attorneys in this country, according to a bipartisan group, the American Bar Association, and are at this very moment seeking to destroy him.

The gentleman's comments were well taken.

I would be happy to yield back to the gentleman.

Mr. DELAY. Mr. Speaker, I appreciate the gentleman yielding.

It is rather strange that it is okay to be Hispanic, but a person has to be Hispanic with a particular point of view. In this country, can my colleague imagine that a person has to be a Hispanic that only believes one way, that only believes the way that the left would have them believe, that is only controlled by the left?

But to have somebody that has brought himself up from poverty and present himself to the United States for a very important prestigious appointment, to have to kowtow to the control of the left because he may not think the same way they do, that he may not believe in the same things that they do, is just outrageous, and the American people need to see what is going on here in this town tonight.

They need to understand what is going on in this town tonight, and they need to reject those that would reject Miguel Estrada.

Mr. MCINNIS. Again, reclaiming my time, in my opinion, this is the clearest example of a double standard that we have seen in a long time, and it is taking place right now in front of the American public; and the American public ought to stand up and say, look, just because one is not on the radical left does not mean they should not have an opportunity as a Hispanic leader, as one of the top-rated attorneys in the country by the American Bar Association, to take a position that has never before been held by a Hispanic.

Mr. DELAY. Mr. Speaker, I appreciate the gentleman being here and I appreciate him yielding time to us, and I think I and my colleagues are going to go over to the other body and witness what is going on.

Mr. MCINNIS. Mr. Speaker, reclaiming my time, I appreciate the majority leader taking time to share these comments with myself this evening.

Mr. Speaker, I thought long and hard before I came over here to the House floor tonight. My comments are coming from the depth of my heart of which I feel very very strongly about. I want to go through a couple of things with all of my colleagues this evening because I know most of them feel the same way I do. They understand our job responsibilities to the American people, our job responsibilities not only to the American people, but to the world.

As the President said in his State of the Union address, freedom is not just a gift to America, freedom is a gift to all humanity; and this Nation leads the world and has led the world throughout its history, throughout the history of this Nation as the one who carries the banner of freedom, as the one who has the ability and not just the ability, excuse me, but has the courage, the profound courage, to stand up for other countries that are not as fortunate.

It is the United States of America that today, when we match it against any country in the history of the world, not just the history of the United States, but any country in the history of the world, it is the United States of America that has gone to arms more often than any other country to defend another country. It is the United States of America that goes to military assistance; not to conquer, the United States did not go out and attempt to conquer other countries. That is not our mission in this life.

Our mission is to go out and allow freedom to spread throughout this world. It is the United States of America that today, if we take a look at all the food assistance in the world, it is the U.S.A. that provides 60 percent of it. It is the U.S.A. that provides more educational opportunities than any other nation in the world. It is the United States of America that provides more medicine to other countries than any other country in the world. It is the United States of America that allows more opportunities to immigrants than any other country in the world.

There is a reason that in the United States of America we have problems with immigration. Do my colleagues know why? Because of the fact we do not have any lining up to get out of this country. We have people lining up by the hundreds of thousands that want to come into this country, the country of great promise, but this country only achieved this position of strength through a position of commitment.

That is when we see something wrong going on, either against our citizens or against the citizens of our friends, we must take a position. We must stand up. In part, nobody else has the capability to do it.

Then sometimes when, as the case that I am going to go through with my colleagues in some detail tonight, there are other countries that have the capability to stand up and do it, but they will not stand up. When the going

gets tough, that is when we count our friends.

□ 2115

There are a lot of people who will want you to be the first one out of the foxhole. But the fact is not a lot of people will follow you as you go onto that battlefield under heavy fire.

Now, let me say right at the onset of my remarks, the President of the United States has done a tremendous job. The Secretary of State, Colin Powell, has done a tremendous job. Condoleezza Rice, Don Rumsfeld. Thank goodness, in this time of need, George W. Bush put together this kind of A squad. I do not care whether you are a liberal Democrat or a conservative Republican. The fact is when you take a look at a Condoleezza Rice, when you take a look at a Colin Powell, whether you agree or not, the fact is you have to say they are good. They are class. They are the top. They are the A squad. And fortunately, in this time of need, we have the A squad running this country.

Now, I want to go over this evening, number one, what I think our ultimate responsibility is to the American people, to the constituents that we represent. I want to go over a little background of Iraq and talk a little bit about Saddam Hussein, who unilaterally, by himself, has killed more Muslims than any other known person in the history of the world. He has killed more Muslims. Killed more Muslims. And that, by the way, includes men, women and children. He is the only leader alive today that we are aware of that has used chemical weapons and things like anthrax and other types of poisonous weapons to kill his own population, to kill his own people. He would just as soon take to war against another country, but use it against his own people. So I will talk a little about the history of this madman.

I will talk a little about the situation we face in regards to our allies, particularly the French and the Germans, who have stunned the world of NATO, which for 50-some years has been a close-knit organization, an organization in which the loyalty and the dedication to your fellow members has never been questioned, has never been questioned. Their moves in the last week and a half have shaken the very foundation of the North Atlantic Treaty Organization.

I will be going to Europe this week to participate in NATO meetings, and I can tell you that I am taking a message to my colleagues in Germany and Europe and Belgium and Luxembourg. My message is: Have you thought about what you are doing? Look what you are doing to the family. I know we may have a family dispute, we may have an inter-family dispute, but look what you have done to the family. The steps that the French and the Germans have taken this week reach far beyond the fact they refuse to provide assistance to the country of Turkey, which by the way is the most Muslim country in the world, a nation that has stood up against radical terrorists, against the radical believers of the Koran who have read it inaccurately. Yet our colleagues in France and Germany have refused to stand up, and they have really cracked the foundation of an organization that some now say has served past its due time.

I want to visit a little about what we do after this is all done, and I think it is very important. Because what other country in the history of the world, show me one other country in the history of the world that after they engage in a military conflict with another nation believes that it is as important to rebuild the nation that they just went to war with; that it is more important to rebuild that nation than to walk away. The United States of America did it in World War II with the Marshall Plan.

The United States of America built Japan. In fact, the aid we gave Japan, I can remember in the 1980s, when people were saying, my gosh, we restored this country, we saved this country from going into oblivion. We saved this country. We helped rebuild this country. We wrote their constitution and we put a general in charge, and now Japan is overtaking us in the business community. Remember those days in the 1980s? This Nation is not a Nation that seeks to conquer. This is a Nation that seeks to do good and do good for the right cause and for the right people. And this is also a Nation, although reluctant to do so, it is a Nation that is prepared to take that sword and show its terrible wrath against the evil people of this world. And, of course, Saddam Hussein fits at the very top of that list.

Let us visit just a little about Iraq. We all remember the situation in the Persian Gulf. And I have heard many people criticize, including myself, when I asked the question many times, Why did we not take out Saddam Hussein in the first Persian Gulf War? Why did we not do it? What kept us? We had a superior Army, and the so-called Republican Guard of the Iraq armed forces folded. They folded like that. In fact, many of the guard surrendered to unarmed American photographers, newspaper reporters. And we went, Why did we stop at Baghdad? Why did we not go in and take care of the problem?

Initially, I criticized the first George Bush. But when we take a look at what happened, it was not the President of the United States. Not at all. It was the United Nations. It was the United Nations mandate. That was the only authority, assuming we followed that mandate, the only authority this Nation and its coalition had, which was to take Saddam Hussein out of Kuwait, but not to go in and have a regime change. So as a result of the United Nations actions 12 or 13 years ago, it was the United Nations that kept Saddam Hussein in power, and it has been the United Nations, which resolution after resolution after resolution has turned a blind eye towards violation after violation after violation. Keep in mind that this country knows when it is called upon to do good for other countries.

My district is in the Colorado Rocky Mountains. I had the good fortune, the privilege, actually, of being in Aspen, Colorado, when George Bush, Sr., flew in to the news, as he was in flight, flew into the news that Iraq had just taken a smaller country, Kuwait. Had invaded it. Had invaded that country. It was Margaret Thatcher and George Bush, Sr., in Aspen, Colorado, that made the decision that the action taken by the Iraqi country and by Saddam Hussein would not stand. Remember those words? The President said this will not stand.

We prepared militarily. We built a coalition. But we yielded to the leadership of the United Nations, or at least the restrictions imposed by the resolutions of the United Nations, and that is that we not go into Baghdad and have a regime change. Furthermore, we yielded to the United Nations, who basically set out the terms of what the negotiation should be on the surrender of Saddam Hussein. These surrender terms allowed Saddam Hussein to stay in power. It allowed him to stay in power, but under very, or what we thought at the time, were very tough and stringent conditions. And those conditions being that he would never again arm that country with weapons of mass destruction; that he would allow inspectors into his country for the rest of the history of that country; that he would turn over to the allies and to the United Nations inspection forces all his weapons of mass destruction; that he would list the weapons of mass destruction that they still had in their inventory.

This was term after term after term after term that the United Nations insisted upon during the surrender. What happened? Violation after violation after violation.

Now, keep in mind that I think our responsibility as Congressmen to this Nation, and frankly to the world, but our ultimate responsibility is to provide for the security of the people of this country. I cannot think of any other responsibility that rises to the level of protecting the security of the people that live within these borders and our friends outside these borders. It, in my opinion, is an absolute obligation. And should we fail through negligence, or in this case what I would consider gross negligence, because we know what Iraq has; we know, at some point, what Iraq's intentions are, it would be a gross failure of our ultimate responsibility if we did not answer to the call, if we did not send fire trucks to this fire.

Sure, the fire is dangerous. Sure there are a lot of resources and a lot of fire trucks that we are going to have to send to that fire, but we have to send them.

Let me give some kind of comparison here. I think in a lot of aspects a medical doctor has the same type of responsibility to his patient or her patient. A medical doctor's responsibility is to provide for the security of their patient, security in the terms of their health. What is the health of the patient? How can we preserve the life? What can we do for this patient? The security of that patient. And sometimes that means the doctor has to give some pretty tough advice.

In this particular case, think of going to the doctor and you have sort of a hurt in your foot. So you say to the doctor, Doctor, my foot kind of hurts, but it is not really a big deal, I do not think. I am just kind of coming in here because my mom told me I needed to come in and see you. I wanted to get her off my back, so I am coming in to see you. So as the doctor, you come back to your patient and you say, I have some bad news and I have some good news. The bad news is you have cancer in that foot. The good news is we can take care of it now.

Now, it is going to require some sacrifice. It is going to require some pretty dramatic action, action that you never anticipated when you walked into this doctor's office, but nonetheless that action is required. And the patient looks at the doctor and says to the doctor, Doctor, I do not want to hear this. I do not want to hear this. It is going to disturb my lifestyle. It will interrupt me going to work, my work schedule. I did not come in here to hear I have cancer. I came in here just because my foot was bothering me a little. I do not want to hear it.

Or the patient says to the doctor, okay, Doctor, but I want to go home and pray about it. The patient wants to pray it away. I do not want this happening to me. Well, prayer is very important, do not get me wrong. I say prayers everyday, and thank goodness we have some guidance from our supreme being. But the fact is that alone does not do it. Does not do it.

Or the patient says to the doctor, I just want to go home and go to sleep and tomorrow I will wake up and it will all be a bad dream. But the doctor says to the patient, before you leave this office, keep in mind that today we can take that cancer and it is in the foot. If you wait too long, that cancer, the next time you come in here, that cancer will have spread throughout your body, and then my options are extremely limited. So I cannot allow you to go out of this office without being fully open with you and telling you that.

And that is exactly what we as Congressmen, that is exactly the fundamental responsibility that we have to the generation behind us and to the generations that live with us, and that is to be straightforward. We have an opportunity today to stop that cancer while it is still in the foot. To ignore that, to pretend that it is not occurring, to somehow kind of say, let us sleep on it and it will go away is a huge, huge, huge misstep in our obligations.

In fact, I think, I truly think that the failure to stand up to this threat that is so imminent and imminent to future generations, failure for us as a body to stand up to this threat is nothing short of treason. That is how strongly I feel. We know it is there.

Now, this Congress has not neglected its duties. This Congress has stood up and given to the President of the United States the authority the President needs to go in and engage in whatever operation, whether it is a peaceful operation or a military operation, to fix the problem. But this problem needs to be fixed now.

And the President, in my opinion, has been very patient. The nations across this world have been very patient. We have gone through 17 resolutions with the United Nations. Each resolution has been violated. Each resolution has been broken. At one point, Iraq kicked the inspectors out. Iraq has continued time after time after time to hide these weapons, to play a game of cat and mouse.

What would happen if Iraq surrendered those weapons? Do you know what would happen to Iraq if it joined the world economic community? It would be one of the wealthiest countries in the world. They would be able to provide for their citizens. Saddam Hussein could provide a standard of living for his citizens that would match many of the industrial countries in the world.

□ 2130

The people of Iraq could have education. The people of Iraq could have the kind of medication and health care that most industrial countries enjoy. The people of Iraq could enjoy the fruits of their hard work, but instead this horrible leader has focused on one issue and that is a self-serving image of himself to be a creator of disaster. And we have an opportunity to step forward.

Let me say what happened. We have got some examples in history where, when the obligation was there, the team that was responsible to handle it did not do it, did not carry out their responsibilities, and I want to speak briefly about that example.

Germany, World War I, Germany used poison gas. Germany in its surrender, very much, there are a lot of similarities between Germany and Iraq, Iraq in the Persian Gulf War, Germany in World War I. Germany surrendered to the international community. In fact, it is kind of weird how close those conditions that Germany surrendered upon are similar to the conditions that Iraq surrendered upon.

Germany agreed not to produce any more weapons of mass destruction. Germany agreed to allow inspectors into its country. Germany agreed to surrender all weapons of mass destruction or gas or weapons like this to the allies, to the world community.

What happened? It was not very long where Germany, just like Iraq, started saying to the inspection teams, ''Wait a minute, this is sovereign territory, you have no right to enter this part of our country and inspect whether we are hiding weapons in there.'' And the international community, primarily led by France, by the way, gave in. They refused to force Germany to live up to its agreement. They refused to acknowledge the fact that the Germans had lied and the Germans had used those weapons in a very lethal fashion against the world and that they were not surrendering those weapons.

So they did not know what to do with this hot potato. Germany was not allowing the inspectors to carry out their duties. In fact, Germany kicked the inspectors out, just like Iraq did.

So what happened? What did the community do? The international community led by France, they turned it over to a group called the League of Nations. What did the League of Nations do? They talked tough just like the United Nations did, but they blinked, and when Germany continued to refuse to follow the agreement that they made, that they made, the League of Nations stood down. The League of Nations backed off.

What happened? Well, Germany rebuilt its inventories. Germany, in fact, had been lying about the weapons that it in fact possessed. The League of Nations became a paper tiger, and today there are very few people that one can stop who can tell them what the League of Nations is. And the United Nations faces the same challenge.

Keep in mind that under President Clinton on the bombing, the air war against Kosovo, against Milosevic, keep in mind that it was the United Nations which refused to pass a resolution supporting the air war in Kosovo. And now the United Nations stands up and beats on their chest as if they are the ones that saved Kosovo. Fortunately, President Clinton, through his leadership, was determined that that was what was necessary, and frankly he turned out to be right and the United Nations was wrong.

Keep in mind that these resolutions that the United Nations has passed are simply a reflection of the agreements that Saddam Hussein and his country agreed to. These are not conditions imposed by outside countries upon the sovereign immunity of Iraq. These are conditions that Iraq agreed to, and Iraqis themselves have time and time and time again broken the very things that they agreed to.

Now let us take a look at what kind of weapons Iraq has. I listened to some of the people that are protesting this action. I am appalled by the fact that they are ignoring the cancer that exists. I am appalled by the fact that they gunplay to the world, through public relations, a very sophisticated public relations campaign, that they underestimate the threat of these weapons, that they somehow think

that we can trust Saddam Hussein, that they somehow think if we love him and hold his hand and talk warm and fuzzy talk with him, maybe share a piece of apple pie with the guy, that he is going to come clean and be a good neighbor.

This is a neighbor who has a vicious past. My guess would be that some of these protestors are some of the protestors that lead protests to disarm American citizens and take on battle with the National Rifle Association, but yet take a totally opposite stand when it comes to Saddam Hussein.

Now let us just see how serious this threat is. We are not talking about 13 empty missiles or shell casings. We are not talking about a couple Scud missiles that exist out there. Let us take a look at what we are talking about.

I refer you to the poster. This is the history of chemical weapons that Iraq has. These are weapons that Iraq has used in the past. So first I want to show this, and then we are going to progress from this poster to the next poster, which demonstrates what their inventory is. But just for those people out there that are in these protest lines, I think you have every right to be there, but I disagree fundamentally with the direction that you are leading a lot of innocent people. You are going to get them killed, in my opinion. You are leading them down the path of disaster if you ignore the history that Iraq has proven to the world.

Let us take a look at the history. My poster, Iraq's history of chemical weapons use. Date: 1983; type of agent, mustard; around 100; target, Iranians and Kurds. Keep in mind that Saddam Hussein has led his Nation on two invasions against other countries outside its borders, not in retaliation but in an offensive action. They attempted to invade Iran, and they did invade Kuwait.

October, 1983; mustard gas; casualties, 3,000; victims, Iranians and Kurds. And I should point out that the Kurds were Iraqi citizens.

February, 1984; mustard gas, 2,500 people. These are equivalent, 3,000. That is like the New York Trade Center and the Pentagon, 3,000 people, and he got them with mustard gas. The same thing, mustard; 2,500 Iranians.

March, 1984, Saddam Hussein, 100 more Iranians.

March, 1985, Saddam Hussein kills 3,000 other people through the use of these chemical weapons.

February, 1986, mustard gas, 8,000 to 10,000 people. Remember, these are not fighting men. These are men, women, and children that were extinguished, they were eliminated, they were murdered in cold blood though the use of chemical weapons as ordered by Saddam Hussein, 10,000 that time around.

1986, thousands, they cannot even estimate how many thousands were killed in that attack by Saddam Hussein using this type of weapon.

1987, mustard gas, 5,000; 1987, mustard gas, 3,000.

1988, hundreds, mustard gas, nerve agents.

How much clearer can it be? I mean, it would be one position if somebody came up and said, ''Look, we think this guy might kill somebody with these. It is a threat, but he has no history of it.''

We can use history to give us some kind of guidance of what is going to happen in the future. This is a cold-blooded killer. His only interest in being nice right now is to win the public relations battle in the international community. He knows that George W. Bush and the team of Colin Powell and Condoleezza Rice and Dick Cheney, he knows that that team is determined to do what is right. He knows that that team will not allow this threat to exist. So he is attempting, and frankly he is doing a pretty good job of it, to win a public relations battle throughout the world that, ''Look, forget what'' thou ''has done in the past and believe what I am going to do in the future. I am going to be a good guy. It is America, it is America that is causing this problem.''

So for everyone this evening who thinks that somehow we are dealing with a paper tiger or we are dealing with a threat that really does not exist, look at the history, look at the history of cold-blooded murder. Take our disaster of September 11 and multiply it and multiply it and multiply it, and we will get to the number of casualties that Saddam Hussein has carried out just through chemical weapons just as soon as other methods of war, which have killed hundreds of thousands of people, primarily Muslims, by the way.

Now let us take a look. We know through our intelligence, through the admissions made by Iraq after the surrender in the Persian Gulf that these following locations, and I will not go through each location, but every point on this poster to my left, every point on here is a weapons production facility, and a lot of these facilities are being utilized.

Let me refer to the next poster. This is one of those facilities, here to my left. It is very hard to see, but this is one of the facilities. On November 10, 2002, somehow the Iraqi leadership, Saddam, got word that the inspectors were going to be there. So on December 22 when the inspectors showed up, now take a look at what has happened.

The facility has been sanitized. It is an attempt to fool the American public. It is an attempt to fool the world. It is an attempt to divert our attention into thinking that this individual, who has twice in his history invaded other countries, who has murdered more Muslims than any other man alive, who has, through the use of chemical weapons, killed members of his own civilian population, who is responsible for hundreds and hundreds of thousands of deaths, and yet he is being persuasive with the world community in some areas in persuading them that he means no evil, that he is not a man of evil, that in fact America is the country of evil. Take a look at that sanitation.

Now let us take a look at what Iraq has under their last admission after Persian Gulf War Number One. If any poster should get your attention this evening, it should be this poster to my left.

These are inventories, not calculated by the intelligence communities of the rest of the world; these are inventories that Saddam Hussein himself admitted that he has and now refuses, time after time after time again refuses to turn those inventories over, refuses to account for those inventories and instead says to a couple of hundred inspectors in an area the size of the State of California, ''Find them if you can.'' That is the message out there, ''Find them if you can.''

Take a look at what type of weapons we are speaking of. Mustard gas, 2,850 tons. 2,850 tons.

Take a look at the sarin nerve gas, 795 tons of sarin nerve gas.

VX nerve gas, and let me tell everyone about the VX nerve gas. After the Gulf War, Saddam Hussein said he never made VX, he never made VX. In 1995, under pressure from the international community, he admitted that he made VX. He admitted he made VX, but only a few milligrams. Now they admit to 3.9 tons of that.

Nerve agent, 210 tons; anthrax, 25,000 tons; uranium, 400 tons; plutonium, 6 grams. This individual is a very, very dangerous individual.

No other country in the world is capable of leading a coalition other than the United States of America. The United States of America will go forward with a coalition.

Now, when we take a look at the national press, the world press, one would think we have no European support outside of our long-time solid friend of Britain. The fact is we have lots of support on the European continent: Spain, Italy, Portugal, Hungary, Bulgaria. There are a number of different countries that support the position of the United States, that understand that this is not a problem that is unique to this country.

It is a problem that is spread across the entire world. It is a problem that threatens the safety of everybody in this world. And yet there is a coalition that is willing to stand up and do something about it.

And do not be mistaken about NATO. The majority of NATO, the vote that went against us, was 16 in favor of the United States and three against us. The shock of NATO is that a country like France, who now, as we know, are pretty fair-weather friends, meaning they are a friend when it is convenient for them; and the Germans, it is unprecedented in NATO's history that a partner would refuse to help a fellow partner, such as Turkey, in their time of need.

□ 2145

But the fact is do not underestimate the strength that we have within the membership of NATO. There are a lot

of people in this world, there are a lot of countries in this world, that realize that this cancer must be addressed now; and we are attempting to do it.

I think we have an obligation to try and address it in the approach that has the least amount of impact; peaceful if we can do it, but do not let this game go on and on, because I am telling you that cancer spreads day by day, and that cancer does not discriminate on its victim. It will attack every man, woman and child alive. And it has no mercy. This cancer will show no mercy.

We can stop it today. And if these means of peaceful approach through the United Nations will not work, if the United Nations will not accept its responsibility and stand up to this madman, it is then inherent in the history of this country and the moral obligation of this country to stand forward and stop that cancer. That is our obligation.

It may not be what seems to be politically correct with some of the population with the French. And by the way, if you want to take a look at what is the incentive of the French and Germans to turn and invest against their long-term friend, the United States, take a look at their oil contracts with Iraq. I have heard people say this is all about oil. Well, with the French, it is. That is where they are getting their oil. Take a look at their long-term business contracts.

When I go to Europe this week, I am going to ask the French and my colleagues in Germany, Where is your investment? Where is your best, solid thought for an investment? Is it with the United States of America and the coalition of Spain and Italy and Bulgaria and Portugal and the British, or is your investment better with the country of Iraq and Saddam Hussein?

I know that we have an obligation to go in and do something about this cancer, but we also have an obligation, and we have accepted that obligation, to be there when we take the cancer off, the aftermath of what happens, after, for example, a military conflict.

This Nation will take into Iraq within hours, within hours of a military victory, we will supply that country of Iraq with medicine they have never seen under Saddam Hussein. We will supply them with food supplies and feed their hungry stomachs to the extent they have never experienced in their lifetime, many of them. We will offer that country, more than anything else we could give them, freedoms that they have never dreamed of under Saddam Hussein.

The United States of America will not rule Iraq. Iraq will rule Iraq. But it will rule it under a leader who cares about the people of that country, who does not place military weapons in school yards and missiles in hospitals. There are only good things that can happen to the country of Iraq if the United States of America and the world community stands up to its obligations.

There is a cost of leadership. Do not just stand up and say you are a leader. A leader is called upon when the challenges get tough. This is a tough challenge, and it is a long-term obligation to give these people what they deserve, and that is freedom, that is health care, that is food, that is the ability to do business.

It is our time. It is our time and our allies' time to stand up and get rid of this cancer. And if the French and the Germans and Luxemburg and Belgium do not have enough guts to do it, then get out of our way, because we are going to do what is right.

This Nation throughout its history, oh, sure, we hit a bump in the road here and there; sure, we made mistakes. This is not a mistake; this is an obligation. And I am confident that under the leadership of our fine President, this Nation will meet that obligation.

A year from now we will look back at many of these naysayers and I will say, now what do you have to say, because it will be our Nation that gave these people their freedom. It will be this Nation and people like the British and our good allies that had enough guts to do what is right.

And make no mistake, as that phrase is commonly used, this team down there in the White House and this Congress which has authorized that team in the White House, we will do what we need to do to give the Iraqi people exactly what they are entitled to.

I can tell you as a United States Congressman, I stand here with a great deal of pride, knowing that I am carrying out my fundamental responsibility to the people of this Nation and to the people of this world, and that is to provide security, to provide freedom, to share our wealth of food, to share our wealth of medicine. We will do the job. We are a can-do Congress. We have a President and an administration that is can-do. We will get the job done, and we hope that the world community will join us. The majority of them, I am confident will. Those allies like the French and Germans, who become weak-kneed now, at some point in time will look back and see it was probably one of the most serious mistakes they ever made.

So it is time for the people of this Nation to stand up in support of its leadership, and they have. We will not betray you. We will not let you down. We will do what we are charged to do, and that is to go out and protect not only our Nation and not only our friends, but the oppressed people of Iraq. And we will destroy those weapons of mass destruction. Iraq, for one, will never be a country, after we are finished, that will have the capability to once again make tens of thousands of casualties through the use of poison gas on innocent civilians.

RESIGNATION AS MEMBER OF COMMITTEE ON SCIENCE

The SPEAKER pro tempore (Mr. PEARCE) laid before the House the following resignation as a member of the Committee on Science:

HOUSE OF REPRESENTATIVES,
Washington, DC, February 12, 2003.

Hon. J. DENNIS HASTERT,
Speaker, House of Representatives
The Capitol, Washington, DC.

DEAR MR. SPEAKER: Effective February 12, 2003, I will take a leave of absence from the Science Committee for the 108th Congress due to my appointment to the Select Committee on Homeland Security.

Sincerely,

BOB ETHERIDGE,
Member of Congress.

The SPEAKER pro tempore. Without objection, the resignation is accepted.

There was no objection.

RESIGNATION AS MEMBER OF COMMITTEE ON SMALL BUSINESS

The SPEAKER pro tempore laid before the House the following resignation as a member of the Committee on Small Business:

HOUSE OF REPRESENTATIVES,
Washington, DC, February 12, 2003.

Hon. J. DENNIS HASTERT,
Speaker of the House of Representatives,
The Capitol, Washington, DC.

DEAR MR. SPEAKER: Effective February 12, 2003, I hereby resign my position on the Committee on Small Business due to my appointment to the Committee on Education and the Workforce.

Sincerely,

DANNY K. DAVIS,
Member of Congress.

The SPEAKER pro tempore. Without objection, the resignation is accepted.

There was no objection.

RESIGNATION AS MEMBER OF COMMITTEE ON SMALL BUSINESS

The SPEAKER pro tempore laid before the House the following resignation as a member of the Committee on Small Business:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, February 12, 2003.

Hon. J. DENNIS HASTERT,
Speaker of the House of Representatives,
The Capitol, Washington, DC.

DEAR MR. SPEAKER: Effective February 12, 2003, I am hereby taking a leave of absence from the House Small Business Committee due to my appointment to the Select Committee on Homeland Security.

Sincerely,

JAMES R. LANGEVIN,
Member of Congress.

The SPEAKER pro tempore. Without objection, the resignation is accepted.

There was no objection.

RESIGNATION AS MEMBER OF COMMITTEE ON SCIENCE

The SPEAKER pro tempore laid before the House the following resignation as a member of the Committee on Science:

HOUSE OF REPRESENTATIVES,
Washington, DC, February 12, 2003.
Hon. J. DENNIS HASTERT,
Speaker, House of Representatives, U.S. Capitol Building, Washington, DC.

DEAR MR. SPEAKER: Effective February 12, 2003, I hereby take a leave of absence on the House Committee on Science due to my appointment to the Select Committee on Homeland Security. I also would like to request that I retain my seniority on the Science Committee.

Sincerely,

ZOE LOFGREN.

The SPEAKER pro tempore. Without objection, the resignation is accepted.

There was no objection.

RESIGNATION AS MEMBER OF COMMITTEE ON ARMED SERVICES

The SPEAKER pro tempore laid before the House the following resignation as a member of the Committee on Armed Services:

HOUSE OF REPRESENTATIVES,
Washington, DC, February 12, 2003.
Hon. J. DENNIS HASTERT,
Speaker, House of Representatives, U.S. Capitol Building, Washington, DC.

DEAR MR. SPEAKER: Effective February 12, 2003, I hereby resign my position on the Armed Services Committee due to my appointment to the Select Committee on Homeland Security.

Sincerely,

ROBERT E. ANDREWS,
Member of Congress.

The SPEAKER pro tempore. Without objection, the resignation is accepted.

There was no objection.

RESIGNATION AS MEMBER OF COMMITTEE ON GOVERNMENT REFORM

The SPEAKER pro tempore laid before the House the following resignation as a member of the Committee on Government Reform:

HOUSE OF REPRESENTATIVES,
Washington, DC, February 12, 2003.
Hon. J. DENNIS HASTERT,
Speaker, House of Representatives, U.S. Capitol Building, Washington, DC.

DEAR MR. SPEAKER: Effective February 12, 2003, I hereby take a leave of absence from my position on the Government Reform Committee due to my appointment to the Select Committee on Homeland Security.

Sincerely,

ELEANOR HOLMES NORTON.

The SPEAKER pro tempore. Without objection, the resignation is accepted.

There was no objection.

RESIGNATION AS MEMBER OF COMMITTEE ON RESOURCES

The SPEAKER pro tempore laid before the House the following resignation as a member of the Committee on Resources:

HOUSE OF REPRESENTATIVES,
Washington, DC, February 12, 2003.
Hon. J. DENNIS HASTERT,
Speaker, House of Representatives, U.S. Capitol Building, Washington, DC.

DEAR MR. SPEAKER: Effective February 12, 2003, I am requesting a temporary leave from the Resources Committee due to my appointment to the Select Committee on Homeland Security.

Sincerely,

PETER A. DEFAZIO,
Member of Congress.

The SPEAKER pro tempore. Without objection, the resignation is accepted.

There was no objection.

RESIGNATION AS MEMBER OF COMMITTEE ON THE BUDGET

The SPEAKER pro tempore laid before the House the following resignation as a member of the Committee on the Budget:

HOUSE OF REPRESENTATIVES,
Washington, DC, February 12, 2003.
Hon. J. DENNIS HASTERT,
Speaker of the House of Representatives, The Capitol, Washington, DC.

DEAR MR. SPEAKER. I hereby give notice that, effective February 12, 2003, I am taking a leave of absence from my position on the House Budget Committee due to my appointment to the Select Committee on Homeland Security.

Sincerely yours,

KENDRICK B. MEEK,
Member of Congress.

The SPEAKER pro tempore. Without objection, the resignation is accepted.

There was no objection.

RESIGNATION AS MEMBER OF COMMITTEE ON AGRICULTURE

The SPEAKER pro tempore laid before the House the following resignation as a member of the Committee on Agriculture:

HOUSE OF REPRESENTATIVES,
Fourth District, Kentucky, February 12, 2003.
Hon. J. DENNIS HASTERT,
Speaker of the House of Representatives The Capitol, Washington, DC.

DEAR MR. SPEAKER. Effective February 12, 2003, I hereby resign my position on the Agriculture Committee due to my appointment to the Select Committee on Homeland Security.

Sincerely,

KEN LUCAS,
Member of Congress.

The SPEAKER pro tempore. Without objection, the resignation is accepted.

There was no objection.

RESIGNATION AS MEMBER OF COMMITTEE ON SMALL BUSINESS

The SPEAKER pro tempore laid before the House the following resignation as a member of the Committee on Small Business:

HOUSE OF REPRESENTATIVES,
Washington, DC, February 12, 2003.
Hon. DENNIS HASTERT,
Speaker of the House, House of Representatives, Washington, DC.

DEAR MR. SPEAKER. Effective February 12, 2003, I hereby take a leave of absence from my position on the Small Business Committee due to my appointment on the Select Committee on Homeland Security.

Sincerely,

CHARLES A. GONZALEZ,
Member of Congress.

The SPEAKER pro tempore. Without objection, the resignation is accepted.

There was no objection.

RESIGNATION AS MEMBER OF COMMITTEE ON EDUCATION AND THE WORKFORCE

The SPEAKER pro tempore laid before the House the following resignation as a member of the Committee on Education and the Workforce:

HOUSE OF REPRESENTATIVES,
Washington, DC, February 12, 2003.
Hon. J. DENNIS HASTERT,
Speaker of the House of Representatives, The Capitol, Washington, DC.

DEAR MR. SPEAKER. Effective February 12, 2003, I hereby request a leave of absence from my position on the Education and the Workforce Committee due to my appointment to the Select Committee on Homeland Security.

Sincerely,

LORETTA SANCHEZ,
Member of Congress.

The SPEAKER pro tempore. Without objection, the resignation is accepted.

There was no objection.

RESIGNATION AS MEMBER OF COMMITTEE ON SMALL BUSINESS

The SPEAKER pro tempore laid before the House the following resignation as a member of the Committee on Small Business:

HOUSE OF REPRESENTATIVES,
Washington, DC, February 12, 2003.
Hon. J. DENNIS HASTERT,
Speaker of the House of Representatives, The Capitol, Washington, DC.

DEAR MR. SPEAKER. Effective February 12, 2003, I hereby resign my position on the House Committee on Small Business due to my appointment to the Select Committee on Homeland Security.

Sincerely,

BILL PASCRELL, JR.,
Member of Congress.

The SPEAKER pro tempore. Without objection, the resignation is accepted.

There was no objection.

RESIGNATION AS MEMBER OF COMMITTEE ON SMALL BUSINESS

The SPEAKER pro tempore laid before the House the following resignation as a member of the Committee on Small Business:

HOUSE OF REPRESENTATIVES,
Washington, DC, February 12, 2003.
Hon. J. DENNIS HASTERT,
Speaker of the House of Representatives, The Capitol, Washington, DC.

DEAR MR. SPEAKER. Effective February 12, 2003, I hereby request a leave of absence from my position on the Small Business Committee due to my appointment to the Select Committee on Homeland Security.

Sincerely,

DONNA M. CHRISTENSEN,
Member of Congress.

The SPEAKER pro tempore. Without objection, the resignation is accepted.

There was no objection.

RESIGNATION AS MEMBER OF COMMITTEE ON RESOURCES

The SPEAKER pro tempore laid before the House the following resignation as a member of the Committee on Resources:

CONGRESS OF THE UNITED STATES,
Washington, DC, February 12, 2003.

Hon. J. DENNIS HASTERT,
Speaker of the House of Representatives,
The Capitol, Washington, DC.

DEAR MR. SPEAKER. Effective February 12, 2003, I hereby take a leave of absence from my position on the Resources Committee in order to assume my appointment to the Select Committee on Homeland Security.

Sincerely,

EDWARD J. MARKEY,
Member of Congress.

The SPEAKER pro tempore. Without objection, the resignation is accepted.

There was no objection.

IN SUPPORT OF MIGUEL ESTRADA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. KENNEDY) is recognized for 5 minutes.

Mr. KENNEDY of Minnesota. Mr. Speaker, I rise today in support of the nomination for Miguel Estrada to the District of Columbia Circuit Court of Appeals. This is an extremely well-qualified candidate that I am happy to speak in support of.

This is someone that the American Bar Association, it is not just me who is saying positive things about him, has described as ''well qualified.''

He was born and raised in Honduras. He would be the first Hispanic ever to sit on the U.S. Court of Appeals in the D.C. Circuit, which many consider the second highest court in our land.

He has extensive appellate experience and is widely regarded as really one of this country's best appellate lawyers. He has argued 15 cases before the U.S. Supreme Court.

If we look at the background and the strong support and experience that he is bringing to this position, he graduated magna cum laude from Columbia, something that is a high distinction amongst any group. He also graduated magna cum laude from Harvard Law School, with a JD degree, where he was the editor of the Harvard Law Review.

After that he went on to become a clerk in the U.S. Court of Appeals in the Second Circuit and also a law clerk for justice Anthony Kennedy, no relation, on the U.S. Supreme Court. Following that, he was Assistant U.S. Attorney and Deputy Chief of the Appellate Section of the U.S. Attorney's Office in the Southern District of New York, a very highly respected district, and was Assistant to the Solicitor General of the United States under both President Clinton and under George Herbert Walker Bush. So he has had experience really working under both administrations and both sides had previously affirmed him to be a very well-qualified candidate.

So this is someone that brings some experiences that we should be very pleased to accept in this important position.

He has strong support among the Latino community. I know Robert Deposada, who I had the opportunity to be in a different event with here just recently, says of him, ''to deny Latinos, the Nation's largest minority, the opportunity to have one of their own serve on this court in our Nation's capital is unforgivable.'' I would certainly agree.

□ 2200

Mr. Speaker, there are some that would make the claim that he lacks judicial experience, but I would say five of the eight judges currently serving in the D.C. court had no previous judicial experience, including Byron White, who was nominated by President Kennedy, and our current Chief Justice Rehnquist, who had no prior judicial experience. Some would say that he has refused to provide memorandum that he provided when he was assistant Solicitor General. But I would remind everyone that that was not requested of seven previous nominees to the court of appeals that had worked in the Solicitor General's office, and every living former Solicitor General, Democrat or Republican, has signed a joint letter to the committee stating that this request would be debilitating on the ability of the Justice Department to represent the United States before the Supreme Court.

So this is a justice and someone who brings unbelievable experience to our courts, someone who we should reach out and welcome, and I certainly am pleased to have the opportunity to join the many colleagues that have been on this floor here earlier today to speak on his behalf, and I would urge all of my colleagues to do so.

RECESS

The SPEAKER pro tempore (Mr. PEARCE). Pursuant to clause 12(a) of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 10 o'clock and 1 minute p.m.), the House stood in recess subject to the call of the Chair.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

645. A letter from the Secretary, Department of Housing and Urban Development, transmitting a report of a violation of the Antideficiency Act and the Office of Management and Budget Circular A–11, pursuant to 31 U.S.C. 1517(b); to the Committee on Appropriations.

646. A letter from the Under Secretary, Department of Defense, transmitting notification regarding the Department's report for purchases from foreign entities for Fiscal Year 2002, pursuant to Public Law 104—201, section 827 (110 Stat. 2611); to the Committee on Armed Services.

647. A letter from the Secretary of the Navy, Department of Defense, transmitting notification regarding the discontinuation of training at the Vieques Naval Training Range; to the Committee on Armed Services.

648. A letter from the Acting Program Manager, Pentagon Renovation Program, Department of Defense, transmitting the twelth Annual Report on the renovation of the Pentagon; to the Committee on Armed Services.

649. A letter from the Under Secretary, Department of Defense, transmitting the Department's report entitled, ''Overseas Commissaries and Exchange Stores—Access and Purchase Restrictions,'' as required by Section 2492 of Title 10, United States Code; to the Committee on Armed Services.

650. A letter from the Deputy Secretary, Securities and Exchange Commission, transmitting the Commission's final rule—Conditions for Use of NON–GAAP Financial Measures [Release No. 33–8176; 34–47226; FR–65; File No. S7–43–02] (RIN: 3235–A169) received January 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

651. A letter from the Deputy Secretary, Securities and Exchange Commission, transmitting the Commission's final rule—Transactions of Investment Companies with Portfolio and Subadviser Affiliates [Release No. IC–25888; File No. S7–13–02] (RIN: 3235–AI28) received January 15, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

652. A letter from the Chief Counsel, Office of Foreign Assets, Department of the Treasury, transmitting the Department's final rule—Reporting and Procedures Regulations; Cuban Assets Control Regulations: Publication of Economic Sanctions Enforcemernt Guidelines—received January 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on International Relations.

653. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification that the Department intends to consent to a request by the Government of Germany for a transfer of articles; to the Committee on International Relations.

654. A letter from the Director, Office of Personnel Management, President's Pay Agent, transmitting a report justifying the reasons for the extension of locality-based comparability payments to categories of positions that are in more than one executive agency, pursuant to 5 U.S.C. 5304(h)(2)(C); to the Committee on Government Reform.

655. A letter from the Auditor, District of Columbia, transmitting a report entitled, ''Certification of the Fiscal Year 2003 Revenue Estimate in Support of the District's $374,200,000 Multimodal General Obligation Bonds (Series 2002A and 2002B),'' pursuant to D.C. Code section 47—117(d); to the Committee on Government Reform.

656. A letter from the Chairman, Defense Nuclear Facilities Safety Board, transmitting the Board's Annual Report on Commercial Activities; to the Committee on Government Reform.

657. A letter from the Inspector General, Department of Housing and Urban Development, transmitting the Department's inventory of activities as required by OMB Circular A–76 and the Federal Activities Inventory Reform Act; to the Committee on Government Reform.

658. A letter from the Acting Director of Communications and Legislative Affairs, Equal Employment Opportunity Commission, transmitting the Commission's FY 2002 Commercial Activities Inventory; to the Committee on Government Reform.

659. A letter from the Chief of Staff, Federal Mediation and Conciliation Service, transmitting the FY 2002 report pursuant to the Federal Managers' Financial Integrity Act, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform.

660. A letter from the Executive Director, Federal Mine Safety and Health Review Commission, transmitting the Commission's inventory of activities prepared pursuant to the Federal Activities Inventory Reform Act of 1998; to the Committee on Government Reform.

661. A letter from the President, James Madison Memorial Fellowship Foundation, transmitting the consolidated annual reports under the Federal Managers Financial Integrity Act of 1982, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform.

662. A letter from the Chairman, National Mediation Board, transmitting the FY 2002 report pursuant to the Federal Managers' Financial Integrity Act, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform.

663. A letter from the Director, Office of Personnel Management, transmitting the Office's strategic plan for fiscal years 2002 through 2007; to the Committee on Government Reform.

664. A letter from the Director, Office of Personnel Management, transmitting the FY 2002 report pursuant to the Federal Managers' Financial Integrity Act, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform.

665. A letter from the Under Secretary and Director, United States Patent and Trademark Office, transmitting the Office's FY 2002 annual report on management of commercial activities; to the Committee on Government Reform.

666. A letter from the Chairman, United States Postal Service, transmitting a copy of the annual report in compliance with the Government in the Sunshine Act during the calendar year 2002, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Reform.

667. A letter from the Deputy Assistant Administrator for Regulatory Programs, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Revisions to Observer Coverage Requirements for Vessels and Shoreside Processors in the North Pacific Groundfish Fisheries [Docket No. 011219306–2283–02; I.D. 110501A] (RIN: 0648–AM44) received January 21, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

668. A letter from the Secretary, Judicial Conference of the United States, transmitting the fifth Judicial Conference Report on the Continuing Need for Existing Bankruptcy Judgeships, pursuant to 28 U.S.C. 152(b)(2); to the Committee on the Judiciary.

669. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Equivalent Safety Provisions for Fuel Tank System Fault Tolerance Evaluations (SFAR 88) [Docket No. FAA–1999–6411; Amendment No. 21–82] (RIN: 2120–AH85) received January 17, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

670. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Security Zones; Port of Palm Beach, Palm Beach, FL; Port Everglades, Fort Lauderdale, FL; Port of Miami, Miami, FL; and Port of Key West, Key West, FL [COTP Miami 02–156] (RIN: 2115–AA97) received January 14, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

671. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Regulated Navigation Area; Chesapeake Bay Entrance and Hampton Roads, VA and Adjacent Waters [CGD05–02–102] (RIN: 2115–AE84) received January 14, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

672. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Regulated Navigation Area; Chesapeake Bay Entrance and Hampton Roads, VA and Adjacent Waters [CGD05–02–103] (RIN: 211 5–AE84) received January 14, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

673. A letter from the Secretary, Department of Labor, transmitting the Department's ninth report on the impact of the Andean Trade Preference Act on U.S. trade and employment from 2000 to 2001, pursuant to 19 U.S.C. 3205; to the Committee on Ways and Means.

674. A letter from the Secretary, Department of Commerce, transmitting a report on the executive branch strategy regarding WTO dispute settlement panels and the appellate body; to the Committee on Ways and Means.

675. A letter from the Chief, Regulations Unit, Interal Revenue Service, transmitting the Service's final rule—Disclosure of Return Information to the Bureau of the Census [TD 9037] (RIN: 1545–AY52) received January 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

676. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Offshore Voluntary Compliance Iniative (Rev. Proc. 2003–11) received January 14, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

677. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Low-Incoming Housing Credit (Rev. Rul. 2003–2) received January 14, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

678. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Definition of Early Retirement Benefit and Retirement-Type Subsidy [Notice 2003–10] received January 14, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

679. A letter from the Acting General Counsel, Office of Compliance, transmitting a Report on Inspections for Compliance with the Public Access Provisions of the Americans with Disabilities Act Under Section 210 of the Congressional Accountability Act, pursuant to Public Law 104—1, section 210(f) (109 Stat. 15); jointly to the Committees on House Administration and Education and the Workforce.

680. A letter from the Regulations Coordinator, Department of Health and Human Services, transmitting the Department's final rule—Medicare and Medicaid Programs; Hospital Conditions of Participation: Quality Assessment and Performance Improvement (RIN: 0938–AK40) received January 23, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); jointly to the Committees on Ways and Means and Energy and Commerce.

N O T I C E

Incomplete record of House proceedings.

Today's House proceedings will be continued in the next issue of the Record.

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Congressional Record

PROCEEDINGS AND DEBATES OF THE 108th CONGRESS, FIRST SESSION

Vol. 149 WASHINGTON, WEDNESDAY, FEBRUARY 12, 2003 No. 26

Senate

The Senate met at 9:30 a.m. and was called to order by the President pro tempore (Mr. STEVENS).

The PRESIDENT pro tempore. The Senate will be led in prayer today by our guest Chaplain, Dr. John Tolson, First Presbyterian Church, Orlando, FL.

PRAYER

The guest Chaplain offered the following prayer:

Our Gracious Heavenly Father, we thank You for the gift of this day, for Your incredible love for us and for the privilege and opportunity of and the freedom in which we live. May our lives reflect our gratitude for all these things by living according to Your purpose.

Father, we realize that our children, to a large extent, will become like us as parents. In the same way the shaping of our Nation will be molded by its leaders. May we be willing to ask if we, as leaders, are like what You want our Nation to become.

Your word says, ''Blessed are the poor in spirit.'' In our great and rich Nation, too many find themselves spiritually poor. Father, help them to open their eyes to Your love. Please help all of us to understand that no woman or man can open his or her heart without humility and willingness to accept their dependence on You.

On this day when we honor President Lincoln and all he did to unite our Republic, we recall how he never lost sight of Your hand of grace and guidance.

Father, help and encourage the Members of this great body to aspire to excellence as Senators, as leaders, and as Americans. Build Your character into their lives so that their conduct will be a reflection of You.

And now, may the living Lord be with you this day; may He go above you to watch over you, behind you to encourage you, beside you to befriend you, and within you to give you peace and before you to show you His way. Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDING OFFICER (Mr. BROWNBACK). The majority leader is recognized.

SCHEDULE

Mr. FRIST. The Senate will resume consideration of the nomination of Miguel Estrada to be a circuit judge for the DC Circuit. We have spent 4 days and over 20 hours debating this eminently qualified nominee. Yesterday 14 Senators participated in the debate. To afford Senators ample time to fulfill their constitutional advise and consent responsibilities and to facilitate unfettered consideration of this nomination, I expect tonight to be a very late night. Senators are encouraged to come to the floor over the course of today to engage in this debate.

The Democratic leader and I have discussed options to conclude the Senate's constitutional responsibilities as they pertain to this nominee. My colleagues on the other side of the aisle continue to object to any time agreement and refuse to set a time for a dispositive vote. My objective is to provide all Senators with sufficient opportunity to debate the merits of this nominee and then to move this nomination to a final vote.

Therefore, once again, I encourage Senators to come to the floor today and this evening and, if necessary, tomorrow and tomorrow evening, to express their views so a final vote can be scheduled. I do hope the Democratic leader will assist me in achieving this goal.

In addition, the Senate continues to wait for the completion of the very important conference report on the omnibus appropriations bill. Those discussions have gone on over the course of the last several days, well into last night and over the course of this morning. This omnibus appropriations bill—I believe I speak for both sides of the aisle—is a must-pass item to be addressed and ultimately passed prior to any recess.

Mr. REID. While the majority leader is on the floor, Mr. President, we on this side are prepared to stay as long, of course, as the leader asks us to do so. But because we will have to have people here to make sure there are people on the floor to discuss whatever they feel they want to discuss during this nomination process, do you have an idea how late you might want us to stay tonight?

Mr. FRIST. Mr. President, I want to provide ample opportunity. We have been on this nomination since last Wednesday. I would expect we will be here very late into the evening; I don't know what time. But if we are to achieve having a recess at all, I do want to be able to fully address the issue of the omnibus appropriations and the Estrada nomination. I would think it is going to be very late tonight, but I can't give an exact time.

Mr. REID. As I said last night, as Senator HATCH and I were closing the Senate, everything has been said, but not quite everyone has said it, on the nomination of Miguel Estrada. Both sides have talked about what they like and dislike about this nomination. Yesterday, of course, there were a lot of repetitive statements.

We will be here. I think it is quite clear that we won't be speaking much about Miguel Estrada as the day proceeds. We will want to talk about

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

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Chairman Greenspan's statements and other issues we think are just as important to talk about. But during these nominations, when there is extended debate, we are allowed to do that. Whatever the leader wants us to do, we are here. Whether it is tonight, tomorrow night, Friday, Saturday, whatever it is, we will be at your disposal.

Mr. FRIST. Mr. President, I appreciate the comments of the assistant Democratic leader. My objective is to fully address the nomination of this outstanding, well-qualified candidate. If we really get to the point where the other side of the aisle says there is nothing more to be said, I would simply ask that we do take this to a vote and give us in this body the opportunity to vote, yes, we are for the nomination or, no, we are against the nomination, if we really have had full debate, and from what I have just heard we are getting close to that point, and if everything has been said.

But the one thing I don't want to happen is for people to be critical: We didn't have enough time; we didn't have enough opportunity to debate.

Our willingness to at least present why we believe Miguel Estrada is extremely well qualified is close to being fulfilled. And if we get to the point where there is nothing more to say on the other side of the aisle, then we would expect, if that is the case, an up-or-down vote. I think that signal is being sent strongly through our colleagues and what has happened on the floor this week.

I think America is paying attention, recognizing that at this juncture, we believe Miguel Estrada is well qualified and that there is a critical, drastic shortage of Federal judges today. When you put those two together—that we feel strongly Miguel Estrada is a well-qualified judge and that there is a drastic shortage of judges and our responsibility to address that issue, which we are doing well on the floor now—we would expect that up-or-down vote in the next couple of days.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I compliment the leader. In the short time he has been leader, he has allowed full and adequate debate. He could have tried to stop debate on the omnibus bill, and the leader chose not to do that, and I think it worked to everyone's advantage. On this side of the aisle, we appreciate that very much.

I do say, though, speaking as one Senator, but having spent a little time on this floor, just about everything has been said about Miguel Estrada. There will be other people who wish to make statements. As I said, everything has been said but not everyone has said it. We will do everything we can to make sure everyone has said it. The majority leader is going to find there will be other issues spoken about here. We are not going to—there is no reason to mince around. We are not going to allow an up-or-down vote on Miguel Estrada. That is clear.

Our leader gave a speech yesterday to that effect. So the majority leader has to make a decision whether this nomination is going to be pulled, whether the memos will be supplied to us so we can review them, whether there is going to be more opportunity to ask questions, or whether there is going to be a vote on cloture. Those are the three choices the leader has.

Mr. FRIST. Mr. President, I agree, in essence, those are the three choices, and as majority leader, I consider what I feel is stalling on this nomination and not allowing an up-or-down vote of sufficient importance that we will continue to address it. There are many other important issues this Senate must address. If we could just agree on an up-or-down vote right now, which the distinguished assistant Democratic leader has said they are not going to do on the other side of the aisle, we could go on to address these other important issues.

I do want to make it clear, both to this body, to the House of Representatives, and to America, this side of the aisle is ready for an up-or-down vote since, as we just agreed, there has probably already been adequate debate put forward, and I think it is important for America to understand your side of the aisle—whether you use the word ''filibuster'' or not—is obstructing or stalling the process which is important to our judicial system and to our responsibilities, our constitutional responsibilities in this body.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

EXECUTIVE SESSION

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

The PRESIDING OFFICER. Under the previous order, the Senate will now go into executive session to resume consideration of Executive Calendar No. 21, which the clerk will report.

The legislative clerk read the nomination of Miguel A. Estrada, of Virginia, to be United States Circuit Judge for the District of Columbia Circuit.

The PRESIDING OFFICER. Who seeks recognition?

The Senator from Vermont.

Mr. LEAHY. Mr. President, I will be very brief. I see the distinguished chairman of the committee on the floor. Under normal procedures, he would speak first. I appreciate his courtesy in withholding for a moment.

A lot has been said, and as the distinguished senior Senator from Nevada said, not all have said it. There is actually one person who, were he to speak, could speed this whole matter up very quickly. Miguel Estrada has written extensively on his views on very complex issues on law which would be of great interest to those who have to vote on somebody for a lifetime position in the courts. He has written extensively, but he has kept the writing secret.

We have ample precedent for similar writings that have been made available for everything from a nomination of a man who became Attorney General to a man who became the Chief Justice of the United States, William Rehnquist. The Democratic leader and I wrote to the President and asked once again: Release those secret writings.

Ironically, Mr. Estrada told us, when asked, he had no objection to those writings being released. He has no objection to them being released. It is only the White House has said: We will not release them. If they were released, I suspect we would then have a discussion of what is in those writings, and we would go to a vote up or down, win or lose.

At least we would know what we are voting on. We would not have a stealth candidate before the Senate. I think the White House ought to look at the fact Mr. Estrada has said he has no objection to his writings being made public. They ought to make them public, and then we can go ahead and complete action up or down on this nominee.

Again, I thank my good friend from Utah for his courtesy in letting me go forward. I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, it is interesting that my colleague, who is my friend, says Miguel Estrada is holding this process up, and then at the end of his remarks says he has agreed, he has no objections to giving these documents, but they never emphasize the fact the Justice Department is highly justified, is absolutely right, and has the opinion of the seven former Solicitors General saying these types of confidential memoranda should not be given to the Judiciary Committee or to Congress. The reason for this is that these memoranda are utilized in deciding what the Solicitor General's Office should do with regard to various cases.

If these memoranda become readily available or available at all outside the Justice Department, this would chill the honest, forthright deliberations, suggestions, and recommendations by those who work in the Justice Department. I do not think it takes any brains to realize the Justice Department is totally right.

Miguel Estrada is being blamed because the Justice Department, in accordance with their seven former Solicitors General, refuses to give up these confidential memoranda, which are privileged, so the Democrats can go on a fishing expedition and see if they can find some matters in those memoranda with which they disagree. They can then say: We cannot confirm him because he wrote some memoranda with which we disagree.

That is what is behind this. This is not trying to be fair. This is not trying to understand what is good or bad about Mr. Estrada. It is a fishing expedition to try to get into privileged documents that should remain privileged, according to these seven former Solicitors General of the United States, four of whom are Democrats and partisan Democrats at that, although highly respected by me. And the other side seems to act like we should just brush those opinions aside, even though they are bipartisan opinions by people who have held this office. I do not think they can have it both ways. I do not think their arguments are worth a grain of salt.

In addition, I listened intently yesterday morning, when I could, to the comments by the junior Senator from New York who spoke about the role of the Senate in the constitutional advice and consent process. According to the Senator, Mr. Estrada's failure to answer questions about his personal views on legal issues, which she called ''basic information about where a nominee stands,'' amounts to an unconstitutional strategy to deny the Senate an opportunity to engage in its role to advise and consent on nominations.

While this is an interesting argument, it is wrong on the law. It is wrong on the law and wrong on the facts, too. Her argument ignores the basic underpinnings of the Senate's role in the advice and consent process. In fact, I submit that the other side's effort to demand Mr. Estrada's personal views on certain legal issues is itself an unconstitutional threat to the separation of powers inherent in our system of Government and to the Framers' desire to maintain an independent judiciary. I think that is a very persuasive argument on my behalf.

It has never been the case that the Senate is constitutionally entitled to an answer to any question it chooses to ask a nominee while exercising its advice and consent responsibility.

The reason for this is clear. The Framers sought to ensure the judicial branch would remain independent of the legislative branch. According to the Federalist Papers 78, judicial independence ''is an excellent barrier to the despotism of the prince'' and ''in a republic it is a no less excellent barrier to the encroachments and oppressions of the representative body.''

For this reason, the Constitution prohibits Congress from reducing Federal judges' salaries, guarantees that judges will remain on the bench ''during good behaviour'' and allows Congress to remove them only by the process of impeachment. These protections were borne of the Framers' fear that like King George III, the Federal legislature would pressure judges into reaching outcomes of which it approved that otherwise were consistent with its interests.

The Framers' intent to insulate Federal judges from the political influence of the legislative branch also informed their decision to restrict the role of the Senate in the confirmation process. The Senate's limited function is apparent from the Constitution's very text. To state the obvious, the President holds the power to nominate candidates to the Federal bench while the Senate's role is restricted to providing ''advice and consent.''

Now, that does not mean advice and filibuster. It does not mean advice and obstruction. It does not mean advice and a demand that only the Senate's will can be followed. It does not mean advice and fishing expeditions, which is exactly what is going on.

I do not think my colleagues on the other side have a leg to stand on in these arguments they have been making. Even if they did, they had every opportunity to examine Mr. Estrada. This argument that he did not answer the questions is ridiculous. They had every opportunity to ask him every question they wanted to, and even stupid questions they could ask. Any member of the Judiciary Committee could ask anything they wanted to, and sometimes we have some of the dumbest questions anybody could possibly hear, but they have a right to ask these dumb questions. But the nominee has a right to say: I do not think I can answer that because that issue may come before me as a judge, and if it does, I do not want to have to recuse myself. Virtually everybody who has ever been nominated, who has been in any controversy, has said exactly that. Top authorities from both sides of the political spectrum agree they should not answer that, and the American Bar Association's ethical rule says they should not. Yet, Mr. Estrada is being crucified because he did not tell them everything they wanted to hear.

The real problem was, and I think is, that Mr. Estrada just did not say anything they could use against him. It is very disconcerting to my colleagues on the other side that they didn't find anything to use against Mr. Estrada. So they use ridiculous, idiotic arguments like he has no judicial experience. I saw the press release by Congressman Menendez who has led this terrible fight against Mr. Estrada, with his very partisan Democrat colleagues in the House, all of whom are rebutted by the Republican Hispanics in the House.

He basically said, well, he has no judicial experience. Well, that is not only ridiculous, it is idiotic. One of them made the case one does not have to have judicial experience to be a great judge, and that President Clinton nominated innumerable people to be judges, that we approved, who had no judicial experience. Some of the greatest judges in the history of this country did not have any judicial experience, and yet that argument is used.

It is a terrible argument. I think it is a prejudicial argument against Hispanics, because how many Hispanic judges are there in this country who might be put on the circuit court of appeals? Very few. That means all these great Hispanic lawyers who belong to the Hispanic Bar Association do not have a chance to be a judge under that reasoning because they have not sat as a judge anywhere before. Talk about discrimination. Talk about ridiculous arguments. Talk about prejudice.

It is a shame it comes from one of the Hispanic leaders in the House—Democrat Hispanic leaders, I might add. I cannot imagine anybody who really wants to see Hispanics progress and to become judges saying he has no judicial experience, therefore, he cannot be a judge. Give me a break.

Very few Hispanics have judicial experience, but there are a number of them who I hope President Bush and succeeding Presidents will give the opportunity of being a judge.

Now that just shows the lengths to which the other side has gone to basically scuttle this nomination, and this constitutional argument we had yesterday fits in that category. The Constitution assigns the Senate a limited role in the selection of judicial nominees. It simply allows the Senate to ratify the President's choices, or decline to do so. That is the Senate's power.

Put simply, the President selects, then the Senate reviews and reacts. As Alexander Hamilton explained in The Federalist No. 66:

> There will, of course, be no exertion of choice on the part of the senate. They may defeat one choice of the Executive, and oblige him to make another; but they cannot themselves choose—they can only ratify or reject the choice he may have made.

I think some of our colleagues on the other side want to choose these judges, and we are finding that continuously in their arguments, that the administration does not ''consult'' with them. If consultation means the administration has to take whatever judges the Democrats desire, then that is not consultation. Consultation is letting them know what is on the mind of the President, and the administration discussing it with them, seeing if they have any real objections to the choices of the President, asking them to weigh in and give the administration whatever information they can, and then making the choice and going from there. That is consultation.

The administration even goes further. The administration has had to put up with the blue slip system, which means local Senators have a lot of power in determining who are going to be the Federal district court judges. They do not have the same type of power in who should be Federal circuit court of appeals judges. That power has always been jealously guarded by whichever White House.

Mr. DURBIN. Will the Senator yield for a question?

Mr. HATCH. Sure.

Mr. DURBIN. I want to make sure, the Senator is saying we are going to stay with the blue slip approach then for judges in the future?

Mr. HATCH. I doubt we are, because I have said I will follow the exact blue slip policy Senator KENNEDY, Senator BIDEN, and I followed. So all this bull in the press saying that I am going to change the blue slip laws, yes, I am changing it from what Senator LEAHY did, but I am going back to the process of KENNEDY, BIDEN, and HATCH.

Mr. DURBIN. So if the Senators from a State were——

Mr. HATCH. I have said it enough I would hope the Senator heard it.

Mr. DURBIN. To make sure it is clear for the record, if Senators from a State where a judge is being appointed do not approve of that judge, then you are not going to have a hearing; the Senator has to have two blue slips from two Senators from the State?

Mr. HATCH. That is absolutely false. Senator KENNEDY set the process to begin with. When he became chairman of the committee, he said negative blue slips shall be given great weight, but they are not dispositive.

If both Senators are against the nominee, that is given great weight by me. It was by Senator KENNEDY.

Mr. DURBIN. Senator LEAHY's approach of both Senators having a voice as to whether the nominee goes forward, the Senator is not going to abide by that blue slip process in the future?

Mr. HATCH. I have changed the Leahy approach because it was in contradiction to the Kennedy, Biden, and Hatch approach, who followed Kennedy and Biden and did it to the letter.

It is very difficult, when two Senators go against a nominee, for that nominee to make it, but it is, as Senator KENNEDY said, not dispositive. That has been the rule, as long as I can remember, until Senator LEAHY changed it. I think even Senator LEAHY basically acknowledged that rule.

Mr. DURBIN. I say to the Senator from Utah, the rule that has been followed since I have served in the committee under your leadership, as well as under Senator LEAHY, said both Senators would have a voice in the blue slip process.

Mr. HATCH. And both do.

Mr. DURBIN. The fact the Senator is changing it suggests to me, again, he is removing the power of the committee and of the Senate to look at judicial nominees.

Mr. HATCH. Not one bit.

Mr. DURBIN. That is what the debate is all about.

Mr. HATCH. Not one bit. In fact, I reiterate to my friend again, I did not set this policy. It was set by Senator KENNEDY. I remember when he set it way back then, there was a lot of people upset about it on our side, but it became the policy of the committee. Then when Senator BIDEN became chairman of the committee, he agreed with that policy. He adopted that policy. Then when I became chairman of the committee for the first time, I agreed with that policy and I followed that policy. All I am saying is I am going to follow the policy set by Democrats.

Mr. DURBIN. The Senator from Utah is rejecting Senator LEAHY's policy?

Mr. HATCH. I am not rejecting it. I am just saying we are going back to the original policy set by Senator KENNEDY, Senator BIDEN, and myself.

Mr. DURBIN. That is a very positive spin, but I think the answer is the Senator is rejecting Senator LEAHY's approach.

Mr. HATCH. We will not use the Leahy approach, that is true, because I think it is wrong. And I think Senator KENNEDY and Senator BIDEN thought it was wrong, as well, by their actions.

I find it a little strange that Democrats are criticizing a policy they themselves set and trying to say I have changed the policy when in fact it was set by Democrats—and leading Democrats at that.

The fact that Senator LEAHY changed it does not mean it was right for him to overrule Senators KENNEDY and BIDEN and myself. I believed he was wrong.

Mr. DURBIN. I ask the Senator one last question, does the Senator, as chairman——

Mr. HATCH. Let me ask this: Does the Senator have a question?

Mr. DURBIN. Yes. Did the Senator from Utah, as chairman of the committee, ever have a hearing for a nominee who did not receive both blue slips from Senators in the State?

Mr. HATCH. I don't recall.

Mr. DURBIN. I think the answer is no.

Mr. HATCH. As the general rule, it stopped the nominee—as a general rule, but it is not dispositive.

(Ms. MURKOWSKI assumed the chair.)

Mr. DURBIN. So we will change not only the Leahy approach but the Hatch approach?

Mr. HATCH. No, I still have the same approach. I gave great weight to the Senators, and I intend to in the future. But that does not mean that a legitimate nominee should not have his or her day in court.

Mr. DURBIN. One last question: Does the Senator, as chairman of the committee, now send out blue slips to Members so they can respond?

Mr. HATCH. We do. That is a policy of the Senate Judiciary Committee.

Mr. DURBIN. They have been sent out?

Mr. HATCH. As far as I know. If they have not, they should be. We know some have been returned and some have not been returned.

Mr. DURBIN. Thank you.

Mr. HATCH. Now, let me just say this. I was speaking a few minutes ago about the Federalist Papers and what they had to say.

As I said before, and has been repeatedly quoted, as though I said something I am not following to this day, I agree that the Senate should not be a rubberstamp to a President's choices for the judiciary. We do not have to be a rubberstamp.

We have an obligation to look at these people and to see what is wrong. Tell me what is wrong with Miguel Estrada. Tell me one glove they have laid upon him. Tell me one proof they have that he is not worthy of being on the Circuit Court of Appeals for the District of Columbia—other than the specious, spurious argument: Well, we do not know enough about him.

They conducted a hearing. They controlled the process. They asked questions. That hearing transcript is this thick. Normally the transcript is 10 pages. They controlled everything. They could have asked written questions. Only two of them did—two Democrats did. And he answered them.

Now they are coming in here crying over their failure to ask any further questions, saying: We must examine him more.

I am hearing that on every judge this President has nominated. We have 26 emergency situations in this country—in other words, 26 real problems in this country—and other vacancies that are also problems, and I am getting these spurious arguments.

We have a markup tomorrow. We have 3 circuit court nominees, and we had a hearing for 12 solid hours. I was willing to stay even longer. I would have stayed all night, if necessary, to get that hearing over with. It was the Democrats who decided it was over. They had every chance to ask questions. I am hearing they will filibuster these three nominees in the Judiciary Committee tomorrow.

When is it going to stop? When are they going to start doing what is right? Will this all be partisan just because they did not win the Presidency? Is President Bush going to be treated this way on every judgeship? They say these are controversial judges. I have not seen one circuit court of appeals nominee since I have been chairman of this committee who they do not think is controversial. Every one is controversial. The reason is they are circuit court of appeals nominees, and this President has nominated them, and they presume they must be Republicans and conservative. The only nominees about whom I did not hear any argument were the Democrats this President has nominated, holding out his hand to them, saying, let's work together. He has nominated Democrats we have been able to get through, and with my approval.

Now that we have some Republicans such as Miguel Estrada, who may be conservative, the President is not getting a fair shake. They are not even trying to give him a fair shake. I don't think my friends on the other side have to rubberstamp anybody, but they ought to be fair. They ought to be fair to this President. He is the President of the United States. He has a right to nominate these people. Unless they can show some legitimate reason for not confirming these people, then these people should be confirmed.

Where is the legitimate reason against Miguel Estrada? I don't see any. I have not heard one legitimate

reason the whole time we have debated this for the last week—not one, not one—other than we should be able to continue a fishing expedition long after they held a very extensive hearing on this person, long after they had the opportunity of sending him written interrogatories or questions. And only two of them did. Now they are in here crying as if they have been somehow mistreated in this process. They controlled the process.

As has been the case history, the Senate is entitled to detailed information about a nominee's background, career, and qualifications for the bench. Mr. Estrada has provided ample information to allow the Senate to determine his qualifications.

First, it bears repeating that the American Bar Association, their gold standard, when we were having problems whether the Bar Association was fairly examining judges—and there were some real questions on our side because of some ridiculous, I think, ratings they had given in the past—the Democrats said: We must have the ABA ratings. We will not allow candidates to go through, nominees to go through, without the ratings. It is our gold standard.

I think it bears repeating that the American Bar Association unanimously—the standing committee that really examines these judges and takes it seriously—unanimously rated Mr. Estrada well qualified for this position, the Democrats' ''gold standard.'' That is the highest rating the American Bar Association grants.

Let me say one other thing before I yield to my colleague. That is this: I have had real problems with the American Bar Association in the past. I was the one who said: We are not going to allow them to be part of the process. They can submit their recommendations. I will give them weight, and Senators can give whatever weight they want. But they will not be a vetting processor that can determine whether a person sits or not. The reason I did that was I believed they were not being fair.

In the intervening years, and currently, I believe the American Bar Association has straightened out its act, and I believe they are being fair, and I believe they are doing a good job. I want to be the first to correct the record as to why I am in agreement that we can pay very good attention. I don't think even the American Bar Association should stop someone from being a judge just because they disagree—and I can name two cases where I personally led the fight to have judges confirmed who were rated not qualified by the American Bar Association and the judges have turned out to be very good judges in the end.

I yield.

Mr. DURBIN. I think the Senator may have answered. I was going to ask, as chairman of the Senate Judiciary Committee, if the Senator believes we should approve Miguel Estrada because he was rated well qualified by the American Bar Association, has the Senator from Utah ever failed to approve a nominee from President Clinton who was well qualified by the American Bar Association? I think the Senator has answered that question that there were times when he rejected nominees, voted against nominees, refused to have hearings for nominees, delayed hearings on nominees who were rated well qualified by the American Bar Association.

Mr. HATCH. Not that I recall. I never allowed the American Bar Association to make the determination in my mind whether I was for or against someone. I have paid attention to what they do, even when I disagree with them. I always read what their recommendations were, and I always gave credibility where credibility should be given. I will continue to do that.

What I disagree with: I don't think the American Bar Association system should be a determining factor one way or the other whether a person is approved by a Judiciary Committee of the full Senate, whether a person is confirmed. I personally don't think anybody should take that attitude. Some did. But that should not be a rule of the Senate. We have that responsibility, not the ABA. I appreciate the Senator's excellent question.

Nor am I for Mr. Estrada because he happens to be unanimously well qualified. It is because he is the fulfillment of the American dream. Here is this young Hispanic man who came to America not speaking a lot of English, he learned English, and then he goes on and becomes a graduate of Columbia University, magna cum laude, and then he goes to Harvard and graduates magna cum laude there, where he was editor of the Harvard Law Review. Then he holds various positions, ranging from clerk on the Second Circuit Court of Appeals and clerk for Justice Anthony Kennedy, a moderate on the Supreme Court. And then he worked in the Solicitor General's Office in the first Bush administration and also for the Clinton administration. He has raving reviews of the kind of work he did there. Then he becomes a partner in one of the great law firms in this country, Gibson, Dunn & Crutcher, at a relatively young age. He has argued 15 cases before the U.S. Supreme Court, winning 10 of them.

Look, it doesn't take many brains to say this must be one heck of a guy, he must be one heck of a lawyer, and he must really be someone who can do the job on any bench in this country. To say he has no judicial experience when he clerked for two major Federal judges—one a circuit judge and the other a Supreme Court Justice—I think is pure bunk, and everybody knows it. That keeps coming up like it is a real argument. That is what they call arguments—that he wasn't a judge and, therefore, he should not have this privilege; that he hasn't answered questions just the way they want him to answer, even though the transcript is thick with extensive hearing questions and answers. He answered their interrogatories, written questions, but only two of them took the time to write them. I hope we don't send written questions to every one of these nominees, but if you have some questions, send them.

He said if the Justice Department wants to give up these memoranda, it is OK with me, I am proud of my work. But he fully understands why they don't want to simply turn them over. They are private, they are confidential, and they involve opinions that could undermine the work of the Solicitor General of the United States in arguing for our country. If they are disclosed and if other workers in the Solicitor General's Office believe their opinions are going to be disclosed to the public, guess how honest the future opinions are going to be, especially if somebody wants to go on to hold another position in the Justice Department or Government that is a confirmable position, or wants to become a district court, or circuit court, or Supreme Court judge.

Second, Mr. Estrada testified for a full day in the Senate Judiciary Committee on a range of subjects and then answered written follow-up questions from committee members. As I said, it should be mentioned that only two members of the committee decided to pose such questions.

Third, Mr. Estrada has received broad bipartisan support from lawyers who know him best, including former Clinton Solicitor General Seth Waxman and Vice President Gore's former chief of staff, Ron Klain—these are top Democrats who say this man deserves confirmation—former Clinton Justice Department officials Randolph Moss and Bob Litt—again, two top Democrats, many individuals in the Justice Department; and, in addition, 14 other colleagues of Miguel Estrada in the Solicitor General's Office have all written glowing recommendations of Mr. Estrada.

Fourth, the Senate is free to review the briefs and other publicly available written work Mr. Estrada performed on behalf of clients in the more than 15 Supreme Court cases he has handled during his career.

The record is voluminous. They are also able to get the oral arguments he made before the Court. Surely they can get, from all of that documentation, enough to understand what his judicial philosophy might be. Keep in mind, he was representing clients, so it would probably even be unfair for them to distort and utilize anything they disagreed with in all these documents because he represented clients and had to do the best he could for them. That doesn't mean those were necessarily his opinions, other than he did a job as an attorney must do on behalf of his clients. It's a ridiculous argument that we don't know enough about him because there is no doubt that the record is voluminous. They could go through

all of that. I don't believe they have gone through very much of it. Perhaps some of the staff.

This is just a phony bunch of excuses for giving this Hispanic American a rough time. They are against him because he is supported by a Republican President and he may be conservative. My goodness, he may even be against their hallmark decision of Roe v. Wade. Come on. These are foolish arguments.

All of this information is more than adequate. We have the Supreme Court cases, the briefs that were filed, and arguments that were made—all of that information is more than adequate to address Mr. Estrada's qualifications. We have approved thousands of judges who have never argued a case in the Supreme Court. He argued 15, winning 10 of them. This body must, in order to maintain the proper constitutional balance, refrain from seeking just this sort of information from Mr. Estrada. We should not have a right to this sort of information any more than we have a right to have them from their nominees to serve in our Federal courts.

Many distinguished Democrats have themselves noted that seeking personal views is highly inappropriate. Justice Thurgood Marshall made this point in 1967, when he refused to answer questions at his confirmation hearing about the fifth amendment. He said:

> I do not think you want me to be in the position of giving you a statement on the fifth amendment, and then, if I am confirmed and sit on the Court, when a fifth amendment case comes up, I will have to disqualify myself.

Lloyd Cutler, one of the great lawyers in this town, a former Clinton White House counsel, and former Carter White House counsel, who also was at the other end of Pennsylvania Avenue at the same time as the Senator from New York, disagrees with efforts to discern a nominee's ideology during the confirmation process. According to Mr. Cutler:

> It would be a tragic development if ideology became an increasingly important consideration in the future. To make ideology an issue in the confirmation process is to suggest that the legal process is and should be a political one. That is not only wrong as a matter of political science; it also serves to weaken public confidence in the courts. Just as candidates should put aside their partisan political views when appointed to the bench, so too should they put aside ideology. To retain either is to betray dedication to the process of impartial judging.

Former Senator Albert Gore, Sr., also believed that efforts to discern a nominee's personal views were inappropriate. Former Senator Gore noted the following in connection with the 1968 nomination of Abe Fortas to serve on the Supreme Court:

> [A] judge is under the greatest and most compelling necessity to avoid construing or explaining opinions of the Court lest he may appear to be adding to or subtracting from what has been decided, or may perchance be prejudging future cases.

The Senate Judiciary Committee agreed with Senator Gore, noting the following in a committee report on the Fortas nomination that year:

> Although recognizing the constitutional dilemma which appears to exist when the Senate is asked to advise and consent on a judicial nominee without examining him on legal questions, the committee is of the view that Justice Fortas wisely and correctly declined to answer questions in this area.

To require a judge to state his views on legal questions or to discuss his past decisions before the committee would threaten the independence of the judiciary and the integrity of the judicial system itself. It would also impinge on the constitutional doctrine of separation of powers among the three branches of government as required by the Constitution.

Democrats back then made it very clear, including Lloyd Cutler and countless others, that they should not be answering questions about how they might rule on given cases. Why this is suddenly not so clear to my colleagues on the other side is a mystery.

Finally, the ABA's Model Code of Judicial Conduct also prohibits a nominee from discussing his personal views.

Canon 5A(3)(d) of the ABA's Model Code of Judicial Conduct states that prospective judges ''shall not . . . make pledges or promises of conduct in office other than the faithful and impartial performance of the duties of office . . . [or] make statements that commit or appear to commit the candidate with respect to cases, controversies or issues that are likely to come before the court.''

Mr. Estrada's opponents in essence are asking him to violate this ethical canon.

Mr. Estrada possesses an excellent record—one which merits confirmation. Efforts by the other side to deny him confirmation in the face of this excellent record are unfair and degrading to the confirmation process.

The arguments made by the other side are not constitutional, they are political. The other side knows that the Constitution prohibits this body from intruding on the independence of the judiciary, and from forcing candidates to provide us with their personal views on legal issues. I hope the Senate will reject these unconstitutional efforts and I surely hope that we will vote soon to confirm Miguel Estrada.

I have to ask, Where are the real arguments against Mr. Estrada? The fact they haven't been able to dig up any dirt on him is lamentable, I guess, to them. But, on the other hand, they haven't been able to. The fact is they do not have a good argument against Miguel Estrada, other than these specious arguments that they should be allowed to get into confidential, private, and privileged information at the Department of Justice in the Solicitor General's Office. They can't get those materials, but the fact of the matter is they shouldn't be able to do so. Not only do I say that, but seven former Solicitors General—four of them are top Democrats—even to this day take that position as well.

My gosh. The fact he wasn't a judge is irrelevant. If he is qualified, as he certainly is—and I don't think anybody can really argue he is not, with the reputation and the achievements he has had in his life—in all honesty, we should move to a vote. The fact he hasn't had judicial experience other than the years he spent as a judicial clerk in the Second Circuit Court of Appeals and with the Supreme Court of the United State of America—I mean, in all honesty, we have had fellow Hispanics say he is not Hispanic enough, and he hasn't done enough for the Hispanic community. Gee, I think everything he has done has been for the Hispanic community, and for everybody else as well. This is a man who really does.

Where does all of this come from? It comes from the 2001 retreat the Democrats held where they had some of the top liberal law professors come in and suggest to them how they have to fight on judges and how they have to be unfair. They came up with these ''weapons of mass obstruction'' because they do not want to have Bush judges confirmed.

No. 1, they suggested: ''Bottle up these nominees in committee.''

We are doing that every day. I have had a threat they will filibuster the nominees in our markup, which I do not recall ever happening in my almost 30 years in the Senate. But that is what I have been informed might happen. I hope they will reconsider that.

No. 2: ''Inject ideology in the confirmation procession.''

We see that regularly, where heretofore both sides have said ideology is not a part of this process. Yet, we have seen that in almost every circuit court of appeals nomination.

No. 3: ''Seek all unpublished opinions.''

That is why they are upset. Because he is not a judge, he has no published opinions. He has unpublished opinions. But unpublished opinions—judges do hundreds of those every year. Over a course of time, such as in the case of Dennis Shedd, he did thousands of them. Yet, they wanted his unpublished opinions because that would slow the process down even more. Regardless of how much it cost the taxpayers to go back through all of those archival records and dig up unpublished opinions, there were thousands from Dennis Shedd.

They don't have that in this case. They can't do that in the case of Miguel Estrada. What they seek is privileged in terms of memoranda. No nominee worth his salt is going to want his privileged internal memoranda made public to the Senate Judiciary Committee, or to anybody else, because that would chill the giving of fair, reasonable, and honest, and I might say, effective opinions of the Justice Department.

What they really then said—and this is the bottom line—if all those top three weapons don't work, and so far

they haven't worked in the Estrada nomination—then you do the last thing; that is, filibuster for the first time in the history of the United States against a circuit court of appeals nominee, or even a district court nominee.

I acknowledge we have had cloture votes in the past, but not because there was a true filibuster. But yesterday we were told by our colleagues on the other side they are going to filibuster. And we are, in effect, in the middle of a filibuster, as my good friend from Nevada mentioned this morning; that they are not going to allow a vote unless they can get these privileged internal memoranda, which is again part of this weapon of ''mass obstruction'' or these weapons of ''mass obstruction'' to totally shut down and delay fairness to President Bush's nomination. That is what it comes down to.

Let me tell you, it is the wrong thing to do, because it works both ways. Someday perhaps the Democrats may get the Presidency themselves and then find themselves in the same stupid position we find ourselves in where they cannot get honest treatment for their nominees because whenever there is a ''controversial'' nominee, there is going to be a filibuster. It is a dangerous road to go down. I want to recommend to my colleagues on the other side, don't go down that road anymore. The best thing you can do is to face the music and let the Senate vote. That is what the Senate should do in this matter. It should vote up or down.

It is believed by some on the other side that Miguel Estrada is a shoo-in because every Republican is going to vote for Miguel Estrada. We know there are a number of Democrats—I do not know how many, but there are a few for sure, and I believe others—who will vote for him as well, which means he will sit on the Circuit Court of Appeals for the District of Columbia. There are some on the other side who do not want him to sit on the bench under any circumstances because they think he might be a conservative judge who might disagree with them on some of their litmus test issues.

That is wrong. If we took that attitude, there would be very few judges sitting on the circuit courts of appeals.

I have worked my very best to make sure we never, ever had a filibuster started on my watch. We were successful. There were some who wanted to filibuster occasionally because they felt so deeply ideologically opposed to some of the Clinton nominees. There were some who felt deeply against some of the Carter nominees. But we stopped it. I believe my colleagues on the other side of the aisle ought to do the right thing to stop it here.

I yield the floor.

The PRESIDING OFFICER (Mr. GRAHAM of South Carolina). The Democratic leader.

Mr. REID. Mr. President, I have sat here for the last couple of days trying to figure out a way to explain Miguel Estrada's refusal to answer questions. I think I have finally come to a conclusion of how to explain why he has not answered questions.

Travel with me 3,000 miles to Nevada. We have a home in a place called Searchlight, NV. It is a relatively new home. We built it a year ago last December. We have new furniture in it. I have a lot of grandchildren—12 and soon to be 13. One of my sons has three little boys. They are just very close together. My little grandson, Wyatt, just turned 3. It was obvious he had gone to one of our new couches and had written on it.

So his dad sees that, and he goes to him and he starts interrogating my 3-year-old grandson. He had just turned 3. He said: Did you do that? Wyatt said: No. He said: Well, who did it, then? He said: I don't remember his name.

That is how Miguel Estrada answers questions. He uses the ''Wyatt'' answering method. Sure, he fills up a book, but he does not say anything: ''Who did it?'' ''I don't remember his name.''

Mr. President, I cannot do it in a better way: ''Miguel Estrada's Answers to the Judiciary Committee's Questions.'' Here they are, on this chart, for everyone to see. That is it: ''Miguel Estrada's Answers to the Judiciary Committee's Questions.'' That is it. It is a blank page.

He can fill up a volume this deep with ''Wyatt'' answers. And the way he answers questions, here is what we know about his legal philosophy, as shown on this chart. That is it: ''Miguel Estrada's Legal Philosophy'' is summed up with those four words. There isn't any. We don't know.

And if we want to take a look at his memoranda, which is some evidence of what he said in his legal writings, this is what we have: ''Miguel Estrada's Legal Memoranda.'' That is it, another blank page.

I said, as politely as I could, to the distinguished majority leader, we have a problem here. Now, we may be wrong, Mr. President. We think we, on the basis of principle, are doing what the Constitution directs us to do. We believe, as a matter of principle, we are right. And history, I believe, will prove we are right.

Mr. HATCH. Will the Senator yield?

Mr. REID. I will, in just a second, to my dear friend.

Mr. President, people have a right to disagree with us, but we are united in saying we want from this man the ability to have him answer real questions and not give ''Wyatt'' answers.

We also believe, Mr. President, without any question, we have a right to his legal writings he performed while he was with the Solicitor General's Office. It has been done before.

Now, if this man is as good as they say he is, then that seems a very small duty. They can talk about how it is chilling, and all this kind of stuff, and that there have been people who say he should not do it. Of course, they say he should not do it. But that does not mean it cannot be done and has not been done in the past. Ask Chief Justice Rehnquist: Has it been done in the past? Of course, it has been done in the past. Ask others who have been here, Attorney General Civiletti, and others.

Of course, when there is a question that arises and you think somebody is really good, then you do what is necessary to get them confirmed. We are not asking that much: Answers to questions, real answers, not ''Wyatt'' answers. And let's see what you wrote.

Mr. HATCH. Will the Senator yield?

Mr. REID. I am happy to yield for a question without losing my right to the floor.

Mr. HATCH. Is the Senator familiar with this huge transcript of the hearing? I do not believe the Senator was there.

Mr. REID. I say to my friend——

Mr. HATCH. I think it is a little unfair to put up there that he doesn't answer any questions. This whole transcript is filled with answers. He may not have answered them all the way the Democrats wanted him to answer them.

Is the Senator also familiar with the fact he argued 15 cases before the Supreme Court, and that the Democrats have had access to all of those briefs, all of those arguments?

Mr. REID. As I told the majority leader——

Mr. HATCH. I think that is a little unfair to use that type of argument—look at it.

Mr. REID. As I told the majority leader this morning, everything has been said but not everybody has said it. What I am doing today is just saying it a different way. Everything has been said.

Mr. HATCH. Let's be fair about it.

Mr. REID. I would be happy to answer my friend. As I said—I am sure my friend was not listening—you could fill up a volume twice that big with ''Wyatt'' answers. That is what he has done. He has not answered questions. He has said words, but he has not answered questions.

Mr. HATCH. Will the Senator yield for another question?

Mr. REID. We have gone through his transcript. And, in fact, the distinguished Senator from California, DIANNE FEINSTEIN, is a person who is very fair, and on these nominations she bends over backwards to make sure the Republican President gets whoever he wants. But DIANNE FEINSTEIN was so concerned, she went back and reread everything, and she came to the conclusion he has said nothing. And that is what this is all about: He has said nothing.

Mr. HATCH. Will the Senator yield again for another question?

Mr. REID. Yes, I will.

Mr. HATCH. Has the Senator read this transcript?

Mr. REID. I have gone through the transcript.

Mr. HATCH. You have read it, and you say he has not answered the questions?

Mr. REID. He has given ''Wyatt'' answers. He has answered questions, but he has not answered questions committee members felt he should have answered. I think he was evasive, terribly evasive, and I think this adequately describes his answers.

I want to say something else. It has been said—but let me say it again—he has been at the Supreme Court 15 times. Now, the distinguished Presiding Officer is a trial lawyer. I was very impressed, even though I disagreed basically with his presentation, right here, 4 years ago. But it was very clear, as I learned afterward, that the Presiding Officer was a fine trial lawyer. And I would like to think I have had some fairly good experience in a courtroom. I tried over 100 jury trials. But with all the jury trials I tried, you could go back and read every word I argued to a jury, every cross-examination I did, every direct examination I did, and you would not know how I stood on a single issue, because I was there representing people. I represented people who killed people. I represented people who robbed people with guns. I represented insurance companies. I represented people who had been injured. And I sued insurance companies. That does not have any bearing on how I feel about a particular principle, me personally.

You could have 5,000 cases at the Supreme Court and that does not determine how you stand. You write briefs. You are an advocate for a client. And Miguel Estrada argued cases before the Supreme Court when he worked for the Federal Government. He had a job to do, and he did a decent job. He won 75 percent of his cases, I understand.

Mr. DURBIN. Will the Senator yield for a question?

Mr. REID. I will be happy to yield for a question.

Mr. DURBIN. The point has been made by the chairman of the Judiciary Committee, Senator HATCH of Utah, that because some Democrats do not agree with what is supposed to be Miguel Estrada's political philosophy, that is why he is running into some difficulty in the course of this debate.

I would like to ask the Senator from Nevada, is it not true we have approved over 100 nominees from the Bush White House, and 100 of those were under Senator LEAHY, the Democratic chairman of the Judiciary Committee? And is it not also true that among those nominees were people who were generally conservative in terms of their political beliefs, who have been approved by the Judiciary Committee, and by the Senate, because we understood where they particularly held their beliefs and went forward and gave them approval?

Mr. REID. Let me answer the question this way. A member of the Judiciary Committee, who has liberal credentials, came to me and said: You know, there's this man named McConnell—I think that was the name of the individual who came before the Judiciary Committee. The member of the Judiciary Committee disagreed with every answer he gave, but he knew what he was talking about, and he answered every question to the best of his ability. And that Senator voted for that person, even though that member of the Judiciary Committee told me he was not of that person's political philosophy. That is an example. Not only did we do 100, exactly 100 last year, the 18 months we were in control, but as I recall, Monday we voted on three judges. Not a single Democrat voted against any of those nominees.

I said last night, and I will tell my friend from Illinois—I will repeat just what I said. My father-in-law was a chiropractor, but even though he was not a trained medical doctor, he really understood people's feelings and their illnesses. He always used to tell my wife, and he told me, that if a person says they are sick, they are sick. We have had people second-guess: He's not really sick, he's faking it. He said if somebody says they are sick, they are sick.

What I have been telling everybody on the other side is Miguel Estrada has a problem. You may not agree it is a problem, but it is just like my father-in-law says: When somebody keeps telling me they have a problem, they have a problem. Miguel Estrada has a problem, and the only way they can have that problem resolved is supply his memos and, in addition to that, answer questions. If he doesn't do that, there are very few alternatives left.

One is to try to invoke cloture to stop this debate. No. 2 is pull the nomination. That decision has to be made by the Republican majority. We are not in the business of stopping judges. We, along with many groups in America today—not the least of which is the Congressional Hispanic Caucus, but we could go on and on with other groups—believe this man is a blank slate.

I want to say something to my friend from Illinois and everyone within the sound of my voice, including my dear friend from the neighboring State of Utah, somebody for whom I have great respect and admiration, ORRIN HATCH.

I don't know who came up with this ''weapons of mass destruction,'' but they should be ashamed of themselves. We have a situation where my family is out today trying to buy duct tape because they are afraid. They are afraid there is going to be a biological attack or a chemical attack, as we have been told by Secretary Ridge there might be.

Why? Because people are going to bring to our country weapons of mass destruction. A play on words today, thinking it is real cute—they are saying we are using ''weapons of mass obstruction.'' I think it is cheap, petty, wrong, and is below the dignity of this Senate.

I want anyone who thinks that is cute to get a better joke writer because it is not very funny.

Mr. DURBIN. Will the Senator yield for a question?

Mr. HATCH. Matter of personal privilege.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. We did not use the term ''weapons of mass destruction.'' Matter of personal privilege.

Mr. REID. I have the floor. I have the floor.

The PRESIDING OFFICER. The Senator is correct.

Mr. REID. I am happy to yield to my friend from Illinois.

Mr. DURBIN. I want to say to my friend from Nevada——

Mr. HATCH. Parliamentary inquiry.

The PRESIDING OFFICER. Will the Senators yield for an inquiry?

Mr. REID. No.

Mr. DURBIN. I want to say to my colleague, the Senator from Nevada, many people here may characterize this debate over Miguel Estrada in a variety of ways, but many of us believe—I think the Senator from Nevada shares this belief—what is at issue here is a constitutional principle. It goes to the founding of our Republic. When the Founding Fathers decided that this body of 100 people would have the last word, to advise and consent on appointments to the Federal bench of judges who were seeking lifetime appointments, this is no trivial thing. It is not a personal thing when it comes to Miguel Estrada.

I think the point I tried to make to the Senator from Nevada: We have approved 103 nominees from the Bush White House without fail, each one of them conservative politically. I am sure I disagree with them on many issues, but so be it. That is the nature of the system.

I ask the Senator from Nevada, what is at stake in this debate, the reason it is taking so much time? Is it not a constitutional principle that goes beyond a cute political phrase as to whether or not this Senate is going to meet its constitutional responsibility to make sure that every nominee is honest and open and candid with the American people and the Senate so we do not end up with a secret judiciary, men and women who skate through by keeping their mouths shut?

I am sorry your grandson has become the object of this debate, but his answer to the question is a priceless one. When he was asked if he was guilty of mischief, he said: I don't remember the name of the person who was. That is the kind of evasive answer we have with Miguel Estrada. It goes way beyond a catchy political phrase. It goes way beyond political posturing.

I ask the Senator from Nevada, did we not sit here yesterday, both of us, going to the Constitution itself, to read again our constitutional responsibility when it comes to advice and consent on the judges nominated by any President?

Mr. REID. Article II, section 2.

I am happy to yield to my friend from Utah.

Mr. HATCH. I appreciate it. I knew he would. My friend is a very fair and

very decent man. Personally, I just want to correct the RECORD. We did not use the term ''weapons of mass destruction.'' We used the term ''weapons of mass obstruction.''

Mr. REID addressed to Chair.

Mr. HATCH. The Senator yielded to me. We have used what was used in the Senate retreat for the Democrats in 2001, exactly what these liberal law professors said Democrats should do to mess up the confirmation process and make it difficult for this President to be treated fairly. If these are not weapons of mass—obstruction—to make it clear, then I don't know what they are. But I would be ashamed to use all of those approaches. Above all, I would be ashamed to use a filibuster, the first time in history, to risk the whole judiciary because of partisan politics, and to do it against the first Hispanic ever nominated to the Circuit Court of Appeals for the District of Columbia.

What is fair about that? What is right about that? I would be ashamed.

Mr. REID. I thought the Senator had a question for me.

Mr. HATCH. I thought I was yielded the floor.

Mr. REID. I technically yield the floor. I thought it was for a question. You have the floor.

Mr. HATCH. If not, I apologize.

The PRESIDING OFFICER. The Senator has the floor.

Mr. HATCH. And then bring up Moreno, as if there were a blue slip policy issue? It could have been. But the real issue was that the White House refused to consult with the two Senators of the State. I wrote a letter to Chuck Ruff and said: You need to consult with them. And they never did.

I have to say, in my chairmanship, if this administration doesn't consult with two Democrat Senators in the State, that nominee is not going to move. Now, I am not going to put up with a screwed-up definition of what consultation is. But they are going to have to consult. And they are consulting. That has been my direction to Judge Gonzales, to the Justice Department, to anybody: You need to consult with Democrats and Republicans up here. We do have some rights as Senators.

But let me tell you, I personally resent anybody trying to compare what we are doing here, quoting liberal law professors who ought to know better, by calling what they have suggested to the Democrats ''weapons of mass obstruction''—it is a far cry from ''weapons of destruction.''

This is true. There is not a word on there that is not true. You go down to the bottom line, which is, if you can't win on all these other procedural mechanisms that really are not valid, then you filibuster; for the first time in the history of circuit court nominees, we have a true filibuster. And to do it against the first Hispanic ever nominated to the Circuit Court of Appeals for the District of Columbia I find particularly reprehensible. But it is not just that. It is not just that. The real reason they are doing this is that they are so afraid that this brilliant young Hispanic lawyer, with all of these credentials, may someday be tapped by the President for the U.S. Supreme Court. The very fact that he is considered for that shows the quality of the man.

But look at his record. Then, to try to imply that he did not answer questions, or even state that he didn't, with this kind of hearing record, when they controlled the whole process, I think is particularly wrong.

Look, I happen to respect my colleagues on the other side. I like them. I definitely have a great relationship with my friend from Nevada. We are close personal friends. This isn't the usual language around here. I am saying he is one of my close personal friends. I would do almost anything for him. I like the Senator from Illinois. He is one of the brightest, most articulate people in this body. He is a good lawyer.

But I tell you, I have never seen anything like this, not in my whole time in the Senate. I think it is wrong. I think it is wrong.

You know what is driving all these outside left-wing groups that are out there? It is their base, and they even say it, led by People for the American Way who are acting in a very un-American way: Distorting these people's records, bringing partisanship in, demanding litmus test votes, demanding a filibuster, which is exactly what the other side has done. They are hurting this process like you can't believe.

Are my colleagues on the other side listening to that stuff? We have had some on our side listen to it, but we have always stopped it. I am really concerned about it. I am concerned about this process. As important as Miguel Estrada is, this process is even more important. But I have to say, Miguel Estrada is a terrific nominee. They should have to come up with something valid or substantive, not just all of these philosophical objections that really have no merit to begin with.

Mr. REID. Will my colleague yield?

Mr. HATCH. I am happy to yield.

Mr. REID. The Senator raised a personal privilege.

Mr. HATCH. I withdrew that.

Mr. REID. And then I yielded the floor.

Mr. HATCH. You did.

Mr. REID. I didn't do it in the proper way. I had not finished my statement. I should have said, I yield the floor to my friend for a question. I didn't do that. I hope the Senator doesn't talk too much longer so I can get the floor back.

Mr. HATCH. Let me honor my colleague's request by just saying that I hope we can work fairly through this process. I know my friends on the other side don't like President Bush or don't agree with his philosophy, and they don't agree with his choices of judges. Several of them really feel that way, and they do it sincerely. I can understand that. But let's treat them fairly. Let's treat the President of the United States fairly. Some day the Democrats will have that position. I hope it is not in the near future. But they may have that position. And if I am here, I am going to treat them fairly, which I did for President Clinton. I think everybody around here knows it. I made every effort I could.

If my colleague asks for the floor back, I will be glad to give it back at this time.

The PRESIDING OFFICER. The Democratic whip.

Mr. REID. Mr. President, I want to complete my statement, and I will be very brief.

I think it is improper. I have attended every Democratic retreat that has been held in the last many years. I don't remember anyone ever saying that at a retreat that I attended. It is improper and not good to use it at a time when the President is talking about going to war, when we have a war going on with terrorists today.

Suffice it to say that Miguel Estrada's answers to Judiciary Committee questions are just like this, a blank slate. He has given answers, as my grandson answers questions: I don't remember his name.

We refuse to serve as a rubberstamp. We believe strongly that there is a way out of this, and that is by answering the questions that were asked in detail as have other nominees who have come before us. We also believe he should supply the memoranda that he wrote when he was in the Solicitor General's Office.

We believe this is our constitutional duty. And as I said before, everything has been said. We are going to figure out, however long the majority leader wants to talk, different ways to say it. But we are not going to back down from this. This is something we believe as a matter of principle. If we let this go through, somebody can come before the Judiciary Committee and, in effect, give them nothing and say, boy, I showed you guys. I think people need to be candid, forthright, and he has simply not done that. The record is very clear to that effect. I think using the term ''weapons of mass obstruction'' is wrong.

Mr. BENNETT. Will the Senator from Nevada yield for a question?

Mr. REID. I am happy to yield for a question.

Mr. BENNETT. The Senator from Nevada has said this morning that the

Democrats would not allow a vote on this nomination. He has also said they want to see the memoranda that were compiled by Miguel Estrada while he was working for the Clinton administration.

Mr. REID. And the Bush administration.

Mr. BENNETT. And the Bush administration. I would ask the Senator from Nevada if he knows of any Senator on his side who, upon seeing the memoranda, would change his vote and allow a vote, not change his vote and vote for Estrada but change his vote and allow a vote on Estrada upon seeing the memoranda?

Mr. REID. We would have to leave that to individual Senators. I am sure there could be some. It would be very helpful.

I am not a member of the committee, but we have a former chairman and ranking member here and one of the active members who has been on the floor a lot during this debate.

It could be very important in arriving at a decision about how you feel about this man if he did give his opinions. It helped with Rehnquist. It helped with Civiletti, Roberts, and a number of other people who came before various committees seeking their attention in the Senate.

Mr. LEAHY. Will the Senator yield for a question?

Mr. REID. I am happy to yield without losing my right to the floor.

Mr. LEAHY. Mr. President, if the Senator from Nevada is aware of what the Senator from Vermont said, I realize the junior Senator from Utah was not in the Chamber at that time—the senior Senator from Utah was, as was the distinguished majority leader—it would be safe to say to the distinguished Senator from Utah that the Senator from Vermont stated this morning very clearly that I would be prepared to see this go to a vote once response would be made. And the Senator from Vermont noted that Mr. Estrada himself said he had no objection to having all this memoranda that we have sought made available but had been told by the administration that he would not be allowed to.

If the question is how various Senators would feel if the memoranda were made available and we were allowed to question Mr. Estrada, something he said personally that he would have no objection to, then as far as I am concerned I would be perfectly willing after that to have the matter go forward to a vote and have Senators vote up or down however they may feel.

Mr. REID. I would respond to my friend from Vermont, I would only add this: I think if the memoranda raise any questions, then certainly the members of the committee would be entitled to ask questions relating to those memoranda and get better answers—I should say, get answers, period—to the questions that were asked relating to those memoranda. That is fair; would the Senator agree?

Mr. LEAHY. I would agree. In fact, that is what I said again this morning. If we had the memoranda, something Mr. Estrada said he is perfectly willing to let us have but the administration wouldn't let him, but if we had the memoranda, if we were able to ask what he meant by this or that in the memoranda, once that was done, if he answered those questions, whether I agreed or disagreed with the answers to the questions, this Senator at least is perfectly willing to have it go forward on a vote, which is basically what we did with numerous other Democratic and Republican nominees in the past in similar circumstances. I don't want there to be any question about that.

This Senator is perfectly willing to have this matter come to a vote once Mr. Estrada did what he has said that he is perfectly willing to do—make available his memoranda and answer questions about them. So far only the administration has refused, and the distinguished Democratic leader and I wrote a letter to the President to that effect.

Mr. REID. That was yesterday.

Mr. LEAHY. That was yesterday.

Mr. REID. It is no secret that the ranking member, on behalf of the members of the committee, has for weeks and weeks sought this information.

Mr. LEAHY. Absolutely.

Mr. REID. Does the Senator from Utah have another question? I would be happy to yield without losing my right to the floor.

Mr. BENNETT. Mr. President, without the Senator from Nevada losing his right to the floor, I would like to continue a discussion at this point.

The PRESIDING OFFICER. Without objection.

Mr. BENNETT. Because I see perhaps the makings of a deal here, if indeed the senior Senator from Vermont is willing to allow this to go forward if the memoranda were made public and if indeed the nominee himself knows of nothing in the memoranda that would be objectionable, it comes down now, ultimately, to the decision of the client because this was an attorney serving a client, the decision of the client to allow this information to come forward.

Now, every living Solicitor General has said it would be a bad idea for this to come forward. The Washington Post has said it would be a bad idea for it to come forward. But if it could be worked out that on a one-time basis, not setting precedent, the opinions of the Solicitors General, both Republican and Democrat, could be set aside and these memoranda could be made available, do we have a commitment that, then, this could come to a vote? Because if that is the case, I, for one, would go to the administration and say let's allow it to come forward.

I recognize this is a precedent no one wants to set, but I think the precedent of establishing a filibuster is one nobody wants to set. I would be happy to join with the Senator from Vermont in asking the administration to consider these memoranda to be made public if, in fact, we can get a commitment that upon their being made public, we could get a vote.

Mr. REID. Mr. President, I say to my friend from Utah that even though he is not a lawyer, he certainly acts like one. I won't tell anybody in Utah that.

Mr. BENNETT. I am not sure that is a compliment.

Mr. REID. I indicated I would not tell anyone in Utah.

I want to respond to this question. The Democratic leader and the ranking member of the Judiciary Committee wrote a letter to the President of the United States yesterday and outlined exactly what we have talked about today. If, in fact, the memoranda were made public, were given to the Judiciary Committee—and it has happened other times in the past—and he would respond to questions, we would be happy to take another look at this man. That is what the letter said to the President of the United States. I said last night, and this morning, that there are a number of ways out of this: Pull the nomination, give us the information we want, the memoranda, and answers to these questions, or file cloture.

I yield to my friend from Illinois.

Mr. LEAHY. If I might, Mr. President, the suggestion has been made on the floor that this is a one-time precedent. It is not a fact that this is a one-time precedent. It happened in the nominations of Robert Bork, William Bradford Reynolds, Benjamin Civiletti, Stephen Trott, and William H. Rehnquist.

I yield to my friend from Illinois.

Mr. DURBIN. I say to my friend from Nevada, thank you for yielding. And I say to my colleague from Utah, Senator BENNETT, with whom I share some responsibility on the Appropriations subcommittee, and whom I have found to be an extremely fair person, I think perhaps he has come up with the solution to the gordian knot we face.

We are not against Miguel Estrada. Without information, we cannot make a judgment on Miguel Estrada. We believe it is our constitutional responsibility to ask of every judicial nominee, from both Democratic and Republican Presidents, obvious important questions. In the case of Mr. Estrada, since he never served as a judge, he has legal writings, legal memoranda, legal opinions. We are asking him to share those with us so we can have insight into who he is, what he believes, and what he will do with a lifetime appointment to one of the most important Federal benches in America.

That is what this is about. It is not about being Hispanic. If you look at the record on the Democratic side, President Clinton appointed far more Hispanics to the bench than any other President in history. We supported him, and we continue to support that. I believe this affirmative action by the

White House to bring Hispanics into the judiciary is a good thing for America. Our judiciary should reflect the diversity of the country. Whether they are Hispanic, Irish, or Lithuanian, we are going to ask the hard questions. Then the Senate will make a decision. The thing the Senator from Nevada has stated repeatedly is that what we are about today is a real quest for information, a search for information.

I hope the Senator from Utah will prevail not only on his leadership, but on the President, to follow the Bennett model here—full disclosure. Bring the legal memoranda and writings before us, let us ask the obvious questions that they will lead us to, and then let us consider up or down this nomination. That is an honest approach, and I think it would avoid what we have been through in the last couple weeks. Isn't this what the Senator from Nevada has been asking for and what the leadership has been asking for?

Mr. REID. I say to my friend from Illinois, I have said not once, not twice, I don't know how many times—over a dozen times—if this man is as good as they say he is, this seems to be such a small push, to have him answer questions and give us his legal memoranda. That is what we are asking, because as I had shown through my visual aid today, we have nothing from him. If he is as good as they say, I repeat, bring that forward. That would make us happy in so many different ways. It would show that we don't have to take these people given to us, just jammed through, having blank slates. We have the right to ask questions.

Secondly, it is important because I believe it sets a very dangerous precedent that Miguel Estrada, HARRY REID, DICK DURBIN, or anyone going through the process can go through without the Senate having the ability to learn who they are. We have that obligation. The Senator is absolutely right. We sat back there next to one another yesterday looking through the Constitution—we both had one—looking up article II, section 2, to make sure we felt good about what we were doing. I think it is very clear that our constitutional responsibilities not only allow us to do this but demand that we do it. We have an obligation to not only this Senate but future Senates, and not only the people of America today but future generations, that we are doing the right thing.

Mr. DURBIN. If the Senator will yield further for a question, I listened earlier when the Senator made his presentation about Miguel Estrada and what he said and did not say to the Senate Judiciary Committee and to the American people. He was challenged by Senator HATCH, who produced a binder and said: Have you read the words in here?

The Senator from Nevada said: You can evade answers and fill up pages and pages.

I would like to read, if the Senator will allow me, one exchange that I think gives light to why we are here today. This was between the Senator from New York, Mr. SCHUMER, and the nominee. Senator SCHUMER asked the following question:

> Other than the cases in which you were an advocate, please tell us three cases from the last 40 years of Supreme Court jurisprudence you are most critical of.

Mr. Estrada answered:

> I'm not even sure that I could think of three that I would be—that I would have a sort of adverse reaction to, if that's what you're getting at.

Senator SCHUMER asked:

> So with all of your legal background and immersion in the legal world, you can't think of three or even one single case that the Supreme Court has decided that you disagree with?

Answer:

> I don't know that I am in a position to say that I disagree with any case that the Supreme Court has ruled on or that I think that the Court got it right.

Senator SCHUMER:

> I'm not asking you how you approach cases. That is a legitimate question and some have asked it. I want to know how you feel about cases, and you have said more broadly than any other witness I have come across, you have given us virtually no opinion on anything because it might come up in the future.

Answer:

> But the problem is the same, Senator Schumer, because in taking case A and looking at whether the Court got it right or whether I think they got it right, I have only the benefit of the opinions. I haven't seen the litigants. I haven't—the case is ruled on, but I don't get to see what didn't make it into the opinion.

That is the end of that exchange.

I went to law school many years ago, as did the Senator from Nevada, but if they put you on the spot today and said can you think of one Supreme Court case with which you might disagree——

Mr. REID. I think maybe I would come up with Dred Scott.

Mr. DURBIN. A case that approved slavery in the United States is one with which we might disagree. Why would a man with his academic and legal background not have that spring to his mind? How about Plessy v. Ferguson, separate but equal?

Mr. REID. That was another dandy they did.

Mr. DURBIN. Those are two obvious ones. You don't have to go to law school to think about those. This is an example of the how he filled up a page, and what did he say? I guess he would say: If I didn't get a chance to meet Dred Scott, I will not comment on that case. I didn't know Mr. Plessy or Mr. Ferguson, for that matter, so I should not say what I think about that.

You wonder why the Democrats are coming to the floor and saying, for goodness' sake, this makes a mockery of the process. If a man wants a lifetime appointment to the second highest court in America, should he not be more honest, open, and candid? That is all we are asking today.

I ask the Senator from Nevada, does he believe, as Senator BENNETT is suggesting, that if there is full disclosure and openness that this will come to a vote? Miguel Estrada's legal memoranda will be presented, we will have a chance to ask questions, he will give us straight answers instead of these evasions, and then let the chips fall where they may; is that not what we are about?

Mr. REID. Yes, that is what we have been saying, and I told the majority leader this morning, this is no game we are playing; this is a filibuster. We have a right to do that. Why? Because we believe that what is being done is wrong.

I say to my friend from Illinois, we talk about article II, section 2, but the Constitution is a little document. It is so unique, and it does so much to protect people. The Constitution was not written to protect majorities. They can always protect themselves. It was written to protect minorities.

We know that the majority would vote 51 for this man today, and I think we have set a very bad tone for what we are doing in this country. What we have said is, there are a significant number of Democratic Senators—well over 40—who say this is not right. If we do this, why do you need the Senate? If you do this, why not just have, instead of President George, King George? He can just tell us what he wants done. It is not King George; it is President Bush. As a result of that, he has to go through this process, and if he wants this man, who they say they like so much, then let them come forward with the memoranda he wrote when he was in the Solicitor General's Office and let him answer some questions. It is as simple as that.

Mr. DURBIN. If the Senator will yield for a further question, I, of course, will give my friend and colleague from Utah the opportunity to respond.

Mr. REID. I yield to my friend for a question.

Mr. DURBIN. I wish to ask this question. I assume the Senator from Nevada, as a Senator from that great State, has had an opportunity to sit down with judicial nominees who were seeking district or circuit court appointments affecting Nevada and probably has nominated men and women for the Federal bench in Nevada. I do not know what his process has been. I have had that great honor in Illinois, and I try to get to know these people. I ask them questions to get an idea of what is going on in their minds.

It is not uncommon for me to ask the question we asked Miguel Estrada: Can you think of a Supreme Court case you think was particularly good or particularly bad and tell me why, as open-ended and as nonconfrontational as possible?

I say to the Senator from Nevada, this is a question I asked Miguel Estrada, and I ask the Senator from Nevada to think about it in the context

of interviewing nominees for the Federal bench in Nevada. A simple question and a simple answer. The question I asked was:

> In terms of judicial philosophy, please name several judges, living or dead, whom you admire and would like to emulate on the bench.

That is a pretty tame question: Tell me who you admire.

Answer—this is Miguel Estrada:

> There is no judge, living or dead, whom I would seek to emulate on the bench whether in terms of judicial philosophy or otherwise.

Forgive me, you cannot go through law school, you cannot be a clerk at the Supreme Court, you cannot argue before that Court 15 different times and not look at least at those nine Justices and think: I like that Justice's approach, or read the history of the Supreme Court and think: This judge added something to America; I would like to emulate this judge.

If you have no heroes, living or dead, among the Federal judiciary, the obvious question is, Have you been paying attention? Have you noticed that men and women have made a difference for America sitting on the Federal bench?

Here is this man being carefully groomed by the White House to move to the highest circuit court in our land, the DC Circuit, and perhaps to the Supreme Court—no one has denied that—and he cannot give us an answer to that question? It is the reason why we are here today.

I ask the Senator from Nevada, when he brings nominees before him for his State, what kind of questions does he ask them?

Mr. REID. Mr. President, I respond to my friend, I think he asked a trick question. I am being facetious, of course. I think that answer—that is why I sat here, and I have sat here for days now and the Senator has been in the Chamber—but I finally came upon it: I do not remember his name, just like my little grandson. That ended the conversation. He could not remember whether it was one of his brothers or his grandmother. So that ended that. That is what we have here.

We have a man who is evading answering a question. Obviously, he was pretty smart in doing that. He filled up a whole book saying: I am not going to answer. He filled up a book of nonanswers.

It is my understanding that the Senator from Utah wants to ask a question.

I allow the Senator from Utah to ask a question without losing my right to the floor.

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

Mr. BENNETT. Mr. President, I have now been given a copy of the letter signed by Senator DASCHLE and Senator LEAHY addressed to the President. As I have examined the letter, I do not find in it the commitment I have been seeking in our dialog here. So I renew that with the Senator from Nevada. The question is, Could we on this side of the aisle get a commitment that we could go to a vote if the memoranda were delivered? Senator DASCHLE and Senator LEAHY do not give that commitment in this letter. They simply say they want that information, they would appreciate the President's personal attention, and that they need the information in order to make an informed decision.

I think most of the Senators have already made their decision, be it informed or otherwise, and the issue that I am striving at is to try to get an up-or-down vote, an opportunity for them to express their decisions. So I am asking again——

Mr. REID. I respond to my friend, I think we have answered that very deliberately to the effect we feel that the memoranda are important, and we feel his answering questions regarding the memoranda and a couple of other issues are important.

This is my recommendation to the majority leader and to my friend from Utah who is, by the way, a deal maker, and there is nothing negative at all about that. Legislation is the art of compromise, and this is no different than any other issue.

If I were majority leader, I would simply ask the White House to supply this information, and that answer speaks for itself. I think if the information were forthcoming and the man, either in writing or otherwise, answers a few questions—I do not know what questions could come up by virtue of that information—but my answer speaks for itself. I think the majority leader should have that done. We should go on to other business in the Senate. There are other judicial nominations. There is other substantive legislative business on which we can work. I think when we come back from our break, this matter could be resolved very quickly.

I do say that unless this is done, this nomination is going nowhere. We have waited a long time to announce we were conducting a filibuster. We understand the seriousness of looking at judicial nominations in the manner we did. We understand. We understand the heartburn we are causing Senator HATCH. We know how he feels, that this is intemperate and wrong. We know, as we have explained in conversation between Senator DURBIN and me this morning, that it is extremely important we do this. We are locked in. We have talked to our Members over here. We are locked into this, but this does not mean if the information is forthcoming—and we will do what we think is appropriate. The margins in the Senate are very slim. You do not have to change a lot of votes to get what you want.

I suggest if you do what we want, things will work out probably for you. If you do not, nothing is going to happen.

Mr. BENNETT. Mr. President, if I may, I ask unanimous consent, without the Senator from Nevada losing the floor, to make a comment.

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

Mr. BENNETT. I think the Senator from Nevada and I could probably make a deal here, but we are both representing groups behind us. What I would search for would be a firm commitment that this can come to a vote, not a statement that, well, we will do the right thing; not a statement that we will review the answers; but a firm commitment that if the memoranda is produced and Mr. Estrada gives answers with respect to that memoranda, we can then have a firm vote.

The Senator from Illinois has given us an example of a question that was asked. He received an answer. He considers the answer totally inadequate and improper, but he received an answer. If we get into this conversation and say, all right, the memoranda will be produced, he will be questioned, and then you say, We do not like his answers, so we still will not give you a vote, that is not a blind alley into which I want to go.

Mr. REID. Mr. President, let me reply to my friend. Without that information, Miguel Estrada will never be a Federal judge. We have talked with our Members, and it does not matter if there is 1 cloture vote or 50 cloture votes, we will all be together on that—those who have agreed to hold up on this nomination.

I am speaking only for myself, but I think if he supplied that information, not evasive answers but tried to be fair in responding to any questions we had regarding those materials—and answers to some of these other questions people feel serious about—it would be resolved. I have no doubt that would be the case. So I think the Senator could spend his time with the significant influence he has—I know he is filling in for my counterpart who is ill temporarily, and that shows the respect people have for him on his side of the aisle—I am sure if the Senator from Utah went to work on that side, it would bear fruit. If it does not happen, nothing will happen other than acrimony, which is too bad because we are going to see this one through.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. I thank the Chair. I thank Senator BENNETT for the contribution he has made. I hope he understands my position—I cannot speak for others—once this nominee has made full disclosure—his legal background, opinions, memoranda, his answer to questions—frankly, I would view him as other nominees. I may vote for him or against him. I think I voted against 6 out of 103 of President Bush's nominees. I have not made a pattern of this, but some disagree with this thought. I think that is where we are leading to. I hope that is where we are leading to.

More importantly, I hope the Senator from Utah understands why we are doing this. There is a belief among some that with the newfound majority on the Republican side since the last

election and with the control of Congress by the Republican Party and the White House, the process is going to be pushed aside and things are going to be moving quickly through without the kind of deliberation we have had in the past in the history of the Senate.

Some have suggested that on their way to the bar serving on the bench, people will be moving through the Senate Judiciary Committee like the receiving line at an Irish wedding, and I hope that does not happen. I think what we need to have is a deliberative process where Members have a chance to ask questions of every nominee, and then, satisfied or not satisfied, they come to a vote.

Make no mistake, Miguel Estrada is opposed by a variety of organizations which believe they know who he is and have seen enough evidence to raise questions in their mind. But I think for the sake of the Senate as an institution, whether Republican or Democrat, what we are asking is not unreasonable.

When one reads these answers from this nominee, they have to say to themselves, why is the Senate Judiciary Committee wasting its time? Because if someone can get by with that type of an answer where they cannot identify one single Supreme Court decision they disagree with, they cannot name a single Federal judge, living or dead, whom they admire—if they can get by with that, why are we here?

It reminds me of the Clarence Thomas nomination when he said before God and the world he never considered the issue of abortion in his life, had no opinion on it. A man who was a former Catholic seminarian at Conception Abbey in Missouri, a man who had been in law school when Roe v. Wade was decided, had no opinion on the issue of abortion? I guess that sort of thing was glossed over because of all the other hoopla and attention given to his nomination, but I thought to myself—and I was not in the Senate at the time—would the Senate Judiciary Committee let others get by with this where they do not even answer the question?

I can tell the Senator from Utah, and others who are following this matter, there have been nominees who have come before this Senate Judiciary Committee with whom I have disagreed vehemently on issue after issue. In fact, I have even successfully nominated judges to the bench in my State whom I disagreed with on basic issues. But I am not looking for a person who has the same political DNA that I am bringing to this job. I want a person who is moderate and reasonable, who shows that they are open minded and prepared to be a fair jurist.

How can one reach that conclusion about a person without asking some very basic questions to try to get into their mind a little bit as to what makes them tick and where their values might be?

Think about the election process for the Senate. Is that not what it is about? Don't the voters of this country basically want to know, whether it is ROBERT BENNETT or RICHARD DURBIN, who are you? What are your values? What are you likely to do?

We cannot predict what votes they are going to cast, but what have they done in the past or generally how do they feel about the principles and the constitutional values of this country? Those are some pretty basic questions. Why wouldn't we ask that of a person seeking a lifetime appointment to the Federal bench, a person who, with the stroke of a pen, could basically wipe out a law or say that a law is valid? That is an enormous delegation of power to the judiciary, particularly to this level of the judiciary.

What we are saying today when it comes to Miguel Estrada is we want to know some basic answers. We do not expect him to tell us his opinion of a case pending before the DC Court and how he is going to rule. Lloyd Cutler is right; we should never ask about a particular case. But to ask a judicial nominee their views on the issue of privacy, is that an important issue today?

Pick up this morning's paper. We are going through a debate now as to whether the Department of Defense can collect information about Americans across the board in the hope of finding those who might be threatening this country with terrorism, and Congress has basically said to the Department of Defense: Close that shop. We do not know if we want you mining these data banks across America at the expense of the privacy of individuals' rights and liberties.

This is an issue which is not going away. Since September 11, 2001, it has been front and center in the national debate and will continue to be.

So when one asks a judicial nominee, a person who is going to the second highest court in the land with a lifetime appointment, what is their view on the issue of privacy, is that an important question? It is not only important; it is timely; it is critical. And for nominees such as Miguel Estrada to basically say, I do not have an opinion, that tells me we have a problem.

We should be able to ask these nominees the most basic general questions relative to constitutional law and the rights and liberties of Americans, and we should not apologize for it.

I have told my colleagues in the Senate Democratic Caucus, I met Miguel Estrada. I sat down with him. I have read his background, his personal resume, his legal credentials. They are very impressive. This is a man who has come very far in his life against great odds, and I respect him so much for that. He is an immigrant to America.

I have a special affection for immigrants because my mother was an immigrant. I am proud to put her naturalization certificate in my office for everyone to see that I, as her son, would be standing today as a Senator from Illinois. Immigrants such as Miguel Estrada, my mother, and so many others bring so much to this country. So from a personal point of view, I admire this man very much. His legal credentials put me to shame. As a law student, I never got close to his level of achievement in law school, so I certainly admire that.

Having said all of that, accepting that he is a good person, accepting that he has a marvelous career as a lawyer and as a law clerk, I still need to ask some basic questions in terms of where he is going, given this position of responsibility. When the Democratic Caucus sat down, they decided this was an important issue to raise. Miguel Estrada was the case in point.

It is an important issue relative to the role of the Senate when it comes to President Bush's judicial nominees. If we cannot ask the questions, if we cannot ask questions that have been asked of nominees over and over again when Presidents of different political parties have been in power, then frankly we have given up more than our political right, we have squandered our constitutional responsibility.

Mr. BENNETT. Mr. President, will the Senator yield for a question?

Mr. DURBIN. I would be happy to yield for a question.

Mr. BENNETT. I want to pursue this with the Senator. If we can get Miguel Estrada to give the Senator the name of a Supreme Court Justice whom he appreciates, along with the memoranda, and answer questions on the memoranda, would the Senator—not speaking for his caucus, just for himself—agree to give us a vote?

Mr. DURBIN. I say to the Senator, obviously we do not know what the answers might be and what they might lead to, but what he suggests as a basic principle is one I stand behind. When nominees are open and honest with the Senate Judiciary Committee and the Senate, they are entitled to a vote.

Mr. BENNETT. I appreciate the comment of the Senator because we must understand, once again, we are not talking about the Senate rubberstamping something from King George. We are talking about the Senate entering a whole new era of saying a nominee must be approved by 60 votes—which is something we have not done before. I appreciate the Senator's understanding of how serious this is, that because Miguel Estrada gave answers that were not acceptable to some members of the Judiciary Committee, and because this memoranda has not been forthcoming—not at his request, but at his clients' request—we are now going to sail into a whole new sea. I hope everyone understands how significant that is, regardless of the qualifications of this man.

I will do what I can to get him to come up with a name for the Senator from Illinois. I do not know if I will be successful. If that is the whole thing stopping his confirmation, that he could not think of a Supreme Court Justice whom he admired under those circumstance and if, after reflection,

he now can come up with a name, we would like to see the Senator from Illinois allow this to come to a vote.

Mr. DURBIN. We gave two illustrations where we asked Miguel Estrada for a Supreme Court Justice, or a Federal judge, living or dead, he would emulate and admire; we also asked for a Supreme Court case he might disagree with. Senator SCHUMER asked the question. I say to the Senator from Utah, those are two very egregious illustrations of his evasion. There were others.

I cannot speak for my colleagues, but I will go back to the premise of my reply. I believe when a nominee is open and honest and cooperative, they are entitled to go through the process and have a vote. That is my personal view. I don't speak for any other Senator.

I have felt the same about issues on the floor of the Senate. My feeling is this: This is a deliberative body. We take our views on issues to the court of public opinion and to the 100 Senators gathered. We should be entitled to produce an amendment or a bill, debate it, and have an up-or-down vote. I think that is what the process should be all about. I have lost plenty in the Senate—the Senator of Utah can attest to that—I have won a few, but lost quite a few, too. I accept that consequence. That is why we serve.

The same is true with nominees. If they are open and cooperative, they are entitled to go through the process, whether nominated by a Democratic or Republican president.

When you take a look at the groups that oppose Miguel Estrada, many of them have seen in his background areas of great concern. Consider the groups that have opposed him: The Congressional Hispanic Caucus—all members of the Congressional Hispanic Caucus have opposed this Hispanic nominee; the Mexican American Legal Defense Fund, which is the premier civil rights organization for Mexican Americans and many Hispanics in the United States, opposes Miguel Estrada; the Puerto Rican Defense and Education Fund opposes Miguel Estrada. And then more generic groups: The Leadership Conference on Civil Rights, NARAL, Pro-Choice America, the Sierra Club, the National Women's Law Center, People for the American Way, and many others. I had printed in the RECORD yesterday the names of the organizations and I will not take up the pages of the RECORD again today with those illustrations.

The clear question before the Senate is why a man with such a compelling personal story and such great legal credentials has so many groups questioning whether he is the right person for a job. Some of it has to do with his evasion. Some has to do with the secrecy that has surrounded his nomination and the suggestion that this relatively young lawyer is on his way to the Supreme Court as early as next year.

Many believe when it comes to Supreme Court nominees, there are certainly higher standards that need to be met, but the DC Circuit Court is not far behind. As I said yesterday, the DC Circuit Court is the AAA for the major leagues on the Supreme Court. We have been told time and again by the ''great leakers'' at the White House, Miguel Estrada is on the fast track of the major leagues, the Supreme Court. We want to know his batting average and we want to know whether he can take an inside pitch. And he will not answer those questions. That really calls into question whether we are meeting our responsibility.

As I said yesterday, the choice is simple. It is a choice between the Constitution, article II, section 2, which says the Senate shall advise and consent to nominees. It gives us a role of responsibility to advise and consent. Or whether we will give up this Constitution for a rubberstamp and just say, as the President sends his nominees, thanks a lot, Mr. Bush, ''approved.'' I will not do that. I don't think I was selected for that purpose.

I think the Senator from Utah is understanding better what we are about. The fact Miguel Estrada has refused to disclose his writings is unprecedented. We have at least five illustrations, including Justice William Rehnquist, nominated as Chief Justice of the Supreme Court, who produced his writings so we could understand more about his thinking before he assumed the highest judicial post in America.

Antonin Scalia, who was called on to rule in a case involving the disclosure of legal views, Antonin Scalia, absolutely the hero of the rightwing in American politics and of our President, when he had to rule on a case as to whether or not nominees would disclose their opinions on legal issues, the case was the Republican Party of Minnesota v. White, Justice Antonin Scalia said:

> [E]ven if it were possible to select judges who do not have preconceived views on legal issues, it would hardly be desirable to do so. ''Proof that a Justice's mind at the time he joined the Court was complete tabula rasa [blank slate] in the area of constitutional adjudication, would be evidence of lack of qualification, not lack of bias.''

So, many of us, despite this impressive resume of Miguel Estrada, have fundamental questions. Is the man qualified for the job? By stepping back and saying, I am a blank slate, can't think of a Supreme Court case I disagree with in its history, can't think of a Supreme Court Justice or any Federal judge whom I admire, you wonder why we have questions about him? You wonder why this extraordinary debate is under way?

I see my colleague from New Jersey has come to the floor and I thank him for joining us this morning.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. CORZINE. Mr. President, to my colleague from Illinois, who is so eloquent on so many issues, his articulation, a reason why it is so important we challenge this nomination, if not the nominee, because of the process we have gone through, is just overwhelming. I think it is a basic sense of responsibility we should have as Senators. If we do not ask the questions on how one will respond in a jurisprudence context to not specific issues but general thought process before we hire someone to be an appellate court judge, I don't think we are fulfilling our constitutional responsibility of advise and consent.

Would the Senator hire someone if you had not been able to ask how they may think about some of the basic processes and logic they might bring to bear in giving you advice with regard to legal counsel in your office? It is incredible to me. No one with a blank slate would turn over such an important duty without doing a serious interview process to understand at least the thinking process of an individual.

Mr. DURBIN. Just to respond to my colleague from New Jersey, not only would I not hire them, I would be derelict in my responsibility in doing so. I think the Senator from New Jersey would agree, many times he has asked prospective staff people their opinions—and may even disagree with them. I, frankly, believe within my legislative staff there are people who think I am wrong on some issues. That is not only their right but their responsibility to give me that point of view. But at least going in, that is a pretty basic question.

If we can't ask Miguel Estrada, who is seeking a lifetime appointment to the second highest court in the land, what is in his mind in terms of his values and principles when it comes to constitutional law, then we have failed as Senators and we fail our constitutional responsibility.

Mr. CORZINE. Mr. President, I could not agree more with the Senator from Illinois. I have a responsibility to the people of New Jersey to make sure we ask serious questions with regard to how judges are selected. In my own process in reviewing district court judges and circuit court judges that we are asked to opine about by the White House, about how we would react, I have a bipartisan committee that does just exactly that. It sits literally for hours to make sure we have some sense of the approach future judges might take, how they think about issues, how they feel about constitutional principles. I think this is one of the most important debates we can have with regard to the responsibilities of being a Senator—making sure, when we determine the people who are actually going to sit on the court with lifetime appointments, that we do so with the full knowledge and understanding of where they are coming from.

By the way, that is not to say you are going to agree with everyone with regard to all aspects about how they might think about issues. But you

ought to at least understand what you are getting into. I certainly hope we will have the opportunity to review real information on this as we go forward.

THE BUSH BUDGET

Mr. CORZINE. Mr. President, I come to the floor to make a statement with respect to something I believe is vital that the American public get focused on. Last Monday President Bush proposed a budget to the American people that, if it were adopted, would basically dramatically change the landscape, reshape the future of our Nation in a lot of different ways. I would like to speak about that in the context of a few ideas today.

I hope I can come here every day, as long as is necessary, to make sure we raise up this, I think revolutionary document, radical document, with regard to what the shape of our economy and the shape of our participation of the Federal Government in our life in America is about.

Perhaps because of its release so soon after the tragic *Columbia* shuttle tragedy, the budget has not received the public attention it deserves. Frankly, we had unbelievably revealing testimony by the Chairman of the Federal Reserve yesterday with respect to how that budget fits into the overall concept of fiscal responsibility and fiscal prudence that is so important for Americans to understand. But even with that, even with such dramatic statements coming from the Chairman of the Federal Reserve, the budget has not received the public's attention. I think we need to raise up the debate that is embedded in many of the propositions that are made in the President's budget.

I do not think this is a run of the mill—these are the revenues, these are the expenses. By the way, we are going to have a $307 billion budget deficit, but that is not so important. This is a radical change from the direction that we in this country have been moving for a very long time. I don't think we are talking about it in those contexts, and I think the American people should understand the huge implications of its many far-reaching proposals.

There are so many significant elements in this budget that it is difficult for me to actually even know where to start. The big picture is clear. The Bush budget is fiscally reckless, in my view, and imprudent in the extreme in the macroeconomic context, and would substantially reduce the security of America's working families for decades to come. I will try to go through some of that.

But at the biggest level, when President Bush came to office we were projecting budget surpluses of $5.6 trillion over 10 years. We just preceded that with 3 years of budget surpluses. Since then that figure has declined by almost $8 trillion. We had projected $5.64 trillion in surpluses. Now in the same timeframe, until 2011, we are projecting $1 trillion-plus in deficits. Where I come from in the private sector, if you have an $8 trillion negative cashflow, somebody would ask some questions about what is driving it, what is making such an overwhelming difference in the context of our financial posture with respect to fiscal affairs in this country. That is extraordinary.

By the way, take that a step further. It was projected at the same time that we were going to pay down, for all practical purposes, the publicly held debt of the U.S. Government. That was in 2001, early 2001—going down to $36 billion.

Today, out to 2008, we are expecting a $5 trillion publicly held debt. That is extraordinary. That is an extraordinary amount of debt that will go on, not just to be financed by current generations of Americans. The view that we are not going to transfer to our kids and our grandkids future responsibilities to pay for what we are doing today, as we benefit from those expenditures—we are transferring it on. That is $5 trillion.

By the way, it is a heavy burden not only in the debt that the current generation is transferring to future generations, but it is also an extraordinary expense. We are going from a $622 billion cost of our debt under the projections that were established in 2001 to, get this, $2.3 trillion we are going to spend—$2.3 trillion we are going to spend just to finance that debt, that change in that $8 trillion that comes across. That is what it is going to cost us over 10 years to finance the bad fiscal policies we are taking on.

I don't know about most Americans, but I think they can figure out that we have lots of important things in this country that we could spend $2.3 trillion on, relative to this $622 billion, that we would have been able to spend if those changes had not occurred such as Leave No Child Behind, such as making sure our health care systems are properly funded, or that the Social Security trust fund is in place so Social Security can be in place. And maybe most importantly, we could protect Americans with something other than duct tape. We could actually put real protections in our ports, on our highways. We could make sure that the security surrounding our chemical plants across this country was in place. There are lots of things that this country could do if we had that $2.3 trillion that we are going to now give out in interest expense, many of those dollars going offshore, not even to Americans.

I think it is absolutely irresponsible that we are putting ourselves in a position that we are going to run the kinds of deficits we are talking about. In fact, I think that was the overwhelming weight of the conversation we had with the Chairman of the Federal Reserve Board yesterday. If we do not get our fiscal house in order, we are going to put ourselves into a position where the United States is going to have not just small deficits and not just $2.3 trillion worth of interest expense, but we are going to see that explode in the years well beyond the next decade because that is when the baby boomers retire. We will go from 40 million retired Americans to 75 million retired Americans on Medicare and Social Security and that will put unbelievable pressures on what we have as a nation in our fiscal responsibility.

So I find this a hard budget, at a macro level, for us to take on. I hope the American people can understand that we are burdening our children and our grandchildren as we go forward; that we really are putting at risk Medicare and Social Security as we understand it today as we go forward. Frankly, I think without a full discussion and without creating a full understanding in the minds of the American people, we are not doing our jobs. I think it is almost a question of ethics, about what our responsibility is to raise up this discussion so those choices are understood by the American people and not buried in some document of hundreds and hundreds of pages of numbers that really do not translate into the practical impact that the individuals need.

I go back to it again. It is basic economics.

We have had an $8 trillion swing in the cashflow of this government. There is no one I know who would think that is a positive way for us to approach the financial management of this country.

To carry on with slightly more detail, as economists would say, this budget calls for a dramatic reduction in national savings. When you are borrowing all this money, that money isn't going into the private sector. It isn't going into areas of productivity and growth in this country.

That is what we saw happen in the 1990s. We saw 22.5 million new jobs created, and we saw productivity rise from very low levels to the kind of high levels that are driving the successes of the economy in the late 1990s and continue to be the only really positive element we see in the economy today.

When you have that capital going off to the Federal Government, it means less capital to be available to invest in plant and equipment and less capital to implant new technologies and new inventions, and to do research and medical advances. The end result almost inevitably will be lower economic growth in the future, if you carry those kinds of debt burdens into the future. That is not a conclusion based on partisanship or ideology. It is economics 101. Less savings means less investment which means lower growth.

It is just that those are the truisms defined by the basic laws of economics. Less savings means less investment which means lower growth.

By the way, when you are borrowing money at the $8 trillion level at the Federal Government, you are having less savings.

That is just by definition. I guess that is why the 10 Nobel economists

yesterday put out the statement they thought we were on the wrong track with regard to our fiscal policy; that we were putting ourselves into a grave position with regard to our longrun fiscal structure. It is absolutely essential, in my view, that we stand back and get hold of the budget mess I think we are putting in place, if we go forward.

Unfortunately, many administration officials have lately been denying the laws of economics, as far as I can tell, dismissing the importance of fiscal discipline. As OMB Director Mitch Daniels put it, while we have returned to an era of deficits, ''We ought not hyperventilate about this issue.''

I guess we are just taking off the board all that discussion about balanced budget amendments, the No. 1 issue, and the Contract With America, all that discussion we had through the 1990s, all that discussion that the private sector has tried to impart to the public sector; that there really is competition for funds out in the marketplace; that deficits really do drive up long-term interest rates which, by the way, Chairman Greenspan once again reiterated very clearly and unequivocally yesterday; and that we hear consistent conversation about deficits do not matter to the investment function of the economy.

It is hard to believe we are so blind to the fundamentals of economics. Supply and demand do matter. When there is demand for the credit in the marketplace for the Federal Government, it does impact on the private sector and the savings function.

Comments like these—the one about hyperventilating about deficits—make it seem like we are living in a strange twilight zone, in my view.

As I said, we just came through a heavy period of discussion—actually before I got into political life—about amending the United States Constitution to establish a rigid Balanced Budget Act. I do not know where that discussion went. I guess we had a change of heart and a change of mind at some particular point. But it really is hard for me to understand. I almost find it humorous, although I don't, really.

We hear comments with regard to my Democratic colleagues that we are concerned about rising deficits. One of the leaders in the House dismissed the importance of fiscal discipline, arguing that ''The Soviet Union had a balanced budget.''

I am not exactly how sure that fits into the overall structure of our debate. But I think it demonstrates we are making so light of this $8 trillion—I repeat, $8 trillion—negative cashflow swing this government is now burdening our people with. It is serious.

I come from a part of the world where you can tolerate some negative income for a short period of team, but, after a while, you go bankrupt. It undermines the reality of your financial success. It will for our Government. It may not go bankrupt, but we will be living with higher interest rates than we need be, and we will be losing the ability to see our private sector invest appropriately and basic saving functions as defined by economics.

Think about it. Perhaps the most powerful Member of the other body, in effect, was comparing fiscal discipline to a failed regime on how operations work.

I am really troubled about how light we are making this issue of our fiscal responsibility.

Why are the administration and its supporters abandoning fiscal discipline? Quite simply because their overriding priority is to provide huge new tax breaks to those who are doing the best, I guess. There is no other basis of understanding. It looks to me like political policy as opposed to economic policy.

Let us look at these tax breaks. As many of my Democratic colleagues have pointed out, they would provide relatively few benefits to working Americans. But, more importantly, they would do virtually nothing to create jobs or stimulate our economy. In fact, the Bush plan could well cost jobs, and I believe very clearly it is bordering on antigrowth. That is true for at least four reasons I would like to expand on.

First, very simple, very little impact of that initiative the President has laid out—less than 5 percent of the growth package—would kick in right away in 2003, and very little of it in 2004. Most of its impact would be delayed into the future, undermining the long-term structure of our fiscal health, but doing little for the current package.

By the way, those 10 Nobel economists yesterday also talked about temporary, short-term stimulus was needed to create demand in our economy—create demand now so we can pump-prime the economy and help get it going. And then we will see the growth of revenues be the basis of how we reestablish the cashflow to the Federal Government.

By the way, we don't need to have all of these long-term cash cuts unless you are going to do it in a tax reform package. And, by the way, I totally agree with Chairman Greenspan. Double taxation on dividends is a bad idea. It ought to be done from a comprehensive, revenue-neutral position of tax reform. No one would argue there is very little in tax difference. But it ought to be done with a comprehensive set of tax reforms. The American people understand that. They understand companies are paying only about one half of what they report on their income statements to the public when they try to sell their stock as taxable income. They are doing all kinds of things—some legitimate, some not so legitimate—to try to shelter income.

We need to have a reform package that actually works—to raise revenues but also to make sure we don't have inhibition on American business in formation of capital such as taxes on dividends. But it ought to be on a comprehensive, revenue-neutral basis.

I think most people, when they are honest and step back, will see the logic of that. Certainly the American people do.

Second, the President's tax proposals provide, as I said, most of the benefit for those at the very highest incomes. These are the people least likely to spend a tax break. I think a better approach, as I have advocated with Senator LANDRIEU—and as Senator MCCAIN talked about a ''payroll tax holiday''—would target tax relief to middle-class working Americans who need help.

By the way, I happen to think this ''payroll tax holiday'' and what Senator LANDRIEU and I talked about is really fundamental to how we can stimulate the economy today. Three out of four Americans pay more in payroll taxes than they do in income taxes. It is also the people who are stretched the hardest in trying to keep their budget together at home. By the way, individuals have to balance their budgets. So it is not exactly like they can walk away from running their debts up. We can do that in the Federal Government, but you cannot do that at the individual level. Otherwise, your creditors will come and see you and say it is time for you to sell your house.

Third, the Bush plan to exempt most dividend income from taxation would have the effect of taking cash off the balance sheets of American corporations. That would mean less money to invest in plants and equipment and less money to hire new workers and retain old ones. In other words, it will depress the economy further as opposed to stimulating it.

If you want to deal with double taxation on dividends, you do it at the corporate level. It might not be as politically attractive, but it would certainly be more rational that you would treat dividends as the equivalent of interest, and it would allow for the basic judgment of corporations as to whether they wanted to invest, pay dividends, hire new workers, or do whatever the economic, advantageous element of managing their business is about. But if you take the cash off the balance sheet, and pay it out in dividends, because you have an incentive to do that, you end up with far less of an incentive to grow the economy. And, in fact, you may very well get an incentive to stifle growth in the economy. I think it is very dangerous.

Finally, whatever stimulative impact—and very few people think it is significant at all—the budget would have in the short-term, it is likely to be offset by those higher long-term rates, as projected future deficits shoot through the roof.

I know the administration likes to claim there is no connection between deficits and interest rates, as I suggested, but the economic evidence is overwhelming that expectations of future deficits—that is, more Government competition for a limited pool of

capital—almost inevitably leads to higher interest rates.

It was actually refreshing yesterday at the Senate Banking Committee to hear someone—who I do not necessarily always see eye to eye with, with respect to economic policy—make a clear and unequivocal statement that deficits do matter with respect to interest rates and the performance of the economy, and particularly with respect to the performance of the investment activities of this Nation. This is, again, simple supply and demand. If you have $8 trillion worth of deficits that you would not have had otherwise—or $5 trillion—it is going to compete with the private sector for capital. That, ultimately, is going to have something to do with the shape of our economy in the future, and it is absolutely the most important element of the savings function in the country.

So the administration's tax breaks, in my view, for all of those reasons, are antigrowth as much as they are anything else. Again, I reemphasize that I think it is a political proposal, not an economic one. They have the effect of starving the Government of resources needed to protect the security of working families, while we are basically rewarding those who I think are doing reasonably well.

The last I checked, in the 1990s, people did pretty well economically. There were more millionaires made in the 1990s, while we were creating 22.5 million jobs than I think we are doing so far in the new century. I wonder why it is that we think we need to have all these structural changes when, in fact, if we just get some demand going, taking up some of that overhang of excess production we have in our country, that we could get going.

There are, though, some issues in this budget that go beyond these macroeconomic issues. And they are really important. I do not want to make light of them in and of themselves.

I think budget deficits and whether you have a stimulus program or growth program are all fair questions, but are we going to continue as a nation to participate in helping protect the security of working families, protect the security of Americans everywhere?

I think what is really radical about this budget is that it is beginning the process to undermine whether we are really going to provide that kind of support. Because we have to make choices, we are going to have to make choices whether we are going to run those deficits, driven in at least a significant part by the kinds of tax cuts we have, or whether we are going to retain some of those resources to be able to invest in the security of working families.

I will take a few examples from the President's budget.

First, the budget fails to provide funds that are badly needed to protect our Nation against the threat of terrorism. This is maybe the most important domestic issue. While there is some funding for some homeland security programs, we have really turned our back on a lot of the critical priorities, such as port security and border patrols.

I heard today that actually we will have fewer people at border crossings, based on this budget, than we had prior to 9/11. I just visited the New York/New Jersey Port a weekend ago. The fact is, we are inspecting less than 2 percent—less than 2 percent—and that has not changed. We have been using that same number in debates on the floor of the Senate. It was not changed in our port at all.

The resources are not being made available to check containers, and we are doing nothing to improve the safety and security of the American people—certainly the people in New Jersey and New York—with regard to our ports. We are doing nothing with regard to improving the security surrounding our chemical production facilities in this country. And all this just keeps going on and on, without putting our money where our mouth is with regard to homeland security. We talk about it as our top priority, and we do not put the resources with it.

Time and time again, we have asked to try to increase the budget appropriations in this area and have not been able to do it. I think maybe it is the most important domestic issue. It is certainly on the minds of the people of New Jersey, and I suspect it is for most Americans.

Second, the budget reneges on the President's promise to provide a meaningful prescription drug benefit for our seniors. Instead, the administration, in effect, forces millions of seniors to drop their own doctor and move to a private sector approach in order to secure a prescription drug. It moves away from fee-for-service plans. This amounts to a backdoor attempt, in my view, to privatize Medicare.

We have not seen all the details, so it is a little hard to be as specific as I would like to be, but I have to tell you, if it is anything similar to the headlines we have heard in the State of the Union speech, there are a lot of us who are going to fight this tooth and nail. This is not the promise we have given to the individuals who have been paying payroll taxes for years and years with the expectation there will be a serious Medicare benefit at the end of the day. As you know, if anybody does any analysis, not only are the payroll taxes that go to Social Security being used to finance tax cuts for those who are already doing well, we are now using payroll taxes for Medicare to also do that. And we have gone through all those numbers. It is very hard to understand how we are putting this together.

Many of my constituents say: What is going on with those payroll taxes that we are paying every day? We go to work with the expectation that we are going to get Medicare benefits and Social Security benefits at the end of the day when we retire. It is really wrong, and I hope, as we discuss this budget, that becomes clear and more clear to the American public.

Third, the budget process proposes to gut health care coverage for the most disadvantaged Americans. Under the administration's plan, Governors, in effect, would be—I was going to say bribed—encouraged to leave the current Medicaid system and move to an alternative that probably would end up with poor and disabled Americans losing coverage.

I tell you, I know in New Jersey that we have to cut the number of people who are accessing this, particularly kids in the Children's Health Insurance Program, because we do not have the resources to be able to deal with bringing them into these programs which have long been something that has provided broader health care.

There is big, bipartisan support for a concept around here called Start Healthy, Stay Healthy, which is to bring prenatal care to a lot of our less economically enabled citizens. And it is through the Medicaid system and State programs. We are having to cut all of those kinds of programs because the resources are not available.

I have to ask—anyone has to ask—is that what the administration means by ''compassionate conservatism''?

I could go on and on with the misplaced priorities, from my point of view, of the administration's budget: Its underfunding or complete elimination of so many education programs, including afterschool care; its cuts in environmental protection—the riders included in the omnibus bill that is coming over which doesn't have to do with the 2004 budget, is a mind-boggling way to legislate environmental laws—its abandonment of a program to put police officers on the streets, the COPS program—there are law enforcement officials who are enraged about their ability to continue to protect the public; again, it sort of relates to homeland security—its cuts for children's health insurance; its abolition of the HOPE VI homeownership initiative, which is one of the great programmatic efforts to try to get people to buy into their communities, to be a part of the community, a whole host of other housing programs.

I could go on, and I probably will as the days go on, because these issues need to be identified in the mind of the American public. This is a budget that is changing the shape of what the role of the Federal Government is. Maybe that is what people want. Maybe they don't want afterschool programs for kids. Maybe they don't want the COPS programs. Maybe they don't want Leave No Child Behind underfunded. Maybe they do want it underfunded. Maybe they want no increase in affordable housing. Maybe they don't want them, but we ought to tell them what they are getting as opposed to piling it up into a whole host of numbers and covering it up with other things that

don't make it clear why we are doing what we are doing.

I also want to talk about the administration's proposal to fundamentally change the tax treatment of investment income, another area where—a little bit of my background—it strikes me as really debilitating to the longrun fiscal posture of this country. I know proposals to allow sheltering of investment income sound attractive to many. I used to promote a few of them myself. I think we all agree about the value of expanding opportunities for all Americans to save, to better prepare for retirement. But when you look at the administration's proposal, it has little to do with promoting retirement security for working families.

In fact, there are a whole series of these. For most Americans, these proposals are much more likely to undermine retirement security, and they will apply to a very narrow segment of American retirees or future retirees. Most Americans are not using all the tax-supported programs we have today. They are only using about 25 percent of them, if memory serves. And these programs will drain resources critical to the Federal budget to protect Social Security and Medicare in the future—again, as we go from 40 million retired seniors to 75 million. They represent a dramatic shift in the tax burden, a redistribution of wealth, to speak bluntly, to the benefit of those who have substantial investment income and to the detriment of people who depend on wages and support themselves and, by the way, pay payroll taxes.

Once again, those people who are paying payroll taxes are funding tax breaks in the income tax system—really hard to understand.

These new tax proposals are not merely radical in their redistribution of the tax burden, they are fiscally irresponsible and reckless in the context of our overall budget situation. There are a few elements of this program that need the light of day. They need the focus of the American people, whether it is homeland security, taking care of our kids' educational system, our health care, but probably most important, the longrun ability to fulfill the promise of Social Security and Medicare. That is what this debate is about. Are we really going to have the resources to do the kinds of things the American people have been promised?

It is not enough to say: We don't want to do this. We have promised the American people they will at the end of the day have their Social Security benefits, guaranteed benefits. We need to make sure we have the fiscal structure that is in place that allows that to happen.

This budget will not allow for that to take place. It needs lots of debate from the American people, lots of debate by the Senate, and a lot of debate in general until we get to a conclusion that is a long way from where we are starting.

There is too much at risk here, too many jobs in the first instance, too much in the longrun investment in our economy, to grow our productivity, too much investment to protect the American people with regard to homeland security and the war on terrorism, too much risk with regard to health care and disparities, the ability to provide a meaningful prescription drug benefit to seniors, too much at risk with regard to Social Security.

I hope we can truly flush out what the choices are being made through the context of this budget.

I appreciate the opportunity to speak. It will be one of many times I would like to come to the Chamber to make sure the American people understand we have a radical reshaping of America's priorities through this budget. Frankly, it is a political statement, not an economic program. Nothing less than the future of our country is at stake. We need a real and serious debate about it.

I yield the floor.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. HAGEL). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. REID. Mr. President, a number on the other side, in the majority, have lamented the fact that to get this man, Miguel Estrada, approved to be a circuit judge, it is going to take 60 votes. They ask, why can't we just have an up-or-down vote? Both Senators from Utah have talked about that today. Senator BENNETT indicated it would be a tremendous change if we required 60 votes for Mr. Estrada. There are cartoons around the country today in support of our position—cartoons that have indicated nominees are coming through here and no one is asking any questions that are answered, and that there should be some answers forthcoming. But the issue is that in fact Mr. Estrada hasn't answered many important questions. That is one of the big problems.

I found my colleagues' remarks very curious, lamenting the idea that it would take 60 votes to approve Mr. Estrada's nomination. They have lamented this, but I find this interesting because when President Clinton sat in the White House, his nominations were subject to anonymous holds by one or more Senators. Many were not provided hearings. Many were provided no votes. That is, rather than needing at least 41 votes to delay or block consideration of a nominee, Republicans allowed one Senator or a handful to block many of President Clinton's judicial nominees from getting hearings or votes.

Mr. President, I have a list of nominees, and I ask unanimous consent that it be printed in the RECORD.

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

CLINTON JUDICIAL NOMINEES NOT CONFIRMED IN CONGRESS FIRST NOMINATED

(31 CIRCUIT/48 DISTRICT—59 OF THESE NEVER ALLOWED VOTES BY REPUBLICAN-CONTROLLED SENATE)

31 CIRCUIT COURT NOMINEES (22 BLOCKED FROM GETTING VOTE OR BEING CONFIRMED)

Merrick Garland, D.C. Circuit. Allen Snyder, D.C. Circuit, never given a vote by Republicans/not confirmed. Elena Kagen, D.C. Circuit, never given a vote by Republicans/not confirmed.

Robert Cindrich, 3rd Circuit, never given a vote by Republicans/not confirmed. Stephen Orlofsky, 3rd Circuit, never given a vote by Republicans/not confirmed. Robert Raymar, 3rd Circuit, never given a vote by Republicans/not confirmed.

James Beatty, 4th Circuit, never given a vote by Republicans/not confirmed. Andre Davis, 4th Circuit, never given a vote by Republicans/not confirmed. Elizabeth Gibson, 4th Circuit, never given a vote by Republicans/not confirmed. Roger Gregory, 4th Circuit, never given a vote by Republicans/not confirmed. J. Rich Leonard, 4th Circuit, never given a vote by Republicans/not confirmed. James Wynn, 4th Circuit, never given a vote by Republicans/not confirmed.

H. Alston Johnson, 5th Circuit, never given a vote by Republicans/not confirmed. Enrique Moreno, 5th Circuit, never given a vote by Republicans/not confirmed. Jorge Rangel, 5th Circuit, never given a vote by Republicans/not confirmed.

Eric Clay, 6th Circuit. Kent Markus, 6th Circuit, never given a vote by Republicans/not confirmed. Kathleen McCree Lewis, 6th Circuit, never given a vote by Republicans/not confirmed. Helene White, 6th Circuit, never given a vote by Republicans/not confirmed.

Bonnie Campbell, 8th Circuit, never given a vote by Republicans/not confirmed.

Marsha Berzon, 9th Circuit. James Duffy, 9th Circuit, never given a vote by Republicans/not confirmed. William Fletcher, 9th Circuit. Barry Goode, 9th Circuit, never given a vote by Republicans/not confirmed. Ronald Gould, 9th Circuit. Margaret McKeown, 9th Circuit. Richard Paez, 9th Circuit.

Christine Arguello, 10th Circuit, never given a vote by Republicans/not confirmed. James Lyons, 10th Circuit, never given a vote by Republicans/not confirmed.

Timothy Dyk, Fed. Circuit. Arthur Gajarsa, Fed. Circuit.

(Helene White waited more than 1,500 days, never to be allowed a hearing or a vote.)

(Richard Paez waited more than 1,500 days to be confirmed.)

48 DISTRICT COURT NOMINEES (37 BLOCKED FROM GETTING VOTE OR BEING CONFIRMED)

Steven Achelpohl, District Court, never given a vote by Republicans/not confirmed. Ann Aiken, District Court. Richard Anderson, District Court, never given a vote by Republicans/not confirmed. Joseph Bataillion, District Court, never given a vote by Republicans/not confirmed. Steven Bell, District Court, never given a vote by Republicans/not confirmed. John Bingler, District Court, never given a vote by Republicans/not confirmed. David Cercone, District Court, never given a vote by Republicans/not confirmed '02. Patricia Coan, District Court, never given a vote by Republicans/not confirmed. Jeffrey Colman, District Court, never given a vote by Republicans/not confirmed. Valerie Couch, District Court, never given a vote by Republicans/not confirmed. Legrome Davis, District Court, never given a vote by Republicans/not confirmed '02.

Rhonda Fields, District Court, never given a vote by Republicans/not confirmed. S.

David Fineman, District Court, never given a vote by Republicans/not confirmed. Robert Freedberg, District Court, never given a vote by Republicans/not confirmed. Dolly Gee, District Court, never given a vote by Republicans/not confirmed. Melvin Hall, District Court, never given a vote by Republicans/not confirmed. William Hibbler, District Court. Faith Hochberg, District Court, never given a vote by Republicans/not confirmed. Marian Johnston, District Court, never given a vote by Republicans/not confirmed. Richard Lazzara, District Court, never given a vote by Republicans/not confirmed. J. Rich Leonard, District Court, never given a vote by Republicans/not confirmed. Stephen Lieberman, District Court, never given a vote by Republicans/not confirmed.

Matthew Kennelly, District Court. James Klein, District Court, never given a vote by Republicans/not confirmed. John Lim, District Court, never given a vote by Republicans/not confirmed. Harry Litman, District Court, never given a vote by Republicans/not confirmed. Frank McCarthy, District Court, never given a vote by Republicans/not confirmed. Donald Middlebooks, District Court. Jeffrey Miller, District Court. Margaret Morrow, District Court. Sue Myerscough, District Court, never given a vote by Republicans/not confirmed. Lynette Norton, District Court, never given a vote by Republicans/not confirmed.

Susan Oki Mollway, District Court. Virginia Phillips, District Court, never given a vote by Republicans/not confirmed. Robert Pratt, District Court. Linda Riegle, District Court, never given a vote by Republicans/not confirmed. Anabelle Rodriguez, District Court, never given a vote by Republicans/not confirmed. Michael Schattman, District Court, never given a vote by Republicans/not confirmed. Gary Sebelius, District Court, never given a vote by Republicans/not confirmed. Kenneth Simon, District Court, never given a vote by Republicans/not confirmed. Christina Snyder, District Court. Clarence Sundram, District Court, never given a vote by Republicans/not confirmed.

Hilda Tagle, District Court. Thomas Thrash, District Court. Cheryl Wattley, District Court, never given a vote by Republicans/not confirmed. Wenona Whitfield, District Court, never given a vote by Republicans/not confirmed. Ronnie White, District Court, never confirmed by floor vote. Frederic Woocher, District Court, never given a vote by Republicans/not confirmed.

Mr. REID. They had mysterious holds and were not provided with votes of any kind and were simply not allowed to have their matters brought before the Senate. We would have liked the opportunity to even see if we could have stopped a filibuster, if that was what they wanted, but they simply would not bring them forward.

I will name a few circuit court nominees. Out of 31 submitted who were not confirmed in the first Congress they were nominated, 22 were blocked by the Republicans from ever being confirmed. Allen Snyder, DC Circuit, never given a vote by Republicans, certainly not confirmed; Elena Kagen, DC Circuit, never given a vote by the Republicans; Robert Cindrich, Third Circuit, never given a vote; Steven Orlofsky, Third Circuit, never given a vote; Robert Raymar, Third Circuit, never given a vote; James Beatty, Fourth Circuit, never given a vote by the Republicans; Andre Davis, Fourth Circuit, never given a vote; Elizabeth Gibson, Fourth Circuit, never given a vote by the Republicans; Roger Gregory, Fourth Circuit, never given a vote by the Republicans, but finally, Mr. President, because President Clinton, in a recess appointment, appointed him, as a sitting judge, he was eventually confirmed; J. Richard Leonard, Fourth Circuit, never given a vote by the Republicans; James Wynn, Fourth Circuit, never given a vote by the Republicans; H. Alston Johnson, Fifth Circuit, never given a vote by the Republicans; Enrique Moreno—a Latino nominee—never given a vote by the Republicans; Jorge Rangel, Fifth Circuit, never given a vote—he is also Hispanic—Eric Clay, Sixth Circuit, and nothing happened with him; Kent Markus, Sixth Circuit, never given a vote by the Republicans; Kathleen McCree Lewis, Sixth Circuit never given a vote; Helene White, Sixth Circuit, never given a vote; Bonnie Campbell, Eighth Circuit, never given a vote; James Duffy, never given a vote; Barry Goode, Ninth Circuit, never given a vote; and Christine Arguello and James Lyons, Tenth Circuit, never given a vote.

I just note that Helene White waited more than 1,500 days, never to be allowed a hearing or a vote. Richard Paez waited more than 1,500 days, but there is good news there: He was finally confirmed. I spoke to that good man on a number of occasions during his time in ''legal limbo,'' or wherever he was, never being given a vote. But, finally, he had a hearing and he was confirmed after more than 1,500 days, more than 4 years.

Mr. President, we submitted 48 district court nominees who were blocked in the first Congress they were nominated, and 37 were blocked from ever getting a vote or being confirmed. So for my friends to lament the fact that we are in the light of day, where we have told everybody here we are not going to allow Miguel Estrada to be confirmed unless he submits to proper questioning—I should not say proper questioning, how about proper answers—and unless we are allowed to review the Solicitor's memoranda that have been given to us on other occasions and unless he is forthcoming in answers to questions.

These are not anonymous holds. We are telling the world that we will not allow Miguel Estrada to become a DC Circuit Court judge unless he does that. If he doesn't do that, the majority leader has three options: Pull the nomination, go forward to invoke cloture, or have this on the floor forever, which is something—boy, they are really giving it to us tonight. They are going to make us work late.

That is what the leader said. We are going to work late. I said everything has been said about Miguel Estrada, just not everyone has said it. So we are going to have other people come and say the same things that have been said by approximately 20 Senators, and they will try to say it a little differently, but everything has been said.

If the majority leader wants to take the time of the Senate and go forward on this nomination, not trying to invoke cloture, then that is his prerogative. He runs the floor. But there is other business we need to do. I know the omnibus bill should be here tomorrow. There are other judges we could approve perhaps. We approved three on Monday including Judge James Otero of California. So there is other business that could be done, but if he wants to have us stay late and keep talking about this person—we on this side believe there is a problem, and we feel it is our constitutional prerogative and duty to ask questions and have them answered.

When we have someone who has a track record like this, where there is not much in the way of legal information other than some cases he handled, we should be able to review his legal memoranda he wrote when he was a member of the Solicitor General's Office.

There were 48 district court nominees who did not get through the Senate in the Congress first nominated; 37 were blocked from getting a vote or being confirmed:

Steven Achelpohl, district court, never given a vote by Republicans; Joseph Bataillon, district court, never given a vote by Republicans; Steven Bell, district court, never given a vote by Republicans; John Bingler, district court, never given a vote by Republicans; David Cercone, district court—once in a while there is some good news. David was not given a vote but eventually was confirmed.

Patricia Coan, district court, never given a vote by Republicans; Jeffrey Colman, district court, never given a vote by Republicans; Valerie Couch, district court, never given a vote by Republicans; Legrome Davis, district court, never given a vote by Republicans finally allowed a vote once Democrats became the majority; Rhonda Fields, district court, never given a vote by Republicans; S. David Fineman, district court, never given a vote by Republicans; Robert Freedberg, district court, never given a vote by Republicans; Dolly Gee, district court, never given a vote by Republicans; Melvin Hall, district court, never given a vote by Republicans; Marian Johnston, district court, never given a vote by Republicans; Richard Lazzara, district court, never given a vote by Republicans; J. Rich Leonard, district court, never given a vote by Republicans; Stephen Lieberman, district court, never given a vote by Republicans; James Klein, district court, never given a vote by Republicans; John Lim, district court, never given a vote by Republicans; Harry Litman, district court, never given a vote by Republicans; Frank McCarthy, district court, never given a vote by Republicans; Sue Myerscough, district court, never given a vote by Republicans; Lynette Norton, district court, never given a vote by Republicans; Virginia

Phillips, district court, never given a vote by Republicans; Linda Riegle, district court, never given a vote by Republicans. This is very familiar to me because she is a bankruptcy judge from Nevada, still serving on the bankruptcy court. I nominated her. It simply did not move forward. I had a couple judges who did move forward and was very happy about that. Senator HATCH allowed me to move those nominations.

Anabelle Rodriguez, district court, never given a vote by Republicans; Michael Schattman, district court, never given a vote by Republicans; Gary Sebelius, district court, never given a vote by Republicans; Kenneth Simon, district court, never given a vote by Republicans; Clarence Sundram, district court, never given a vote by Republicans; Cheryl Wattley, district court, never given a vote by Republicans; Wenona Whitfield, district court, never given a vote by Republicans; Ronnie White, this is a fine man. He was defeated in a surprise strict party-line vote, but his nomination at least was done in the light of day, and I appreciate that. That is better than all these anonymous holds and nothing never happens.

Frederick Woocher, district court, never given a vote by Republicans.

My friend, and he is my friend, Senator BENNETT from Utah, a neighboring State—I have great admiration for him. He comes from a wonderful family. His father served in the Senate. He was very honorable. His wife is a friend. She is quite a musician. So I have only good thoughts about my friend, Senator BENNETT, but I do say to the distinguished Senator from Utah that he should not come here and talk about what a terrible thing it is for us to require that Mr. Estrada answer these questions and submit the memos. This is something we are doing openly. We are not trying to hide what is happening in any way.

I want to say one thing, I wanted to say it to him before he left the floor this morning, that I have been very honored to serve in the Senate. It is something I never dreamed could happen. I am every day aware of what an honor it is to serve in the Senate, and to serve with other Senators is an honor for me. This is unique.

The two Senators from Vermont are in the Chamber. One just walked in. The senior Senator from Vermont has been in the Senate approximately 30 years, and I have watched a magician—I say that in the most positive sense—perform his duties. I have the honor of serving with a senior member on the Appropriations Committee and the ranking member of the Judiciary Committee. I have so much admiration and respect for the work he does. He has been so fair. When people were saying, Don't do this, the senior Senator from Vermont stepped above the political fray and did what was right on many judges.

I have come to the Chamber many times telling the Senator what a good job he has done, but I have not done it recently. I want the Senator to know the people of Vermont are so well served by his public service. The Senator from Vermont could go anyplace in America and make a fortune, literally, because of his legal skills and his experience in the Senate, but he has taken the more difficult path, and that is serving the Senate because of his love of public service.

The people of Vermont are well served, but so are the people of Nevada. The people of Nevada benefit every day from the service of the Senator from Vermont.

I am very grateful he is here helping us—not helping us, this is his committee. He is leading us on this most important matter to bring about some direction and responsiveness to the process which we are now going forward with.

I see the other Senator from Vermont who is such a fine man. I want him to know how much I respect his service to the country, especially the work he does on the Environment and Public Works Committee. The environment is better because of the junior Senator from Vermont.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I want to thank my dear friend, the senior Senator from Nevada, for his comments. We have served together for a long time, as he said, on the Appropriations Committee. I have been in the Senate with several hundred Senators. I have been fortunate. Like the Senator from Nevada, I never knew I was going to be a Senator. I grew up in Montpelier, the State's capital. It had only 8,500 people. I lived almost diagonally across from the Statehouse.

I remember as a child, probably about 4 years old, riding my tricycle through the halls of the Statehouse delivering newspapers to the Governor, playing on the Statehouse lawn, sliding in the snow. Suddenly one day, at the age of 34, I was being sworn in as a Senator and I think what a thrill it was. I was the junior most member of the Senate, but then I realized the best part of it is the people you get to know and serve with.

Nobody has been more of a help, a mentor, a conscience for me, than the Senator from Nevada. Every morning when I come to work I look at the Capitol and I think this is a nation of 260 to 270 million Americans, so diverse, and there are only 100 of us who get a chance to serve at any given time. Only 100 Americans get a chance to serve and represent the whole country. Out of that 100, only 4 get to be the leaders of their party, the Republican leader and the deputy Republican leader, the Democratic leader, the deputy Democratic leader.

I have served with a number of them, but I would say the Senator from Nevada, Senator HARRY REID, is one of the most extraordinary leaders the Senate has ever had. He has kept the old-fashioned virtue that was drilled into me by the first leader I knew, Senator Mike Mansfield. Senator Mansfield said, whatever you do—and this is far more important than how you vote—always keep your word.

No Senator has a higher reputation for integrity and truth-telling than the Senator from Nevada, and that means a lot to me. I do appreciate the way he has watched the floor and brought dignity and respect to this debate. I admire him for it because, just as with the distinguished Presiding Officer, we all bring different experiences to the Senate. We all have different reasons for being here and we all have different life experiences.

The distinguished Presiding Officer was a war hero. After serving, he began a business. He gained great experience in that field in his home State of Nebraska, and then he came to the Senate.

The distinguished Senator from Nevada, of whom I was speaking, had varied experiences before coming to the Senate. He was a trial lawyer, a boxer, and a state official in Nevada. He even served as a Capitol police officer back in the days when many times they were chosen by the Senators of the congressional delegation from the particular State. All of these experiences of his he has brought to the Senate.

Many times I have asked the distinguished Presiding Officer questions on military matters, not having had the experience of serving in the military. Considering how close he came to ending his life in Vietnam, the country has benefited by the fact he was there. I know as a result of his life being spared, I had the opportunity to gain another close and dear friend in the Senate.

There are a few observations I would like to make before I go into the discussion I had earlier with both of the Senators from Utah about the administration's refusal to allow Senators to examine Mr. Estrada's writings—which, incidentally, is an unfortunate situation because Mr. Estrada told me and other members of the committee on both sides of the aisle he is perfectly willing to share and discuss his writings. He personally had no objection to his writings, his memos, his suggestions in the Department of Justice and elsewhere to be made public. He would have no objection to answering questions based upon what he wrote but, as he said, and he was very honest about this, the administration had told him he could not.

Mr. Estrada said the administration told him he could not, which in itself is too bad because when this matter has come up many times before in history in connection with nominations for lifetime appointments as well as for short-term appointments, past administrations, Democratic and Republican, have allowed memoranda by Department of Justice attorneys to be examined by the Senate Judiciary Committee.

I make this point speaking as one Senator, if Mr. Estrada were forthright and responsive to questions of Senators and if the administration sent these writings up and allowed Mr. Estrada to discuss them and answer questions about them—something Mr. Estrada himself has said he is perfectly willing to do—I may not like the candid and responsive answers, I may disagree with what is in the writings, but at that point I feel the questions have been answered, assuming he is forthcoming and we have the material, so then let us go ahead and vote for him or against him. But when my colleagues are going to vote for somebody on one of the most important courts in the country, at least we should do it knowing what is in the record and having meaningful, not evasive, answers to questions about his judicial philosophy, his views, and his feelings about legal decisions.

Republican Presidents and Democratic Presidents have faced this question before. President Reagan, President Carter, and other Presidents did, and the material was forthcoming and the Senate then went on to make a decision based on what they knew about the nominees. This is the best way to do it.

Before I discuss this precedent in more detail, I would like to note that this morning we had our third hearing in 2 weeks on the Judiciary Committee. This included the 16th nominee to receive a hearing, the fifth nominee to a circuit court in just two weeks. That is interesting because when a Democrat was President, the same Judiciary Committee chairman often took until the summer before having a hearing for these many nominees, especially this many circuit court nominees, many of whom have controversial or divisive records.

I see the distinguished senior Senator from Utah on the floor. When he was chairman under a Democratic President, when the Democrat was making the nominations to the courts, it often took until the summer to have hearings for this many nominees, especially circuit court nominees. We are talking about having hearings for five circuit court nominee hearings by early February.

In 1996, the Republican chairman did not hold hearings for five circuit court nominees all year. Of course, it was a Democrat President. Actually, no circuit court nominees were confirmed that year, and none of the four who were allowed a hearing were confirmed during that entire year.

In 1997, when President Clinton had been in office now on his fifth year, we did not reach this number if circuit court nominees getting a hearing until September. Now the Committee has done it in just 2 weeks. It is interesting because there have been questions of partisanship. Now the Senate Judiciary Committee does in 2 weeks with a Republican President, with the same chairman, what took 9 months—more than 35 weeks—to do with a Democratic President.

I think that sort of demonstrates what the partisanship is. In fact, there is a nomination hearing being held this morning for a seat that has been vacant since 1999. One part of me says good, it is about time we have had a hearing for that vacancy, but President Clinton nominated two people to that vacancy. This was to the Court of Appeals for the Tenth Circuit. One is the Honorable James Lyons who was blocked for partisan political reasons. There was an anonymous hold on the Republican side.

I mention this because also coincidentally we hear a lot about somebody getting the highest rating from the American Bar Association, actually from a screening committee which is now headed by a close friend and supporter of President Bush's. This nominee of President Clinton's had the highest rating possible. He could have easily been confirmed, but anonymous holds, not open holds but anonymous holds, on the Republican side stopped it. He was not even allowed a hearing or a vote in the committee. So the President nominated a second person, Christine Arguello, a Latina nominee. She had bipartisan support. She was supported by both her home State Senators. One would think she would get at least a hearing or a vote in the committee. No. A number of people were nominated after her and were given hearings and votes, but this Hispanic American woman was not. Under Republican control of the Senate, Professor Arguello was not even given a hearing, to say nothing about a vote.

Regarding the document request related to Mr. Estrada's nomination, he has told both Senator HATCH and myself, as well as several Members of the Senate, that he is perfectly willing to show us his writings and respond to them and answer questions about them, but he has been told by the administration that he cannot; the administration, however, would review those writings. They are the only ones who know whether this direct evidence of his views, the interpretation of law, is accurate or misleading—they are the only ones who have access to it and they say, basically: Trust us. In carrying out your constitutional duties of advise and consent: Trust us. Give someone a lifetime appointment of one of the most important posts in the country: Trust us.

Mr. HATCH. Will the Senator yield on that one point? I have some new information.

Mr. LEAHY. I will yield on the basis that I will be allowed to retain the floor, to which I know the Senator from Utah does not object, and I want to continue then. Because of my deep respect and quarter century of friendship with the distinguished Senator from Utah, I yield.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. And we do have mutual friendship.

I have done some checking on this, and I thought I would bring it do the attention of the Senator. They tell me at the White House that they have never, the Justice Department has never given out these materials requested by the Democrats—not in the Bork case, not in any other case.

Now, in the Bork case they did give materials that pertained to his dismissal of Archibald Cox during Watergate, specific materials, but not a widespread fishing expedition. And there is a reason they do not want to give these documents up—because they are privileged, they are a work product of the Solicitor General's Office, they are crucial to the Solicitor General's Office functioning well.

I bring that to my friend's attention because the arguments that have been brought up have been not persuasive, they are not accurate, and frankly in the other people beside Judge Bork, there is no record at all that the Justice Department ever gave those documents to those people. Somebody may have leaked them, but the Justice Department did not give them.

I thank the Senator. I just wanted to tell the Senator that I think this is a red herring.

Mr. LEAHY. Retaining my right to the floor, I ask the Senator from Utah to hear my speech because it may be that whoever he talked to at the White House may be new or may not be aware of this.

Here are some of the memos past White Houses have provided us. They are still in the files here. They are pretty extensive. Included in this large volume are some of the same memos written by attorneys to then-Solicitor General Bork, as well as memos related to the nominations of Justice William Rehnquist to be Chief Justice, of Bradford Reynolds, the Reagan Associate Attorney General for Civil Rights to be Associate Attorney General and other nominees to short-term or lifetime appointments.

I really do want to finish my speech, and I think that then the Senator from Utah will understand what is going on—with Mr. REYNOLDS, Mr. Benjamin Civiletti, in his nomination to become Attorney General, and other past nominees. I will not put them in the RECORD now, but if my friend from Utah will bear with me, he will see what happens on this, and I will lay out the case where this has been done over and over again in the past.

This is a case where the administration asks for the Senate to advise and consent to a lifetime appointment, something that will go on well after most of us have left the Senate, but the administration does not want to provide information and memoranda relevant to this nomination. The administration has done this in both judicial and executive nominations. Even this very administration has done so in another nomination for a short-term position, but it has refused to do so in the case of Mr. Estrada.

I wonder—and of course if the Senator wishes me to yield, I will—I wonder if he would give me the courtesy of hearing some of these points.

Mr. HATCH. If I could ask one question, and of course I will listen to the Senator.

It is my understanding that the Democrats have asked for memoranda of appeals, certiorari petitions, and amicus curiae. Does the Senator have any indication that any documents pertaining to recommendations of appeals, certiorari, or amicus curiae have ever been given by the Justice Department?

Mr. LEAHY. I do have evidence of exactly that. If the Senator would let me finish my speech, he would understand that.

The current White House has disclosed to the Senate legal memorandum writing by an attorney of President George H.W. Bush's White House Counsel's Office in connection with the nomination of Jeffrey Holmstead to be Assistant Administrator of the Environmental Protection Agency, and, interestingly enough, this was a position of far less duration and importance than a lifetime judicial appointment.

In Mr. Estrada's case, the White House will not provide any of the information sought. That bothers me. I wonder what is in there. They seem to be saying: We have looked at it; trust us, it is OK. Well, I remember the made-up Russian proverb that President Reagan speech writers came up with: Trust, but verify. Even though there was no such proverb, I thought it was a great saying, so I will use the same one.

The administration's claim that such a request is unprecedented, as the distinguished Senator from Utah suggested, is actually wrong within the administration's own knowledge, even their own history. It is also wrong with respect to prior administrations and the confirmation history of the Judiciary Committee.

What is happening is the White House seems willing to rewrite history for this case. I suspect if that is to be allowed, then the next difficult confirmation that comes up, the history will be rewritten again and the Senate will be stonewalled again.

The facts, I say to my friend from Utah, are these. The Senate has requested, and past Justice Departments have provided, similar memoranda such as memoranda related to appeals, certiorari petitions, and amicus curiae—the decision to join a case as a friend of the court—written by attorneys of the Department of Justice. They have done this in connection with the nominations of Robert Bork to become Associate Justice of the Supreme Court; William Bradford Reynolds, Assistant Attorney General for the Civil Rights Division, to become Associate Attorney General; Benjamin Civiletti, nominated by President Carter to become Attorney General; Stephen Trott, nominated to become a judge in the Ninth Circuit; and then- Justice William Rehnquist, who was nominated by President Reagan to become Chief Justice—among others.

I did not get a chance to go to the gym this morning, but I guess I can almost get as much exercise in picking up and holding some examples of the memoranda that have been provided by both Republican and Democratic administrations in the past, the exact same type of memoranda to the Solicitor General, as well as other similar legal memoranda, that we now ask for on Mr. Estrada. So the real red herring is to assert that there is no precedent and to claim that no such documents have never been shared with the Senate Judiciary Committee in past nominations, and to say therefore that the Senate cannot examine such documents and that they will not accommodate the committee's request. Mr. Estrada has stated, and I admire his candor in doing this, that he is proud of his memoranda and has no personal objection to us seeing his memoranda and he has no objection to answering questions based on what he wrote. The administration, however, says: We object. That objection is based on a complete rewriting of the history of such requests and past cooperation and accommodation. They have refused to allow Mr. Estrada to answer many questions and they have refused to allow the Senate to look at his memoranda.

The Committee's request, however, is well within the practice of the Senate in prior administrations.

What does seem to be said by the administration is we cannot ask for this because we have not asked it in relation to every judicial nominee who has ever worked at the Department. Many who worked there and who were nominated did have lengthy careers or academic writings or had no controversy about being unable to set aside deeply held beliefs, unlike the stealth candidate before us. The administration also ignored the fact that when the Senate Judiciary Committee has requested memoranda written by nominees for term and lifetime appointments who worked at the Justice Department, past Justice Departments have accommodated past Congresses upon the request.

We get a lot of paperwork on nominees. Sometimes we ask for more and sometimes we ask for less, depending on the record before us. But when we have asked for it, everybody, except this administration, has allowed it and not stonewalled us. In fact, I have been here for 29 years and I do not know of a time when the Justice Department has taken such an uncooperative approach to a request for information relating to a nomination.

History shows the Senate does not always seek information it has the power to seek. We could ask for a whole lot of things that would be relevant to entrusting a person with a lifetime appointment as a judge. Often we do not ask. Sometimes there does not seem to be a need for it because there is enough other information on the record.

But when the requests have been made, they have been honored by prior administrations that have followed a policy of accommodation in response to a request from a co-equal branch of the Government for relevant information related to constitutional responsibilities, especially related to nominations.

This administration has not taken this position. Instead, they seem to be saying: We know what is there, just trust us. Rubberstamp what we send up to you. Don't ask any questions. Be quiet little boys and girls, just approve our lifetime judges and leave us alone.

The irony with all this is that they don't want to show us this material so we could make an objective analysis and not look to second hand evaluations, but they are perfectly willing to go to some of these files and take out selective pieces and give them to the supporters of the nominee and give them to the press or leak them to the press. They want to have it both ways. They are more than happy to use anything from a confidential Government file they think will help them, but they don't want to disclose the entire record because they don't want to have it in context because then the truth may hurt.

If this is how the administration and Department of Justice approach our shared constitutional responsibility for the appointment to high office, how are we to have confidence in them in their other representations about so many things critical to how our Government functions and how they exercise the enormous power entrusted to them as a function of the public office they occupy? How are we to accept it when they say, We don't want to talk about this but trust us? Yet when we ask questions about things we legitimately believe could be looked at—nothing classified, nothing confidential—they say they still don't want to show us that.

We talked about the performance evaluation. The administration and Republican supporters of Mr. Estrada have sought to exploit his performance evaluation.

Let's go to the whole story on that. They keep saying Professor Bender gave the highest evaluation to Mr. Estrada when he was at the Department of Justice. They claim that is all you need to know. They say we can't give you anything else in the file, but we will show you this one thing.

Well, this is not quite the whole story. There is a letter received from Professor Bender this week. It was sent to Senator HATCH and the members of the committee. I assumed, since Senator HATCH had been putting so much in the RECORD, he would probably put this in. He somehow didn't.

This is what Professor Bender's letter says in part. I would like to have the entire letter printed. He says:

It has come to my attention that, in responding to statements I made to the press several months ago regarding the Estrada nomination, you [Senator HATCH] have said, both to the Judiciary Committee and to the full Senate, (1) that I have since changed my opinion about the nomination, and (2) that performance evaluations of Mr. Estrada's work that I signed in 1995 and 1996, when I was Principal Deputy Solicitor General, are inconsistent with the views about the nomination that I gave to the press. I am writing this to correct those statements of yours.

No. 1. I have not changed my opinion of the nomination—

That is, the adverse opinion he had, in which he opposed the nomination of Mr. Estrada.

He said:

I have not changed my opinion of the nomination, nor have I ever said to anyone that I had changed my opinion. . . . I have not changed that opinion in any respect.

This is dated February 10, 2003. He can't be any more specific than that. He was opposed to his nomination before. He is opposed to his nomination since.

Then he says, speaking of the performance evaluations of Mr. Estrada, these:

. . . are not inconsistent with my published statements [of opposition to him.] To the best of my recollection, it was the policy of the Solicitor General's Office at the time to give every Assistant to the Solicitor General exactly the same performance evaluation.

These things could have been printed up a month before.

The language in the Performance Achievements portions of Mr. Estrada's evaluations was not written by me, nor did I fill out the Employee Appraisal Record form.

Then he goes on to say:

I believe that the Solicitor General's Office had the policy of giving each of the Assistants exactly the same Excellent rating each year.

And he stated why? Of course. It paid them the highest salaries permitted by the Government. Everybody they hired had those highest salaries. To keep the highest salaries, they had to have the excellent rating.

I ask unanimous consent to have the letter printed in the RECORD.

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

ARIZONA STATE UNIVERSITY,
Tempe, AZ, February 10, 2003.

Renomination of Miguel A. Estrada to the United States Court of Appeals for the District of Columbia Circuit.

Hon. ORRIN HATCH,
U.S. Senate,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR HATCH: It has come to my attention that, in responding to statements I made to the press several months ago regarding the Estrada nomination, you have said, both to the Judiciary Committee and to the full Senate, (1) that I have since changed my opinion about the nomination, and (2) that performance evaluations of Mr. Estrada's work that I signed in 1995 and 1996, when I was Principal Deputy Solicitor General, are inconsistent with the views about the nomination that I gave to the press. I am writing this to correct those statements of yours.

1. I have not changed my opinion of the nomination, nor have I ever said to anyone that I had changed my opinion. Someone must have inadvertently given you incorrect information about this. When asked by reporters what I thought of the nomination when it was first made (I assume I was asked because I have been one of Mr. Estrada's supervisors in the Solicitor General's Office), I stated my honest opinion, to the best of my ability. I have not changed that opinion in any respect.

I have declined to keep stating the same views to the press, over and over again, because I am not engaged in, and do not wish to seem to be engaged in, any kind of campaign or crusade against Mr. Estrada. I did not volunteer my negative comments to anyone, either in the press, the government, or elsewhere. I was asked my opinion and I gave it. Having done so, I did not see any reason to keep repeating it to reporters who called. My opinion has not changed.

2. The ''Excellent'' performance evaluations of Mr. Estrada that I signed in 1995 and 1996 are not inconsistent with my published statements about the nomination. To the best of my recollection, it was the policy of the Solicitor General's Office at the time to give every Assistant to the Solicitor General exactly the same performance evaluation. The language in the Performance Achievements portions of Mr. Estrada's evaluations was not written by me, nor did I fill out the Employee Appraisal Record form. You will notice, in examining the Performance Appraisal Record form, that the language in the Performance Achievements portion was taken, word for word, from the printed Performance Standards that precede each part of the evaluation form. As far as I can remember, an administrator in the Solicitor General's Office prepared identical ''Excellent'' evaluations for each Assistant each year, taking the language directly from the printed performance standards. I do not think this practice is an unusual one in the government.

When these filled-out-forms came across my desk, I believe that I asked the Solicitor General what to do with them, and that he asked me to sign them, as written, as the Rating Official. I did as he requested. He then signed them as the Reviewing Official. No actual individual written evaluation was done by me—or, so far as I know, by anyone else—in connection with these evaluations for any Assistant to the Solicitor General. They were boilerplate.

I believe that the Solicitor General's Office had the policy of giving each of the Assistants exactly the same Excellent rating each year because it hired only the most highly qualified lawyers and it paid them the highest salaries permitted by the government. ''Excellent'' ratings were necessary to justify these salaries. I signed the already filled-out Performance Evaluation forms, as they were give to me, as part of that policy.

Since my views seem to be relevant to the Senate's consideration of the nomination, I would appreciate it if you would share this information with your colleagues who are considering the nomination. I thank you in advance for this consideration.

Sincerely,

PAUL BENDER,
Professor of Law.

Mr. LEAHY. Mr. President, I am doing that because Professor Bender asked that this be made known to the Senate, especially as he has been quoted as having changed his mind. He still opposes Mr. Estrada. I will quote him again. He says:

I have not changed my opinion of the nomination, nor have I ever said to anyone that I had changed my opinion.

He makes it very clear that he feels he has been misquoted on the Senate floor. He may feel it was done inadvertently. He said, ''Someone must have inadvertently given you incorrect information about this,'' making it very clear that he was misquoted.

I know what he means. It is easy to get misquoted around here. Earlier this week a Republican Senator misquoted me in the Senate Chamber. The Senator who purported to quote my words certainly could not have known that he was quoting me incorrectly. I can't believe—I would be shocked to think somebody would come here and quote me out of context or incorrectly to make a partisan point. I would be as shocked as Claude Raines was in ''Casablanca.''

So people understand, the statement I did make on June 18, 1998, was to protest the anonymous Republican hold in the consideration of the judicial nomination of Judge Sonia Sotomayor. The nomination of Judge Sonia Sotomayor was held up, as I have stated before, for months and months and months by anonymous holds. She had been nominated by President Clinton to the Second Circuit Court of Appeals. I believe she was the very first Hispanic woman to go to that court of appeals. Everybody assumed her to be a slam dunk. She had been originally appointed by President George H.W. Bush to the district court. But Republicans allowed anonymous holds and nobody on the Republican side would say who was holding her up, but they held her up.

I am saying I would never do this to a judge. What I said was I would refuse to put an anonymous hold on any judge. I never have put an anonymous hold on a judge. If I wanted to delay for whatever reason a nomination, I state it on the floor as I am doing now, in the light of day, not the cloak of secrecy.

The portion of my speech about anonymous holds—like some speeches I made in the years 1996, 1997, 1998, 1999, and 2000—were not heard on the other side of the aisle. That is probably why they now misquote it. I am sure it is an inadvertent misquote. I think it is because they didn't hear it. They certainly didn't hear it at the time because they continue to use the ''anonymous holds.'' It is a practice I put an end to when I was chairman of the Judiciary Committee. But when Republicans controlled the Senate in years past they held up scores of judicial nominees of President Clinton, and never allowed them to come to a vote by ''anonymous holds'' of a single Republican Senator or more than one.

I am not surprised that they misquote me on the floor, because they didn't hear my speech at that time. In this case, people should understand what was happening.

Judge Sonia Sotomayor's nomination was delayed by anonymous Republican holds and was on the Senate calendar for months and months. She was favorably reported by the Judiciary Committee in early March of 1998. But then

her nomination was stalled without explanation or accountability on the calendar without Senate action. Even after I made my speech criticizing anonymous holds and stating that I would never put on such an anonymous hold, her nomination continued to be delayed for several more months to the very end of the session of Congress. It was actually delayed, I think, for 7 months. When it finally came up, 29 Republican Senators voted against confirmation of Judge Sonia Sotomayor for the Second Circuit.

I went back and checked the CONGRESSIONAL RECORD. They are not required to, of course, but you would think after voting against a judge, or having anonymous holds on a judge for a long period, there would be at least one or two words in the CONGRESSIONAL RECORD explaining why this was done. They don't have any requirement to do that, but I think it would have been nice. If they carry out an anonymous hold like that for all of those months, you might say, Why?

I mention this because there seems to be a lot being overlooked. When that same Republican Senator quoted part of a colloquy between me and the then-majority leader, TRENT LOTT, I suspect that he did not really recall the discussion, or he would not have had it so wrong here on the floor.

I will read again what Senator LOTT, the Republican leader, said at that time:

> [T]here are not a lot of people saying: Give us more Federal judges. They just are not. For us to be pontificating about this and gnashing, how unfair, this appointment of more Federal judges, It is just not there. . . . Some people might argue that we have plenty of Federal judges to do the job. I hope they will do that. I am saying to you, I am trying . . . but getting more Federal judges is not what I came here to do.

The distinguished Presiding Officer was not in the Senate at that time. But he may recall Justice Ronnie White came from his State.

The nomination of Ted Stewart to the District Court in Utah was also very controversial. A lot of the so-called ''liberal groups'' the distinguished chairman is fond of excoriating around here opposed Mr. Stewart. A lot of the same groups the distinguished senior Senator from Utah implies control things around here opposed Mr. Stewart.

I voted for Mr. Stewart. I was one of those Democrats who should not be lumped together. In fact, a whole lot of Democratic Senators voted for Mr. Stewart, even though he was strongly opposed by groups that are normally aligned with Democratic interests, especially those who support a clean environment in this country.

Then there was, of course, the nomination of Justice Ronnie White. He also was supported by every Democratic Senator. And every single Republican, including those who had voted for Ronnie White in committee, came down on the floor and voted against him.

I do not recall anything like that ever happening on the Senate floor.

His nomination was rejected by a party-line vote of Republics—it was quite unusual to vote down a district court nominee, especially one who had been voted out by the Judiciary Committee. Some of the same Republicans who voted for him before the committee voted against him on this floor. This superb African American jurist was humiliated and defeated.

It took several more months of hard work to obtain votes on the nomination of Judge Paez and Marsha Berzon.

Again, these anonymous Republican holds held them up until March of the following year 2000.

Again, as I said, I will always oppose such anonymous holds.

Even then, after obtaining a vote of Judge Paez's nomination to the circuit court involving overcoming several procedural hurdles and several votes before we were finally able, after more than 4 years of trying—4 years it sat here—this distinguished Hispanic jurist finally got a vote. Then 39 Republicans voted against the nomination, including a number of Republican Senators who were involved in yesterday's debate saying it would be a terrible and unique precedent if we don't immediately vote for a Hispanic who is nominated to the court of appeals, in this case, Mr. Estrada.

They were perfectly willing to block floor votes for years before. I am not sure what the difference is. They both have supporters.

I do recall the difference now. One was appointed by a Democratic President and one by a Republican President. Like I said, that seems to be all the difference in the world.

In the debate, my Republican colleagues speak of the weight of the letter from the former Solicitors General and Acting Solicitor General. They say this is definitive and assert that the Senate has no right to ask these questions.

Immediately, the independent 100 Members of the Senate say, My gosh. These guys who held these important staff positions at the Department of Justice are telling us we can't ask questions; that we should immediately run for cover, and say, of course, we will not ask questions.

I don't quite read the Constitution that way.

In fact, I frankly didn't get elected to the Senate and take my oath of office and decide at that point I will vote or take actions based upon what somebody who worked for the Attorney General tells me to do or not do as a Senator. I don't care which attorney general it might have been, Republican or Democrat. It is not in the cards.

But I was concerned. I know of these former Solicitors General from both Republican and Democratic administrations. For many of them, I was impressed with their legal abilities. So I am struck with their letter's ignorance of the precedents. I do not know who wrote the letter, but one of the people who signed it was Robert Bork. But I doubt he wrote it because his own nomination provides some of the strongest precedent for the requests we are making.

I do not fault them for seeking to maximize the secrecy of executive branch memoranda and deliberations, although I am surprised they are willing to do that at a time when we have the most secretive administration I have ever known out of the six administrations—I came here right after the Nixon administration, so I cannot speak for the Nixon administration. But this administration is certainly far more secretive than the other ones I have served with before: the Ford, the Carter, the Reagan, the first Bush, and the Clinton administrations.

This letter states a policy preference and has been misinterpreted by some as a statement of law, or privileged, which it is not. I want to emphasize that. They state what they think the policy should be. They do not state what the law should be. Therein lies an enormous difference. They are not writing this based on their legal knowledge, saying this is the law. They are saying: This is what we think the policy should be.

Well, I have always felt, on these kinds of issues, Senators should make that policy. Especially we should make the policy of what we are going to ask for in confirmation hearings. That was done at the time of our nation's first leader, President George Washington in cooperation with the Senate. I would note that in 1795, four years after the Constitution was adopted, the Senate defeated one of the judicial nominations of President Washington, that of John Rutledge and that vote was based on differences between many of the Senators and Justice Rutledge regarding ideas and policies. The Senate's consideration of judicial nominees and their views and approach to the law has been done by every Senate since.

It is especially difficult to understand, hearing the sudden urge on the other side of the aisle that: Oh, my gosh, we have to keep everything in the executive branch confidential. Well, Congress passed the Presidential Records Act to require the opposite, that memoranda and writings of advisors to the President be made public.

Additionally, I would not that some of the same Senators made demand after demand for internal documents of the Clinton administration over the last several years. They were asking for things that had never been asked for before, such as information related to on-going investigations. In fact, I think the Republican-led Senate spent tens of millions of dollars—tens of millions of dollars—of the taxpayers' money asking for document after document, many of which were probably were never read. I would be willing to bet some are still sitting in the envelopes they were transmitted in. And it was done almost every day: Let's think

of something else to ask for. And it was sent. And the taxpayers were paying for it.

Now, if you have something that is relevant to the core functions of the Senate, especially the confirmation function, then it is appropriate to ask for it. This is especially so for the only positions in our whole system of government that are for life—these judgeships are lifetime appointments. The Senate cannot amend these decisions, like a law, if we make a mistake.

The administration's assertion that the documents produced to the committee during the Bork nomination did not reveal internal deliberations is way off the mark—way off the mark. When they say this did not reveal internal deliberations, that is way off the mark. It is quite clear the Department provided the Senate with memoranda written to Mr. Bork by lower level attorneys, those who were in the exact same capacity as Mr. Estrada, making recommendations about appeals in a variety of cases.

For example, the Justice Department provided the Senate Judiciary Committee with memoranda related to the Justice Department's legal analysis of school integration cases, such as memoranda from Frank Easterbrook when he was an Assistant Solicitor General and Bork was Solicitor General. The Easterbrook legal memo and similar memos were shown as examples at Mr. Estrada's recent hearing as part of the large volume of legal memoranda provided by the Reagan Justice Department and examined by Senators and key staff.

Senator DODD, in an excellent speech, referred to some of these materials last night in debate. Not all of the information disclosed was previously placed in the Estrada hearing record, so I ask unanimous consent, Mr. President, to have printed in the RECORD a sample of the correspondence between Senator BIDEN, who was the then-chairman of the Judiciary Committee, and the Justice Department, which demonstrates the substantial cooperation and the types of disclosures the Justice Department made to accommodate the Senate in past administrations.

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

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AFFAIRS
Washington, DC, May 10, 1998.

Hon. JOSEPH R. BIDEN, Jr.,
Chairman, Senate Judiciary Committee, U.S. Senate, Washington, DC.

DEAR CHAIRMAN BIDEN: This letter requests that the Committee return to the Justice Department all copies of documents produced by the Department in response to Committee requests for records relating to the nomination of Robert Bork to the Supreme Court. As Assistant Attorney General John Bolton noted in an August 24, 1987, letter to you, many of the documents provided the Committee, ''reflect or disclose purely internal deliberations within the Executive Branch, the work product of attorneys in connection with government litigation or confidential legal advice received from or provided to client agencies within the Executive Branch.'' We provided these privileged documents to the Committee in order to respond fully to the Committee's request and to expedite the confirmation process.

Although the Committee's need for these documents has ceased, their privileged nature remains. As we emphasized in our August 24, 1987, letter, production of these documents to the Committee did not constitute a general waiver of claims of privilege. We therefore request that the Committee return all copies of all documents provided by the Department to the Committee, except documents that are clearly a matter of public record (e.g., briefs and judicial opinions) or that were specifically made a part of the record of the hearings.

Please contact me if you have any questions. Thank you for your cooperation.

Sincerely,

THOMAS M. BOYD,
Acting Assistant Attorney General.

U.S. DEPARTMENT OF JUSTICE, OFFICE OF LEGISLATIVE AND INTERGOVERNMENTAL AFFAIRS,
Washington, DC, September 2, 1987.

Hon. JOSEPH R. BIDEN, Jr.,
Chairman, Senate Judiciary Committee, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Attached is one set of copies of documents assembled by the Department in response to your August 10, 1987 request for documents relating to the nomination of Robert Bork to the Supreme Court of the United States, and provided in response to requests made to date by Committee staff. These documents are being provided under the conditions stated in my August 24, 1987 letter to you.

Sincerely,

JOHN R. BOLTON,
Assistant Attorney General.

Attachments.

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC, August 10, 1987.

Hon. EDWIN MEESE III,
Attorney General, Department of Justice, Washington, DC.

DEAR GENERAL MEESE: As part of its preparation for the hearings on the nomination of Judge Robert Bork to the Supreme Court, the Judiciary Committee needs to review certain material in the possession of the Justice Department and the Executive Office of the President.

Attached you will find a list of the documents that the Committee is requesting. Please provide the requested documents by August 24, 1987. If you have any questions about this request, please contact the Committee staff director, Diana Huffman, at 224–0747.

Thank you for your cooperation.

Sincerely,

JOSEPH R. BIDEN, Jr.,
Chairman.

REQUEST FOR DOCUMENTS REGARDING THE NOMINATION OF ROBERT H. BORK TO BE ASSOCIATE JUSTICE OF THE UNITED STATES SUPREME COURT

Please provide to the Committee in accordance with the attached guidelines the following documents in the possession, custody or control of the United States Department of Justice, the Executive Office of the President, or any agency, component or document depository of either (including but not limited to the Federal Bureau of Investigation):

1. All documents generated during the period from 1972 through 1974 and constituting, describing, referring or relating in whole or in part to Robert H. Bork and the so-called Watergate affair.

2. Without limiting the foregoing, all documents generated during the period from 1972 through 1974 and constituting, describing, referring or relating in whole or in part to any of the following:

a. any communications between Robert H. Bork and any person or entity relating in whole or in part to the Office of Watergate Special Prosecution Force or its predecessors- or successors-in-interest;

b. the dismissal of Archibald Cox as Special Prosecutor;

c. the abolition of the Office of Watergate Special Prosecution Force on or about October 23, 1973;

d. any efforts to define, narrow, limit or otherwise curtail the jurisdiction of the Office of Watergate Special Prosecution Force, or the investigative or prosecutorial activities thereof;

e. the decision to reestablish the Office of Watergate Special Prosecution Force in November 1973;

f. the designation of Mr. Leon Jaworski as Watergate Special Prosecutor;

g. the enforcement of the subpoena at issue in *Nixon* v. *Sirica*;

h. any communications on October 20, 1973 between Robert H. Bork and then-President Nixon, Alexander Haig, Leonard Garment, Fred Buzhardt, Elliot Richardson, or William Ruckelshaus;

l. any communications between Robert H. Bork and then-President Nixon, Alexander Haig and/or any other federal official or employee on the subject of Mr. Bork and a position or potential position as counsel to President Nixon with respect to the so-called Watergate matter;

m. any action, involvement or participation by Robert H. Bork with respect to any issue in the case of *Nader* v. *Bork*, 366 F. Supp. 104 (D.D.C. 1975), or the appeal thereof;

n. any communication between Robert H. Bork and then-President Nixon or any other federal official or employee, or between Mr. Bork and Professor Charles Black, concerning Executive Privilege, including but not limited to Professor Black's views on the President's ''right'' to confidentiality as expressed by Professor Black in a letter or article which appeared in the *New York Times* in 1973 (see Mr. Bork's testimony in the 1973 Senate Judiciary Committee hearings on the Special Prosecutor);

o. the stationing of FBI agents at the Office of Watergate, Special Prosecution Force on or about October 20, 1973, including but not limited to documents constituting, describing, referring or relating to any communication between Robert H. Bork, Alexander Haig, or any official or employee of the Office of the President or the Office of the Attorney General, on the one hand, and any official or employee of the FBI, on the other; and

p. the establishment of the Office of Watergate Special Prosecution Force, including but not limited to all documents constituting, describing, referring or relating in whole or in part to any assurances, representations, commitments or communications by any member of the Executive Branch or any agency thereof to any member of Congress regarding the independence or operation of the Office of Watergate Special Prosecution Force, or the circumstances under which the Special Prosecutor could be discharged.

3. The following documents together with any other documents referring or relating to them:

a. the memorandum to the Attorney General from then-Solicitor General Boark, dated August 21, 1973, and its attached ''redraft of the memorandum intended as a basis for discussion with Archie Cox'' concerning ''The Special Prosecutor's authority'' (typeset copies of which are printed at pages 287–288 of the Senate Judiciary Committee's 1973 ''Special Prosecutor'' hearings);

b. the letter addressed to Acting Attorney General Bork from then-President Nixon, dated October 20, 1973., directing him to discharge Archibald Cox;

c. the letter addressed to Archibald Cox from then-Acting Attorney General Bork, dated October 20, 1973, discharging Mr. Cox from his position as Special Prosecutor;

d. Order No. 546–73, dated October 23, 1973, signed by then-Acting Attorney General Bork, entitled ''Abolishment of Office of Watergate Special Prosecutor Force'';

e. Order No. 547–73, dated October 23, 1973, signed by then-Acting Attorney General Bork, entitled ''Additional Assignments of Functions and Designation of Officials to Perform the Duties of Certain Offices in Case of Vacancy, or Absence therein or in Case of Inability or Disqualification to Act'';

f. Order No. 551–73, dated November 2, 1973, signed by then-Acting Attorney General Bork, entitled ''Establishing the Office of Watergate Special Prosecution Force'';

g. the Appendix to Item 2.f., entitle ''Duties and Responsibilities of Special Prosecutor'';

h. Order No. 552–73, dated November 5, 1973, signed by then-Acting Attorney General Bork, designating ''Special Prosecutor Leon Jaworski the Director of the Office of Watergate Special Prosecution Force'';

i. Order No. 554–73, dated November 19, 1973, signed by then-Acting Attorney General Bork, entitled ''Amending the Regulations Establishing the Office of Watergate Special Prosecution Force''; and

j. the letter to Leon Jaworski, Special Prosecutor, from then-Acting Attorney General Bork, dated November 21, 1973, concerning Item 2.i.

4. All documents constituting, describing, referring or relating in whole or in part to any meetings, discussions and telephone conversations between Robert H. Bork and then-President Nixon, Alexander Haig or any other federal official or employee on the subject of Mr. Bork's being considered or nominated for appointment to the Supreme Court.

5. All documents generated from 1973 through 1977 and constituting, describing, referring or relating in whole or in part to Robert H. Bork and the constitutionality, appropriateness or use by the President of the United States of the ''Pocket Veto'' power set forth in Art. I, section 7, paragraph 2 of the United States Constitution, including but not limited to all documents constituting, describing, referring or relating in whole or in part to any of the following:

a. The decision not to petition for certiorari from the decision of the United States Court of Appeals for the District of Columbia Circuit in *Kennedy* v. *Sampson*, 511 F.2d 430 (1947);

b. the entry of the judgment in *Kennedy* v. *Jones*, 412 F. Supp. 353 (D.D.C. 1976); and

c. the policy regarding pocket vetoes publicly adopted by President Gerald R. Ford in April 1976.

6. All documents constituting, describing, referring or relating in whole or in part to Robert H. Bork and the incidents at issue in *United States* v. *Gray, Felt & Miller*, No. Cr. 78–00179 (D.D.C. 1978), including but not limited to all documents constituting, describing, referring or relating in whole or in part to any of the exhibits filed by counsel for Edward S. Miller in support of his contention that Mr. Bork was aware in 1973 of the incidents at issue.

7. All documents constituting, describing or referring to any speeches, talks, or informal or impromptu remarks given by Robert H. Bork on matters relating to constitutional law or public policy.

8. All documents constituting, describing, referring or relating in whole or in part either (i) to all criteria or standards used by President Reagan in selecting nominees to the Supreme Court, or (ii) to the application of those criteria to the nomination of Robert H. Bork to be Associate Justice of the Supreme Court.

9. All documents constituting, describing, referring or relating in whole or in part to Robert H. Bork and any study or consideration during the period 1969–1977 by the Executive Branch of the United States Government or any agency or component thereof of school desegregation remedies. (In addition to responsive documents from the entities identified in the beginning of this request, please provide any responsive documents in the possession, custody or control of the U.S. Department of Education or its predecessor agency, or any agency, component or document depository thereof.)

10. All documents constituting, describing, referring or relating in whole or in part to the participation of Solicitor General Robert H. Bork in the formulation of the position of the United States with respect to the following cases:

a. *Evans* v. *Wilmington School Board*, 423 U.S. 963 (1975), and 429 U.S. 973 (1976);

b. *McDonough* v. *Morgan*, 426 U.S. 935 (1976);

c. *Hills* v. *Gautreaux*, 425 U.S. 284 (1976);

d. *Pasadena City Board of Education* v. *Spangler*, 427 U.S. 424 (1976);

e. *Roemer* v. *Maryland Board of Public Education*, 426 U.S. 736 (1976);

f. *Hill* v. *Stone*, 421 U.S. 289 (1975); and

g. *DeFunis* v. *Odegaard*, 416 U.S. 312 (1975).

GUIDELINES

1. This request is continuing in character and if additional responsive documents come to your attention following the date of production, please provide such documents to the Committee promptly.

2. As used herein, ''document'' means the original (or an additional copy when an original is not available) and each distribution copy of writings or other graphic material, whether inscribed by hand or by mechanical, electronic, photographic or other means, including without limitation correspondence, memoranda, publications, articles, transcripts, diaries, telephone logs, message sheets, records, voice recordings, tapes, film, dictabelts and other data compilations from which information can be obtained. This request seeks production of all documents described, including all drafts and distribution copies, and contemplates production of responsive documents in their entirety, without abbreviation or expurgation.

3. In the event that any requested document has been destroyed or discarded or otherwise disposed of, please identify the document as completely as possible, including without limitation the date, author(s), addressee(s), recipient(s), title, and subject matter, and the reason for disposal of the document and the identity of all persons who authorized disposal of the document.

4. If a claim is made that any requested document will not be produced by reason of a privilege of any kind, describe each such document by date, author(s), addressee(s), recipient(s), title, and subject matter, and set forth the nature of the claimed privilege with respect to each document.

(Mr. TALENT assumed the Chair.)

Mr. LEAHY. I put that material in the RECORD because it stands in stark contrast to the total lack of cooperation by the current occupants of the Justice Department.

The administration, quite inappropriately, I believe, refuses the request of a coequal branch of Government. To quote a friend of mine, one who went to the same law school I did, at about the same time: We are not potted plants up here. The Senate has demonstrated its role in the confirmation of judges from the beginning of this country's history. After all, the Senate rejected some of President George Washington's and President Madison's judicial nominees. But let's go ahead with what has happened here. It makes me wonder if there is some kind of huge disconnect at the administration, or whether they are getting all their information based on some of the things that were wrongly stated on the Senate floor.

What happened first is, the administration claimed: We cannot send up this material, these memos of Mr. Estrada because we never provided internal legal memos in the past. Then, of course, we gave them evidence: Well, yes, previous administrations had. Then the administration says: Whoops, well, those were different. They are distinguishable. So then we show them evidence: No, it is exactly the same kind of memoranda. And they say: Prove that you received memos that contained confidential information written by attorneys. And they say, we are still not going to accommodate you. We are still not going to come forth. They, in essence, are saying we are still going to stonewall you and we will continue to deny that any precedent exists.

I am reminded of the famous story of President Lincoln's cross-examination in a case when he was a young lawyer. As the story goes, Lincoln was cross-examining a witness about how a man, who was far away from the scene of a fight, could have seen what happened. And it went something like this.

Lincoln said: Isn't it true that you were across the road from where the incident took place?

The answer was: Yes.

Then Lincoln said: Isn't it true that you are near-sighted?

The witness answered: Yes.

And then Lincoln said: Isn't it true that your view of the fight was blocked by trees?

The witness said: Yes.

So Lincoln said: Then, how can you sit there and testify under oath that the defendant bit Mr. Smith?

The witness answered: Because I saw the defendant spit Mr. Smith's ear out of his mouth.

In our case, subsequent to Mr. Estrada's hearing, we learned that most of the Bork appeal memos disclosed to the Senate were returned to the Department the year after the nomination. The proof is in a letter from Acting Assistant Attorney General Thomas Boyd to Chairman BIDEN in May 1988, which notes that:

> [M]any of the documents provided to the Committee, ''reflect or disclose purely internal deliberations within the Executive Branch, the work product of attorneys in connection with government litigation or confidential legal advice received from or provided to client agencies within the Executive Branch. We provided these privileged documents to the Committee in order to respond fully to the Committee's request and to expedite the confirmation process.''

Sound familiar? Well, the requests should be familiar. It is exactly what we requested last year. The difference is, during President Reagan's administration, they responded. During this administration, they say: There is no precedent for it.

So, frankly, this is the ''ear being spit out.'' The fact is, this letter ''spits out'' that the overly partisan current occupants of the Justice Department have sought to deny the Justice Department previously provided such documents. Mr. President, those denials are false.

Surely, a copy of this letter is also in the Justice Department's files. If we had been able to get this letter earlier, even by the time of Mr. Estrada's hearing, we would have put it in the RECORD. It is obvious why the Justice Department probably did not want us to have it. Because it conclusively demonstrates the precedent that documents like the ones written by Mr. Estrada were provided to the Senate Judiciary Committee in the past.

The Boyd letter conclusively demonstrates the precedent that documents like the ones written by Mr. Estrada were provided to the Senate Judiciary Committee in the past. It must now be admitted beyond dispute that, as the Justice Department acknowledged back then, ''the work product of attorneys in connection with government litigation or confidential legal advice'' was provided to the Senate in connection with past nominations.

I hope that the administration and its Republican supporters will finally quit denying the precedent for the request and provide us with Mr. Estrada's memoranda. Letters from the Justice Department itself finally conclusively establish the precedent for our request.

The longstanding policy of the Justice Department, until now, and the policy of prior administrations, including the Reagan and first Bush administrations, has been a practice of accommodation with the Senate in providing access to materials requested in connection with nominations. This administration would rather deny the truth and long-standing practices. At times it is as if this administration thinks it has a blank slate and a blank check notwithstanding tradition, history, precedent or the shared powers explicitly provided by our nation's Constitution.

There is part of a pattern of hostility by this administration to requests for information by Congress acting pursuant to powers granted to it by the Constitution, regarding nominees and other important oversight matters.

Yesterday, I joined with the distinguished Democratic Leader in a letter to the President setting forth background on the stonewalling of his administration that has occurred with respect to this nomination and urging him to take action to help resolve the impasse. I thank the Democratic Leader for taking this action and seeking accommodation between the two branches of our government. I have been seeking such accommodation for the last two years with respect to judicial nominations. I hope that we can now be more successful.

I would also note that the few court cases cited by the administration about the general desirability of confidentiality for government documents are dicta and not precedential or binding on the Senate.

One of the cases relied on by the administration is United States v. Nixon, 418 U.S. 683 (1974), in which the Supreme Court ordered President Nixon to disclose his Watergate-related tape recordings of Oval Office conversations with his closest personal and legal advisors. The Supreme Court also noted in the Nixon case that it is quite unlikely ''that advisors will be moved to temper the candor of their remarks by the infrequent occasions of disclosure.'' 418 U.S. at 712.

Just as the Supreme Court observed in the Nixon case, it seems unlikely that Mr. Estrada was chilled from expressing his views in his memos following the disclosure of memos written by attorneys at the Department in the decade prior to his service there in connection with the Trott, Bork, Rehnquist, and Reynolds nominations. Ironically, memoranda by Mr. Bork assessing President Nixon's authority to refuse to disclose information was one of documents provided to the Senate in connection with the Bork nomination.

Other cases cited by the Justice Department in its second letter are inapplicable to the Senate or pre-date the Nixon decision. For example, NLRB v. Sears, Roebuck & Co., 421 U.S. 132, 151 (1975), is a case brought under the Freedom of Information Act (FOIA) involving a statutory-based claim of deliberative process privilege under FOIA, not a request from the Congress. I wish this administration were more forthcoming in connection with FOIA requests, but this is not a FOIA request, nor does FOIA limit Congress' authority to seek information from the Executive Branch or its agencies. Indeed, 5 U.S.C. 552(d) expressly provides that FOIA ''is not authority to withhold information from Congress.''

During the course of this debate Republican Senators have also spoken as if these materials are somehow protected by an attorney-client privilege. First, I note that even the administration has not made that claim. The administration's refusal to cooperation is not based on any claim of a legal privilege, just recalcitrance. I believe I explained at Mr. Estrada's hearing some of the reasons a claim of attorney-client privilege would be misplaced. Until this week, only the Washington Post had gotten it wrong in asserting that privilege applies.

Unfortunately, Republican Senators are now taking up that chant. It is heartwarming to hear Republicans' devotion to concepts like the attorney-client privilege but it is that concept is inapplicable to the request for Mr. Estrada's writings.

As a legal matter, the Seventh, Eighth, and District of Columbia Circuits have ruled that government lawyers are not entitled to claim the attorney-client privilege.

Moreover, in this setting the ''client'' is the government of which the Congress is certainly a part.

This administration's own Assistant Attorney General for Legal Policy Viet Dinh flatly rejected the notion of such a privilege five years ago when he told Legal Times that a government lawyer's ''employer is not a single person but the United States of America.'' He said both the ''United States of America'' and the ''government'' obviously include the United States Senate, especially when it is fulfilling constitutional responsibilities. As conservative law professor Ronald Rotunda has noted, ''government lawyers work for the government, and not the particular individual whose offices happen to be down the hall.'' He added that ''the government cannot plead attorney-client privilege against itself.'' This is from the Legal Times of August 3, 1998.

The attorney-client privilege is designed to encourage candor by the client, not the attorney. For those who are not attorneys, I note that the attorney-client privilege is designed for litigation in courts between private parties. It is a judge-made doctrine based on policy considerations to foster an effective adversary legal system. I am a strong believer in our adversarial legal system and a strong supporter of the attorney-client privilege. It does not apply in these circumstances.

Finally, there is ample precedent that the attorney-client privilege does not apply to requests by Congress. As Senator Fred Thompson, who chaired one of the many Republican investigations into the Clinton Administration, noted: ''In case after case, the courts have concluded that allowing it [the attorney-client privilege] to be used against Congress would be an impediment to Congress' obligation and duty to get to the truth and carry out its investigative and oversight responsibilities.''

My good friend from Utah, Senator HATCH, has echoed that analysis. A few years ago, he observed: ''The attorney-client privilege exists as only a narrow exception to broad rules of disclosure. And the privilege exists only as a statutory creation, or by operation of State common law. No statute or Senate or House rule applies the attorney-client privilege to Congress. In fact, both the Senate and the House have explicitly refused to formally include the privilege in their rules.''

The Congressional Research Service has found that ''No court has ever questioned the assertion of that prerogative'' and noted that the privilege ''is not of constitutional dimensions, [and] is certainly not binding on the Congress of the United States.''

I regret that so many of our Republican colleagues have chosen to seek

comfort and concealment in a legal principle that has no application to this matter. I think that the confusion started with a Washington Post editorial that got this matter all wrong and reflects a lack of familiarity with the history of nominations and the Senate's long-standing view of the privilege. The Washington Post's editorials on these matters has been prone to err in a number of ways and they remain free to do so, but I am sorry so many were led astray on this and other matters.

This Administration's policy argument for absolute secrecy of these memoranda is undermined by other long-standing practices related to nominees. The Senate routinely receives confidential information about lifetime and term-appointed nominees by way of the FBI's background investigation of a nominee, which details their adult lives and many private matters. Thus, the Senate is not required to show a particularized need for such private information which has long been germane to a nominee's fitness for judicial office.

Moreover, the memos at issue do not involve national security. There are no state secrets in the documents Mr. Estrada has written requiring that they be sealed from congressional view forever. The memos do not relate to any on-going criminal investigation or to any matters that have not likely already been disposed of by the courts long ago. His writings are relevant to how he thinks, analyzes legal issues and makes judgement and, therefore, relevant to whether or not he should be confirmed to the second highest court in the country. Moreover, as Senator SCHUMER noted in his letter, anytime one of these memos is written, the writer must assume, and even hope, that his or her views will become the Department's official position. Thus, it is hard to believe the risk of disclosure on the remote chance that one might someday be selected for a judgeship would be chilling.

Further, as noted long ago by the Supreme Court in McGrain v. Daugherty, 273 U.S. 135 (1927), Congress has the power to inquire into the administration of the Department of Justice—whether its functions are being properly discharged or neglected or misdirected, and particularly whether the Attorney General and his assistants were performing or neglecting their duties. Even Montesquieu, the architect of separation of powers, stated that ''The legislature should have the means of examining in what manner its laws have been executed by public officials.'' In this case, whether Mr. Estrada was using his position as an Assistant Solicitor General to advance his personal political opinions or to defend faithfully the laws passed by Congress has been called into question.

In sum, there is ample historical precedent for the request made by the Senate Judiciary Committee. This Administration's refusal to cooperate obstructs Senators from fulfilling their role of giving meaningful advice regarding lifetime appointments and to give or withhold consent. The advice and consent responsibility that the Constitution entrusts to the Senate is demeaned if the Administration refuses to disclose information reasonably related to a nominee's fitness or integrity.

Public confidence in the fairness of the judiciary is eroded when the Administration hides pertinent information about a nominee sought by the Senate Judiciary Committee in seeking to fulfill its role related to the appointment power that the Constitution confers jointly on the Senate and the President. The advice and consent clause of the Constitution is part of the Constitution's checks and balances in the lifetime appointment of individuals to a co-equal third branch of the federal government, unaccountable to the normal democratic process. The public's representatives in the Senate should have an opportunity to examine the writings of Mr. Estrada in advance of entrusting him with a judicial role for life.

The influence of the courts over the lives of Americans demands that the Senate exercise its checking responsibility carefully and only after reviewing all relevant information.

I think it has to be admitted beyond dispute that, as the Justice Department acknowledged back then, ''the work product of attorneys in connection with government litigation or confidential legal advice'' was provided to the Senate in connection with past nominations. I hope the administration and their supporters here in the Senate will finally quit denying the precedent for the request and provide us with Mr. Estrada's memoranda. Letters from the Justice Department itself finally and conclusively establish the precedent for our request.

I ask unanimous consent that the letter, dated May 10, 1988, from Acting Assistant Attorney General Thomas Boyd be printed in the RECORD.

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

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, DC, May 10, 1988.

Hon. JOSEPH R. BIDEN, Jr.,
Chairman, Senate Judiciary Committee,
U.S. Senate, Washington, DC.

DEAR CHAIRMAN BIDEN: This letter requests that the Committee return to the Justice Department all copies of documents produced by the Department in response to Committee requests for records relating to the nomination of Robert Bork to the Supreme Court. As Assistant Attorney General John Bolton noted in an August 24, 1987, letter to you, many of the documents provided the Committee, ''reflect or disclose purely internal deliberations within the Executive Branch, the work product of attorneys in connection with government litigation or confidential legal advice received from or provided to client agencies within the Executive Branch.'' We provided these privileged documents to the Committee in order to respond fully to the Committee's request and to expedite the confirmation process.

Although the Committee's need for these documents has ceased, their privileged nature remains. As we emphasized in our August 24, 1987, letter, production of these documents to the Committee did not constitute a general waiver of claims of privilege. We therefore request that the Committee return all copies of all documents provided by the Department to the Committee, except documents that are clearly a matter of public record (e.g., briefs and judicial opinions) or that were specifically made a part of the record of the hearings.

Please contact me if you have any questions. Thank you for your cooperation.

Sincerely,

THOMAS M. BOYD,
Acting Assistant Attorney General.

Mr. LEAHY. It is interesting to note that after I wrote the Attorney General and Mr. Estrada in May 2002, when I requested Mr. Estrada's writings, the administration didn't respond immediately. If they really believed in their own precedent, they would have come back and said: Look, we have a precedent against it. I think they realized there really was no such precedent, and they were going to try to make one up. They took weeks to respond. They could have responded in a day because the precedent was so clear. Or if they simply wanted to say, well, maybe all other Presidents did it that way, we are not going to do it that way, they could have done that in just a matter of days. But instead, it makes you wonder, did they go back and read those memoranda and say: Whoops, we don't want these to go before the Senate, they are too revealing?

Whatever it is, Mr. Estrada himself says: As far as I am concerned, you can see them, and you can ask me questions about them.

The irony is, in all likelihood we would not be here today, having this long debate on the Estrada nomination, if he had simply done that. If the administration simply said: Look, Miguel Estrada is willing to have his memoranda before the Senate Judiciary Committee and then to answer questions about what he meant, we would not be here; we would not be in the circumstance where he is asked, over the last 40 or 50 years: Is there anything that you disagreed with that the Supreme Court said? During that time, the Supreme Court has overruled itself. No, nothing.

So we really have no idea what he thinks. They simply said: Look, we nominated somebody. We were not willing to allow the nominations to go forward when President Clinton nominated people here. We blocked them for year after year after year, but take ours on faith.

Again, to the folks who made up a slogan I kind of liked, ''Trust, but verify,'' we will trust but verify. As I said, we would not even be here today, we would not be having this debate today, if this had been done.

The longstanding policy of the Justice Department until now, the policy of prior administrations, including

Reagan and the first Bush administration, has been a practice of accommodation with the Senate in providing access to materials requested in connection with nominations. But this administration wants to deny the truth and longstanding practices. You would think they believe they have a blank slate and a blank check notwithstanding tradition, history, and precedent or the shared powers explicitly provided by our Nation's Constitution.

This goes beyond hubris. This goes to a sense of entitlement. It is a ''l'etat, c'est moi'' attitude on the part of the administration. It is saying: If we say it, it happens. If we want it, it is OK. It is almost like the little kid on the playground who says: I want this one, I want this one, I want this one, and I don't care what the playground rules are.

Well, this is a lot more than a playground. This is the U.S. Senate, a place I love and revere and a place steeped in constitutional history, steeped in constitutional prerogatives; but even more so, one where we are called upon day after day to protect the Constitution of the United States. I see a pattern of hostility by this administration to requests for information by Congress, even though Congress is actively pursuing the powers granted to it by the Constitution, regarding not only nominees but important oversight matters.

Yesterday, I joined with the distinguished Democratic leader in a letter to the President. We set forth the background of the stonewalling of this administration that has occurred with respect to this nomination. We urged them to take action to help resolve the impasse. I thank the Democratic leader for taking this action seeking accommodation between the two branches of our Government. I have been seeking such accommodation for the last 2 years with respect to judicial nominations. I hope we can be more successful.

I hope that now people will step back and say: Look, let's put this on a more even keel. Let's have real hearings, not assembly line type hearings. Let's carry out our constitutional responsibilities. Let's go forward. That is the way I thought it should be when I came to the Senate 29 years ago. That is the way I think it should be now. I think that is the way it could be. It is the way it was with both Republican and Democratic administrations.

I was not here at the time of the Nixon administration. I came shortly thereafter. I don't know if this kind of stonewalling is precedent or not. In my experience, I would not know that. But I know it was not during the administrations of President Ford, President Carter, President Reagan, the first President Bush, or President Clinton.

I ask unanimous consent that a copy of the letter Senator DASCHLE and I sent to the President on this matter, pointing out that the precedent for what we have asked for was shown in the nominations of Robert Bork, William Bradford Reynolds, Benjamin Civiletti, Stephen Trott, and William Rehnquist, be printed in the RECORD.

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

U.S. SENATE,
Washington, DC, February 11, 2003.

The PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: We are writing in reference to your nomination of Miguel Estrada to the U.S. Court of Appeals for the District of Columbia Circuit. Pursuant to the Constitution, the Senate is to act as a co-equal participant in the confirmation of judges to the Federal bench. Unlike nominations made by a President for Executive Branch appointments, judicial nominees are reviewed by the Senate for appointment to lifetime positions in the Judicial Branch.

The Senate has often requested and received supplemental documents when it is considering controversial nominations or when evaluating a candidate with a limited public record. The Chairman of the Senate Judiciary Committee wrote to your Administration on May 15, 2002 to request such supplemental documents to assist in Senate consideration of the Estrada nomination. In particular, the request was made for appeal recommendations, certiorari recommendations, and amicus recommendations that Mr. Estrada worked on while at the Department of Justice.

Prior Administrations have accommodated similar Senate requests for such documents. Such documents were provided during Senate consideration of the nominations of Robert H. Bork, William Bradford Reynolds, Benjamin Civiletti, Stephen Trott, and William H. Rehnquist.

Your Administration has refused to accommodate the Senate's request for documents in connection with the Estrada nomination. That refusal was a matter of inquiry at the confirmation hearing held on this nomination on September 26, 2002. Following the hearing, Senator Schumer wrote to the Attorney General on January 23, 2003, to follow up on the request.

In addition to requests for documents, Senators frequently question judicial nominees during their confirmation hearings to determine their judicial philosophy, views and temperament. For example, then-Senator John Ashcroft asked nominees: ''Which judge has served as a model for the way you would conduct yourself as a judge and why?'' Mr. Estrada refused to answer a similar question.

During consideration of President Clinton's judicial nominees, Republican Senators asked repeated questions regarding nominees' judicial philosophy, views on legal matters, and approaches to interpreting the Constitution. They insisted on and received answers. During his consideration before the Senate Judiciary Committee, Mr. Estrada failed to answer these kinds of questions. These questions have not only been routinely asked by the Senate, they have been routinely answered by other nominees—including other nominees from your Administration.

For the Senate to make an informed decision about Mr. Estrada's nomination, it is essential that we receive the information requested and answers to these basic legal questions. Specifically we ask:

1. that you instruct the Department of Justice to accommodate the requests for documents immediately so that the hearing process can be completed and the Senate can have a more complete record on which to consider this nomination; and

2. that Mr. Estrada answer the questions that he refused to answer during his Judiciary Committee hearing to allow for a credible review of his judicial philosophy and legal views.

We would appreciate your personal attention to this matter.

Sincerely,

TOM DASCHLE.
PATRICK LEAHY.

Mr. LEAHY. Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. COLEMAN). The Senator from Utah.

Mr. HATCH. Mr. President, I have been listening to this day after day after day. It is clear this is a game. It is a bad game. If they don't like the answers Mr. Estrada has given, vote against him. That is the remedy here. Don't filibuster. Don't explode this body into always having filibusters on any judge who may be controversial on one side or the other. Vote against him. Talk against him, like we have had plenty of. Then you have an absolute right to vote against him if you want to.

Now, let me go back through some of the things we were talking about. On May 15, 2002, Senator LEAHY sent the following letter to Attorney General Ashcroft:

In connection with the nomination of Miguel Estrada to the United States Court of Appeals for the D.C. Circuit, I write to request that the Department of Justice send to the Judiciary Committee appeal recommendations, certiorari recommendations, and amicus recommendations Mr. Estrada worked on while at the Department of Justice. This should assist the Committee in considering this nomination.

On June 5, in a letter from the Department of Justice, they answered the then-Chairman LEAHY'S letter:

Dear Mr. Chairman:

This is in response to your letter dated May 15, 2002, requesting appeal recommendations, certiorari recommendations, and amicus recommendations that Miguel Estrada worked on when he was employed at the Department of Justice.

The categories of documents you have requested are among the most highly privileged and deliberative documents generated within the Department of Justice. The Solicitor General must have the benefit of candid and confidential advice in order to discharge his critical responsibility of deciding what appeals the Government will take and what positions the Government will adopt in pending litigation. Attorneys like Mr. Estrada who serve as Assistants to the Solicitor General are asked to render candid, unbiased, and professional advice about the merits of potential appeals.

They do so by preparing exactly the kinds of recommendation memoranda you have requested. These documents review the substantive legal issues in a case, the broader jurisprudential implications of the case, policy considerations, the strength of the factual record, and the overall likelihood of success on appeal.

If highly privileged and deliberative documents of this kind are not shielded from disclosure, the Department will face the grave danger that Assistants to the Solicitor General, and others in comparable positions, will be chilled in the future from providing the candid and independent analysis that is essential to high-level decisionmaking. As the unanimous Supreme Court recognized: ''Human experience teaches that those who

expect public dissemination of their remarks may well temper candor with a concern for appearances and for their own interests to the detriment of the decisionmaking process.'' United States v. Nixon, 418 U.S. 683, 705 (1974). The Court observed that ''the importance of this confidentiality is too plain to require further discussion.'' Simply put, the Department cannot function properly if our attorneys write these kinds of documents with one eye focused on the effect that their words, if made public, might have on their qualification for future office.

For these reasons, the Department has a longstanding policy—which has endured across administrations of both parties—of declining to release publicly or make available to Congress the kinds of documents you have requested.

We trust that you will appreciate the important institutional interests that lead us to decline your request. In our judgment, the Committee has had ample time and alternative means for obtaining assessments of how Mr. Estrada's performance as an Assistant to the Solicitor General bears on the merits of his nomination. In particular, you have been free to inquire of the Solicitors General under whom Mr. Estrada served their views as to his qualifications for the position to which he has been nominated.

On January 25, 2002, you promised a Committee hearing for Mr. Estrada this year. So that the Committee can meet our commitment, we would request that you contact me or Judge Gonzales as soon as possible to discuss this matter if you have any questions or concerns.

That is the letter from the Justice Department in response to the letter Senator LEAHY sent on May 15. Apparently, at the hearing this issue was raised again, and the Department of Justice responded to Chairman LEAHY again on October 8, 2002:

Dear Mr. Chairman:

During the hearing on September 26, 2002, on the nomination of Miguel A. Estrada to the U.S. Court of Appeals for the District of Columbia Circuit, you and Senator Schumer restated your request that the Department of Justice disclose certain confidential and privileged appeal, certiorari, and amicus memoranda that Mr. Estrada authored when he was a career lawyer in the Office of the Solicitor General.

As we indicated in our letter of June 5, 2002, we must respectfully decline your request. The relevant historical, policy, and legal considerations implicated by your request demonstrate that disclosure of these memoranda from the Office of the Solicitor General would undermine the integrity of the decisionmaking process in that Office.

The Committee's request threatens the proper functioning of the Office of the Solicitor General. Indeed, all seven living former Solicitors General—from Archibald Cox to Seth P. Waxman—have written to the Committee and explained that the Committee's broad and unprecedented request would have a debilitating effect on the ability of the United States to represent itself in litigation. Their letter explained that, as Solicitors General, their ''decisionmaking process required the unbridled, open exchange of ideas—an exchange that simply cannot take place if attorneys have reason to fear that their private recommendations are not private at all, but vulnerable to public disclosure.''

That letter is quite detailed, Mr. President. It goes on to make this case as persuasively as it can, and it gives a number of charts that make the case as well, all to no avail, apparently, because our colleagues think this is a good issue to stop and stymie this Hispanic nominee.

Now, that was October 8. Not until after we noticed the markup for Mr. Estrada on January 23, 2003, did Senator SCHUMER write to the Honorable John Ashcroft at the Attorney General's Office, again requesting these matters. And then the Department of Justice responded immediately. We received it on January 23. Jamie E. Brown, Acting Assistant Attorney General, explained that they cannot do this. I have been informed that never have they given up appeal recommendations, amicus recommendations, and certiorari recommendations.

I ask unanimous consent that these letters be printed in the RECORD in that order.

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

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, DC, June 5, 2002.

Hon. PATRICK J. LEAHY,
Chairman, Committee on the Judiciary,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: This responds to your letter dated May 15, 2002, requesting appeal recommendations, certiorari recommendations, and amicus recommendations that Miguel Estrada worked on when he was employed at the Department of Justice.

The categories of documents that you have requested are among the most highly privileged and deliberative documents generated within the Department of Justice. The Solicitor General must have the benefit of candid and confidential advice in order to discharge his critical responsibility of deciding what appeals the Government will take and what positions the Government will adopt in pending litigation. Attorneys like Mr. Estrada who serve as Assistants to the Solicitor General are asked to render candid, unbiased, and professional advice about the merits of potential appeals. They do so by preparing exactly the kinds of recommendation memoranda that you have requested. These documents review the substantive legal issues in a case, the broader jurisprudential implications of the case, policy considerations, the strength of the factual record, and the overall likelihood of success of appeal.

If highly privileged and deliberative documents of this kind are not shielded from disclosure, the Department will face the grave danger that Assistants to the Solicitor General, and others in comparable positions, will be chilled in the future from providing the candid and independent analysis that is essential to high-level decisionmaking. As the unanimous Supreme Court recognized: ''Human experience teaches that those who expect public dissemination of their remarks may well temper candor with a concern for appearances and for their own interests to the detriment of the decisionmaking process.'' *United States* v. *Nixon*, 418 U.S. 683, 705 (1974). The Court observed that ''the importance of this confidentiality is too plain to require further discussion.'' *Id.* Simply put, the Department cannot function properly if our attorneys write these kinds of documents with one eye focused on the effect that their words, if made public, might have on their qualification for future office.

For these reasons, the Department has a longstanding policy—which has endured across Administrations of both parties—of declining to release publicly or make available to Congress the kinds of documents you have requested.

We trust that you will appreciate the important institutional interests that lead us to decline your request. In our judgment, the Committee has had ample time and alternative means for obtaining assessments of how Mr. Estrada's performance as an Assistant to the Solicitor General bears on the merits of his nomination. In particular, you have been free to inquire the Solicitors General under whom Mr. Estrada served their views as to his qualifications for the position to which he has been nominated.

On January 25, 2002, you promised a Committee hearing for Mr. Estrada this year. So that the Committee can meet your commitment, we would request that you contact me or Judge Gonzales, as soon as possible to discuss this matter if you have any questions or concerns.

Sincerely,

DANIEL J. BRYANT,
Assistant Attorney General.

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, DC, October 8, 2002.

Hon. PATRICK J. LEAHY,
Chairman, Committee on the Judiciary,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: During the hearing on September 26, 2002, on the nomination of Miguel A. Estrada to the United States Court of Appeals for the District of Columbia Circuit, you and Senator Schumer restated your request that the Department of Justice disclose certain confidential and privileged appeal, certiorari, and amicus memoranda that Mr. Estrada authored when he was a career lawyer in the Office of the Solicitor General.

As we indicated in our letter of June 5, 2002, we must respectfully decline your request. The relevant historical, policy, and legal considerations implicated by your request demonstrate that disclosure of these memoranda from the Office of the Solicitor General would undermine the integrity of the decisionmaking process in that Office.

The Committee's request threatens the proper functioning of the Office of the Solicitor General. Indeed, all seven living former Solicitors General—from Archibald Cox to Seth P. Waxman—have written to the Committee and explained that the Committee's broad and unprecedented request would have a debilitating effect on the ability of the United States to represent itself in litigation. Their letter explained that, as Solicitors General, their ''decisionmaking process required the unbridled, open exchange of ideas—an exchange that simply cannot take place if attorneys have reason to fear that their private recommendations are not private at all, but vulnerable to public disclosure.'' Thus, ''[a]ny attempt to intrude into the Office's highly privileged deliberations would come at the cost of the Solicitor General's ability to defend vigorously the United States' litigation interests—a cost that also would be borne by Congress itself.''

Longstanding historical Senate practice reinforces the position of the former Solicitors General that confidential, deliberative documents from the Office of Solicitor General have been, and should remain, confidential during confirmation hearings. As the attached charts demonstrate, since the beginning of the Carter Administration in 1977, the Senate has approved 67 United States Court of Appeals nominees who previously had worked in the Department of Justice. Those 67 nominees—of whom 38 had no prior judicial experience—include eight former lawyers with the Office of the Solicitor General. Our review of each of these 67 nominees' hearing records establishes that in none of

these cases did the Department of Justice produce internal deliberative materials created by the nominee while a Department lawyer. In fact, we could find no nominee for whom the Senate Judiciary Committee even requested that the Department produce such materials. The Committee's request with respect to Mr. Estrada therefore is unprecedented.

Of particular relevance are the appellate-court nominees who previously had been Assistants to the Solicitor General or Deputy Solicitors General, and had not served as judges as the time of their nomination—the same position Mr. Estrada occupies now. The nominees, nominated by Presidents of both political parties and confirmed by Senates controlled by both political parties, are:

Samuel A. Alito Jr. (Assistant to the Solicitor General, 1981–85; confirmed to the Third Circuit, 1990);

Danny J. Boggs (Assistant to the Solicitor General, 1973–75; confirmed to the Sixth Circuit, 1986);

William C. Bryson (Assistant to the Solicitor General, 1978–79; Deputy Solicitor General, 1986–94; confirmed to the Federal Circuit, 1994);

Frank H. Easterbrook (Assistant to the Solicitor General, 1974–77; Deputy Solicitor General, 1978–79; confirmed to the Seventh Circuit, 1985);

Daniel M. Friedman (Assistant to the Solicitor General, 1959–68; Deputy Solicitor General, 1968–78; confirmed to the appellate division of the Court of Claims (later the Federal Circuit), 1982);

Richard A. Posner (Assistant to the Solicitor General, 1965–67; confirmed to the Seventh Circuit, 1981); and

A. Raymond Randolph (Deputy Solicitor General, 1975–77; confirmed to the D.C. Circuit, 1990).

In none of these cases did the Department of Justice provide to the Committee the nominees' appeal, certiorari, or amicus recommendations. And in none of these cases did the Committee request that the Department do so.

The policy considerations implicated by the Committee's request underscore the strength of the Department's position and demonstrate that previous Senate Judiciary Committees have recognized the essential, long-term interest of the United States in protecting the integrity of such memoranda. The need to ensure the integrity of the process by which the Solicitor General makes litigation decisions for the United States is extraordinarily important. As the former Solicitors General explained, the interest in receiving honest, candid assessments of possible litigation positions, agency interests, and Supreme Court opinions would be severely compromised by disclosure in this context. It is important to add, furthermore, that memoranda written by Assistants to the Solicitor General present legal arguments supporting the litigation position of the United States, not their personal views. These memoranda seek to determine the legal arguments that are appropriate in government briefs, not the legal or policy preferences of their author.

Furthermore, the committee's need to assess a nominee's performance, intellect, and integrity can be accommodated in ways other than introducing into the deliberative process of the Office of the Solicitor General. For example, the Committee can review the nominee's written briefs and oral arguments, consider the opinions of others who served in the Office at the same time, and examine the nominee's written performance reviews. In Mr. Estrada's case, for example, there is a substantial body of information about his tenure in the Office of the solicitor General. Former Solicitor General Seth Waxman, who supervised Mr. Estrada, has written to the Committee in support of his nomination. Mr. Waxman wrote: ''During the time Mr. Estrada and I worked together, he was a model of professionalism and competence. In no way did I ever discern that the recommendations Mr. Estrada made or the analyses he propounded were colored in any way by his personal views—or indeed that they reflected anything other than the long-term interests of the United States.''

Moreover, 14 of Mr. Estrada's former colleagues in the Office of the Solicitor General have written the Committee to emphasize his ability, collegiality, and integrity: ''We also know Miguel to be a delightful and charming colleague, someone who can engage in open, honest, and respectful discussion of legal issues with others, regardless of their ideological perspectives. Based on our experience as his colleagues in the Solicitor General's office, we are confident that he possesses the temperament, character, and qualities of fairness and respect necessary to be an exemplary judge. In combination, Miguel's exceptional legal ability and talent, his character and integrity, and his deep and varied experience as a public servant and in private practice make him an excellent candidate for service on the federal bench.''

Finally, Mr. Estrada has sent the Judiciary Committee copies of his performance evaluations from his tenure in the Office. These documents indicate that Mr. Estrada's supervisors gave him ratings of ''outstanding''—the highest possible score—in every category for every evaluation period.

It bears emphasis that the long-standing historical practice, policy considerations and views of the former Solicitors General are fully supported by applicable legal principles. At the outset, it is important to note that the memoranda sought by the Committee are indisputably within the scope of the deliberative process, attorney-client, and attorney working-product privileges. The Supreme Court has recognized ''the valid need for protection of communications between high Government officials and those who advise and assist them in the performance of their manifold duties.'' *Houchins* v. *KQED*, 438 U.S. 1, 35 n.27 (1978). Indeed, the Court has explained that ''the importance of this confidentiality is too plain to require further discussion. Human experience teaches that those who expect public dissemination of their remarks may well temper candor with a concern for appearances and for their own interests to the detriment of the decisionmaking process.'' Id. (internal quotation omitted). The deliberative process privileges's ultimate purpose is to prevent injury to the quality of agency decisions by allowing government officials freedom to debate alternative approaches in private. *NLRB* v. *Sears, Roebuck & Co.*, 421 U.S. 132, 151 (1975). Based on these principles, courts have long recognized the Executive Branch's authority to protect the integrity of documents and other materials which would reveal advisory opinions, recommendations and deliberations comprising part of a process by which governmental decisions and policies are formulated. *See In re Sealed Case*, 121 F.3d 729, 737 (D.C. Cir. 1997).

As a matter of law and tradition, these privileges can be overcome only when Congress establishes a ''demonstrably critical'' need for the requested information. *Senate Select Committee on Presidential Campaign Activities* v. *Nixon*, 498 F.2d 725, 731 (D.C. Cir. 1974) (en banc). It is insufficient for the requested material merely to ''have some arguable relevance'' to appropriate Congressional function. Id. at 733. In assessing whether Congress' possesses a ''demonstrably critical'' need for the material in question, one crucial consideration is whether Congress can obtain reasonably equivalent information from alternative sources that would satisfy its legitimate needs. In this instance, we again note that the Committee has full access to Mr. Estrada's briefs and oral arguments, to the information provided by Mr. Waxman, to the letter from former colleagues in the Solicitor General's office, and to his performance reviews. The Committee also is free to contact any of Mr. Estrada's former supervisors and colleagues in the Office of the Solicitor General to seek further information about Mr. Estrada's temperament, fairness, analytical skills and abilities or any other matters the Committee appropriately deems relevant to its inquiry. Because the Committee has adequate sources of information about Mr. Estrada, among other reasons, it cannot establish the ''demonstrably critical'' need for the deliberative materials in question.

None of the seven examples cited during Mr. Estrada's hearing as precedent for the Committee's request—the nominations of Judge Frank Easterbrook to the Seventh Circuit, Judge Robert Bork and Chief Justice William Rehnquist to the Supreme Court, Benjamin Civiletti to be Attorney General and Deputy Attorney General, William Bradford Reynolds to be Associate Attorney General, Judge Stephen Trott to the Ninth Circuit, and Jeffrey Holmstead to be Assistant Administrator at the Environmental Protection Agency—supports the Committee's request in this matter.

Of the seven cited nominees, the hearings of only two—Judge Bork and Judge Easterbrook—involved documents from their service in the Office of Solicitor General. Senator Schumer placed into Mr. Estrada's hearing record a single, two-page amicus recommendation memorandum that Judge Easterbrook authored as an Assistant to the Solicitor General. The official record of Judge Easterbrook's confirmation hearing contains no references to this document, and based on a comprehensive review of the Department's files, we do not believe that the Department authorized its release in connection with Judge Easterbrook's nomination. Senator Schumer's possession of this memorandum does not suggest that the Department waived applicable privileges and authorized its disclosure in connection with Judge Easterbrook's or any other nomination.

The hearing record of Judge Bork's nomination to the Supreme Court demonstrates that the Committee received access to a limited number of documents related to three specific subjects of heightened interest to the Committee, two of which were related to Judge Bork's involvement in Watergate-related issues and triggered specific concerns by the Committee. The vast majority of memoranda authored or received by Judge Bork when he served as Solicitor General were neither sought nor produced. And the limited category of documents that were produced to the Committee did not reveal the internal deliberative recommendations or analysis of Assistants to the Solicitor General regarding appeal, certiorari, or amicus recommendations in pending cases.

The remaining five nominations cited at the hearing similarly do not justify the disclosure of deliberative material authored by Mr. Estrada. None of the limited documents disclosed in the hearings for those five nominations involved deliberative memoranda from the Office of the Solicitor General. The Committee with respect to those five nominations requested specific documents primarily related to allegations of misconduct or malfeasance identified by the Committee. Moreover, as noted above, with respect to

the nomination of Judge Trott, the Committee requested documents wholly unrelated to Judge Trott's service with the Department. Again, the vast majority of deliberative memoranda authored or received by these nominees where never sought or received by the Committee. In sum, the existence of a few isolated examples where the Executive Branch on occasion accommodated a Committee's targeted requests for very specific information does not in any way alter the fundamental and long-standing principle that memoranda from Office of Solicitor General—and deliberative Department of Justice materials more broadly—must remain protected in the confirmation context so as to maintain the integrity of the Executive Branch's decisionmaking process.

In conclusion, we emphasize that the Department of Justice appreciates and profoundly respects the Judiciary Committee's legitimate need to evaluate Mr. Estrada's qualifications for the federal bench. We again suggest, however, that the information currently available is more than adequate to allow the Committee to determine whether Mr. Estrada is qualified to be a federal judge.

Thank you for considering the Department's views on this matter. Mr. Estrada's nomination for a position on an important federal court of appeals has now been pending for 518 days. There is no disagreement about the fact that he is a talented, experienced and exceptionally well-qualified nominee with strong and widespread bipartisan support. In fact, after an intensive investigation, the American Bar Association found Mr. Estrada to be unanimously well-qualified for a judgeship on the District of Columbia Circuit. We sincerely hope that the Committee and the Senate will approve Mr. Estrada's nomination before the close of the 107th Congress.

Sincerely,

DANIEL J. BRYANT,
Assistant Attorney General.

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, DC, Jan. 23, 2003.

Hon. CHARLES E. SCHUMER,
U.S. Senate,
Washington, DC.

DEAR SENATOR SCHUMER: I am responding to your letter dated January 23, 2003, in which you once again requested that the Department disclose the confidential and privileged appeal, certiorari and amicus memoranda that Miguel Estrada authored when he was a career lawyer in the Office of the Solicitor General. You continue to insist that disclosure of this sensitive material is necessary to allow you adequately to address Mr. Estrada's nomination to the United States Court of Appeals for the District of Columbia Circuit—a nomination that has been pending for some 624 days. As you know, Mr. Estrada has received a unanimous ''well qualified'' rating from the American Bar Association, the ABA's highest rating.

We addressed fully the assertions made in your most recent correspondence in our previous letters to you dated June 5, 2002, and October 8, 2002 (attached herewith). Our previous explanations remain equally applicable today, and we therefore must again respectfully decline your request. As we have explained, the relevant historical, policy and legal considerations implicated by your request establish that disclosure of these memoranda from the Office of Solicitor General would undermine the integrity of the decision making process in that Office. Notwithstanding our previous letters, several specific items in your letter merit discussion.

At Mr. Estrada's hearing, you asserted that the Department disclosed memoranda written by Judge Easterbrook in connection with his confirmation hearing. In response to that claim, as we noted in our letter of October 8, 2002, we comprehensively reviewed the Department's files and the public record of Judge Easterbrook's confirmation hearing and we found absolutely no evidence that the Department authorized the release of these memoranda in connection with Judge Easterbrook's nomination. Your most recent letter now asserts that the Easterbrook documents ''apparently'' were provided to the Committee in connection with Judge Bork's nomination. However, the public record of Judge Bork's confirmation hearings contains no mention of the Easterbrook memoranda you reference. As we explained previously, your mere possession of these documents does not suggest that the Department waived applicable privileges nor authorized their disclosure in connection with either nomination.

You also suggest in your letter that the Administration's decision to disclose legal memoranda from the White House Counsel's Office in connection with the nomination of Jeffrey Holmstead to serve as Assistant Administrator of the Environmental Protection Agency serves as precedent for disclosing Mr. Estrada's highly privileged work product. As you may be aware, the White House initially declined to provide all of Mr. Holmstead's files as requested by the Senate Environment and Public Works Committee, on the basis of the deliberative process, attorney-client and work product privileges. In response, the Environment Committee, based on its particularized concerns and allegation of misconduct regarding one specific subject, requested a small subset of documents related only to that matter. Because of the specificity of the Environment Committee's concerns, the White House permitted the Committee to review that limited subset of materials, which answered the allegation in question. This example, if anything, further demonstrates the overbreadth and impropriety of the current request—a request that some have characterized as a fishing expedition requesting all documents authored by Mr. Estrada about all subjects during his entire tenure in the Office.

Finally, we respectfully submit that, despite your view to the contrary, your request threatens the proper functioning of the Office of the Solicitor General. All seven living former Solicitors General, including Archibald Cox, Drew Days, Walter Dellinger and Seth Waxman, have written to the Senate Judiciary Committee and explained the debilitating impact your request would have on the ability of the Office to represent the United States in litigation. The letter—authored by distinguished lawyers of both parties—noted that their ''decisionmaking process required the unbridled, open exchange of ideas—an exchange that simply cannot take place if attorneys have reason to fear that their private recommendations are not private at all, but vulnerable to public disclosure.'' While we respect your right to disagree with these seven former Solicitors General, we must defer to their considered judgments about the impact of disclosure based on their collective experience of decades heading the Office. Thus, we respectfully adhere to our previous decision to protect these highly privileged documents from disclosure.

Thank you for considering the Department's views on this matter. As we have noted previously, the public record is more than adequate for the Committee to evaluate Mr. Estrada's qualifications to be a Circuit Judge on the D.C. Circuit. We look forward to Mr. Estrada's prompt consideration by the Committee and confirmation by the full Senate.

Sincerely,

JAMIE E. BROWN,
Acting Assistant Attorney General.

Mr. HATCH. Mr. President, I want to make one or two other points, and then I understand Senator KYL is here and I hope he can be heard. I ask unanimous consent that he be recognized after me.

Mr. REID. Objection.

The PRESIDING OFFICER. Objection is heard.

Mr. HATCH. All right. Here we are in the middle of an unprecedented filibuster. We have heard a lot of arguments and many repeated arguments. We have heard Mr. Estrada ''has not answered the Senators' questions.'' Well, he has. They asked question after question at the hearing—one that they conducted and they controlled. Any Senator who was not satisfied, and had additional questions, had the opportunity to send additional questions. Well, they did. Two Senators—only two of them—sent Mr. Estrada followup questions. Senators DURBIN and KENNEDY asked multiple questions. Mr. Estrada answered these, and answered them fully.

Here is what is unfair. If they don't like the answers, as I have said, my Democratic colleagues have a remedy; they can vote against him. That is their right. If that is what they want to do, that is the proper exercise of their constitutional duty. But to simply deny the Senate a vote is unfair to the nominee, unfair to this body, unfair to the President, and unfair to a majority of Senators who want to vote for this man and exercise their constitutional duty under article II, section 2. This is an abuse of the debate privileges of this body. This is simply an abuse by the minority. It is nothing more than what some would call the tyranny of the minority. It is the first time in the history of this country that an appeals court nominee has been filibustered. It is a doggone shame the first Hispanic ever nominated to the Circuit Court of Appeals of the District of Columbia happens to be the nominee here. This is against our constitutional duty and against the spirit of what we are elected to do. We are supposed to advise and consent. Consent means Senators can vote against or they can vote for. It doesn't mean advise and filibuster. It doesn't mean advise and obstruct.

I will say it again. The Democrats have asked their questions and they have gotten their answers. If they don't like the answers, they can vote against the nominee. But don't continue to obstruct. It is simply not fair.

Mr. President, I think any fair observer who looks at the transcript of this hearing, and looks at those questions and answers, will have to admit he answered their questions. Admittedly, I suspect he did not answer them the way they wanted him to. That is, they could not dig up any dirt on him. So what are they doing now? Trying to

see if, through a fishing expedition, they can find some documents where they can. That is offensive. To ask for confidential, privileged documents from the Solicitor General's Office in spite of the warning of seven former Solicitors General, four of whom are leading Democrat attorneys who vociferously say you should not do that, that would be very harmful and detrimental to the process. They have ignored those recommendations.

Any fair observer who looks at these questions and answers will have to say he answered their questions, maybe not the way they wanted him to, but he answered them as a deliberative person would, and as most other nominees have answered the same type of questions. He answered them in a very intelligent, worthwhile fashion.

I yield the floor.

The PRESIDING OFFICER (Mrs. DOLE). The Senator from Arizona.

Mr. KYL. I thank the Chair.

Madam President, I wish to expand on what the Senator from Utah was just talking about. To put this in context, I remind my colleagues we are talking about the nomination of a very distinguished lawyer, Miguel Estrada, by President Bush to serve on the DC Circuit Court of Appeals.

There have been two primary objections recently raised by Members of the other side of the aisle to this nomination. The first includes a recitation of a long list of nominees of previous Presidents—I presume primarily President Clinton—who allegedly were not considered by the Republicans. I do not have the information. It has not been given to me, so I cannot vouch for its authenticity. But if that is the basis for denying a vote to Mr. Estrada, then it is nothing more than retribution or spite.

I cannot believe that is the motivation of any of my colleagues on the other side. I refuse to believe that. So of what relevance is it that in previous Congresses some other President's nominee was or was not given a vote? What is the relevance to this individual, Miguel Estrada, who, by everyone's admission, is an extraordinarily well qualified lawyer? It has no relevance at all.

The other line of thought is that he has not answered questions, and that is what Senator HATCH was just talking about. He answered every question that was asked of him. He was in a hearing from 10:06 a.m. until 5:25 p.m. There were other candidates on the panel with him, but hardly any questions were asked of them. Almost all of the questions were asked of Miguel Estrada. He answered them all, until there were not any more to be asked.

Then there was the questionnaire. Senator HATCH noted the questions that have been asked by Senators in writing, in addition to the others. There was the questionnaire from the Judiciary Committee with 25 pages of answers. They are all right here. I will not suggest they be printed in the RECORD because I presume they already have. Every question was answered fully and satisfactorily, as far as I am concerned.

I think one of them is especially interesting. It used to be there was not a litmus test for judges. When President Reagan was nominating judges, some people on the other side thought President Reagan was asking these nominees their opinions on how they might rule on a case. They said that was a litmus test and that would be wrong. They were wrong. He never had such a litmus test. But the committee has had a question in its file ever since—and I think even before then—that has been asked of every single nominee, and this is one of the questions to which Miguel Estrada responded.

Let me read the question and his answer. The question is: Has anyone involved in the process of selecting you as a judicial nominee discussed with you any specific case, legal issue, or question in a manner that could reasonably be interpreted as asking you how you would rule on such case, issue, or question? If so, please explain fully.

Answer: No.

Mr. President, that is just about all he got in the hearing by the members of the other side of the aisle in the Judiciary Committee on how he would rule and what he felt about certain specific cases, legal issues, or questions. Specific cases were mentioned by name. Specific hypothetical questions were asked of him. Apparently, it is not OK for the President to find out how a candidate might feel about an issue, but Senators, by golly, we have the right and, in fact, it is so important to us, or to some of the body, that we are going to deny a nominee a vote even; we are going to deny the other Senators to have the opportunity to vote yes or no if we did not like the way he answered one of those questions.

Senator HATCH is right; it is not that he did not answer the questions. It is that some people did not like his answers to the questions. If so, vote no, but do not deny everyone else the opportunity to vote, and that is what is going on here. It is called a filibuster.

Our friends on the Democratic side have acknowledged that is exactly what they are engaged in: a filibuster of a judge. That is fundamentally wrong. It destroys the comity between the three branches of Government. It seeks to modify the majority vote confirmation process to an extra-majority requirement. It is going to poison the consideration of nominees of every President from here on, Democrat or Republican. This is one of those issues which, when once let out, you can never bring back; the horse will have been out of the barn.

Never in the history of the Senate has a partisan filibuster succeeded in preventing the confirmation of a judge. That is what is at stake here. Of course, also at stake is the confirmation of a very decent, very fine, very forthright, and highly qualified candidate for judge.

There was one other criticism I noticed early on, but I have not heard it recently, and that is he had no prior judicial experience. Senator HATCH pointed out the literally scores of Federal judges who became a judge when they were a lawyer. Not everybody can be born a judge, you see. First, you have to be a lawyer, and then somebody has to appoint you judge. So not everybody has experience as a judge when they are asked to be a judge.

Current members of the U.S. Supreme Court, in fact, five out of the nine members of the DC Circuit Court of Appeals, the court to which Mr. Estrada is being nominated, were not judges before they were nominated.

Mr. Estrada is a Hispanic lawyer. Are we going to create a new bar for minority lawyers? You have to be a judge before you can be elevated to the next level of the court? Not very many minority lawyers have been appointed or nominated as judges. President Bush is nominating a lot of them, that is true, but they are not judges now; they are lawyers. Are we going to create a bar that says if you are not already a judge, you cannot become a judge in the next level of the court?

I do not want to see us setting a glass ceiling for minorities just because not as many of them have gotten to be judges. I think that is a very pernicious argument made with respect to Miguel Estrada. Five of the nine members of the court were not judges before they were nominated to serve. Why does it matter with respect to Miguel Estrada? I did not hear arguments made from the other side with respect to those nominees, so why with regard to Miguel Estrada? It is not right.

I quoted yesterday, when the Senator from Vermont was on the floor, his own words, so I feel it appropriate to mention them again. He himself, the former chairman, now ranking member, of the Judiciary Committee said what many of the other leaders on the other side of the aisle have said: That filibustering a judge is wrong. And the Senator from Vermont said he would oppose—strongly oppose, I believe were his words—any filibuster of a judge regardless of whether he supported the nominee. You can always vote yes or no, but you should at least vote to invoke cloture.

Madam President, I will give you an example. Twice I voted to invoke cloture so we could come to a vote on two of President Clinton's nominees. I supported one; I opposed the other. That is our right. I have good reasons for opposing the judge I opposed, but I believed my colleagues needed or had the right to vote on both of the candidates, and so I voted for cloture in both cases. That is the same point the Senator from Vermont made earlier: That we should vote for cloture and have an up-or-down vote.

I will later bring to the floor the literally scores of statements by my colleagues on the other side of the aisle

over the years who have made the point over and over that filibustering a judge is wrong, that they would oppose it regardless of how they felt about the nominee, and that they would vote to invoke cloture.

What has changed with Miguel Estrada? Why is he different? Why all of a sudden has their strongly held opinion, which was expressed before, changed? It is not that my colleagues are not consistent. Obviously, they want to be consistent. So it must be something else. It must be that in this nominee they see something very bad. They must see a reason why we should not even be allowed to vote on the nominee. It is so bad with Miguel Estrada that they are not willing to put it to a vote. They have to prevent the vote from occurring.

What is it about Miguel Estrada that is so dangerous or so bad? If my colleagues say it is not about Miguel Estrada, it is the process, he would not answer the questions, Senator HATCH and I have already responded to that. He answered every question he was asked. Any more questions?

As Senator HATCH said, the problem is they do not necessarily like all the answers. That is their right. We do not all agree with each other. That is why we have votes and the majority wins.

I get back to the question, Why is it different with Miguel Estrada? There were 30 questions asked in the hearing that was held, and he answered them all. Maybe they did not like the answers. So vote no. But why would the other side deny the right of the Senators to cast a vote on the nominee?

At the end of the day, the American people are going to look at this and wonder what is going on, what is this all about. Why will a minority of the Senate not agree to let the others vote? Is it because the candidate is not well qualified? No. This candidate had the highest rating that the American Bar Association can give a candidate.

Is it that he does not have any experience? No. He is one of the most experienced lawyers in the country. In fact, he has argued at least 15 cases to the U.S. Supreme Court. I practiced law for 20 years and only went to the Supreme Court three times, which is pretty good. Most lawyers never get there. Fifteen times he has argued cases.

He answered every question that was asked of him. He has been strongly recommended by members of the bench and bar all over the country, Democrats and Republicans, including members of the former Democratic administration.

There has been a question raised about when he was an Assistant Solicitor General and was providing advice to his seniors, should his confidential memos be released to the public? For the first time, our colleagues on the other side say, oh, yes, we want to see all of that.

Now, I would kind of like to see the staff memos going to the Senators on the other side. Would that be fair? Would that be right? No, it really would not. Much as I would like to see what kind of advice they are getting, that would not be right.

What about someday when very highly qualified staff of some of our colleagues on the other side of the aisle are going to be nominated for the court? That happens actually fairly frequently. Staff of the Judiciary Committee have been nominated to various courts. In fact, one of them serves no less than on the U.S. Supreme Court. How about asking for the memos that he sent to his boss advising his boss on various issues prior to his confirmation? What would we get there? I think we would get pushed back by Members saying, wait a minute, I was asking for his personal advice. I was asking for his judgment. I was not asking him for what he necessarily believed personally, and what he told me cannot be taken as something he personally believed but rather what he thought was the best advice for me on this particular issue. That is why our employees are protected from having to disclose all of the information they give us as their best judgment on different issues, because we are not asking them necessarily what they believe in their head or their heart. We are asking them for what the law is on this, what their recommendation is as to what I should do on this, knowing my views, not theirs.

So to ask a young lawyer in the Solicitor General's Office to disclose all of the advice that he gave his bosses is nothing more than an unprecedented fishing expedition.

I ask my colleagues on the other side of the aisle, is this the precedent that they want to create? When they seek to have one of their staff members nominated to a high court, do they expect to see a request for all of the memos that this staff person gave to them because they just might be useful in opposing the nomination? Maybe he said something that we could pick apart somehow or another.

That is what is going on, and that is why four Democratic Solicitors General and three Republican Solicitors General, those who are living today, all wrote a letter unanimously saying this should not be done and all of them would have recommended against it.

I happened to work for one of the Solicitors General who is no longer alive. One of the things he told me over and over again was that this is an office considered by some to be the tenth Justice on the Court. The Solicitor General is literally almost a member of the Court in a sense because of the objectivity and forthrightness with which he or she represents the views of the Government before the Court.

The Court often solicits a brief from the Solicitor General saying, we have heard from both sides in this case but we would like to hear from the lawyer for the Government, the Solicitor General, who is supposed to be a very honest, forthright, and objective person. That is the office in which Miguel Estrada was working.

If we ever get to the point where the decisions made by the Solicitor General, based upon the advice from the lawyers that work for him, do not represent the best objective advice, do not represent the best truth and the proper reading of the law as they can bring forth but, rather, now must take into consideration political considerations that arise from the fact that these memos and this advice would be disclosed publicly, the Solicitor General is no longer going to be deemed the ''tenth Justice.''

The Government is no longer going to be solicited for its advice to the Court on these important matters because the consideration would be, well, what did they have to consider politically since the whole world is going to read these memos and is going to know what the advice was that was given. It does not work that way. It cannot. That is why it would be wrong.

Many of my colleagues on the other side know that it would be wrong. They know they are never going to get the memos. They know they should not get the memoranda. But because they can ask for it knowing that it is not going to come, they have an excuse to be able to say, gee, we do not have all the information we need.

I do not think that is the motivation of any of my colleagues on the other side of the aisle because I think they realize this is not something that historically has been requested and should be requested.

So when you parse out all of the different objections to Miguel Estrada, it all boils down to abstract process and, from some of the outside groups anyway, retribution. It has nothing to do with his qualifications. It seems to me that common decency and fairness would cause each one of the 100 of us to look deep within ourselves and say maybe we vote yes, maybe we vote no on his nomination, but we should not deny him a vote. That is partisanship and negativity and obstructionism that is not worthy of the Senate. So we should not do that.

We should agree to let this nominee be voted on, cast the vote we believe is appropriate, and then move on with the Nation's business. At a time when we may well be on the brink of engaging in military conflict, and the President has a great many issues on his agenda to deal with in that regard, I think it is unseemly for the Senate to be holding up, filibustering, one of his highly qualified nominees to the DC Circuit Court of Appeals.

As the Senator from Nevada said earlier today, everything has been said, it is just that everybody has not said it. Fine. Come on down and say it so we can get on with the vote, confirm Judge Miguel Estrada, and move on with the Nation's business.

The PRESIDING OFFICER. The Democratic whip.

Mr. REID. Madam President, if this were a matter of retribution, it would have started a long time ago.

Senator DASCHLE came to the floor after we took the majority in the Senate and said that as it related to judicial nominations this was not payback time; we were not going to treat the then-minority, the Republicans, as we were treated when we were in the minority. To show that we were true to our word, we approved 100 nominees during the short time we had the majority of the Senate.

I read into the RECORD earlier today the scores of judicial nominees who did not receive hearings, who waited and never got a vote on their nominations. They are out practicing law someplace. This is not retribution.

Madam President, once in a while I try to come up with something that has not been said on the Senate floor during the last several days. My friend from Arizona said: Everything has been said, but not everyone has said it. I have come up with something that has not been said, in response to what my friend from Utah and others have said about this ABA rating that Estrada has. The Republicans thought so much of the ABA rating that when they had the majority, they decided to do away with it. But now they have decided it is a good thing.

It is true, Estrada received a well-qualified rating from the American Bar Association. I think everyone acknowledges that the ABA should not completely supplant the Senate's role. Those on the other side have indicated the ABA rating of Mr. Estrada should be afforded great weight. I think it should be afforded some weight. Some have implied it should take the ABA's word for it when it comes to Estrada and simply limit our role in reviewing his record because he got a well-qualified rating from the ABA.

The American Bar Association rating is a useful tool for the Senate. But that is all it is, a tool. It is not a replacement for the Senate exercising its own independent judgment regarding a nominee's suitability for the second highest court in the land. There are good reasons for that. The best reason is the Constitution, Mr. President.

I am sorry, I referred to the Presiding Officer as a ''Mister.'' I have the greatest respect for the Senator from North Carolina, having one of the most distinguished records of any Senator who has come to the Senate, having served in so many different Cabinet positions that they are difficult to name; and, in addition, the highly visible role the Senator from North Carolina has held in different administrations. She has been head of one of the greatest organizations in the history of the world, the American Red Cross. I know who is presiding, and I was just reading from my notes and apologize for referring to the Senator as ''Mr. President.''

The best reason we do not agree with the majority is the Constitution. The Constitution assigns the role of evaluating a nominee to the Senate—not to the American Bar Association. In addition, if you look at the ABA process, it is far from perfect. The ABA delegates the review of potential nominees to one individual member of the ABA committee for each circuit. In effect, these nominations that the President gives us, no matter what party, go to one lawyer in the ABA, and that lawyer makes a recommendation. The ABA delegates that review to one individual who nominates each nominee and appoints to the ABA a recommended rating of that nominee's qualifications.

In this instance, a man by the name of Fred Fielding was in charge of evaluating potential nominees for the DC Circuit at the time Miguel Estrada was under consideration by the White House. In this role, Mr. Fielding was in charge of evaluating Mr. Estrada's qualification and was in charge of recommending a rating to the ABA. He recommended well-qualified. The ABA places heavy reliance upon the recommendation of people such as Mr. Fielding and approved Fielding's recommendation unanimously.

There have been some concerns about how this ABA process works and how it will work in this case. In this case, Mr. Fielding, at the same time he was evaluating DC Circuit Court nominees such as Miguel Estrada, continued to be heavily involved in partisan politics. He was counsel to the Republican National Committee for the Republican National Convention of 2000 and served on the Bush-Cheney transition team in 2000. At the same time he was serving on the ABA committee that evaluated DC nominees, Mr. Fielding cofounded, with C. Boyden Gray, something called the Committee for Justice.

We all know C. Boyden Gray has been a long-time, very partisan Republican. There is nothing wrong with that. But that is a fact of life. This organization was founded to help the White House with the public relations effort to pack the Federal bench with extreme judges. They also founded it to run ads to intimidate Democrats from exercising their constitutional duty to scrutinize the President's judicial nominees. Ads are now run to that effect, saying Senate Democrats are really bad. The ads are paid for by the Committee for Justice, which is this front that has been established by Fred Fielding and Boyden Gray. Their ads label Members of this Chamber as ''liberal extremists'' and ''anti-Hispanic'' even though the Hispanic Caucus has said Miguel Estrada should not be placed in the DC Circuit.

These ads run by this organization that is led by Fielding and Gray are unfortunate. It is a right that Fielding and Gray have to engage in these activities to mislead the American people. They have that right. But it does call into question whether someone so heavily steeped in partisan activities can objectively and impartially evaluate nominees' qualifications to the second highest court in the land.

This man, Fred Fielding, was the person who gave Estrada the recommendation while he was doing this. He was forming a committee he calls Committee for Justice, with Boyden Gray, another partisan Republican, and the purpose was to pack the bench with right-wing conservative judges. They also raised money so that if someone disagreed with them, they would run ads and intimidate them into agreeing with them. It does call into question whether someone so heavily steeped in partisan activities can objectively and impartially evaluate the qualifications of the nominees of the second highest court in the land.

The Senate is not privy to Mr. Estrada's ABA report, and we have no way to evaluate how Mr. Fielding arrived at his recommendation, but I think at the very least his partisan activities at the time he was charged with independently evaluating Mr. Estrada create the appearance of a conflict of interest and should embarrass the American Bar Association.

People expect the ABA reviews to be conducted by independent, nonpartisan individuals, not by partisans who are the President's foot soldiers in the effort to pack the Federal courts. The circumstances of Estrada's ABA evaluation are very serious—very serious. These circumstances underscore the need for the Senate to independently evaluate Mr. Estrada's record.

It would be somewhat shallow for people to say that this man, Fielding, who evaluated this judge to be, was fair and independent. I said the ABA should be embarrassed. What we are talking about here is Estrada. This has made an independent review impossible. I am not willing to delegate my constitutional duty to Mr. Fielding, the cofounder of a group designed to attack Members of this body who do not agree with him.

Earlier today, I had a chart here that outlined Mr. Estrada's assistance to this body so we could come up with answers to Judiciary Committee questions. Some people called in and said the chart was small and they could not read it. I want to make sure they can read this chart. It is titled ''Miguel Estrada's answers to the Judiciary Committee's questions.'' Here are his answers.

There weren't any. Those from the other side can come here and talk and show us visual aids about all the answers given to this committee that fill volumes when, in fact, as Senator DURBIN so well described, his answers were evasive.

Mr. Estrada, give us the name of a Supreme Court Justice that you would like to be.

I don't have an opinion.

Give us a case you disagree with.

I don't have an opinion.

These were his answers to the Judiciary Committee's questions.

I had some other charts here, and they said the writing was too small.

Here is one about Miguel Estrada's legal memoranda. Here is the information we have regarding Miguel Estrada's legal memoranda. The writing this morning was too small. But here is what it says:

Miguel Estrada's legal memoranda.

Here is what we have: Nothing.

My friend from Arizona said this would be chilling; why would we want to set a precedent like this?

It has been set in the past. We have had Chief Justice Rehnquist, for beginners. When he came before this body and we wanted to look at a memo, we got it. I don't have all the names here, but we know Civiletti and Roberts and others—it has happened on other occasions. This is no dangerous, misleading, scary precedent.

We have, by virtue of the Constitution of the United States, an obligation to make sure that we advise and consent to the nomination of the President. Article II, section 2, says that is our obligation, and that is what we are doing. We have an obligation that is in the depths of the Constitution to do just that.

If they, the majority, believe this man is as good as they say he is, let us share in the information, let us look at his legal memoranda, and let us also have him answer questions.

You would think we would want to know, as part of our constitutional duties, what a person's legal philosophy is. As the Senator from Illinois, Mr. DURBIN, and I this morning indicated in an exchange, Mr. DURBIN, the distinguished Senator from Illinois, the senior Senator from Illinois, he said to Miguel Estrada: Give us the name of a case in the Supreme Court that you disagreed with.

As Senator DURBIN and I said: You know, we have been to law school. I will bet it is not too hard of a press to come up with a case about which you think the U.S. Supreme Court was wrong. How about Dred Scott? Maybe Dred Scott was wrong.

Not him. He wouldn't tell us. No.

I have no opinion on that.

Miguel Estrada's legal philosophy—that is it. And because that is it, this blank, we are going to make a decision? No.

The majority leader is the one here who has to make a decision. He can go on like we are today, tonight, tomorrow. In fact, I read in a publication here that one of the Republican leaders says:

If [Democrats] want to stay through the weekend, we'll stay through the weekend.

Boy, is that a threat that just chills me. We may have to work here over the weekend? That would be terrible. Is that supposed to take away our constitutional duties, because they are going to make us work? I work whether I work here or go home.

The leader has to make a choice: Are they going to pull this nomination or do they think enough of this man to give us his legal memoranda and have him answer questions? Or he could do something that is done a lot around here: File cloture. See if he can stop the debate.

As I have said before, we are in harmony over here. We believe what we are doing is principled and right. No matter how many times the other side says there is no problem, all they have to do is see what is going on here. There is a problem. If they want to resolve that problem, all the cards are in their hands and they can decide how they want to handle it. Otherwise, if they want us to stay here, we will stay in quorum calls or we will talk.

I have suggested to some of the Senators here if we get past the morning hour when we have to be fairly germane to what is being talked about, I think it would be an excellent time, as the Senator from West Virginia did yesterday, I think we should have a little discussion about what is going on in the world. We are very close to going to war. That is what I am told. I think it would be very important to the people of Nevada to have a discussion about that. I think we are going to win the war, but are we going to win the peace in Iraq? That should be a subject. If they want to keep us here all weekend, we could talk about that at some length.

Mr. BYRD. Madam President, will the Senator yield?

Mr. REID. I am happy to yield for a question without losing the floor.

Mr. BYRD. Are we likely to be in session this weekend?

Mr. REID. That is a decision they have to make. I am just reading from one of the publications. One of the Republican leaders said they are really going to get us on this. They are not filing cloture, but what they are going to do is talk all night tonight and all night tomorrow night, to get a vote on the Estrada nomination by the weekend.

Let me just say to everyone within the sound of my voice, that will not get them a vote on Estrada. We have told them what we believe is appropriate.

People may disagree with us. This is the Senate. We have certain rules. We are not dealing from under the deck. We are not holding any cards up our sleeves. We have said openly what we are doing. We are not going to allow a vote on this until we get the information we want. So it is up to them. If they want to threaten us, we could also—we could talk about the war, as the distinguished Senator from West Virginia did yesterday.

I think it is also important to think about this economic plan that has been suggested, the one the President has put forward that the Chairman of the Federal Reserve says is not a good plan. The chairman of the Ways and Means Committee in the House says it is not a good plan. We could talk and elaborate on how some of the Republicans feel about their own plan. That would take a little bit of time.

We could talk about the President's Medicare fix, which the Speaker of the House of Representatives said is a really bad idea.

We can talk about a lot of things. This is the Senate rules. We do not have to talk about Miguel Estrada. I said to everyone yesterday and I have said it today, everything has been said about Miguel Estrada, for and against him. But not everyone has said it. So we can be here, we can continue rehashing Miguel Estrada.

But the President said—I think I am quoting almost verbatim when he was told there is a filibuster—the game is over.

I don't know what that means. That is a term he used a lot. He said the game is over in Iraq. The game is over on Estrada. This is not a game; this is something we are doing based upon principle.

I think, for the good of the country, unless they are going to give us the information we want, this nomination should be pulled. Then we can get on to other things that I think are very pressing that we should get on to.

I want to make sure I was right. I want to make sure I said this right.

Senate Judiciary Committee Chairman Orrin Hatch . . . scoffed the Democrats' demand for more information about Estrada.

I said the President said: The game is over.

Senator HATCH said that. He is quoting what the President said on other things.

That game is over.

The game is over—this is not a game. This is not something that was arrived at in a short period of time. In fact, the Democratic leader waited a number of days before the decision was made, after he conferred literally with every Democratic Senator about how he felt about this. This is not an arbitrary decision made by the Democratic leader. This is a decision made by Senator DASCHLE after having conferred with every Democratic Senator, on more than one occasion in most instances. That is what the body over here desired to do, and that is what we are doing. We hope everyone understands this is not a game. We are very serious about what we are doing. We believe what we are doing is principled.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

TRIBUTE TO JOE MEADOWS

Mr. BYRD. Madam President, this past Saturday my longtime, good friend, and former staff member, Joe Meadows, passed away.

Joe Meadows was a dedicated, hardworking, conscientious, sincere, and loyal individual. As the mail clerk in my office in the Hart Building, he managed the mailroom for me. He did his

job effectively and efficiently. And everyone else on the staff liked him.

One couldn't help but like Joe Meadows. From time to time, when I went into his section of the office, I would find Joe Meadows with a handful of papers, letters, correspondence, and files in one hand. And with his glasses down over his nose, he would look up over his glasses.

He was a wonderful man. He rarely talked about it, this quiet, soft-spoken, hard-working, unassuming man. He was also one of the best country fiddle players in the United States. He was a bluegrass musician, born in a small coal town in southern West Virginia, on the last day of 1934.

Joe never learned to read a note of music.

Does the distinguished Senator from New York have memories concerning the year 1934?

Mr. SCHUMER. Madam President, I appreciate the Senator yielding. I say to the Senator, my memories are those my parents told me.

Mr. BYRD. Well, the Senator, I take it, was not around in 1934?

Mr. SCHUMER. I was not.

Mr. BYRD. OK. Well, I was a high school senior in 1934. I graduated that year. And we were hearing talk, in those days, about a gadget that would allow one to see a person as that person spoke or would allow one to see a person who played the violin as the violin was being played. That was a few years right after the invention of the television. Television was invented in 1926. And so I am talking about 1934, just 8 years after television was invented. Eight years after television was invented, 1934.

Oh, we heard about this gadget, as I say. It was coming and would be on the market in a few years. My, what a change that made. 1934; well, the last day of 1934, Joe Meadows was born. He never learned to read a sheet of music, but he could really play it. He could make that fiddle cry. He could make it scream. He did have neighbors and a father who played the fiddle.

He had an extraordinary gift for music: Joe Meadows from the hills of southern West Virginia. He is one of the finest bluegrass musicians I ever heard. Like many lads in southern West Virginia, including myself, Joe Meadows grew up listening to the Grand Ole Opry on the radio. The Grand Ole Opry, I can remember the times when that was all we had to listen to on Saturday night—the Grand Ole Opry.

Yes, I can remember the Solemn Old Judge and Deford Bailey. Deford Bailey played that harmonica. Oh, he could make that harmonica scream. He could make that harmonica play ''Freight Train Blues,'' Deford Bailey. And there was Sam and Kirk McGee. There was Arthur Smith and His Dixieliners: ''Going on down that Dixie line, walking in my sleep''—Arthur Smith and His Dixieliners. He played ''The Mockingbird.'' He could make that mockingbird sing on that violin.

But Joe Meadows could do anything that Arthur Smith could do, and better.

The Grand Ole Opry, that is all we had in those days. On Saturday nights we would square dance and listen to the Grand Ole Opry. There was the Fruit Jar Drinkers. That was kind of a lousy band. I probably shouldn't say that. But I did not think as much of the Fruit Jar Drinkers as I did the Dixieliners, by any means. And Roy Acuff used to sing ''That Great Speckled Bird'' Saturday nights. Saturday nights, 1934.

I graduated from high school in 1934. I liked a pretty, pretty girl, too. She was not in my class. She was in the next class behind me, and she was the daughter of a coal miner. And that coal miner played a fiddle. His name was Fred James.

I took a liking to that daughter of the coal miner. And I tell you, you young ladies, and young men as well, who are pages here, I tell you how I courted my girl, my sweetheart, how I won her hand in marriage.

There was another boy in my class at Mark Twain High School in 1934. His name was Julius Takach. His father had a grocery store at Ury, what we called Cooktown, about 3 miles south of Stotesbury where I lived. And Julius Takach would, every morning, come to school with his pockets filled with that candy and chewing gum, bubble gum, and so on, from his father's store.

Now, I tell you, I made it my business to be the first to greet Julius at the schoolhouse door upon his arrival every day because he would give me some of that candy and chewing gum.

I tell you, it was something to be able to present your girl, your sweetheart, a piece of bubble gum. And I never let her know that I did not buy that, I did not purchase that gum or candy. I did not let her know it was given to me, but it was given to me by Julius Takach.

I would meet her when the classes changed, and I would give her that candy and chewing gum. Boy, what a hit I thought I was, giving that pretty girl that candy and chewing gum.

Well, now, 65 years and almost 9 months after I married that pretty girl, I am here to tell these young men who are pages, that is the way you court your girl, with another boy's bubble gum.

Mr. SCHUMER. Will my friend and leader from West Virginia yield?

Mr. BYRD. Yes.

Will the CONGRESSIONAL RECORD please note that there was laughter.

The PRESIDING OFFICER. The Senator from New York.

Mr. BYRD. Would the reporter kindly note there was laughter again in the CONGRESSIONAL RECORD. We have to make that CONGRESSIONAL RECORD come alive.

Mr. SCHUMER. My colleague from West Virginia, if he might yield——

Mr. BYRD. Yes.

Mr. SCHUMER. Is making everything come alive in this Chamber. We have not had a happier moment in a long time. And I very much appreciate the stories he is telling. I was going to say, I guess we all ought to take this up, because 65 years of marriage to Erma—and we all hope and pray she is in good health again; and I hope she is—is something we should all pay very good attention to.

Now, I don't know, these days, if the young ladies will just accept bubble gum. You might have to do a little more than that, maybe a whole basket of candy or something. But it is good for us to know.

I did not want to interrupt my colleague. I just, in terms of the scheduling, ask if it might be all right to ask unanimous consent that after the Senator from West Virginia is finished I be recognized for the time that I might need.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. SCHUMER. Madam President, if I may continue, I try to remember great speeches. One of the best speeches I ever heard was made by our colleague from West Virginia when he came to the floor, it must have been about a year and a half ago, and talked, with as much love as he has for his employee who has passed and almost as much love as for his wife, about the beauties of coming to West Virginia on a vacation. It was one of the finest, nicest speeches I ever heard. I will never forget it, and I think this one is going to be just as memorable. I look forward to hearing my friend continue. I thank him for his courtesy.

Mr. BYRD. Madam President, I thank the distinguished senior Senator from New York for his observations. I am very grateful to him.

Like many lads in southern West Virginia, including myself, Joe Meadows grew up listening to the Grand Ole Opry on radio—that was back in the days of the Great Depression—as well as ''Farm and Fun Time'' and other radio programs that featured country and bluegrass music. And Joe Meadows absorbed it all. His ear was fixed on and naturally attuned to the fiddle playing. Joe listened. Joe learned. And later, Joe performed what he had heard. At the age of 16, Joe Meadows began performing with Melvin and Ray, the Goins Brothers, and from there he went on to tour with and recorded with the greatest names in country and bluegrass music including Jim and Jesse, the Stanley Brothers, and the legendary Bill Monroe and his Blue Grass Boys.

Joe Meadows' musical career included 25 years on the road as a professional fiddle player and a 7-year run at the Grand Ole Opry. He had toured Europe four times and Japan once where he was incredibly well received. Before I stopped playing the fiddle, Joe Meadows and I would sometimes sit down on weekends and play our fiddles together. We usually taped our sessions, and then we listened to our recordings together to see how we could improve our

playing. Well, he couldn't improve his playing much, but I had plenty of room to improve my own. I always hoped to be as smooth in handling that bow, that fiddle bow as Joe was. He had complete control of that fiddle bow. I don't think I ever got there, but he never stopped trying to help me.

Joe Meadows was not only naturally endowed with a strong and supple bow arm, the good Lord blessed him with a great pair of fiddler hands.

I never have had the pleasure to observe anyone whom I liked to listen to better than I liked Joe Meadows. He had nimble, quick fingers, and he used them beautifully.

The bluegrass and mountain music and old-time fiddling world has lost a great musician. I have lost a good friend. West Virginia has lost a good and gracious son.

My wife Erma and I extend our deepest condolences to Joe Meadows' family and to his many friends.

Let fate do her worst.
There are relics of joy,
Bright dreams of the past
That she cannot destroy.

They come in the nighttime
Of sorrow and care,
And bring back the features
That joy used to wear.

Long, long be my heart
With such memories filled,
Like the vase in which roses
Have once been distilled.

You may break, you may shatter
The vase, if you will,
But the scent of the roses
Will hang, 'round it still.

ON THE BRINK OF WAR

Mr. BYRD. Madam President, to contemplate war is to think about the most horrible of human experience. On this February day, as this Nation stands at the brink of battle, every American on some level must be contemplating the horrors of war.

My wife says to me at night: Do you think we ought to get some of those large bottles, the large jugs, and fill them with water? She says: Go up to the attic and see if we don't have two or three there. I believe we have two or three there.

And so I went up to the attic last evening and came back to report to her that, no, we didn't have any large jugs of water, but we had some small ones, perhaps some gallon jugs filled with water. And she talked about buying up a few things, groceries and canned goods to put away.

I would suspect that kind of conversation is going on in many towns across this great, broad land of ours. And yet this Chamber is for the most part ominously, dreadfully silent. You can hear a pin drop. Listen. You can hear a pin drop. There is no debate. There is no discussion. There is no attempt to lay out for the Nation the pros and cons of this particular war. There is nothing.

What would Gunning Bedford of Delaware think about it? What would John Dickinson of Delaware think about it? What would George Read think about it? What would they say?

We stand passively mute in the Senate today, paralyzed by our own uncertainty, seemingly stunned by the sheer turmoil of events. Only on the editorial pages of some of our newspapers is there much substantive discussion concerning the prudence or the imprudence of engaging in this particular war. I can imagine hearing the walls of this Chamber ring just before the great war between the States, a war that tore this Nation asunder and out of which the great State of West Virginia was born.

But today we hear nothing, almost nothing, by way of debate. This is no small conflagration that we contemplate. It is not going to be a video game. It may last a day or 6 days. God created Earth, and man, the stars, the planets, and the Moon in 6 days. This war may last 6 days. It may last 6 weeks. It could last longer. This is no small conflagration that we contemplate. This is no simple attempt to defang a villain. No, this coming battle, if it materializes, represents a turning point in U.S. foreign policy and possibly a turning point in the recent history of the world.

This Nation is about to embark upon the first test of a revolutionary doctrine applied in an extraordinary way, at an unfortunate time—the doctrine of preemption, no small matter—the idea that the United States or any other nation can legitimately attack a nation that is not imminently threatening but which may be threatening in the future.

The idea that the United States may attack a sovereign government because of a dislike for a particular regime is a radical, new twist on the traditional idea of self-defense. It appears to be in contravention of international law and the U.N. Charter. And it is being tested at a time of worldwide terrorism, making many countries around the globe wonder if they will soon be on our hit list, or some other nation's hit list.

High-level administration figures recently refused to take nuclear weapons off the table when discussing a possible attack on Iraq. What could be more destabilizing? What could be more world shattering? What could be more future shattering? What could be more unwise than this kind of uncertainty, particularly in a world where globalism has tied the vital economic and security interests of so many nations so closely together?

There are huge cracks emerging in our time-honored alliances. One wonders what is going to happen, and about what is happening to the United Nations. One should pause to reflect on what is happening there at the United Nations, formed 54 years ago. And we say: If you are not with us, you are against us. That is a pretty hard rule to lay down to the United Nations. If you are not with us, you are against us. If you don't see it our way, take the highway. We say to Germany and we say to France—both of whom have been around longer than we—if you don't see it our way, we will just brush you to the side.

Do we fail to think about a possible moment down the road, a bit further on, when we may wish to have Germany and France working with us and thinking with us, standing with us, because there is a larger specter, at least in my mind, looming behind the specter of Saddam Hussein and Iraq. There looms a larger specter, that of North Korea, which has one or two nuclear weapons now, and others within reach within a few weeks. So there are huge cracks, I say, emerging in our time-honored alliances, and U.S. intentions are suddenly subject to damaging worldwide speculation.

Anti-Americanism based on mistrust, misinformation, suspicion, and alarming rhetoric from U.S. leaders is fracturing the once solid alliance against global terrorism which existed after September 11, 2001.

Here at home, people are warned of imminent terrorist attacks, with little guidance as to when or where such attacks might occur. Family members are being called to active duty, with no idea of the duration of their stay away from their hearthside, away from their homes, away from their loved ones, with no idea of the duration of their stay or what horrors they may have to face, perhaps in the near future. Communities are being left with less than adequate police and fire protection, while we are being told that a terrorist attack may be imminent. What about those communities like little Sophia, WV?

Mr. DURBIN. Will the Senator yield for a question?

Mr. BYRD. Yes, I am happy to yield.

Mr. DURBIN. I am happy the Senator has taken the floor today. We have spent most of our time discussing other matters. But this is a critically important matter in West Virginia and Illinois.

I ask the Senator, as a matter of record, if he would kindly recount, since September 11, the efforts he has personally made, as well as speaking on behalf of this side of the aisle in the caucus, to try to bring together the necessary resources and funds so that we can be prepared to deal with acts of terrorism against the United States. We were just alerted this weekend that we were on something called the orange alert. The Senator noted that his wife asked what does this mean in terms of water and protecting our families and our houses.

Would the Senator be kind enough to tell us for the record, as we reflect on whether we are prepared to deal with terrorism, what we have tried to do—unsuccessfully—since September 11 to respond to this challenge?

Mr. BYRD. Madam President, I thank the very able and distinguished Senator from Illinois who is a graduate of the other body where I believe he served on the Appropriations Committee.

He serves on the Senate Appropriations Committee. I need only respond

in a brief way at this point to the incisive question which the distinguished Senator has asked. I refer him to the CONGRESSIONAL RECORD upon several occasions last year when I said to the Senate that I was bringing to the floor, or said to the Appropriations Committee, that I was bringing an amendment up dealing with homeland security, and I shall do that again, hopefully before this week is over.

Let me say briefly in response to the able Senator, time and time again the Senator has worked with me and with every other Senator on the Senate Appropriations Committee, Republicans and Democrats alike, to report measures from the Senate Appropriations Committee unanimously that provided moneys for homeland security.

I remember our providing $2.5 billion—$2.5 billion—for homeland security. We designated it in the committee as an emergency item, and all that remained to be done—all that remained to be done—in order to have that $2.5 billion immediately flow to the policemen, the law enforcement officers, the firefighters, the health emergency personnel all over this country, all that needed to be done was for the President of the United States to attach his signature and likewise designate that $2.5 billion as an emergency.

How little to ask. But how much it would have meant to the first responders in the many towns and cities and rural communities in Illinois, in North Carolina, in West Virginia, and cities and hamlets all over this country if the President had but condescended in that moment to sign his name on that item, making it an emergency item.

The law requires that for an item to be declared an emergency item, both the Congress and the President have to designate the item as an emergency. Congress did its part, and, in that case, that involved $2.5 billion. The President literally gave the back of his hand to that effort on the part of the elected representatives of the American people in this Chamber and on that committee. He gave the back of his hand to that effort on the part of Congress to provide $2.5 billion for the local responders and people in the health laboratories all over this country, for border security, airport security, port security, and all of the many facets that are involved in homeland security. He turned his back on that effort.

Then last year, I believe in November of this past year when we had the omnibus appropriations bill before the Senate, I offered an amendment, a $5 billion amendment, an amendment making $5 billion available for homeland security. Did the administration support that amendment? No, the administration fought it, and the amendment went down in flames, as it were, on the floor of the Senate on virtually a party-line vote.

That $5 billion would have gone a long way, would have been out there today when we have this orange alert scaring the American people—I am not saying it is not appropriate to have an orange alert, but we have seen alert after alert after alert, and in spite of the alerts that have been so often set forth in this country by the administration's own people, the administration, the President, have turned their backs on these efforts of the Senate Appropriations Committee by unanimous votes, including the Republicans on the committee, to provide ample moneys for homeland defense.

Again, having lost the $5 billion, I came back with an amendment providing for $3 billion. We slimmed down—you can go to the store and get the Slim Fast at the Giant. I go to the store and do the shopping for my wife. She does not need Slim Fast, but I sometimes get Slim Fast. Well, we slimmed fast that $5 billion and brought it down to $3 billion, thinking we would pick up some votes with the administration's support.

Did we get any more votes? No, the administration was against the $3 billion, and today they are telling us all, we better be on watch day and night.

Mr. DURBIN. Will the Senator yield for another question?

Mr. BYRD. Yes.

Mr. DURBIN. Madam President, the Senator is probably preeminent in this Chamber in his knowledge of history, and he certainly knows the history leading up to World War II when a Member of the House of Commons by the name of Winston Churchill took to the floor week after week, month after month, year after year, warning the people of England that the looming crisis, the rise of Nazism and fascism and their failure to prepare. William Manchester's famous biography of that period of Winston Churchill's life is entitled ''Alone'' because he stood alone warning the people of England of the crisis that was to come.

I say to my colleague from the State of West Virginia, his role in this crisis facing America has been Churchillian in that he has taken the leadership in the Senate time and again to warn us of a looming crisis. I ask him if he agrees with most people that to have an orange alert and to tell mothers and fathers across America to put aside some bottles of water, buy some duct tape and plastic sheeting, and prepare for the crisis of terrorism is not enough; that we as a nation should have taken this looming crisis seriously long ago?

I believe I know the answer to this question, but, Madam President, I thank my colleague from West Virginia for his leadership. I thank him for standing on this floor and reminding us that there is still an unfulfilled agenda, and that if we face terrorism, we have to be honest with the American people. We have tried in the Senate, but we have failed. We are not as prepared as we should be to face this threat.

I ask the Senator from West Virginia—I am not going to take any more time from his great comments—if he would comment on the Churchill analogy.

Mr. BYRD. The Senator is preeminently correct. His mention of William Manchester reminds me of that great book, ''The Glory and the Dream'' by William Manchester who wrote about the Great Depression. In fact, Herbert Hoover was the first President to have a telephone on his desk in the White House. ''The Glory and the Dream.''

Yes, we have had time to prepare. In many respects, we have failed. Our committee on which the distinguished Senator from Illinois sits conducted hearings and requested that the Homeland Security Director, former Gov. Tom Ridge, appear before the Appropriations Committee to testify concerning the needs of homeland security in this country. Did he come? He probably would have come but his boss, the President, said, no, he shall not come. So we conducted 5 days of hearings on homeland security in those early months of 2002. As a result, we brought to the floor legislation based on the testimony that had been adduced from witnesses from all over this country—mayors, Governors, and first responders.

This legislation, to a large extent, was pretty much sneered at—it is hard to respond in any other way—by the administration. Based on the testimony of those witnesses, we tried time and again to bring to the Senate and pass legislation that would provide for the needs of those local responders, the people at the local level, in the effort to prevent terrorist attacks and in the effort to deal with terrorist attacks once they occurred. We got no help from this administration.

Did the people out there know it? Some of us attempted to tell the American people about these efforts, but the press has not picked up on it very well. Communities are being left with less than adequate police and fire protection. Other essential services are also shortstaffed. The mood of the Nation is grim, is the only way I know how to put it. The economy is stumbling. Economic growth is worse than it has been in 50 years. Fuel prices are rising and may soon spike higher.

This administration, now in power for a little over 2 years, must be judged on its record. I believe that record is dismal. In that scant 2 years, this administration has squandered a large projected surplus of some $5.6 trillion. How much is that? That is $5,600 for every minute since Jesus Christ was born.

Let me say that again. In that scant 2 years—I am talking about the last 2 years—of this administration's record, this administration has squandered a large projected surplus of some $5.6 trillion over the next decade and taken us to projected deficits as far as the human eye can see. This administration's domestic policy has put many of our States, including my own, in a dire

financial condition, underfunding scores of essential programs for the people, the people out there who are watching through those electronic lenses.

This administration has fostered policies that have slowed economic growth. This administration has ignored urgent matters such as the crisis in health care for our elderly. This administration has been slow to provide adequate funding for homeland security. The distinguished Senator from Illinois, Mr. DURBIN, and I have been talking about that.

This administration has been reluctant to better protect our long and porous borders to the north and to the south, and to the east and to the west, where the great oceans form the borders.

In foreign policy, this administration has failed to find Osama bin Laden. In fact, yesterday we heard from him again marshaling his forces and urging them to kill, kill, kill.

This administration has split traditional alliances, possibly crippling for all time international order, crippling entities such as the United Nations and NATO. This administration has called into question the traditional worldwide perception of the United States as being a well-intentioned peacemaking, peace loving, peacekeeping nation.

This administration has turned the patient art of diplomacy on its head. It has turned the patient art of diplomacy into threats, labeling, and name calling of the sort that reflects quite poorly on the intelligence and sensitivity of our leaders and which will have consequences for years to come, calling heads of state pygmies, labeling whole countries as evil—as though we are not evil, as though there is no country that is not evil—denigrating powerful European allies as irrelevant. These types of crude insensitivities can do our great Nation no good.

We may have massive military might, and we have, but remember we have had massive military might before. How many millions of men marched to the drums of war only 60 years ago? Thirteen million American men under arms, was it? Millions.

While we may have massive military might today, we cannot fight a global war on terrorism alone. We need the cooperation and the friendship of our time-honored allies, as well as the newer found friends whom we can attract with our wealth. Our awesome military machine will do us little good if we suffer another devastating attack on our homeland which severely damages this economy.

Our military manpower is already stretched thin, and they are taking them from our States every day. Yesterday, I talked to the Senate about the vacancies, about the empty seats at the dinner tables in the homes of many West Virginians, because of the National Guard and Reserve departures every day from the State of West Virginia. Yes, there they come. They are law enforcement officers. They are State troopers. They are road builders. They are doctors. They are teachers. They are Sunday school teachers. These are the men and women who keep the lights burning when the snows fall and darkness comes. But on whom will we depend when these men and women are gone to foreign lands to fight a war if a war faces us here at home, a different kind of war.

Our awesome military machine will do us little good if we suffer another devastating attack on our homeland which severely damages our economy.

As I say, our military forces are already being stretched thin and we will need the augmenting support of those nations that can supply troop strength, not just sign letters cheering us on.

The war in Afghanistan has cost us $37 billion so far. Yes, we bombed those caves. We ran them into the holes, but they could not hide. We ran them out of the holes, and we ran behind them to get them. But there is evidence that terrorism may already be starting to regain its hold in that region. We have not found Bin Laden, and unless we secure the peace in Afghanistan, the dark dens of terrorism may yet again flourish in that remote and devastated land.

Pakistan, as well, is at risk of destabilizing forces. This administration has not finished the first war against terrorism, and yet it is eager to embark on another conflict with perils much greater than those in Afghanistan. Is our attention span that short? Have we not learned that after winning the war, one must also secure the peace?

Yet we hear little, precious little, about the aftermath of war in Iraq. In the absence of plans, speculation abroad is rife. Will we seize Iraq's oil fields, becoming an occupying power which controls the price and supply of that nation's oil for the foreseeable future? There are some who think so.

To whom do we propose to hand the reins of power in Iraq after Saddam Hussein? Will our war inflame the Muslim world, resulting in devastating attacks on Israel? Will Israel retaliate with its own very potent nuclear arsenal? What are we about to unleash here? The genie is getting out of the bottle. Can it ever be put back? Will the Jordanian and Saudi Arabian Governments be toppled by radicals, bolstered by Iran, which has much closer ties to terrorism than Iraq? Could a disruption of the world's oil supply lead to a worldwide recession? Has our senselessly bellicose language and our callous disregard for the interests and opinions of other nations increased the global race to join the nuclear club and make proliferation an even more lucrative practice for nations which need the income?

In only the space of 2 short years, this reckless and arrogant administration has initiated policies which may reap disastrous consequences for years.

We have heard it asked, Are you better off today than you were 4 years ago? The question can be shortened: Are we better off than we were 2 years ago?

One can understand the anger and the shock of any President after the savage attacks of September 11. One can appreciate the frustration of having only a shadow to chase and an amorphous, fleeting enemy on which it is nearly impossible to exact retribution. But to turn one's frustration and anger into the kind of extremely destabilizing and dangerous foreign policy debacle that the world is currently witnessing is inexcusable from any administration charged with the awesome power and responsibility of guiding the destiny of the greatest superpower on the planet.

Frankly, many of the pronouncements made by this administration are outrageous. There is no other word. Yet this Chamber is hauntingly silent—silent. What would John Langdon of New Hampshire say about that? What would Nicholas Gilman of New Hampshire say about that? What would Rufus King and Nathaniel Gorham of Massachusetts say? What would Alexander Hamilton, who signed the Constitution, from the State of New York, say about the silence in this Chamber? What would Dr. Samuel Johnson of Connecticut say about the silence in this Chamber? What would William Paterson or William Livingston or David Brearley or Jonathan Dayton of New Jersey, the signers of the Constitution, have to say about the silence in this Senate which they created? What would Benjamin Franklin, Thomas Mifflin, James Wilson, Robert Morris, of Pennsylvania, have to say? What would Thomas FitzSimons or Gouverneur Morris, who signed the Constitution on behalf of the State of Pennsylvania, have to say about the silence that rings and reverberates from these walls today, the silence with respect to the war on which we are about to enter? What would they have to say? What would their comments be? Gunning Bedford, George Read of Delaware, Daniel Carroll, Dan of St. Thomas Jenifer of Maryland. These and more.

What would these signers of the Constitution have to say about this Senate which they created when they note the silence, that is deafening, that emanates from that Chamber on the great subject, the great issue of war and peace? Nothing. Nothing is being said except by a few souls. Yet this Chamber is hauntingly silent—hauntingly silent on what is possibly the eve of horrific infliction of death and destruction on the population of the nation of Iraq. Think about that.

Oh, I know Saddam Hussein is the person who is primarily responsible. But how about us? How about ourselves?

Yes, there are going to be old men dying. There will be women dying. There will be children, little boys and girls dying if this war goes forward in Iraq. And American men and women will die, too.

Iraq has a population, I might add, of which over 50 percent is under age 15.

Over 50 percent of the population in Iraq is under age 15. What is said about that? This Chamber is silent—silent. When it is possibly only days before we send thousands of our own citizens to face unimagined horrors of chemical and biological warfare, this Chamber is silent. The rafters should ring. The press galleries should be filled. Senators should be at their seats listening to questions being asked about this war, questions to which the American people out there have a right to expect answers. The American people are longing for information and they are not getting it. This Chamber is silent. On the eve of what could possibly be a vicious terrorist attack in retaliation for our attack on Iraq, it is business as usual here in the Senate, and business as usual means it is pretty quiet. There is not much going on in the Senate. Business as usual.

Oh, I know it may be scare talk to talk about what may happen in the event of a terrorist attack. But when the Twin Towers fell, it wasn't scare talk. When hundreds of local firefighters and police officers, law enforcement officers died as the walls of the Twin Towers came tumbling down, it wasn't scare talk. It wasn't scare talk.

We are truly sleepwalking through history. In my heart of hearts I pray that this great Nation and its good and trusting citizens are not in for a rudest of awakenings. To engage in war is always to pick a wild card. And war must always be a last resort, not a first choice.

But I truly must question the judgment of any President who can say that a massive unprovoked military attack on a nation which is over 50 percent children is in the highest moral traditions of our country. This war is not necessary at this time. Pressure appears to be having a good result in Iraq. Our mistake was to put ourselves in a corner so quickly. Our challenge is now to find a graceful way out of a box of our own making. Perhaps—just perhaps—there is still a way, if we allow more time.

Madam President, I yield the floor. I suggest the absence of a quorum—I withdraw that suggestion.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. SMITH. Madam President, I believe Senator SCHUMER is scheduled to speak. I understand he is not now going to claim his time. If I may, I would like to speak about Miguel Estrada. I appreciate the Senator from West Virginia and his effort to present his perspective. I find myself wanting not to be silent, though, in response. He has a perspective that is not one I share with respect to President Bush and the job he is doing as our Commander in Chief and as the leader of the free world. So before I speak about Miguel Estrada, I would like to remain not silent.

When I was elected to this body in 1996 I was given membership on the Senate Budget Committee. Being given membership on that committee, I remember President Clinton presented his first budget. We were coming through a period of great deficits and President Clinton projected deficits for as far as the eye could see. But something happened to our economy, something entirely unrelated to Government, something entirely unrelated to the Clinton administration. We saw what has happened periodically in the great civilizations, and that is a speculative bubble, irrational exuberance, and we saw the stock market surge with stock values wholly unrelated to their book values.

We began to witness a great bubble. That is when Alan Greenspan and others said there is irrational exuberance. We have a problem. They began pulling back on the money supply, and by the time George W. Bush took his oath of office, this country was in a full blown recession. He inherited this. For a colleague to suggest that this President has run this economy into the ground is belied by the facts and it is belied by the common sense of the American people who do not blame this President for the condition of this economy that he inherited and they, in fact, appreciate the fact that he is doing something about it and trying to do what the Federal Government can, with the levers available to it, to help put people back to work, to grow the economy, to say to the country, to say to the Congress: You know, the economy is tough. When the economy is tough, families have to tighten their belts, and Congress should do the same with the Government budget so we can leave more money at home so people can spend it to pursue their dreams, to balance their economies because when they do that, we are more likely to see employers reemploying people.

I must tell you, like my friend from Wisconsin, before I came to this body I was in the business of meeting a payroll. It was always a source of frustration to me to hear politicians from mighty places say that they were responsible for creating jobs, that they were somehow responsible for the condition of the private sector economy. We are citizens of a nation that has a free market economy, not centrally planned. I have always been upset, whether from Republican or Democratic politicians, when there is the claim that somehow we in the public sector create jobs.

It is false. It is a lie. So when I hear speeches saying that President Clinton is to blame for it, or President Bush is to blame for it, I say baloney because, as long as I have been in public life, I have seen us do various things with the levers available to us to try to help the economy, to take credit for it. But you know what. We can't. And may we never be able to because if we do, we will have adopted the ways of western socialist societies, of Western Europe, and these are failing models. These are not models designed to reemploy people and to give them opportunity and hope.

I sit on this side of the aisle for, frankly, one major reason. I believe in free enterprise. I do not believe in creeping socialism. I believe if you are interested in social justice you will pursue those policies that leave more money at home and give people a chance to reemploy folks and to produce products, to provide services that other people want to buy.

So when I hear a statement like I have just heard, with all due respect to a great man in this Chamber, I think it simply disregards the nature of the economic system we are in. I say that as a businessman before I was a Senator. So I thank President Clinton for doing the best job he could. I thank President Bush for doing the best job he could. But in the middle of the administration there was a stock market bubble that neither of them created for which we are now trying to deal with the consequences of the bursting of that bubble.

IRAQ

Madam President, on the issue of Iraq, I think every American feels disquiet about the fact that we are actually contemplating going on the offense because we are trying to provide for the defense of the American people.

I don't think President Bush relishes going to war. But I will tell you that I am glad he does not check our national security with the French or the Chinese or some international body which is, at the core, anti-American and anti-Semitic. I am grateful we have a President who goes to such bodies and makes America's case and stays engaged but never loses sight of the fact that America's interests are best determined by Americans.

I have never believed there was a sharp line of coordination between all the Islamic terrorist groups and Islamic states. But I am not so naive to believe that this is not a loose confederation of terrorism—a loose confederacy that has as its purpose the murder of Jews and Americans and other minorities who do not share their religious faith.

It takes foolish people to look at all the money moving around and all of the ammunition being bought and all of the murder being committed to say we just have to wait for them to hit us again.

I thank God for a President who is willing to say: I am going to protect the American people, and I am going to go where the facts lead us. And even if it says we have to play defense by going on offense we are going to do that.

I don't believe we are going to Iraq out of reasons of oil. I believe we are going there for the security of the American people. Who can like the situation in the Middle East now? Perhaps there is a prospect of a better future. Perhaps there is a prospect of democracy that takes root in the middle of Arabia on the border of Persia that may ultimately figure out how to find

peace with their Jewish neighbors. We have no prospect of that in the current arrangement.

When I hear motives described of this President that his response to 9/11 is somehow failed, I think maybe they are going to different briefings than I am. Maybe they are seeing different facts than I see. I don't understand the charges that were just made here. The charge was made that we are being silenced. I diverted from my Miguel Estrada speech because, frankly, I don't want to be silent if that is what people actually believe here because it is wrong. I want to make clear my opposition to it.

Madam President, when I came to this body, I promised the people of Oregon that while I have values I refuse to check at the door, I would not have a single-issue litmus test when it came to judicial nominees.

I remember very vividly our phones ringing off the hook with calls from conservative people in my State who were very upset at all the Clinton nominees for whom I voted. But I wanted to keep my word that I would not have a single-issue litmus test. I was going to focus on whether President Clinton's nominees were qualified and for some reason not disqualified by personal conduct or ethics.

So with that, I can think of only one exception when a nomination was defeated on the floor of this body at the request of the two Senators of that State.

I voted time and time again for President Clinton's nominees who probably in most cases had different views than I did. I remember specifically the nomination of Richard Paez of California which the Republicans held up for some time. But some of us pushed on this side to get him confirmed.

I remember the nomination of Marsha Berzon, another Ninth Circuit nominee. The conservatives couldn't stand her. Some of us pushed through and got her confirmed and voted for her because we didn't want to happen in this place what is happening now in the case of Miguel Estrada.

I was trained in the law. As a lawyer, I have to tell you that I am envious of the credentials of Miguel Estrada. I will bet in all the time I serve here, few nominees will come to this place who are better prepared and better credentialed than Miguel Estrada. Yet it has come to this? A filibuster? Not for the Supreme Court but for an appeals court—an important one for sure but not even the highest court. We are in the midst of a filibuster.

But consider what an Horatio Alger story is Miguel Estrada when it comes to American law. This man came to this country, from Honduras, at the age of 17, speaking little English. He went to Columbia University. He graduated there magna cum laude. Then he went to Harvard Law School and he graduated there as the editor in chief of the Harvard Law Review, Order of the Coif. Then he went on to clerkship for United States Supreme Court Justice Anthony Kennedy.

You cannot get better credentials than this.

He then served as Assistant Solicitor General of the United States under both the Bush and Clinton administrations, earning high praise from colleagues, including President Clinton's Solicitor General, Seth Waxman, under whom he served.

By the way, I also note that he argued the Government's case against the abortion clinic demonstrators. He upheld the law.

He has the unanimous high rating by the American Bar Association as ''very well-qualified''—its highest rating. That used to be the gold standard for the Democratic conference for people coming through the Judiciary Committee to this floor.

He enjoys broad support from Hispanic communities, including the U.S. Hispanic Chamber of Commerce, the Hispanic National Bar Association, and the Washington Post, of all papers, which editorialized that this confirmation should be an ''easy call''. But it is not. It is all bollixed up. Charges have been raised against Miguel Estrada that he is way out of the mainstream. When you ask for evidence of that, I find none forthcoming. They say he has no judicial experience. Well, I have told you what his legal training is, as well as his legal practice at Gibson, Dunn & Crutcher, a great law firm in California.

I would note that five of the eight current judges on the District of Columbia Circuit had no prior judicial experience before they served on it. But, clearly, that doesn't cut it.

I noted before that he has the highest rating of the American Bar Association. Some have said: Well, but he defended antigang laws. These are known as antiloitering laws. But I would point out that he did that when he was hired by Chicago's Solicitor, at the request of Democratic Mayor Richard Daley, to defend their constitutionality. There is no partisan conspiracy in this. They wanted a good lawyer to defend it. This is a man who has argued 15 cases before the U.S. Supreme Court. No judicial experience? That doesn't hold up.

Some have said he didn't answer all the questions.

I can tell you I fear that what we are doing in this Chamber by the process that began with Robert Bork is setting a standard that if you provide the opposition with your views and your records, you give them ammunition to shoot you—at least politically speaking—in this place.

I come back to my belief that what this really is is the victory of single-issue politics. I regret that.

My friend from Nevada holds the same view I do on single issue. He is evidence that his party has had a big enough part to include people who may—I emphasize ''may''—have a view as to the sanctity of life that is out of the mainstream, if you will.

You see, Miguel Estrada has never told us what his views are. Maybe that is what is wrong here. Maybe if he would come and pledge allegiance to Roe v. Wade all this opposition would go away. But I want to lament that our process has come down to single issue litmus tests. I do not think it should.

See, Miguel Estrada has said what should be said in the case of abortion, issues coming before appellate courts. He has said: I will follow the law. I understand stare decisis. And I am not going to be out there trying to make new law. That is what he should say.

What he has not said I think is feared on that side; and that is, coming from a Latin American part of our hemisphere, that he has a Catholic background, that he has a heritage, a tradition that sanctifies human life. And they are worried about that.

Yet I have to say I think a lot of the American people worry about that. I, for one, who describes myself as pro-life, understand completely that it is unlikely in our lifetime that early rights to choose will ever be abridged by this place or by the Court. But I think Americans generally are increasingly discomforted by late-term abortions.

You have but to see the General Electric advertisement about seeing this couple looking at their unborn child in utero and the inexpressible joy they feel at the anticipation of the child's birth. And to think: Well, this unborn child is of no consequence—it is of enormous consequence.

I think there is a fear there that Miguel Estrada may have some of those beliefs. We do not know that. And, frankly, I think he has said what is right and that is: I will enforce the law.

Madam President, I, for one, say, without reservation, Miguel Estrada has my vote. And I think for the good of our institutions, some of our colleagues on the other side ought to remember that some of us pushed through a lot of President Clinton's nominees with whom we had differences because we were fearful of going down the road of single issue litmus tests for judicial nominees, because if we go there, we are ratcheting up to a different level, and it will be to the lament of this country and its judicial processes because we will leave too many places and seats vacant on the bench, and that will mean justice delayed. And justice delayed means justice denied. I urge his confirmation.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. DORGAN. Will the Senator from Wisconsin yield for a unanimous consent request?

Mr. KOHL. I will.

Mr. DORGAN. I ask unanimous consent that I be recognized following the presentation by the Senator from Wisconsin.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. KOHL. Madam President, I rise today to express my concerns about the nomination of Miguel Estrada. Once a nominee is confirmed by the Senate, these men and women serve lifetime appointments, unanswerable to Congress, the President, or the people. They become the guardians of our liberties, of our Constitution, and of our civil rights. Our duty to advise and consent is the only check we will ever have on the qualifications and fitness of those chosen to serve as Federal judges.

In considering judicial nominees, we can review their credentials, their professional record, their writings, and the recommendations of their colleagues. But to truly evaluate a nominee's fitness, especially one with no judicial record, we are dependent on the nominee to candidly share with us their opinions, their judicial philosophy, and their approach to interpreting the Constitution during the give and take of a confirmation hearing.

The need for forthright testimony is especially crucial in the case of Mr. Estrada, given the minimal public record we have to evaluate him. He has never served as a judge and, therefore, unlike many appellate court nominees, has no judicial opinions to review. He has virtually no professional writings for us to read. And although he has argued before the Supreme Court, he has rebutted any attempt we made to attach his personal views to the positions he advocated in those cases. Therefore, we were dependent on his testimony from his confirmation hearing. But this testimony gave us precious little on which to evaluate him.

Instead, we have been told that Mr. Estrada is bright, capable, and qualified. His proponents say ''trust us, he will make a good judge.'' Trust is not enough; trust leaves too much to doubt. When considering a nominee, we do not owe the benefit of the doubt to the nominee but, rather, to the courts, the Constitution, and to our civil liberties.

A judicial confirmation hearing is not an intrusive exercise. We do not ask nominees to comment on pending cases or to speculate on unlikely facts. Rather, we only ask them to help us reach a level of comfort with them as potential judges. Without candid and honest testimony by the nominee our advice and consent process is meaningless.

Unfortunately, at his confirmation hearing, Miguel Estrada refused to answer question after question regarding his views and judicial philosophy. Mr. Estrada even went so far as to refuse, when asked by Senator SCHUMER, to name a single Supreme Court decision of which he was critical in the last 40 years. I myself have asked that very same question of many nominees, and every one had an answer—until now. This is not an isolated example. Senator FEINSTEIN asked him to state whether he believed Roe v. Wade was correctly decided, and Mr. Estrada refused to do so.

He refused to provide responsive information to my own questions on a variety of topics, ranging from his views on two recent Federal court opinions striking down the Federal death penalty, to the Government's role in protecting the environment, and to the use of ''protective orders'' mandating court secrecy in products liability cases. This pattern of evasiveness and avoidance falls far short of what we need to evaluate a candidate's fitness to serve a lifetime appointment on the DC Circuit Court of Appeals.

The importance of the court to which Mr. Estrada has been nominated makes his efforts to hide his views from us all the more serious. The DC Circuit, a court second in importance only to the Supreme Court, is unique among the Federal courts of appeals as the court that reviews decisions of the executive branch and the independent agencies. The rules and regulations reviewed by this court are felt by all Americans every single day. If you work, your safety is protected by rules issued by the Occupational Safety and Health Administration. When we drink water and breathe the air, we are protected by rules issued by the Environmental Protection Agency. When we shop and watch advertisements, we are protected from fraud and deceit by the Federal Trade Commission. And when we see our cable, phone, and internet bills, we can be sure that the Federal Commerce Commission played an important role. The decisions of the D.C. Circuit on these and many other subjects have a real and immediate impact on the lives of all Americans.

My decision to oppose this nomination in the Judiciary Committee was not taken lightly. I have done so only six times in my more than 14 years of service in the Senate, and I do so reluctantly in the case of Mr. Estrada. We recognize that Mr. Estrada is a talented attorney who has compiled an impressive record of achievement, and that he is to be commended for devoting a substantial portion of his professional career to public service.

My decision to support the need for a filibuster on this nomination is also not taken lightly. We take this step reluctantly, and with the full understanding that we are left with no other choice. Our constitutional responsibility to advise and consent has been compromised by a process that has provided us with no opportunity to learn anything about this nominee. If we permit Mr. Estrada's nomination to proceed, we have provided future nominees a roadmap to evade questions and hide who they are. This would be a disservice to the people we were elected to represent.

We cannot support Mr. Estrada's nomination to the DC Circuit in the face of his unwillingness to candidly share his views, his approach and his judicial philosophy. If no further information is provided about Mr. Estrada, then I will be forced to oppose his nomination.

I thank the Chair.

The PRESIDING OFFICER (Mr. Smith). The Senator from North Dakota.

Mr. DORGAN. Mr. President, I listened to my colleague from Wisconsin, who serves on the Judiciary Committee, on the nomination of Mr. Estrada to the DC Circuit Court. I also listened to my colleague from Oregon and others who have spoken today.

Mr. Estrada has had his name submitted to the Senate by the President, acting under article II of the Constitution. And the President has the right to send nominations for lifetime appointments to the judiciary to the Senate for advice and consent. It is the Senate's responsibility to evaluate the President's nominees and determine whether to vote to confirm those nominees and provide someone a lifetime tenure on one of the Federal courts.

That advice and consent is not in any way subordinate to the President's right of sending a nomination. We both have constitutional obligations. One is for the President to select and send nominations to the Senate. The other is for the Senate to evaluate and provide its advice and consent.

The DC Circuit Court is the second highest court in the land. It is very important that for a lifetime appointment, we decide carefully whether we want to confirm a nominee sent to us by the President. Most of us would not know the nominees personally. That is certainly the case in this circumstance. I don't know Mr. Estrada personally.

I have been to one hearing where he appeared. I was there for only a brief period because a candidate for a Federal judgeship in North Dakota was being heard at that time. This was a nomination of President Bush's. I was pleased to be there to support President Bush's nomination and to support the candidate whose name had been sent to us. I went down to the hearing and supported Mr. Hovland's candidacy. I am proud to say he is now a Federal judge in the West District of North Dakota. He is going to be a credit to the bench. He will be a wonderful Federal judge. I was very pleased to support President Bush in sending this nomination to the Senate.

On that day when he was also testifying, Mr. Estrada was there. That is the only time I have seen him. I was there for only a couple questions, and I don't know a great deal about him but have read a lot about him since.

It is the case with respect to Mr. Estrada's appearance before the committee and also the interviews and discussions prior to his appearance before the Judiciary Committee, that Mr. Estrada decided he would not answer some basic questions put to him by Members of the Senate. Members of the committee were asking some pretty basic questions. Tell us a bit about your judicial philosophy, because you

don't have experience as a judge and you have not served as a judge at any level in the judiciary system. Tell us about how you see this job. Evaluate for us some of the decisions that have been made over time by the Supreme Court, and so on. Mr. Estrada essentially said, I don't care to do that.

Contrast that for a moment, for example, with Dan Hovland who is now a Federal judge in the West District of North Dakota. He was asked: What three U.S. Supreme Court cases can you identify that you disagree with? This is Mr. Hovland. He said: Well, Behrens v. Peltier, 1996; a 2002 case, Thompson v. Western States Medical Center; and then, of course, the case I suspect most would cite, Korematsu v. the United States. That is, of course, the case in which the Supreme Court affirmed the conviction of a person of Japanese ancestry for a violation of a curfew order solely because of the individual's ancestry.

I think now most would view that Supreme Court decision as a profound mistake. Mr. Hovland did. He was asked a simple question. He gave a straightforward answer. He said: Here is my notion of three Supreme Court decisions with which I would disagree. It gave Members a bit of an insight into who Mr. Hovland was, what he thinks. That was helpful.

The same question was asked, for example, of Freda Wolfson: What three U.S. Supreme Court cases can you identify that you disagree with. Plessey v. Ferguson, that would come to mind almost immediately for everyone. They held that the State statute requiring passenger railroads to provide separate but equal accommodations for African Americans and Caucasians did not violate the 13th or 14th amendments. It seems to me that is probably an obvious case one would disagree with.

Yet questions of that type were asked repeatedly of Mr. Estrada, and he said he just wouldn't offer an opinion, wouldn't answer the questions. So then the members of the committee said: Well, you served in the Solicitor's Office at the Justice Department. Could we be provided with the memoranda written there, the advice you were offering, to get some insight into how you feel about these issues, how you reason, how you think?

He said, no, those are confidential. Those should not be released.

Well, they have been released in the past. On other occasions candidates have indicated they wanted those papers released. They were released. It gave the committee, when making a lifetime appointment, some better judgment about how this person thinks, how this person reasons, what approach this person takes to dealing with some of these questions. Mr. Estrada said, no, he couldn't do that.

What has happened with this nomination, a circuit court nomination is that, both the President's administration and the candidate himself, Mr. Estrada, have said: I don't intend to answer questions, and I don't intend to make the information available with respect to what I was doing as assistant in the Solicitor's Office.

If that is the case, Mr. Estrada is then a blank sheet. What are we to make of Mr. Estrada? Who is he? How does he think? How does he reason? Would he be a good judge? This is, after all, a lifetime appointment. This isn't an appointment for 5 years, 10 years, or 20 years. We are being asked by the President to take Mr. Estrada's nomination and say, yes, we will put him on this Circuit court forever, for his entire life, and we have no right to get answers to basic questions, to understand a bit about the philosophy of Mr. Estrada, a bit about his approach, his thinking. We have no right to that?

I have been astounded to hear some colleagues on the floor say: You have a responsibility to approve this nomination. No, we have a responsibility under the Constitution to advise and consent. The President has a responsibility to send us a nomination. We have a responsibility to evaluate it and make a decision. Is this someone who should be given a lifetime appointment or not? That is our judgment. That judgment doesn't rest with others. It rests with us.

I would like very much for Mr. Estrada to give us the information requested. My colleagues on the Judiciary Committee have repeatedly requested this information. I would like very much to see the information. It is entirely possible I would see all of this information, understand a bit more about Mr. Estrada, and decide to support his nomination. I don't know. I would like to see the information and make a judgment.

I believe I have voted for virtually all the nominations the President has sent to Congress with respect to judgeships. I would hope to be able to support this and others as well. But I don't intend to decide that we should force the Senate to vote for a lifetime appointment for a candidate on the DC Circuit Court who tells us nothing about himself.

He seems to suggest, I am here for a job interview, but I will not tell you anything about me. That would be a job interview that would last a very short time. It ought to last a very short time here. When Mr. Estrada and the administration provide the information that is requested, then, in my judgment, this Congress has a responsibility to consider it, and consider it with great seriousness because this is, after all, a Federal judgeship, not just a district judgeship, but a circuit court judgeship of DC, which is the second highest court in the land.

Judge Scalia once said—and I am not prone to quoting him often:

> Indeed, even if it were possible to select judges who didn't have preconceived views on legal issues, it would hardly be desirable to do so.

What are the preconceived views on legal issues of Mr. Estrada? Does anyone know? Does anyone who has spoken in support of this nomination know? Can you answer that question? The answer is no one in this Chamber knows; no one in the Chamber can answer the question because Mr. Estrada and the administration say you are not entitled to know.

They are wrong. The Constitution requires us to know. It says we are entitled to know. I don't believe we ought to vote on this nomination until we have received the information requested. When we do, I think we should vote on this nomination. But until then, in my judgment, this is not a problem of our making, this is not something someone from the other side should shoehorn over here. This is a problem the administration and Mr. Estrada created by deciding on a strategy that, if we allow to continue, would essentially say to the Senate, you consider us for lifetime appointments and we won't give you any information about ourselves as we ask for that consideration.

There are reciprocal obligations here—ours, the President's, and the nominee's. We will and should meet ours as soon as others have met theirs. The first test of that is to send the names of qualified people to the Senate for judgeships. Mr. Estrada may well be very well qualified. The ABA says he is well qualified. The second obligation on the part of those who send his nomination to us is for the candidate himself, or herself, to make themselves available to the Senate, answer questions, and allow us to evaluate whether this is the kind of person we want to provide a lifetime appointment to on the Federal bench. That hasn't been the case at this point.

With respect to this nominee, we are waiting; but we should not vote, and no one in this Chamber ought to pressure others to vote until we have the basic information we have requested. What is so secret about all of this? What is there we should not know? Is there anyone qualified to serve on the second highest court of the land who doesn't have some basic views on past Supreme Court decisions—especially some of the controversial ones—they might explore with us in order to give us some evaluation of how they think and reason, what kind of capability they have to sit on the bench? If such a nominee is sent to the Senate, that nominee ought not ever be confirmed.

I don't believe that is the case with Mr. Estrada. I think he has views on all of these issues. He certainly could tell us his views about Supreme Court decisions with which he would disagree and why, so we could develop some notion of his reasoning. He just refuses to do that. I don't know why. I assume if this is the case with this candidate and the Senate says that is fine, we will see future nominees refuse to answer anything; our advice and consent will become a rubberstamp; and we will not ask people to give us basic information. Then the next candidate will do

exactly the same thing and we won't have a constitutional responsibility at all here in the Senate. We will say, all right, whatever it is you decide to give us, we will take, or whatever you decide to withhold, we will accept.

I am not willing to do that. Why not the materials from the Solicitor's Office? It has been done in other nominations. Why not now? Why won't the candidate answer basic questions? Again, I come here not as a member of the committee and as someone who has a preconceived notion that Mr. Estrada would not do a good job. I don't know. And no one else in the Senate knows. There is nobody in the Senate who can stand up and say Mr. Estrada has answered these questions for us, because he has refused to answer the questions for all Senators. Some in the Senate might be perfectly comfortable deciding the constitutional role granted us in this process of lifetime appointments on the judiciary is not very important. But I am not among them.

THE STATE OF FOREIGN AND DOMESTIC POLICY

Mr. President, let me speak for a moment, while I have the floor, about a couple of other issues that are happening that I think are very important. I know others want to come and speak about the nomination. I want to talk for a moment about what has been happening in our country with respect to foreign policy and domestic policy.

In recent days, we have had the following occur: We wake up in the morning and turn on the television programs. The lead story is, as it has always been in recent weeks, days, and months, the war with Iraq. When is it going to happen? How is it going to happen? When is it going to start? Who is going to support it? Who is going to be involved? Every week, day, and month.

As a result, this economy of ours, which desperately needs certainty, predictability about the future—and this economy, in my judgment, is in a stall, serious trouble—is not going to come out of its problems unless we stop every day the lead news story being about war. I am not suggesting Iraq is not a problem; it is. Saddam Hussein is a bad guy. North Korea is a problem—a bigger problem than Iraq, I might say. Terrorism is a bigger problem than both of them. We have a situation in which we have to deal with all three. I understand that. But the other day we get an orange alert in the country, the second highest alert for terrorist activity in our country, the terrorist threat. Today, I understand we have hardware stores that are out of duct tape. Why? Because yesterday they said we are on orange alert, under the threat of terrorist attack, and we need people to go out and buy gas masks and plastic sheeting and duct tape. So the hardware stores in our country are being cleared out of duct tape. Why? People are concerned about the potential of a terrorist attack in our country.

North Korea. Apparently, we read in the news—I have not heard it in classified briefings because we have not had any—that trucks are leaving a facility in North Korea, potentially with spent fuel rods, which will, in the not-too-distant future, be turned into weapons-grade plutonium, probably sold to a terrorist; and it is not out of the question that 18 or 24 months from now a terrorist will have a nuclear weapon with which to hold hostage an American city.

Is that a frightening thought? You bet your life it is. So what consumes our attention today? Iraq. Saddam Hussein. Oh, but today is a bit different in that Osama bin Laden also shows up. He is out there. The other day Osama ''been forgotten'' is what I called him, because you don't hear about him anymore from the administration. They cannot find him, don't know where he is. I have flown over those mountains; it was about a year ago. You can look down and see where the caves are, where Osama bin Laden and his band of murderers plotted the murder of innocent Americans, thousands of them. And so men and women wearing America's uniform went into Afghanistan, kicked the Taliban out, ran the al-Qaida up into the hills. But Osama bin Laden was not found. Al-Qaida still lives. The head of the CIA said a couple of months ago that the terrorist threat against this country is as serious now as it has ever been since September 11. What of terrorism? What do we make of North Korea? What about Bin Laden? And, yes, what about Iraq?

We have had a single track playing now for month after month about the country of Iraq. I want to see regime change in Iraq. I want to see Saddam Hussein displaced. My preference, by far, is that the free world in unison says to this man: You leave, you disarm, or you are going to be disarmed, and you are going to be replaced. I would hope very much the entire free world says that to Mr. Saddam Hussein, but I also hope that we understand in this country—the President and, yes, his key advisers understand—that there are more threats and, in my judgment, at this moment, more serious threats with respect to North Korea and the development of additional nuclear weapons that could possibly go into the hands of terrorists very quickly; more serious threats with respect to al-Qaida which still lives, and Osama bin Laden, who is still broadcasting to those who follow him, which is also a very serious threat to this country and to the free world.

We need to understand that we face very serious problems, and it is not just Iraq. Inattention to some parts of our foreign policy, in my judgment, have contributed to this. I understand North Korea has lied to us. I understand that. But deciding not to talk to them? It is not an option.

There are only two options dealing with a problem that serious. One is military. We are not going to do that. The second is diplomacy, and that means we talk. We talk and we talk and we talk, and we try to work through these issues.

With respect to al-Qaida and terrorism, the fact we do not mention it, the fact no one will talk about it, the fact it is not something the Defense Department, the State Department, or others want to talk much about does not mean it has gone away. It is as serious today, perhaps more so, than ever, and we have a responsibility to deal with it. I worry a great deal about these terrorist issues and the terrorist threat against our country.

My point is not to say somehow the attention to Iraq is misplaced. It is to say that the sole attention to Iraq at the expense of, in my judgment, a more serious threat from North Korea, the sole attention to Iraq at the expense of attention to al-Qaida and the growth and the continuation of a very serious threat of terrorist attacks is unwise, in my judgment. It makes no sense.

We have a responsibility to protect the national interests of this country, and I will and always have supported our President as we proceed to do that, but I think it is important with respect to not only advice and consent on judgeships, but providing advice on issues as we perceive threats to this country, it is important for some of us to speak up to say: Mr. President, you are right, Saddam Hussein is a bad guy, but you are wrong to not pay attention to North Korea and the war on terrorism with equal vigor and equal strength.

Frankly, no one can take a look at what has happened in the last 6, 8, 10 months and judge there has been that kind of balance. My hope is that in the coming days we will see greater balance dealing with this terrorist threat and also the threat of North Korea producing more nuclear weapons and potentially moving those nuclear weapons into the hands of terrorists who the next time they threaten us will do so with a nuclear weapon.

God forbid we will face a world in which a nuclear weapon is used as an act of terrorism, not killing 3,000 people but 300,000 people or 1 million people.

If ever we wonder about these issues, we have a world in which there is somewhere, we think, around 30,000 nuclear weapons. We do not know exactly. With theater weapons, strategic weapons, somewhere around 25,000 to 30,000 nuclear weapons, one of which, just one, missing or in the hands of terrorists will cause chaos. The explosion of one will be devastating, and the genie will be out of the bottle.

Pakistan and India have nuclear weapons, and the other day they were shooting at each other over Kashmir. Dangerous? You bet your life that is dangerous.

We have a responsibility, especially in the shadow of the terrorist threat against this country, in the shadow of what is now happening in North Korea and the potential of the spread of nuclear weapons, we have a responsibility

to decide that job No. 1 is protecting ourselves against the terrorist threat and then trying to find ways to reduce the number of nuclear weapons in this world.

I have kept in my desk for some long while a couple of items I have always used to remind us of what this job is about.

This little piece of metal, if I may show by consent, Mr. President, this little piece of metal is from a backfire bomber. This bomber was a Soviet bomber. It used to be flown by Soviet aircrews hauling bombs that presumably would threaten the United States of America. It was at a Soviet airbase in Ukraine when it was destroyed.

How was this bomber destroyed? Did we shoot it down? No, this bomber was destroyed with a saw, a large circular metal saw. We sawed the wings off a Soviet bomber, and we paid for it under Senate appropriations.

We destroyed a bomber, not through hostile action but under what is called threat reduction. We destroyed missiles. We took off the nuclear warheads. In the Ukraine, where there was once a missile with a nuclear warhead aimed at the United States of America, there is now no missile, no nuclear warhead, and sunflowers are now planted on that ground. Is that progress? Boy, I think so.

This is ground up copper from a Russian submarine that I assume at one point or another was lingering off the east coast of the United States with missiles in its tubes armed with nuclear warheads. But we did not sink that submarine. This is copper wire ground up from a submarine that was taken apart under the Threat Reduction Program.

Senator LUGAR, who is a real champion of this issue, and former Senator Nunn were the first to start the funding by which we actually paid to destroy weapons of our adversaries with whom we had agreements on nuclear weapons reductions and the reduction of delivery systems.

We sawed the wings off a bomber; a submarine, we simply took it apart and ground up the copper wire. Is that progress? I think it is. If we do not in this country assume world leadership in stopping the spread of nuclear weapons and reducing the stockpiles of nuclear weapons, our children and grandchildren will almost certainly see a future in which nuclear weapons are used.

It is our job, our responsibility to be a world leader in this area. There are some who seem not to understand or care about that responsibility. We have some right now in this town talking about designing new nuclear weapons. Let's design a nuclear weapon, a designer nuclear weapon, that will be a cave buster. Hard to get into caves? Let's design a little new nuclear weapon to drop on a cave someplace.

Apparently, after the al-Qaida situation in which they hold up in caves, we have some people thinking they can create designer nuclear weapons. Once that thinking starts, the thinking that you can use nuclear weapons in circumstances such as that, others will say: We can use nuclear weapons. Once the thinking starts that you can use preemptive strikes against countries because you are worried what they might do later, other countries will say: We can do preemptive strikes.

I worry a lot about where we are headed with the multiple policies with respect to weapons programs. I think we ought to be strong. I have supported many weapons programs, but I also believe, with respect to nuclear weapons, we must lead the world. We must stop the spread of nuclear weapons. We must reduce the stockpile of nuclear weapons all around the world. It is our job. It is our responsibility. We are the world leader. We are the ones.

ECONOMIC POLICIES

These are challenging, difficult, tricky times. Every one of us in this Chamber wants this President to succeed. We want our country to succeed. I do not want us to have foreign policy failures. I do not want us to have an economy that is in trouble. I want this President to succeed. I am a Democrat. He is a Republican. It is in my interest and our country's interest for him to do well. It is also in our interest, where we have differences of opinion, differences on policies, for us to bring out those differences and debate them aggressively.

There is an old saying that when everyone in the room is thinking the same thing, no one is thinking very much. I know some do not like that. There are some who think if questions are raised these days, shame on you. But with the challenges we have in both domestic and foreign policy, we ought to have questions flying from every direction in every corner and every philosophy of this Chamber and then pick the best of those ideas and suggestions.

There is a tendency for each side to want the other to lose these days, and so instead of getting the best of each, we get the worst of both, and that does not serve the interests of this country, whether it is foreign policy challenges, which I just discussed, or the challenges in economic policy which I am going to talk about for a moment. We really need to understand that there is not only one way to address these. On some occasions, there are wrongheaded ideas, things that will make things worse with the economy or with foreign policy. There are some good ideas, some brilliant ideas, some in the middle. Our job is to select from the range of alternatives and to work with this President.

I will talk for a moment about the challenge with respect to the economy. I know there are others who want to speak. I started by talking about the Estrada nomination, but I do want to take a moment to talk about the foreign policy and the economic policies that I think are significant challenges as well.

Yesterday, Mr. Greenspan came to the Congress and I think he poured a 5-gallon pail of cold water on President Bush's fiscal policy proposals. I am thankful for that because the President is proposing, in the face of the largest budget deficits in history by far, more tax cuts, the bulk of which will help upper income taxpayers. I do not think that is what we need to do for the economy.

As I said earlier, this economy is not going to grow if every day, in every way, the lead story is about war, as it has been every day and every week and every month for some long while. This economy does not grow when that happens. The price of oil increases. People are uncertain about the future, and they manifest that uncertainty by what they do. So we need to get through this.

When we get through it, the question is: How is a jump start provided to this ship of state of ours? How is this economy provided a boost? The President says what we need to do is more tax cuts. He said what we ought to do is exempt dividends from taxation.

That is interesting. Certainly, if one were discussing tax reform, if that were the subject, they would have that as part of their discussions, no question about that. Of course, that is not the subject at the moment. The subject at the moment is, should we do an economic stimulus package? So the President takes the opportunity to say let's exempt dividends.

I am wondering why exempting taxation from dividend checks has a priority over exempting taxation from work, such as paychecks. Dividend checks should be exempt; paychecks should be taxable? Is that a value system that says let's tax work and exempt investment? If so, does that make sense? I do not know. I do not know how one chooses that approach.

I will talk now about where we are and how we have gotten to this point. Mitch Daniels, who runs the fiscal policy program at the White House—he is at the Office of Management and Budget—has been the prognosticator of where we have been and what we have been doing.

On March 2, 2001, which is not quite 2 years ago, he said:

> It has become clear that this new era of large surpluses is more dangerous to the taxpayer than the preceding era of large deficits.

So Mr. Daniels was gnawing at his fingernails worried about these large surpluses: Woe are we; the surpluses are going to kill us. He said these big surpluses are a big problem. That was about 2 years ago.

Then about a year and a half ago, he said:

> We're going to have an enormous surplus, $160 billion or more.

So he must have gotten his crystal ball at a Dollar Store, I guess, because in November—that is, about 15 months ago—he said:

> It is, regrettably, my conclusion that we are unlikely to return to balance in Federal accounts before, possibly, fiscal year 2005.

What happened in that short period of time? Well, we ran into a recession. I stood at this desk when they were proposing their $1.7 trillion tax cut and said: How can you be so certain? Maybe we will not have surpluses. Maybe we will run into some problems. Guess what we ran smack into. A recession, a September 11 terrorist attack, a war against terrorists, the largest corporate scandals in the history of this country, the tech bubble burst, the stock market pancake, and all of those surpluses that Mr. Daniels was worried about turned to big deficits.

Did that change Mr. Daniels' mind about what we ought to do with the economy? Oh, no. He has only one speed in his transmission. In January—just a year ago—he said:

> We project effective balance in 2004.

So he is still using that same crystal ball. A month later he says:

> Despite everything, the outlook is promising for balance in the year after next and for a return to large surpluses thereafter.

That was 1 year ago. Still predicting, Mr. Daniels says:

> Despite simultaneous war, recession and emergency, we are in a position to fund the requirements of victory, plus a stimulus package, and still be near balance.

That was 1 year ago.

March 27—11 months ago: The U.S. budget is in an extremely good position, Daniels said, adding that:

> OMB expected the fiscal year 2002 budget deficit to be about $50 billion.

This is a guy who was excessively worried about having surpluses that were too large. I assume he was not sleeping; he was worried about large surpluses. A year later, he is saying it is only going to be a $50 billion deficit. That will be the smallest recession deficit in modern times.

But then we come to February 2003, the same man, same crystal ball apparently, same prognosticator:

> Our projections, which incorporate extraordinarily conservative revenue estimates, see deficits peaking this year, heading back thereafter.

Now let me show the chart of Mr. Daniels. In 2002, he predicted our surplus would be $283 billion. We did not have a surplus. We had a deficit of $159 billion. In 2003, he predicted we would have a surplus of $334 billion. We did not have a surplus. We had a deficit of $304 billion. In 2004, he predicts a $387 billion surplus. He missed it by well over half a trillion dollars.

I do not know what to make of this. This is the guy who is driving the stage, with apparently 8 or 10 runaway horses, and does not have the foggiest idea what is happening in this economy. He says we are going to have big surpluses—that is his biggest fear—turns them into the largest deficits in this country's history and says: Oh, by the way, I can solve that. Let's do more tax cuts, the bulk of which will go to upper income people, and let's decide to keep taxing work but we will start exempting investment—a value system that is curious to me. Why would work be taxed and investment be exempted? Is work less worthy than investment?

Yesterday, we had 10 Nobel laureates in the field of economics, along with 400 economists, who put an ad in the New York Times, I believe it was—it could have been the Washington Post—saying that this proposed fiscal policy is going to lead to bigger deficits and bigger problems; it is going to saddle our children and their children with the burdens that we create, and it makes no sense at all. It certainly will not stimulate or jump start this economy.

This country is a strong, resilient country. It will overcome bad policies from Democrats and Republicans, and it has had plenty in two centuries. It has also been benefited by good policies, by visionaries who had the strength and the endurance to stick to those good policies that they knew would allow this country to grow, that they knew would invest in working families, they knew would give investors and entrepreneurs an opportunity. This country is a great place, but it faces very serious challenges at the moment. Those challenges will not be resolved—domestic and foreign policy—by having our heads in the sand. Al-Qaida and terrorism is a very serious abiding threat in this country right now.

The fact is, homeland security is not adequately funded and everybody knows it. But no one will admit it. North Korea is a bigger problem than Iraq and everyone understands and no one will admit it. Yes, Iraq is a problem, but it is not the only problem. It does not even lead the list with respect to North Korea and the issue of terrorism.

Having said all that, against that backdrop of foreign policy challenges as aggressive and difficult as we have seen in some long time in this country, we have an economy that is sputtering and has lost strength. It will not gain strength by deciding to borrow more money and add to the Federal budget deficit and do it for the purpose of reducing the tax burden of those at the upper income levels.

Upper income people are wonderful people who do a lot for this country. But should a proposal, when we are up to our neck in Federal debt—should a proposal that gives an $80,000 average tax cut to the American who earns $1 million a year be a priority in this country?

Yesterday, I was at a hearing and I was told by the Secretary of the Interior: By the way, we will close, we will zero fund a school called the United Tribes Technical College. It is a wonderful school, 32 years in existence. Native Americans from across the country, some 40 States, go to school there. It gives them a chance in life. These schools are very important. Why are we going to defund it? Why doesn't the administration want to fund it? It is a matter of choices. I asked, What choices? Exempting dividends? Or funding an Indian school that does wonderful things for people who want to advance their education?

These are the choices. Yet there are too many wrong choices being made.

My hope is as we confront these economic challenges and foreign policy challenges, this country will succeed. We have survived a lot. This country has been through a lot. We have survived a Great Depression. We beat back the oppressive forces of fascism and Hitler. This country has achieved what no other country in the world has achieved. But it is not because it has made bad choices, it is because it made good choices.

The question is, What are those good choices? They do not come from one location. They come from all corners of this Chamber, all corners of this country. They come from, yes, the executive branch, but they come from the legislative branch, as well. It does no service to our country to not have an aggressive, vigorous debate about these issues.

Let me finish where I started. I don't particularly enjoy coming to the floor of the Senate saying we ought not vote at this point on Mr. Estrada. That is of Mr. Estrada's doing, not ours. That is of the White House's doing, not ours. When they ask us to give someone a lifetime appointment to the Federal bench, and then say to us we have no right to receive answers to basic questions asked—questions asked and answered by other candidates—we have no right to those answers, then we have a responsibility to say, well, advise and consent does not mean that we rubberstamp anything sent down to the Congress. It means it is an obligation of ours to evaluate. Is this person worthy of being on the Federal bench? How do they reason? How do they think? How do they approach this job?

I mentioned when we asked questions, or my colleagues on the Judiciary Committee asked questions of Mr. Estrada, he said he would not answer them. Those same questions were asked of Mr. Hovland. He is now a district judge. He answered. Questions were asked of Freda Wolfson. She answered the questions. Ed Kinkeade answered the questions. Linda Rae Reade answered the questions. All are Federal judges now because they came to the Congress, not expecting and demanding to be approved, just presenting themselves as the President has done through nomination, to say, here I am; now, Members of the Senate, your job is to give advice and consent and to vote on this nomination. I am willing to answer questions. Here I am. Here is who I am. Ask me questions. I will answer them.

Mr. Estrada's approach was different. He said: Here I am. But I will only tell you my name and you get a chance to look at me, but I will not answer your questions. We cannot allow that to

happen. If it happens on this nomination, it will happen on the next nomination.

What we have said to Mr. Estrada is, answer the questions. We have submitted a list of things he refused to answer that others have routinely answered. We said: Release the information from your term working in the Solicitor's office. Others have done that. Mr. Estrada is not a judge so we do not have much of a record to go on regarding how he thinks and how he approaches his responsibilities.

He should, and I hope he will, decide to meet the basic requirements of providing information to the Senate. When he does that, in my judgment, I think we ought to proceed. Until he does, in my judgment, we ought not proceed under any circumstance.

Our job is to give advice and consent on a lifetime appointment. Anyone who treats that lightly does not understand the responsibility under article II of the Constitution.

Let me finish by saying I take no pleasure in saying that Mr. Estrada has additional requirements in front of him. But it is he himself who has visited that upon this Senate. Had he answered the questions and provided the information, we would not be in this situation. But we are in this situation of requiring this nominee, before he is voted upon, to provide the basic information that we have requested in consideration of whether he ought to receive a lifetime appointment on the second highest court in this country. If and when he provides that information, I will be happy to vote and make a judgment on Miguel Estrada.

I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. TALENT. Mr. President, I rise first of all in support of the Estrada nomination and to say a word or two about it. Mr. Estrada's qualifications are excellent. I reviewed them the other day and it struck me that the man is so smart it is almost scary: Harvard Law School, Phi Beta Kappa graduate, clerk of the court of appeals, clerked on the Supreme Court, argued numerous cases before the Supreme Court.

I clerked on a court of appeals, and I mean no disrespect to the members of the Federal judiciary when I say I wish every Judge had Mr. Estrada's qualifications when he or she went on the bench. Mr. Estrada is competent, qualified, honest, and he deserves to be on the court of appeals.

I regret the filibuster that is currently underway to prevent his confirmation. It is unfair to him. It is bad for the country. Worst of all, it introduces a note of discord into the Senate that makes me discouraged about our ability to do the other things we need to do for this country—to pull together behind a prescription drug plan, behind a jobs bill, behind a strong defense that will protect our men and women in uniform, protect our country, create jobs in Missouri and around the country. It will also inhibit our ability to accomplish what we need to do in health care for small business.

HEATH CARE INSURANCE

I will take a few minutes and talk now about what could be the most significant measure that we could pass to expand the cause of access to health insurance for people who work for small businesses in this country.

I chaired the Small Business Committee in the House for two terms, and from the time I did that, I made it my point to interact with small business people around the country and especially around Missouri. They have a number of problems they are confronting: Taxes are too high; in many cases they face regulations that do not make any sense, that inhibit them and hurt them and burden them and accomplish nothing in terms of environmental quality or worker safety or any of the social goals we want to achieve. Many small businesses have difficulty getting access to the capital they need to grow, to expand, to create jobs.

Those are all problems. We need to work on all those problems. But the No. 1 problem facing small business in this country today is the rising cost of health insurance premiums. I have seen it all over the State of Missouri. I have been in places in Cape Girardeau, in Columbia, in Joplin, where small business owners report to me premium increases of 25 percent in 1 year or premiums doubling over 3 years. The effects of this are incalculable. Small business people cannot compete effectively for employees. They have to buy poor quality health insurance, and in some cases have to drop their health insurance altogether, or else the high premiums suck up money they want to put in wage increases or to expand the business. The high premiums are tremendously unfair to them, very bad for the country and, most importantly, very bad for the people who work for small businesses. Of the 41 million people in the United States who are uninsured today, almost two-thirds of them own a small business or work for a small business or are dependents of somebody who owns a small business. The impact on them is enormous.

And think of the impact on the rest of the health care system. Just because these folks are uninsured doesn't mean they don't get sick. At a certain point, when they get sick enough they go to the emergency room or they go to the hospital. Since, those costs are currently unsponsored, they have to be shifted to the rest of the population or hospitals have to eat those costs. What a difference it would make to the people of this country and the small business sector and to the economy if we could introduce and pass a measure that would help cover folks who currently are uninsured. We can do that.

I have talked about the bad news. The good news is that we have an idea that can fix this problem very substantially. It is an idea that passed in the House of Representatives two terms in a row. It is time tested. It is supported on a bipartisan basis in the House. It has the broad support of the small business community. It would not cost the taxpayers of this country a dime. I am talking about association health plans.

Let me explain what association health plans are. The best way to think of them is that they would simply empower small businesspeople of whatever kind to get health insurance on the same terms that big companies already can. AHPs would reduce the cost of health insurance to small businesses by 10 percent to 20 percent. This is how they would work. We need to pass a law empowering or enabling the major trade associations, the Farm Bureau, the Chamber of Commerce, the NFIB, the medical associations, to sponsor ERISA health care plans, including self insured plans, the same way big companies can.

Then, if you joined the trade association, the association would have to offer you coverage under the plans. They would have to offer it to you. They would have to carry you. So if you were a small business you could join the trade association and it would be as if you were becoming a little division of a big company. It would be as if your small business had been bought by a bigger company and all of a sudden you were part of a large national pool of people without having to pay the marketing costs or the profit margins of big insurance companies, and with much reduced administrative costs. One of the big reasons small businesses have to pay more for health insurance is that the administrative cost for small businesses is so much greater.

As I said, this would not cost the taxpayers a dime. It is not a Government program. It just allows small businesses to pool together to help themselves and their employees. It is not a revolutionary change, but the impact would be revolutionary on people who work for small business who would have access to health insurance. The number of uninsured would be reduced by millions of people.

We have gone years without really good news in the health care sector, and association health plans have the potential to be that good news. As I said, the bill has a history already, at least in the House. It was introduced first in the 104th Congress 6 or 7 years ago by my good friend, then-Congressman Harris Fawell. We passed it twice 2 years running in the House. It had strong bipartisan support. I think the bill when we introduced it originally in the House had 85 Republicans and 25 Democrats, including the ranking member of the Small Business Committee in the House. It has very strong support already in this body. I am pleased to say the chair of the Small Business Committee, Ms. SNOWE, is a strong supporter. Senator BOND is a strong supporter.

There is simply no reason why we cannot pass this bill. There is nothing in this bill that implicates any of the great philosophical divisions that separate the two parties on other kinds of issues. The bill is in the mainstream of both political parties. It would make a huge difference for America, for small business, and for the people who are uninsured, and we simply ought to get it done.

That is the kind of thing I am looking forward to working on in the Senate. Let us have an up or down vote on the Estrada nomination and then move forward together.

We have to be able to create jobs. We have to do something about the health care situation in this country. We have to attend to the national defense. We should confirm the President's qualified nominees such as Mr. Estrada and then move on and pass this necessary measure for small business and for the people of the country.

I yield the floor.

The PRESIDING OFFICER (Ms. COLLINS). The senior Senator from Missouri.

Mr. BOND. Madam President, it is a great pleasure today to be able to welcome my new colleague from Missouri to this body. I think he will find, since we are not limited to 1 minute on this side of the Capitol, that remarks are not nearly as concise as they would be in the other body. But certainly his experience there will be of great value.

I have been proud and pleased to know JIM TALENT and his wonderful family for many years in the State of Missouri. I knew him when he served as the Republican leader in the legislature. I worked with him closely when he was the chairman of the Small Business Committee in the House. There was a time when the State of Missouri had double duty in small business and it was a pleasure to work with him then.

I also know his children and his wonderful wife, Brenda. They are a great family. They make a great team. This fall I got to see a lot of them. They give him the courage and the support he needs to do an excellent job.

We also were very saddened that his father, who meant so much to him, did not live to see him achieve this victory in the end of the campaign. He lost his father and, while it was quite a blow to him, he persevered. It was a mark of the man that he came through these very difficult times.

I know this body will benefit from JIM TALENT's contributions. He has been a champion for association health plans, which I think are essential for enabling small businesses to participate in the competitive marketplace, to secure health insurance for employees and their families. JIM has championed this idea on the House side. I know it is a top priority of the President and the Secretary of Labor, and it is good to have him leading this charge in the Senate now, along with Chairman SNOWE and the other members of the Small Business Committee and people who are supportive of small business in the Senate.

Obviously, as has been said, the benefit of an AHP, or association health plan, is by allowing small businesses with similar interests across State lines, across the country, to come together in one pool; they can gain the efficiencies of purchasing in volume; They can gain the advantages of administering overhead, which can be spread across many businesses. For the same reason that you pay less for soda in cans if you buy it by the case, or multiple cases, than if you buy it one at a time, buying health care is much the same. No. 1, you get efficiencies of scale. You also have an opportunity to spread the risks. Those who have taken time to study health care know that the broader the pool, the broader the actuarial component is, the more reasonable the limits will be.

I see my colleague from Massachusetts is ready to take the floor.

Mr. TALENT. Will the Senator yield for just a moment? I certainly will not delay the Senator from Massachusetts. He has been very kind in allowing me to speak, but I wanted to thank the Senator for his kind remarks about me and many kindnesses to me, and especially coming out on the floor. I also want to say, because I see the senior Senator from Massachusetts and the Senator from Nevada and the Senator from Utah, how impressed I have been and how much I feel welcomed by the many senior Members of this body who took a moment to come over on their own and say hello to me. I am just grateful for that. It is a real mark of the congeniality of the Senate. I appreciate it.

I thank my friend and colleague from Missouri for yielding.

Mr. BOND. I thank my colleague. I appreciate the indulgence of the Members on the floor.

I yield the floor.

Mr. HATCH. Madam President, if I may ask my colleague from Massachusetts for a moment of privilege, I want to personally praise my colleague from Missouri for his maiden speech today and for the excellent job he has been doing ever since he began here. I just wish we had him on the Judiciary Committee as well because we know the great lawyer he is, and we also know about the terrific experiences he has had over in the House and also in private practice.

I just want him to know how much we appreciate having him in the Senate and how proud I am of him every day.

I thank my colleague from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Madam President, I join with my colleagues in drawing attention to the remarks of our new colleague from Missouri speaking on the issue of health insurance, the uninsured and the challenges which are out there for the small business community. This is, as he has very well stated, an extraordinary problem for the reasons he has outlined.

It is amazing to me that the small businesses in this country continue to try to provide coverage. As we know, in his State as well as mine, they are all paying about 30 percent more in terms of the premiums than larger companies, and in many instances they have a rapid turnover in terms of the companies that are available to them.

This really is an extremely significant part of the whole crisis in terms of the uninsured. There are a number of different proposals to which we will have a chance to give focus. But I certainly welcome the fact that he selected as his maiden speech the whole issue and question about the uninsured and the challenges that businesses, and small businesses, face. We may have some difference in just how to deal with the issue, but I certainly look forward to working with him and others to see how we can make progress.

I thank him for his statement and for the fact that he is focusing on an issue that is of such importance to our fellow citizens; that is, the question of the uninsured and how we are going to continue to provide insurance for small businesses.

Madam President, one of our most important responsibilities as Senators is the confirmation of federal judges. These are lifetime appointments. Long after we have served our Senate terms, the judges nominated by the President will continue to interpret the Constitution and federal laws. A President's nominees are an enduring legacy that will affect the life of our country and the lives of our constituents for many years to come.

The important work we do in Congress to improve health care, reform public schools, protect workers rights, and ensure enforcement of civil rights means less if we fail to fulfill our responsibility to provide the best possible advice and consent on judicial nominations. Tough environmental laws mean little to a community that can't enforce them in our federal courts. Civil rights laws are undercut if there are no remedies for disabled men and women. Fair labor laws are only words on paper if we confirm judges who ignore them.

For all of these reasons, we must carefully review the qualifications of federal judges, particularly nominees to the DC Circuit. Because the supreme Court hears relatively few cases, the appellate courts are frequently the courts of last resort for millions of Americans. And, of those appellate courts, the DC Circuit is one of the most important. It has a unique and prominent role among the Federal courts, especially in interpreting administrative law, and it has exclusive jurisdiction over many laws affecting the workplace, the environment, civil rights, and consumer protection. For the most vulnerable among us, the DC circuit is often the final stop on the road to justice.

Given its location and jurisdiction, the D.C. Circuit has often decided important cases involving separation of powers, the role of the federal government, the responsibilities of Federal officials, and the authority of Federal agencies. In the 1960s and 1970s, the DC Circuit had a significant role in broadening public access to agency and judicial proceedings, expanding civil rights guarantees, overseeing administrative agencies, protecting the public interest in communications regulation, and strengthening environmental protections.

In the 1980s, however, the DC Circuit changed dramatically because of the appointment of conservative judges. As its composition changed, it became a move conservative and activist court—striking down civil rights and constitutional protections, encouraging deregulation, closing the doors of the courts to many citizens, favoring employers over workers, and undermining federal protection of the environment.

In the 1960s and 1970s, the DC Circuit expanded public access to administrative proceedings and protected the interests of the public against big business. For example, the court enabled more plaintiffs to challenge agency decisions. It held that a religious group—as members of the listening public—could oppose the license renewal of a televisionstation accused of racial and religious discrimination. It held that an organization of welfare recipients was entitled to intervene in proceedings before a Federal agency. No longer would these agencies be able to ignore the interests of those they were supposed to protect.

But in the 1980s, with the ascent of conservative appointees, the DC Circuit began denying access to the courts. It held that a labor union could not challenge the denial of benefits to its members—a decision later overturned by the Supreme Court. It held that environmental groups are not qualified to seek review of EPA Standards under the Clean Air Act. These decisions are characteristic of the DC Circuit's flip-flop in the 1980s. After decades of landmark decisions allowing effective implementation of important laws and principles, the DC Circuit is now creating precedents on labor rights, civil rights, and the environment that will set back these basic principles for years to come.

In the 1970s and early 1980s, the DC Circuit advanced the cause of environmental protection. In this period, the court interpreted the Clean Air Act in ways consistent with Congress' intent. In Lead Industries Associations v. EPA, the court held that the EPA cannot consider economic costs to industry in setting air quality standards, because Congress had made health the paramount concern in setting these standards.

Decisions in leaded gasoline cases also significantly advanced the effort to reduce air pollution and protect people—particularly children in cities, from the harmful effects of automobile exhaust. In addition, the court took strict action when it upheld the ban on the manufacturer and sale of the pesticides DDT, heptachlor and chlordane.

But in the mid-1980s, conservative judges on the DC Circuit began cutting off access to the courts for environmentalists and injected an anti-environmental point of view into decision after decision, regardless of even Supreme Court precedents. In American Trucking Associations v. EPA in 1999, the DC Circuit issued a harsh decision denying the EPA the authority to establish health standards for smog and soot. That decision was unanimously reversed by the Supreme Court. In another notorious decision, Sweet Home Chapter of Communities for a great Oregon v. Babbitt, it struck down habitat protections for endangered species. This decision also was reversed by the Supreme Court.

When Congress passed the National Labor Relations Act, it guaranteed workers the rights to join a union without discrimination or reprisal by employers, and to bargain with employers over the terms and conditions of employment. The National Labor Relations Board interprets and enforces the act and reviews appeals of decisions by administrative law judges. NLRB decisions are appealable to the circuit court, where the unfair labor practice is alleged to have occurred, or here the employer resides or transacts business, or in the DC Circuit. As a result, the DC Circuit is always available as a forum to challenge decisions of the board.

In 1980, the DC Circuit fully enforced the board's decision 83 percent of the time, and at least partly enforced the board's decision in all the other cases. By the year 2000, when the court had a 5-to-4 Republican majority, including a solid majority of Reagan/Bush appointees, the DC Circuit enforced in full only 57 percent of NLRB cases and enforced at least part of the board's decisions just 70 percent of the time. These enforcement statistics put the DC Circuit significantly below the national average of an 83.4 percent enforcement rate for the board in all the courts of appeals.

Given these statistics, it is not surprising that the DC Circuit has become the circuit of choice for employers trying to overturn NLRB decisions. In 1980, the DC Circuit heard only 3 percent of the NLRB appeals heard by the circuit courts. The DC Circuit ranked next to last of all the circuits. Only the Tenth Circuit heard fewer cases.

As the Reagan/Bush effect on the DC Circuit took hold, the court became increasingly attractive to industries, and the court;'s share of NLRB cases steadily rose. By the year 2000, the DC Circuit ranked first among all circuit courts in the percentage of NLRB cases herd by those courts. Almost one in five cases—18 percent—were filed in the DC Circuit, and employers brought by far the largest number of these cases.

The DC Circuit's willingness to overturn National Labor Relations Board decision is deeply troubling because of the precedents being established. In Freund Baking Co. v. NLRB, it reversed the NLRB and set aside a union election because the court felt that a wage and hour lawsuit brought on behalf of several workers shortly before the election interfered with a fair election.

In Macmillan Publishing. Co. v. NLRB, the board had overturned a union representation election, finding that a company prevented a fair election by distributing a leaflet telling employees to vote against the union or risk losing a previously announced wage increase. The DC Circuit reversed the board's action.

The DC Circuit's hostility to the NLRB, to the detriment of workers and their unions, is also illustrated in other cases dominated by Reagan Bush appointees. In International Paper Co. v. NLRB, the court overturned the board's decision and held that the company's permanent subcontracting of employees' job during a lockout was an unfair labor practice. In Detroit Typographical Union v. NLRB, the court overturned the NLRB's determination that Detroit News and Free Press had committed an unfair labor practice when it unilaterally implemented a merit pay proposal immediately prior to the beginning of a 19-month strike by newspaper employees. In Pall Corp. v. NLRB, the court overturned the board's determination that it was an unfair labor practice for an employer to unilaterally revoke a contract provision on ways for the union to obtain recognition at other facilities.

The DC Circuit also vacated a decision by the board to include handicapped workers at a Goodwill production facility in the same bargaining unit as other employees. The court held that the handicapped workers were not employees. And in C.C. Eastern v. NLRB and North American Van Lines v. NLRB, the court overturned the board's ruling that truck drivers are employees. Instead, the court held that the drivers are independent contractors unprotected by the National Labor Relations Act.

Immediately after Congress passed the Occupational Safety and Health Act of 1970, the DC Circuit issued major decisions that protected workers from job-related hazards. The DC Circuit issued a landmark ruling in United Steelworkers of America v. Marshall, which upheld OSHA's standard on lead in the workplace. This case continues to be important, because it upheld basic principles and protections that the agency went on to use in many other workplace safety standards.

The DC Circuit also held the OSHA Administrator to a high standard in implementing the law. In 1983, the court ordered OSHA to expedite rulemaking on ethylene oxide, a highly toxic substance used to sterilize medical equipment. In a subsequent case,

the court sent an ethylene oxide standard back to OSHA for failure to adopt a short-term exposure limit that would have made the standard more protective.

In 1987, after unacceptable delay by OSHA, the court ordered the agency to issue a field sanitation standard requiring toilets and drinking water for farmworkers, to protect them from disease.

Today however, employees no longer see the DC Circuit as a court in which to bring worker safety and health actions. Despite the court's earlier willingness to hold OSHA to its statutory mandate to protect workers, workers are turning elsewhere for relief, and big business is counting on the DC Circuit for assistance. It is no accident that the National Association of Manufacturers and other trade associations who filed a lawsuit to overturn OSHA's ergonomics standard chose the DC Circuit to bring their petitions for review.

In decades past, the DC Circuit was in the forefront of upholding Federal protections for minorities and women. One of the most notable cases on racial discrimination was a 1969 decision upholding measures to end the overcrowding and segregation of schools in the District of Columbia. In another important decision, the court held that a written examination had a disparate impact on African Americans applying for positions in the police department. The court held that unless the test had sufficient relationship to job performance, it violated the Constitution.

The DC Circuit also contributed important precedents for women seeking justice and equality. In Laffey v. Northwest Airlines, female flight attendants were assigned to the all-female ''stewardess'' classification, while men who performed essentially the same job were paid more and called ''pursers.'' The female flight attendants sued Northwest Airlines for sex discrimination. The district court held that Northeast Airlines had violated Federal law, and the DC Circuit upheld the argument that the Equal Pay Act extended to identical jobs, and held that it required equal pay for ''substantially equal'' jobs.

This principle was emphasized in Thompson v. Sawyer, involving a claim of sex discrimination by employees of the Government Printing Office. The court held that jobs may be ''substantially equal,'' even it they involve work on different machines or equipment, as long as the skills, effort, responsibility and working conditions are the same.

All of these decisions are advancing the cause of equal pay for women in the workplace, enormously important decisions. Because of these decisions, we see further compliance by other companies, knowing that this is the law and it has to be respected.

In the late 1970s and mid 1980s, in the area of sexual harassment, the court held in a series of cases that sexual harassment in the workplace violates title VII even when there has been no loss of tangible job benefits. The court also held an employer can be held liable for sexual harassment by a supervisor, even if the employee is unaware of the supervisor's actions.

These cases were all important steps on civil rights, enormously important to the kinds of conditions in the workplace, particularly for women on equal pay and also in terms of the issues on sexual harassment. This was major progress in decisions made by the DC Circuit.

People say: Why are we so concerned about this particular nominee? I have been trying to review for the Senate, this afternoon, these various areas. Whether we are talking about the environment, whether we are talking about worker safety, whether we are talking about issues on women's rights—equal pay, freedom from harassment—all of these judgments and decisions that have been made by the DC Circuit have advanced the cause of greater protection and greater equality for the citizens in the workplace.

These cases were all important steps on civil rights. But when more conservative judges were appointed, the tide began to change. In 1973, the DC Circuit had required the Federal Government to take steps to end segregation in educational institutions receiving Federal funds. But a decade later, by a 6-to-4 vote, the DC Circuit held in Adams v. Richardson that the plaintiffs could not obtain judicial review of the Federal Government's settlement with higher education institutions, despite the Government's abandonment of its own desegregation criteria.

The workers and the firms affected by such decisions are well aware that the DC Court of Appeals is a powerful court. This fact is not lost on the current administration. For over two decades, Republican administrations have worked diligently to reshape this court and other courts. Current judicial nominees are clearly being chosen for their ideological beliefs.

None of us should have any doubt that the Bush administration is intensely pursing this goal today.

The President's nominees to the circuit courts are among the most conservative lawyers and judges in the country. This administration is doing all it can to reshape the Federal judiciary for a generation or more to come in its own conservative image. In doing so, the administration is undermining the enforcement of important environmental, labor, worker safety, immigration, and civil rights laws while advancing harsh new policies.

If this administration has its way, we will soon be drilling in the Arctic National Wildlife Refuge, developing and exploiting wetlands and waterways protected by the Clean Water Act, and undermining policies that protect our environment.

If this administration has its way, employees will have fewer labor and workplace protections. If this administration has its way, we will see the continued erosion of civil rights laws.

It is obvious that Mr. Estrada has been nominated to a court that is overturning important precedents and moving farther and farther to the right—a court that disregards congressional intent and the letter and spirit of the law it has a duty to respect—courts like the current administration, more interested in serving big business than in serving justice.

As I reviewed just briefly why this nominee is so important, we get asked why is this particular nominee so important? As I mentioned, it is the DC Circuit. It is making and has made these judgments time and time again in protecting individuals and the environment and protecting workers. We have seen a significant shift in recent times. What we are trying to find out is what the nominee's views are in the general areas I have mentioned in which this court has such important jurisdiction.

We could get no answers on the issue of workers rights, no answers on the issue of civil rights, no answers on the issue of the environment, no answers on the issue of the broad sweep of different questions that come in terms of administrative agencies and the importance, what kind of precedence, what kind of latitude they give to administrative agencies. No, we are not entitled to those answers at all. Absolutely none. We just are denied any kind of opportunity to hear any response as to a court of this importance. We are entitled to hear the nominee, not for his specific outcomes of a particular case but to show an understanding and a grasp and an awareness of the importance of the laws and a sense of the type of commitment he has in terms of fundamental constitutional protections.

I urge my colleagues to heed the warnings of the many Latino organizations and leaders who have raised concerns about Mr. Estrada's nomination. As 52 Latino labor leaders have written:

> America's working families look to the federal courts to protect our rights at work, to stop unfair labor practices by employers, and to ensure that employers respect laws regarding fair pay and equal treatment on the job.
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> Of all the federal courts, none—other than the U.S. Supreme Court—is more important to working people than the U.S. Court of Appeals for the District of Columbia Circuit. It is in this court that the legal rights of working people are won and lost. After a careful review of Mr. Estrada's record, on behalf of the working families of America, we have decided to oppose the nomination of Miguel Estrada.

These concerns are shared by the United Steelworkers of America, the UAW, Community Rights Counsel, Defenders of Wildlife, Earth Justice, the Endangered Species Coalition, the Environmental Defense Fund, the Environmental Working Group, Friends of the Earth, the Sierra Club, the Wilderness Society, the Mexican American

Legal Defense Fund, the Puerto Rican Legal Defense Fund, the Congressional Hispanic Caucus, the Congressional Black Caucus, and many other organizations.

Earlier today we had meetings with the leaders of the Hispanic Caucus. They reviewed with us how they have interviewed various nominees over recent years, how they were able to get some kind of a sense, and the degree of support they had given to many other nominees who they had a particular interest in, who had a Hispanic background, and how they interviewed this nominee.

I will take some time tomorrow to review in some detail with the Senate their conclusions and their observations. They are the ones who speak for the Hispanic community. They are the ones who understand the hopes and dreams of so many of our Hispanic brothers and sisters. They are the ones who have, through life experience, a keen awareness and understanding about the importance of justice.

But some of the statements they made this afternoon, which I found so compelling, were the fact that when the dust settles on the Presidency, whether it is one party or the other, when the final action is taken in the appropriations and the legislative branch, the one place the Hispanics have historically been able to look to and have a sense of confidence has been the American judicial system. They consider it sacrosanct in terms of the types of challenges they are facing daily in our society. They challenge us to preserve that kind of equality.

They reviewed in careful detail, not just for us but for Americans, in the form of our meeting this afternoon with the press exactly why they are so strongly opposed to this nominee.

I stand with these groups and the millions of Americans they represent and urge the Senate to reject the nomination.

EDUCATION FUNDING

Mr. President, I see my friend and colleague from New Mexico. I would like to, if I may, proceed for about 3 or 4 more minutes on a different subject, but one I know he is very much interested in. I think it is important to bring to the attention of the Senate. That is the outcome of the omnibus 2003 budget in the area of education.

We are going to have the final budget conference report in the next several hours, but there are a number of parts of it that effectively have been closed. It is important, since it affects the families in this country who are concerned about education, that we take a moment to review the positive outcome that has taken place in the omnibus 2003 budget that marks a victory for parents and teachers and principals and schoolchildren across the Nation.

When the omnibus 2003 spending bill is reported out of conference later tonight, it will include an education budget increase that is eight times President Bush's request. For the second time in 4 weeks the Congress will reject President Bush's inadequate education budget and insist on increased resources to carry out school reform. And for the second time in 4 weeks, Republicans and Democrats in Congress will reject the administration's ongoing drive to divert scarce public school funding to private school vouchers.

I see the Senator from Maine who, with our friend and colleague from Connecticut, during the authorization spoke so eloquently about the importance of funding of title I. We made important progress in including approximately 500,000 more children who would be eligible for title I as the result of the omnibus bill.

The final year budget which effectively will provide resources that will be available to the school systems this spring will provide 3.2 billion in education over the previous year and 2.8 billion over President Bush's budget. Title I, the key school reform program, the No Child Left Behind, would be increased by $1.4 billion, helping half a million more needy children to be fully served. In my State of Massachusetts, 46,000 more children will be served. IDEA will increase by $1.4 billion, putting us a step closer toward fully funding the program as promised. My own State of Massachusetts will see a $32 million increase in special education funding.

Support for improved teaching quality and reducing class size will increase by $100 million—not nearly enough, but we are going in the right direction. We will improve the quality of 24,000 more teachers across the country. Programs that help English language learners master English will increase by $25 million and will help 37,000 more children learn English.

We have made strong steps toward meeting the promises of full funding outlined in No Child Left Behind and NIDA. But it is not enough. Teachers and students need more support. Teacher shortages are getting worse, class sizes are increasing, State deficits are skyrocketing. So we have a good deal of work to do. But as a result of the decisions that have been made recently in the Senate and in the conference report, there is some good news on the way.

I thank my friend and colleague from New Mexico for permitting me to finish.

I yield the floor.

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

Mr. BINGAMAN. Madam President, let me first thank my colleague from Massachusetts for his eloquent statement on the Estrada nomination and also his other statement about the level of funding for education contained in the omnibus appropriations bill. I know how hard he has worked on that issue for many years. I commend him for the progress that has been made, and I agree with him that much more progress needs to be made.

I want to say a few words about the Estrada nomination and also talk about another aspect of the President's proposed budget to us, with which I have found serious concern.

First, on the Estrada nomination for the DC Court of Appeals, Miguel Estrada has been nominated for that position, and, frankly, the concern I bring to this issue is that many of my good friends and people whom I respect in the House of Representatives, in the Hispanic Caucus, have indicated that they oppose his nomination. When I said many, I should have said all. They had quite a discussion and quite a period of investigation of this nomination, and they concluded unanimously that the Hispanic Caucus of the House of Representatives would oppose the nomination. I have been contacted by several members of that caucus and urged to resist the nomination in the Senate. As I say, I have not taken the time to look into it in detail myself, but I have great respect for these gentlemen and women who have worked hard on this issue, and their strong opposition is of concern to me.

I am also concerned that not a single Democratic member of the Senate Judiciary Committee determined to support the nominee after hearing the nominee's answers to questions before the committee. I share my colleagues' concerns as expressed by many of those members on the Judiciary Committee that we simply do not have enough information about this nominee at this time to cast an informed vote. During his confirmation hearing, he was not willing to answer many basic questions that were propounded to him. He was evasive when asked about his judicial philosophy. He refused to provide samples of his work from the time he served in the Solicitor General's Office. There have been requests for information made that, in my view, have been reasonable.

As I understand it, the chairman and ranking Democrat on the Judiciary Committee and Senator DASCHLE are continuing to request additional information before any vote is cast on that nomination.

Some have attempted to turn this debate into a debate about the nominee's ethnicity. I don't believe that is the issue. I have supported many Hispanic candidates. In my State, I had the great honor to recommend to President Clinton, our previous President, and he in fact appointed a Hispanic nominee to our Federal court in New Mexico. But that support was based on having a full record regarding the candidate's qualifications in each case. We do not have a full record as to this nominee at this point. I hope when we attain it, then we can move forward with the vote at sometime in the future.

THE PRESIDENT'S PENSION PROPOSAL

Madam President, I want to talk for a few minutes about a set of proposals the administration has made related to pension coverage that I think are of serious concern. You might say, where does that fit into the other major issues being discussed here? As I see it,

the President has presented his new budget to the Congress, and part of that budget involves reductions in revenue. Now, the portion of those reductions in revenue that has been focused on most is the stimulus package, the recommended elimination of the tax on dividends from stock, the recommendations to accelerate the anticipated changes in the income tax rates; all of that has been what people have focused on.

There are other parts of what the President has proposed to us which are also deeply troubling. I think it is time we begin to focus on those. The President has made some recommendations that I think carry with them some great danger.

Let me address the first chart called ''Passed and Proposed Tax Cuts.'' This chart makes the obvious point that, in 2001, Congress passed a major tax cut bill which, over a 10-year period, was estimated to reduce revenue to the Government by $1.35 trillion. That is a very large tax cut. At the time, there was great fanfare by those who supported it that this was the largest tax cut in our Nation's history. It reduced individual tax rates; it repealed, essentially, a temporary estate tax, increased contribution limits to retirement plans.

Two weeks ago, Congress received the President's proposed budget for this year. That budget says we should add to the $1.35 trillion and the 2002 stimulus bill a new tax cut, a new series of tax cuts that add up to $1.46 trillion. People say that is not the right figure. The figure discussed here is 670-some-odd billion dollars; that is what it is going to cost, not $1.46 trillion. But I refer you to the budget documents that were presented to the Congress. We had a hearing in the Finance Committee the other day with our new Secretary of the Treasury. I asked him about this. He said: I am not sure that is the right number. We read it back to him out of his own budget documents. That is the right number. It includes the stimulus package, but it also includes the CARE Act, MSA expansion and permanency, and the proposal related to pensions.

Let me talk about the pension-related provisions for a few minutes. In my view, these pension-related provisions that the President is now urging on the Congress could have a devastating effect on retirements and the ability of workers to save for their retirement. These proposals mark a dangerous and irresponsible shift away from existing policies that are intended to encourage retirement saving by all of our workers in employer-provided plans.

The proposal the President has made is to deemphasize employer-provided plans and essentially take away the incentives for continuation of those plans and, instead, shift to a system where everyone is left to fend for himself or herself. In my view, this would benefit only those in our society who need help the least. The President's proposal is based on the creation of two new super-IRAs: There is the RSA, Retirement Savings Account, and the LSA. Each of these would allow individuals to set aside $15,000 a year in the two together for favorable tax treatments. Those with additional resources would be able to set aside an additional $75,000 a year for other family members who could set up their own LSA; so if you had two or three children, or a spouse, you could certainly do it for them as well. While some would benefit from this type of arrangement, the vast majority of Americans would be unable to find the resources to save on their own.

The creation of these new accounts negates the tax advantages currently available only for employer-provided plans. The likely result is that without these current tax advantages, employers will simply stop offering their plans. It will no longer be economical, and it will no longer be the most efficient way to meet their own retirement needs.

About 80 years ago, Congress began to offer employers preferential tax treatment if they would help their employees to pay into pension plans. Then, as now, the Congress appreciated the need to get the employer involved in the employee's retirement savings. In doing so, we created a series of nondiscrimination rules to guarantee that employers provide benefits to all employees, not just those who are the top level employees.

We have seen many examples in recent months, beginning with the Enron scandal and then in the case of WorldCom, and many others, where top individuals in corporate structures have benefited extremely well, while the average worker has been left unassisted.

We have put in place in the tax law a requirement that there not be discrimination in pension coverage. We also created a series of tax incentives that encouraged employees to set aside their own funds in these same accounts. The combination of incentives for employers and incentives for employees have always been premised on the employer offering the employees a plan in which that employee could save.

Over the years, we have made significant changes and adaptations to the system. The primary goal has been to encourage employer-provided plans and to encourage employers to assist employees in this very important financial goal that employees need to have.

The President's current proposal, in my view, dramatically ends this policy, ends this effort to encourage employers to help employees save for their retirement. At a time when we are facing huge funding deficits in Social Security, it seems to me reckless to be considering removing the underpinnings and the stability of our current private retirement system.

Our current private retirement system has many defects, and I would be the first to point those out, and I have pointed them out many times. But to take away what we currently have in the way of a private retirement system and the incentives that underpin that system at this time I think would be very wrongheaded.

There is a rational basis for encouraging employer-provided plans. Let me show this chart which gives some statistics. This is a Department of Labor chart. It shows that for all workers for 1999, the coverage for all private sector workers was 44 percent. That is, 44 percent of private sector workers in the country had some kind of pension plan. In those firms where the employer sponsored a plan, it was substantially higher. It was 58 percent. The participation when the employer sponsored a plan was 75 percent for all workers.

The point of this is clearly that employee participation increases when employers are sponsoring a plan. We have the very same thing as Federal workers. The Federal Government says that if we wish to put away funds for retirement, the Federal Government, through the Thrift Savings Plan, will match the contribution that Federal workers make up to a certain percentage. I think it is 5 percent, in that range.

This is very similar to the kind of employee plan that many have—a matching plan. Some employers say they will match dollar for dollar; some say they will match 50 cents for each dollar the employee puts in. The main point is, workers will take advantage of employer retirement plans when those plans are offered.

This chart demonstrates one other point, and that is, when you get down to minority representation, the percentage of minority workers who are covered by pension plans is substantially less than the percentage in the population as a whole, and there is only 27 percent in the case of Hispanic workers, but it goes up dramatically where the employer is sponsoring the plan. It goes from 27 percent to 68 percent. So employer sponsoring of plans is a very substantial factor in causing people to save for their retirement.

The administration, in my view, should be focusing on ways to encourage more employers, particularly small businesses—in my State, most employers are small businesses—to offer their employees plans. We should not be giving employers reasons not to offer those plans or to discontinue plans they have historically offered.

Last year, Edward N. Wolf of the Economic Policy Institute presented a report entitled ''Retirement Insecurity: The Income Shortfalls Awaiting the Soon to Retire.'' That report demonstrated the shift away from defined benefit plans to defined contribution plans over the last 30 years, and we have seen that shift. It demonstrated that shift has not, in fact, improved our Nation's coverage rate, as it was advertised to do. Instead, it has reduced the overall retirement wealth for

the bulk of the workers in this country.

The primary reason the companies have shifted to these defined contribution plans—and defined contribution plan, of course, is nothing except a plan which specifies how much will be put in rather than specifying how much a benefit the retiree will finally receive as a result of a plan—but the primary reason companies shifted to these defined contribution plans is that under these plans, the employees make the majority of the contributions. The employee is the one who bears the risk about what happens to the funds invested in that plan. This reduces the employer's cost. It makes it far more attractive to the employer than a traditional pension plan.

The President's proposal takes it one step further, and it shifts us one step further away from employer participation in retirement savings. In many cases, the small business employer would be able to save more themselves with the new IRA, so they could put away $7,500, they could put away $7,500 for their wife, and they would be able to provide certain higher income employees with matches, for the employees' savings as well, without running afoul of any current discrimination rules.

Since IRAs are not covered by discrimination rules or by ERISA, the employer could pick and choose which employees they want to provide matches to; they could provide those matches in the form of bonuses, or whatever. That is not allowed under current rules and, in my view, should not be allowed. If an employer wanted, they could even contribute to family members, to shareholders, or to other nonworkers and avoid making contributions to the average worker working for that company.

I think, for good reason, Congress has always opposed the creation of this kind of mechanism which would open the possibility for discriminatory treatment among workers. The President's proposal, in my view, opens the floodgate to a whole range of new abuses of this kind.

At the same time, coverage rates have remained flat and as employers have shifted toward defined contribution plans, the retirement income of retirees, and those near retirement, have decreased as compared to their current incomes. This is not new information to a great many older Americans.

In 1989, roughly 30 percent of households were projected as living on less than half of their preretirement income. If we look a decade later, by 1998 this number had increased to 42 ½ percent. For African Americans and Hispanics, the numbers are significantly worse. In 1989, there was 43 ½ percent who lived on less than half of their preretirement income. By 1998, that had grown to over 50 percent—53 percent.

The Wolf report demonstrates that only those with retirement wealth in excess of a million dollars saw their retirement wealth increase in 1999. This chart shows every other class of retiree. It starts with those with incomes of less than $25,000; $25,000 to $50,000; $50,000 to $100,000; $100,000 to $250,000; $250,000 to $500,000; $500,000 to $999,999; and then over a million.

Between the period of 1983 and 1998, the changes in retirement wealth have been negative. There has been a reduction in retirement wealth for every single group in our society with the exception of those who earned over a million dollars a year. That is the unfortunate reality we face in this country.

The President's proposal would speed up this wealth gap immeasurably by forcing workers to solely fund their own retirement savings. For example, under the President's proposal, a wealthy executive would be able to save almost $50,000 a year with tax preferences for a family of four, and meanwhile workers living paycheck to paycheck would likely be unable to set aside any significant amount for retirement.

Clearly, what will be good for the top floor will not be good at the shop floor level. This is not the first time Congress has looked at IRAs. In 1986, as part of the major tax reform we did then, we created what we call the active participation rules that are still in place today. These rules limit those who can participate in an IRA based on income. The reasons for the rules are simple: Data clearly indicated the only people taking advantage of IRAs at that time were upper income people who also had employer-provided plans.

Congress realized then, as we still appreciate now, that IRAs are not utilized by lower income workers. The President is proposing to essentially replace the current retirement system with IRAs, and thereby ensuring lower paid workers are not saving for retirement.

According to the 1999 IRS statistics, that means less than 5 percent of income earners who made less than $50,000 a year were, in fact, putting funds into an IRA. That means 95 percent of those earning $50,000 or less did not put a single dollar into an IRA. The majority of working families clearly do not need or benefit from expanding IRAs as the President would have us do.

A shift toward this type of savings away from employer-provided plans will not help the majority of our workers.

This final chart indicates, using Department of Treasury data from 1999, it is clear we still have a great distance to go. Based on the data reflected on this chart, the lowest 40 percent of income earners receive roughly 2 percent of the tax benefits currently provided under our Tax Code.

That is the lowest 20 percent, and the second 20 percent, added together, get about 2 percent. The lowest 60 percent receive a little less than 12 percent of those benefits. At the same time, the top 10 percent receive 43 percent of the benefits and the top 1 percent get approximately 10 percent of those benefits.

The President's proposal, as I understand it, would significantly shift the Government-provided tax benefits to the upper income categories, as only those with disposable income would be able to participate. Unfortunately, this proposal we have been given makes it more cost effective and less administratively burdensome for employees to fund their own retirement outside of the qualified plan. So the result is most workers will find themselves without an employer-provided plan that provides salary deferrals and oftentimes significant employer contributions. Instead, most workers will have to put aside their own funds each paycheck, either without a tax benefit or the receipt of a tax benefit that does not come until the end of the tax year.

Sadly, for many American families, there are not enough resources available for them to pay all of their expenses and still do what the President has in mind.

I do not know what all of the motivations were behind this proposal. Before we move ahead, I very much hope we can look at it in great depth during hearings in the Finance Committee. As far as I can tell, it is designed to provide tax incentives for additional savings by those who need them the least, and it certainly would have the effect of undercutting the employer-sponsored retirement system we have long tried to strengthen.

As I indicated earlier, I am one of the first to admit the current employer-sponsored retirement system we have is not adequate and needs to be strengthened, but eliminating the private retirement system we have and undermining the incentives for employers to maintain that system is not the solution to the problem.

I yield the floor.

The PRESIDING OFFICER (Mr. ALEXANDER). The Senator from Utah.

Mr. HATCH. Mr. President, it seems to me if the Democrats are going to filibuster, they ought to give some reasons for their filibuster. They have said they are going to filibuster, for the first time in the history of this country, a Federal circuit court nominee, and the first Hispanic nominated to the Circuit Court of Appeals for the District of Columbia.

Where are they? We have had all kinds of talks on foreign policy, on running down the President's financial plans, running down his foreign policy. I heard one Senator today talk about the real problem is North Korea. Of course, it is a real problem. So is Iraq. So is Osama bin Laden.

These are the people who watched me in the middle of the 1990s be the first one to tell President Clinton he better get on Osama bin Laden because he is going to kill Americans. I actually was the first to bring that forth.

I have been on the Senate Select Committee on Intelligence twice. They

did nothing, and now they are moaning and groaning because we have inherited a problem that has existed for a long time. Because nothing was done? Now they are saying, well, we should be concerned about North Korea. Yes, we should be. We should be concerned about everything.

It does not take many brains to realize a lot of the finances that come for the terrorist movement throughout the Middle East and throughout the world come from Iraq. They have supported virtually everybody. The Egyptian Islamic Jihad, that is where Al-Zawahri comes from. He is No. 2 to Osama bin Laden. That is where they have gotten a lot of their money. They support the Palestinian Islamic Jihad. They support virtually every Islamic terrorist group around. Now we are supposed to just stand back because some of the Democrats think we ought to concentrate our efforts on North Korea. Of course, we are concentrating our efforts there. The President is doing everything he should do. It is not quite the same. Those people are hemmed in by China, who they have to have just for food, and it is not in China's best interest to allow North Korea to have this kind of power and be able to irresponsibly use it. Nor is it in the interest of anybody in the Asian community, and it is certainly not in our interest. We have top people working on that and controlling it.

It is hard to control wild men, and we have to really look hard to find one worse than Saddam Hussein. Saddam Hussein has used weapons of mass destruction against his own people. Imagine what he would do to us if he could.

My colleagues on the other side know as much as I know about it, or at least they should, and that is before the first session of inspections, Saddam Hussein came that close to having a nuclear device. You think he is not trying to do that now, and in his country, the size of California, do you think it is hard for him to secrete his weapons of mass destruction? He can hide those in a million different ways. This is a joke.

We have to fight terrorism. We have to fight these types of people on all sides. And we are. This administration is doing everything it can, and it really needs to have a little less bellyaching and a little less criticism, a little less partisanship than what we are getting sometimes around here.

I heard other Senators get on this floor and say this court—to go back to Miguel Estrada—the first Hispanic nominated to the circuit court of appeals in this country who is being filibustered by people who, throughout the years, have said we would never filibuster when they had the Presidency, we would never use that type of a tactic. Here they are, using it. It is hypocritical. It is wrong. It is unfair. It is establishing a precedent that could hurt this country immeasurably. We could only have the least common denominator on the Federal courts if some on the other side got their way. To do it against the first Hispanic nominated to the Circuit Court of Appeals for the District of Columbia is particularly reprehensible, especially since he has every qualification a person needs to fulfill this responsibility.

The White House and the general counsel's office have been working overtime day and night to answer all the questions these people have asked over and over that are ridiculous in nature. They have made Miguel Estrada available for any Democrat who wants to talk to him. The Democrats conducted the hearing. It was all day, which is extraordinary in and of itself. They controlled every aspect of that hearing. They asked the questions that they wanted to ask. He did not answer some of them the way they would have preferred. Then they could have defeated him for sure. That is not his job to try to please the Democrats or me or anybody else. His job is to tell the truth, which is what he did. And he had an obligation to tell the truth without saying how he would vote on any given issue, or otherwise he would have to recuse himself after he gets on the bench and be less effective.

Some of the arguments we have had around here are ridiculous. The very people who are griping about getting these confidential privileged memoranda down at the Solicitor General's Office ignore the fact that of the seven former current living Solicitors General, four of them are Democrats in the Solicitor's Office. Three reviewed Miguel Estrada's memoranda.

How far do we go with these ridiculous arguments, these unfair arguments, these discriminatory and prejudicial arguments, against a person who has every qualification to be on this court? There is only one reason they are fighting like this. They think Republicans are going to back down. Or that the President will back down. He will not back down.

I don't think most Democrats feel the way some of the radicals over there do. There are some people with reasonable minds over there. I think most of them. I respect everyone on the other side, but I have to tell you, some of them are listening to the most radical people on their side in bringing this filibuster and going against one of the best nominees in history.

I have been on the Judiciary Committee almost 30 years, 27 years now. There are very few who you would rate at the level with Miguel Estrada. Every Hispanic in this country ought to be proud of it. I am calling on every Hispanic in the country, whether Democrat, Independent, Republican, whether you are liberal, moderate or conservative, you better start calling the Democrats and let them know this is not fair, this is not right. It is abysmal. Some would say abominable. I think I would be one of those.

I have seen some unfair things here from time to time, and this is a tough body, there is no question. Sometimes we do some dumb things, but I have never seen anything more unfair than what is happening here. With Senators hiding behind this, I think, phony request for documents they know they should not have a right to have and then try to represent on the floor that the few cases where somebody leaked documents to them, that were not recommendations for appeals, recommendations for amicus curiae briefs, recommendations for certiorari, none of them were, but some were leaked from the Solicitor General's Office by partisan Democrats and they have some of these.

They have not seen fit to let us have copies of them, other than what they are putting in the RECORD. We have asked for them, but they did not have time to give them to us. The one case they can show where the Department really did give some documentation was in the case of Robert Bork. The Department produced some documents concerning Bork's firing of Archibald Cox. It was a specialty situation. But they were not documents of recommendations of employees in the Solicitor General's Office concerning appeals, concerning certiorari appeals, and concerning amicus curiae briefs.

This is one of the phoniest excuses I have ever heard. Keep in mind, four of their former Solicitors General, Democrat Solicitors General, are on Miguel Estrada's side. And three of them reviewed every one of those documents. That is not good enough for them? They know the administration cannot give in to these requests because if they did, every time anybody is nominated from any part of the Justice Department they would have to get confidential memoranda.

The executive branch does have some rights. I know that some on the other side do not believe that, but they do. They have some rights to have their confidential documents remain confidential so they can get the best advice they possibly can to represent this country, as the executive branch should. This is one of the worst arguments I have ever heard on the floor of the Senate. And it is all done for political purposes because they believe that this Hispanic man, a Republican—which is very tough for them to take, who they believe to be conservative—he is certainly probably moderate to conservative—I just know he is qualified. Everything about him says he is qualified. All of his experience tells me he is qualified. The fact he led the class at Harvard Law School says he is qualified. The fact he was one of the leaders of the class at Columbia University says he is qualified. The fact that he served Amalya Kearse, a Carter appointee, and she praised him says he is qualified. The fact he served for a Justice of the U.S. Supreme Court, Anthony Kennedy, says he is qualified.

But now the administration, in response to these ridiculous claims and these ridiculous statements made on the floor of the Senate, has now sent a

15-page, single-spaced letter that basically covers every one of these stupid claims that have been raised.

I guess maybe I should not say that. Anyone can raise any claim, whether it is stupid or otherwise, on the floor, and every Senator can ask even the dumbest questions of nominees if they want. That does not mean nominees have to answer them. It does not mean they have to answer them the way they want to—the dumb questioners, that is. We have all done that from time to time, and we all fit into that category, maybe, from time to time, but not consistently.

There is nothing more than prejudice going on here; nothing more than unfairness going on here; nothing more than a double standard going on here; nothing more than trying to trip up the President of the United States and make his life even more miserable than it is every day with North Korea, with Iraq, with all the other problems we have in this world, including France, Germany, and Belgium, which are acting disgracefully and deserve the condemnation of the world for their continuous disgraceful disruptions of the unity of our NATO allies and for their refusal to back Turkey, our ally who has stood up when others have not stood up. We don't need them. We will back Turkey, and we should back Turkey.

What gets me is we are in the middle of a filibuster of a Federal judge, when the Constitution says we should give advice and consent, not advice and obstruction, not advice and a filibuster, not advice and unfairness.

I have to admit there were some on our side who treated President Clinton in a shabby fashion. Not very many, but there were a few. I remember as a young Senator I criticized President Carter pretty strongly one day. Later, I was on a 3-hour television show with him, sitting right beside him. We had plenty of time to discuss and talk, and I apologized. I said I really feel badly; I felt I didn't treat you fairly. He leaned over and smiled and said, ORRIN, I never knew you did it. He said, you were so fair in so many other ways, I didn't notice any unfairness. That is typical of what a fine, gracious man he is.

Bill Clinton has plenty of faults, we all know that, like all the rest of us. Maybe not like all the rest of us, but we all have faults, we will put it that way. And sometimes he wasn't treated as fairly as he should have been, but I sure tried to do so. I certainly did with regard to his judicial nominees. I will tell you one thing, we never, ever filibustered a Clinton nominee, not once. There were some cloture votes, but it wasn't part of a filibuster; it was more to move the Senate along. And nobody can claim anybody on our side actually filibustered a Federal judge, which is a disgraceful thing to do.

I have to say I care a great deal for all of my colleagues in this body. These are 100 of the greatest people on Earth. I care for my colleagues on the Democratic side. But where are they? Why aren't they telling us why? Why don't they give us a reason that is a good reason for being against Miguel Estrada, with all of the qualifications he has? Why couldn't they treat us the way they wanted us to treat their circuit court nominees, which I made sure we treated right. Why can't they be decent to this Hispanic nominee, the first ever nominated to the Circuit Court of Appeals for the District of Columbia, one of the most important courts? Why is it that Senators from the Democrat side get on the floor and act as if, because a person is conservative, that person is not going to do what is right under the law; that person is not going to make sure the law is fulfilled; that person is not going to make sure the principle of stare decisis or prior precedent is followed? Miguel Estrada says he will, and he's an honest man. He will.

Why is it they think only liberal ideas are any good? I kind of admire people who think only their point of view is correct and everybody else is wrong. But I have to tell you, some of the greatest judges in our country's history are conservatives. Some of the greatest judges are liberals. And some of the worst are liberals—and conservatives. Miguel Estrada would make one of the best, and he is the American dream personified. He would open the doors for many Hispanic people, not just in the Federal judiciary but in so many other ways throughout this society because he will set an example that will be exemplary for all of us to observe. He should have a chance to sit on this court and should not have to go through this type of unfair treatment.

No nominee to the Federal court should have to go through a filibuster. But, if the Democrats are going to filibuster, why don't they get over here and filibuster? Why don't they tell us the reasons why? If you look at their reasons, there is not a bit of substance to any of them.

I ask unanimous consent the most recent letter of the White House, this 15-page single-space typewritten letter I think answers every Democrat concern, be printed in the RECORD.

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

THE WHITE HOUSE,
Washington, February 12, 2003.

DEAR SENATOR DASCHLE AND SENATOR LEAHY: On behalf of President Bush, I write in response to your letter to the President dated February 11, 2003. In the letter, you renew your previous request for confidential Department of Justice memoranda in which Mr. Estrada provided appeal, certiorari, and amicus recommendations while he was a career attorney in the Office of Solicitor General for four years in the Clinton Administration and one year in the George H.W. Bush Administration. You also request that Mr. Estrada answer certain questions beyond the extensive questions that he already answered appropriately and forthrightly during his Committee hearing and in follow-up written responses.

We respect the Senate's constitutional role in the confirmation process, and we agree that the Senate must make an informed judgment consistent with its traditional role and practices. However, your requests have no persuasive support in the history and precedent of judicial appointments. Indeed, the relevant history and precedent convincingly demonstrate that a new and shifting standard is being applied to Miguel Estrada.

First, as the Department of Justice explained in its letters of June 5, 2002, October 8, 2002, and January 23, 2003, all living former Solicitors General (four Democrats and three Republicans) have strongly opposed your request for Solicitor General memoranda and stated that it would sacrifice and compromise the ability of the Justice Department to effectively represent the United States in court. Even more telling, we are informed that the Senate has not requested memos such as these for any of the 67 appeals court nominees since 1977 who had previously worked in the Justice Department (including the seven nominees who had previously worked in the Solicitor General's office). The few isolated examples you have cited—in which targeted requests for particular documents about specific issues were accommodated for nominees to positions other than the U.S. Courts of Appeals—similarly do not support your request here.

Second, as explained more fully below with respect to your request that Mr. Estrada answer additional questions, the only specific question identified in your letter refers to his judicial role models. You claim that Mr. Estrada refused to answer a question on this topic. In fact, in his written responses to Senator Durbin's question on this precise subject that Mr. Estrada submitted three months ago, he cited Justice Anthony Kennedy, Justice Lewis Powell, and Judge Amalya Kearse as judges he admires (he clerked for Justice Kennedy and Judge Kearse, and he further pointed out, of course, that he would seek to resolve cases as he analyzed them "without any preconception about how some other judge might approach the question." Your letter to the President ignores Mr. Estrada's answer to this question. In any event, beyond this one query, your letter does not pose any additional questions to him. Additionally, neither of you has posed any written questions to Mr. Estrada in the more than three months since his all-day Committee hearing. Since the hearing, Mr. Estrada also has met (and continues to meet) with numerous Democrat Senators interested in learning more about his record. Finally, as I will explain below, Mr. Estrada forthrightly answered numerous questions about his judicial approach and views in a manner that matches or greatly exceeds answers demanded of previous appeals court nominees.

With respect, it appears that a double standard is being applied to Miguel Estrada. That is highly unfair inappropriate, particularly for this well-qualified and well-respected nominee.

I will turn now in more detail to the various issues raised by your letter. I will address them at some length given the importance of this issue and the nature of your requests.

I. MIGUEL ESTRADA'S QUALIFICATIONS AND BIPARTISAN SUPPORT

Miguel Estrada is an extraordinarily qualified judicial nominee. The American Bar Association, which Senators Leahy and Schumer have referred to as the "gold standard," *unanimously* rated Estrada "well qualified" for the D.C. Circuit, the ABA's highest possible rating. The ABA rating was entirely appropriate in light of Mr. Estrada's superb record as Assistant to the Solicitor General

in the Clinton and George H.W. Bush Administrations, as a federal prosecutor in New York, as a law clerk to Justice Kennedy, and in performing significant *pro bono* work.

Some who are misinformed have seized on Mr. Estrada's lack of prior judicial experience, but five of the eight judges currently serving on the D.C. Circuit had no prior judicial experience, including two appointees of President Clinton and one appointee of President Carter. Miguel Estrada has tried numerous cases before federal juries, argued many cases in the federal appeals courts, and argued 15 cases before the Supreme Court of the United States. That is a record that few judicial nominees can match. And few lawyers, whatever their ideology or philosophy, have volunteered to represent a death row inmate pro bono before the Supreme Court as did Miguel Estrada.

Mr. Estrada's excellent legal qualifications are all the more extraordinary given his personal history. Simply put, Miguel Estrada is an American success story. He came to this country at age 17 from Honduras speaking little English. Through hard work and dedicated service to the United States, Miguel Estrada has risen to the very pinnacle of the legal profession. If confirmed, he would be the first Hispanic judge to sit on the U.S. Court of Appeals for the D.C. Circuit. Given his record, his background, and his integrity, it is no surprise that Miguel Estrada is strongly supported by the vast majority of national Hispanic organizations. The League of United Latin American Citizens (LULAC), for example, wrote to Senator Leahy to urge Mr. Estrada's confirmation and explain that he ''is truly one of the rising stars in the Hispanic community and a role model for our youth.'' A group of 19 Hispanic organizations, including LULAC and the Hispanic National Bar Association, recently wrote to the Senate urging ''on behalf of an overwhelming majority of Hispanics in this country'' that ''both parties in the U.S. Senate . . . put partisan politics aside so that Hispanics are no longer denied representation in one of the most prestigious courts in the land.''

The current effort to filibuster Mr. Estrada's nomination is particularly unjustified given that those who have worked with Miguel—including prominent Democrat lawyers whom you know well—strongly support his confirmation. For example, Ron Klain, who served as a high-ranking adviser to former Vice President Gore and former Chief Counsel to the Senate Judiciary Committee, wrote: ''Miguel is a person of outstanding character, tremendous intellect, and with a deep commitment to the faithful application of precedent. . . . [T]he challenges that he has overcome in his life have made him genuinely compassionate, genuinely concerned for others, and genuinely devoted to helping those in need.''

President Clinton's Solicitor General, Seth Waxman, wrote: ''During the time Mr. Estrada and I worked together, he was a model of professionalism and competence. . . . In no way did I ever discern that the recommendations Mr. Estrada made or the analyses he propounded were colored in any way by his personal views—or indeed that they reflected any consideration other than the long-term interests of the United States. I have great respect both for Mr. Estrada's intellect and for his integrity.

A bipartisan group of 14 former colleagues in the Office of the Solicitor General at the U.S. Department of Justice wrote: ''We hold varying ideological views and affiliations that range across the political spectrum, but we are unanimous in our conviction that Miguel would be a fair and honest judge who would decide cases in accordance with the applicable legal principles and precedents, not on the basis of personal preferences or political viewpoints.'' One former colleague, Richard Seamon, wrote that he is a pro-choice, lifelong Democrat with self-described ''liberal views on most issues'' who said he would ''consider it a disgrace'' if Mr. Estrada is not confirmed.

Similarly, Leonard Joy, head of the Federal Defender Division of the Legal Aid Society of New York, wrote that ''Miguel would make an excellent Circuit Court Judge. He is as fine a lawyer as I have met and, on top of all his intellectual abilities and judgment he would bring to bear, he would bring a desirable diversity to the Court. I heartily recommend him.''

Beyond the extensive personal testimony from those who worked side-by-side with him for many years, the performance reviews of Miguel for the years that he worked in the Office of Solicitor General gave him the highest possible rating of ''outstanding'' in every possible category. The reviews stated that Miguel:

''states the operative facts and applicable law completely and persuasively, with record citations, and in conformance with court and office rules, and with concern for fairness, clarity, simplicity, and conciseness.''

''[i]s extremely knowledgeable of resource materials and uses them expertly; acting independently, goes directly to point of the matter and gives reliable, accurate, responsive information in communicating position to others.''

''[a]ll dealings, oral and written, with the courts, clients, and others are conducted in a diplomatic, cooperative, and candid manner.''

''[a]ll briefs, motions or memoranda reviewed consistently reflect no policies at variance with Departmental or Governmental policies, or fails to discuss and analyze relevant authorities.''

''[i]s constantly sought for advice and counsel. Inspires co-workers by example.''

In the two years that Miguel Estrada and Paul Bender worked together, Mr. Bender signed those reviews. These employment reviews thus call into serious question some press reports containing a negative comment from Mr. Bender about Mr. Estrada's temperament (which is the only negative comment made by anyone who actually knows Mr. Estrada). Just as important, President Clinton's Solicitor General Seth Waxman expressly refuted Mr. Bender's statement.

In sum, based on his experience, his intellect, his integrity, and his bipartisan support, Miguel Estrada should be confirmed promptly.

II. THE SENATE'S ROLE

President Bush nominated Miguel Estrada nearly two years ago on May 9, 2001. As explained above, he is well-qualified and well-respected. By any traditional measure that the Senate has used to evaluate appeals court nominees, Miguel Estrada should have been confirmed long ago. Your letter and public statements indicate, however, that you are applying both a new standard and new tactics to this particular nominee.

As to the standard, the Senate has a very important role in the process, but the Senate's traditional approach to appeals court nominees, and the approach envisioned by the Constitution's Framers, is far different from the standard that you now seek to apply. Senator Biden stated the traditional approach in 1997: ''Any person who is nominated for the district or circuit court who, in fact, any Senator believes will be a person of their word and follow stare decisis, it does not matter to me what their ideology is, as long as they are in a position where they are in the general mainstream of American political life, and they have not committed crimes of moral turpitude, and have not, in fact, acted in a way that would shed a negative light on the court.'' Congressional Record, March 19, 1997. Alexander Hamilton explained that the purpose of Senate confirmation is to prevent appointment of ''unfit characters from State prejudice, from family connection, from personal attachment, or from a view to popularity.'' Federalist No. 76. It was anticipated that the Senate's approval would not often be refused unless there were ''special and strong reasons for the refusal.'' No. 76.

As to tactics, you have indicated that some Senate Democrats intend to filibuster to prevent a vote on this nominee. As you know, there has never been a successful filibuster of a court of appeals nominee. Only a few years ago, Senator Leahy and other Democrat Senators expressly agreed with then-Governor Bush that every judicial nominee was entitled to an up-or-down floor vote within a reasonable time. On October 3, 2000, for example, Senator Leahy stated:

Governor Bush and I, while we disagree on some issues, have one very significant issue on which we agree. He gave a speech a while back and criticized what has happened in the Senate where confirmations are held up not because somebody votes down a nominee but because they cannot ever get a vote. Governor Bush said: You have the nominee. Hold the hearing. Then, within 60 days, vote them up or vote them down. Don't leave them in limbo. Frankly, that is what we are paid to do in this body. We are paid to vote either yes or no—not vote maybe. When we hold a nominee up by not allowing them a vote and not taking any action one way or the other, we are not only voting 'maybe,' but we are doing a terrible disservice to the man or woman to whom we do this.

Senator Daschle similarly stated on October 5, 1999, that ''[t]he Senate is surely under no obligation to confirm any particular nominee, but after the necessary time for inquiry it should vote him up or vote him down. An up or down vote, that is all we seek for Berzon and Paez. And after years of waiting, they deserve at least that much.''

In his East Room speech on October 30, 2002, President Bush reiterated that every judicial nominee deserves a timely up-or-down floor vote in the Senate, no matter who is President or which party controls the Senate. Contrary to President Bush's attempts at permanent reform to bring order to the process, your current effort to employ a filibuster and block an up-or-down vote on the Estrada nomination may significantly exacerbate the cycle of bitterness and recrimination that President Bush has sought to resolve on a bipartisan basis. We fear that the damage caused by a filibuster could take many years to undo. To continue on this path would also be, in Senator Leahy's words, ''a terrible disservice'' to Mr. Estrada. We urge you to reconsider this extraordinary action, to end the filibuster of Mr. Estrada's nomination, and to allow the full Senate to vote up or down.

III. REQUEST FOR CONFIDENTIAL SOLICITOR GENERAL MEMOS

You have suggested that Mr. Estrada's background, experience, and support are insufficient to assess his suitability for the D.C. Circuit. You have renewed your request for Solicitor General memos authored by Mr. Estrada. But every living former Solicitor General signed joint letter to the Senate opposing your request. The letter was signed by Democrats Archibald Cox, Walter Dellinger, Drew Days, and Seth Waxman. They stated: ''Any attempt to intrude into the Office's highly privileged deliberations would come at the cost of the Solicitor General's ability to defend vigorously the United States' litigation interests—a cost that also

would be borne by Congress itself. . . . Although we profoundly respect the Senate's duty to evaluate Mr. Estrada's fitness for the federal judiciary, we do not think that the confidentiality and integrity of internal deliberations should be sacrificed in the process.''

It bears mention that the interest asserted here is that of the United States, not the personal interest of Mr. Estrada. Indeed, Mr. Estrada himself testified that ''I have not opposed the release of those records. . . . I am exceptionally proud of every piece of legal work that I have done in my life. If it were up to me as a private citizen, I would be more than proud to have you look at everything that I have done for the government or for a private client.''

The history of Senate confirmations of nominees who had previously worked in the Department of Justice makes clear that an unfair double standard is being applied to Miguel Estrada's nomination. Since the beginning of the Carter Administration in 1977, the Senate has approved 67 United States Court of Appeals nominees who previously had worked in the Department of Justice. Of those 67 nominees, 38 had no prior judicial experience, like Miguel Estrada. The Department of Justice's review of those nomination records disclosed that in none of those cases did the Department of Justice produce internal deliberative materials created by the Department. In fact, the Department's review disclosed that the Senate did not even request such materials for a single one of these 67 nominees.

Of this group of 67 nominees, seven were nominees who had worked as a Deputy Solicitor General or Assistant to the Solicitor General. These seven nominees, nominated by Presidents of each party and confirmed by Senates controlled by each party, included Samuel Alito, Danny Boggs, William Bryson, Frank Easterbrook, Daniel Friedman, Richard Posner, and Raymond Randolph.

The five isolated historical examples you have cited do not support your current request. In each of those five cases, the Committee made a targeted request for specific information primarily related to allegations of misconduct or malfeasance identified by the Committee. Even in those isolated cases, the vast majority of deliberative memoranda written by those nominees were neither requested nor produced. With respect to Judge Bork's nomination, for example, the Committee received access to certain particular memoranda (many related to Judge Bork's involvement in Watergate-related issues). The vast majority of memoranda authored by Judge Bork were never received. With respect to Judge Trott, the Committee requested documents unrelated to Judge Trott's service to the Department. So, too, in the three other examples you cite, the Committee requested specific documents primarily related to allegations of misconduct or malfeasance identified by the Committee. Of course, no such allegations have been made in the case of Mr. Estrada.

In sum, the examples you have cited only highlight the lack of precedent for the current request. As the Justice Department has explained to you previously, the existence of a few isolated examples where the Executive Branch on occasion accommodated a Committee's targeted requests for very specific information primarily related to allegations of misconduct does not in any way alter the fundamental and long-standing principle that memos from the Office of Solicitor General—and deliberative Department of Justice memoranda more broadly—must remain protected in the confirmation context so as to maintain the integrity of the Executive Branch's decisionmaking process. That is a fundamental principle that has been followed irrespective of the party that controls the White House and the Senate.

Your continued requests for these memoranda have provoked a foreseeable and inevitable conflict that, in turn, has been cited as a basis for obstructing a vote on Mr. Estrada's nomination. Respectfully, the conflict is unnecessary because your desire to assess the nominee can be readily accommodated in many ways other than intruding into and severely damaging the deliberative process of the Office of Solicitor General. For example, you can review Mr. Estrada's written briefs and oral arguments both as an attorney for the United Stats and in private practice. As you know, those documents are publicly available and easily accessible; that said, we would be pleased to facilitate your access to them. (Mr. Estrada's hearing transcript suggests that no Democrat Member of the Committee had read Mr. Estrada's many dozens of Solicitor General merits briefs, certiorari petitions, and opposition briefs or the transcripts of his 14 oral arguments when he represented the United States.) You also may consider the opinions of others who served in the Office at the same time (discussed above) and examine the nominee's written performance reviews (also discussed above). There is more than ample information for you to assess Mr. Estrada's qualifications and suitability for the DC Circuit based on the traditional standards the Senate has employed.

It also is important to recognize that political appointees of President Clinton have read virtually all of the memoranda in question—namely, the Democrat Solicitors General Drew Days, Walter Dellinger, and Seth Waxman. None of those three highly respected Democrat lawyers has expressed any concern whatever about Mr. Estrada's nomination. Indeed, Mr. Waxman wrote a letter of strong support, and Mr. Days made public statements in support of Mr. Estrada.

In sum, the historical record and past precedent convincingly demonstrate that this request creates and applies an unfair double standard to Miguel Estrada.

IV. REQUEST THAT MIGUEL ESTRADA ANSWER ADDITIONAL QUESTIONS

Your letter also suggests that Miguel Estrada should answer certain questions that he allegedly did not answer in his hearing. To begin with, we do not know what your specific questions are. In addition, this request frankly comes as a surprise given that (i) Senator Schumer chaired the hearing on Mr. Estrada, (ii) the hearing lasted an entire day, (iii) Senators at the all-day hearing asked numerous far-reaching questions that Mr. Estrada answered forthrightly and appropriately, and (iv) only two of the 10 Democrat Senators then on the Committee even submitted any follow-up written questions, and they submitted only a few questions (in marked contrast to other nominees who received voluminous follow-up questions).

It also bears mention that Mr. Estrada has personally met with a large number of Democrat Senators, including Senators Landrieu, Lincoln, Bill Nelson, Ben Nelson, Leahy, Feinstein, Kohl, and Breaux; is scheduled to meet with Senator Carper; and would be pleased to meet with additional Senators.

The only specific question your letter identifies refers to Mr. Estrada's judicial role models, and you claim that he refused to answer a question on this topic. In fact, in Mr. Estrada's written responses to senator Durbin's question on this precise subject, Mr. Estrada cited Justice Anthony Kennedy, Justice Lewis Powell, and Judge Amalya Kearse as judges he admires and he further pointed out, of course, that he would seek to resolve cases as he analyzed them ''without any preconception about how some other judge might approach the question.''

In our judgment, moreover, Mr. Estrada answered the Committee's questions in a manner that was both entirely appropriate and entirely consistent with the approach that judicial nominees of Presidents of both parties have taken for many years. Your suggestions to the contrary do not square with the hearing record or traditional practice.

A. JUDICIAL ETHICS AND TRADITIONAL PRACTICE

In assessing your request that Miguel Estrada did not answer appropriate questions, we begin with rules of judicial ethics that govern prospective nominees. Canon 5A(3)(d) provides that prospective judges ''shall not . . . make statements that commit or appear to commit the candidate with respect to cases, controversies or issues that are likely to come before the court'' (emphasis added). Justice Thurgood Marshall made the point well in 1967 when asked about the Fifth Amendment: ''I do not think you want me to be in a position of giving you a statement on the Fifth Amendment and then, if I am confirmed and sit on the Court, when a Fifth Amendment case comes up, I will have to disqualify myself.'' Lloyd Cutler, who served as Counsel to President Carter and President Clinton, has stated that ''candidates should decline to reply when efforts are made to find out how they would decide a particular case.''

In 1968, in the context of the Justice Abe Fortas' nomination to be Chief Justice, the Senate Judiciary Committee similarly stated: ''Although recognizing the constitutional dilemma which appears to exist when the Senate is asked to advise and consent on a judicial nominee without examining him on legal questions, the Committee is of the view that Justice Fortas wisely and correctly declined to answer questions in this area. To require a Justice to state his views on legal questions or to discuss his past decisions before the Committee would threaten the independence of the judiciary and the integrity of the judicial system itself. It would also impinge on the constitutional doctrine of separation of powers among the three branches of Government as required by the Constitution.'' S. Exec. Rep. No. 8, 90th Cong. 2d Sess. 5 (1968).

Even in the context of a Supreme Court confirmation hearing, Senator Kennedy defended Sandra Day O'Connor's refusal to discuss her views on abortion: ''It is offensive to suggest that a potential Justice of the Supreme Court must pass some presumed test of judicial philosophy. It is even more offensive to suggest that a potential justice must pass the litmus test of any single-issue interest group.'' Nomination of Sandra O'Connor: Hearings Before the Senate Comm. on the Judiciary on the Nomiantion of Judge Sandra Day O'Connor of Arizona to Serve as an Associate Justice of the Supreme Court of the United States, 97th Cong. 6 (1981) (statement of Sen. Kennedy).

Justice Ruth Bader Ginsburg likewise declined to answer certain questions: ''Because I am and hope to continue to be a judge, it would be wrong for me to say or to preview in this legislative chamber how I would cast mly vote on questions the Supreme Court may be called upon to decide. Were I to rehearse here what I would say and how I would reason on such questions, I would act injudiciously.'' Similarly, Justice John Paul Stevens stated in his hearing: ''I really don't thinkk I should discuss this subject generally, Senator. I don't mean to be unresponsive but in all candor I must say that there have been many times in my experience in the last five years where I found that my first reaction to a problem was not the same as the reaction I had when I had the responsibility of decisions and I think that if I were to make comments that were not carefully

thought through they might be given significance that they really did not merit.''

Justice Ginsberg described the traditional practice in a case decided last year: ''In the context of the federal system, how a prospective nominee for the bench would resolve particular contentious issues would certainly be 'on interest' to the President and the Senate. . . . But in accord with a longstanding norm, every Member of this Court declined to furnish such information to the Senate, and presumably to the President as well.'' *Republican Party of Minnesota v. White*, 122 S. Ct. 2528, 2552 n.1 (2002) (Ginsburg, J., dissenting) (emphasis added). Justice Ginsburg added that this adherence to this ''longstanding norm'' was ''crucial to the health of the Federal Judiciary.'' Id. In his majority opinion, Justice Scalia did not take issue with that description and added: ''Nor do we assert that candidates for judicial office should be compelled to announce their views on disputed legal issues.'' Id. at 2539 n. 11 (emphasis in original).

In some recent hearings, including Mr. Estrada's, Senator Schumer has asked that nominees identify particular Supreme Court cases of the last few decades with which they disagree. But the problems with such a question and answer were well stated by Justice Stephen Breyer. As Justice Breyer put it, ''Until [an issue] comes up, I don't really think it through with the depth that it would require. . . . So often, when you decide a matter for real, in a court or elsewhere, it turns out to be very different after you've become informed and think it through for real than what you would have said at a cocktail party answering a question.'' 34 U.C. Davis L. Rev. 425, 462.

Senator Schumer also has asked nominees how they would have ruled in particular Supreme Court cases. Again, a double standard is being applied. The nominees of President Clinton did not answer such questions. For example, Richard Tallman, a nominee with no prior judicial service who would now serve on the Ninth Circuit, not only would not answer how he would have ruled as a judge in Roe v. Wade—but even how he would have ruled in Plessy v. Ferguson, the infamous case that upheld the discredited and shameful ''separate but equal'' doctrine. So, too, in the hearing on President Clinton's nomination of Judges Barry and Fisher, Senator Smith asked whether the nominees would have voted for a constitutional right to abortion before Roe v. Wade. Chairman Hatch interrupted Senator Smith to say ''that is not a fair question to these two nominees because regardless of what happened pre-1973, they have to abide by what has happened post-1973 and the current precedents that the Supreme Court has.''

B. ANSWERS BY MIGUEL ESTRADA

Miguel Estrada answered the Committee's questions forthrightly and appropriately. Indeed, Miguel Estrada was more expansive than many judicial nominees traditionally have been in Senate hearings, and he was asked a far broader range of questions than many previous appeals court nominees were asked. We will catalogue here a select sample of his answers.

Unenumerated rights, privacy, and abortion

When asked by Senator Edwards about the Constitution's protection for rights not enumerated in the Constitution, Mr. Estrada replied: ''I recognize that the Supreme Court has said [on] numerous occasion in the area of privacy and elsewhere that there are unenumerated rights in the Constitution, and I have no view of any sort, whether legal or personal, that would hinder me from applying those rulings by the court. But I think the court has been quite clear that there are a number of unenumerated rights in the Constitution. In the main, the court has recognized them as being inherent in the right of substantive due process and the liberty clause of the Fourteenth Amendment.''

When asked by Senator Feinstein whether the Constitution encompasses a right to privacy and abortion, Mr. Estrada responded, ''The Supreme Court has so held, and I have not view of any nature whatsoever, whether it be legal, philosophical, moral, or any other type of view that would keep me from applying that case law faithfully.'' When asked whether Roe v. Wade was ''settled law,'' Mr. Estrada replied, ''I believe so.''

General Approach to Judging

When asked by Senator Edwards about judicial review, Mr. Estrada explained: ''Courts take the laws that have been passed by you and give you the benefit of understanding that you take the same oath that they do to uphold the Constitution, and therefore they take the laws with the presumption that they are constitutional. It is the affirmative burden of the plaintiff to show that you have gone beyond your oath. If they come into court, then it is appropriate for courts to undertake to listen to the legal arguments—why it is that the legislature went beyond [its] role as a legislat[ure] and invaded the Constitution.''

Mr. Estrada stated to Senator Edwards that there are 200 years of Supreme Court precedent and that it is not the case that ''the appropriate conduct for courts is to be guided solely by the bare text of the Constitution because that is not the legal system that we have.''

When asked by Senator Edwards whether he was a strict constructionist, Mr. Estrada replied that he was ''a fair constructionist''—meaning that ''I don't think that it should be the goal of courts to be strict or lax. The goal of courts is to get it right. . . . It is not necessarily the case in my mind that, for example, all parts of the Constitution are suitable for the same type of interpretative analysis. . . [T]he Constitution says, for example, that you must be 35 years old to be our chief executive. . . . There are areas of the Constitution that are more open-ended. And you adverted to one, like the substantive component of the due process clause, where there are other methods of interpretation that are not quite so obvious that the court has brought to bear to try to bring forth what the appropriate answer should be.''

When Senator Kohl asked him about environmental statutes, for example, Mr. Estrada explained that those statutes to court ''with a strong presumption of constitutionality.''

In response to Senator Leahy, Mr. Estrada described the most important attributes of a judge: ''The most important quality for a judge, in my view Senator Leahy, is to have an appropriate process for decisionmaking. That entails having on open mind. It entails listening to the parties, reading their briefs, going back beyond those briefs and doing all of the legwork needed to ascertain who is right in his or her claims as to what the law says and what the facts [are]. In a court of appeals court, where judges sit in panels of three, it is important to engage in deliberation and give ear to the view so colleagues who may have come to different conclusions. And in sum, to be committed to judging as a process that is intended to give us the right answer, not to a result. And I can give you my level best solemn assurance that I firmly think I do have those qualities or else I would not have accepted the nomination.''

In response to Senator Durbin, Miguel Estrada stated that ''the Constitution, like other legal texts, should be construed reasonably and fairly, to give effect to all that its text contains.''

Mr. Estrada indicated to Senator Durbin that he admired the judges for whom he clerked, Justice Kennedy and Judge Kearse, as well as Justice Lewis Powell.

Mr. Estrada stated to Senator Durbin that ''I can absolutely assure the Committee that I will follow binding Supreme Court precedent until and unless such precedent has been displaced by subsequent decisions of the Supreme Court itself.''

In response to Senator Grassley, Mr. Estrada stated: ''When facing a problem for which there is not a decisive precedent from a higher court, my cardinal rule would be to seize aid from anyplace where I could get it. Depending on the nature of the problem, that would include related case law in other areas that higher courts had dealt with that had had some insights to teach with respect to the problem at hand. I could include the history of the enactment, including in the case of a statute legislative history. It could include the custom and practice under any predecessor statute or document. It could include the views of academics to the extent that they purport to analyze what the law is instead of—instead of prescribing what it should be. And in sum, as Chief Justice Marshall once said, to attempt not to overlook anything from which aid might be derived.''

In response to Senator Sessions, Estrada stated: ''I am very firmly of the view that although we all have views on a number of subjects from A to Z, the first duty of a judge is to self-consciously put that aside and look at each case by starting withholding judgment with an open mind and listen to the parties. So I think that the job of a judge is to put all of that aside, and to the best of his human capacity to give a judgment based solely on the arguments and the law.''

In response to Senator Sessions, Mr. Estrada stated that ''I will follow binding case law in every case . . . I may have a personal, moral, philosophical view on the subject matter. But I undertake to you that I would put all that aside and decide cases in accordance with binding case law and even in accordance with the case law that is not binding but seems constructive on the area, without any influence whatsoever from any personal view I may have about the subject matter.''

Miranda/Stare Decisis

Mr. Estrada stated that United States v. Dickerson—a case raising the question whether Miranda should be overruled—reflected a ''reasonable application of the doctrine of stare decisis. In my view, it is rarely appropriate for the Supreme Court to overturn one of its own precedents.''

Affirmative Action

With respect to affirmative action, Mr. Estrada responded to Senator Kennedy that ''any policy views I might have as a private citizen on the subject of affirmative action would not enter into how I would approach any case that comes before me as a judge. Under controlling Supreme Court authority, particularly Adarand Constructors, Inc. v. Pena, 515 U.S. 200 (1995), if a government program creates a racial classification, it will be subject to strict scrutiny. Whether the program survives that sort of scrutiny will often involve a highly contextual and face-specific inquiry into the nature of the justifications asserted by the government and the fit between those justifications and the classification at issue. Adarand and similar cases provide the framework that I would be required to apply, and would apply, in considering these issues as a judge.''

Asked by Senator Leahy about the strict scrutiny test, Mr. Estrada replied, ''the Supreme Court in the Adarand case stated, as a general rule, that the consideration of race is subject to strict scrutiny. That means

that though it may be used in some cases, it has to be justified by a compelling state interest. And with respect to the particular context, there must be a fairly fact-bound individual assessment of the fit between the interest that is being asserted and the category being used. That is just another way of saying that it is a very fact-intensive analysis in the context of a specific program and in the context of the justifications that are being offered in support of the program.''

Congressional Authority

With respect to the outer limits of Congress' power to confer authority on other governmental bodies, Miguel responded to Senator Kennedy that the Supreme Court has said that ''particular factual context is significant in analyzing the appropriateness of a particular delegation. . . . Of course, the fact that the Supreme Court only rarely has struck down statutes on this ground suggests that the Court has been quite deferential to congressional judgments about the types of delegations that reasonably might be needed to carry on the business of government.''

When Senator Kohl asked Mr. Estrada about the 1995 Lopez case concerning the scope of Congress' power to regulate, Mr. Estrada pointed out that he had argued in a companion case ''for a very expansive view of the power to Congress to pass statutes under the Commerce Clause and have them be upheld by the court. . . . Lopez has given us guidance on when it is appropriate for the court to exercise the commerce power. It is binding law and I would follow it.''

Ethnicity

With respect to fact that the President had noted Miguel's ethnicity, Miguel responded to Senator Kennedy: ''The President is the leader of a large and diverse country, and it is accordingly appropriate for him, in exercising his constitutional nomination and appointment powers, to select qualified individuals who reflect the breadth and diversity of our Nation.''

With respect to the Democrat Congressional Hispanic Caucus's criticism of him, Miguel responded to Senator Kennedy that ''I strongly disagree, however, with the Congressional Hispanic Caucus' view that I lack an understanding of the role and importance of courts in protecting the legal rights of minorities, of the values and mores of Latino culture, or the significance of role models for minority communities.''

Racial Discrimination

With respect to race discrimination, Mr. Estrada stated in response to Senator Kennedy: ''I take a backseat to no one in my abhorrence of race discrimination in law enforcement or anything else.''

Senator Feingold asked Mr. Estrada whether he believed that racial profiling and racially motivated law enforcement misconduct are problems in this country today. Mr. Estrada replied, ''I am—I will once again emphasize I'm unalterably opposed to any sort of race discrimination in law enforcement, Senator, whether it's called racial profiling or anything else. . . . I know full well that we have real problems with discrimination in our day and age.''

Senator Leahy asked Mr. Estrada about whether statistical evidence of discriminatory impact is relevant in establishing discrimination. Mr. Estrada replied: ''I am not a specialist in this area of the law, Senator Leahy, but I am aware that there is a line of cases, beginning with the Supreme Court's decision in Griggs, that suggests that in appropriate cases that [such evidence] may be appropriate. . . . I do understand that there is a major area of law that deals with how you prove and try disparate-impact cases.''

Congressional Authority to Regulate Firearms

Senator Feinstein asked whether Congress may legislate in the area of dangerous firearms, and Mr. Estrada responded that the Supreme Court had ruled that ''if the government were to prove that the firearm had at any time in its lifetime been in interstate commerce even if that had nothing to do with the crime at issue, that that would be an adequate basis for the exercise of Congress' power.''

Right to Counsel

Senator Edwards asked about Gideon v. Wainwright, the Supreme Court case guaranteeing the right to counsel for poor defendants who could not afford counsel. Although Senator Edwards appeared to question the reasoning in that landmark case, Mr. Estrada responded that ''I frankly have always taken it as a given that that's—the ruling in the case.''

C. ANSWERS BY PRESIDENT CLINTON'S NOMINEES

Your criticism of Miguel Estrada's testimony creates a double standard. You did not require nominees of President Clinton to answer questions of this sort (keeping in mind that you have not identified what your additional questions to Mr. Estrada are). President Clinton's appeals court nominees routinely testified without discussing their views of specific issues or cases. A few select examples, including of several nominees who had no prior judicial experience, illustrate the point. (Please note that these are isolated examples; there are many more we can provide if necessary.)

Merrick Garland (no prior judicial experience). In the nomination of Merrick Garland to the DC Circuit, Senator Specter asked him: ''Do you favor, as a personal matter, capital punishment?'' Judge Garland replied only that he would follow Supreme Court precedent: ''This is really a matter of settled law now. The Court has held that capital punishment is constitutional and lower courts are to follow that rule.'' Senator Specter also asked him about his views of the independent counsel statute's constitutionality, and Judge Garland responded: ''Well, that, too, the Supreme Court in Morrison v. Olson upheld as constitutional, and, of course, I would follow that ruling.'' Judge Garland did not provide his personal view of either subject.

Judith Rogers. In the hearing on Judge Judith Rogers' nomination to the D.C. Circuit, Judge Rogers was asked by Senator Cohen about the debate over an evolving Constitution. Judge Rogers responded: ''My obligation as an appellate judge is to apply precedent. Some of the debates which I have heard and to which I think you may be alluding are interesting, but as an appellate judge, my obligation is to apply precedent. And so the interpretations of the Constitution by the U.S. Supreme Court would be binding on me.'' She then was asked how she would rule in the absence of precedent and responded: ''When I was taking my master's in judicial process at the University of Virginia Law School, one of the points emphasized was the growth of our common law system based on the English common law judge system. And my opinions, I think if you look at them, reflect that where I am presented with a question of first impression that I look to the language of whatever provision we are addressing, that I look to whatever debates are available, that I look to the interpretations by other Federal courts, that I look to the interpretations of other State courts, and it may be necessary, as well, to look at the interpretations suggested by commentators. And within that framework, which I consider to be a discipline, that I would reach a view in a case of first impression.'' Finally, Judge Rogers was asked her view of the three-strikes law and stated: ''As an appellate judge, my obligation is to enforce the laws that Congress passes, or, where I am now, that the District of Columbia Council passes.'' Judge Rogers did not provide her personal view of these subjects.

Marsha Berzon (no prior judicial experience). Senator Smith asked her views on Roe v. Wade and whether ''an unborn child is a human being.'' Judge Berzon stated: ''[M]y role as a judge is not to further anything that I personally believe or don't believe, and I think that is the strength of our system and the strength of our appellate system. The Supreme Court has been quite definitive quite recently about the applicable standard, and I absolutely pledge to you that I will follow that standard as it exists now, and if it is changed, I will follow that standard. And my personal views in this area, as in any other, will have absolutely no effect.'' When Senator Smith probed about their personal views on abortion and Roe v. Wade, Chairman Hatch interrupted: ''I don't know how they can say much more than that at this point in this meeting.''

Richard Tallman (no prior judicial experience). In response to written questions, Judge Tallman explained that ''[j]udicial nominees are limited by judicial ethical considerations from answering any question in a manner that would call for an 'advisory opinion' as the courts have defined it or that in effect ask a nominee to suggest how he or she would rule on an issue that could foreseeably require his or her attention in a future case or controversy after confirmation.'' He was asked how he would have ruled in Plessy v. Ferguson. He stated: ''It is entirely conjectural as to what I would have done without having the opportunity to thoroughly review the record presented on appeal, the briefs and arguments of counsel, and supporting legal authorities that were applicable at that time.'' He gave the same response when asked how he would have ruled on Roe v. Wade. When asked his personal view on abortion, he wrote: ''I hold no personal views that would prevent me from doing my judicial duty to follow the precedent set down by the Supreme Court.'' He gave the same answer about the death penalty.

Kim Wardlaw. In the hearing on Judge Kim Wardlaw's nomination to the Ninth Circuit, Judge Wardlaw was asked about the constitutionality of affirmative action. She stated (in an answer similar to Miguel Estrada's answer to the same question): ''The Supreme Court has held that racial classifications are unconstitutional unless they are narrowly tailored to meet a compelling governmental interest.''

Maryanne Trump Barry. In the hearing on Judge Maryanne Trump Barry's nomination too the Third Circuit, Senator Smith asked for her personal opinion on whether ''an unborn child at any stage of the pregnancy is a human being.'' Judge Barry responded: ''Casey is the law that I would look at. If I had a personal opinion—and I am not suggesting that I do—it is irrelevant because I must look to the law which binds me.''

Raymond Fisher. In the hearing on Judge Raymond Fisher's nomination to the Ninth Circuit, Senator Sessions asked Judge Fisher's own personal views on whether the death penalty was constitutional. Judge Fisher responded that ''My view, Senator, is that, as you indicated, the Supreme Court has ruled that the death penalty is constitutional. As a lower appellate court judge, that is the law that I am governed by. I don't want in my judicial career, should I be fortunate enough to have one, to inject my personal opinions into whether or not I follow the law. I believe that the precedent of the Supreme Court is binding and that is what my function is.''

V. CONCLUSION

Miguel Estrada is a well-qualified and well-respected judicial nominee who has very

strong bipartisan support. Based on our reading of history, we believe that you have ample information about this nominee and have had more than enough time to consider questions about his qualifications and suitability. We urge you to stop the unfair treatment, end the filibuster, allow an up-or-down vote, and vote to confirm Mr. Estrada.

Sincerely,

ALBERTO R. GONZALES
Counsel to the President.

Mr. HATCH. I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mrs. CLINTON. Mr. President, I listened with great interest to my friend and colleague from Utah. I have the highest respect for him. I must confess, in listening to him, though, it brought to mind that wonderful old saw about trial lawyers. You know: If the facts aren't on your side, argue the law. If the law isn't on your side, argue the facts. If neither the facts nor the law are on your side, pound the table and hope nobody notices. From my perspective, that is exactly what we have been hearing from our friends on the other side with respect to this very important matter that is not just about a nomination but about the role and responsibility of the Senate under our Constitution.

I rise today to expand on the points I made yesterday because, after further reflection and careful thought about this body's constitutional obligations to provide advice and consent on judicial nominations, I believe there are even greater reasons for us to focus during this time on that responsibility.

There has been, clearly, a debate going on about the role of the Senate in judicial nominations, and many of my friends on the other side have made the point that their view is the Senate defers to the executive when it comes to judicial nominees. That would certainly be a surprise to the 42nd President of the United States, that that is the position of my friends on the other side.

Furthermore, there are those who argue the Senate's role is to give advice and consent, but that does not encompass an inquiry into a nominee's judicial philosophy.

I, for one, believe on both of those grounds our colleagues are mistaken. I have done some further research and inquiry into what is it we mean when we open up our Constitution and we look at article II, section 2 and we see these words, ''advice and consent.'' Given the extraordinary brilliance and the economic use of words in the Constitution, I assume every word means something. Each word was battled over. Each word was poured over. A lot of effort went into coming up with those words that would help to guide our infant Nation. So I take advice and consent very seriously.

It is particularly important to recognize I am not alone in viewing this obligation with seriousness. From the very beginning of our country it has been a concern. It was one of those elements in the balance of power that was so carefully constructed among our three branches of Government. It is something I think we ignore at our peril.

What is it we are talking about? Again, I sometimes wonder what our friends and fellow countrymen who might be watching this debate, as they look for something perhaps more interesting or exciting on their televisions, stop and think if they see one of us talking about advice and consent, or talking about our Constitution. Article II, section 2 states that:

> The President . . . shall nominate, and by and with the Advice and Consent of the Senate, shall appoint . . . judges of the supreme Court, and all other Officers of the United States, whose Appointments are not herein otherwise provided for and which shall be established by law. . . .

That is what the Constitution tells us. It is our obligation, as it has been ever since this body was formed, to determine what that means and how we apply it. The Framers of our Constitution did not envision the Senate's power of advice and consent to be a mere formality. In fact, at the Constitutional Convention of 1787, the power of judicial appointment was a subject of enthusiastic debate.

The first proposal that came from delegates to the Convention was that the choice of Federal judges should be left to the Senate alone—that it would be this body, acting on its own, that would appoint judges to the bench.

Then a competing proposal was put forth arguing that, no, the President should nominate and appoint judges and that the Senate should have only the power to reject or approve those candidates.

But what was it after the debate that our Founders decided was the American way? How did they conclude what was the proper balance between these competing positions? Clearly, the adopted language was a compromise. And, equally clearly, those who agreed to that compromise did not view our role—the Senate's role—as insignificant or deferential. In fact, Alexander Hamilton in Federalist No. 76 writes that the Senate's participation in the judicial nomination process was essential in order ''to promote a judicious choice of men''—of course, he would say men and women were he writing today—''for filling the offices of the Union.'' He further stated that the Senate's advise and consent role serves as ''a considerable and salutary restraint upon the conduct'' of the President.

There is plenty of evidence that exists which demonstrates what the Framers intended with respect to the advice and consent clause. This clause added formation and, in all of the decades since, contemplated a strong and decisive Senate role that would serve to advise and consent with respect to the President's nominees—or, to put it another way, would serve to balance the power of the President's nominating authority by Senate legislative power.

This strong role that the Constitution granted the Senate has only grown stronger in the years following the adoption of our Constitution. We know very well that members of both parties have historically expected judicial nominees to be fully candid and forthright with any information that Senators deem relevant. The Republicans are acting as though the questions we are asking and the opposition which we are presenting to the process that has been adopted and the responses—or, I should say nonresponses—of the nominee are unprecedented. But I have to just point to recent history. We don't have to go back to the Federalist Papers. We don't have to go back to the 19th century. We only have to go back a few years to find many instances in which my friends on the other side did not rest until they had satisfied themselves with the information provided by nominees sent up by a Democratic President.

A June 22, 1998, floor statement by Senator HATCH demonstrates that the advise and consent obligation is indeed a strong one. Here is what he said:

> While the debate about vacancy rates on our Federal courts is not unimportant, it remains more important that the Senate perform its advice and consent function thoroughly and responsibly. Federal judges serve for life and perform an important constitutional function without direct accountability to the people. Accordingly, the Senate should never move too quickly on nominations before it.

I couldn't agree more. I think Senator HATCH was right in 1998.

He also stated that he had ''no problem with those who want to review . . . nominees with great specificity.''

That is all we are asking for. But we can't review this nominee with great specificity because he has become kind of an emblem of nonspecificity with nonanswers and nonresponses.

It is really hard to imagine someone being considered for the important position that he would hold for life telling Senators who inquired that he really didn't have anything to say about any Supreme Court decision in the history of the Court.

Of course, my colleague from Mississippi, Senator LOTT, has also reminded us that:

> Yes, the President has a right to make nominations to the Federal bench of his choice. However, we—namely, the Senate—have a role in that process. We should, and we do, take it very seriously. We should not give a man or a woman life tenure if there is some problem with his or her background, whether academically or ethically, or if there is a problem with a series of decisions or positions they have taken.

Of course, we don't know whether there is any problem with respect to this nominee's decisions. He has never been a judge, and we have no idea what his positions are on anything.

It is hard to imagine that any Member of this body could, as some of my colleagues on the other side have been saying over the last days, say that we really do not have to worry too much

about this advice and consent clause because the Senate plays only a minor role in the nomination process. I would be more than happy to provide a list of citations and references so that any Senator who has been led to believe that would know it is not the case.

In fact, one of the very best descriptions of what advise and consent means in the Constitution that I have able to find comes from a very well respected former Republican Senator from Maryland, Mr. Charles McC. Mathias. In 1987, Senator Mathias submitted an essay that was published in the University of Chicago Law Review, a very prestigious publication. The essay is entitled ''Advice and Consent: The Role of the United States Senate in the Judicial Selection Process.'' This I would commend to all of my colleagues because the debate we are having today is not just about one nominee. And it is not just about one President or one political party. It is about how we fulfill our constitutional obligations. Senator Mathias has it just right.

Among the important points he makes are the following:

Among all the responsibilities of a United States Senator, none is more important than the duty to participate in the process of selecting judges and justices to serve on the Federal courts.

Senator Mathias goes on:

The Senate's duty in this sphere is extraordinary. Most other senatorial decisions are subject to revision, either by the Congress itself or by the executive branch. Statutes can be amended, budgets rewritten, appropriations deferred or rescinded, but a judicial nomination is different. When the Framers of the Constitution decided that Federal judges shall hold their offices during good behavior, and may be removed only by the rarely utilized process of impeachment, they guarantee respect for the principle of judicial independent.

Senator Mathias goes on to point out:

It will no longer provide—Their decision also meant, however, that the vote to confirm a judicial nominee must express the Senate's confidence in the nominee's ability to decide the burning legal controversy not only of the day but of future decades as well. The Constitution gives the Senate the consent power, not as a mechanical formality but as an integral part of the structure of government . . . If the Senate does not take its role seriously, it will lose its effectiveness as, in Hamilton's words—

''a considerable and salutary restraint upon the conduct'' of the President.

Senator Mathias points out what should be obvious to us all. A nominee should:

[E]merge from the nomination process knowing that the president and the Senate have confidence that he will preside with only one unalterable loyalty, to the Constitution, and with only purpose, to assure the individual standing before him a judgment based upon the law of the land.

Senator Mathias makes another very critical point in his University of Chicago Law Review article about the advice and consent clause. He says:

The Senate must be convinced that a nominee is impeccably competent. But competence alone is not sufficient. It is not enough that a nominee be skilled in legal argument and knowledgeable about legal doctrine, and that . . . he be able to write clearly and forcefully.

A candidate for the federal bench must, as Hamilton wrote in Federalist No. 78; ''unite the requisite integrity with the requisite knowledge.'' The nominee also must exhibit a strength of character and a range of vision that will help [him] look beyond the world that exists on the day on which [he] is nominated. . . .

[T]he full senate should have the opportunity to consider each nomination on a complete record. . . .[Senators] should have the opportunity to review the transcripts of hearings and to solicit other advice on the merits of the issue before voting.

The goal of these procedures is not to second-guess the judgment of the president in submitting the nomination to the Senate, but to ensure that the factors underlying that judgment are sufficiently disclosed to permit the Senate to make an informed and independent evaluation of the president's choice.

That is really the nub of what we are concerned about.

Listen to the words of a former Republican Senator who served with great distinction in this body:

The goal . . . is not to second-guess the judgment of the president . . . but to ensure that the factors underlying that judgment are sufficiently disclosed to permit the Senate to make an informed and independent evaluation of the president's choice.

Senator Mathias concludes:

For when the Senate carries out its function of advice and consent, its first loyalty must be not to the political parties, nor to the president, but to the people and the constitution they have established.

It is not only former Senators who have understood this and would be astonished at the amnesia that seems to have descended upon us about what the debate among the Framers was, about what the settled law and understanding of the Constitution was, about what distinguished Senators who served in this body always believed it to be. But this is the weight of all of the legal and academic analysis of the clause that has been done over so many years.

One of the most effective and thorough analyses of the advise and consent obligation is found in a joint statement by Philip Kurland from the University of Chicago and Laurence Tribe from Harvard, dated June 1, 1986, entitled: ''Joint Statement to the Senate Judiciary Committee on the Role of Advice and Consent in Judicial Nominations,'' submitted to the Judiciary Committee. I ask unanimous consent that it be printed in the RECORD.

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

June 1, 1986.

To the Senate Judiciary Committee:

The United States Senate has too often been confused and uncertain about its role in approving Federal judicial nominees. The Constitution entrusts the power to appoint the member of the third branch of the National Government not to the executive branch nor to the legislature, but to both political branches together: the President nominates, but the Senate must confirm. Providing ''advice and consent'' on judicial nominations, therefore, is no mere senatorial courtesy but a constitutional duty of fundamental importance to the maintenance of our tripartite system of government.

Those who wrote the Constitution certainly did not envision the Senate's power of ''advice and consent'' to be a formality. The allocation of the appointment power was the subject of keen debate at the Constitutional Convention of 1787, which initially proposed a draft that left the choice of Federal judges to the Senate alone. The adopted language was a compromise, and it is clear that those who agreed to the compromise did not view the Senate's role as merely ceremonial or ritualistic.

The reasons that the Framers contemplated a strong Senate role in the process of judicial appointments are plain. It must be remembered that Federal judges are not, like the President's cabinet, to serve the will of the Chief Executive, but officers appointed for life to a separate and independent branch of government. If those appointed to these lifetime judicial posts should ultimately prove unequal to the task or unsuited to the role, they cannot be dismissed. Impeachment by the House and trial by the Senate is the only constitutionally authorized method of removing unfit judges, and the great difficulty of such a process makes it usable only in situations of outrageous misconduct. The only practical opportunity to consider the merits of a judicial candidate, therefore, is before that appointment is made. It thus becomes not only appropriate, but obligatory, that the Senate pass on judicial nominees with greater scrutiny than it reviews the President's choices for his own subordinates.

Whatever the philosophy of government or theory of law, the demands that the Nation makes on its Federal judges are indisputably great. The Federal courts play an increasingly critical part in American government. The men and women of the Federal bench must possess open minds that are capable of grasping sophisticated legal analysis, and that can grapple intelligently with fundamental constitutional issues. To Federal judges is given the task of policing the boundaries between State and Federal government, of giving principled articulation to the content of the basic human rights protected by the Constitution, of enforcing the myriad and complex Federal statutes and regulations, and of overseeing complicated commercial and criminal litigation. Senators therefore have a duty, both to the Constitution and to the Nation's citizens, businesses, and public and private institutions to ensure that the President's nominees have the experience, the talent, the intellectual acumen, and the fairness of mind to perform their functions and, particularly in the case of appellate judges, to contribute lucidly to a body of legal precedents that can enlighten and guide trial courts, litigants, and those who must try to enlighten and guide trial courts, litigants, and those who must try to anticipate what courts will do.

Candidates for the Federal bench should meet a higher standard than that required for most government officers. A career marked by integrity, capacity, wisdom, and commitment is the minimal qualification. If it is not readily apparent that a candidate is truly distinguished, the burden should be on the President to demonstrate the merits of the nominee. A nominee's entire record—professional achievements, public service, academic credentials, appellate briefs or other legal writings, scholarly or other publications—should be reviewed carefully to screen out the merely competent, and certainly, the

simply mediocre. Respect for the institution of the Federal courts—and for the onerous responsibilities of the Federal bench—requires nothing less.

The responsibility of appointment to the independent judiciary was divided between the White House and the Senate in part to avoid burdening the Federal courts with candidates selected solely to satisfy criteria unrelated to judicial excellence. The President is certainly entitled to prefer loyal supporters and like-minded thinkers in choosing among the exceptionally qualified; but no President has a right to treat Federal judgeships as mere patronage appointments simply to reward friends or to assure a judiciary packed with ''true believers.'' And the Senate is surely not required to defer to the appointment of men and women whose most salient qualification is their location in a particular partisan line-up or their devotion to a particular cluster of political or philosophical views.

The Senate has the further obligation to assure itself that a nominee's substantive views of law are within the broad bounds of acceptability in American public life and not on its lunatic fringes—whether left or right. The Republic may demand—and its Senators ought therefore to ensure—that is lifetenured judiciary does not disdain the Bill of Rights or the Fourteenth Amendment's command for equal protection of the laws and due process.

The absence of evidence of a nominee's lack of adherence to constitutional values should not be deemed a sufficient ground for confirmation. When dealing with a lifetime appointment to the Federal bench, rather than the trial of a criminal defendant, one's doubts as to a candidate's commitment to the Bill of Rights or to constitutionally commanded equality must be resolved in favor of the Constitution rather than the candidate.

None of this is to say that the Senate, any more than the President, is justified in using litmus tests that seek out a candidate's unswerving commitment to upholding or reversing a particular * * * dealing with * * * vised than the confirmation of ''single-issue'' nominees who appear to have been selected solely on the basis of their aversion to or endorsement of one particular line of legal doctrine.

Finally, the Senate must realize that, in the appointment process, the power of nomination belongs to the President alone. Senators are not entitled to a ''short list'' of their own. Therefore, it is not a sufficient objection to an otherwise legally distinguished and constitutionally acceptable nominee that a Senator would prefer someone from a different part of the legal profession or a different part of the country, or someone of a different race, gender, or ideology. But neither is a confirmation vote in order whenever the best that can be said of a nominee is that he has spent some time in law or public life and is untainted by any major scandal. Even at levels below that of the Supreme Court, where the need for exceptional distinction should be beyond debate, the Nation has a right to expect more than minimum qualifications and probable fitness from its Federal judges. And it has a right to insist that the Senate, whatever the practice of the past decade or two, recall the Framers' vision of its solemn duty to provide advice and consent, rather than perfunctory obeisance, to the will of the President.

PHILIP B. KURLAND.
WILLIAM R. KENAN,
Distinguished Service Professor, University of Chicago.
LAURENCE H. TRIBE.
RALPH S. TYLER, Jr.,
Professor of Constitutional Law, Harvard University.

Mrs. CLINTON. Professors Kurland and Tribe, joined by Professors William R. Kenan and Ralph S. Tyler, wrote that:

[P]roviding ''advice and consent'' on judicial nominations . . . is no mere senatorial courtesy but a constitutional duty of fundamental importance to the maintenance of our tripartite system of government.

Now, that is a mouthful that really says a lot. This little clause—just three words—is so important to our tripartite; namely, our three branches—executive, legislative, and judicial—of Government. Well, it is. That is why we advocate it, not at our peril—we will come and go—but at the peril of undermining this extraordinary, brilliant construction of the United States, a tripartite form of Government, kept in equilibrium by a balance of power.

That is a heavy responsibility, to think of giving up advise and consent, giving up the Senate's constitutional duty because, as this statement goes on to say:

The reasons that the Framers contemplated a strong Senate role in the process of judicial appointments are plain. It must be remembered that Federal judges are not, like the president's cabinet, to serve the will of the Chief Executive, but officers appointed for life to a separate and independent branch of government.

If those appointed to these lifetime judicial posts should ultimately prove unequal to the task or unsuited to the role, they cannot be dismissed.

Impeachment by the House and trial by the Senate is the only constitutionally authorized method of removing unfit judges, and the great difficulty of such a process makes it usable only in situations of outrageous misconduct. The only practical opportunity to consider the merits of a judicial candidate, therefore, is before that appointment is made. It thus becomes not only appropriate, but obligatory, that the Senate pass on judicial nominees with greater scrutiny than it reviews the president's choices for his own subordinates.

Whatever the philosophy of government or theory of law, the demands that the Nation makes on its federal judges are indisputably great. The federal courts play an increasingly critical part in American government.

To federal judges is given the task of policing the boundaries between state and federal government, of giving principled articulation to the content of the basic human rights protected by the constitution, of enforcing the myriad and complex federal statutes and regulations, and of overseeing complicated commercial and criminal litigation.

Senators therefore have a duty, both to the constitution and to the Nation's citizens [who sent us here] to ensure that the president's nominees have the experience, the talent, the intellectual acumen, and the fairness of mind to perform their functions, and, particularly in the case of appellate judges, to contribute lucidly to a body of legal precedents that guide [our] courts. . . .

The Senate has the further obligation to assure itself that a nominee's substantive views of law are within the broad bounds of acceptability in American public life and not on its lunatic fringes—whether left or right. The Republic may demand—and its Senators ought therefore to ensure—that its lifetenured judiciary does not disdain the Bill of Rights or the Fourteenth Amendment's command for equal protection of the laws and due process.

Even in the absence of evidence of a nominee's lack of adherence to constitutional values, it is something that we have to take seriously. We have to be assured, we have to be reassured, that when we cast our votes, we are doing so in the best interests of our Constitution and our country.

It has been clear in the debate so far that the Constitution has become something of a political football. There are those who—when the shoe was on the other foot and the occupant of the White House was of another party—were certainly more than ready to ask any question and to raise any objection that they could possibly imagine.

I listened, with great interest, to my good friend from Utah say, with great conviction: We never, ever filibustered a judge.

That may be technically true, but the reason is because they wouldn't give nominees hearings. They wouldn't give nominees votes, and they would not bring them to the floor where they possibly could be filibustered. It is somewhat surprising to hear that argument being made with a straight face.

In the years between 1995 and 2000, the Judiciary Committee refused to hold hearings or to permit votes for more than 50 judicial nominees submitted by President Clinton. Some nominees waited years for a hearing. Some nominees waited years for a vote. One such nominee, a Hispanic judge, Judge Paez, waited more than 1,500 days. Others waited more than 1,500 days, never received the courtesy of a hearing, never received the courtesy of a vote.

So here we are, and we are being somehow taken to task because the other side never filibustered. But they controlled the committee. They didn't have to filibuster. They just let nominees languish, twist in the wind, and eventually disappear. I didn't approve of that. I thought that was unfair to a lot of very decent Americans of tremendous intellectual, academic, and legal experience and qualifications.

What we are doing now is trying to do the work of the Judiciary Committee. The Judiciary Committee would not stand for the prerogatives of this body and insist the nominee answer questions, provide information, require the administration to come forward forthrightly and give the documents and the other background material that was requested. The only way we can exercise our constitutional duty to advise and consent is to raise these issues here in the Chamber.

I want to put this into the context of why this would be important to anybody outside the Senate. Again, I imagine people trying to make sense of all of this, trying to figure out what it is all about. In fact, it is about the people themselves. Senators come and go. Presidents come and go. The Constitution, we hope, not only stays but prevails. The Constitution, which set up this genius form of government, unlike anything that any group of human

beings have ever devised for themselves, is our underpinning. It is our bedrock.

The interpretation of it can change from time to time. That is as it should be. That is part of the genius of our Constitution—that it was an organic, growing document to take into account a nation that started out primarily agrarian and now is in the midst of the information revolution. We couldn't even imagine thinking we had to live and work and govern ourselves in the same way as our predecessors did 200 plus years ago. But the values don't change. The balance of power that is fundamental to our tripartite system of government doesn't change. Human beings may fly through the air in airplanes rather than traverse from place to place on horseback, but fundamental human nature doesn't change.

The reason we have a balance of power is because the Framers were absolutely the best psychologists who ever came together in any place in the world. They knew, as they revolted against a king and a royal system, that they were setting up the potential for self-government. They recognized in order for self-government to work, you had to be realistic about human beings. You couldn't be too optimistic. You couldn't be too pessimistic. You had to get it just right, kind of like Goldie Locks. If you were too optimistic about human nature, you would certainly be disappointed. If you were too pessimistic about human nature, you wouldn't have enough hope to get up and move forward and try to solve problems.

So the Framers had to get it right. And did they ever get it right. They understood completely that we had to restrain ourselves, that we had to have systems that protect against runaway executive power, runaway legislative power, runaway judicial power. They had it absolutely right.

The advice and consent clause is part of how they got it right. I don't care if you are Republican or Democrat, if you served in the Senate in the 19th or 20th or 21st century, they got it right.

What we are saying is we don't want to second-guess the Framers. We don't want to substitute our judgment for theirs. We want to do what we are expected to do by the Constitution.

We wouldn't even be here having this debate if the constitutional responsibility had been fulfilled in the Judiciary Committee. I have listened to my colleagues talk about all of the paper that has been submitted and all of the time that has been taken to pass this nominee through the Judiciary Committee. But they know as well as we that many of the critical questions were never answered. Many of the essential documents that would give us insight into the attitudes and the beliefs and the philosophy of this nominee were never produced and that, in effect, we are asked to basically abdicate our advise and consent responsibility, to turn our back on the Constitution and to do what we are told to do.

That is not what the decision was when the debate took place among our Framers. If you look at the Federalist papers, if you look at all of the commentary in the many years since, this was a solemn duty that was given to the Senate.

When people say: Why are you debating this, I think there are a number of reasons. First, because it seems to those of us who are debating, it is our duty. It is our responsibility. We read the Constitution. We read what people said about it at the time it was written, what people have said about it recently. We read what our colleagues have said about it, when the shoe was on the other foot, and we have to conclude we are fulfilling our constitutional responsibility.

I went back and looked at the CONGRESSIONAL RECORD at some of the comments some of my friends on the other side have made in the past about what we should do when it comes to advising and consenting. I agree with what they said. When the shoe was on the other foot and it was a Democratic President sending judicial nominees, the same speeches were said on the other side of the floor, which strikes me as definitive, conclusive proof of what this is all about.

For example, Senator SMITH, March 9, 2000:

> The Constitution gave the Senate the advise and consent role. We are supposed to advise the President and consent, if we think the judge should be put on the court. We do not get very much opportunity to advise because the President just sends these nominations up here. He does not seek our advice. And then we are asked to consent. It seems as if the Senate should be a rubber stamp, that we should just approve every judge that comes down the line and not do anything about the advise and consent role.

I agree 100 percent with what Senator SMITH then said:

> That is not the way that I read the Constitution. I believe that is wrong. We have an obligation under the Constitution to review these judges very carefully.

In that same vein, Senator SMITH on another day, the same month, March 7, 2000, went on to explicate this important responsibility. I wish all of us would listen to it. I think this is exactly right. He said:

> I think the constitutional process is very clear, that the Senate has the right and the responsibility under the Constitution to advise and consent.
>
> That is exactly what I intend to do in my role as a Senator as it pertains to the two nominees before us. The issue, though, is whether it is OK to block judicial nominees. We have heard from a couple of my colleagues in the last few moments that it isn't OK to block judicial nominees, as if there was something unconstitutional about it. There is thinking by some that we should not start down this path of blocking a judicial nominee whom we do not think is a good nominee for the Court because it may come back to haunt us at some point when and if a Republican should be elected to the Presidency.

Senator SMITH goes on:

> Let me say, with all due respect to my colleagues, I am not starting down any new path. I am going to be very specific and prove exactly my point that we are not starting down a new path of blocking a judicial nominee. That path is well worn. We are following a path; we are not starting down any new path.

I could not say it better myself. In fact, I wish I had said it as well. But it is not only Senator SMITH, it is also Senator HATCH, on January 28, 1998:

> Conducting a fair confirmation process, however, does not mean granting the President carte blanche in filling the Federal judiciary. It means assuring that those who are confirmed will uphold the Constitution and abide by the rule of law.

Senator HATCH, October 3, 2000:

> The President has broad discretion, as we know, to nominate whomever he chooses for Federal judicial vacancies. The Senate, in its role, has a constitutional duty to offer its advice and consent on judicial nominations. Each Senator, of course, has his or her own criteria for offering this advice and this consent on lifetime appointments. The Judiciary Committee, though, is where many of the initial concerns about nominees are raised and arise. All of this information is, of course, available to every member of the Judiciary Committee and must be thoroughly reviewed before the nominee is granted a hearing by the committee. If questions about a nominee's background or qualifications arise, further inquiry may be necessary. Obviously, this is a long process, as it must be. After all, these are lifetime appointments.

Senator HATCH, May 23, 1997:

> The primary criteria in this process is not how many vacancies need to be filled, but whether President Clinton, or whoever the President is—whether their nominees are qualified to serve on the bench and will not, upon receiving their judicial commission, spend a lifetime, a career, rendering politically motivated activist decisions.

Then Senator HATCH goes on to say something else I agree with 100 percent:

> The Senate has an obligation to the American people to thoroughly review the records of all nominees it receives to ensure that they are capable and qualified to serve as Federal judges.

Listen to that specific point that Senator HATCH made back in 1997: There has to be a thorough inquiry and the Senate has to determine whether a nominee would, upon receiving their judicial commission, spend a lifetime, a career, rendering politically motivated, activist decisions. That is really the nub of what we are looking to determine.

There is more than sufficient concern that the nominee before us would do just that. And the reason why the administration will not, and maybe perchance cannot provide the information requested, is because to do so would make abundantly clear that this is a nominee on a mission, that this is a nominee who will do exactly what Senator HATCH warned about when the shoe was on the other foot; namely, render politically motivated, activist decisions.

Now, there may be some on the other side who believe they would agree with these politically motivated activist decisions, so bring it on. But I don't

think that is our responsibility. Our responsibility is to know ahead of time. The American people don't get to interview and vote on these nominees. If some nominee overturns, when he or she is on the bench, fundamental worker protections for people who work hard and play by the rules of what they are supposed to do at work, that affects the lives of millions of Americans. If someone decides they don't like the Violence Against Women Act, or they don't believe there is a right to privacy embedded in the Constitution, that affects millions of Americans.

So I think it is imperative that we listen to what our colleagues on the other side of the aisle said during the 1990s. All of this concern about advice and consent, all of this caution about rushing to judgment and voting—slow it down, do a thorough review, don't move too quickly. In fact, don't even give people hearings or a vote in committee. It is imperative that now we try to get back to that balance of power that the Constitution established.

Turning down nominations for a judgeship is something that goes back to the beginning of our Republic. It is not as though this is the first time we have ever had this debate. We have had many nominees rejected, starting with one of President Washington's nominees. John Rutledge was nominated in 1795 by President Washington. Why was he turned down? He was thought to be well qualified. He had quite an experience that could certainly be impressive when examined. He was a member of the Federalist Party, which should certainly ring a bell with my colleagues on the other side. But he was turned down because of his political views.

The idea that somehow the political views and positions of a nominee for a lifetime appointment are off limits to the Senate has no basis in fact, history, or law. The very first nominee in 1795 by probably the most popular President that we have ever had, because he was the first—and lucky for him he didn't have to be compared to other people and given all of the difficulties that our subsequent Presidents have faced—but President Washington's nominee was rejected because of the political positions he had taken.

Of course, that was not the only early nominee to be rejected. President Madison nominated Alexander Wolcott in 1811. He was rejected.

He was rejected. President Jackson nominated Roger Brook Taney in 1835. He was rejected the first time. He came back a year later and was accepted. There are many such situations.

It is revising history to claim that we cannot inquire into someone's opinions. If we are going to put someone on the bench who does not believe there is a right to privacy in the Constitution, which would perhaps lead to the overturning of many decisions that protect people's privacy in the sanctity of their home or with respect to their bodies, we should know that. That person might still be nominated and confirmed, but the American people have a right to know who these people are who are being nominated because they are going to be making decisions that affect the daily lives of Americans.

When you nominate a stealth candidate, when you send him up to the Judiciary Committee and tell him to dodge and duck and divert and do not answer a straight question with a straight answer, is it any wonder that people get a little suspicious and maybe say: Wait a minute; if this man will not even come and tell us what Supreme Court decision he agrees with, going back to Marbury v. Madison, and he says he cannot name one; How about one with which you disagree? Well, I can't name that either; that does not pass the smell test, I am sorry. That is a witness who has been well coached and told: Don't rock any boats, don't answer any questions, don't reveal your true opinions. Just try to get through the process.

That is why we need an advice and consent clause in the Constitution, and that is why the Framers put it there. It very well may be if he answered the questions forthrightly, if he said: My favorite Supreme Court decision is Marbury v. Madison, my least favorite is—pick one out of thousands—we would say: We do not agree with you, but OK. But he will not do that.

You have to ask yourself: Why won't he do that? Certainly given the kinds of questions that were asked of nominees during the 1990s that went into all kinds of areas—their associations, the meetings they attended, how they even voted—it is hard to understand why this nominee cannot be expected to answer pertinent questions about the law, about his opinions concerning Supreme Court decisions.

The fact he refuses to do so, or has been ordered not to do so, fundamentally defies the constitutional duty of this body to advise and consent.

I know there are those who have argued that there is already an adequate amount of information in the record that should be taken at face value. That is hard to do. That is hard to do because, in the absence of a willingness to answer pertinent, relevant questions, many of us do not believe the nominee has sufficiently subjected himself to the process that this body has established to permit Senators to make an informed decision.

If we go back and look at the reams of material that I reviewed to determine what was the basis for the advice and consent clause, I think that is obvious to us all it is there for a purpose. We ignore it at our peril. We have a duty to abide by it.

I again urge my friends and colleagues on the other side to read the extensive description of the advice and consent clause and the role of the Senate in the judicial selection process by former Republican Senator Charles McC. Mathias.

When my friends and colleagues raise the issue that somehow this is focused on a particular nominee, for whatever reason, I think that does a disservice to the seriousness of our concerns because it was this nominee who would not answer the questions. It was this nominee who did not provide the materials.

My very alert counsel has just reminded me that when Justice Taney was first rejected after being nominated by President Jackson in 1835 and then was renominated and confirmed in 1836, he went on to write one of the most discredited, racist, despicable opinions in the history of our court. Judge Taney was the author of the Dred Scott decision. Maybe the country would have been better off and saved a whole lot of misery if the Senate had delayed action and had never confirmed him when he was renominated. We just never know. We have to do the best we can given our own human limitations and idiosyncrasies based on the information available.

There are some, and I respect their opinion, on both sides of the aisle who say: If the President sends somebody up, I am voting for it, no questions asked. That is how I believe the Constitution is to be interpreted, as far as I am concerned.

With all due respect, I think that is an abdication of responsibility.

For most of us, we try to get behind the nomination. We try to understand, not just the academic or legal background which can be described by where you worked, who you worked for, what clients you had, what cases you tried or argued, but if that is all we did, we could put that into a computer. We would not need the Senate. We would computerize that decision. That is not what we are supposed to do. We are supposed to get behind the statistics, under the resume to satisfy ourselves that the person we give this lifetime job to is motivated by only one reason: to render justice to the best of his ability no matter who the parties are, no matter what the outcome of the matter may be, not to serve a political philosophy or ideology, not to serve a political party or even a President but to really do the hard work of justice.

It is a hard job, it is a really hard job and especially today. There are so many factors at work in our society, so many difficult decisions to be made about how we keep this wonderful, precious democracy of ours moving forward that judges have a very tough job. It is not for the casual or the indolent. It is for people who really care, will work hard, and will follow the law, the Constitution, and their conscience.

We are judging not just a legal resume. We are judging a potential judge. We are asking ourselves: Will everyone who appears before this court get the benefit of a fair rendering of justice?

Until we can satisfactorily answer that question about this nominee, we cannot move forward. We should not move forward. We should follow the words of our colleagues when the shoe was on the other foot and it was a

nominee from a Democratic President that caused questions and concerns on the other side.

I personally think that was overdone, and that many good, decent people who would have made fine judges were denied the right to go forward, but it was done in the name of the Constitution. It was done under the rubric of advise and consent.

It is a little hard to understand how my friends on the other side can, with straight faces, say that is not what it means at all. How dare we question this nominee. How can we ask for more information? Because that is what we think our duty is, just as at a previous time those on the other side thought it their duty.

It is difficult to explain how the Constitution's interpretation could flip so quickly. I do not think that is good for the Constitution. I do not think that is good for this body. I do not think it is good for the judiciary. Most of all, I do not think it is good for our country. I think no matter who is in the White House, no matter who is in the Senate, we ought to do our level best to fulfill the duties the Constitution places upon us. That is what I am attempting to do to the best of my ability. I know that is what all of my colleagues attempt to do.

When we face a moment such as this, which seems fraught with so much meaning not only with respect to a nominee and not only with respect to the judiciary but to that fundamental balance of power, we have to be careful. We will live with the precedents that are set.

Lord Acton had it right when he said, power corrupts and absolute power corrupts absolutely.

We must have those checks and balances. We must keep that fabulous, unbelievable genius of our Framers alive. I hope we can see some attention being paid to the legitimate questions and concerns that are being raised about this nominee and about this process and about the Constitution we revere and serve.

I yield the floor.

The PRESIDING OFFICER (Mr. COLEMAN). The Senator from Montana.

Mr. BURNS. Mr. President, I rise today and join my colleagues in supporting the confirmation of Miguel Estrada to the DC Circuit Court of Appeals. We have heard more information on this man than anyone I can remember in recent times. There is not much about this gentleman or this situation that has not been said thus far on the floor of the Senate.

The history of this man I can relate to. I kind of started out on my own about that age, but I will never attain the level of society and dedication he has. He did it the hard way, by his own bootstraps. He is a graduate of Harvard Law School, near the top of his class. We also know he is a very successful appellate lawyer who argued 15 cases before the United States Supreme Court. We know he has been rated well qualified by his own colleagues in the American Bar Association.

I find it interesting, as the case is trying to be made, that somebody is being denied their constitutional rights, the constitutional right of advice and consent. I tell the American people, no Senator is being denied access to this floor. No Senator is being denied the ability to come to this floor and make his or her case either in support or opposition to the confirmation of Miguel Estrada. Everyone is free to do so and is afforded the opportunity to discuss the merits of one side or the other. Nobody is being denied that. It is pretty simple, and I think the American people understand that. Come down and make your case. If you did not make it the first time, come back the second time, come back as many times as you like to respond.

No one has been denied anything dealing with the merits of this man Miguel Estrada. Come down and make your case. Then vote. It is very simple. There is nothing hard to understand about that.

If a good case is made, there may be 51 votes. Folks will vote for you and you have won, and we will say congratulations. Nobody is being denied that.

We see quite a lot of dust being kicked up to fuzz up and confuse the issue. The issue is Miguel Estrada. That is what it is about. He has been nominated to occupy a seat on the DC Court of Appeals.

I am not an attorney, never been hinged with that title, but I too get to vote. I too get to look at information, both positive and sometimes negative, about this man. He will be the first Hispanic to serve on the DC Court of Appeals, and I applaud President Bush for nominating a candidate of this quality and this integrity.

He is a living example of an American attaining what he terms as his American dream. Right now he is being denied a vote. That seems sort of strange to me. He deserves an up-or-down vote, and at the end of that we will count them up and we will move on.

Why should I, a Senator from Montana, be interested in a nominee to the DC Court of Appeals? Well, so many cases are argued before this court that have to do with the management of public lands and the management of our national parks. Because I am from a public lands State, it matters a great deal that the laws of the land are properly judged and adjudicated. Every piece of information that I have been able to read or listen to or watch tells me he understands one little word in the English language that is very important to each and every one of us. The word is ''fair,'' dedicated to the study of both sides of any issue and then relating that to the law or the Constitution of the United States and making judgments.

That is pretty simple. We make things a lot more difficult than they should be. I have seen the big thick book that the chairman of the Judiciary Committee had, all the questions he was asked, the responses. What else is there to know about this man that has not been revealed? Instead, we hear ''deny,'' when not one person in the United States as a Member has been denied access to this floor.

Cases that have to do with public lands have great ramifications for Montana. Therefore, not only will I think he will be fair, judicial, and constitutional, but I believe it is also important to fill this vacancy. Right now, we see declarations of emergencies in so many of our appellate courts that we are seeing justice delayed, justice denied.

So what do we see happening today? It is written in the Constitution about our rights not being denied, but we sure see a little bit of obstructing and delaying in the confirmation process. We will not even be denied a vote. Every Senator will come down and cast his vote.

He was rated the highest rating of the American Bar Association. Yet we have heard it argued that he does not have the right qualifications to serve the court and therefore make a decision that we are going to talk the nomination to death. The Senate is a better body than that. Being around politicians a lot, being talked to death happens to be the worst death in the world.

So, is he qualified? You bet he is. Does he meet the limits on some folks? Maybe not. Does he meet their litmus test, maybe a personal litmus test? Maybe not. But there were people who disagreed with us when we ran for office and no one was denied the vote. If we had to go through this process just to get elected to the Senate by our constituency, we might not ever get here; we would be talked to death at home.

We are not going to talk about his background. We are going to talk about this American. No, he did not start here, but this American has applied his talents and his intellect to become an appellate judge. I am proud of this man. Nowhere else do we see an example of who we are and why we are Americans.

Mr. SESSIONS. Will the Senator yield for a question?

Mr. BURNS. I am happy to yield.

Mr. SESSIONS. The Senator makes his point about having a right to a vote. The argument has been made previously that we need advice and consent, but we never vote. The Senator is aware that on a filibuster it takes 60 votes, and on an up-or-down vote it takes a majority, 51 votes; is that correct?

Mr. BURNS. That is the way I understand it.

Mr. SESSIONS. The Constitution is right on advice and consent, and we can debate forever about that, what that means. Basically, it means what any Senators believe it means; is that right? They can vote on any basis they want?

Mr. BURNS. That is my interpretation.

Mr. SESSIONS. The Constitution says: The President shall have the power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur; and he shall nominate and, with the advice and consent of the Senate, shall appoint ambassadors, judges, and other court officers.

It did not say what the vote was, so since the founding of our document, we managed that to be a majority. Where it needed a supermajority—more than 51 votes in this case—more than a simple majority, it set it out, two-thirds.

So wouldn't the Senator agree that a fair reading of the Constitution would indicate our Founders contemplated that the vote here would be a simple majority required for confirmation?

Mr. BURNS. You are asking a man who is not trained in the legal disciplines.

Mr. SESSIONS. But the Senator is most trained in common sense.

Mr. BURNS. I say that the majority, 50 plus 1, would be all it takes.

Mr. SESSIONS. And that is what we have done.

Is the Senator aware in his tenure in this Senate that we have ever had a filibuster maintained on a Federal judge?

Mr. BURNS. That is something else that sort of confused me the way you put your argument, but I am wondering why we are raising the bar for this nominee. Is that what we are doing here? Are we saying he has to stand a more difficult test than all others in the past or all others will be asked in the future?

I go back to that other old word, I say to my friend from Alabama: ''Fair.'' I guess that is all we ask, fairness. Everything I have read and everything I have heard tells me that this man is qualified to sit at any other man's fire. And I would tell you they don't come with a higher recommendation than that. But let's not ask this man to be subjected to a higher bar than has been asked of every other American—not this American.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Ms. STABENOW. Mr. President, I rise this evening to discuss the nomination of Miguel Estrada to the DC Circuit Court of Appeals, and to express grave concerns that we are being asked to vote on a lifetime appointment with very little information on this nominee. There are many who have raised concerns about that very point. Let me share one letter that has been written, from the American Association of University Women.

We believe the information available regarding Mr. Estrada's record raises serious concerns about whether he should be given the enormous honor and responsibility of a lifetime appointment to this Nation's second most powerful Federal court. We strongly urge the members of the Judiciary Committee to conduct a thorough investigation of his record, including the areas of concern we have outlined, and to refrain from passing judgment on his nomination until that inquiry and the record is complete.

Let me begin by saying the DC Circuit Court of Appeals is, in fact, an extremely important court in our Nation. It is very important to the people I represent in Michigan and to the people that we all represent. It is, in fact, considered the Nation's second most important court, second only to the U.S. Supreme Court. This court has exclusive jurisdiction over a broad array of important Federal regulations that affect people in their lives every single day—environmental protection, our civil rights, human rights, consumer protections, workplace statutes—items that touch our lives. We have the right to know what someone's views are in general, and philosophy in general, as that person is being considered for this high court.

In addition, its judges are often nominated to serve on the U.S. Supreme Court, which is another reason why this is a particularly important nomination, and a particularly important decision for all of us in the Senate. Three of the current members of the Supreme Court, Justice Scalia, Justice Thomas, and Justice Ruth Bader Ginsburg, all previously served on the DC Circuit. So that is why this is particularly important and we should take the time necessary to make sure that the right decisions are made.

Despite the importance of the DC Circuit Court, the administration is trying very hard to prevent the Senate from making an informed decision—an informed decision on Mr. Estrada. Mr. Estrada has no judicial experience, nor is he a distinguished scholar or professor, which means he lacks any real public record. That is not disparaging in terms of a comment as to his intellect, but it is a question of public record which we can review as to his views and philosophies.

He has spent the bulk of his career in the Solicitor General's Office and in private practice. This makes it extraordinarily difficult for us to fairly evaluate him, and it makes his legal memos and other work product absolutely critical for this evaluation.

The Senate has a constitutional obligation to advise and consent on a Federal judicial nominee. This is a responsibility I take very seriously, as do my Senate colleagues, I know, from both sides of the aisle. I might just remind us that as we read in our U.S. history books, there was a major debate as to how to decide the nominees and the members who would sit on the U.S. Supreme Court. At one point, our Framers said the President should decide alone. At another point they said the Senate should be the one that has the absolute right to decide who should be on this all powerful, important court that affects our lives so much. In the end they compromised, as they did in much of the discussions and the final decisions as to the framing of our Government. They said we believe this is so important there needs to be a check and balance, so we need to have both the Senate and the President involved. The President will nominate but the Senate will have the responsibility of reviewing and consenting to the nomination. That is the process that we are involved in right now.

I might also say that we have confirmed over 100 judges since President Bush has come into his Presidency, and just on Monday night we had three votes. One was a Hispanic judge. We moved forward in this process. But when we find someone comes to the Judiciary Committee and when he is asked to provide copies of his memos and information, when he basically says no, or I'll just think about it, that makes it very difficult for an informed decision to be made.

Unlike other nominations that come before the Senate, such as ambassadorships or executive nominees, Federal judicial nominations, again, are lifetime appointments. I think it is so important to repeat that over and over again. I have, in fact, supported the confirmation of individuals, other nominees of the President for his Cabinet who certainly would not have been my personal first choice. But the President has the right to select his Cabinet—certainly within reason; has the right to select his Cabinet, the people who will work with him during the 4 years that he is in office.

That is not what this is about. This is about someone who will, in fact, make decisions that will affect us, not for 3 or 4 years, but for 30 or 40 years, through numerous Presidents, making it even more important that we are not a rubberstamp. The U.S. Senate has a very important role to play.

As a part of this important responsibility, my Democratic colleagues on the Judiciary Committee have tried to obtain information, legal memos Mr. Estrada wrote while serving in the Justice Department. The Justice Department has refused to provide these documents which presumably would show Mr. Estrada's constitutional analysis of cases. This is very important. The constitutional analysis of statutes—whatever his philosophies and beliefs—would give us insight into his judicial reasoning, not on a particular case but his reasoning. Unfortunately, as I indicated before, he has not been forthcoming to the committee. In fact, he has refused to answer the most basic questions before the committee.

During his nomination hearing, Mr. Estrada refused to answer questions regarding his judicial philosophy or his views on important Supreme Court cases, including Roe v. Wade. He even refused to name any Supreme Court case with which he disagreed. This refusal to provide necessary information is absolutely unprecedented. Past administrations and the current administration have disclosed legal memos and other information in connection with both judicial and executive nominees.

For example, in previous administrations the Senate has requested and the

Justice Department has provided similar memos, written by Justice Department attorneys, including the writings of Supreme Court Justice William Rehnquist, the Ninth Circuit Nominee Stephen Trott, Supreme Court nominee Robert Bork, Assistant Attorney General nominee William Bradford Reynolds, and Attorney General nominee Benjamin Civiletti, among others.

This breaks with a longstanding practice of cooperation between the Justice Department and the Senate in providing access to necessary materials for nominations.

The administration also has provided such memos for another nominee. The Bush administration has provided the Senate with legal memos written by Jeffrey Holmstead, an attorney with the White House Counsel's Office, during the consideration of his nomination as Assistant Administrator at the EPA. This was for a term appointment, in contrast to a lifetime appointment, which is certainly much more significant.

I am also concerned that my colleagues on the other side of the aisle are applying a different standard for nominees who are nominated by a Republican President than by a Democratic President. During the Clinton administration, and under Chairman HATCH, nominees were required to produce volumes of information. For example, Judge Richard Paez was asked to provide documentation of every instance during his tenure as a judge where he deviated downward from a sentencing guideline—every instance.

Marsha Berzon, a Tenth Circuit nominee, was required to provide the minutes from every California ACLU meeting that occurred while she was a member of that organization, regardless of whether she even attended the meeting.

Why was the bar placed so high for these Clinton nominees but there is such a hard push by my colleagues to confirm a nominee from whom we have no information? Why is there such a strong resistance by the administration to allow the Senate the opportunity to learn more about this nominee's writings and opinions? That is what this debate is all about.

I might just say that when I am asked what is the philosophy, what is the judicial reasoning of this particular nominee, I would have to say this—these are the answers to the questions that Miguel Estrada gave to the Judiciary Committee: An absolute blank slate. Not one answer to one question. How can that give us the opportunity to determine whether or not this is a nominee we wish to support?

Finally, I am extremely disappointed by how some of my colleagues across the aisle have tried to make this an issue of race. I believe racial diversity in our judicial system is extremely important. I wish my Republican colleagues had made the same impassioned speeches during the Clinton administration when 10 of more than 30 Hispanic nominees were delayed or blocked from receiving hearings or votes by members of their caucus. I wish my colleagues had been outraged when Ronnie White's nomination languished for 2½ years and then was rejected on the Senate floor on a party-line vote. I wish my colleagues had stood up for racial diversity when the President filed their brief opposing the University of Michigan's admissions policy to help create racial diversity in our law schools and our other colleges and schools at the university.

The Senate needs to apply the same level of scrutiny and the same standards regardless of a nominee's race or the politics of the administrations that nominated them.

Until we are given these memos that are a part of Mr. Estrada's record, we are not going to hold judicial nominees to the same standards and the same basic principles of fairness. It is time to do that—to give us a true opportunity.

I might also add that 100 percent of the Hispanic Caucus of the House of Representatives have joined with us asking that we oppose or withhold judgment—that we not proceed with this vote until we have the information. These are individuals who have expressed grave concerns. They do not support moving forward. One-hundred percent of the Hispanic Caucus of the House from all around the country joined with more than 30 different organizations expressing grave concern.

I think that says to us we need to take the time that is necessary and we need to receive information so that we can make an appropriate judgment.

I will take just a moment to change topics.

I ask while moving from one important topic to another to take just a moment to speak to a bill I have introduced today regarding the growing importation of waste problem.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, I know the Senator would like to talk about another subject. But what is the pending business we are on now?

The PRESIDING OFFICER. The pending business is the Estrada nomination.

Mr. SESSIONS. I will, regretfully, have to object to proceeding to another subject. That is a subject we are here to talk about, and I have some remarks I want to make. So I would object.

Ms. STABENOW. Mr. President, I have been given the floor, as I understand it, for 30 minutes. And I appreciate the fact that we have a topic in front of us. At this point, it is my understanding that it is not the Senator's prerogative to object to my being on the floor and to be able to speak for a moment, along with this important topic, to a bill I introduced about waste coming into the United States and taking a moment to do that. It is my understanding that under the normal processes of the Senate, I would have the opportunity to take a moment to do that.

Mr. SESSIONS. If the Senator wouldn't take long, if she wants to ban importation of some of that Canadian lumber, I will join with her. I yield to the Senator, if she is not going to be too long then.

Ms. STABENOW. I thank the Senator.

The PRESIDING OFFICER. The Senator from Michigan has the floor.

Ms. STABENOW. I thank the Chair.

IMPORTATION OF CANADIAN WASTE

Mr. President, I wanted to have an opportunity this evening—realizing we have an important topic on the floor—to speak on the record about an important topic that affects many of our States, and Michigan is certainly one of them.

There is a growing problem of Canadian waste shipments to Michigan and other States. In 2001, Michigan imported almost 3.6 million tons of municipal solid waste—more than double the amount that was imported in 1999. This gives Michigan, unfortunately, the undue distinction of being the third largest dumping ground of waste in the United States.

My colleagues may be surprised to know that the biggest source of this waste is not another State but, in fact, Canada. And more than half the waste that was shipped to Michigan in 2001 was from Ontario, Canada, where these imports, unfortunately, are growing rapidly. In fact, on January 1, 2003, another Ontario landfill closed its doors, and the city of Toronto is shipping two-thirds to all of its trash—1.9 million tons—to a Michigan landfill. This deal could last up to 20 years. I think it is important for a statement to be made for the record as we move forward with this legislation that it is time to do something about it.

Not only does this waste dramatically decrease our own ability to have a landfill capacity, but it also has a negative effect on the environment and on public health. Frankly, right now, I am particularly concerned about the fact that this is a homeland security issue for us. We now have our citizens at high alert. We are telling them to prepare themselves with duct tape, with plastics, and with water for their homes. There is a high degree of concern about the possibility of a terrorist attack.

Yet on Monday, I was able to go to Port Huron, MI, and look at an international bridge where we have trucks coming over bumper to bumper—over 130 different semi-trailer trucks—from Ontario, Canada, to Michigan every day that have solid waste in them from Canada, waste that is not thoroughly inspected. I think this is a serious issue as it relates to homeland security. These trucks are going through the neighborhoods and on into Michigan. And the same is happening in a number of other States.

I have joined with colleagues—first with Senator LEVIN and Congressman

DINGELL—to introduce legislation to enforce an agreement that was made between Canada and the United States back in 1986 that would give notice to the EPA—30-day notice—and the ability to reject waste coming into this country. That is not being enforced now. I support their efforts to enforce this provision with the EPA. But I think we have to go a step further now and stop these shipments until we can get the agreement enforced and have the EPA step up and receive notice on these shipments coming into the States.

I believe the State of Michigan should be able to tell the EPA that they don't want this trash in Michigan and that the EPA should honor that and be able to reject those shipments coming in from Canada. We need to act now. This is a serious environmental issue and a public health and homeland security issue.

I urge my colleagues and invite my colleagues to join me in legislation that will stop the shipments and give us the opportunity to enforce this agreement that has been on the books long term so that we can send a very strong message that we are not interested in Canadian trash coming into Michigan or any other State that does not wish to have it.

I thank the Chair. I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, it is really frustrating. I know Senator HATCH last night expressed his frustration about arguments that are made that are just not factual.

I know the Senator, as she finished her remarks eloquently, as she does, was not at the Judiciary Committee hearing which I attended on Miguel Estrada. The hearings started at 9 in the morning and went until 5 in the afternoon. There are hundreds of pages of transcript of that testimony that he gave answering every question I think with the proper nuance each and every time on question after question after question.

Remember, the questions they were asking were during the time the Democrats controlled the majority in the Senate and Senator LEAHY was the chairman. He could have kept them there as long as he wanted. There is no record that indicates Miguel Estrada said: Stop the hearing; I don't want to answer any more questions. He was never asked to come back to answer any more questions. The record was kept open, and Senators were allowed to submit written questions in addition. Two Senators did that—Senator SCHUMER and Senator KENNEDY. Those were answered by Mr. Estrada.

He has answered question after question after question. It is not true that he did not answer one question. He answered hundreds of questions. He answered them accurately and with skill and with good judgment.

It was said earlier in the debate that he would not answer the question of whether or not he was a strict constructionist. I thought that was interesting. Somebody said that was an example of a question he would not answer.

I remember the answer that he gave because I thought it was special, really indicative of his brilliance and insight into the law.

Senator EDWARDS. Are you a strict constructionist?

Mr. ESTRADA. I am a fair constructionist, I think.

Senator EDWARDS. Do you consider yourself a strict constructionist?

Mr. ESTRADA. I consider myself a fair constructionist. I mean, that is to say, I don't think that it should be the goal of courts to be strict or lax. The goal of courts is to get it right. And that may be in some cases to interpret the text as it is written because other consideration of every element of help that there is to give the text meaning tells us that that is what the lawmaker intended. But it may be inappropriate to give it a more general construction. I think we can have laws and constitutional text of both types. It is not necessarily the case in my mind that, for example, all parts of the Constitution are suitable for the same type of interpretive analysis.

A very insightful, thoughtful answer.

Senator EDWARDS. Excuse me. I am sorry. I didn't mean to interrupt you.

Mr. ESTRADA. No, no.

Senator EDWARDS. Were you finished?

Mr. ESTRADA. The example I was going to give is, you know, the Constitution says, for example, that you must be 35 years old in order to be our Chief Executive. There is not a lot of hard study that has to go into figuring out whether somebody is in compliance with the 35-year-old requirement. You can read it and say I am 40 and I can run.

There are areas of the Constitution that are more open-ended, and you averted to one, like the substantive component of the due process clauses, where there are other methods of interpretation that are not quite so obvious that the Court has brought to bear to try to bring forth what the appropriate answer should be.

I thought that was a very rich, very mature answer to that question and was a good example of the way he answered the questions.

He was asked about his position on Roe v. Wade. He made it absolutely clear that he considered it the law of the land and he would follow that law. And he cited Casey as being further explication of Roe v. Wade, and he would follow that. So I think that is important for us to think about.

People say he refused to allow himself to be questioned about a judicial philosophy. I do not understand it that way at all. He refused to allow himself to be pressured into considering questions that he might have to deal with on the bench or questions he had not fully researched. And that is what he should do.

If you are before a Senate committee, and you are asked what your opinion is on the right of privacy or some due process clause, and you express that, and then you get on the bench, are you obligated, since you were under oath when you were at that committee, to follow it? What if, once you get on the bench, and you receive highly sophisticated and high-quality legal briefs that convince you you were wrong, what does the judge do then? Judges should not opine on matters that are going to come before them in the future. So he answered the questions consistently, and over and over and over again.

They say: ''We have a right to advise and consent. The constitution allows that.'' And it does say that. This Senate—and every Senator—can vote for or against a nominee on any basis they choose—a proper or improper basis. It is their right. Nobody can control me on how I vote on this floor.

But what ought we do? How ought we handle matters of confirmation?

Let's be truthful. The reality is that, in the past, there has been a preference given, a presumption given to the President's nominees. They were able to come before the Senate or submit documents or just have their names submitted, and generally they have been confirmed. It is part of the cooperation, unwritten courtesies, collegiality and tradition of the Senate, that the President's nominees would be confirmed, where possible. And if there is a serious objection, that should be raised.

My concern in the matter of Miguel Estrada is, for the first time—maybe this century maybe ever—a court of appeals nominee is facing a confirmation process that would require not a majority of votes in the Senate but a supermajority—60 votes—to be confirmed. That is something we have not done before. It is not something we should proceed with.

The Constitution, in article II, section 2, says:

[The President] shall have Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two-thirds of the Senators present concur; and he shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors . . . Judges of the supreme Court, and all other Officers. . . .

The Constitution does not say what the vote should be, but it has been fully understood it meant a majority because when a supermajority of two-thirds was required, the Constitution spelled it out explicitly.

So the reason many of us on this side, who have been involved and have studied the confirmation process, are deeply concerned by what is happening here is because we are changing the ground rules in an extraordinary way. We are saying now—without any real basis, without any statement of wrongdoing by this nominee, any proof whatsoever that he is extreme or will not follow the law—they are now asserting this young Hispanic, outstanding lawyer has to have 60 votes to be confirmed, not 51. That is not right. I urge the Members of this body, I plead with the Members of this body: Do not do this. This knife cuts both ways.

Are we setting a precedent we are going to follow as long as this Senate exists? If you do not like a nominee, and 40 people get together, they can block that nominee? That was not done

when President Clinton was President. There was not a filibuster of a President Clinton nominee. There was not a blocking of any of the nominees in committee.

Last year, when the Democrats had the majority in the Judiciary Committee, they blocked two nominees in committee on a straight party-line vote, both of whom would have been confirmed, it was clear, from news reports, had they reached the floor. They killed them in committee. I thought they had, but that may not be the case today. That was a rachetting up of the process. They said: Well, you held up President Clinton's nominees.

Let me tell you what the facts are there. In the 8 years that President Clinton was President, he had confirmed 377 Federal judges. One of his nominees was voted down. That nominee was opposed by the National Sheriffs Association, law enforcement groups, and both Home State Senators. It is the only one that was voted down. Not one was killed in committee on a party-line vote. Not one was filibustered.

So I just say, that it is not true that President Clinton's nominees received unfair scrutiny. Yes, they were asked questions, but they were asked responsible questions. And they were consistently confirmed in large numbers.

They said: Well, some of them did not get through. The fact is, when President Clinton left office, he had nominated 41 judges who had not been cleared. He confirmed 377, but 41 had not cleared.

When former President Bush left office in 1992, there were 54 judges which the Democratic majority Senate had not confirmed.

So it is a total falsehood to suggest the Clinton nominees were mistreated when they came through here. They got a higher percentage of them confirmed than did former President Bush's nominees. They were not filibustered, and they were not blocked in committee. I feel very strongly about that.

It has been said that you Republicans said advise and consent is not a rubberstamp and you had a right to raise questions and vote against nominees.

I agree with that. We all have that right. We can vote against them. We have a right to debate them. We have a right to ask questions. If we are not satisfied with those answers, we have an obligation to vote no. We should vote no. But wait a minute. What if we don't allow them to have a vote? Is that what we are saying? We are going to vote to not allow a vote? I am not at all pleased with that.

One person suggested we are dealing with judges from the lunatic fringes. That was a quote made earlier. This nominee cannot possibly be considered a lunatic fringe nominee. This nominee unanimously was rated well qualified by the American Bar Association. The ABA goes out and investigates these nominees. They ask what cases they have handled. They then make a list of the lawyers on the other side of the cases, and they go out and interview the lawyers. They interview the judges who tried the cases. They don't give out well-qualified ratings that often. It is rare to get a unanimously well-qualified rating.

How can we say Miguel Estrada is somehow out of the mainstream or a lunatic fringe nominee when the gold standard, as one of my Democratic colleagues said, the ABA, rated him well qualified with their highest possible rating? It can't be done.

He went to Harvard. He was editor of the Law Review and spent 5 years in the Department of Justice Office of Solicitor General under the Clinton administration. Under the Clinton administration he was evaluated repeatedly by his supervisors, and he was given the highest possible evaluation you could give an attorney in the Department of Justice every year, the top rating.

Is this some sort of incapable stealth candidate we don't know anything about? No, sir. Not so.

One of our Senators talked about the Constitution as a changing document and that from time to time we just change it. I think that is dangerous. Our liberties are bound up in that document. If we say we have a right to change its meaning from time to time, according to the length of the chancellor's foot, according to how a judge may feel on a given day, our liberties have been eroded.

I remember Professor Van Alstyne at Duke, a constitutional scholar, said: If you love this Constitution and you really respect the Constitution, you will interpret it as it is written. You don't interpret it as you wish it were. If you do that, you don't respect the document. You undermine the document and the power that it has had for generation after generation to protect our liberties and order.

They say: You are just pounding on the table over there, Republicans. You have no argument whatsoever.

That is not true. Mr. Estrada has one of the highest recommendations, with one of the greatest backgrounds of any nominee I have ever seen come before this Senate. I was in the committee and I heard his testimony. It was absolutely superb, one of the finest testimonies I have seen. He was responsive, intelligent, quiet, thoughtful, courteous to the questioners, at times when he should not have been. I was very impressed with him.

Some think maybe the opposition to this young conservative Hispanic is because, who knows, President Bush might want to put him on the Supreme Court. I will just say this: I saw him testify. I read his record and background. He would make an outstanding Supreme Court Justice, a great Supreme Court Justice. He has integrity and legal thought processes that are superb. I am very pleased with him.

They throw out these charges. I just happen to know some of them because I have been involved in the hearings. They said one judge was asked to give all his downward departures in criminal cases. What a judge sentences in a criminal case is a public document. It is part of the public record. A downward departure means the judge has violated the sentencing guidelines. But when he does that, he has to write a special opinion to justify why he downward-departed and gave the criminal defendant less than the statutory minimum and sentencing guidelines would require him to get as a sentence. I don't think that was an extreme thing to ask.

What they are asking this nominee to do is reveal internal memoranda he wrote while he was a member of the Clinton administration to his fellow colleagues as they discussed how to handle complex legal matters. Every single living Solicitor General has said that this should not be done. There are seven of those, and four of them are Democrats. They have said: No, we do not want our attorneys' work product, our internal memoranda popped up every time somebody wants to do it. If members of our staff think they can't express an honest opinion in my law office as Solicitor General, then they are being chilled, if they are going to bring it out some day and say, you can't be a Federal judge because as a young lawyer you wrote a memorandum that didn't make sense.

Also they want the free and open discussion they get from the members of their staff. That would be reduced if these memoranda should be put forward.

I ask my colleagues: Should those documents be produced? Is that something we have to do here? Is that a good policy for America to say that from henceforth, now and forever, every member of the Department of Justice, every member of a law firm who wrote internal memoranda, they have to produce all of those before they can be confirmed? That is a dangerous precedent we ought not to follow.

They say: Well, there are some examples in which that happened. The Senator from Connecticut had some documents and had a letter from the Department of Justice asking for them back. He said: That proves they had to exist because they asked for them back.

I asked him about it. He introduced them into evidence. I read them. Well, it was the Bork confirmation. There were allegations about Watergate and those kind of things, and they were asking questions before they wanted to put him on the court about specific concerns that Bork may have acted improperly in a series of positions and events. So they asked for those documents, and at some point they turned them over.

That is not the routine thing. There has not been a single suggestion Miguel Estrada has done anything to implicate

himself in a Watergate type matter. He was a lower echelon attorney in the Solicitor General's office of President Bill Clinton. They have not suggested he would do anything corrupt. They have not suggested any particular issue he took some extreme view on that somehow we have to have this document.

They want a fishing expedition. Not so. We ought not do that. I urge my colleagues, I plead with my colleagues, do not do this. We ought not to do it. It is not right we would do that.

Well, the junior Senator from New York said that power corrupts, and somehow that moving this nominee, who almost sat here for 2 years—moving forward and having a hearing and all, is somehow corrupt or some sort of corrupt thing—to ask for a vote and insist we have a vote, that is corrupt.

Well, I say this: All of us have responsibilities to use our power responsibly. We ought not abuse that power. Abuse of power is a form of corruption. But, may not the minority be corrupt if they use the rules and procedures of this Senate to work a transformation of the traditions of this Senate, to block a nominee by requiring that they now have to have 60 votes instead of a majority? Could that be a form of corruption? I suggest it may be. Why? Because hard left attack groups insist and jerk their chain and demand that they vote no, so they just fall in line with that kind of thinking. I am not happy with that.

I don't believe this nominee deserves this kind of delay. I believe he deserves a vote. I believe there is not one bit of evidence that has come into this record that indicates he has any failings that would disqualify him from the federal judiciary. I think we ought to give him a vote. They asked a nominee how he voted on some issue. I remember that. Somebody asked that question. The nominee didn't answer it, and I think it was said that he should not answer it. He never answered it, and he was confirmed. They are saying if you don't produce confidential, internal Department of Justice memoranda, we are not going to confirm you.

Well, what is this all about? I remember quite a number of years ago, there was a ''Meet the Press'' program and Hodding Carter, who used to be assistant to President Carter, was asked about judges and nominations when President Reagan was in office. He made this comment. He said: The truth is, we liberals have been asking the Federal courts to do for us that which we can no longer win at the ballot box.

If you cannot win the issue at the ballot box and you can get an activist judge on the bench, maybe you can just file a lawsuit and they will rule your way. Maybe they will just reinterpret the meaning of the Constitution or statute and give it some new meaning and just use the law to effect a political agenda.

That is not right. When judges are given lifetime appointments, you need judges who are faithful to the Constitution and the statutes. That is what Miguel Estrada's judicial philosophy is. That is what it is. It is a hostility to use the law for other matters. He believes in giving the law a fair construction, as he said to Senator EDWARDS. He asked a little bit about it, and Senator EDWARDS pursued the matter a little later. He said: Well, President Bush said that he believes in strict construction. You say you believe in fair construction, and Mr. Estrada replied that he had not talked to President Bush about it. He said: You asked me my opinion. My opinion is fair construction. Mr. President, that is an independent and wise answer.

So we have seen courts do things that are really bizarre in America today. We have seen the courts be utilized as a tool to further agendas. Many decisions that we have seen rendered fly in the face of logic. We had judges on the Ninth Circuit Court of Appeals rule that ''under God'' should be taken out of the Pledge of Allegiance. We have had one judge in Vermont—he had a good name, Sessions—whom we confirmed. He is Senator LEAHY's friend and was his campaign manager. It wasn't long after Judge Sessions got on the bench that he declared the Federal death penalty unconstitutional. We have heard Senators talk about Berzon and Paez having some difficulties. But I would say that perhaps they should have had some difficulties. Since they have been affirmed just a few years ago, after taking their positions on the Federal bench in California, they both have participated in separate opinions declaring the California ''three strikes and you are out'' law unconstitutional. This law has been the basis of tens of thousands of convictions of defendants and has helped drive the crime rate down. Yet they said they thought it was cruel and unusual punishment to have a mandatory penalty—really an odd and extreme view.

I felt very strongly that both of those nominees were going to be activist judges, were not going to be bound by the law, and I voted against them; but they both were confirmed. We didn't filibuster them. They got their up-or-down vote, and they were confirmed with a majority of the vote in this Senate. So I just make that point.

As one of our witnesses said in committee, all in all, a judge who believes in strict construction of the law, or a fair construction of the law, and who is not an activist poses less threat to our liberties than one who is an activist judge. That is what Miguel Estrada believes in. That is what President Bush believes in. He wants to bring some sanity back to our legal system. He wants judges who have the classical view of the law. He wants judges who do not feel it is incumbent upon them to tell a city they cannot have Christmas decorations. He does not believe they should be striking down the Pledge of Allegiance, or striking down the Federal death penalty, or striking down the California ''three strikes and you are out'' law. Those are activist decisions and they threaten our judicial process and deny the people the right to control their destiny.

Federal judges, being lifetime appointed, are not subject to control by the democratic process. So when they are given the power to carry on political agendas, then they are acting in an antidemocratic way. It is an anti-, undemocratic act when a lifetime appointed judge, with no accountability to the public, starts issuing opinions that affect public policy.

Well, I will just say that it wasn't long ago when the leadership on the other side, without any hesitation, opposed the filibustering of Federal judges. Senator LEAHY, past chairman of the Judiciary Committee, and currently the ranking Democrat on the committee, said this:

> If we want to vote against somebody, vote against them. I respect that. State your reasons. I respect that. But don't hold up a qualified judicial nominee. . . . I have stated over and over again on this floor that I would . . . object and fight against any filibuster on a judge, whether it is somebody I opposed or supported, that I felt the Senate should do its duty.

That is a clear and unequivocal statement in opposition to a filibuster. He said that in 1998.

In 2000, Senator LEAHY said:

> I have said on the floor, although we are different parties, I have agreed with Governor George Bush, who has said that in the Senate a nominee ought to get a [floor] vote, up or down, within 60 days.

Senator BIDEN, the past Judiciary chairman:

> But I also respectfully suggest that everyone who is nominated ought to have a shot, to have a hearing and to have a shot to be heard on the floor and have a vote on the floor. . . . It is totally appropriate for Republicans to reject every single nominee if they want to. That is within their right. But it is not, I will respectfully request, Madam President, appropriate not to have hearings on them, not to bring them to the floor, and not to allow them to have a vote. . . .

Senator FEINSTEIN:

> A nominee is entitled to a vote. Vote them up; vote them down.

On and on that is mentioned. That has been our policy. Sure, some nominees have been held, but they usually have been forced up for votes, and they have gotten their vote.

When President Clinton left office, there were only 41 judges who did not get a vote. Only 41. There were 54 when President Bush left office, and it has been historic in this body at the end of a session when nominees come in and people are thinking there might be a new President, the process slows down. That has happened for good or ill probably for the last century. That is within the realm of responsibility. To openly filibuster a qualified nominee (early in a term) is contrary to the traditions of this body and would set a precedent that would be quite dangerous.

Once again, I urge my colleagues not to go down this road. I urge my colleagues to think seriously before they

consider a routine filibuster. Maybe if this nominee had ethical problems or serious personal problems, that would justify a filibuster, but not a nominee who is rated well-qualified by the bar, who has the support of virtually everyone with whom he has worked, who demonstrated by his testimony extraordinary skill and intelligence. I respect him. I believe he should be given a vote. I hope and believe that somehow we will avoid this and we will get an up-or-down vote on him.

That is my request to my friends across the aisle, and it would be a mistake if that does not occur.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

UNIVERSITY OF MICHIGAN

Mr. LEVIN. Mr. President, George Washington was nearing the end of his Presidency. He dreamed of a national university for the United States to be located in Washington. This university was going to bring together all the different people of this great country into one educational setting to learn together, to learn from each other, to get to know each other, to overcome prejudices and intolerance.

President Washington actually planned to include his vision of such a university in his now famous and historic Farewell Address. It was not included in that Farewell Address. Apparently, one of the people who was working with him on that Farewell Address was Alexander Hamilton who urged, as he was writing the address, drafting it:

> The idea of the university is one of those which I think will be most properly reserved for your speech at the opening of the session. A general suggestion respecting education will very fitly come into the address.

In other words, what Hamilton was saying is this vision of yours, Mr. President, about a national university, where people can come to shed their prejudices from various parts of the country, to live and work with each other should be saved for a different address. Leave it out of the Farewell Address.

In fact, President Washington ended up leaving it out of his Farewell Address, but he included it in a letter. It is a letter which has come down through the generations, and that vision of a national university was outwardly reflected in this letter.

He stated his belief that this country would be stronger if the children from different parts of the country could come together in an educational setting to learn from each other and about each other.

I want to read a few parts of this letter of George Washington because I think it has an application to the University of Michigan case which is currently pending in the Supreme Court.

I come from the State of Michigan. I am proud of it, and I am proud of our university and its effort to promote diversity, and not just racial diversity, but geographic diversity, economic diversity, gender diversity—diversity in general which has been promoted by not just the University of Michigan but by most universities in this country, and it seems to me is to be encouraged.

What George Washington sensed 205 years ago was that a university had a special ability to bring together different people to help them learn about each other, drop their fears of each other and make us one Nation.

This is what he wrote:

> I have regretted that another subject (which in my estimation is of interesting concern to the well-being of this country) was not touched upon also: I mean Education generally as one of the surest means of enlightening and givg. just ways of thinkg to our Citizens, but particularly the establishment of a University; where the Youth from all parts of the United States might receive the polish of Erudition in the Arts, Sciences and Belle Letters; and where those who were disposed to run a political course, might not only be instructed in the theory and the principles, but (this Seminary—

Referring to the university—

> being at the Seat of the General Government) where the Legislature wd. be in Session half the year, and the Interests and politics of the Nation of course would be discussed, they would lay the surest foundation for the practical part also.
>
> But that which would render it of the highest importance, in my opinion, is, that the Juvenal period of life, when friendships are formed, and habits established that will stick by one; the youth . . . from different parts of the United States would be assembled together, and would by degrees discover there was not that cause for those jealousies and prejudices which one part of the Union had imbibed against another part; of course, sentiments of more liberality in the general policy of the Country would result from it. What, but the mixing of people from different parts of the United States during the War rubbed off these impressions? A century in the ordinary discourse, would not have accomplished what the Seven years association in Arms did; but that ceasing, prejudices are beginning to revive again, and never will be eradicated so effectually by any other means as the intimate intercourse of characters in early life, who, in all probability, will be at the head of the councils of this country in a more advanced stage of it.

He went on:

> To shew that this is no new idea of mine, I may appeal to my early communications to Congress; and to prove how seriously I have reflected on it since, and how well disposed I have been, and still am, to contribute my aid towards carrying the measure into effect, I enclose you the extract of a letter from me to the Governor of Virginia on this Subject, and a copy of the resolves of the Legislature of that State in consequence thereof.
>
> I have not the smallest doubt that this donation (when the Navigation is in complete operation, which it certainly will be in less than two years), will amount to twelve or 1500 pounds Sterlg a year, and become a rapidly increasing fund. The Proprietors of the Federal City have talked of doing something handsome towards it likewise; and if Congress would appropriate some of the Western lands to the same uses, funds sufficient, and of the most permanent and increasing sort might be so established as to envite the ablest Professors . . . to conduct. . . .

President Washington saw that the two strongest ways to unite a country are when people go to war together against the common enemy and when they go to school together with a common goal, to learn. While we would all like to avoid the need to fight together, we all know we can strengthen our ties to democracy and to our country when we learn together about the world and each other.

Learning together allows us to strip away the prejudices that would otherwise keep us apart. The hope of George Washington was later joined by the dream of Martin Luther King and by the promise and the potential of Brown v. Board of Education a half century ago, and they are now hanging in the balance because of the issues that are raised in the University of Michigan affirmative action cases before the Supreme Court.

In April, the U.S. Supreme Court is going to hear two oral arguments in two separate lawsuits challenging the University of Michigan's diversity admissions policy. The Court's decision in these cases will result in the most far-reaching affirmative action ruling since the Bakke decision in 1978. The Court will decide the critical issue of whether Bakke still remains the law of the land and whether racial or ethnic diversity has a value at a university which can be considered in admissions of higher education.

In the Bakke decision, the Court ruled against rigid quotas or set-asides based on race but found that higher education could consider race or ethnicity as a factor in a properly considered competitive admissions process to achieve the educational benefits of diversity.

If the Court overturns Bakke, it could outlaw any consideration of race or ethnicity in admissions to colleges and universities.

There is a national security factor to this issue as well. There are going to be a number of military officers and people connected with national security and defense who will be filing an amicus brief in support of the University of Michigan because universities run ROTC programs. Those programs, where there is diversity at the universities that have them, produce officers for the military, who in turn are diverse and reflect our population. The failure to have officers who reflect our population in terms of race and ethnicity and gender, the failure to have diversity in our officer corps, led to huge problems of morale in the military for decades, until just about 20 years ago when we reached out and made great efforts to have diversity in our officer corps. That is going to be a part of the issue in an amicus brief filed in the University of Michigan case.

I am not going to spend a lot of time on that aspect, but I do want to at least comment on the fact that a significant number of very significant military officers, retired officers, who have been connected at the highest levels with our Nation's military and its schools, are going to be filing a brief

with the Supreme Court relative to this issue.

I want to comment on the more fundamental issue, which is the value of diversity in a university and whether it is conceivable in this country that we will say to universities that they can give additional points for geography, which many universities do, including the University of Michigan. In other words, they can reach out to students in different parts of their State who have been underrepresented and try to get better representation from those underrepresented parts. They can give additional points for that. They can give additional points for gender. If the law school has not had women students, they can give additional points for that in order to overcome the problems which were created when women were discriminated against. They can have an affirmative action program for that. They can give additional points to alumni, kids—and they all do—and athletes—and they all do—and the children of public officials—and many of them do.

Geography alone, which George Washington talked about—I went to a college out east which I know for a fact reached out geographically in this country to try to have good representation from various parts of the country. I come from the Midwest. My SAT scores were not as high as some of the kids' in the East, but the college I went to decided it was important to those kids from the East that they have kids from the Midwest, kids from the Far West, kids from the South, kids from the Southwest, kids from Alaska, kids from Hawaii, kids from Africa—it is important to the education of our students that they go to school with a diverse group of students. So they gave out geographic points. I got points. I do not think I would have gotten into my college, my beloved college, Swarthmore, but for the fact that I came from the Midwest and I was given some additional points. I do not know for sure, but that is my belief, and that is the likelihood, I have no doubt. I know they have geographical affirmative action. Is it conceivable that points can be given for everything but race to achieve diversity, that race is singled out as the one area where we cannot reach out to achieve diversity in our universities? Is it possible that is what we are going to come to in this country, that the equal protection clause will be turned right on its head? The 14th amendment, which was designed, at least in significant measure, to end the scourge of the remnants of slavery, is going to be used to prevent diversity from being achieved in one area where it is most important that we have a diverse university, and that is the area of race. It is the one area where we have had the most difficulty in overcoming the kind of prejudices and obstacles President Washington talked about and for which he said a university was the most suited, other than going to war together.

Our military has done a spectacular job in terms of diversity. It has been a huge factor in the promotion of democracy in this country. Hopefully, we do not have to go to war to promote coming together and learning to overcome prejudices and differences. Hopefully, our universities can be allowed to reach out, as they are with geography, to overcome the fact that some parts of our States are totally underrepresented in our educational institutions, to say, yes, we are going to reach out to that part of the State and we are going to try to get more students from there; they may not have done quite as well on their SATs, because of various historic factors or whatever, but they are highly qualified students, so we are going to give some additional points to those students. But not race? Race would be singled out for not being permitted to be given additional consideration to achieve diversity which is so valuable in education? That would be an unthinkable, unconscionable result, and a distortion of the very purpose of the equal protection clause.

Of all the areas where we have the most hurdles to overcome, most barriers to overcome, more attitudes to overcome, more prejudices to overcome, with all the progress we have made—and we have made a lot—we have a long way to go in the area of race. The idea that somehow or another all that other diversity, all those other additional points can be given—alumni kids, you can get 10 points; athletes, you can be given 20 points; gender, you can be given points; economic, you can be given points—but not race, that would be, it seems to me, singling out race for discriminatory treatment when it comes to promoting diversity at a university.

The law school's current policies have been upheld by the Sixth Circuit as being consistent with Bakke. The Sixth Circuit has explicitly rejected the plaintiff's contention that the system used by the University of Michigan was the functional equivalent of a quota. The Sixth Circuit found that the law school's admissions program is ''virtually indistinguishable'' from the Harvard man, which Justice Powell held out in the Bakke decision as the appropriate model.

In the University of Michigan's undergraduate admissions program, 110 points out of 150 are given for academic factors, including grades, test scores, and curriculum. The greatest weight, up to 80 points, goes to high school grade point average. Applicants can earn up to 12 points for SAT or ACT scores, up to 10 points for attending a competitive high school, 8 points for taking the most challenging curriculum, and 3 points for SAT quality. Other factors can be considered, including geography, athletics, relationship to alumnus, economic disadvantage. Points can be added for students from various parts of the State which have been underrepresented at the university. Students who have athletic scholarships get additional points, children of alumni get additional points, students from economically disadvantaged backgrounds get additional points. And at the University of Michigan, students from an underrepresented racial or ethnic minority or attending a high school serving a predominantly minority population can receive additional points. And the provost can award additional points to applicants at his or her discretion.

The idea it is all right for colleges and universities to give special consideration to all the other groups—children of alumni, large donors' children—how is that one? It is OK to give special consideration to the children of large donors for whatever university purpose that serves—but it is not OK to give additional points to underrepresented minorities for the obvious university purpose that serves, which is a diverse student population, which our first President, the Father of our Country, pointed out in this letter is absolutely essential if this country is going to be one, if this country is going to be unified.

Indeed, he saw that 200-plus years ago. I hope the Supreme Court will have the wisdom of reading that letter and seeing how important it is that President Washington's dream to bring people from different parts of the country, that people of different backgrounds, which is the University of Michigan program, can, in fact, be realized. That is what some of the stakes are in the University of Michigan case.

Since we are talking judicial matters this evening, I wanted to raise that issue, as well.

Mr. SESSIONS. Is the Senator going to another subject for long?

Mr. LEVIN. It will be lengthy.

Mr. SESSIONS. I would like to speak on the Estrada nomination.

Mr. LEVIN. You can talk for quite some time on that. You have talked longer, I believe, than I have on this evening.

Mr. SESSIONS. Not as long as some of the other Members over there.

Mr. LEVIN. Let me try to limit this to about 10 minutes.

The PRESIDING OFFICER. The Senator from Michigan has the floor.

NATIONAL SECURITY

Mr. LEVIN. I will keep the floor and try to keep this down to 10 minutes.

Earlier today we had a hearing in the Armed Services Committee where we received testimony from the intelligence community on worldwide threats to our national security. I gave an opening statement at that hearing, parts of which I want to share with the Senate tonight because of the importance of the subject of Iraq. We have a lot of work ahead of us. We have threats of all kinds, threats which are more immediate, more personal, more imminent, than Iraq, particularly the al-Qaida terrorist network, even though that network has been weakened, it has been deprived of its safe haven in Afghanistan.

It has, just over the last few months, attacked innocent civilians in Bali and Tunisia and has attacked United States service members and civilians in Kuwait and Jordan.

Last month, the United States and coalition forces fought the biggest battle in Afghanistan since Operation Anaconda last spring. Even though our intelligence and our law enforcement agencies are working with allied countries to thwart further attacks in the United States and abroad, the fact is we remain highly vulnerable to al-Qaida, to other terrorist groups. As a matter of fact, the United States is at alert orange now—that is the second highest level of alert in our military forces—and also at heightened force protection levels worldwide. We remain vulnerable. We remain vulnerable not just to conventional explosives but now, we believe, more and more vulnerable to weapons of mass destruction.

Earlier this week, Federal officials even suggested the public should make preparations for a terrorist attack involving chemical, biological, or radiological weapons. While we are placing such a huge focus on Iraq, North Korea, a country that possesses weapons of mass destruction and has ejected the international nuclear inspectors, has declared it is resuming operation of its plutonium-related nuclear facility.

North Korea is not just a country which proclaims it is engaged in a nuclear program as it now has with the enriched uranium program. North Korea is probably the world's worst proliferator of ballistic missile and missile technology. It is on the brink of becoming an undisputed nuclear power. The administration has refused to open a direct dialog with North Korea. That has serious ramifications. Our ally which lives next to North Korea, which surely has got at least as much at stake as we do in the whole matter—and, I think, obviously a lot more since they are the ones nearest the threat—our ally, South Korea, wants us to open a direct dialog with North Korea. They have openly expressed the wish that this country have a direct dialog of the highest levels with North Korea.

The administration has decided not to do that, and all of a sudden, what is obviously a crisis to most of us and most of the world, is not even described as a crisis by the administration. Even though the failure to have contact, the linking it to the axis of evil and the announcement we will have a preemptive policy using military force, could lead to additional provocative and irreversible action on their part because it is stoking the paranoia which exists in North Korea.

On top of that, Iran has admitted now it is mining uranium. That surely must underscore our concern that its nuclear energy program is intended for nuclear weapons, not just for the promotion of nuclear energy. Iraq is the focus and Iraq continues to flout the international community. It is not assisting U.S. weapons inspectors to find or account for chemical or biological weapons programs. Disagreement on how to address the Iraqi threat has divided the U.N. Security Council.

Surely there can be little doubt Osama bin Laden would like to see the United States and Britain attack Iraq without the authority of the world community acting through the United Nations. Keeping the world community together through the U.N. Security Council is exactly what Osama bin Laden does not want to see. He does not want to see a United Nations. He wants to be able to say it is the United States, it is Britain, and it is a few of their personal, close allies. It is not the world that is going after Iraq, it is the United States and Britain that are doing it. He does not want, it is obvious, the world community to be united against the Iraqi threat. He wants to be able, as does Iraq, to characterize the effort as an American/British-led unilateral, not having U.N. authority type of effort.

All of us want Saddam Hussein to be disarmed. The best way to accomplish the goal of disarming Saddam Hussein without war is if the United Nations speaks with one voice relative to Iraq. I want to repeat that, as I think there is so much concern about the possibility of war with Iraq that that particular point is frequently lost.

The best way to accomplish the goal of disarming Saddam Hussein without war is if the United Nations speaks with one voice relative to Iraq.

But if military force is going to be used, the best way of reducing the short-term risks, including risks to the U.S. coalition forces, and the long-term risks, including the risk of terrorist attacks on our interests throughout the world, is if the United Nations specifically authorizes the use of military force. That is the bottom line. The best way of increasing any chance for disarming Hussein without war, and of minimizing casualties in future attacks on the United States if war does ensue is if the United Nations acts relative to Iraq.

The next point, though, is essential as well. Supporting U.N. inspections is an absolutely essential step if we are going to keep the Security Council together. We are not going to have a chance of keeping the United Nations Security Council speaking with one voice unless we support United Nations inspections, which are and have been such an important part of the Security Council's position.

How do we support those U.N. inspections? First, by sharing the balance of the information that we have about suspect sites; No. 2, by quickly getting U–2 aircraft in the air over Iraq, with or without Saddam Hussein's approval, and by giving the inspectors the time they need to do their work as long as the inspections are unimpeded.

I disagree with those, including high officials in our government, who say that U.N. inspections are useless. We heard before the inspections began from the highest level of this government that inspections were useless. We heard it from Dr. Rice at the White House last week. She said specifically that inspections are doomed to failure.

I am also astounded that some of our highest officials have gone so far as to refer in a derogatory way to the ''so-called'' U.N. inspectors. If these inspectors and inspections are useless without Iraqi assistance in pointing out where they have hidden or destroyed weapons of mass destruction, why are we sharing any intelligence at all with the inspectors; and why are we apparently finally implementing U–2 flights to support the inspectors?

It is one thing to be realistic about the limitations of the U.N. inspections and not have too high hopes about what they can produce. It is another thing to denigrate their value or prejudge their value or to be dismissive and disdainful about the beliefs of others on the U.N. Security Council about their value, or to be cavalier about the facts relative to those inspections.

Referring to being cavalier about facts brings me to another point which has to do with the sharing of intelligence information in our possession with the U.N. inspectors. I have followed this issue very closely. I have asked the CIA for months to give us the precise information as to how many suspect sites there are, how many of those suspect sites are of great significance, for how many of the significant sites have we shared information that we have with the United Nations inspectors. They have given me the information in writing but, as it turns out, it is erroneous.

We just began sharing specific information in early January, according to Secretary Powell, who is quoted in the Washington Post on January 9. I can't go into those classified details in the open. I can't give the precise numbers, how many suspect sites we have information on, how many of those suspect sites that we have information on are of significance, and how many of those have we shared with the United Nations. The numbers themselves are classified.

I can say in an unclassified setting, in public, that as of a couple of weeks ago we had shared information on only a small percentage, a fraction of the suspect sites in Iraq, and we had not shared information on the majority of the suspect sites. That was confirmed by CIA staff.

Yet when I asked the Director of the CIA yesterday about this subject, he told us that we have now shared with the U.N. inspectors information about every site where we have credible evidence—all of a sudden, going from a fraction of the sites to we have now shared all the sites.

Then last night, in Director Tenet's presence and in the presence of Senator WARNER, his staff acknowledged that as a matter of fact we still have useful information that we have not shared

with the inspectors—which is the opposite of what Director Tenet told the Intelligence Committee yesterday in open session. If we have not yet shared all the useful information that we have with the U.N. inspectors, that would run counter to the administration's position that the time for inspections is over.

The same type of issue exists relative to the U–2s. The inspectors have asked for U–2 surveillance planes. These are planes which have a capability of tracking those suspicious vehicles on the ground that have been referred to by Secretary Powell in his speech, tracking the vehicles that are at a suspicious site and going to another site. They have the advantage of being able to loiter. Unlike a satellite, a U–2 can loiter and actually keep track of a vehicle as it moves from one suspicious place to another and can connect that information to inspectors in real time. They are intensely valuable to the inspectors. They have asked over and over again for the U–2 flights. Why haven't they been provided to the inspectors?

Well, because Saddam Hussein says he can't guarantee the safety of the pilots. So instead of going to the U.N. and saying: Resolution whatever the number is, the United Nations authorizes these U–2 flights and if Saddam Hussein interferes with these flights that will be considered an act of war against the United Nations—instead of doing that, to give the inspectors this additional capability, at least until yesterday or perhaps today, Saddam Hussein has been given a veto by the U.N.—including us; we are part of the U.N.—over the use of surveillance planes, which would contribute to the likelihood that inspectors would catch him with the goods.

I hope that is over now. I don't know for sure that it is. I hope now there is an arrangement made to use the U–2 flights. But if we believe it is important, short term and long term, to both avoiding war, and if war comes, to reducing its risks, that we have a United Nations that is united, speaking with one voice against Iraq, we then must deal with the United Nations' key request that we have an inspection process which is complete and robust. And we must lead at the United Nations to help make it robust. And that includes the use of the U–2 planes.

We have made the suggestion, Senator CLINTON and myself, in a letter which we sent to Secretary Powell, that that kind of resolution be introduced at the United Nations which would provide that the U–2 planes be authorized by the United Nations, have the United Nations flag, and, if interfered with by Saddam Hussein, that would be considered an act of war against the United Nations and every member would then be authorized to use military force in response.

When President Bush addressed the United Nations General Assembly on September 12 of last year, he said that:

> We want the United Nations to be effective, and respectful, and successful.

We have some responsibility to help the United Nations achieve that. Saying to other countries, including allies, that if you don't see it our way you must have some ulterior motive, doesn't help us in leading the United Nations to a united front against Saddam Hussein. While a number of heads of State and Governments have called for the United Nations Security Council to take appropriate action, necessary action in response to the threat, and others have pledged to contribute military forces to that effect, others believe we should give strengthened inspections the time that they need to finish their job. But all of the groups agree on the necessity of disarming Iraq.

Rather than following a course that divides the United Nations and separates us from some of our closest allies, we should fairly consider courses of action that unite the world community against Iraq.

I yield the floor.

The PRESIDENT pro tempore. The Senator from Utah.

Mr. HATCH. Mr. President, I ask unanimous consent that the distinguished Senator from Pennsylvania be allowed 6 minutes without my losing the right to the floor and that I immediately be recognized thereafter.

The PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I have sought recognition to comment about the current procedures with respect to the selection of judges, and what is happening in the Senate today is a constitutional revolution.

The Constitution provides that the Senate will give advice and consent to the President. And the tradition of this country for 215 years has been that the President makes selections as he chooses, and advice can come from the Senate. Consent has been given without challenging the President to a partnership arrangement where the Senate has to consent to the nominee before the President can submit the nominee to the Senate with any chance for confirmation.

What the Democrats are doing here today is really seeking a constitutional revolution. What they want as the minority party in the Senate is a full partnership with the President on selecting Federal judges.

What we are doing with Miguel Estrada, and other nominees who are coming up for an executive session tomorrow, is really a prelude to the nomination of the next Justice for the Supreme Court. The effort is being made by the Democrats to have their acceptable ideology without the traditional deference which has been paid to the President.

The Senate has been maneuvered into a position here, an institution with lines being drawn in the sand, and Republicans on one side and Democrats on the other being backed into a corner—sort of a macho-macho game where no one wants to play the chicken game. What we are really seeing is gridlocking this institution on a permanent basis, if no one yields.

The Judiciary Committee has three nominees on the Executive Calendar tomorrow, and the Democrats have served notice that they are going filibuster. If at least one Democrat does not vote to end the filibuster, nothing will happen there.

So we have a long litany of judges—some of whom have been held up for 2 years—and nothing is going to happen.

What we may be seeing here is the foundation laid for a grand political argument in the Presidential election of 2004. We are laying it right on the line. If the American people want judges confirmed, there are going to have to be 60 votes in the President's party.

Both sides have been at fault in the past, in my opinion. When President Clinton was in the White House and the Republicans controlled the Senate, we wouldn't confirm people. There were some breakthroughs but relatively few. When President Bush submitted nominees for 2 years, or a year and 7 months, the Democrats stopped the nomination process.

It is high time we had a protocol which both sides respected wherein so many days after a nomination, there is a hearing, so many days later, a vote in committee, and so many days later, a vote on the full floor.

But we are really heading for extraordinary deadly deadlock in this body. I think we ought to recognize it for what it is. There is a constitutional revolution underway here to change the fundamental way judges are selected.

If the Democrats insist on a full partnership with the President, if any party insists on a full partnership with the President of the opposite party, then it is going to take 60 votes. And we may be setting the stage for 60 votes in the 2004 election.

But it is my hope that cooler heads can prevail and we can sit down and work this out so that when the shoe is on the other foot, we don't have this kind of gridlock and this effort to really upset longstanding constitutional principles.

I thank the Chair. I yield the floor.

NOTICE

Incomplete record of Senate proceedings. Except for concluding business which follows, today's Senate proceedings will be continued in the next issue of the Record.

ORDERS FOR THURSDAY, FEBRUARY 13, 2003

Mr. TALENT. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 11 a.m., Thursday, February 13. I further ask unanimous consent that on Thursday, following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then return to executive session to resume the consideration of the nomination of Miguel Estrada to be a circuit judge for the DC Circuit.

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

PROGRAM

Mr. TALENT. Mr. President, on behalf of the majority leader, and for the information of Senators, tomorrow the Senate will once again resume debate on the nomination of Miguel Estrada. We have now spent 5 days, over 35 hours, debating this well-qualified and capable nominee. During this debate, every Senator should have had the opportunity to speak on the nomination of Miguel Estrada if they desired. We will continue consideration of this qualified nomination tomorrow morning.

In addition, the omnibus conference report will be filed in the House tonight. The House is expected to act on that conference report tomorrow. Therefore, it is the leader's hope that the Senate will be able to complete action on that measure on Thursday or Friday. Rollcall votes are therefore possible during Thursday's session.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. When this was prepared, it wasn't morning. I think the report is going to be filed in the next hour or two.

Mr. TALENT. That is correct. It would be in the morning.

ADJOURNMENT UNTIL 11 A.M. TOMORROW

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

There being no objection, the Senate, at 12:45 a.m., adjourned until Thursday, February 13, 2003, at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate February 12, 2003:

THE JUDICIARY

CONSUELO MARIA CALLAHAN, OF CALIFORNIA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE NINTH CIRCUIT, VICE FERDINAND F. FERNANDEZ, RETIRED.

STEVEN M. COLLOTON, OF IOWA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE EIGHTH CIRCUIT, VICE DAVID R. HANSEN, RETIRED.

HARRY A. HAINES, OF MONTANA, TO BE A JUDGE OF THE UNITED STATES TAX COURT FOR A TERM OF FIFTEEN YEARS, VICE RENATO BEGHE, RETIRING.

EXTENSIONS OF REMARKS

HONORING JOSEPH NOEL SACHATELLO III

HON. ROB SIMMONS

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 11, 2003

Mr. SIMMONS. Mr. Speaker, I rise to honor an individual dedicated to public service, a leader in his community and an example to us all, the late Joseph Noel Sachatello III from Waterford, Connecticut, who died this month in the line of duty.

Joseph was a well-known and beloved member of the neighboring Montville (CT) police force. For him being a protector of the peace was the fulfillment of a lifelong dream, the pinnacle of a successful career in service to town, state, and country. His love for his work shown through his enthusiasm for his job.

In recognition of his service, his name will be carved into a memorial for police officers in Meriden, Connecticut. Joseph served my state and region faithfully. This honor is much earned. We will miss him.

At Joe's funeral, a company of 1,200 uniformed officers stood at attention, and more than 450 officers, friends, family and neighbors came to mourn his passing. Joe touched the lives of many individuals in his community. He was proud of whom he was and where be came from. And in his pride we found and will continue to find inspiration. It is men like Joe that move the men and women in this room to carry forth with their mission. So his passing is a tragedy but his life was a blessing. My heartfelt condolences go out to his family and friends. He will be missed but not forgotten.

Mr. Speaker, I would encourage the Members of the House of Representatives to join me in heartfelt appreciation for this great man. I would also like to ask the House to join me in extending our deepest condolences to Joseph's parents, Joseph N. Sachatello Sr. and Elaine Geiger Sachatello as well as his wife, Lisa and their six-month old son, Anthony.

TO EXPRESS THE POLICY OF THE UNITED STATES REGARDING THE UNITED STATES' RELATIONSHIP WITH NATIVE HAWAIIANS

HON. NEIL ABERCROMBIE

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 11, 2003

Mr. ABERCROMBIE. Mr. Speaker, I rise today to introduce a bill to clarify the political relationship between Native Hawaiians and the United States. This bill is identical to a bill being simultaneously introduced in the Senate by Senator DANIEL AKAKA and Senator DANIEL INOUYE. Representative ED CASE, from the Second District of Hawaii, is joining me as an original cosponsor on the introduction of this measure.

For years, Congress has legislated on behalf of Native Hawaiians as the aboriginal, indigenous, native peoples of Hawaii. This measure clarifies that political relationship and provides a process for Native Hawaiians to form a governing body to engage in a government-to-government relationship with the United States.

The United States has declared a special responsibility for the welfare of the Native peoples of the United States, including Native Hawaiians. This relationship has been acknowledged by the United States since the inception of Hawaii's status as a territory. This relationship was most explicitly affirmed by the enactment of the Hawaiian Homes Commission Act of 1920, which set aside 200,000 acres of land in Hawaii for homesteading by Native Hawaiians. Legislative history clearly shows that in addressing this situation, Congress based this action and subsequent legislation on the constitutional precedent in programs enacted for the benefit of American Indians.

Since Hawaii's admission into the Union, Congress has continued to legislate on behalf of Native Hawaiians as indigenous peoples. Native Hawaiians have been included as Native Americans in a number of federal statutes which have addressed the conditions of Native Hawaiians. Public Law 103–150, the Apology Resolution, extended an apology on behalf of the United States to the Native people of Hawaii for the United States' role in the overthrow of the Kingdom of Hawaii. The Apology Resolution also expressed the commitment of Congress and the President to acknowledge the ramifications of the overthrow of the Kingdom of Hawaii and to support reconciliation efforts between the United States and Native Hawaiians.

It is important to note that this measure has strong support from indigenous peoples within the United States. The National Congress of American Indians and Alaska Federation of Natives have both passed resolutions in support of a government-to-government relationship between Native Hawaiians and the United States. Similar resolutions have been passed by the Japanese American Citizens League and the National Education Association. The measure is also supported by the Hawaii State Legislature, which passed a number of resolutions supporting a federally recognized government-to-govenunent relationship.

The legislation being introduced today is important not only to Native Hawaiians, but to all the people of Hawaii. This measure provides the process to begin resolving many longstanding issues facing Hawaii's indigenous peoples and the State of Hawaii. In addressing these issues, we have begun a process of healing, a process of reconciliation not only with the United States but within the State of Hawaii. The essence of Hawaii is characterized not only by the beauty of its islands, but by the beauty of its people. The State of Hawaii has recognized, acknowledged and acted upon the need to preserve the culture, tradition, language and heritage of Hawaii's indigenous peoples. This measure furthers these actions.

HONORING THE MEMORY OF MARTIN CUMMINGS

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 11, 2003

Mr. GORDON. Mr. Speaker, I rise today to recognize the memory of my late friend, Martin Cummings. Martin passed away on January 3 of this year. He was a wise man who counseled me on numerous occasions. I will truly miss him, as will his community of Wilson County, Tennessee.

Martin's pride for his community was obvious. He served on numerous civic organizations and boards, including the Wilson County Planning Commission where he served as chairman. In his capacity as planning commission chairman, Martin helped shaped Wilson County into a prosperous and attractive community.

He was a successful real estate professional who devoted much time and energy into everything he did. He received numerous awards from an appreciative real estate industry. His family especially reaped the rewards of his caring and generous nature. Martin and his wife, Camelia Rose, were married for nearly 51 years and had five children and six grandchildren. Martin has left a wonderful legacy.

I deeply admired Martin for his many accomplishments and his unselfish service to his community. His decency transcended both his public and private life. I am proud to have had Martin as a close friend. I will sorely miss that friendship and his sage advice.

HONORING MARY MACRAE

HON. MARSHA BLACKBURN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 11, 2003

Mrs. BLACKBURN. Mr. Speaker, in almost 30 years of experience as a business, community, and political activist, Mary MacRae has given her best to virtually every endeavor and it shows.

As a successful business owner and president of the National Association of Women Business Owners, Mary is an advisor to Members of Congress and a mentor to entrepreneurs everywhere. Few others can lay claim to as long a list of accomplishments as Mary.

While at NAWBO, Mary helped found the Women's Resource Center, a source of training, counseling and technical assistance for start-up and existing women business owners in Tennessee. This single accomplishment has the potential to help thousands of women start and run a business. Mary exemplifies the value of public service and she does so with humility, grace, and plenty of hard work.

Tennessee and America are better for her determination and her service to others.

EXPRESSING CONDOLENCES OF THE HOUSE TO THE FAMILIES OF THE CREW OF THE SPACE SHUTTLE ''COLUMBIA''

SPEECH OF

HON. ERIC CANTOR

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 5, 2003

Mr. CANTOR. Mr. Speaker, our Nation mourns the loss of the seven astronauts of Shuttle *Columbia.* We honor the lives of some of our finest men and women from America's space program and their desire and sacrifice to make this world a better place.

We in Virginia take a moment to remember one of those astronauts, Captain David M. Brown, Mission Specialist aboard Shuttle *Columbia.* I extend special condolences to the family of Capt. Brown, son of Dorothy and Paul Brown of Massies Corner, from the Seventh District of Virginia. Capt. Brown was a graduate of the College of William and Mary and also graduated from Eastern Virginia Medical School in Norfolk, VA. Virginians will long remember and honor the accomplishments and the life of Captain David Brown.

We recognize the crew of Shuttle *Columbia's* courage and devotion to the expansion not only of our Nation's scientific knowledge, but our national security as well. Although this tragedy strikes a terrible blow, it is important to remember the words of our fellow Virginian, Capt. David Brown: ''This program must go on.''

I would like to express my deepest sympathy to the grieving families. My prayers are with the entire Shuttle *Columbia* crew's families and loved ones during this tragic time.

''LIBERATION'' OF FRANCE IN VIOLATION OF COVENANT OF LEAGUE OF NATIONS

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 11, 2003

Mr. HYDE. Mr. Speaker, among the many letters I have received on the subject of Iraq, one of the most provocative is the following, signed ''Publius Secundus.''

DEAR CONGRESSMAN HYDE: I am not an international lawyer, but as part of an effort to be helpful, I must note that I have come across disturbing and, I believe, persuasive evidence that D-Day and the subsequent ''liberation'' of France were in direct violation of the solemn obligations undertaken by Great Britain and France under the Covenant of the League of Nations. As Article 11 states: ''Any war, whether immediately affecting any of the Members of the League or not, is hereby declared a matter of concern to the whole League, and the League shall take any action that may be deemed wise and effectual to safeguard the peace of nations.''

Whether one regards this easily avoided conflict as a dispute (1) between one League member, Britain, and another, France (then represented by the government of so-called ''Vichy'' France, which is believed to have never withdrawn from the League), or (2) between one League member and a non-member state (the United States vs. France, Britain vs. Germany), the League Covenant makes clear the course of action to be taken, in letter and certainly in spirit.

Under the first scenario, the conflict must be submitted to the League Council under Articles 12–16. The waiting period of at least three months after the award by the arbitrators, sadly, was not honored.

As for the second scenario, as addressed in Article 17, I do not recall Germany—an ex-member since 1933—being invited to accept the obligations of League membership, and certainly the leading role of the Council was never respected. In fact, I am forced to conclude that the Council was bypassed altogether. Certainly, no vote of the Council authorizing the attack was ever recorded.

I believe we can all agree that Chancellor Hitler was a brutal dictator whose replacement should be welcomed by all civilized people, but we must also admit that he was never given an opportunity to disarm.

Certainly no League Commission was ever allowed to perform its tasks, as set forth in the Covenant. I need hardly remind anyone that Britain's declaration of war against Germany in 1939—Germany had made no attack upon Britain—violated virtually all of the Articles of the League Covenant.

I find all of this very troubling.

I believe we have no option but to judge the June 6, 1944 Allied attack—jointly planned and conducted by the U.S. and Britain in a deliberate effort to impose their will by force on other countries without authorization by the League—upon Germany/France as an avoidable or easily postponed act of aggression that demonstrates a complete disregard for international law and the obligations of membership in the League. The international community cannot allow this violation to stand.

Sincerely,

PUBLIUS SECUNDUS.

For your convenience, I have attached the relevant sections of the Covenant. (The entire document can be obtained at http://www.yale.edu/lawweb/avalon/leagcov.htm).

THE COVENANT OF THE LEAGUE OF NATIONS

ARTICLE 5

Except where otherwise expressly provided in this Covenant or by the terms of the present Treaty, decisions at any meeting of the Assembly or of the Council shall require the agreement of all the Members of the League represented at the meeting . . .

ARTICLE 11

Any war or threat of war, whether immediately affecting any of the Members of the League or not, is hereby declared a matter of concern to the whole League, and the League shall take any action that may be deemed wise and effectual to safeguard the peace of nations. In case any such emergency should arise the Secretary General shall on the request of any Member of the League forthwith summon a meeting of the Council.

ARTICLE 12

The Members of the League agree that, if there should arise between them any dispute likely to lead to a rupture they will submit the matter either to arbitration or judicial settlement or to enquiry by the Council, and they agree in no case to resort to war until three months after the award by the arbitrators or the judicial decision, or the report by the Council. In any case under this Article the award of the arbitrators or the judicial decision shall be made within a reasonable time, and the report of the Council shall be made within six months after the submission of the dispute.

ARTICLE 13

The Members of the League agree that whenever any dispute shall arise between them which they recognize to be suitable for submission to arbitration or judicial settlement and which cannot be satisfactorily settled by diplomacy, they will submit the whole subject-matter to arbitration or judicial settlement.

ARTICLE 16

Should any Member of the League resort to war in disregard of its covenants under Articles 12, 13 or 15, it shall ipso facto be deemed to have committed an act of war against all other Members of the League. . . .

ARTICLE 17

In the event of a dispute between a Member of the League and a State which is not a Member of the League, or between States not Members of the League, the State or States not Members of the League shall be invited to accept the obligations of membership in the League for the purposes of such dispute, upon such conditions as the Council may deem just. If such invitation is accepted, the provisions of Articles 12 to 16 inclusive shall be applied with such modifications as may be deemed necessary by the Council.

Upon such invitation being given the Council shall immediately institute an inquiry into the circumstances of the dispute and recommend such action as may seem best and most effectual in the circumstances. . . .

(The entire Covenant can be obtained at http://www.yale.edu/lawweb/avalon/leagcov.htm)

INTRODUCTION OF H.R. 4, THE PERSONAL RESPONSIBILITY, WORK AND FAMILY PROMOTION ACT OF 2003

HON. HOWARD P. ''BUCK'' McKEON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 11, 2003

Mr. McKEON. Mr. Speaker, today, I am pleased to join with several of my colleagues in sponsoring H.R. 4, the Personal Responsibility, Work and Family Promotion Act of 2003, which would reauthorize the Temporary Assistance for Needy Families (TANF) block grant and the Child Care and Development Block Grant (CCDBG).

Last year, the House Education and the Workforce Committee considered and passed H.R. 4092, the Working Toward Independence Act, to reauthorize the work-related provisions of TANF. The legislation built upon the historic welfare reform law passed in 1996—a law that made a fundamental shift in policy by encouraging personal responsibility and promoting work. For the first time in the history of social welfare policy, benefits were tied to work. Because of the principle of ''work first'' and a purpose to help people better themselves, a whole new culture of personal responsibility was created within the program.

After merging the remaining sections of TANF into a comprehensive package, the House of Representatives passed H.R. 4737, the Personal Responsibility, Work and Family Promotion Act of 2002, which was substantially the same as the bill that has been introduced today. Unfortunately, the Senate did not act on a welfare reauthorization bill.

As such, Congress must again pass a reauthorization bill that builds on the success of the 1996 law that has been nothing short of remarkable.

For example, there has been an historic decline in the welfare rolls; increases in employment for low-income single mothers, who comprise the population most likely to need assistance; and a sustained decline in child poverty. Six years ago, the nation's welfare rolls bulged with more than 5.1 million individuals and families. Today, the rolls have decreased tremendously. Since 1996, over 3 million families have left welfare for work. Over 3 million former welfare recipients know the satisfaction of earning a day's pay.

Even with the robust economy of the late 1990s, recent studies confirm that welfare reform is largely responsible for the declining caseload and increase in work. The law's promotion of work made the crucial difference in maximizing opportunities for welfare recipients.

But there is still work for us to do. Too many families receiving assistance are not engaged in activities that will lead to self-sufficiency. This year, Congress must build upon the success of the 1996 law by providing additional options for families on welfare to move into productive jobs, become self-reliant and obtain independence.

As the debate goes forward on the best way to increase personal responsibility, it is important to remember that the true benefactors of welfare reform are young Americans. Because of welfare reform, young Americans are able to see their parents get up each morning and earn a day's pay. Without this very basic ethic, those young people are at a great disadvantage and it becomes difficult for them to escape the cycle of poverty in which their families have lived for generations.

The legislation that is being introduced today, H.R. 4, is based on the Administration's proposal and strengthens work rules to ensure that all families are engaged in a full week of work and other activities that will lead to self-sufficiency. Families will be permitted to combine real work with education and training to help recipients advance in their jobs. In addition, states will need to have plans achieving the work-related goals of TANF. States will be encouraged to coordinate their TANF work programs with the One-Stop Career Center system created through the Workforce Investment Act of 1998, so that former recipients will continue to have access to additional training resources.

Furthermore, we know that families cannot maintain employment without reliable, safe child care for their children. In my home state of California, according to Fight Crime: Invest in Kids California, ''Fewer than one out of every five child care centers in California is rated as good quality.'' That is why this bill will also maintain the unprecedented commitment of federal support for child care by adding $1 billion in discretionary funding to the Child Care and Development Block Grant, which provides support to state child care programs. In addition, the bill improves the program by helping to target funds set-aside for quality activities and encouraging states to address the cognitive needs of young children so that they are developmentally prepared to enter school. The bill also provides states maximum flexibility in developing child care programs and policies that best meet the needs of children and parents.

Finally, H.R. 4 will provide significant new waiver authority for states to better coordinate a variety of federal programs, including TANF, food stamps, housing assistance and workforce investment programs that improve services to needy families. This provision will encourage states to continue the experimentation at the state and local level that preceded the federal welfare reform action in 1996. At the same time, it remains important that the local areas created under the Workforce Investment Act be heavily involved in the process. That is why I am pleased that the bill includes provisions ensuring that the local administering entities join in the flexibility applications submitted to the Secretaries. This will, in effect, give the locals veto authority over provisions that they believe will not improve the quality or effectiveness of the programs involved.

Mr. Speaker, I urge my colleagues to support this important legislation that enhances opportunities for families to move up the economic ladder and access quality child care for their children.

TRIBUTE TO ALLEN E. JOHNSON

HON. JOHN T. DOOLITTLE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 11, 2003

Mr. DOOLITTLE. Mr. Speaker, today I wish to express warm thanks, congratulations, wishes to Allen E. Johnson, upon his retirement as the city manager of the city of Roseville. His vision and managerial skills have helped develop one of the most pleasant, balanced, well-run communities in California.

After achieving a bachelor of science degree from California State University, Sacramento in 1976, Al began a career in public administration as a personnel analyst for the County of Yuba. Within a few short years, he became director of personnel for Yuba City, where he served from 1979 to 1983. Then, in September 1983, he began a nearly 20–year tenure with the city of Roseville. Rising from director of personnel to administrative services director to city manager, Al has had a significant and lasting impact on the direction in which Roseville has developed.

Most recently, he managed the city's day-to-day operations, its $300 million budget, and 1,000 employees. He has overseen the city-owned electric operation which weathered California's energy crisis better than most utilities in the state. Additionally, he has guided the proactive expansion of regional wastewater treatment facilities and improvements to local flood control capabilities. Perhaps most importantly, he negotiated agreements for and led the implementation of nine specific plan developments ranging from 500 to 3,000 acres in scope. It is fair to say that he has left lasting fingerprints on the shape and character of the city of Roseville.

Roseville has experienced dynamic growth during Al's tenure. Under his steady leadership, the city has developed several outstanding public amenities, including the recently-dedicated Roseville Civic Center, the new Police Department headquarters, the Roseville Aquatics Center, the Roseville Sports Center, the Woodcreek Oaks Golf Course, and numerous parks and transportation improvements. In addition to the fine city projects which he oversaw, Al has also helped to create an environment in Roseville that fosters high levels of private investment. Perhaps the most recognizable example of this pro-business attitude he helped foster is the 1. 12 million square foot regional mall, known as the Roseville Galleria, which opened in the year 2000. Due to this aggressive economic development and contrary to previous history, the city is now regarded as one of the Sacramento region's premier retail centers and dining destinations.

Noted for his leadership in regional public policy discussions, such as the recent local debate over sales tax revenue distribution, Al has shared his expertise and experience through numerous presentations to public forums, training sessions, and professional conferences. He is also an active member of several professional organizations.

Beyond his professional capacity, Al Johnson has also contributed much to the community through his involvement in various civic and charitable organizations. Among these are the Roseville Chamber of Commerce, Roseville Host Lions Club, the United Way Leadership Council, and the Association for Retarded Citizens.

Roseville, which was once a sleepy railroad town, is now a vibrant, well-planned community with award-winning parks, law enforcement, and city management. It is home to nationally-recognized, high-performing public schools. Its railroad past blends with its newer high-tech industry and thriving commercial centers. Its residential areas include dynamic new developments as well as historic neighborhoods. Despite its increasing affluence, the community has also met its affordable housing needs. In short, Roseville is a model community with a high quality of life and a bright horizon. The clear vision, tough negotiation, and consistent leadership of Al Johnson are a large part of the reason why.

I thank him for his service and wish him well in his future endeavors.

OFFICER EUGENIO SOLIS

HON. SOLOMON P. ORTIZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 11, 2003

Mr. ORTIZ. Mr. Speaker, I rise today to pay tribute to a retiring lawman, Agent Eugenio Solis, a unique patriot who has enforced our laws and chased the bad guys his whole career. I am enormously grateful to him for his life's work.

Eugenio Solis has served South Texas with 32 years of law enforcement altogether, both as a patrol officer and as a narcotics agent. He has over 27 years with the Texas Department of Public Safety.

His superiors say he is one of the best undercover agents we have. Undercover work is dangerous, dirty work, and doing it well takes a special talent and untold bravery. Agent Solis can make a deal on the street happen quickly; he has a nose for nasty business. He can expertly hook a bad guy, buy drugs * * * and either get out of there fast, or arrest the bad guys.

Over the years he has established relationships and made contacts with all manner of federal and local officials, offering him sundry resources and contacts that make him effective on the streets.

His legendary exploits are so well known around South Texas that he has even been

recruited by other law enforcement agencies to do undercover work. In his undercover capacity, he has been fortunate; he has never had to draw his gun.

You cannot work undercover and not have a good sense of humor, and Eugenio Solis indeed possesses that. He is a famous kidder and practical joker, which can often mean that when he's swept up with the druggies to avoid detection, his fellow officers will leave him handcuffed for several hours in good-humor retribution.

Even in his retirement, he continues to work—currently with a drug task force in Kingsville. Mr. Speaker, the men and women on the front lines in our drug war are necessarily in the shadows, their faces unseen and their names unknown * * * because that is the way the business works.

He has a strong, loving family to support him. That support is vitally important to an agent whose business requires him to deprive his family of his time and attention. Druggies do not keep a schedule. His wife, Sylvia—and their children: Eugenio III and Eduardo, and granddaughter, Shelby—have been his greatest support network.

I ask my colleagues to join me in commending Eugenio Solis for his years of dedication to law enforcement, for standing on that thin blue line that protects our neighborhoods from the bad guys.

MARTIN LUTHER KING, JR. ESSAY CONTEST

HON. PETER A. DeFAZIO

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 11, 2003

Mr. DEFAZIO. Mr. Speaker, I rise today to congratulate Kate Wagoner, a 13-year old resident of Eugene, Oregon. Ms. Wagoner, an eighth grader at Thomas Jefferson Middle School, recently won an essay contest held in honor of Dr. Martin Luther King, Jr.

The theme of the essay contest was how Americans can be peacefully patriotic, even as the clouds of war loom on the horizon.

In her insightful essay, Ms. Wagoner notes that peaceful change can begin with one individual or one family who cares about others and acts on that compassion. However, she goes on to write that it is equally important for such individuals to influence the decision-making of those in power in order to guarantee a lasting peace.

As Ms. Wagoner concludes, if the United States dedicates itself to helping feed, clothe, house, and educate the needy around the world, then we may be able to achieve the ''nonviolent'' coexistence of which Dr. King spoke, rather than the ''violent co-annihilation'' of which he warned.

I would encourage my colleagues and others to read Ms. Wagoner's essay, which I've included at the end of my remarks.

DR. MARTIN LUTHER KING, JR., ESSAY

Almost 40 years ago, on April 14, 1967, Dr. Martin Luther King said, ''the greatest 17 purveyor of violence in the world today (is) my own govenment.''

Dr. King's statement is still a powerful message because America continues to use violence around the world. President Bush is pushing for a war in Iraq, while nations like North Korea, South Korea, Pakistan, India, Afghanistan, Israel, and Palestine suffer from U.S. foreign policy decisions.

How can Americans be peacefully patriotic while our govemment gives the U.S. military more and more to do around the globe? To repeat one of my mother's favorite quotes, ''Never believe that a few caring people can't change the world. For, indeed, that's all who ever have.'' (Margaret Mead, American anthropologist).

During the holidays, my family gave money to an organization that helps hungry people all over the world feed themselves. The families we help receive donations of goats, sheep, llamas, honey bees, geese, oxen, and other farm animals so they can be more self-sufficient and live healthier lives. Peaceful patriotism is like this donation.

Around the world, kids like me are starving. Around the world kids like me are soldiers and suicide bombers. Around the world kids like me get sick from drinking dirty water, get shot by soldiers, and step on land mines. Around the world, kids like me struggle to survive. Americans, as peaceful patriots, can help change some of these kids' lives.

Americans have a right to be proud of their country. This is a nation where people can be and do great things. However, imagine a world where America is also known as a nation that helps people around the globe be and do great things. When the richest and most powerful nation in history dedicates itself to making sure people everywhere are well-fed, housed, clothed, educated, and have hope for the future, peaceful patriotism will change the world.

It is not enough for my family to practice peaceful patriotism or for your family to make that choice. We have to have people in power making decisions about our relationships with other nations who share our hope for the future of America and of the world. We can each live as peaceful patriots and help many people now, but if we work together to create a nation of peaceful patriots tomorrow, we can make all the world safe; and secure for kids like me.

The message I want quoted in the future because it descibes America is, ''The greatest purveyor of peace in the world today is my own govemment,''

PRESCRIPTION DRUG AFFORDABILITY ACT

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 11, 2003

Mr. PAUL. Mr. Speaker, I rise to introduce the Prescription Drug Affordability Act. This legislation ensures that millions of Americans, including seniors, have access to affordable pharmaceutical products. My bill makes pharmaceuticals more affordable to seniors by reducing their taxes. It also removes needless government barriers to importing pharmaceuticals and it protects Internet pharmacies, which are making affordable prescription drugs available to millions of Americans, from being strangled by federal regulation.

The first provision of my legislation provides seniors a tax credit equal to 80 percent of their prescription drug costs. As many of my colleagues have pointed out, our nation's seniors are struggling to afford the prescription drugs they need in order to maintain an active and healthy lifestyle. Yet, the Federal Government continues to impose taxes on Social Security benefits. Meanwhile, Congress continually raids the Social Security trust fund to finance unconstitutional programs! It is long past time for Congress to choose between helping seniors afford medicine or using the Social Security trust fund as a slush fund for big government and pork-barrel spending.

Mr. Speaker, I do wish to clarify that this tax credit is intended to supplement the efforts to reform and strengthen the Medicare system to ensure seniors have the ability to use Medicare funds to purchase prescription drugs. I am a strong supporter of strengthening the Medicare system to allow for more choice and consumer control, including structural reforms that will allow seniors to use Medicare funds to cover the costs of prescription drugs.

In addition to making prescription medications more affordable for seniors, my bill lowers the price for prescription medicines by reducing barriers to the importation of FDA-approved pharmaceuticals. Under my bill, anyone wishing to import a drug simply submits an application to the FDA, which then must approve the drug unless the FDA finds the drug is either not approved for use in the U.S. or is adulterated or misbranded. This process will make safe and affordable imported medicines affordable to millions of Americans. Mr. Speaker, letting the free market work is the best means of lowering the cost of prescription drugs.

I need not remind my colleagues that many senior citizens and other Americans impacted by the high costs of prescription medicine have demanded Congress reduce the barriers which prevent American consumers from purchasing imported pharmaceuticals. Congress has responded to these demands by repeatedly passing legislation liberalizing the rules governing the importation of pharmaceuticals. However, implementation this provisions have been blocked by the federal bureaucracy. It is time Congress stood up for the American consumer by removing all unnecessary regulations on importing pharmaceuticals.

The Prescription Drug Affordability Act also protects consumers' access to affordable medicine by forbidding the federal government from regulating any Internet sales of FDA-approved pharmaceuticals by state-licensed pharmacists.

As I am sure my colleagues are aware, the Internet makes pharmaceuticals and other products more affordable and accessible for millions of Americans. However, the federal government has threatened to destroy this option by imposing unnecessary and unconstitutional regulations on web sites that sell pharmaceuticals. Any federal regulations would inevitably drive up prices of pharmaceuticals, thus depriving many consumers of access to affordable prescription medications.

In conclusion, Mr. Speaker, I urge my colleagues to make pharmaceuticals more affordable and accessible by lowering taxes on senior citizens, removing barriers to the importation of pharmaceuticals and protecting legitimate Internet pharmacies from needless regulation by cosponsoring the Prescription Drug Affordability Act.

HONORING THE WORK OF GERALD T. HALPIN

HON. TOM DAVIS

OF VIRGINIA

HON. FRANK R. WOLF

OF VIRGINIA

HON. JAMES P. MORAN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 11, 2003

Mr. TOM DAVIS of Virginia. Mr. Speaker, we rise today to recognize and honor Mr. Gerald T. Halpin for his years of service in his workplace and community. Mr. Halpin currently serves as President and Chief Executive Officer of WEST*GROUP MANAGEMENT LLC, a corporation he founded in 1962.

As President of WEST*GROUP, Mr. Halpin has been responsible for the development, redevelopment, and construction of over 13 million square feet of office, retail, residential, and industrial space. With his co-founders, WEST*GROUP initiated the development of the area known as Tysons Corner, Virginia, upon the purchase of a 125-acre farm in 1962. Since this initial development, Mr. Halpin has since opened four beautifully landscaped office parks located near major transportation arteries in Northern Virginia and suburban Maryland.

Having served as Chairman of Alexandria Management Corporation, Mr. Halpin has also acquired extensive experience in the development of hotels and resorts. He was an owner and key developer of the luxury resort The Cottonwoods, as well as two other hotels in Scottsdale, Arizona. In residential real estate, Mr. Halpin has also achieved a high level of expertise. Mr. Halpin has plans to construct four high-rise condominium towers in Tysons Comer, Virginia.

In addition to his professional achievements, Gerry Halpin has given back to his community. He served for more than eight years as a member of the Fairfax County Economic Development Authority and its predecessors. Mr. Halpin was also appointed to the Governor's Advisory Board on Industrial Development, and has served on the Board under three governors. Currently, Mr. Halpin serves as Chairman of the Washington Monument Visitor Education Fund. In addition, he also chairs the Grand Teton National Park Foundation, an organization that he founded. Mr. Halpin has also served as a Trustee of the American Museum of Immigration, the National Parks and Recreation Association, and the Wolf Trap Foundation.

Mr. Halpin has been honored for his many accomplishments throughout the years. Most recently, he was recognized as the Ernst & Young Greater Washington ''2002 Master Entrepreneur of the Year.'' Also in 2002, he was awarded an Honorary Degree of Doctor of Humanities from Shenandoah University. Other significant awards include the Fairfax County Citizen of the Year Award, the prestigious Ellie Doyle Service Award from the Fairfax County Park Authority, as well as a Virginia Senate proclamation honoring Mr. Halpin as an ''Outstanding Virginian for a Lifetime of Dedication to Fairfax County.''

Mr. Speaker, in closing, it is with great pleasure that we extend this recognition to Mr. Gerald Halpin. His dedication to his business and community deserves to be commended. We call upon all of our colleagues in joining us to applaud Mr. Halpin for all of his accomplishments.

GODSPEED RON KEENEY

HON. NICK J. RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 11, 2003

Mr. RAHALL. Mr. Speaker, today, I would like to pay tribute to Mr. Ron Keeney who will soon retire after nearly 37 years of great service to our Nation with the U.S. Army Corps of Engineers. I would emphasize the term ''great service'' because the contributions Ron Keeney has made to bettering the lives of the people who reside within the jurisdictional area of the Huntington District of the Corps of Engineers is beyond description here. Indeed, Ron is more than a dedicated public servant and wonderful person, I also view him a friend not only to myself but to the people of West Virginia.

Ron will be retiring from the Huntington District where he is the Deputy District Engineer for Project Management and the Chief of the Planning, Programs and Project Management Division. From my experience, Ron brought to this job not just the credentials of a seasoned Corps of Engineers veteran in terms of planning and constructing civil works projects, but a very real and deeply held belief that the mission of the Corps is more than just building locks and dams and flood control projects. That in effect, the Corps' mission includes improving our environment and providing opportunities for economic development so that our children and future generations to come will live in a better world.

Ron Keeney was born in Huntington, West Virginia, and began his rise through the ranks of the Corps of Engineers in 1966. He graduated from Ohio University with a BBA in Economics, summa cum laude. Over the course of his career he has received 30 outstanding/exceptional performance ratings and awards, the Silver de Fleury Medal, named USACE Planner of the Year, LRD Planner of the Year twice and received the Director of Civil Works Special Act Award.

I have had the privilege to work with Ron on many projects over the years and can say without hesitation that no challenge was ever too great for him. And challenge him we did indeed. Whether it was providing flood control along the Tug Fork River, implementing one of the first in the Nation Corps of Engineers environmental infrastructure programs, or building a relationship with Marshall University's Geotechnical Center, Ron Keeney responded to the challenge. I know for a fact that when he looks back at his career he will remember the work we did together at the Bluestone Dam facility as a highlight.

Mr. Speaker, on behalf of myself and my staff, including Kent Keyser and Jim Zoia, we wish Ron Keeney Godspeed on his future endeavors. The best to him and his family, and may he continue to reside and prosper in the great State of West Virginia.

TRIBUTE TO OMERO SABATINI

HON. JAMES P. MORAN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 11, 2003

Mr. MORAN of Virginia. Mr. Speaker, I rise today to pay tribute to the life's work of a retired American diplomat and longtime Alexandria, VA resident Omero Sabatini. Mr. Sabatini's crowning achievement is his modem translation of Italy's most treasured novel, I Promessi Sposi, or Promise of Fidelity, written by Italy's foremost novelist Alessandro Manzoni.

With extensive experience in promoting intercultural relations and translating from and into Italian, Mr. Sabatini has interpreted at the highest levels of government in both the United States and Europe, and has published numerous booklets, articles and human-interest stories in both English and Italian. He is active in several Italian-American organizations and is a member of a number of associations of retired U.S. Foreign Service Officers.

Born in Indiana, Mr. Sabatini lived in Italy from the age of three until his early twenties. He attended Italian high schools, and it was there that he became an admirer of Italian literature and all things Italian.

He devoted most of his professional life to promoting U.S. exports, but in retirement chose to spend a large share of his time translating this Italian literary masterpiece. He undertook this task as an act of love, and out of a desire to make this great Italian classic better known in the United States and other parts of the English-speaking world.

When the novel that he has translated was first published in its original Italian, Edgar Allan Poe, and the great German poet, Johann Wolfgang Goethe, praised it enthusiastically. Sir Walter Scott called it the ''greatest romance of modem times,'' and Giuseppe Verdi, who composed his Requiem Mass to honor Manzoni's memory, thought that it was one of the greatest books ever written. This novel is also included in the original Harvard Classics series, under the old English title, ''The Betrothed''.

Throughout the years, several attempts have been made to translate this novel into English, but most of them have failed to capture the intensity and vividness of Manzoni's imagination. Mr. Sabatini's work, however, has been highly praised and admired by scholars from prestigious universities and other institutions of higher learning.

Though set in 17th century northern Italy, ''Promise of Fidelity'' is a timeless and universal tale that touches on every human feeling, passion and behavior. It tells the story of two young fiancés separated by the events that marked Europe's dramatic political and social scene.

I concur with the vast majority of experts who feel that this novel is required reading for anyone interested in learning about Italian and world literature, but also those intrigued with how Italian social, intellectual, and artistic patrimony has helped shape our own American culture and our outlook on life. I salute Mr. Sabatini's work, as it will continue to provide learned enjoyment for many generations to come.

HONORING ALMA MATILDA WALTERS ON HER 100TH BIRTHDAY

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 11, 2003

Mr. TOWNS. Mr. Speaker, I rise today to pay tribute to Mrs. Alma Matilda Walters on the occasion of her 100th birthday, which will take place next week on February 22nd.

Mrs. Walters was born on February 22, 1903, in Palmetto Point, St. Kitts, British West Indies. She immigrated to the United States in her early teens and like so many immigrants of that era, she entered the U.S. through Ellis Island. Mrs. Walters eventually settled in Jersey City, New Jersey, married and raised her first five children (Delores, Irene, Marjorie, Florence and John) there. Her first marriage ended in divorce and she was forced to raise her children as ''a single mother'' well before the phrase became a part of today's popular culture. Mrs. Walters did so while working as a church assistant and domestic worker to the Lerner family, the owners of the Lerner clothing store chain.

Mrs. Walters worked as a nurse's aide at Community Hospital in Brooklyn's Flatbush neighborhood for many years. She was an active member of Local 1199 and participated in union activities during her working years as well as after her retirement in 1977. She was also an active member of the Miller Avenue Block Association and a life-long Democrat.

Later in life, she met and married M/Sgt. Ulysses Walters. The Walters traveled throughout the United States and lived in Texas, Oklahoma and Georgia before returning to Brooklyn, New York in 1963. Together, they adopted a son, Frank Edward. Mrs. Walters' husband, Ulysses, died in 1975.

Mrs. Walters resided at 399 Miller Avenue in the East New York section of Brooklyn from 1964 until the spring of 2000 when she suffered a hip fracture and needed extensive nursing care. She is currently residing at the Kingsbrook Jewish Medical Center in Brooklyn, New York.

Mrs. Alma Matilda Walters currently has 96 direct descendants who are alive. This number includes six generations. She is an outstanding example of a woman who came to America to improve her own life and contributed in many ways to the success of her family, children and community. She struggled and endured during some of the most difficult times in our history. Although she only had the equivalent of an eighth grade education, she always inspired each of her children to be the best at whatever they chose to do in life.

I urge my colleagues to join me in recognizing the lifetime achievements of this remarkable woman, Mrs. Alma Matlida Walters, as she celebrates her 100th birthday on February 22, 2003.

CALVERT TROJANS WIN 2002 TEXAS BOWL; SIX-MAN FOOTBALL STATE CHAMPIONSHIP

HON. PETE SESSIONS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 11, 2003

Mr. SESSIONS. Mr. Speaker, congratulations to the 2002 Calvert High School Trojan six-man football team upon winning Calvert's first Texas State football title in school history!

Team members Herbert Kinney, Darius Smith, Chris Ford, Greg Ford, Sammy Wells, Deuantay Green, Torre Grimes, Joske Bowen, Tijon Green, Brandon Stewart, Brian Ford, Randall Green, Jay Green, Lionel Melton, James Ashley, Tranquille Kinney, Corey Gibson, Mario Smith, and Dekesselar Ford provided a natural well spring of notable Calvert championship athletic talent, the likes of which has not been seen since National Baseball Hall of Fame inductees and half-brothers Rube and Bill Foster.

Head Coach and Trojan alumnus Coylin Grimes provided the unflappable leadership and football know-how necessary to mold this outstanding group of players into an unstoppable force and an unbeaten team (14–0). Upon realizing his team's championship ambitions last December way out in San Angelo, Coach Grimes remarked, ''This feels great. The kids deserved it; the city of Calvert deserved it. It's just a great time to be a Calvert Trojan fan.'' You did it, Coach, and we're all proud of you and your work in guiding this outstanding group of young and talented athletes towards achieving their highest goals for the 2002 football season. The lessons of determination, concentration, and dedication, along with the rewards attending these lessons will not be forgotten, and will be shared by every Trojan athlete and scholar for all time. We also congratulate assistant coach Randy Boley, team managers Kiemon Council, Kasey Burnett, and Javion Council, whose dedication to the success of the 2002 Trojan six-man football team should also be honored.

The Trojans scored all 51 of their points in the final half of 2002 championship play, stunning the Sanderson Eagles who went into the locker room at the half up 32–0. The 4,000 football fans on hand at San Angelo's Bobcat Stadium were treated to a 50–yard score on the Trojan's final possession of the game by playmaker Darius Smith. Darius, who finished the game with 206 yards rushing, 88 yards receiving, and five touchdowns, caught a short pass on a flare route, broke two tackles, and took the ball over the goal line with less than a minute remaining in regulation to bring the Championship home to Calvert, 51–46. Congratulations to the Calvert High School football team and to their fans, friends and families in Calvert, Texas and throughout the country!

HONORING MEDAL OF VALOR RECIPIENTS: SERGEANT JOE PEDROZA, DEPUTY MATTHEW LUTHER, DEPUTY OSCAR LEON, DEPUTY PHILLIP FARLEY, OFFICER TERESA NAUGLE-DUDEK AND OFFICER ERNIE SANCHEZ

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 11, 2003

Mr. FARR. Mr. Speaker, I rise this evening to honor the courageous efforts of the men and women in law enforcement. These individuals risk their lives each day in fighting crime and keeping our communities safe. Tonight, I honor four brave members of the Monterey County Sheriff's Department and two members of the Salinas Police Department that have been awarded a Medal of Valor by the Monterey County Peace Officer's Association for their dedicated service to the County of Monterey.

On December 29, 2001, Monterey County Sheriff's Deputies responded to a call about a suspicious vehicle that may have been involved in the sale of stolen property. Deputy Matthew Luther determined the vehicle was stolen and also realized that it was parked at a residence where known felons took refuge.

Additional units arrived and surrounded the location: Deputy Luther and Deputy Phillip Farley covered the rear of the home, while Deputy Oscar Leon covered the front. Sergeant Joe Pedroza took the exterior perimeter.

A suspect's desperate efforts to flee were thwarted by Deputy Farley. Trying another exit, the suspect encountered Deputy Leon and began shooting. Deputy Leon returned fire at almost point blank range. Shortly thereafter, the suspect attempted to escape by jumping off the front porch of the residence and tried to climb into a tree above Deputy Luther. The suspect, still in possession of his handgun was disabled by Deputy Luther's return fire. After securing the suspect, two additional co-conspirators were located inside the house and taken into custody.

Throughout this quick encounter, each deputy employed his skills, training, and instincts—all of which culminated in the securing of the suspect and the crime scene. The encounter was not over after the suspect was shot and disabled. All the deputies involved maintained their focus, worked in unison and continued to react to each threat as it arose. The above Sheriff's Deputies were confronted with a life and death situation in which, a murder suspect attempted to gain his freedom by shooting his gun at them. In doing so, they were able to apprehend the suspect without injuries to the deputies involved.

Sergeant Joe Pedroza, Deputy Matthew Luther, Deputy Oscar Leon, and Deputy Phillip Farley were awarded this Medal of Valor on April 17, 2002.

On the evening of January 15, 2002, the Salinas Fire Department and the Salinas Police Department were dispatched to a structure fire at the Acosta Plaza apartment complex.

Officer Ernie Sanchez and Officer Teresa Naugle-Dudek arrived before any fire units and determined that the occupants of apartment #2, which was fully engulfed, were safe and accounted for. In speaking with the residents, the two officers learned that the occupants of apartment #1 had not been seen outside.

When Officer Sanchez knocked on the door and got no response, he forced the locked door. When Officer Sanchez and Officer Naugle-Dudek entered the premises, they found the apartment full of thick, dark smoke. Without breathing apparatus or concern for their personal safety, they located three individuals asleep in an upstairs bedroom. Officer Sanchez and Officer Naugle-Dudek evacuated the residents and had the persons evaluated by medical personnel at the scene.

Officer Sanchez kept the family with him until he could make arrangements with relatives for their lodging. Officer Naugle-Dudek assisted the other displaced residents in securing temporary housing in the complex, until their units could be declared structurally safe to inhabit.

There is little doubt that both their quick actions averted a potentially deadly situation.

These citizens, fast asleep, could have been overcome by smoke inhalation and perished in their home. Officer Sanchez and Officer Naugle-Dudek displayed heroism while disregarding their own personal safety during the structure fire.

Officer Teresa Naugle-Dudek and Officer Ernie Sanchez were awarded this Medal of Valor on April 17, 2002.

Undaunted, all of these men and women acted with great courage, in concert with one another and with the highest degree of professionalism. And it is their undying commitment to public safety and law enforcement that is so essential to the health of our communities. Mr. Speaker, it is with great pride that I congratulate these individuals on their receipt of this tremendous honor.

CONGRATULATIONS TO THE UNIVERSITY OF SOUTHERN CALIFORNIA ON THEIR ORANGE BOWL VICTORY

HON. DIANE E. WATSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 11, 2003

Ms. WATSON. Mr. Speaker, I rise to pay tribute to the accomplishments of the University of Southern California football team. Congratulations are indeed in order for USC President Steven Sample, Head Coach Pete Carroll, and the Orange Bowl champions, who finished the season with the #I ranking in the Sagarin and Matthews/Scripps Howard ratings and the nation's #4 ranking in the final AP and ESPN/USA Today polls.

The USC Trojan football team has shown unique skill, charisma, dedication, and love for the sport. The Trojans accumulated an 11 and 2 win-loss record while competing against some of the best programs in the country. The Trojans regular season performance and their strength of schedule earned them a Bowl Championship Series, or BCS, berth. Teamwork and a motivated work ethic combined to create second half domination over Iowa in the Orange Bowl. After going into the half tied 10–10, the Trojans mounted long touchdown marches on their first three possessions of the second half to blow open the game. USC finished the game 38–17, defeating a higher ranked Iowa Hawkeye team.

Now is also the appropriate time to congratulate quarterback Carson Palmer for winning the prestigious Heisman Trophy. This is the first time the trophy has returned to the west coast since USC running back Marcus Allen managed the feat 21 years ago. Carson Palmer is the 5th Heisman winner from USC. Palmer himself summed up the Trojan mind set this year when he stated, ''I couldn't be more honored to take this trophy back to share with my teammates in Los Angeles . . . This award is as much theirs as it is mine.''

Mr. Speaker, again I congratulate USC President Steven Sample, Head Coach Pete Caroll, and the football team at the University of Southern California for a season to remember.

EXPRESSING CONDOLENCES OF THE HOUSE TO THE FAMILIES OF THE CREW OF THE SPACE SHUTTLE ''COLUMBIA''

SPEECH OF

HON. SILVESTRE REYES

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 5, 2003

Mr. REYES. Mr. Speaker, I wish to honor the lives of the seven courageous individuals who tragically perished aboard the Space Shuttle *Columbia* on Saturday morning. Michael Anderson, David Brown, Kalpana Chawla, Laurel Clark, Rick Husband, William McCool, and Ilan Ramon are true heroes who leave behind a legacy of cooperation, hard work, and friendship that will live on and inspire future generations of scientists and space explorers. I offer my deepest condolences to the astronauts' families.

In the midst of this tragedy, may our Nation and the international community also pay homage to all of the selfless, courageous astronauts of the National Aeronautics and Space Administration and other space agencies around the world. These men and women venture into the unknown in search of new knowledge. These complex, grueling, and dangerous missions have been the source of some of the greatest technological gains in history.

The goal of every astronaut is ultimately the betterment of mankind, and the seven explorers we lost on Saturday were working towards exactly that. They were working to understand complex mechanisms in the human body, collecting samples of their own blood, urine, and saliva to detect possible bone loss, kidney stones, muscle loss, or weakening of immune systems, to lead to developments in healthcare—like the dialysis equipment that my mother uses.

As the astronauts watched the Earth spin below them, observing climatic and atmospheric phenomena, they worked on projects to help lessen our footprint on the planet, including researching low-level combustion for use in leaner-buming automobile engines. The data from their research will have impact far into the future.

As people in my district of El Paso and across the Nation watched the *Columbia* fall from the sky on Saturday morning, we were gripped with awe and fear. We will rise out of this tragedy. The lessons that we learn from this day will bring us to a brighter tomorrow, a future in which more passionate young men and women truly become citizens of the universe, looking at the world from the vantage point of the stars. The crew of the *Columbia* lived an adventure which most of us can only imagine. As long as children look up to the sky and dream of touching the stars or standing on the moon, our memories of these brave men and women will live on.

THE RIM OF THE VALLEY CORRIDOR STUDY ACT

HON. ADAM B. SCHIFF

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 11, 2003

Mr. SCHIFF. Mr. Speaker, I rise today to introduce the Rim of the Valley Corridor Study Act, directing the Secretaries of Interior and Agriculture to study the feasibility of expanding the Santa Monica Mountains National Recreation Area to include the mountains and canyons in Southern California that are part of the Rim of the Valley Corridor, as designated by the State of California.

The National Park Service and the U.S. Forest Service would jointly study the suitability of more than doubling the size of the Santa Monica Mountains National Recreation Area by encompassing this corridor, which contains areas of rare Mediterranean ecosystems and encircles the mountains above the San Fernando, La Crescenta, Santa Clarita, Simi, and Conejo Valleys, as well as the famed Arroyo Seco, home of Pasadena's Rose Bowl.

For many residents of Southern California, the mountains above our communities are a nearby haven to enjoy nature, a refuge from the noise and commotion of Los Angeles. Our mountains can and should be places where city-dwellers can easily go to enjoy such activities as hiking, camping, mountain biking, horseback riding, observing wildlife, and admiring nature's scenic beauty. Given the tremendous growth pressures in Southern California, we must act now to preserve our precious open space. It is my hope that the Rim of the Valley Corridor Study Act will embody a dream and vision of a Southern California enhanced not only by what was built, but also by what was preserved.

The National Park Service oversees the highly successful Santa Monica Mountains National Recreation Area, the world's largest urban park, spanning from the mountains to the sea and protected in perpetuity by Congress in 1978. Inclusion of the Rim of the Valley Corridor would link wildlife habitat in the Santa Monica Mountains to the Angeles National Forest.

The Rim of the Valley Corridor Study Act would require the Secretaries of Interior and Agriculture to complete their study within one to three years, consulting with state and local government entities. It would then be necessary for Congress to enact subsequent legislation to implement the study's recommendations.

I am pleased that this legislation has bipartisan support, with Reps. HOWARD BERMAN, DAVID DREIER, GEORGE MILLER, BRAD SHERMAN, and HILDA SOLIS as principal co-sponsors. I am delighted that the senior Senator from California, Senator FEINSTEIN, is also introducing this important legislation today.

The Rim of the Valley Corridor Study Act will result in an initiative creating a lasting legacy of nearby natural open space for our children—and their children—to enjoy.

HONORING RICHARD WILLIAMS, JR.

HON. JOHN J. DUNCAN, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 11, 2003

Mr. DUNCAN. Mr. Speaker, I rise today to honor the life of Mr. Richard Williams, Jr., who served as Blount County Commissioner from 1984 until recently.

Commissioner Williams was dedicated to his family, faith and Country. He was a great American.

An active member of the Blount County community, Commissioner Williams was a Sunday school teacher and chairman of the Board of Deacons at St. John Baptist Church of Alcoa. He was Past Master of Granite Masonic Lodge No. 289, Past Commander in Chief of Alcoa Consistory No. 175, Past Potenlate of Almas Shrine Temple No. 71, and was named Mason of the Year.

In 2002 he received the Governor's Tennessee Volunteer Commendation Award and was listed in Who's Who Among Black Americans. Williams was also a member of the Alcoa Rotary and American Legion Post 18.

When he was elected to Blount County's governing body in 1984, he became the second African-American elected official in Blount County in the twentieth century and the third in the county's history.

Above all, he cherished his family. Commissioner Williams was married to Evelyn Robinson Williams for over forty years. He loved being a husband, father, grandfather, and great-grandfather.

This Nation is a better place because of Commissioner Williams, and I want, in this small way, to express my great appreciation for his service and my heartfelt condolences to his family.

HONORING STANLEY EUGENE TOLLIVER

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 11, 2003

Mr. KUCINICH. Mr. Speaker, I rise today in honor and recognition of Stanley Eugene Tolliver—respected attorney, civic activist, community advocate, dedicated family man, and friend and mentor to countless—as he is sworn-in as President of the Norman S. Minor Bar Association.

Mr. Tolliver was born and raised in Cleveland, and has reflected a life-long commitment to education for himself and for others. After attending the Cleveland Public Schools, Mr. Tolliver received his undergraduate degree at Baldwin Wallace College with a major in prelaw. He was awarded his law degree from Cleveland-Marshall College of Law in 1951. Mr. Tolliver passed the bar exam in 1953 while serving in the United States Army. In 1969, he received a Juris Doctor degree from Cleveland-Marshall College of Law.

He embarked upon his journey of public service in the seventies, when he was appointed by Judge Frank Batisti to the Committee of the Office of School Monitoring and Community Relations. Mr. Tolliver was elected to the Cleveland School Board in 1981; reelected in 1985, 1989, and elected as President of the School Board in 1987. In 1990, Mr. Tolliver was reelected as President of the School Board. Besides his dedication to the education of our youth, Mr. Tolliver has been equally committed to social justice issues. He is an active member of the Black Elected Democrats of Cleveland; a life-long member of the NAACP; an Executive Committee Member of the Cleveland NAACP; and an active member of the Cleveland Citizens Committee Against Dual Law Enforcement. Additionally, Mr. Tolliver has served as legal counsel to Dr. Martin Luther King, Jr., the Southern Christian Leadership Conference and the Congress of Racial Equality. Mr. Tolliver acted as the legal advisor for the Shield Club, and initiated the indictment of ten Cleveland police officers for violent crimes.

Mr. Speaker and colleagues, please join me in honor of Stanley Eugene Tolliver, and his continued commitment to our community. His work, expertise and dedication have served to uplift, improve and unify our entire citizenry. Mr. Tolliver's strong leadership abilities, vision, and passion for social justice for all has earned him the deep admiration and respect of the Cleveland community, as well as the entire Greater Cleveland community.

INTRODUCING THE SALES TAX EQUITABILITY ACT

HON. GENE GREEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 11, 2003

Mr. GREEN of Texas. Mr. Speaker, I rise today to introduce the Sales Tax Equitability Act, important legislation which would eliminate the discrimination faced by individuals who live in States that have no income tax.

Under current law, individuals can deduct their State income tax from their Federal income tax. Unfortunately, in many States like Texas, which has no State income tax, residents are not eligible for this deduction. Even though they pay State sales taxes that are equitable to income taxes in other States, these individuals are penalized because they don't pay a State income tax. This situation is patently unfair.

The legislation I am introducing today would allow residents of States with no income tax to deduct their sales tax from their Federal income tax. This legislation would provide fairness for all Americans by ensuring that, in States where there is no income tax, State and local sales taxes are treated the same as income taxes.

I encourage my colleagues to support this legislation.

IN RECOGNITION OF RABBI SIDNEY KLEIMAN

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 11, 2003

Mrs. MALONEY. Mr. Speaker, I would like to pay tribute to Rabbi Sidney Kleiman on the occasion of his 90th birthday. Both a scholar and a vigorous leader, Rabbi Kleiman inspires his community and congregation with his pious dedication and moving sermons.

With the longest active tenure of service in the same synagogue of any living rabbi, Rabbi Kleiman, has been serving New York City's historic Congregation Talmud Torah Adereth El for over 60 years. First as Rabbi from 1939–1999, he now serves as Rabbi Emeritus since 2000.

Rabbi Kleiman tells the story of how he became rabbi of Adareth El. ''In 1939, I was Rabbi of the Jewish Center of Violet Park [in Bronx]. A Mr. Finkel, of blessed memory, was a member of my shul and also a member of the 29th Street shul. He noticed that I left every morning to go down to Henry Street on the lower east side, to take my children to school in the yeshiva, and that I would go back every afternoon to pick them up. Mr. Finkel said to me, ''Rabbi, you can't keep this up! You will not last, it is too much for you. There is an excellent opportunity, the 29th Street shul is looking for a Rabbi. The position would be perfect for you.'' Rabbi Kleiman was happy in his current position, but Mr. Finkel persisted. Rabbi Kleiman agreed to preach a sermon one Shabbos, with the understanding that he was not applying for the position of Rabbi.

He recounts, ''The Saturday I preached was the week that Britain's Prime Minister Chamberlain had held his now infamous meeting with Hitler in Munich. When Chamberlain returned to 10 Downing Street, it was a rainy day. He opened up his umbrella and declared to the world: Peace in our time! The title of the sermon I preached that Shabbos was Peace Not in Our Times.'' Rabbi Kleiman explains that Chamberlain should have known from his meeting that Hitler was out to destroy the Jewish people and their rich culture. In the pacifist and isolationist climate of the United States during that time, the Rabbi stressed that the prestige of the Jewish people and their leaders had to be raised. In his words, ''The congregation said that if this Rabbi is crazy enough to deliver this kind of sermon when America is so isolationist and pacifistic, let's elect him for six months and then fire him. And so it was. Every six months I was fired and re-hired. And that's how I lasted 60 years!''

And after fifty years as Rabbi, the Board of Trustees at Adereth El asked him if he would consider retiring. He said, ''No Way!'' He told them that his mother lived to 104 and was alert to the last day and he expects to outlive her. Currently, after 60 years of outstanding service and leadership, Rabbi Kleiman has been given the new honor and title of Rabbi Emeritus, which he expects to be for at least another fifty years.

Congregation Talmud Torah Adereth El, founded in 1857, has the distinction of being the only Jewish congregation in New York City to have worshipped for more than 140 years on the same site. Since 1863, Adereth El has been located on East 29th Street. The original design and integrity of the synagogue's simple and dignified interior has been substantially unaltered. Today, the congregation continues to provide a spiritual home to over 150 New York City families. The contributions of Congregation Talmud Torah Adereth El have touched many lives by providing spiritual guidance as well as fostering an enduring spirit of community. This spirit of giving is epitomized by the dedication and selflessness exhibited by Rabbi Kleiman.

For his unwavering dedication to his community and congregation, Rabbi Kleiman will forever remain a prominent and lasting community and spiritual leader.

In recognition of Rabbi Kleiman's lifetime of service and leadership of Congregation Talmud Torah Adereth El, I ask that my colleagues join me in saluting Rabbi Kleiman and the congregation on his 90th birthday celebration.

RECOGNITION TO SALVATORE M. SCHIBELL

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 11, 2003

Mr. PALLONE. Mr. Speaker, I would like to call the attention of my colleagues to a friend of the Sixth District of New Jersey. Mr. Salvatore Michael Schibell, who is being honored as the Man of the Year for the Amerigo Vespucci Society.

Mr. Schibell is being honored for his untiring dedication and remarkable assistance to his community. Mr. Schibell, a native of Long Branch, attended Long Branch High School and later graduated from Monmouth University with a Bachelor's Degree in Accounting and a Master's Degree in Business Administration. In 1990, Mr. Schibell was awarded his Masters Degree in Tax Law by Fairleigh Dickenson University. He holds CPA Certificates in both New Jersey and New York.

In 1989 Mr. Schibell was a founding partner of Rescinio, Schibell & Company. Prior to the formation of the firm, he spent fifteen years in public accounting, most of them with an international Big 6 firm. Formerly a senior manager, he left public accounting to serve eight years as the senior financial officer and general manager of a major beverage distributor. In 1993, Mr. Schibell became a partner of the accounting firm of Lawson, Rescinio, Schibell & Associates, P.C. in Oakhurst, NJ.

Mr. Schibell's professional memberships are numerous, some of which include: The American Institute of Certified Public Accountants, New Jersey Society of Certified Public Accountants; Community Associates Institute, and the Estate Planning Council of Central New Jersey, for which he served as the past president and was on the Board of Trustees. In addition, Mr. Schibell has served on numerous committees for charitable organizations, such as: the Amerigo Vespucci Society, and the Ronald McDonald House in Long Branch.

Presently, Mr. Schibell and his wife Lois reside in Eatontown, New Jersey where they enjoy the company of their four children Stephanie, Andy, Sean, and Denise and their first grandchild, Ashley Brook.

On this day we celebrate and honor the distinguished Mr. Salvatore M. Schibell for his extensive accomplishments and his dedicated service to his community. I ask my colleagues to join with me in commending him in his dedication.

T.C. ROBERSON FUTURE FARMERS OF AMERICA

HON. CHARLES H. TAYLOR

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 11, 2003

Mr. TAYLOR of North Carolina. Mr. Speaker, I rise today to recognize the T.C. Roberson High School Future Farmers of America organization and their teacher, Lonnie Johnson. The organization was recently recognized in the November/December 2002 issue of New Horizons magazine for their efforts to help poor and elderly individuals by participating in MANNA FoodBank's Plant a Row for the Hungry project. Through their hard work, these outstanding high school students provided hundreds of pounds of fresh vegetables to needy individuals throughout western North Carolina. The T.C. Roberson High School Future Farmers of America organization was also recognized in a July 8, 2002 editorial and a July 5, 2002 article in the Asheville-Citizen Times, which I am happy to share with my colleagues.

[From the Asheville Citizen-Times, July 5, 2002]

FUTURE FARMERS RAISE CROPS FOR THOSE IN NEED

(By Barbara Blake)

SKYLAND.—Lonnie Johnson can almost see the smiles on the faces of the elderly people who will soon be eating fresh corn, beans, tomatoes, squash and peppers his horticulture students are growing out at Roberson High School.

And thinking about the pleasure these nutritious vegetables will bring to those senior citizens and others who live on the edge of hunger brings a smile to Johnson's face.

''Elderly people go crazy with fresh produce,'' he said. ''A lot of these people don't get much fresh, and we're going to be giving them hundreds of pounds all the way up into September and October. And we won't stop then—in the fall, we'll plant our fall garden with greens and cabbage and turnips and broccoli, and we'll keep it coming.''

Those are sweet words to the staff at MANNA FoodBank, which will receive the vegetables from the Roberson students and immediately distribute them to the poor and hungry in Western North Carolina as part of the nonprofit's Plant a Row for the Hungry project.

Johnson, who formerly was the horticulture teacher at the Swannanoa Valley Youth Academy, started the Plant a Row project on that campus two years ago, providing MANNA with nearly 2,000 pounds of produce.

Early in the spring, Johnson found his Future Farmers of America students at Roberson equally interested in participating. So they worked together to plant more than one row for the hungry after clearing brush to make beds, working the soil and carefully planting seeds—all while learning about all things gardening and horticulture.

Throughout their summer vacation, students have come one, two or 10 at a time to replant, weed, water and, now, harvest the vegetables of their labor.

''It's fun—I like to work with my hands,'' said rising sophomore Levi Dowdle, peering into a bushy hill of squash loaded with yellow flowers and tiny fruits. ''I like seeing how much stuff has grown, and how fast it grows, and how much time different things take.

''And,'' he said, ''I like helping people.''

This produce will defintely help people, according to Kitty Schaller, director of development at MANNA, which netted more than 15,000 pounds of donated produce from local gardens last year.

''Lots of times during the year, we're able to access produce because it's not in great condition. But this puts the freshest stuff in the hands of the agencies that need it—and the need is great,'' Schaller said.

''This is first-quality stuff, and as soon as it comes in, it goes out.''

Schaller said the Youth Academy and the Roberson FFA kids are the only two schools formally involved with the Plant a Row for the Hungry project, and said she hopes other schools will take part.

''We love having children do this, because it establishes a pattern for them—making a connection with the soil, making a connection with hungry people,'' Schaller said. ''We're grateful to the folks at Roberson for taking this on, and we hope other schools will decide to do it as well.''

Schaller said MANNA also is grateful for more informal donations of fresh vegetables, ideally between 8 a.m. and 3:30 p.m., weekdays.

''But if someone needs to come on Saturday, they can call and we'll make special arrangements,'' she said.

''While we emphasize the 'plant a row' concept, we also are very, very welcoming of people's excess produce, even if it's just excess,'' Schaller said. ''It's a lot of people doing a little amount that really makes a difference—and a few people doing extraordinary stuff.''

[From the Asheville Citizen-Times, July 8, 2002]

ROBERSON'S FFA GOOD SIGN OF BRIGHT FUTURE FOR WNC CITIZENSHIP

Thanks to a group of Future Farmers of America at Roberson High School and their teacher, Lonnie Johnson, poor, elderly people in Western North Carolina will be benefiting from one of summer's greatest pleasures—a bounty of fresh, homegrown vegetables.

As any backyard gardener knows, nothing tastes as good as a ripe, freshly picked tomato. And nothing is more nutritious than homegrown vegetables that are eaten soon after they were harvested.

Johnson and his students decided to participate in MANNA FoodBank's Plant a Row for the Hungry project, but they planted more than a row. They're growing corn, beans, tomatoes, squash and peppers. Before coming to Roberson, Johnson taught horticulture at the Swannanoa Valley Youth Academy, where he started a Plant a Row project two years ago. That project provided MANNA with nearly 2,000 pounds of produce.

''Lots of times during the year, we're able to access produce because it's not in great condition,'' said MANNA's Director of Development Kitty Schaller. ''But this puts the freshest stuff in the hands of the agencies that need it—and the need is great. This is first-quality stuff, and as soon as it comes in, it goes out.''

The project benefits not only those whose consume the vegetables, it gives young people an opportunity to learn about gardening. Throughout their summer vacation, students have come singly and in groups to replant, weed, water and harvest the vegetables. They're learning more than practical horticultural skills.

''We love having children do this,'' pattern for them—making a connection with the soil, making a connection with hungry people.

The Youth Academy and Roberson FFA are the only two schools formally involved with the Plant A Row program, Schaller said, but she'd love to see others participate.

As for Johnson, he gets a lot of satisfaction thinking about those who will relish the vegetables his students grow.

''Elderly people go crazy with fresh produce,'' he said. ''A lot of these people don't get much fresh, and we're going to be giving them hundreds of pounds all the way up into September and October. And we won't stop then—in the fall, we'll plant our fall garden with greens and cabbage and turnips and broccoli, and we'll keep it coming.''

Kudos to Johnson and his students, who have pointed the way for other schools. But in this time of fiscal austerity, participating in the Plant A Row project is a tremendous and inexpensive opportunity for anyone who has a garden spot to give a great bounty to

those in need. Seeds are inexpensive and with a little tender loving care they become a nourishing gift beyond compare.

Schaller said MANNA is also grateful for more informal donations of fresh vegetables, preferably between 8 a.m. and 3:30 p.m. weekdays. So, if your garden is producing more than you can possibly preserve, consider a donation to MANNA.

You'll have the joy of imagining, as Johnson does, the pleasure your gift will bring.

[From New Horizons, Nov./Dec. 2002]

T.C. ROBERSON HIGH SCHOOL FUTURE FARMERS OF AMERICA

Here in Asheville, a city of 60,000 people in the hills of western North Carolina, the MANNA Food Bank feeds people in need across a 19-county area. They do their best to keep food moving to soup kitchens, the elderly, child daycare centers for families with low incomes and anywhere else where people have trouble putting food on the table.

A few years ago, Lonnie Johnson, the Roberson FFA Chapter advisor, heard about MANNA's ''Plant a Row for the Hungry'' program, where local citizens donate a portion of their garden vegetables to the food bank.

Johnson recognized the opportunity and pounced on it. ''There are people in our community who have needs, and if we can help meet those needs, then there's a lot of learning that can go on.'' Johnson says.

BREAKING GROUND

Roberson FFA members quickly latched onto the project. For many, it's a hands-on component for horticulture class. For others, it's afterschool volunteerism.

Jacob Laughter, a junior who currently serves as FFA chapter president, has been at Roberson High since the project began. ''I got to break ground for the beginning of our garden with our new Troy-Bilt tiller. I was also part of the seeding process, where we dug small holes to plant our seeds.''

Senior Jenny Stove, the FFA chapter secretary, is just glad she has the opportunity to be involved. ''I think I love to work in the garden more than all else,'' she says. ''Behind our greenhouse, we have corn that grows mile-high, spinach that the local rabbits eat, onions, collard greens cucumbers and zucchini.''

It's fresh vegetables like these that are considered delicacies at the food bank, where most of the food distributed is packaged in cans and boxes. ''People really get excited when they get fresh produce,'' Johnson says.

While this modest, one-third of an acre garden isn't breaking any records for size, everything from the garden is donated to the food bank. So far, the small parcel of ground has yielded hundreds of pounds of vegetables, and counting.

Deborah Stines, a junior, likes the harvest best. ''I enjoy working in the garden because I like to pick the vegetables and be able to say to myself, 'Hey, I planted this, and it grew!' '' When the time for harvest arrives, the FFA crew loads and drives the procedure to MANNA's loading dock, where workers eight the load and give the students a receipt.

IN THE NEWS

The chapter's efforts haven't gone unnoticed. Editors at the Asheville Citizen-Times caught wind of the FFA chapter's project in July. In a lengthy editorial, they had this to say: ''Kudos to Johnson and his students, who have pointed the way for other schools.'' After this appeared in the newspaper, the phone in the agriculture shop started ringing.

As a result of the editorial, people from the school and the community called and wanted to visit the garden. ''It just perked them up and made them feel good,'' Johnson says. Soon thereafter, a local television station and the school's own televised news program quickly picked up the story.

While these FFA members appreciate the positive publicity their FFA chapter his received, they realize something more important is happening. Their gardening project has built public awareness of hunger—a move that will put Asheville, and the world, a few steps closer to making sure everyone has enough food to eat.

IN THEIR OWN WORDS

Krystal Dorsey, a sophomore, didn't have any community service experience a couple of years ago. ''After working on this project,'' she says, ''I started to realize how important it is to do things for others, as well as how awesome it feels.''

Jessica Stouder, a junior, echoes those sentiments: ''It makes me glad to see that if students are working like this to help a cause here in little Asheville, then think of the big difference we could make all over the country.''

TRIBUTE TO NICK PINO

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 11, 2003

Mr. MCINNIS. Mr. Speaker, it is with great pride that I rise today to honor Nick Pino of Pueblo, Colorado for the selfless act of courage he displayed on November 8, 2002. Nick's quick actions, along with the efforts of other students from Centennial High School, helped Edith Lichtenberg to safety after flames engulfed her home.

On November 8, 2002, billowing smoke one block from Centennial High School prompted a group of students—Prince Speights, Clint Albrecht, Nick Pino, Kathy Ortiz, Linus Trujillo, and Taylor Proctor—into action. Driving toward the smoke, the group quickly discovered the bushes and trees in 86-year-old Edith Lichtenberg's yard ablaze and used a cell phone to contact emergency dispatchers. The flames rapidly spread to the house and the group moved swiftly to make sure no one was in the home. With the fire engulfing the front of the house, the students jumped the locked fence around the backyard to warn anyone who might still be inside. Noticing the back door open and seeing Ms. Lichtenberg still inside, they caught her attention and guided her outside away from the flames. Nick courageously assisted in getting Ms. Lichtenberg out of the house, and the group moved her to safety.

The youths maintained their composure during a time of adversity and conducted themselves in a fashion that has brought honor to themselves, their families, their school, and the entire community of Pueblo. It is always heartening to see young Americans meet such an extraordinary circumstance successfully. Courage like theirs strengthens and protects our communities everyday.

Mr. Speaker, I am honored to rise today and recognize the heroic efforts of Nick Pino before this body of Congress and this nation. Nick's quick actions, coupled with those of his fellow students, prevented a terrible fire from ending in great tragedy. Their selfless actions are an inspiration to us all, and it is an honor to represent such an outstanding group of Americans in this Congress.

IN RECOGNITION OF GOUVERNEUR HEALTHCARE SERVICES

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 11, 2003

Mrs. MALONEY. Mr. Speaker, I would like to pay tribute to Gouverneur Healthcare Services, on the occasion of their Annual Chinese New Year Celebration. Founded in 1885, Gouverneur Healthcare Services has a rich and lengthy history of providing innovative healthcare services for New Yorkers and their families.

In 1885, Gouverneur made history by becoming America's first public hospital to establish a tuberculosis clinic. As a pioneer in healthcare, it was also the first institution to employ a female physician on its ambulance service as well as the first to set up day camp on a boat for undernourished adults and children. A century later, Gouverneur established Project HELP, the first psychiatric mobile crisis unit for homeless, mentally ill individuals. These are just a few examples of Gouverneur's ability to create innovative programs to fulfill the needs of our community.

Gouverneur's 210 bed Nursing Facility has provided outstanding skilled nursing and rehabilitation care for over a quarter of a century. Care is provided in an ethnically and culturally sensitive manner, with special programs for Chinese and Hispanics. In addition, Gouverneur's ambulatory care facility, with over 300,000 visits in FY 1998, is one of the city's busiest. Among Gouverneur's many notable services is the Diagnostic and Treatment Center, which is the largest in New York State, providing more than 300,000 visits each year. The center focuses on maintaining patient wellness through a wide range of outpatient diagnostic and healthcare services including general medicine, pediatrics, gynecology, obstetrics, HIV care, behavioral health, dentistry, podiatry, dermatology and an eye clinic.

Gouverneur aims to reach all members of the culturally and ethnically rich Manhattan community. Special programs include the Asian Bicultural Unit, which provides psychiatric services for members of the Asian community, and the Roberto Clemente Center and the Sylvia Del Villard Continuing Day Treatment Program, which offer mental health programs designed to suit the needs of the Latino community.

Gouverneur's attentive concern and dedication to a multi-cultural patient population have made it a leader in providing services to non-English speaking patients. Gouverneur's staff is multilingual and is devoted to meeting each patients' individual needs. For example, Gouverneur's nursing facility provides Chinese, English and Spanish menus, with an emphasis on individual food preferences.

Gouverneur's multicultural services department works diligently to ensure that each and every patient feels comfortable while his or her healthcare needs are addressed. The department has members and volunteers that provide interpreting services in various languages, and printed materials are available in English, Chinese and Spanish throughout the facility. Gouverneur has also piloted TEMIS,

an award winning system that enables patients and their providers to receive simultaneous translation during exams through the use of wireless technology.

As an active leader in the community, Gouverneur hosted ''Celebrate Better Hearing and Speech Month'' in May 2002. The event raised public awareness and offered free speech and language screenings to children from a widely diverse community in their own native languages. As a result of the collaboration, many children were screened and approximately 75% were flagged for possible speech and language difficulties.

In recognition of Gouverneur Healthcare Services' outstanding contributions to the community and their commitment to the quality of life of the diverse New York City community, I ask that my colleagues join me in saluting Gouverneur Healthcare Services on the occasion of their Annual Chinese New Year Celebration.

TRIBUTE TO MR. ROBERT J. ''BOB'' LEWIS

HON. GARY G. MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 11, 2003

Mr. GARY MILLER of California. Mr. Speaker, it is with great pleasure that I rise to honor Mr. Robert J. ''Bob'' Lewis, Deputy Executive Director for Federal Relations of the National Association of Water Companies (NAWC). Bob retired January 10, 2003. Bob has had a very distinguished career providing over 32 years of leadership and direction in government and association service.

Bob has a Juris Doctorate from the University of Michigan Law School and is a member of the D.C. and Michigan Bar Associations. Bob started his career in D.C. as a Legislative Assistant for Senator Robert P. Griffin (R–MI). He then went on to serve as a Staff Assistant to President Nixon on the White House Domestic Council; General Counsel of the Federal Trade Commission; partner at Ballard, Spahr, Andrews & Ingersoll; Vice President for the Pharmaceutical Manufactures Association; Senior Vice President for Federal Relations at the Tobacco Institute and Vice President for Public Affairs at the Generic Pharmaceutical Industry Association. Bob and his wife, Margaret, have two children and two grandchildren.

During his time at NAWC, Bob was responsible for developing and implementing NAWC's Federal government relations strategy including both legislative and regulatory activities. As a senior manager, Bob also saw to the day-to-day operations of the association. Bob's dedication to these duties was a true asset to NAWC as well to those who worked directly with him. His honesty, fairness and integrity are of the highest caliber and, his concern for others is genuine. Bob completes his tenure at NAWC as the instrumental figure in carrying out the strategies that led to many important victories for the association and its members.

Since my arrival in Washington, I have had the privilege of working with Bob in developing legislation that will help local water companies continue to provide clean, affordable drinking water. His effectiveness as an advocate on these issues is a true testament to his dedication and passion for his work. His professionalism will be missed, but his accomplishments will remain.

Again, I would like to congratulate Bob on his career accomplishments and wish him the best of luck in his future endeavors.

IT IS TIME TO KEEP OUR PROMISE TO FILIPINO VETERANS OF WORLD WAR II

HON. BOB FILNER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 11, 2003

Mr. FILNER. Mr. Speaker and colleagues, I rise today to ask for the support of my colleagues for H.R. 664, ''The Health Care for Filipino World War II Veterans Act.''

Almost 60 years ago, President Franklin D. Roosevelt drafted the soldiers of the Philippines into service in World War II, because the Philippine was a territory of the United States at that time. Fighting side-by-side with soldiers from the United States mainland, the Filipino soldiers were instrumental in the successful outcome of the war. However, shortly after the war's end in 1946, Congress passed the Rescissions Act which took away promised benefits from many of the Filipino veterans and declared that their service was deemed not to be service in the military forces of the United States.

We owe not only a debt of gratitude to these brave veterans, but we owe them recognition as veterans of the United States military. And we owe them the benefits they were promised! Now in their 70s and 80s, they are in desperate need of health care, and approximately five veterans are dying each day.

I have introduced, H.R. 664, with a number of original co-sponsors from both parties, including Congressmembers SIMMONS, EVANS, CUNNINGHAM, PELOSI, ISSA, ROHRABACHER, ABERCROMBIE, MILLENDER-MCDONALD, TIAHRT, LOFGREN, AND SCOTT. This bill would provide access to VA medical facilities for the Filipino veterans who are now living in the United States and would restore the designation of veteran to these brave men.

The Secretary of Veterans Affairs, Anthony Principi, testified in a June 13, 2002 hearing before the VA Health Subcommittee in support of H.R. 4904, the version of this bill in the 107th session. The House of Representatives passed these health care benefits on July 22, 2002 but they were unable to get passed by the Senate before adjournment of last year's session. Senator INOUYE has reintroduced a similar bill in the 108th session in the Senate (S. 68).

There is overwhelming support for H.R. 664. We must quickly pass this bill to begin the process of restoring benefits that are deserved by the Filipino World War II veterans.

IN MEMORY OF THE HON. FRED V. SKOK

HON. STEVEN C. LaTOURETTE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 11, 2003

Mr. LaTOURETTE. Mr. Speaker, I recently lost a dear friend and revered colleague, Lake County Probate Judge Fred V. Skok, who died January 10 after a brief illness.

Judge Skok left behind a beloved wife of 39 years, Linda; daughters Heidi Skok Thorp of Glenmont, NY, and Gretchen Skok DiSanto of Concord Township; sons-in-law James Thorp and Dino DiSanto, and two grandsons, Harry Thorp and Hugh Thorp. A daughter, Christine Marie Skok, and his parents, Victor and Mary (Shume) Skok, are deceased

Judge Skok was a legal legend in Lake County. He was elected County Prosecutor in 1960 and Probate Court Judge in 1972. He was set to retire this year after serving 30 years on the bench. He was a 1952 graduate of Princeton University and earned his law degree at the former Western Reserve University Law School in Cleveland.

I consider myself blessed to have known Judge Skok for many years, and I looked to him as a mentor while I served as County Prosecutor before coming to Congress. Judge Skok was a quiet, scholarly man with a tremendous wit and a voracious intellect. He was revered in legal circles and doing the right thing was second nature to him.

Judge Skok will also be remembered for his great devotion to Lake Metroparks, and maintaining the environmental beauty of Lake County. As a 30–year resident of Concord Township, few things brought more pride to the judge than preserving the sprawling park space by his home and throughout the county.

The passing of Judge Skok brought great sadness to those who knew him. On behalf of the 14th Congressional District of Ohio, I share my heartfelt condolences with his family.

IN RECOGNITION OF THE PANPAPHIAN ASSOCIATION OF AMERICA

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 11, 2003

Mrs. MALONEY. Mr. Speaker, I would like to pay tribute to the Panpaphian Association of America, Inc., on the occasion of the Fourth Evagoras Pallikarides Award of Merit. An outstanding organization established in 1987, the Panpaphian Association has enriched its community through its promotion of the rich culture of Cyprus.

Founded by a small group of Cypriot Americans of Panpaphian ancestry, the Panpaphian Association of America has grown considerably in the past two decades. It has played a significant role in educating others about Cyprus and it history, traditions, and customs. The Panpaphian Association's contributions to the community include a choir and a soccer team, as well as various educational lectures on Paphian archaeological excavations and their findings. Originally a small community organization, the Panpaphian Association prospered remarkably and has developed into a pillar of the Cypriot American community.

In addition to supporting Cyprus and increasing awareness of Cypriot heritage, the association is involved in motivating and aiding its community in various ways. It promotes and stresses the importance of education through its annual academic excellence awards. Further, the association has made a major effort in fundraising for those who require medical attention, and it has made helpful donations to Paphos Hospital.

In 1999, the Panpaphian Association established the Evagoras Pallikarides award, honoring the memory of Pallikarides, a Cypriot hero who was killed in 1956 while fighting for his country's freedom. Dennis C. Droushiotis, the Trade Commissioner of the Republic of Cyprus, has been selected as the honored recipient of the 2003 Evagoras Pallikarides Award of Merit.

Among his many accomplishments are the establishment of the first Cyprus Trade Center in the United States and the implementation of many successful exports and investments programs, leading to the exponential growth of Cypriot exports to the U.S. The Trade Center's bilateral initiatives were a crucial factor in the United States becoming the main exporter to Cyprus and the growth of two-way trade.

Mr. Droushiotis is also the founding member of the Cyprus-U.S. Chamber of Commerce, inaugurated in 1998 by President Glafcos Clerides and Minister Nicos Rolandis. He has served as a delegate to the World Trade Organization, the United Nation 33rd and 37th General Assembly Sessions, and other such prestigious gatherings. His many civic involvements include work with the European Travel Commission, the Cyprus Olympic Committee, and the Cyprus Children's Fund.

Throughout his life, Mr. Droushiotis has been committed to the cause of justice, peace, and prosperity for Cyprus. He has been honored by the Cyprus Chamber of Commerce, and in 2000, he received the Ellis Island Medal of Honor for his work in international trade. As an individual who has contributed greatly not only to his nation but to both the Cypriot and Cypriot American communities, he is truly worthy of the Evagoras Pallikarides Award.

The organization has also chosen Charles Socrates as 2003 Member of the Year. Mr. Socrates, who originates from a small village in Cyprus, immigrated to the United States and, despite limited resources, developed a successful career while establishing an extensive network of family and friends. The Panpaphian Association honors Mr. Socrates today for his hard work and pride in his ethnicity.

In recognition of the Panpaphian Association of America's many contributions for the Cypriot American community, I ask my colleagues to join me in saluting this organization and all of tonight's honorees on the fourth anniversary of their annual Evagoras Pallikarides Award of Merit.

TRIBUTE TO LINUS TRUJILLO

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 11, 2003

Mr. McINNIS. Mr. Speaker, it is with great pride that I rise today to honor Linus Trujillo of Pueblo, Colorado for the selfless act of courage he displayed on November 8, 2002. Linus' quick actions, along with the efforts of other students from Centennial High School, helped Edith Lichtenberg to safety after flames engulfed her home.

On November 8, 2002, billowing smoke one block from Centennial High School prompted a group of students—Prince Speights, Clint Albrecht, Nick Pino, Kathy Ortiz, Linus Trujillo, and Taylor Proctor—into action. Driving toward the smoke, the group quickly discovered the bushes and trees in 86-year-old Edith Lichtenberg's yard ablaze and used a cell phone to contact emergency dispatchers. The flames rapidly spread to the house and the group moved swiftly to make sure no one was in the home. With the fire engulfing the front of the house, the students jumped the locked fence around the backyard to warn anyone who might still be inside. Noticing the back door open and seeing Ms. Lichtenberg still inside, they caught her attention and guided her outside away from the flames. Linus courageously assisted in getting Ms. Lichtenberg out of the house, and the group moved her to safety.

The youths maintained their composure during a time of adversity and conducted themselves in a fashion that has brought honor to themselves, their families, their school, and the entire community of Pueblo. It is always heartening to see young Americans meet such an extraordinary circumstance successfully. Courage like theirs strengthens and protects our communities everyday.

Mr. Speaker, I am honored to rise today and recognize the heroic efforts of Linus Trujillo before this body of Congress and this nation. Linus' quick actions, coupled with those of his fellow students, prevented a terrible fire from ending in great tragedy. Their selfless actions are an inspiration to us all, and it is an honor to represent such an outstanding group of Americans in this Congress.

HONORING TONYA MITCHELL: A HEROIC PUBLIC SERVANT

HON. KENDRICK B. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 11, 2003

Mr. MEEK of Florida. Mr. Speaker, I rise to honor one of Florida's heroes, Tonya Mitchell. Tonya Mitchell, a valiant public servant, was abducted on January 31, 2003, while driving a mail truck across northwest Miami-Dade County. Tonya Mitchell, extraordinarily composed, drove throughout Miami North-Dade and Broward Counties at gunpoint while dozens of patrol cars and news choppers followed. For five terrifying hours, including a two-hour standoff, Tonya Mitchell, unlike most people facing a life or death situation, maintained a remarkably calm demeanor until she was finally released to safety.

Tonya Mitchell, a 32–year-old mother of two from Miramar, Florida, is an example of true courage. The target of a very dangerous situation, she overcame fear and convinced her abductor, after the two-hour standoff, not to commit suicide. Because of her committed faith, she persuaded a man who put her life in grave danger to turn himself in to the authorities. Tonya Mitchell, a deeply religious woman, is not only a survivor, but a model of bravery.

United States postal employees have a visible presence in our community. My district, and districts across our country, function more effectively because of their invaluable work. Tonya Mitchell is a three-year veteran of the postal service who often fills in on her colleague's routes. She is a devotee to her community and as seen through last week's experience, a devotee to human kind. Mr. Speaker, the South Florida community is very proud of Tonya Mitchell. Clearly seen through the dedication she has in her work and through her extraordinarily bold composure, she is truly a hero and a role model to us all.

PERSONAL EXPLANATION

HON. KEVIN BRADY

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 11, 2003

Mr. BRADY of Texas. Mr. Speaker, I regret that I missed roll call votes 18 and 19 on February 5, 2003. 1 was on my way to attend the funeral for a family member who passed away earlier in the week. Had I been present, I would have voted ''no'' on the Motion to Recommit H.J. Res. 18 and voted ''yes'' on H. Res. 51, expressing the House of Representatives condolences to the families and crew of the Space Shuttle *Columbia.*

CONGRATULATIONS TO CITRUS GIRL SCOUT TROOP 378

HON. GINNY BROWN-WAITE

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 11, 2003

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I rise today to congratulate the Heart of Florida Girl Scout Troop 378 in Citrus County, Florida for their service to the Community and to the people of my district.

The troop recently learned about the importance of voting and about the functions of American government as part of the 'I-Count' Voter Education program and each Troop Member participating in the program received a patch upon completion.

Mr. Speaker, as you may know, those in the Girl Scout program measure their accomplishments and award merit based on the number of patches they accumulate. As part of earning this patch, the girls studied intently and listened to a speech I gave about the importance of voting—and how one vote can be the deciding factor in some instances.

It was when I spoke to the girls and had the chance to meet them and hear about all they'd done in the community that I realized the tremendous amount of work they'd done and their intense dedication to the Girls Scout program.

Mr. Speaker, let me briefly mention just a few of the things this group of girls has done throughout their years of involvement with this program.

As Daisies the girls learned to do crafts and learned the Girl Scout promise. They went on campouts, marched in parades and sang at Surry Place Nursing home.

As Brownies, the troop went to nursing homes to sing, volunteered at various events and continued to appear in local parades.

As Juniors, they collected old, unused cell phones to benefit battered women, helped at the local ''Relay for Life,'' which benefits the American Cancer Society, and presented the local volunteer firefighters with cookies to thank them for their work in the community.

Now that the girls are Cadets they are still collecting cell phones and will be continuing

their involvement in the ''Relay for Life'' program. This past Holiday Season they ''Gift Adopted'' a local under-privileged girl, and donated money and new gifts to make her Christmas brighter.

Currently they are saving the proceeds from the sale of their Girl Scout cookies for a trip to Savanna, Georgia to see where Juliette Gordon Low, the Girl Scout founder, was born.

Amber Auth, Nicole Bruno, Melissa Fonczak, Emily Stanton, Rebecca Rose, Kimberly Carbonari, Rebecca Morse, along with troop leader Mimi Rose and assistant troop leader Nora Auth, deserve to be commended for their service and dedication, I am proud to have them as my constituents and am honored to be their representation in Congress.

TRIBUTE TO KATHY ORTIZ

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 11, 2003

Mr. McINNIS. Mr. Speaker, it is with great pride that I rise today to honor Kathy Ortiz of Pueblo, Colorado for the selfless act of courage she displayed on November 8, 2002. Kathy's quick actions, along with the efforts of other students from Centennial High School, helped Edith Lichtenberg to safety after flames engulfed her home.

On November 8, 2002, billowing smoke one block from Centennial High School prompted a group of students—Prince Speights, Clint Albrecht, Nick Pino, Kathy Ortiz, Linus Trujillo, and Taylor Proctor—into action. Driving toward the smoke, the group quickly discovered the bushes and trees in 86-year-old Edith Lichtenberg's yard ablaze and used a cell phone to contact emergency dispatchers. The flames rapidly spread to the house and the group moved swiftly to make sure no one was in the home. With the fire engulfing the front of the house, the students jumped the locked fence around the backyard to warn anyone who might still be inside. Noticing the back door open and seeing Ms. Lichtenberg still inside, they caught her attention and guided her outside away from the flames. Kathy courageously assisted in getting Ms. Lichtenberg out of the house, and the group moved her to safety.

The youths maintained their composure during a time of adversity and conducted themselves in a fashion that has brought honor to themselves, their families, their school, and the entire community of Pueblo. It is always heartening to see young Americans meet such an extraordinary circumstance successfully. Courage like theirs strengthens and protects our communities everyday.

Mr. Speaker, I am honored to rise today and recognize the heroic efforts of Kathy Ortiz before this body of Congress and this nation. Kathy's quick actions, coupled with those of her fellow students, prevented a terrible fire from ending in great tragedy. Their selfless actions are an inspiration to us all, and it is an honor to represent such an outstanding group of Americans in this Congress.

IN SUPPORT OF MR. ESTRADA

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 11, 2003

Ms. ILEANA ROS-LEHTINEN. Mr. Speaker, today I rise in support of a fellow member of the Hispanic community and nominee to the U.S. Court of Appeals for the D.C. Circuit, Miguel Estrada.

Mr. Estrada personifies the success and achievement of our beloved community. His legal expertise will add a profound dimension to the court that is considered to be precursor to the Supreme Court. As an attorney, he has argued 15 cases before the U.S. Supreme Court, and has tried 10 cases as a prosecutor for the Southern District of New York.

A native of Honduras, Miguel Estrada is an American success story. During his first years in the U.S., Mr. Estrada spoke virtually no English. His commitment to education and improvement of the individual is demonstrated by the excellence of his academic record. As a graduate of Columbia College, where he graduated Phi Beta Kappa, and Harvard Law, Miguel Estrada's legal experience exceeds that of the average nominee.

If confirmed, Miguel Estrada would be the first Hispanic judge to serve on the court. President Bush served the Hispanic community well by nominating a man of such character and devotion to the Constitution.

Mr. Speaker, Miguel Estrada has my full support and best wishes on his nomination.

ELIMINATION OF CAP ON MEDICAID PAYMENTS TO THE U.S. TERRITORIES AND COMMONWEALTHS

HON. DONNA M. CHRISTENSEN

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 11, 2003

Mrs. CHRISTENSEN. Mr. Speaker, I rise today to re-introduce legislation which continues to be the highest health care priority for the more than 4 million residents of our country's off-shore areas—the elimination of the cap on Medicaid payments to the U.S. Territories and Commonwealths.

Mr. Speaker and my colleagues, it saddens me as a physician, to report to you once again that our fellow indigent Americans living in American Samoa, Guam, Puerto Rico and the Virgin Islands who qualify for Medicaid, receive less than adequate health care because the amount of federal Medicaid dollars we receive falls far short of meeting their needs. Because we face depressed economies with high unemployment rates, as well as, a growing indigent population, the ever-increasing cost of health care coupled with the federal cap means that our local governments have to bear a significantly greater cost of the Medicaid program than their counterparts in the states. This means, that for the bare bones Medicaid program in the Virgin Islands, the federal government contributed only $5.59 million of the $14,394 in fiscal year 2000 total cost of the program. In Guam, the local government spent three times more than the $5.4 million they received from the federal government to run their Medicaid program also in fiscal year 2000.

Mr. Speaker, this is my fourth term as a member of the House of Representatives. Every year I have been here, fighting to eliminate the cap on Medicaid for the insular areas has never been far from my focus.

Since becoming Chair of the Congressional Black Caucus Health Braintrust, I have garnered the support of my fellow Caucus members in calling attention to this problem and have made lifting the Medicaid cap for the off-shore areas a central item in the CBC's overall health care agenda. I thank my colleagues for the support they have given me on this issue.

In 1997, we were successful with the help of the previous administration to secure important increases in our cap for which we were grateful but that was almost five years ago and the problems have gotten worse not better.

It is time that our country ends this inequity and, in this one area—health care—treat all Americans alike, whether they live in a state or not. We must end the practice of residents of the territories and commonwealths having to leave their homes to seek more and better health care services on the mainland, often splitting-up families all because our Medicaid program is under-funded and our local governments can't afford to pay the difference.

Mr. Speaker President Bush recently announced a proposal to modify and improve the way Medicaid works in the states. My colleagues from the off-shore areas and I look forward to working with the President, Health and Human Services Secretary Tommy Thompson as well as every member of this body to impress upon all of you the urgent need to end this unequal treatment of health care funding for the American citizens living in the territories and Commonwealths.

I urge my colleagues to join my cosponsors and I in supporting this bill. All Americans deserve the same health care program that their government provides, regardless of where in the country they happen to live.

TRIBUTE TO CLINT ALBRECHT

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 11, 2003

Mr. McINNIS. Mr. Speaker, it is with great pride that I rise today to honor Clint Albrecht of Pueblo, Colorado for the selfless act of courage he displayed on November 8, 2002. Clint's quick actions, along with the efforts of other students from Centennial High School, helped Edith Lichtenberg to safety after flames engulfed her home.

On November 8, 2002, billowing smoke one block from Centennial High School prompted a group of students—Prince Speights, Clint Albrecht, Nick Pino, Kathy Ortiz, Linus Trujillo, and Taylor Proctor—into action. Driving toward the smoke, the group quickly discovered the bushes and trees in 86-year-old Edith Lichtenberg's yard ablaze and used a cell phone to contact emergency dispatchers. The flames rapidly spread to the house and the group moved swiftly to make sure no one was in the home. With the fire engulfing the front

of the house, the students jumped the locked fence around the backyard to warn anyone who might still be inside. Noticing the back door open and seeing Ms. Lichtenberg still inside, they caught her attention and guided her outside away from the flames. Clint courageously assisted in getting Ms. Lichtenberg out of the house, and the group moved her to safety.

The youths maintained their composure during a time of adversity and conducted themselves in a fashion that has brought honor to themselves, their families, their school, and the entire community of Pueblo. It is always heartening to see young Americans meet such an extraordinary circumstance successfully. Courage like theirs strengthens and protects our communities everyday.

Mr. Speaker, I am honored to rise today and recognize the heroic efforts of Clint Albrecht before this body of Congress and this nation. Clint's quick actions, coupled with those of his fellow students, prevented a terrible fire from ending in great tragedy. Their selfless actions are an inspiration to us all, and it is an honor to represent such an outstanding group of Americans in this Congress.

HONORING THE CONTRIBUTIONS OF CATHOLIC SCHOOLS

HON. MADELEINE Z. BORDALLO

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 11, 2003

Ms. BORDALLO. Mr. Speaker, I rise today in support of House Resolution 26, honoring the contributions of Catholic schools to the academic and moral education of children on Guam and throughout our nation. I would like to take the opportunity to thank Mr. VITTER for continuing the important role played by Catholic Schools here in the 108th congress.

The tradition of Roman Catholicism on Guam dates back to the arrival of Ferdinand Magellan in 1521. The island eventually became an important stop along the Spanish Galleon Trade Route.

In 1668, Padre Diego Luis de San Vitores and his missionaries brought Christianity to the people of Guam. They established a mission in village of Hagatna which later became the site of the first Catholic Church and is now the seat of the Archdiocese of Guam.

From these seeds, the Catholic faith on Guam has flourished and with it, faith-based institutions such as the Catholic School system have likewise thrived. Today, in one of the clearest manifestations of this tradition, nearly a quarter of Guamanian school children attend Catholic schools throughout the Island.

In the modem era, Bishop Apollinaris Baumgartner established the foundations of Guam's Catholic Schools. Guam's first Chamorro Bishop, Archbishop Felixberto C. Flores, made Catholic education a priority and instilled a tremendous pride in the academic and moral education provided by the Catholic schools. His successor, Archbishop Anthony S. Apuron has continued the tradition of excellence that has been the standard of the Catholic Schools in Guam.

The contribution of the Catholic school system to the people of Guam is reflected in our local leaders in the clergy, government and private-sector who are alumni of the Catholic schools. I am confident the influence of the Catholic schools will produce Guam's leaders of tomorrow.

I would now like to recognize and commend the Catholic schools on Guam for their commitment to instilling the principles of academic knowledge and sound moral values in the daily lives of our children. Those offering a secondary curriculum include: the Notre Dame High School in Talofofo, Father Duenas Memorial School in Tai, and Academy of Our Lady of Guam in Hagatna. Additionally, those offering an elementary and middle school education include: Bishop Baumgartener Memorial School in Sinajana, Our Lady of Mount Carmel School in Agat, St. Anthony School in Tamuning, Saint Francis School in Yona, San Vicente School in Barrigada, and Santa Barbara School in Dededo. Finally, those offering a nursery school education include: the Dominican Child Care Development Center in Sinajana, Infant of Prague in Tai, Maria Artero in Hagatna, and Mercy Heights in Tamuning.

I would also like to recognize the School Sisters of Notre Dame, Sisters of Mercy, Dominican Sisters, the religious orders of Capuchins, Franciscans, Jesuits and Marists for their service in educating the children of Guam. I would also like to commend the Archdiocese of Hagatna under the leadership of Archbishop Apuron for its guidance in administrating the Catholic Schools on Guam.

Finally, I want commend all the students, parents, teachers and administrators of Catholic schools in Guam and across the nation for their contributions to our nation and our world.

STUDENTS IN FREE ENTERPRISE (SIFE)

HON. ROY BLUNT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 11, 2003

Mr. BLUNT. Mr. Speaker, I rise today to recognize the commendable work of the Students in Free Enterprise or SIFE. This international nonprofit organization, headquartered in Springfield, Missouri, was highlighted in a Wall Street Journal article on January 14, 2003, by Carol Hymowitz titled, ''Independent Program Puts College Students On Leadership Paths.''

SIFE has been championing our free market system and changing the outlook of promising young business professionals and entrepreneurs for nearly a quarter century. Missouri's 7th Congressional District is not only the home of Drury University, 2001 National SIFE Champion, but eight other preeminent SIFE chapters.

As a former university president and teacher, I have seen firsthand the practical work experience and self confidence collegians gain from SIFE's leadership training and business competitions. These regional, national and international peer contests simulate the competitive nature of today's business environment while creating a risk-free learning atmosphere for the students.

SIFE teaches college students that they have the potential to change the world. In today's global economy, it is no wonder more than 500 schools overseas have Joined the 797 SIFE chapters nationwide. As the Journal article detailed, SIFE allows students to put their untested business skills through rigorous opportunities like teaching school children about business concepts and going overseas to teach remote villages about the prosperity of free enterprise.

In keeping with the goal of acclimating students to the real business world, the SIFE chapter at my own alma mater, Southwest Baptist University, has held events such as resume workshops, financial planning seminars and mentoring programs. More than two decades ago, ''March Mania'' was created to teach public school children about free enterprise. SIFE team members teach the students lessons about supply and demand, international trade and consumer behavior. These experiences, coupled with the business competitions and training opportunities, not only teach young adults necessary business principles, but also demonstrate the importance of mentoring the next generation of business professionals.

Mr. Speaker, I'm proud of the investment SIFE continues to make in young people, and I'm proud they Join me in calling Missouri's 7th Congressional District home.

TRIBUTE TO DAR EMME

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 11, 2003

Mr. MCINNIS. Mr. Speaker, it is with a great sense of respect that I honor Mrs. Dar Emme. Through her efforts of suicide prevention, Mrs. Emme has helped countless Colorado youth.

In 1994, after Dar and her husband Dale's lives were personally touched by suicide, they created the Yellow Ribbon Program. Since then, they have firmly committed themselves to stopping others from taking their own lives. Dar currently volunteers more than fifty hours a week with the program, traveling all over the country and speaking to students about suicide prevention. She encourages students to start their own chapters of the Yellow Ribbon Program, which will take calls and emails from students and parents regarding suicide. Dar believes that enabling students to run their own programs facilitates leadership, and will make the programs stronger.

The Yellow Ribbon Program currently employs six people. They send kits worldwide and answer emails and letters from parents and youth regarding suicide prevention. This program has been of great importance in the lives of many people; since its inception, the program has received more than 2,500 letters from children saying that the program saved their life.

Mr. Speaker, it is with privilege that I recognize Dar Emme before this body Congress and this nation today. Mrs. Emme's efforts to help those at risk for suicide have been immeasurably beneficial in the lives of many.

INTRODUCTION OF CONCURRENT RESOLUTION TO ESTABLISH NATIONAL INVENTOR'S DAY

HON. LAMAR S. SMITH

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 11, 2003

Mr. SMITH of Texas. Mr. Speaker, today I introduced a measure to establish National Inventor's Day as February 11th.

Invention has been a part of our country since it was founded. In fact, today is the birthday of Thomas Edison, who was a great inventor and held over 2,000 patents. He is probably best known for having invented the light bulb, the motion picture camera, and the phonograph. He also discovered incandescent light and invented the electric miner's lamp.

Edison's inventive genius is reflected in many of our other great inventors. Other American inventions include everyday items such as scotch tape, the cell phone, and the sewing machine to technological marvels like the first microprocessor.

I would like to celebrate the inventors of our great country with this resolution.

LEGISLATION PROVIDING FOR FEDERAL RECOGNITION OF NATIVE HAWAIIANS

HON. ED CASE

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 11, 2003

Mr. CASE. Mr. Speaker, I am honored to cosponsor legislation introduced by my friend and colleague from Hawaii, Mr. ABERCROMBIE, which affirms the longstanding, political relationship between the indigenous people of my state and our federal government and extends the time-honored federal policy of self-determination for indigenous peoples under U.S. jurisdiction to Native Hawaiians. The bill provides for federal recognition of Native Hawaiians, establishes an Office for Native Hawaiian Relations in the Department of Interior, and creates a federal interagency group to better coordinate policies and programs that address Native Hawaiians.

Most Americans are very familiar with the indigenous peoples of the continental United States and the State of Alaska—American Indians and Alaska Natives. But, because of Hawaii's geographical distance from the U.S. mainland and our unique history with the United States, most overlook the fact that an equally indigenous people of our great country—Native Hawaiians—originated and retains their base in today's Hawaii.

U.S. interests in the Hawaiian Islands and contact with Native Hawaiians date back to the late 1700s. Throughout that period, the federal government has maintained a unique relationship with Native Hawaiians—a relationship that was reaffirmed when Hawaii became a territory in 1900 and a state in 1959, and has continued through today.

Over those years, more than 160 federal statutes have enacted programs to address the conditions of Native Hawaiians in areas such as Hawaiian homelands, health, education, and economic development. And in Hawaii, efforts by the state and quasi-autonomous entities such as the Office of Hawaiian Affairs and private entities like the Kamehameha Schools have all been devoted to the same ends.

In more recent years, the Congress and Executive Branch have undertaken further efforts to improve the conditions and clarify the political status of Native Hawaiians. Most notably, the enactment in 1993 of the Apology Resolution (P.L. 103–150), which received bi-partisan support in the House and Senate and was signed by President Bill Clinton, expressed a national commitment to reconciliation efforts between Native Hawaiians and the federal government.

In 2000, the Departments of Interior and Justice issued a reconciliation report which was a culmination of efforts undertaken by the departments in their consultations with Native Hawaiians on a broad range of issues. In complementary efforts, Presidents Clinton and George W. Bush also addressed the needs of Native Hawaiians in the White House Initiative on Asian Americans and Pacific Islanders, established by executive orders to increase federal opportunities for and improve the quality of life in these communities.

Federal recognition legislation was a top priority recommendation of these efforts. Its intent was and remains to confirm that a federal policy of self-determination toward Native Hawaiians is appropriate and should be further memorialized.

As a result, federal recognition is Hawaii's singe highest priority in our federal efforts. Not only is it the natural next step in a long process of reconciliation for Native Hawaiians, but it is indispensable and necessary to the continuation of Hawaii as we know it.

That Hawaii cannot exist without the survival and prosperity of our indigenous people and culture. Federal recognition is the only practical way to assure the long term viability of the current and future programs and entities which provide for that culture's survival. In both ways, then, we all have a huge stake in federal recognition.

Thank you, Mr. Speaker.

TRIBUTE TO ANITA ARRIETA-ALEJANDRE

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 11, 2003

Mr. McINNIS. Mr. Speaker, it is with a great sense of pride that I honor Mrs. Anita Arrieta-Alejandre for helping the Spanish speaking community of Denver, Colorado. She has dedicated herself to preserving and enriching the lives of the people in her community every day.

Anita is a Colorado native who grew up on a farm in Southern Colorado where she worked in the fields with her family. She was determined to graduate from high school with Honors, and she did—through all four years. After graduating from high school, Anita joined the Navy. Now, she is a mother of eight and a grandmother of twelve. Her Mexican heritage is a great source of pride for her. For that reason, Anita has dedicated her life to serving her community, and sharing its rich cultural traditions with others.

Mrs. Arrieta-Alejandre is dedicated to helping the Spanish-speaking population of Denver assimilate while preserving their important cultural heritage. She believes that it is important for people to assimilate into society, but without losing their cultural identity. By working with individual families she is able to help them in applying for jobs, obtaining drivers licenses, enrolling their children in school, and countless other tasks that are simply impossible without an understanding of English. Over the past twenty years, she has volunteered and worked with more than twenty different organizations that serve the Hispanic community of Colorado. Anita currently owns a Mexican western store, promotes her husband's mariachi band, and directs children's theater for her nonprofit organization Teatro Latino de Colorado.

Mr. Speaker, it is with great privilege that I recognize Anita Arrieta-Alejandre before this body Congress and this nation today. Her strong and compassionate actions have helped her community and given people an opportunity to create a life for themselves.

TRIBUTE TO KIMBERLY CANNEDY

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 11, 2003

Mr. McINNIS. Mr. Speaker, it is with a great sense of pride that I honor Mrs. Kimberly Cannedy of Denver, Colorado for her work with the youth of my state. She has devoted countless hours to helping children of Western Colorado, and has committed her life to making a difference.

Mrs. Kimberly Cannedy was born in Denver, Colorado, where over twenty years ago she gave up her high-powered position with Rolls Royce Motors. With this, Kimberly began what she considers the most important work of all: being a mother. Her work does not stop with her own family, but rather it extends into her community. She has opened her doors to numerous foster children over the past ten years. Kimberly, along with her husband of twenty-one years, recently adopted four young girls, and are currently in the process of adopting another. Her growing family includes three children of her own, all between the ages of 15 and 19. In addition to being a foster care provider, Kimberly has assisted many young mothers by teaching classes on parenting and opening her home to those in need of any additional help.

Kimberly believes that if her work reaches and improves the life of one mother or one child, then it is enough. However, her compassionate work has reached many mothers and children alike, and her personal philosophy of helping people through difficult times has reached into and improved the lives of innumerable people whom she has encouraged and helped throughout the years.

Mr. Speaker, it is with great privilege that I recognize Mrs. Kimberly Cannedy before this body of Congress and this nation today. Through her caring actions she demonstrates to us all what it means to be a caring and supportive individual.

TRIBUTE TO MAREE CHAVEZ

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 11, 2003

Mr. MCINNIS. Mr. Speaker, it is with a great sense of honor that I rise to pay tribute to Maree Chavez. Maree has donated countless hours to helping women with cancer in Colorado.

As a child growing up in Colorado, Maree felt like she needed to give back. As she began her career as a hair stylist, Maree organized fundraisers and spent many hours in Craig Hospital cutting the hair of patients who were unable to move. When Maree met a young child who had bone cancer, she was inspired to volunteer for the American Cancer Society. Maree, along with friends and staff, raised more than $6,000 for the child and her family.

Maree now works with the ''Look Good, Feel Better'' program, helping women to style their hair, do their make up, and give them a feeling of belonging. She says that by doing this for these women it gives them their ''sparkle'' back. Although she has been organizing them for many years, Maree's fundraising efforts have not stopped, they have gotten stronger. This last summer she raised $3,000 when she ran in the Marine Corps Marathon. All of Maree's hard work to help others comes from her strong and kind spirit, which will continue to help the people of her community.

Mr. Speaker, it is with privilege that I recognize Maree Chavez before this body of Congress and this nation today. Her efforts to help the women of her community have restored their self-image and provided something much more important, their self-esteem.

TRIBUTE TO OLLIE MARIE PHASON

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 11, 2003

Mr. MCINNIS. Mr. Speaker, it is with a great sense of pride that I honor Ms. Ollie Marie Phason. Ms. Phason's strength in the face of adversity is a true inspiration. Ollie's life was changed forever in 1993 when her six-year-old son, Broderick, was wounded by a 9mm bullet, from gang crossfire. Broderick made a miraculous recovery in three months. Her ability to overcome her shock and sorrow, and in response, make a difference in the lives of others, is truly commendable.

Ollie's response to this tragedy was admirable, as she became highly involved in the Denver Safe City Program. This program was designed to keep children off the streets and involve them in extracurricular activities, which contribute to the well-being of these juveniles. Ollie's active involvement and energy in this issue created new policies to protect and enrich the lives of the children of Denver. As a single mother, her efforts and success in creating positive change within the community are to be greatly commended. In addition to her involvement with the Denver Safe City Program, Ollie currently owns a small pedicure and foot massage business, Marie for Feet, to supplement her income.

Mr. Speaker, it is with privilege that I recognize Ollie Marie Phason before this body of Congress and this nation today. Her four children are fortunate to have such a loving, caring, and dedicated mother. Ms. Phason's efforts to help juveniles succeed in life have been immeasurably beneficial in the lives of many.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, February 13, 2003 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

FEBRUARY 14

9:30 a.m.
Governmental Affairs
To hold hearings to examine the President's proposal to create a terrorist threat integration center, including consolidating intelligence analysis.
SD–342

FEBRUARY 25

9:30 a.m.
Armed Services
To hold hearings to examine the Defense Authorization Request for Fiscal Year 2004 and the Future Years Defense Program, to be immediately followed by a closed hearing in SH–219.
SD–106

Foreign Relations
To hold hearings to examine world food aid.
SH–216

10 a.m.
Energy and Natural Resources
To hold hearings to examine the President's proposed budget request for fiscal year 2004 for the Department of Energy.
SD–366

Health, Education, Labor, and Pensions
To hold hearings to examine terrorism, focusing on state and local response.
SD–430

2 p.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to examine a legislative presentation of the Disabled American Veterans.
SH–216

2:30 p.m.
Energy and Natural Resources
To hold hearings to examine oil, gas, hydrogen, and conservation, focusing on gas supply and prices.
SD–366

FEBRUARY 26

10 a.m.
Energy and Natural Resources
Business meeting to consider pending calendar business.
SD–366

Health, Education, Labor, and Pensions
Business meeting to consider pending calendar business.
SD–430

FEBRUARY 27

9:30 a.m.
Foreign Relations
To hold hearings to examine proposed legislation authorizing funds for the Department of State.
SD–419

10 a.m.
Energy and Natural Resources
To hold hearings to examine oil, gas, hydrogen, and conservation, focusing on energy production on federal lands.
SD–366

Health, Education, Labor, and Pensions
To hold hearings to examine the Workforce Investment Act.
SD–340

MARCH 4

10 a.m.
Energy and Natural Resources
To hold hearings to examine oil, gas, hydrogen, and conservation, focusing on financial conditions of the electricity market.
SD–366

MARCH 6

10 a.m.
Energy and Natural Resources
To hold hearings to examine oil, gas, hydrogen, and conservation, focusing on energy use in the transportation sector.
SD–366

Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to examine legislative presentations of the Military Order of the Purple Heart, the Paralyzed Veterans of America, Jewish War Veterans, the Blinded Vererans Association, and the Non-Commissioned Officers Association.
345 Cannon Building

MARCH 11

10 a.m.
Energy and Natural Resources
To hold hearings to examine oil, gas, hydrogen, and conservation, focusing on federal programs for energy efficiency and conservation.
SD–366

MARCH 12

10 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to examine a legislative presentation of the Veterans of Foreign Wars.
345 Cannon Building

MARCH 13

10 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to examine legislative presentations of the Retired Enlisted Association, Gold Star Wives of America, the Fleet Reseve Association, and the Air Force Seargents Association.
345 Cannon Building

MARCH 20

10 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to examine legislative presentations of AMVETS, American Ex-Prisoners of War, the Vietnam Veterans of America, the Military Officers Association of America, and the National Association of State Directors of Veterans' Affairs.
345 Cannon Building

Daily Digest

Senate

Chamber Action

Routine Proceedings, pages S2231–S2306

Measures Introduced: Twenty-one bills and two resolutions were introduced, as follows: S. 364–384, and S. Res. 55–56. **(See next issue.)**

Measures Reported:

S. Res. 56, authorizing expenditures by the Committee on the Budget. **(See next issue.)**

Nomination Considered: Senate continued consideration of the nomination of Miguel A. Estrada, of Virginia, to be United States Circuit Judge for the District of Columbia Circuit.

Pages S2232–S2305 (continued next issue)

A unanimous-consent agreement was reached providing for further consideration of the nomination at 11 a.m., on Thursday, February 13, 2003.

Page S2306

Messages From the President: Senate received the following messages from the President of the United States:

Transmitting, pursuant to law, the National Drug Control Strategy for 2003; to the Committee on the Judiciary. (PM–15) **(See next issue.)**

Nominations Received: Senate received the following nominations:

Consuelo Maria Callahan, of California, to be United States Circuit Judge for the Ninth Circuit.

Steven M. Colloton, of Iowa, to be United States Circuit Judge for the Eighth Circuit.

Harry A. Haines, of Montana, to be a Judge of the United States Tax Court for a term of fifteen years. **Page S2306**

Messages From the House: **(See next issue.)**

Measures Referred: **(See next issue.)**

Executive Communications: **(See next issue.)**

Additional Cosponsors: **(See next issue.)**

Statements on Introduced Bills/Resolutions: **(See next issue.)**

Additional Statements: **(See next issue.)**

Authority for Committees to Meet: **(See next issue.)**

Privilege of the Floor: **(See next issue.)**

Adjournment: Senate met at 9:30 a.m. and adjourned at 12:45 p.m., until 11 a.m., on Thursday, February 13, 2003. (For Senate's program, see the remarks of the Acting Majority Leader in today's Record on page S2306.)

Committee Meetings

(Committees not listed did not meet)

NATIONAL SECURITY THREATS

Committee on Armed Services: Committee concluded hearings in open and closed session, to examine current and future worldwide threats to the national security of the United States, after receiving testimony from George J. Tenet, Director of Central Intelligence; and Vice Adm. Lowell E. Jacoby, USN, Director, Defense Intelligence Agency.

COAST GUARD TRANSITION

Committee on Commerce, Science, and Transportation: Subcommittee on Oceans, Atmosphere, and Fisheries concluded hearings to examine the challenges and role of the United States Coast Guard with respect to its transition to the Department of Homeland Security and the Maritime Homeland Security Strategy, after receiving testimony from Admiral Thomas H. Collins, Commandant, U.S. Coast Guard, Department of Transportation; and JayEtta Z. Hecker, Director, Physical Infrastructure, General Accounting Office.

BUSINESS MEETING

Committee on Environment and Public Works: Committee met, discussed certain pending committee business, and recessed subject to the call of the Chair.

INVESTMENT INCENTIVES

Committee on Finance: Committee concluded hearings to examine proposals for economic growth and job creation, focusing on incentives for investment, after receiving testimony from former Senator Phil Gramm, UBS Warburg, New York, New York; Leon E. Panetta, California State University, Seaside,

former Director, Office of Management and Budget; and Kevin A. Hassett, American Enterprise Institute, and William G. Gale, Brookings Institution, both of Washington, D.C.

NOMINATIONS

Committee on Finance: Committee concluded hearings on the nominations of Joseph Robert Goeke, of Illinois, to be a Judge of the United States Tax Court; Glen L. Bower, of Illinois, to be a Judge of the United States Tax Court; Daniel Pearson, of Minnesota, to be a Member of the United States International Trade Commission; Charlotte A. Lane, of West Virginia, to be a Member of the United States International Trade Commission; and Raymond T. Wagner, Jr., of Missouri, to be a Member of the Internal Revenue Service Oversight Board, Department of the Treasury, after each nominee testified and answered questions in their own behalf.

RECONSTRUCTION OF AFGHANISTAN

Committee on Foreign Relations: Committee held hearings on the restoration and rebuilding of Afghanistan, including the Afghanistan Freedom Support Act (P.L. 107–327), receiving testimony from David T. Johnson, Coordinator for Afghanistan Assistance, Department of State; Peter W. Rodman, Assistant Secretary of Defense for International Security Affairs; and Ishaq Shahryar, Ambassador of Afghanistan to the United States.

Hearings recessed subject to call.

BUSINESS MEETING

Committee on Health, Education, Labor, and Pensions: Committee ordered favorably reported the following business items:

S. 342, to amend the Child Abuse Prevention and Treatment Act to make improvements to and reauthorize programs under that Act;

S. 314, to make improvements in the Foundation for the National Institutes of Health;

S. 239, to amend the Public Health Service Act to add requirements regarding trauma care;

S. 286, to revise and extend the Birth Defects Prevention Act of 1998; and

S. 313, to amend the Federal Food, Drug, and Cosmetic Act to establish a program of fees relating to animal drugs, with an amendment in the nature of a substitute.

Also, Committee adopted its rules of procedure for the 108th Congress, and announced the following subcommittee assignments:

Subcommittee on Aging: Senators Bond (Chairman), Alexander, DeWine, Roberts, Ensign, Warner, Mikulski, Kennedy, Murray, Edwards, and Clinton.

Subcommittee on Children and Families: Senators Alexander (Chairman), Enzi, Bond, DeWine, Roberts, Sessions, Ensign, Graham (S.C.), Warner, Dodd, Harkin, Jeffords, Bingaman, Murray, Reed, Edwards, and Clinton.

Subcommittee on Employment, Safety and Training: Senators Enzi (Chairman), Alexander, Bond, Roberts, Sessions, Murray, Dodd, Harkin, and Jeffords.

Subcommittee on Substance Abuse and Mental Health Services: Senators DeWine (Chairman), Enzi, Sessions, Ensign, Kennedy, Bingaman, and Reed.

NOMINATION

Committee on Indian Affairs: Committee concluded hearings on the nomination of Ross Owen Swimmer, of Oklahoma, to be Special Trustee, Office of Special Trustee for American Indians, Department of the Interior, after the nominee, who was introduced by Senator Nickles and Representative Carson, testified and answered questions in his own behalf. Testimony was also received from Richard Sangrey and Majel Russell, both of the Intertribal Monitoring Association on Indian Trust Funds, Albuquerque, New Mexico.

NOMINATIONS

Committee on the Judiciary: Committee concluded hearings on the nominations of Timothy M. Tymkovich, of Colorado, to be United States Circuit Judge for the Tenth Circuit, who was introduced by Senators Campbell and Allard; J. Daniel Breen, to be United States District Judge for the Western District of Tennessee, who was introduced by Senator Alexander; William H. Steele, to be United States District Judge for the Southern District of Alabama, who was introduced by Senators Shelby and Sessions; Thomas A. Varlan, to be United States District Judge for the Eastern District of Tennessee, who was introduced by Senator Alexander; Timothy C. Stanceu, of Virginia, to be a Judge of the United States Court of International Trade, who was introduced by Senator Allen; and Marian Blank Horn, of Maryland, to be a Judge of the United States Court of Federal Claims, who was introduced by Representative Cannon; after each nominee testified and answered questions in their own behalf.

House of Representatives

Chamber Action

Measures Introduced: Measures introduced will appear in the next issue of the Record.

Additional Cosponsors: **(See next issue.)**

Reports Filed: Reports were filed today as follows:

H. Res. 69, providing for consideration of H.R. 4, to reauthorize and improve the program of block grants to States for temporary assistance for needy families and improve access to quality child care (H. Rept. 108–9) **(See next issue.)**

Guest Chaplain: The prayer was offered by Rev. Wayne Jenkins, Pastor, First Baptist Church of Alexandria, Virginia. **Page H395**

Recess: the House recessed at 10:32 a.m. and reconvened at 3:05 p.m. **Page H398**

Committee Resignations: Without objection, the Chair accepted the various resignations from the following members from certain standing committees of the House: Representative Souder from the Committee on Education and the Workforce, Representative Shays from the Committee on Science, and Representative Gibbons from the Committee on Veterans' Affairs. **Pages H406–07**

Select Committee on Homeland Security: Pursuant to the provisions of H. Res. 5, and the order of Jan. 8, 2003, the Chair announced the Speaker's appointment of the following members to the Select Committee on Homeland Security: Representative Cox, Chairman and Representatives Dunn, Young of Florida, Young of Alaska, Sensenbrenner, Tauzin, Dreier, Hunter, Rogers of Kentucky, Boehlert, Shays, Smith of Texas, Weldon of Pennsylvania, Goss, Camp, Lincoln Diaz-Balart of Florida, Goodlatte, Istook, King of New York Linder, Shadegg, Souder, Thornberry, Gibbons, Granger, Sessions, Sweeney, Turner of Texas, Thompson of Mississippi, Loretta Sanchez of California, Markey, Dicks, Frank of Massachusetts, Harman, Cardin, Slaughter, DeFazio, Mrs. Lowey, Andrews, Norton, Lofgren, McCarthy of Missouri, Jackson-Lee of Texas, Pascrell, Christensen, Etheridge, Gonzalez, Lucas of Kentucky, Langevin, and Meek of Florida. **Page H407**

Do-Not-Call Implementation Act: The House passed H.R. 395, to authorize the Federal Trade Commission to collect fees for the implementation and enforcement of a "do-not-call" registry by a yea-and-nay vote of 418 yeas to 7 nays, Roll No. 26. The bill was considered pursuant to the unanimous consent order of Feb. 11. **Pages H407–13, H416**

Suspensions: The House agreed to suspend the rules and pass the following measures:

Recognizing the Courage and Sacrifice of American POWs: H. Res. 62, recognizing the courage and sacrifice of those members of the United States Armed Forces who were held as prisoners of war during the Vietnam conflict and calling for a full accounting of the 1,902 members of the Armed Forces who remain unaccounted for from the Vietnam conflict (agreed to by a yea-and-nay vote of 424 yeas with none voting "nay," Roll No. 25); and **Pages H399–H406, H415–16**

American Spirit Fraud Prevention: H.R. 346, to amend the Federal Trade Commission Act to increase civil penalties for violations involving certain proscribed acts or practices that exploit popular reaction to an emergency or major disaster declared by the President, and to authorize the Federal Trade Commission to seek civil penalties for such violations in actions brought under section 13 of that Act (agreed to by a yea-and-nay vote of 422 yeas to 1 nay, Roll No. 24). **Pages H413–15**

Committee Election: The House agreed to H. Res. 70, electing Representative Burns to the Committee on Education and the Workforce. **Pages H416–17**

Presidential Message—National Drug Control Strategy: Message wherein he transmitted the 2003 National Drug Control Strategy referred to the Committees on the Judiciary, Agriculture, Armed Forces, Financial Services, Energy and Commerce, Education and the Workforce, Government Reform, International Relations, Transportation and Infrastructure, Ways and Means, Veterans' Affairs, Permanent Select Committee on Intelligence, and Select Committee on Homeland Security. **Page H435**

Quorum Calls—Votes: Three yea-and-nay votes developed during the proceedings of the House today and appear on pages H414–15, H415–16, and H416. There were no quorum calls.

Adjournment: The House met at 10 a.m. and at 10:01 p.m. stands in recess subject to the call of the Chair.

Committee Meetings

COMMITTEE ORGANIZATION; OVERSIGHT PLAN

Committee on Agriculture: Met for organizational purposes.

The Committee approved an Oversight Plan for the 108th Congress.

NATIONAL DEFENSE AUTHORIZATION BUDGET REQUEST

Committee on Armed Services: Held a hearing on the fiscal year 2004 National Defense Authorization budget request. Testimony was heard from the following officials of the Department of the Army: Thomas E. White, Secretary; and Gen. Eric K. Shinseki, USA, Chief of Staff.

TRANSPORTATION DEPARTMENT—BUDGET PRIORITIES

Committee on the Budget: Held a hearing on the Department of Transportation Budget Priorities Fiscal Year 2004. Testimony was heard from Representative Rahall; and Michael P. Jackson, Deputy Secretary, Department of Transportation.

ECONOMIC RECOVERY AND THE WORKFORCE INVESTMENT ACT

Committee on Education and the Workforce: Held a hearing on "Back to Work: the Administration's Plan for Economic Recovery and the Workforce Investment Act." Testimony was heard from Elaine Chao, Secretary of Labor; and public witnesses.

PATIENT SAFETY AND QUALITY IMPROVEMENT ACT; ADMINISTRATION'S FISCAL YEAR 2004 HEALTH CARE PRIORITIES; COMMITTEE ORGANIZATION; OVERSIGHT PLAN

Committee on Energy and Commerce: Ordered reported, as amended, H.R. 663, Patient Safety and Quality Improvement Act.

The Committee held a hearing entitled "A Review of the Administration's Fiscal Year 2004 Health Care Priorities." Testimony was heard from Tommy G. Thompson, Secretary of Health and Human Services.

The Committee met for further organizational purposes.

The Committee approved an Oversight Plan for the 108th Congress.

MONETARY POLICY AND THE STATE OF THE ECONOMY

Committee on Financial Services: Held a hearing on monetary policy and the state of the economy. Testimony was heard from Alan Greenspan, Chairman, Board of Governors, Federal Reserve System.

RECOVERY AND RENEWAL; PROTECTING CAPITAL MARKETS AGAINST TERRORISM POST 9/11

Committee on Financial Services: Subcommittee on Capital Markets, Insurance, and Government Sponsored Enterprises held a hearing entitled "Recovery and Renewal: Protecting the Capital Markets Against Terrorism Post 9/11." Testimony was heard from Davi M. D'Agostino, Director, Financial Markets and Community Investment, GAO; Robert L. D. Colby, Deputy Director, Division of Market Regulation, SEC; and public witnesses.

INTERNATIONAL AFFAIRS BUDGET REQUEST

Committee on International Relations: Held a hearing on the President's International Affairs Budget request for Fiscal Year 2004. Testimony was heard from Colin L. Powell, Secretary of State.

IVORY COAST—PROSPECTS FOR PEACE

Committee on International Relations: Subcommittee on Africa held a hearing on Prospects for Peace in Ivory Coast. Testimony was heard from Walter H. Kansteiner III, Assistant Secretary, Bureau of African Affairs, Department of State; Timothy W. Docking, Program Officer, Research and Studies Program, U.S. Institute of Peace; and a public witness.

HUMAN CLONING PROHIBITION ACT; COMMITTEE ORGANIZATION; OVERSIGHT PLAN

Committee on the Judiciary: Ordered reported H.R. 534, Human Cloning Prohibition Act of 2003.

Prior to this action, the Committee met for organizational purposes.

The Committee approved an Oversight Plan for the 108th Congress.

COMMITTEE ORGANIZATION; OVERSIGHT PLAN

Committee on Resources: Met for organizational purposes.

The Committee approved an Oversight Plan for the 108th Congress.

PERSONAL RESPONSIBILITY, WORK, AND FAMILY PROTECTION ACT; OVERSIGHT PLAN

Committee on Rules: Granted, by voice vote, a modified closed rule, providing 2 hours of general debate on H.R. 4, Personal Responsibility, Work, and Family Promotion Act of 2003, with 50 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, 40 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Education and the Workforce, and 30 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce. The rule waives all points of order against consideration of the bill. The rule provides that the bill shall be considered as read for amendment.

The rule makes in order only those amendments printed in the Rules Committee report accompanying the resolution, which may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, and shall not be subject to amendment. The rule waives all points of order against the amendments printed in the report, except that the adoption of an amendment in the nature of a substitute shall constitute the conclusion of consideration of the bill for amendment. Finally, the rule provides one motion to recommit with or without instructions. Testimony was heard from Representative Herger, Chairman Boehner, Representatives Castle, Cardin, Levin, Woolsey, Kind, Kucinich, Jackson-Lee of Texas, Lee, McGovern and Watson.

The Committee approved an Oversight Plan for the 108th Congress.

COMMITTEE ORGANIZATION; OVERSIGHT PLAN

Committee on Transportation and Infrastructure: Met for organizational purposes.

The Committee approved an Oversight Plan for the 108th Congress.

REAUTHORIZATION—FAA AND AVIATION PROGRAMS

Committee on Transportation and Infrastructure: Subcommittee on Aviation held a hearing on reauthorization of the FAA and the Aviation Programs: Introduction. Testimony was heard from Gerald Dillingham, Director, Civil Aviation Issues, GAO; Kenneth R. Mead, Inspector General, Department of Transportation; and Robert Walker, Chairman, Commission on the Future of the United States Aerospace Industry.

COMMITTEE ORGANIZATION

Committee on Ways and Means: Subcommittee on Select Revenue Measures met for organizational purposes.

COMMITTEE ORGANIZATION

Committee on Ways and Means: Subcommittee on Social Security met for organizational purposes.

Joint Meetings

SPACE SHUTTLE "COLUMBIA"

Joint Hearing: Senate Committee on Commerce, Science, and Transportation and House Committee on Science Subcommittee on Space and Aeronautics held joint hearings to examine the recent space shuttle *Columbia* accident, focusing on the status of the investigation, and implications of the loss of *Columbia* on the nation's space exploration efforts, receiving testimony from Sean O'Keefe, Administrator, National Aeronautics and Space Administration.

Hearing recessed subject to call.

COMMITTEE MEETINGS FOR THURSDAY, FEBRUARY 13, 2003

(Committee meetings are open unless otherwise indicated)

Senate

Committee on Armed Services: to hold hearings on proposed legislation authorizing funds for fiscal year 2004 for the Department of Defense, and the Future Years Defense Program, 9:30 a.m., SH–216.

Committee on the Budget: to resume hearings on the President's proposed budget for fiscal year 2004, focusing on the Department of Transportation, 2:30 p.m., SD–608.

Committee on Commerce, Science, and Transportation: organizational business meeting to consider subcommittee assignments and rules of procedure for the 108th Congress, 9:15 a.m., SR–253.

Full Committee, to hold hearings to examine United States Olympic Committee reforms, 9:30 a.m., SR–253.

Full Committee, to hold hearings to examine infrastructure needs of minority serving institutions, and S. 196, to establish a digital and wireless network technology program, 2:30 p.m., SR–253.

Committee on Energy and Natural Resources: to hold hearings to examine the President's proposed budget request for fiscal year 2004 for the Forest Service of the Department of Agriculture, 10 a.m., SD–366.

Full Committee, to hold hearings to examine oil, gas, hydrogen, and conservation, focusing on oil supply and prices, 2:30 p.m., SH–216.

Committee on Environment and Public Works: Subcommittee on Clean Air, Climate Change, and Nuclear Safety, to hold oversight hearings to examine the Nuclear Regulatory Commission, 9:30 a.m., SD–406.

Committee on Finance: to hold hearings to examine Enron, focusing on the Joint Committee on Taxation's investigative report, 10 a.m., SD–215.

Committee on the Judiciary: business meeting to consider the nomination of Deborah L. Cook, of Ohio, to be United States Circuit Judge for the Sixth Circuit, John G. Roberts, Jr., of Maryland, to be United States Circuit Judge for the District of Columbia Circuit, Jeffrey S. Sutton, of Ohio, to be United States Circuit Judge for the Sixth Circuit, Jay S. Bybee, of Nevada, to be United States Circuit Judge for the Ninth Circuit, Ralph R. Erickson, to be United States District Judge for the District of North Dakota, William D. Quarles, Jr., to be United States District Judge for the District of Maryland, Gregory L. Frost, to be United States District Judge for the Southern District of Ohio, Jeremy H.G. Ibrahim, of Pennsylvania, to be a Member of the Foreign Claims Settlement Commission of the United States, Edward F.

Reilly, of Kansas, and Cranston J. Mitchell, of Missouri, both to be a Commissioner of the United States Parole Commission, S.253, to amend title 18, United States Code, to exempt qualified current and former law enforcement officers from State laws prohibiting the carrying of concealed handguns, and S.113, to exclude United States persons from the definition of ''foreign power'' under the Foreign Intelligence Surveillance Act of 1978 relating to international terrorism, 11 a.m., SD–G50.

Committee on Rules and Administration: to hold an organizational business meeting, to be followed by hearings on certain proposed committee resolutions requesting funds for operating expenses, 10:30 a.m., SR–301.

House

Committee on the Budget, hearing on the Department of State Budget priorities Fiscal Year 2004, 10 a.m., 210 Cannon.

Committee on Education and the Workforce, to mark up the following bills: H.R. 13, Museum and Library Services Act of 2003; and H.R. 14, Keeping Children and Families Safe Act of 2003, 10 a.m., 2175 Rayburn.

Subcommittee on Employer-Employee Relations, hearing on ''The Pension Security Act: New Pension Protections to Safeguard the Retirement Savings of American Workers,'' 1 p.m., 2175 Rayburn.

Committee on Financial Services, to consider the following: H.R. 254, to authorize the President of the United States to agree to certain amendments to the Agreement between the Government of the United States of America and the Government of the United Mexican States concerning the establishment of a Border Environment Cooperation Commission and a North American Development Bank; H.R. 258, American 5-Cent Coin Design Continuity Act of 2003; H.R. 239, Brownfields Redevelopment Enhancement Act; the Hospital Mortgage Insurance Act of 2003; the Emergency Securities Response Act of 2003; and a committee print entitled ''Views and Estimates of the Committee on Financial Services on Matters to be Set Forth in the Concurrent Resolution on the Budget for Fiscal Year 2004,'' 10 a.m., 2128 Rayburn.

Committee on Government Reform, to meet for organizational purposes; and to consider the following: an Oversight Plan for the 108th Congress; and to consider the Committee's Views and Estimates of the President's Fiscal Year 2004 Budget, 2 p.m., 2154 Rayburn.

Committee on International Relations, Subcommittee on Asia and the Pacific, oversight hearing on North Korea's Nuclear Program: The Challenge to Stability in Northeast Asia, 9:30 a.m., 2172 Rayburn.

Committee on Science, hearing on An Overview of the Federal R&D Budget for fiscal year 2004, 10 a.m., 2318 Rayburn.

Committee on Ways and Means, Subcommittee on Health, hearing on Medicare Regulatory and Contracting Reform, 12 p.m., B–318 Rayburn.

Subcommittee on Oversight, hearing on Free Electronic Filing National Taxpaper Advocate Annual Report, 3 p.m., 1100 Longworth.

Next Meeting of the SENATE

11 a.m., Thursday, February 13

Senate Chamber

Program for Thursday: Senate will continue consideration of the nomination of Miguel A. Estrada, of Virginia, to be United States Circuit Judge for the District of Columbia Circuit. Also, Senate may consider the conference report on H.J. Res. 2, Omnibus Appropriations.

Next Meeting of the HOUSE OF REPRESENTATIVES

10 a.m., Thursday, February 13

House Chamber

Program for Thursday: Consideration of H.R. 4, Personal Responsibility, Work and Family Promotion Act (modified closed rule, two hours of general debate); and

Consideration of the Omnibus Appropriations Conference Report to accompany H.J. Res. 2, making further continuing appropriations for fiscal year 2003 (subject to a rule).

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