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House of Representatives

The House met at 1 p.m. and was called to order by the Speaker pro tempore (Mr. TERRY).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
February 26, 2003.

I hereby appoint the Honorable LEE TERRY to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

Come Holy Spirit, enlighten the hearts of those who are faithful and tireless in securing equal justice under the law. Fulfill the hopes of those who long for peace and security for their children. Guide and protect all elected officials and all who choose to serve this Nation and local communities through public service.

May Your will be done in and through those who pray for Divine Guidance and who trust in Divine Providence; even in the midst of conflicting opinions, philosophical differences, and the threat of violence.

Unite Your people and keep them focused on essentials that reflect Your kingdom. May the fire of Divine Love and human freedom renew the face of the Earth, now and forever. Amen.

THE JOURNAL

The SPEAKER pro tempore. 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 pro tempore. Will the gentleman from New York (Mr. MCNULTY) come forward and lead the House in the Pledge of Allegiance.

Mr. MCNULTY 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.

RESIGNATION AS MEMBER OF COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT

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

HOUSE OF REPRESENTATIVES,
Washington, DC, February 25, 2003.

Hon. DENNIS HASTERT,
Office of the Speaker, U.S. Capitol, Washington, DC.

DEAR MR. SPEAKER: I respectfully resign from the Committee on Standards of Official Conduct, having completed three terms as ranking member of the Committee.

Sincerely,

HOWARD L. BERMAN,
Member of Congress.

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

There was no objection.

ELECTION OF MEMBERS TO CERTAIN STANDING COMMITTEES OF THE HOUSE

Mr. MENENDEZ. Mr. Speaker, by direction of the Democratic Caucus, I offer a privileged resolution (H. Res. 104) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 104

Resolved, That the following named Members and Delegates be and are hereby elected to the following standing committees of the House of Representatives:

(1) COMMITTEE ON AGRICULTURE: Mr. Lucas of Kentucky (to rank immediately after Mr. Boswell).

(2) COMMITTEE ON THE BUDGET: Mr. Kind.

(3) COMMITTEE ON GOVERNMENT REFORM: Ms. Norton (to rank immediately after Mr. Ruppersberger).

(4) COMMITTEE ON SMALL BUSINESS: Mrs. Christensen (to rank immediately after Mr. Ryan of Ohio), Mr. Davis of Illinois (to rank immediately after Mrs. Christensen), Mr. Gonzalez (to rank immediately after Mr. Davis of Illinois), Ms. Majette (to rank immediately after Ms. Bordallo).

Mr. MENENDEZ (during the reading). Mr. Speaker, I ask unanimous consent that the resolution be considered as read and printed in the RECORD.

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

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. Requests for 1 minutes are delayed until the end of business.

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, rule XX.

Any record vote on a postponed question will be taken later today.

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CELEBRATING THE 140TH ANNIVERSARY OF THE EMANCIPATION PROCLAMATION AND COMMENDING ABRAHAM LINCOLN'S EFFORTS TO END SLAVERY

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 36) encouraging the people of the United States to honor and celebrate the 140th anniversary of the Emancipation Proclamation and commending Abraham Lincoln's efforts to end slavery.

The Clerk read as follows:

H. CON. RES. 36

Whereas Abraham Lincoln, the sixteenth President of the United States, issued a proclamation on September 22, 1862, declaring that on the first day of January, 1863, ''all persons held as slaves within any State or designated part of a State the people whereof shall then be in rebellion against the United States shall be then, thenceforward, and forever free'';

Whereas the proclamation declared ''all persons held slaves within the insurgent States''—with the exception of Tennessee, southern Louisiana, and parts of Virginia, then within Union lines—''are free'';

Whereas, for two and half years, Texas slaves were held in bondage after the Emancipation Proclamation became official and only after Major General Gordon Granger and his soldiers arrived in Galveston, Texas, on June 19, 1865, were African-American slaves in that State set free;

Whereas slavery was a horrendous practice and trade in human trafficking that continued until the passage of the Thirteenth Amendment to the United States Constitution ending slavery on December 18, 1865;

Whereas the Emancipation Proclamation is historically significant and history is regarded as a means of understanding the past and solving the challenges of the future;

Whereas one hundred and forty years after President Lincoln's Emancipation Proclamation, African Americans have integrated into various levels of society; and

Whereas commemorating the 140th anniversary of the Emancipation Proclamation highlights and reflects the suffering and progress of the faith and strength of character shown by slaves and their descendants as an example for all people of the United States, regardless of background, religion, or race: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That Congress—

(1) recognizes the historical significance of the 140th anniversary of the Emancipation Proclamation as an important period in the Nation's history; and

(2) encourages its celebration in accordance with the spirit, strength, and legacy of freedom, justice, and equality for all people of America and to provide an opportunity for all people of the United States to learn more about the past and to better understand the experiences that have shaped the Nation.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Virginia (Mrs. JO ANN DAVIS) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentlewoman from Virginia (Mrs. JO ANN DAVIS).

GENERAL LEAVE

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the concurrent resolution now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Virginia?

There was no objection.

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the distinguished gentleman from Illinois (Mr. DAVIS), the ranking member on the Subcommittee on Civil Service, Census and Agency Organization of the Committee on Government Reform, introduced H. Con. Res. 36 on February 12, 2003. I am honored to be an original cosponsor of this legislation.

Abraham Lincoln, our 16th President, issued a preliminary proclamation on September 22, 1862, granting freedom to slaves in territories that were in rebellion. The official Emancipation Proclamation was issued on January 1, 1863. It was a straightforward document, much like the President himself, and was based on his right as the Commander in Chief during the Civil War.

Though the Emancipation Proclamation was limited in scope, acclaimed by some, and denounced and condemned by others, ultimately it was a landmark as expressed in the 13th amendment: ''Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.''

Historians report several revisions and compromises of the proclamation, but Lincoln's personal wish, as expressed in his letter to Horace Greeley, editor of the New York Tribune, had always been that all men everywhere could be free.

Much has been accomplished in our Nation since 1863 by freed men and women and their descendents in every sphere of our national life; this, in spite of great adversity, but with utmost determination of spirit and soul. History has shown us that to surge to greatness, as a Nation or as an individual, humans must be free.

We must never forget our history, we must never forget the steadfastness of the President who was rightly called the Great Emancipator. We must never tolerate mental or physical slavery in our Nation or any nation.

Mr. Speaker, H. Con. Res. 36 has been cosponsored by 115 cosponsors from both sides of the aisle. I believe this bill, introduced by our colleague, the gentleman from Illinois, the Land of Lincoln, to be representative of the conviction of this body and I, therefore, urge our colleagues to support H. Con. Res. 36. Again, I thank the distinguished gentleman from Illinois for his work on bringing this meaningful resolution to the floor.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as ranking member of the Subcommittee on Civil Service, Census and Agency Organization, I want to first of all thank the gentlewoman from Virginia (Mrs. JO ANN DAVIS), the chairman of the subcommittee, for her cosponsorship of this resolution and for helping to quickly move it to the House floor for action.

House Concurrent Resolution 36 encourages the people of the United States to honor and celebrate the 140th anniversary of the Emancipation Proclamation and commends President Abraham Lincoln's efforts to end slavery.

Though a man of humble beginnings, Abraham Lincoln rose to become the 16th President of the United States of America and became the man who attempted to end the heinous act of slavery while preserving the Union.

On January 1, 1863, Abraham Lincoln signed the Emancipation Proclamation. It was an historic act, because it freed many slaves and made a statement about the cruelty of slavery. The premise of the Emancipation Proclamation can be linked to a speech Lincoln made at Gettysburg in which he stated, ''Four score and 7 years ago our fathers brought forth upon this continent a new Nation, conceived in liberty and dedicated to the proposition that all men are created equal.''

President Lincoln's proclamation did not end slavery. The 13th amendment to the United States Constitution did that on December 18, 1865. The 14th amendment established Negroes citizens of the United States, and the 15th amendment granted Negroes the right to vote. It was the Emancipation Proclamation, however, that paved the way for these amendments to the Constitution.

Our citizenship and privileges of blacks were always questioned and, in many situations, denied until passage of the Civil Rights Act of 1964 and the Voting Rights Act of 1965. This was 39 years ago that Jim Crow laws were subjugating and denying Negroes the right to vote in certain southern States, the imposition of poll taxes, the segregation of schools, housing, bus and train transportation, restrooms, and other public accommodations. Since the struggle of the civil rights movement in the 1950s and 1960s, many African Americans are still seeking economic emancipation, equality in education, employment, business, housing, health care, and access to capital. Although African Americans as a people have made great strides in America, we still have a long way to go to achieve and live up to the creed of America's Founding Fathers that all men are indeed created equal.

When it comes to equality in homeownership, the rate among white households is about 74.2 percent, compared to 47.1 percent for African Americans. This huge gap between white and black homeowners will continue to be the primary factor that will undermine

the growth of African Americans and their family structure to obtain wealth, capital assets, and better neighborhoods.

When it comes to equality in education, the number of whites who possess bachelor's or higher degree is about 34 million compared to 2.6 million for blacks.

For post-secondary education, whites are about 72 percent compared to 11 percent for blacks who are attending degree-granting colleges and universities.

As for poverty, there are 32.9 million poor people in America. The poverty rate is about 22.7 percent for blacks compared to 9.9 percent for whites. The unemployment rate for whites is 3.3 percent compared to 6.3 percent for blacks who are continuing to seek employment.

When it comes to crime and justice, America is 5 percent of the world's population, but 25 percent of the world's prison population is in U.S. jails and prisons. The United States incarcerates 2,100,146 persons. Whites are about 36 percent compared to 46 percent for blacks in prisons. As some of us know, about 70 percent of the prison population is attributed to drug convictions. The law is not equally applied when it comes to drug offenses involving crack and powder cocaine. Five grams of crack cocaine brings a mandatory sentence of 5 years, compared to 5 grams of powder cocaine which has no sentencing requirements, and the possessor of powder cocaine may get probation. Mr. Speaker, 89 percent of the blacks are sentenced for crack cocaine possession, compared to 75 percent for whites who possess powder cocaine. Yet, 59 percent of the users of crack cocaine are white.

Equality is the principle and spirit of the Constitution where all men and women are seen as God's children created in His image. And if this was accomplished, then African Americans would have 2 million more high school diplomas, 2 million more college degrees, nearly 2 million more professional and managerial jobs, and nearly $200 billion more in income. And if America practices equality in housing, then African Americans would own 3 million more homes. If America had equality in access to capital and wealth, then African Americans would have $1 trillion more in wealth.

Mr. Speaker, although we passed the Emancipation Proclamation and although we have come a great distance, there are still some roads to travel. So I encourage all of my colleagues to embrace and support this resolution as a tool to reflect the spirit, strength, and legacy of freedom, justice, and equality for all people of America and to provide an opportunity for all people of the United States to learn more about the past and know how we can build a better future.

Mr. Speaker, I reserve the balance of my time.

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I am pleased to yield 5 minutes to the gentleman from Illinois, the Land of Lincoln, (Mr. LAHOOD), my distinguished colleague.

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

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Mr. LAHOOD. Mr. Speaker, I thank the gentlewoman for yielding time to me, and I thank the gentlewoman from Virginia (Mrs. JO ANN DAVIS) and the gentleman from Illinois (Mr. DAVIS) for this important concurrent resolution.

Mr. Speaker, it is with great enthusiasm that I rise in support of House Concurrent Resolution 36 offered by my friend and colleague, the gentleman from Illinois (Mr. DAVIS). The Emancipation Proclamation transformed the Civil War into a war of liberation, and changed American history forever.

140 years ago last month the United States took the first bold step towards a new birth of freedom. Abraham Lincoln was well aware of the epic importance of the Emancipation Proclamation. Before signing it in his office in the White House on January 1, 1863, he looked at those around him and remarked: ''I never in my life felt more certain that I was doing right than I do in signing this paper.''

His hand was sore from greeting thousands of guests at the annual New Year's reception; and he took a moment to steady his hand, unwilling to have his signature appear wavering or hesitant. Finally, he signed the document with his full name, as he very rarely did.

Lincoln's issuance of the Emancipation Proclamation was a remarkable act of political courage. After the preliminary proclamation was released on September 22, 1862, reaction in the North was harshly critical. The Republican Party lost seats in the congressional elections that year, and New York City later erupted into riots, partly as a result of the outrage over the proclamation. The year after the proclamation was issued, President Lincoln wrote: ''I am naturally anti-slavery. If slavery is not wrong, nothing is wrong.''

It was this core principle, combined with enormous courage, that led the President to draft and sign the historic document we celebrate today. One of Lincoln's most distinguished biographers has called the proclamation the single most revolutionary document in our history after the Declaration of Independence.

Yet Lincoln clearly defined the Emancipation Proclamation as a war measure justified by military necessity. He knew that the permanent destruction of slavery would require more than a proclamation signed by the President. Therefore, he labored mightily to ensure the passage of the 13th amendment abolishing slavery forever. Lincoln had so identified himself with the cause of freedom by the end of the war that he signed the 13th amendment, though not constitutionally required to do so.

The legacy of Lincoln as the emancipator will be among the subjects addressed by the Abraham Lincoln Bicentennial Commission, on which I am honored to serve as co-chair. Created by the Congress, comprised of scholars, collectors, political leaders, and jurists, the commission is charged with planning the annual celebration of Lincoln's 250th birthday.

Therefore, as a representative of the same district that sent Abraham Lincoln to Congress for one term, and as the co-chair of the Abraham Lincoln Bicentennial Commission, I urge all of my colleagues to support this important continuing resolution.

Again, I thank both the gentlewoman from Virginia (Mrs. JO ANN DAVIS) and the gentleman from Illinois (Mr. DAVIS) for this important concurrent resolution brought to the House floor today.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I do not believe that I have any other requests for time, but I would indicate that I am again pleased and proud to live in the State of Illinois, the home of Lincoln, the man who signed the Emancipation Proclamation and made a great movement towards freeing the slaves in this country.

I also want to thank my colleague, the gentleman from Illinois (Mr. LAHOOD), for his comments, and again thank the gentlewoman from Virginia (Mrs. JO ANN DAVIS), the chairman of the subcommittee, for her co-sponsorship and swift action on moving this resolution to the floor; and I urge all of my colleagues to support this concurrent resolution.

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

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I am pleased to yield 5 minutes to my colleague, the gentleman from California (Mr. ROHRABACHER).

Mr. ROHRABACHER. Mr. Speaker, I thank the gentlewoman for yielding time to me.

Mr. Speaker, I rise in strong support of House Concurrent Resolution 36, which encourages the people of the United States to honor and celebrate the 140th anniversary of the Emancipation Proclamation, and commend President Abraham Lincoln's efforts to end slavery in the United States.

140 years ago a bloody war still raged across our land, a war that cost the lives of more Americans than all other wars in our history combined. This summer will mark the turning point of that war as we celebrate the 140th anniversary of the Battle of Gettysburg.

Earlier, on September 22, 1862, President Abraham Lincoln took the first step toward establishing as the object of the Civil War the total abolition of slavery. He and his political party, the Republican Party, had made as their first goal the restriction of the expansion of slavery. Now he would make the Nation's goal the abolition of slavery itself.

Boldly, Lincoln declared free all those persons held as slaves within the insurgent States as of January 1, 1863. This was a daring political move which was strongly opposed by the Democratic Party of that day. After the end of the Civil War and Lincoln's assassination in 1865, his fellow Republicans in Congress and in State legislatures got passed and ratified the 13th amendment to the Constitution, totally abolishing slavery in the United States.

Our Civil War was turned by President Abraham Lincoln, it was turned from just a civil war between States into a moral crusade against the abomination of human slavery. President Lincoln knew that all war brings suffering, and he knew that we had to make sure that the ends of any war must justify the suffering that war entails. As a Republican, I am proud to claim Lincoln's legacy for the Republican Party and the principles of liberty for all Americans, regardless of race and color.

Recently, I had the opportunity to appear in the Civil War movie ''Gods and Generals.'' I portrayed an officer in the Union Army staff of Colonel Joshua Chamberlain, and I was proud to wear that blue Union uniform that fought for the noble cause of ending slavery and freeing those held in human bondage.

Today our Nation stands on the brink of another war, a war that will also bring suffering, like all wars do, but will, like our Civil War, have noble ends. The liberation of people and destruction of evil are indeed noble ends.

In the movie ''Gods and Generals,'' Colonel Joshua Chamberlain understood that principle, and understood that these principles are worth fighting for and dying for. In one scene, he turns to his brother and observes: ''I will admit it, Tom, war is a scourge, but so is slavery. It is the systematic coercion of one group of men over another. It is as old as the Book of Genesis, and has existed in every corner of the globe, but that is no excuse for us to tolerate it here when we find it before our eyes and in our own country.''

The Civil War still has the power to stir modern-day controversy. Nevertheless, I hope that 140 years after the issuance of the Emancipation Proclamation that all Americans will join us in celebrating President Lincoln's efforts to end slavery; and this legacy, this legacy should unite all Americans as we strive to make this a country, even though we still have faults, though we have many things to overcome, to try our best to correct those faults that we have; but we can be united to try to make this a country with liberty and justice for all.

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would again like to thank my distinguished colleague, the ranking member on the Subcommittee on Civil Service and Agency Organization, for introducing this important piece of legislation.

Mr. TIAHRT. Mr. Speaker, I rise today to voice my support for H. Con. Res. 36, a resolution encouraging the people of this nation to honor and celebrate the 140th anniversary of the Emancipation Proclamation and commending President Abraham Lincoln's effort to end slavery. In issuing the Emancipation Proclamation on September 22, 1862, President Lincoln performed one of the most important and far-reaching acts that our nation has ever undertaken.

Following the Union's costly victory at the Battle of Antietam, President Lincoln concluded that the emancipation of slaves was not only a military necessity, but more importantly, a moral imperative. Thus, President Lincoln issued his landmark decree. He was aware of the historical significance of this action, but with victory in the war still very much in doubt, was unsure of its ultimate consequences. In closing the Proclamation, Lincoln wrote, ''And upon this Act, sincerely believed to be an act of justice, warranted by the Constitution upon military necessity, I invoke the considerate judgment of mankind and the gracious favor of Almighty God.''

By issuing the Emancipation Proclamation, President Lincoln made it clear to Americans and the rest of the world that the Civil War was not about simply preserving the Union; in fact, the Civil War was now being fought to bring an end to the evil of slavery. Further, the Proclamation reconciled one of the fundamental dichotomies of the early American experience; the self-evident truths outlined in the Declaration of Independence and the existence of the institution of slavery.

In closing, it is fitting that we pause to remember this watershed moment in our nation's history. We shouldn't, and I don't believe we ever will, forget the horror of slavery. On the same note, I doubt we will ever forget the lessons of the years that have followed the Emancipation Proclamation and the end of the Civil War—the struggle for equal rights, equal opportunities, and equal treatment under the law for all women and men, regardless of religion, race, or political beliefs.

I am grateful for this opportunity to honor President Abraham Lincoln and the brave men who fought to ensure that the Emancipation Proclamation applied to the whole nation. May God continue to bless America and help us spread worldwide the knowledge that all men are created equal and should be treated as such.

Mr. PAUL. Mr. Speaker, I am pleased to support H. Con. Res. 36. Friends of human liberty should celebrate the end of slavery in any country. The end of American slavery is particularly worthy of recognition since there are few more blatant violations of America's founding principles, as expressed in the Constitution and the Declaration of Independence, than slavery. In order to give my colleagues, and all Americans, the opportunity to see what President Lincoln did and did not do, I am inserting the Emancipation Proclamation into the RECORD.

While all Americans should be grateful that this country finally extinguished slavery following the Civil War, many scholars believe that the main issue in the Civil War was the proper balance of power between the states and the federal government. President Lincoln himself made it clear that his primary motivation was to preserve a strong central government. For example, in a letter to New York Tribune editor Horace Greeley in 1862, Lincoln said: ''My paramount object in this struggle is to save the Union, and it is not either to save or destroy slavery. If I could save the Union without freeing any slave, I would do it; and if I could save it by freeing some and leaving others alone I would also do that. What I do about slavery, and the colored race, I do because I believe it helps to save the Union.''

In conclusion, Mr. Speaker, I encourage all freedom-loving Americans to join me in celebrating the end of slavery.

THE EMANCIPATION PROCLAMATION

By the President of the United States of America:

A PROCLAMATION

Whereas on the 22nd day of September, A.D. 1862, a proclamation was issued by the President of the United States, containing, among other things, the following, to wit:

''That on the 1st day of January, A.D. 1863, all persons held as slaves within any State or designated part of a State the people whereof shall then be in rebellion against the United States shall be then, thenceforward, and forever free; and the executive government of the United States, including the military and naval authority thereof, will recognize and maintain the freedom of such persons and will do no act or acts to repress such persons, or any of them, in any efforts they may make for their actual freedom.

''That the executive will on the 1st day of January aforesaid, by proclamation, designate the States and parts of States, if any, in which the people thereof, respectively, shall then be in rebellion against the United States; and the fact that any State or the people thereof shall on that day be in good faith represented in the Congress of the United States by members chosen thereto at elections wherein a majority of the qualified voters of such States shall have participated shall, in the absence of strong countervailing testimony, be deemed conclusive evidence that such State and the people thereof are not then in rebellion against the United States.''

Now, therefore, I, Abraham Lincoln, President of the United States, by virtue of the power in me vested as Commander-In-Chief of the Army and Navy of the United States in time of actual armed rebellion against the authority and government of the United States, and as a fit and necessary war measure for suppressing said rebellion, do, on this 1st day of January, A.D. 1863, and in accordance with my purpose so to do, publicly proclaimed for the full period of one hundred days from the first day above mentioned, order and designate as the States and parts of States wherein the people thereof, respectively, are this day in rebellion against the United States the following, to wit:

Arkansas, Texas, Louisiana (except the parishes of St. Bernard, Palquemines, Jefferson, St. John, St. Charles, St. James, Ascension, Assumption, Terrebone, Lafourche, St. Mary, St. Martin, and Orleans, including the city of New Orleans), Mississippi, Alabama, Florida, Georgia, South Carolina, North Carolina, and Virginia (except the forty-eight counties designated as West Virginia, and also the counties of Berkeley, Accomac, Northhampton, Elizabeth City, York, Princess Anne, and Norfolk, including the cities of Norfolk and Portsmouth), and which excepted parts are for the present left precisely as if this proclamation were not issued.

And by virtue of the power and for the purpose aforesaid, I do order and declare that all persons held as slaves within said designated States and parts of States are, and henceforward shall be, free; and that the Executive Government of the United States, including

the military and naval authorities thereof, will recognize and maintain the freedom of said persons.

And I hereby enjoin upon the people so declared to be free to abstain from all violence, unless in necessary self-defence; and I recommend to them that, in all case when allowed, they labor faithfully for reasonable wages.

And I further declare and make known that such persons of suitable condition will be received into the armed serivce of the United States to garrison forts, positions, stations, and other places, and to man vessels of all sorts in said service.

And upon this act, sincerely believed to be an act of justice, warranted by the Constitution upon military necessity, I invoke the considerate judgment of mankind and the gracious favor of Almighty God.

Mr. WELLER. Mr. Speaker, I rise today to honor the 140th Anniversary of the Emancipation Proclamation.

On January 1, 1863, as the nation approached its third year of the Civil War, President Abraham Lincoln issued the Emancipation Proclamation to grant freedom to all slaves. The proclamation declared "that all persons held as slaves . . . shall be then, thenceforward, and forever free".

Not only did the Proclamation liberate the slaves, but it announced the acceptance of black men into the Union Army and Navy. By the end of the war, almost 200,000 black soldiers and sailors had fought for the Union and freedom.

Mr. Speaker, the Emancipation Proclamation can be considered one of the greatest documents of human freedom. I am honored to speak on the House floor today with my highest regards to President Lincoln's actions and accomplishments.

I am proud to say that Abraham Lincoln was elected to the state legislature in my home state of Illinois in 1834. He served the wonderful people for four successive terms until he was later elected in Congress in 1846.

Mr. Speaker, I applaud and commend Abraham Lincoln's efforts to abolish slavery and I would like to encourage the citizens of the United States to celebrate the 140th Anniversary of the Emancipation Proclamation. Thank you.

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. TERRY). The question is on the motion offered by the gentlewoman from Virginia (Mrs. JO ANN DAVIS) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 36.

The question was taken.

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

Mrs. JO ANN DAVIS of Virginia. Mr. 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.

EMERGENCY SECURITIES RESPONSE ACT OF 2003

Mr. GARRETT of New Jersey. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 657) to amend the Securities Exchange Act of 1934 to augment the emergency authority of the Securities and Exchange Commission, as amended.

The Clerk read as follows:

H.R. 657

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 ''Emergency Securities Response Act of 2003''.

SEC. 2. EXTENSION OF EMERGENCY ORDER AUTHORITY OF THE SECURITIES EXCHANGE COMMISSION.

(a) EXTENSION OF AUTHORITY.—Paragraph (2) of section 12(k) of the Securities Exchange Act of 1934 (15 U.S.C. 78*l*(k)(2)) is amended to read as follows:

''(2) EMERGENCY ORDERS.—(A) The Commission, in an emergency, may by order summarily take such action to alter, supplement, suspend, or impose requirements or restrictions with respect to any matter or action subject to regulation by the Commission or a self-regulatory organization under the securities laws, as the Commission determines is necessary in the public interest and for the protection of investors—

''(i) to maintain or restore fair and orderly securities markets (other than markets in exempted securities);

''(ii) to ensure prompt, accurate, and safe clearance and settlement of transactions in securities (other than exempted securities); or

''(iii) to reduce, eliminate, or prevent the substantial disruption by the emergency of (I) securities markets (other than markets in exempted securities), investment companies, or any other significant portion or segment of such markets, or (II) the transmission or processing of securities transactions (other than transactions in exempted securities).

''(B) An order of the Commission under this paragraph (2) shall continue in effect for the period specified by the Commission, and may be extended. Except as provided in subparagraph (C), the Commission's action may not continue in effect for more than 30 business days, including extensions.

''(C) An order of the Commission under this paragraph (2) may be extended to continue in effect for more than 30 business days if, at the time of the extension, the Commission finds that the emergency still exists and determines that the continuation of the order beyond 30 business days is necessary in the public interest and for the protection of investors to attain an objective described in clause (i), (ii), or (iii) of subparagraph (A). In no event shall an order of the Commission under this paragraph (2) continue in effect for more than 90 calendar days.

''(D) If the actions described in subparagraph (A) involve a security futures product, the Commission shall consult with and consider the views of the Commodity Futures Trading Commission. In exercising its authority under this paragraph, the Commission shall not be required to comply with the provisions of section 553 of title 5, United States Code, or with the provisions of section 19(c) of this title.

''(E) Notwithstanding the exclusion of exempted securities (and markets therein) from the Commission's authority under subparagraph (A), the Commission may use such authority to take action to alter, supplement, suspend, or impose requirements or restrictions with respect to clearing agencies for transactions in such exempted securities. In taking any action under this subparagraph, the Commission shall consult with and consider the views of the Secretary of the Treasury.''.

(b) CONSULTATION; DEFINITION OF EMERGENCY.—Section 12(k) of the Securities Exchange Act of 1934 (15 U.S.C. 78*l*(k)) is further amended by striking paragraph (6) and inserting the following:

''(6) CONSULTATION.—Prior to taking any action described in paragraph (1)(B), the Commission shall consult with and consider the views of the Secretary of the Treasury, Board of Governors of the Federal Reserve System, and the Commodity Futures Trading Commission, unless such consultation is impracticable in light of the emergency.

''(7) DEFINITIONS.—

''(A) EMERGENCY.—For purposes of this subsection, the term 'emergency' means—

''(i) a major market disturbance characterized by or constituting—

''(I) sudden and excessive fluctuations of securities prices generally, or a substantial threat thereof, that threaten fair and orderly markets; or

''(II) a substantial disruption of the safe or efficient operation of the national system for clearance and settlement of transactions in securities, or a substantial threat thereof; or

''(i) a major disturbance that substantially disrupts, or threatens to substantially disrupt—

''(I) the functioning of securities markets, investment companies, or any other significant portion or segment of the securities markets; or

''(II) the transmission or processing of securities transactions.

''(B) SECURITIES LAWS.—Notwithstanding section 3(a)(47), for purposes of this subsection, the term 'securities laws' does not include the Public Utility Holding Company Act of 1935 (15 U.S.C. 79a et seq.).''.

SEC. 3. PARALLEL AUTHORITY OF THE SECRETARY OF THE TREASURY WITH RESPECT TO GOVERNMENT SECURITIES.

Section 15C of the Securities Exchange Act of 1934 (15 U.S.C. 78*o*–5) is amended by adding at the end the following new subsection:

''(h) EMERGENCY AUTHORITY.—The Secretary may by order take any action with respect to a matter or action subject to regulation by the Secretary under this section, or the rules of the Secretary thereunder, involving a government security or a market therein (or significant portion or segment of that market), that the Commission may take under section 12(k)(2) of this title with respect to transactions in securities (other than exempted securities) or a market therein (or significant portion or segment of that market).''.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey (Mr. GARRETT) and the gentleman from Pennsylvania (Mr. KANJORSKI) each will control 20 minutes.

The Chair recognizes the gentleman from New Jersey (Mr. GARRETT).

GENERAL LEAVE

Mr. GARRETT of New Jersey. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 657.

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

There was no objection.

Mr. GARRETT of New Jersey. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise now in support of adoption of H.R. 657. This is a bill that would amend the Securities and Exchange Act of 1934, and it will augment the emergency authority of the Securities and Exchange Commission.

The SEC played a crucial role in the recovery of our financial markets from the devastating effects of the terrorist attacks back on September 11. This legislation now extends that emergency authority and also the flexibility of the SEC from 10 business days to 30 business days, with the possibility of an additional 90 days thereafter, to respond to emergency situations such as 9–11. By extending this emergency authority, this bill will ensure that the SEC has the ability to immediately provide stability and liquidity to our markets following such an emergency as that.

After the damage to Lower Manhattan on September 11, which, as we know, Mr. Speaker, is the home of the world's stock market, the New York Stock Exchange, they suspended the operations of the U.S. equities market for the longest time since World War I.

To facilitate the planned reopening of our markets, the SEC used for the first time ever its emergency powers to temporarily ease regulatory restrictions. All of the security markets were open, amazingly, for trading by September 17, 2001. The actions of the SEC ensured an orderly reopening of the markets, something that was in the interests of everyone, the economy and investors alike.

H.R. 657, what it does further is to eliminate any question that anyone may have of the SEC's abilities to increase liquidity and extend the duration of the relief to our marketplace. Should, unfortunately, another financial crisis occur, I am confident that by us giving them this emergency authority, they will be able to restore fair and orderly markets and prevent substantial disruption to our marketplace.

Mr. Speaker, I would also point out that the manager's amendment that we have that I am offering today amends this legislation to clarify a couple of points; first of all, the exclusion for exempted securities from the new emergency authority that the bill grants to the SEC. What this does is it preserves the regulation of government securities as it stands under the current law with respect to the Secretary of the Treasury.

It also extends the SEC's emergency authority to clearing organizations for exempted securities, so the commission will be able to take actions regarding clearing of the government securities. In addition to this, the Commission is required now under these amendments to consult with the Treasury prior to using their authority.

□ 1330

It requires a commission to consult with the Secretary of the Treasury, the Board of Governors of the Federal Reserve System, and the Commodity Futures Trading Commission to, of course, the extent practical under the circumstances prior to its using its national emergency authority to suspend trading in our national marketplace.

When you think about it, this is really simply good government. The commission did consult with its fellow financial regulators during the aftermath of September 11 in order to determine what steps were necessary at that time. And so what we are doing with this legislation now is it will ensure that this commonsense practice that they did in the past, that they will do in the future as well.

Finally, this amendment grants to the Secretary of the Treasury new emergency authority similar to what the bill granted to the Commission. This new authority will enable the Treasurer to take action by order as opposed to rulemaking. Now this new authority, it should be clearly pointed out here, is specifically limited to apply only to matters under the Treasurer's existing regulatory position that affects government securities. So it does not, for example, grant the Treasurer the authority to close down the government securities market.

I would also like to point out, Mr. Speaker, that this amendment does not specifically require the commission to consult with its sister regulators prior to using the emergency authority that this bill sets out under 12(k)(2), the section that does not address trading suspension. And there is a reason for this. This is because there are instances in which the commission would be using its emergency authority to address issues that do not have to have an impact on areas within other financial regulatory authority. For example, lifting the requirement that mutual fund directors meet in person, in the event travel is rendered difficult or impossible because of such an emergency as that.

However, it is my expectation that the commission will consult with the Secretary of the Treasury and the other regulators at the time, as I mentioned previously, prior to using their new authority, where such use would have a broad financial market impact and would affect areas within those entities, their particular entities' jurisdiction. And this is exactly what the commission did back on 9/11 when the emergency occurred.

I would also expect the commission to apply this cooperative and, as I said earlier, commonsense approach to this new emergency authority by ensuring that all affected regulators are consulted whenever necessary.

When we think back now, back to September 11, 2001 and the terrorist attacks and how much they inflicted great human and physical loss in New Jersey and upon the constituents in New Jersey's Fifth Congressional District, my district, in the event of another large-scale disaster, the Emergency Response Security Act here before us gives the SEC the additional emergency authority to protect the operational resilience of our financial markets. This legislation ensures the health and future of America's economy which relies heavily upon the future of America's economy and upon the access to our markets.

This is an impact that we saw after 9/11 that impacted the constituents, as I indicated previously, the constituents in the Fifth Congressional District. As the Speaker is aware my district is made up of four counties: Sussex, Warren, Passaic, and Bergen Counties. Many of the people are involved with the securities markets just over the Hudson River in New York City where the New York Stock Exchange is located. Not only did these individuals have relatives and loved ones who were lost in the terrorist attack on 9/11, but many of them were directly impacted by the financial consequences that followed thereafter. The SEC was able to, due to the emergency authority that they had at that time, had within their purview the powers to address the situation and get the marketplace up and running within a week's period of time.

The bill that we have before us now allows us to ensure that that will occur in the future.

Mr. Speaker, I would like to thank the gentleman from Ohio (Mr. OXLEY) and the gentleman from Louisiana (Mr. BAKER) for their support and swift action on this legislation. I thank the gentleman from Illinois (Mr. EMANUEL) for his support across the aisle.

Mr. Speaker, I strongly urge my colleagues to support this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. KANJORSKI. Mr. Speaker, I yield myself such time as I may consume rise.

Mr. Speaker, I rise in support of the adoption of H.R. 657, a bill to provide the Securities and Exchange Commission with additional emergency powers.

As my colleagues know, the SEC played a crucial role in the recovery of our financial markets from the devastating effects of September 11, 2001 terrorist attacks. In addition to the important role the commission played in coordinating market participants throughout the crisis, the emergency orders issued by the SEC helped to provide needed liquidity and stability to the stock markets. The actions of the SEC also helped to ensure an orderly reopening of our capital markets, something that was in the interest of our economy and all investors.

Under our current law the SEC has the authority to issue emergency orders up to 10 business days in order to preserve orderly securities trading, clearance, and settlement. Following the terrorist attacks, the SEC used this authority for the first time to ease a variety of securities regulations including broker-dealer capital rules related to uncleared trades and restrictions on public companies' repurchase of their own securities. The SEC later used its general exemptive authority to

extend some of the emergency provisions beyond the initial 10 business days in order to address continued lags in clearance and other areas, as well as to temporarily suspend certain investment company requirements.

While the SEC very effectively used its existing emergency powers after the 2001 terrorist strikes, I believe this authority could be further strengthened. At congressional hearings shortly after the attacks, the SEC expressed similar views about the adequacy of its emergency power. The formal legislative request later submitted by the SEC asked that we provide the agency with additional emergency authority to respond to any further crises both by extending the potential length of the emergency orders and by extending the authority to clearly cover all of the Federal securities laws.

In 2001 the Committee on Financial Services worked with the commission and other interested parties to craft an appropriate framework for any future emergency actions that the SEC may need to take. The Emergency Securities Response Act subsequently passed the House by a voice vote but it did not become law during the 107th Congress. As a result, we must consider this matter anew in the 108th Congress.

The bill before us today makes a number of improvements to current law. For example, it expands the SEC's emergency authority to cover all of the Federal securities laws. The bill further permits the SEC to issue emergency orders for 30 business days, which I believe will give the SEC the flexibility needed to ensure they can respond in a timely and effective manner to any future emergency. The legislation also provides the commission with the authority in limited circumstances to extend emergency orders for an additional 90 days upon the finding that the emergency continues to exist and that an extension of the orders continues to be necessary and in the public interest.

As it became clear after the 2001 terrorist attacks, serious disruptions in communications, computer systems, transportation, and many other systems, as well as the physical damage to facilities, can have profound effects on the securities markets and market participants. This bill will give the SEC an expanded set of tools to address such emergencies throughout the securities markets, no matter what the underlying cause of the emergency may be.

Mr. Speaker, this bill also is a tribute to the leadership of Harvey Pitt when he was chairman of the SEC Commission. And although Mr. Pitt has now left the commission and probably has been criticized for many people for many things, I think the record should reflect that in regard to handling the crises during 2001 and working with the Congress thereafter to provide for orderly markets, no other chairman of the SEC expressed greater powers and controls with greater responsibility than Harvey Pitt.

Mr. Speaker, I urge the adoption of H.R. 657, the Emergency Securities Response Act.

Mr. Speaker, I reserve the balance of my time.

Mr. GARRETT. Mr. Speaker, I reserve the balance of my time.

Mr. KANJORSKI. Mr. Speaker, I yield such time as she may consume to the gentlewoman from New York (Mrs. MALONEY).

Mrs. MALONEY. Mr. Speaker, I thank the gentleman from Pennsylvania (Mr. KANJORSKI) for his leadership on this important legislation and I thank him for yielding me time.

Mr. Speaker, I rise in strong support of the Emergency Securities Response Act, legislation intended to assist the recovery of the securities markets in the event of another major terrorist attack or emergency.

The terrorist attacks of September 11, 2001 wreaked a tremendous toll on my city of New York, the center of the world financial markets. As we all know, the loss of life, buildings, property, and communications equipment prevented the reopening of the financial markets until September 17. While the stock market went down the day it opened, the most important thing was that it was opened and functioning. This was a major boost in confidence for the economy, for New York City, and for the entire Nation.

For their roles in reopening the markets, the SEC and the other regulators deserve much credit. Without their work, the economic fallout of the attack would have been even more serious and harmed more people. The legislation we are voting on today is intended to give the SEC additional flexibility to deal with just such a situation should we face another terrorist attack, disaster or emergency.

The Emergency Securities Response Act extends the commission's emergency authority from 10 to 30 days and up to 90 days in certain circumstances. This legislation is necessary because we know that our Nation's financial infrastructure is a frontline target in the war against terrorism. The World Trade Center was a symbol of the United States' economy.

I truly want to compliment the leaders of other such symbols of our economy in New York. The New York Stock Exchange and the New York Mercantile Exchange have done an extremely good job not only during that emergency, but since, in their efforts to upgrade security to almost fortress-like levels. I would like to thank the gentleman from Ohio (Mr. OXLEY), the gentleman from Massachusetts (Mr. FRANK), the ranking member, the gentleman from Pennsylvania (Mr. KANJORSKI) and the gentleman from New Jersey (Mr. GARRETT) for their work on this issue. And I truly hope we never have to use the powers this legislation grants the SEC. I truly hope we will never have such an emergency again. But I strongly support this legislation.

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

Mr. GARRETT of New Jersey. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. TERRY). The question is on the motion offered by the gentleman from New Jersey (Mr. GARRETT) that the House suspend the rules and pass the bill, H.R. 657, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

AUTHORIZING PRESIDENT TO AGREE TO CERTAIN AMENDMENTS TO AGREEMENT ESTABLISHING A BORDER ENVIRONMENT COOPERATION COMMISSION AND A NORTH AMERICAN DEVELOPMENT BANK

Mrs. BIGGERT. Mr. Speaker, I move to suspend the rules and pass the bill (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, and for other purposes.

The Clerk read as follows:

H.R. 254

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

SECTION 1. AUTHORITY TO AGREE TO CERTAIN AMENDMENTS TO THE BORDER ENVIRONMENT COOPERATION AGREEMENT.

(a) IN GENERAL.—Part 2 of subtitle D of title V of Public Law 103–182 (22 U.S.C. 290m—290m–3) is amended by adding at the end the following:

"SEC. 545. AUTHORITY TO AGREE TO CERTAIN AMENDMENTS TO THE BORDER ENVIRONMENT COOPERATION AGREEMENT.

''The President may agree to amendments to the Cooperation Agreement that—

''(1) enable the Bank to make grants and nonmarket rate loans out of its paid-in capital resources with the approval of its Board; and

''(2) amend the definition of 'border region' to include the area in the United States that is within 100 kilometers of the international boundary between the United States and Mexico, and the area in Mexico that is within 300 kilometers of the international boundary between the United States and Mexico.''.

(b) CLERICAL AMENDMENT.—Section 1(b) of such public law is amended in the table of contents by inserting after the item relating to section 544 the following:

''Sec. 545. Authority to agree to certain amendments to the Border Environment Cooperation Agreement.''.

SEC. 2. ANNUAL REPORT.

The Secretary of the Treasury shall submit annually to the Committee on Financial Services of the House of Representatives and

the Committee on Foreign Relations of the Senate a written report on the North American Development Bank, which addresses the following issues:

(1) The number and description of the projects that the North American Development Bank has approved. The description shall include the level of market-rate loans, non-market-rate loans, and grants used in an approved project, and a description of whether an approved project is located within 100 kilometers of the international boundary between the United States and Mexico or within 300 kilometers of the international boundary between the United States and Mexico.

(2) The number and description of the approved projects in which money has been dispersed.

(3) The number and description of the projects which have been certified by the Border Environment Cooperation Commission, but yet not financed by the North American Development Bank, and the reasons that the projects have not yet been financed.

(4) The total of the paid-in capital, callable capital, and retained earnings of the North American Development Bank, and the uses of such amounts.

(5) A description of any efforts and discussions between the United States and Mexican governments to expand the type of projects which the North American Development Bank finances beyond environmental projects.

(6) A description of any efforts and discussions between the United States and Mexican governments to improve the effectiveness of the North American Development Bank.

(7) The number and description of projects authorized under the Water Conservation Investment Fund of the North American Development Bank.

SEC. 3. SENSE OF THE CONGRESS RELATING TO UNITED STATES SUPPORT FOR NADBANK PROJECTS WHICH FINANCE WATER CONSERVATION FOR TEXAS IRRIGATORS AND AGRICULTURAL PRODUCERS IN THE LOWER RIO GRANDE RIVER VALLEY.

(a) FINDINGS.—The Congress finds that—

(1) Texas irrigators and agricultural producers are suffering enormous hardships in the lower Rio Grande River valley because of Mexico's failure to abide by the 1944 Water Treaty entered into by the United States and Mexico;

(2) over the last 10 years, Mexico has accumulated a 1,500,000-acre fee water debt to the United States which has resulted in a very minimal and inadequate irrigation water supply in Texas;

(3) recent studies by Texas A&M University show that water savings of 30 percent or more can be achieved by improvements in irrigation system infrastructure such as canal lining and metering;

(4) on August 20, 2002, the Board of the North American Development Bank agreed to the creation in the Bank of a Water Conservation Investment Fund, as required by Minute 308 to the 1944 Water Treaty, which was an agreement signed by the United States and Mexico on June 28, 2002; and

(5) the Water Conservation Investment Fund of the North American Development Bank stated that up to $80,000,000 would be available for grant financing of water conservation projects, which grant funds would be divided equally between the United States and Mexico.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that—

(1) water conservation projects are eligible for funding from the North American Development Bank under 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; and

(2) the Board of the North American Development Bank should support qualified water conservation projects which can assist Texas irrigators and agricultural producers in the lower Rio Grande River Valley.

SEC. 4. SENSE OF THE CONGRESS RELATING TO UNITED STATES SUPPORT FOR NADBANK PROJECTS WHICH FINANCE WATER CONSERVATION IN THE SOUTHERN CALIFORNIA AREA.

It is the sense of the Congress that the Board of the North American Development Bank should support—

(1) the development of qualified water conservation projects in southern California and other eligible areas in the 4 United States border States, including the conjunctive use and storage of surface and ground water, delivery system conservation, the re-regulation of reservoirs, improved irrigation practices, wastewater reclamation, regional water management modeling, operational and optimization studies to improve water conservation, and cross-border water exchanges consistent with treaties; and

(2) new water supply research and projects along the Mexico border in southern California and other eligible areas in the 4 United States border States to desalinate ocean seawater and brackish surface and groundwater, and dispose of or manage the brines resulting from desalination.

SEC. 5. SENSE OF THE CONGRESS RELATING TO UNITED STATES SUPPORT FOR NADBANK PROJECTS FOR WHICH FINANCE WATER CONSERVATION FOR IRRIGATORS AND AGRICULTURAL PRODUCERS IN THE SOUTHWEST UNITED STATES.

(a) FINDINGS.—The Congress finds as follows:

(1) Irrigators and agricultural producers are suffering enormous hardships in the southwest United States. The border States of California, Arizona, New Mexico, and Texas are suffering from one of the worst droughts in history. In Arizona, this is the second driest period in recorded history and the worst since 1904.

(2) In spite of decades of water conservation in the southwest United States, irrigated agriculture uses more than 60 percent of surface and ground water.

(3) The most inadequate water supplies in the United States are in the Southwest, including the lower Colorado River basin and the Great Plains River basins south of the Platte River. In these areas, 70 percent of the water taken from the stream is not returned.

(4) The amount of water being pumped out of groundwater sources in many areas is greater than the amount being replenished, thus depleting the groundwater supply.

(5) On August 20, 2002, the Board of the North American Development Bank agreed to the creation in the bank of a Water Conservation Investment Fund.

(6) The Water Conservation Investment Fund of the North American Development Bank stated that up to $80,000,000 would be available for grant financing of water conservation projects, which grant funds would be divided equally between the United States and Mexico.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that—

(1) water conservation projects are eligible for funding from the North American Development Bank under 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;

(2) the Board of the North American Development Bank should support qualified water conservation projects that can assist irrigators and agricultural producers; and

(3) the Board of the North American Development Bank should take into consideration the needs of all of the border states before approving funding for water projects, and strive to fund water conservation projects in each of the border states.

SEC. 6. ADDITIONAL SENSES OF THE CONGRESS.

(a) It is the sense of the Congress that the Board of the North American Development Bank should support the financing of projects, on both sides of the international boundary between the United States and Mexico, which address coastal issues and the problem of pollution in both countries having an environmental impact along the Pacific Ocean and Gulf of Mexico shores of the United States and Mexico.

(b) It is the sense of the Congress that the Board of the North American Development Bank should support the financing of projects, on both sides of the international boundary between the United States and Mexico, which address air pollution.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Illinois (Mrs. BIGGERT) and the gentleman from Texas (Mr. GONZALEZ) each will control 20 minutes.

□ 1345

Ms. KAPTUR. Mr. Speaker, I would like to claim time in opposition, please.

The SPEAKER pro tempore (Mr. TERRY). Is the gentleman from Texas opposed to the motion?

Mr. GONZALEZ. Mr. Speaker, I am not opposed to H.R. 254. So it is my understanding that my colleague from Ohio would then be controlling the entire 20 minutes in opposition.

The SPEAKER pro tempore. The gentlewoman from Ohio does qualify for the time in opposition.

The gentlewoman from Illinois (Mrs. BIGGERT) is recognized.

GENERAL LEAVE

Mrs. BIGGERT. Mr. 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 on the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Illinois?

There was no objection.

Mrs. BIGGERT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of H.R. 254, a bill that makes critical changes to the operation of the North American Development Bank. I would like to thank the gentleman from Nebraska (Mr. BEREUTER) for his hard work on this piece of legislation and for building broad bipartisan support for the bill.

H.R. 254 was approved by voice vote in the Committee on Financial Services and is identical to legislation approved by the body in the 107th Congress. This bill is supported by the administration and is part of the President's priorities to improve conditions along our border with Mexico.

The NADBank was created through the North American Free Trade Agreement, or NAFTA Accord, of 1994 and was funded equally by the United States and Mexico. The purpose of the NADBank is to respond to concerns that the increase in commerce along the border region would result in a rise in pollution.

This is a commendable goal and the NADBank is well funded to reach this goal. It has over $450 million in paid-in capital and a total lending capacity of $2.7 billion; yet over the past several years, the NADBank has only approved the disbursement of $59 million in funds.

The changes we make today in the NADBank will allow this institution to fulfill its mission of financing environmental infrastructure projects along the U.S.-Mexico border without resulting in any additional cost to the American taxpayer.

H.R. 254 will allow the NADBank to make below-market-rate loans for qualified projects. This is an important change and will permit this institution to truly assist this region by offering its products to the largest number of qualified environmental infrastructure projects.

In addition, H.R. 254 extends the area of operation to 300 kilometers from the border into Mexico. This expansion of the operating area will allow the NADBank to approve more worthy projects.

This bill also contains several important senses of the Congress which were crafted with the input of Members from several border States affected by the NADBank. This section calls for the NADBank to play close attention to water conservation, coastal pollution and air pollution projects. Finally, H.R. 254 will require the Treasury Department to report to Congress annually on the operations of the bank.

This bill will go a long way to help build upon the close relationship between the U.S. and Mexico and will improve the environmental conditions along the border.

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, February 26, 2003.

STATEMENT OF ADMINISTRATION POLICY ON H.R. 254—NORTH AMERICAN DEVELOPMENT BANK AND BORDER ENVIRONMENT COOPERATION COMMISSION AUTHORIZATION

The Administration strongly supports passage of H.R. 254, which authorizes key reforms of the North American Development Bank (NADB) and the Border Environment Cooperation Commission (BECC). Since taking office, President Bush has worked closely with Mexico's President Fox to make these institutions more effective in addressing the critical environmental needs of the communities of the U.S.-Mexico border region and, thus, improve the quality of life for the region's 12 million residents. To achieve these goals, the two Presidents agreed on a package of NADB/BECC reforms in March 2002.

H.R. 254 will enable the United States to move forward to implement two of the most important NADB/BECC reforms. The bill would allow the NADB to make its financing more affordable by allowing it to make grants and non-market rate loans out if its paid-in capital. H.R. 254 also would authorize the geographic expansion of NADB/BECC activity in Mexico, which would allow the institutions to address important environmental issues that may affect communities on both sides of the border, but whose origin may lie outside their currently defined region of operation.

Passage of H.R. 254 will demonstrate the United States' strong bilateral cooperation with Mexico and commitment to environmental protection, and would strengthen the ability of the NADB and the BECC to perform their important environmental mission. The Administration urges its passage.

Mr. Speaker, I reserve the balance of my time.

Ms. KAPTUR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in opposition to this legislation with mixed feelings, because the need for environmental remediation along the border is extraordinary; and I wish to express my deepest respect for my colleagues, the gentlewoman from Illinois (Mrs. BIGGERT), the gentleman from Nebraska (Mr. BEREUTER), the gentleman from Texas (Mr. GONZALEZ), the gentleman from Texas (Mr. HINOJOSA), and those who have worked to bring this matter to the floor.

I rise in opposition because I really do not believe this should come to us under a suspension. I think that the issues concerning us all out of NAFTA, and NADBank in particular, deserve the full engagement of this Congress. And I think Members should pay attention to this legislation that was brought up very quickly and out of a single committee, a committee on which I do not serve, and this is my only way of informing the membership of issues at stake relating to NADBank and adjustment to NAFTA.

As an appropriator in this Congress, I have to express the view that NADBank in and of itself deserves a very, very close look by Congress because if we look back to NADBank's establishment, it had a very curious beginning. It existed only as a side agreement that was tacked on to the original NAFTA trade agreement that was passed by a narrow margin here in Congress in 1993.

NADBank was sort of an afterthought. I can remember the gentleman from California who helped negotiate it, but it never had a separate debate in this Congress. Its functions, its operations have never been separately debated here, and now we are asking for amendments to something we have never had a full debate on in this Congress.

NADBank's shortcomings are vast, and it operates in a most unusual and atypical fashion, outside the normal jurisdictions of our Committee on Appropriations. The gentlewoman from Illinois (Mrs. BIGGERT) mentioned it has a half a billion dollars of capitalization. Some of it came from the general revenues of the United States, the people of our country, and the remainder from the people of Mexico; but even though it has a half a billion dollars of capitalization, it comes in the form of several pieces that wash through various appropriations subcommittees. It has no real home. Some might say its jurisdiction is segmented. Others might say it truly is haphazard and hard to get your arms around. The American people deserve better.

Indeed, NADBank operationally as a bank is a moving target, looking for a home in the Federal Government. It technically resides in the Department of Treasury. Yet its loan and grant authorities float mysteriously between the U.S. Department of Agriculture, the Small Business Administration, and a growing role for the Environmental Protection Agency, EPA, which all manage to somehow, in ways unknown to Congress, subsidize the activities of NADBank.

What we do not know about NADBank far surpasses what, in fact, any individual Member of Congress might know. I know that Members who live along the border have a horrible environmental problem that they are dealing with. I have seen the cesspools being created by industrial production and agricultural production with no funds for environmental remediation.

We tried to build environmental provisions into the original NAFTA. They were rejected. They were rejected and now, with the billions of dollars of commerce occurring across the border, who is being asked to pay for the environmental remediation? Not the companies creating the damage, but the taxpayers of the United States of America.

This is a chart showing the trade deficit with Mexico. Before NAFTA's signing, we had a positive balance with Mexico, both ways. Since NAFTA's passage, every single year we have moved as a Nation into deeper and deeper trade deficit with the nation of Mexico, as well as Canada. We have lost over three million jobs in this country due to NAFTA; and the people of Mexico have had their wages cut in half, and now 250 million jobs in northern Mexico and those maquiladoras are moving to China where the wages are even cheaper.

We ought to revisit NAFTA. It is 10 years since its passage and millions and millions of people are being harmed. Indeed, the most harmed, in my opinion, are the peasants coming off the ejido system in Mexico who have no voice and no representation, and they deserve it in this highest Chamber of our government.

NADBank should realistically deal with these adjustments and it does not. We should not just have a suspension bill that deals with two or three small provisions. We should deal with the fundamentals of this agreement and the giant holes that are in it.

In the United States, in a State like my own—and here is a current chart of this showing our unemployment—the dark green covers counties in our State with the highest rates of unemployment. One of the five top States in the

Union to lose jobs because of NAFTA, most recently Dixon Ticondaroga Pencil and Crayon Company in Sandusky, Ohio, and also Phillips Electronics, in Ottawa, Ohio, over 2000 more jobs have relocated to Mexico.

We know a lot about NAFTA and its impact, and yet we look at the NADBank regulations and which counties have they helped with all the job loss in Ohio? Well, they picked one here and they picked one here and they picked one here to try to give a minimal amount of assistance. But there is no regularity, frankly no real help. NAFTA's NADBank has no regularity with which it deals with the huge job loss that these trade deficits represent.

The bill that is before us expands the area of eligibility for NADBank, as my colleagues rightly wish to do, by about 200 additional kilometers down into Mexico. But it does absolutely nothing to provide support to the thousands of communities across our Nation that have also lost jobs to Mexico.

My problem is NADBank's reach is not great enough. In fact, the part of the bank with the least staff and support, called CAIP, C-A-I-P, the Community Adjustment and Investment Program, has just experienced the resignation of its director and the Bush Administration has proposed no funding for future grants.

As an appropriator, I want to help the NADBank for all of America. NADBank will not let me help it, and this debate will not let me find an appropriate way in which to pay for the adjustment that is so essential not just in Ohio but in California, in Tennessee, Oregon, south Florida and so many other places that have lost jobs because of NAFTA.

So the problem with NADBank is not the limited area of Mexico where more of our tax dollars will be used to remediate environmental disasters, because NAFTA is silent on the environment, but the fact that NADBank's reach is too limited. It ought to reach to places like Detroit and Sandusky, Ohio, and east Tennessee's and South Carolina's textile belts, in south Florida, in Galesburg, Illinois, where Maytag just announced it is shutting down and moving to Mexico, and south Chicago's loss of Brach's candy and Buffalo, New York, with the loss of Trico corporation.

Indeed, NADBank in the last 2 fiscal years has issued only six direct loans: three in the border area, two in North Carolina, and one in Virginia. Imagine, six loans and thousands of lost companies in this country and millions of lost jobs after 10 years. NADBank has far too little to show for its existence. With half a billion dollars, what has it been doing?

So I would say to my colleagues who have absolutely wholesome and extraordinarily important concerns here today in trying to extend NAFTA's environmental provisions through NADBank to cover a larger proportion of Mexico's to our border countries problems, look at the fundamentals. I think the administration wants to piecemeal with this suspension bill and find ways to try to fix an agreement that fundamentally needs a broader look.

I would urge my colleagues to vote ''no'' on this suspension bill today in order that we can have that broader debate. We need so many adjustments in NADBank and NAFTA.

First, we need an agricultural adjustment provision. Part of the illegal immigration coming into our country is because there are no agricultural provisions under NAFTA, and NADBank is absolutely unrealistic in the manner in which it deals with the exodus in the Mexican countryside. NAFTA is a huge continental disaster for them. Indeed, people's lives are being lost every day because we choose to ignore their pain. Let us be voices for the most powerless people on this continent.

We need a continental labor registration system for agricultural labor. It is wrong what happened to those 14 people in that truck in Omaha dying because they were brought up here as bonded workers. We need a continental solution to that travesty.

In terms of the environment, why should the taxpayers of our country be asked to pay for the damage these corporations are doing? The corporations involved in this border trade, they ought to pay, because they are the ones creating the mess. We have done the very same kind of program here in our own country to let those responsible pay for the environmental damage that they are doing.

In terms of NADBank, to help our communities readjust whether they are Illinois, whether they are Ohio, whether they are California, let us look at a NADBank that can function to meet the reality of the job loss across this Nation and harm across our continent.

□ 1400

Today we are being asked with this suspension to just take the tail on the dog. I am asking the Congress to embrace the dog. This is my only opportunity to do it. On the 10th anniversary of NAFTA, can we not finally be adults and recognize the continental situation that we, as elected officials at the highest levels of our government, have a responsibility to remediate? It is time. It is time.

I realize that the bill that is before us technically is much more narrowly cast, but it is our only vehicle. Give a few more weeks, a few more opportunities for Members to weigh in. I think we could create a measure that truly, on NAFTA's 10th anniversary, would help our continent deal with the pain and suffering of workers in our Nation and continent.

And by the way, the Department of Labor has made the decision not to count the workers in our country who are losing their jobs because of NAFTA today. That has now been stopped. What kind of a system is this? What kind of government is this? We have a responsibility to displaced workers to certify their communities for eligibility for programs like NADBank we must know where those jobs are being lost. So many pieces of this continental puzzle need to be put together in a tidy package. We are not presented with that package today.

So I would just for the purposes of colloquy end my formal remarks now, in the event some of my colleagues, such as the gentleman from Texas (Mr. GONZALEZ) or the gentleman from Texas (Mr. HINOJOSA) or the gentleman from California (Mr. FILNER) wish to comment at this point. This is just an awfully important question for our continent. We are the people who can make life better. It is our time. It is our watch. We ought to make it better for people who do not have voice in this Chamber.

Mr. Speaker, I reserve the balance of my time.

Mrs. BIGGERT. Mr. Speaker, I yield 10 minutes to the gentleman from Texas (Mr. GONZALEZ), and I ask unanimous consent that he be permitted to control that time.

The SPEAKER pro tempore (Mr. TERRY). Is there objection to the request of the gentlewoman from Illinois?

There was no objection.

The SPEAKER pro tempore. The gentleman from Texas (Mr. GONZALEZ) is recognized.

Mr. GONZALEZ. Mr. Speaker, I yield myself such time as I may consume, and I thank my colleague from Illinois for this opportunity.

Of course, I rise in strong support for passage of H.R. 254. I have great admiration for my colleague from Ohio who stands in opposition to 254 today, but we do have a fundamental difference of opinion. This piece of legislation was not intended in any way to revisit, reopen, recast, or rescind the North American Free Trade Agreement, the treaty itself; rather, it is to improve an institution that was created to assist in any problems that would be encountered as a result of the treaty itself. And that is where we stand today.

This is a bill to authorize the President to agree to certain amendments to the binational agreement establishing the North American Development Bank. H.R. 254 was passed by the House Committee on Financial Services on February 13 by voice vote. Last October, H.R. 5400, a bill exactly like 254, passed the House by unanimous consent. So I will remind my colleagues, Members of this House, that we are revisiting a piece of legislation that was passed by unanimous consent in the 107th Congress. Unfortunately, the Senate failed to take up H.R. 5400, necessitating its resubmission in this Congress.

This bill is cosponsored by a bipartisan group of 11 Members of Congress, almost all representing districts along the United States/Mexican border. I do wish to express my sincere thanks to the gentleman from Ohio (Mr. OXLEY),

chairman of the Committee on Financial Services; chairman of the Subcommittee on International Monetary Policy and Trade, the gentleman from Nebraska (Mr. BEREUTER); the ranking member, the gentleman from Vermont (Mr. SANDERS); and the gentleman from Massachusetts (Mr. FRANK) on the Subcommittee on Housing and Community Opportunity; as well as to the former ranking member of the full committee, Mr. LaFalce, who retired last session, for their cooperation and hard work in making today a reality and, hopefully, finally, in passing this bill once more and allowing the Senate the opportunity to pass it.

Mr. Speaker, NADBank was created pursuant to NAFTA. It is an investment in water, wastewater, and other public infrastructure along the United States/Mexican border. The bank is headquartered in my district, the 20th Congressional District of Texas, and provides conventional loan financing, below market-rate financing, and grants for communities located near the United States/Mexican border to help fund their water, wastewater, and other infrastructure needs. Additionally, NADBank manages an institutional development program that provides training to local officials on both sides of the border on how to effectively manage public utilities.

Since I arrived in Congress, I have heard so many Members use the phrase ''not letting perfect be the enemy of the good.'' I never thought I would resort to that, but today I will because that is what is happening here. NADBank is the only development bank specifically dedicated to the infrastructure needs of the United States/Mexican border. It meets a specific public financing need that has long been neglected by both Washington and Mexico City. Whether or not one is a supporter of the NAFTA treaty it is hard to argue with the purpose of NADBank, which is to provide critical financing and training for infrastructure improvements in disadvantaged United States and Mexican border communities.

Mr. Speaker, in a minute I will be yielding to my colleague, the gentleman from Texas (Mr. HINOJOSA), whose district borders Mexico. I will agree with my colleague from Ohio that NADBank has not fulfilled its true mission due to certain restrictions that Congress has neglected, or by not having the authority to really have any say with Treasury. Treasury has been in charge. This is the answer. This is the fix. This is the fine-tuning we have been seeking for so long. Never has this been meant to be an instrument to reopen the debate on NAFTA. This is an essential piece of legislation.

Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. HINOJOSA).

Mr. HINOJOSA. Mr. Speaker, I thank the gentleman from Texas (Mr. GONZALEZ) for yielding me this time.

Mr. Speaker, I like and respect my friend and colleague from Ohio. I heard the gentlewoman from Ohio say that NADBank has too little to show, and my response to her is that those of us who live on the southwest border want to correct what is wrong with the NADBank in the way that it has operated and done so poorly in these last few years.

Mr. Speaker, I rise today in strong support of H.R. 254, the North American Development Bank reauthorization bill. I want to thank the gentleman from Nebraska (Mr. BEREUTER) for all his hard work in shepherding this bill through the legislative process. I also want to thank the gentleman from Ohio (Mr. OXLEY) and the gentleman from Massachusetts (Mr. FRANK) for their assistance in bringing this bill to the floor for consideration.

As the Congressman from the 15th District of Texas, which includes the U.S./Mexico border region, my constituents are directly affected by the work of the North American Development Bank and are vitally interested in reforms badly needed that will improve the NADBank.

I was born and raised in south Texas between Brownsville and Laredo. This region is the front door to Mexico. I have seen the skyrocketing 48 percent population increase from just 1990 to 2000. I have witnessed the huge export business between Texas and Mexico increase 202 percent from 1993 to 2000, and that increase has reached $68 million of exports in the year 2000.

NADBank was originally passed in 1994 and enacted in 1995. It was created to gain congressional passage of the North American Free Trade Agreement. The bank was to be a working partner in helping border communities deal with water treatment facilities and environmental problems that would result from the increased trade that was expected. The bank's purpose was to help the border communities cope with the problems created by NAFTA.

Unfortunately, despite large amounts of available capital, the bank has funded only a small number of infrastructure projects along the U.S./Mexico border because it was limited to offering only market-rate loans. The need along this southwest border is too great for the bank to have money sitting idle. H.R. 254 fixes the problem by allowing NADBank to offer low-interest loans and grants to border communities like the ones I represent to fund critical infrastructure projects so that we can have the quantity of water and quality of water that we need for the sustainable growth of our area.

This authorization bill is not perfect. I assure my colleagues that if it improves the NADBank with the corrections that we make here, everyone will be very happy.

In closing, I want to say that the bank has not worked well up until now, but I know that with these reforms it can live up to the promise. I urge my colleagues to support H.R. 254.

Mrs. BIGGERT. Mr. Speaker, I yield 4 minutes to the gentleman from Nebraska (Mr. BEREUTER), the sponsor of this legislation.

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

Mr. BEREUTER. Mr. Speaker, the gentleman from Texas (Mr. GONZALEZ) has explained very well why this legislation is before us. In fact, we passed it last October in the previous Congress in the same form. He mentioned the cosponsorship of practically everybody whose district is along the border, and I appreciate very much the support of my colleagues on the committee.

Actually, the comments of the gentlewoman from Ohio about NAFTA are not a surprise to us, but practically nothing related to NAFTA is within the jurisdiction of the Committee on Banking and Financial Services, now the Committee on Financial Services. The only thing really that is, is the NADBank, and it was created to take into account some of the concerns with the passage of NAFTA.

During that debate, some Members were concerned about perceived lax enforcement of environmental laws by Mexico that could create a competitive advantage and give U.S. businesses incentive to relocate to Mexico. In fact, the support of some Members of Congress for NAFTA was partially contingent upon identification of a structure to finance border projects.

Now, in order to address the inadequacies of the NADBank, which the other gentleman from Texas has alluded to and given some details on, Presidents Bush and Fox formed a binational working group that held a series of discussions with States, communities, and other stakeholders in the border region with the purpose of generating plans to reform and strengthen the performance of the NADBank and the BECC. As a result of that working group, Presidents Bush and Fox came forth with a joint agreement announced in Monterrey, Mexico, in March of 2002. The recommendations and requirements of agreement are in this legislation.

With respect to the first legislative change, the administrations's rationale about the bank's current financial framework is having a limited impact in regions with high poverty rates, so adjustments were made in that respect. The change in jurisdiction was at the request of the Mexican President, but agreed to as appropriate by President Bush. So what we are doing here is to try to take the reforms that everyone in the region seems to agree are necessary for the NADBank to adequately address the infrastructure problems, particularly environmental infrastructure problems that are created by increased industrialization and population growth in the region.

So, my colleagues, I think, can feel very comfortable in supporting this legislation. It makes the changes the two Presidents requested. It does nothing to disadvantage American firms. In fact, it addresses some of the concerns

that the opponents of NAFTA had in the first place.

Ms. KAPTUR. Mr. Speaker, will the gentleman yield?

Mr. BEREUTER. I yield to the gentlewoman from Ohio briefly.

Ms. KAPTUR. Mr. Speaker, I really appreciate very much appreciate the gentleman yielding just for a question.

It is my understanding that the Community Adjustment and Investment Fund, CAF, which is within NADBank, is basically zeroed out in this proposal, which means that it will have no money. And this is the portion of the bank that deals with loans and grants to the nonborder regions.

Could someone please clarify for me whether my understanding is correct? And I thank the gentleman for yielding.

Mr. BEREUTER. Reclaiming my time, Mr. Speaker, I believe the gentlewoman's understanding is incorrect as with respect to this legislation. This legislation makes no reductions in that area. If there are reductions, it would be by executive budget, and I am not familiar if that is the case or not.

Mr. Speaker, I would just say that we have passed this legislation before. It is appropriate. It puts in place the agreements of the two Presidents. It has the support of all the border region persons in this room, with the exception of two, and I do not know how they stand, but I have heard no opposition from them to this point. So I urge support and approval of the legislation.

□ 1415

Ms. KAPTUR. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from California (Mr. FILNER).

Mr. FILNER. I thank the gentlewoman for yielding me this time.

Mr. Speaker, I do represent the entire California-Mexico border, so I am a border Congressman; and I must say, we have some difficulties with the proposed legislation. The gentlewoman from Ohio, and I am sorry that it had to take someone from the hinterlands to explain to us that this whole issue of NAFTA and NADBank need to be discussed by this body in a far more important way than a bill on suspension that gives us 10 minutes to debate. The gentlewoman is entirely correct. And just because it is only the NADBank that falls within the jurisdiction of the Banking Committee is no reason to limit this House from a fuller discussion. The Banking Committee can in fact go in with other committees and have that discussion. The gentlewoman was absolutely right: jobs have been lost, millions, because of NAFTA.

I live in San Diego, California, a community impacted by NAFTA. Did the community adjustment investment fund or NADBank do anything for our community? No. Is it going to do anything with the proposed reforms? I do not know. But I am very wary.

When NAFTA was passed, there was no infrastructure put in place to realize some of its benefits. For example, in San Diego, California, 3,000 trucks a day now cross the border from Mexico to the United States. There is no highway that takes those 3,000 trucks from the border crossing to the interstate highway system. I have been trying to get it built for the last 10 years. We have a city street that takes those trucks; it is one of the most dangerous roads in America. Has NADBank helped that? No. The environment which NADBank was limited to before these reforms, the maquiladoras which NAFTA brought to the border, hundreds of them, employing thousands of Mexican workers, do not have to abide by any of the environmental rules that we establish. So they end up dumping their toxic materials in the gullies and ravines in Mexico. You know where that ends up? I got 50 million gallons, now millions of gallons in the last few years of raw sewage floating through my district in the Tijuana River to the Pacific Ocean. In Imperial County to the east of San Diego, there are millions of gallons of raw sewage flowing through the New River, then the Alamo River, to the Salton Sea. Did NADBank take care of anything there? Nothing.

Those same maquiladoras brought Mexican workers to the border. What did it pay them? No increase in wages. In fact, wages fell. And do you know what happened when the folks who came to the Maquilas who thought they were going to get high wages and did not? What happened? Illegal immigration to America. Did NADBank do anything to help us with that? Nothing.

Two power plants have just opened up in Mexicali, Mexico, to service the needs of California, power needs. Did they have to follow the environmental rules of our community? No. Can the border patrol stop air pollution? No. Did NADBank help us solve any of that? No.

I agree that the folks who have worked on this, this is a step forward. I do not have any doubts about that. The lower-than-market interest rates which prevented really any loans from being made is absolutely necessary. The expansion of the definition of what projects would be accepted is obviously a very important step forward. But there is a backwards step that you ought to have maybe said something about in your legislation.

As I understand it, the Border Environmental Cooperation Commission, the board of that and the board of NADBank are being merged. BECC was one of the few places where you had any community input, and now we are not going to have any. San Diego and Tijuana had virtually no input. Mexicali and Calexico in Imperial County had no input. El Paso, no input. Brownsville, no input. Where is the community input for the reform bank that you are putting in? We at the border communities, and I will tell you even more the inland communities, if I may say so, need to have input into what is going on with the NADBank. It is not serving our communities. I do not see any step forward that will change that.

Mr. Speaker, the Secretary of Treasury when I asked him a few years ago, and this was in a previous administration, how was NADBank doing, he had no idea. It has been put in a corner somewhere because of an attempt to get a few votes for NAFTA. It was set up to do nothing, and it fulfilled those expectations. I do not see any reforms really that will make NADBank work for America and American workers. I thank the gentlewoman for allowing us to have this debate.

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

Many of the shortcomings that both my dear friends from Ohio and California have pointed out are actually remedied by this bill. The answer is before us. Is it a complete answer? We never have a complete answer in any one piece of legislation; but this is definitely a start, and it is a meaningful one. My colleague from California poses the question, Where is the input? The input is in H.R. 254 because we as Members of the House of Representatives will finally have a voice. It will not simply be Treasury in the executive branch determining the parameters and the programs and the activities of NADBank. We will finally have something to say about it, so that my colleague from Ohio and my colleague from California will have a voice. That is what this piece of legislation is all about.

If someone sees this as an opportunity to relegislate NAFTA, I cannot do anything about that; but that is not what it does. It does not attempt to do that in any shape or form. But this is the answer that those that speak today in opposition are seeking. We all are in agreement. If this bill does not pass, it is only the House of Representatives that remains irrelevant to NAFTA and to the NADBank. That will be the end result.

I ask again, please consider this piece of legislation carefully, understand its merits, and you will vote for it. I ask each and every one of my colleagues to join us, all of us along the border, all of us from the border States that are so heavily impacted, to do something about the consequences of NAFTA but in a positive and constructive manner.

Mr. BEREUTER. Mr. Speaker, will the gentleman yield?

Mr. GONZALEZ. I yield to the gentleman from Nebraska.

Mr. BEREUTER. I thank the gentleman for yielding. I just wanted to assure the gentlewoman from Ohio, there is nothing that deauthorizes a program in our legislation and nothing that specifically authorizes additional funds. And to the gentleman from California, this legislation does not merge the two entities that concerns him.

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

Mrs. BIGGERT. Mr. Speaker, may I inquire how much time remains for the majority and the party in opposition.

The SPEAKER pro tempore (Mr. FLAKE). The gentlewoman from Illinois (Mrs. BIGGERT) has 3½ minutes remaining and the gentlewoman from Ohio (Ms. KAPTUR) has 3 minutes remaining.

Mrs. BIGGERT. Mr. Speaker, I yield 1½ minutes to the gentleman from California (Mr. ROYCE).

Mr. ROYCE. I thank the gentlewoman for yielding me this time.

Mr. Speaker, this is a well-crafted bill that helps the North American Development Bank to accomplish its stated goal of improving the wastewater treatment, solid waste management and potable water supply in America's Mexico border region more efficiently. In California over the last 2 decades, the population has grown by more than 30 percent while the water supply has increased by only 2 percent. But as California's thirst for water increases, the number of available sources for drinking water is shrinking. This is why I support the North American Development Bank's mission of providing clean and safe water to all of America's southern border areas, particularly to the already overtaxed southern California area.

I was able to contribute to this legislation by adding a provision that directs the North American Development Bank's support for qualified water conservation projects in southern California which will help to reduce the overall burden on a State whose water resources are already stretched dangerously thin. California currently leads the country in desalination, conjunctive use, recycling and water conservation efforts so the money invested in our part of the country gets an excellent return on investment.

I urge support for this broad, nonpartisan initiative to recognize that qualified water conservation and supply projects are important to southern California and deserve the support of the North American Development Bank.

Ms. KAPTUR. Mr. Speaker, I yield 30 seconds to the distinguished gentleman from California (Mr. FILNER), who is such an expert on this.

Mr. FILNER. I thank the gentlewoman for yielding time.

Mr. Speaker, just quickly, the fact that this legislation does not say anything about the merged boards of BECC and NADBank, you could have said something about it. Just because you did not, do not criticize the fact that this is a backwards step. If you want to move forward, then change that, too. And we need to have the support of the Chair and those who are supporting this bill for some money for the community adjustment investment fund. It has been zeroed out by the administration.

So, yes, there are some reforms here. The question is how much money are we going to give it and how much community input are we going to allow. A report to Congress on a yearly basis does not allow the community input that this board needs.

Ms. KAPTUR. Mr. Speaker, I yield myself such time as I may consume.

I thank my colleagues, particularly those along the border, for engaging in this debate today. I would just like to place on the RECORD information from the Community Adjustment and Investment Program headed in San Antonio, Texas, from NADBank that says Congress has zeroed out future funding for the Community Adjustment and Investment Program. The Bush budget contains no money, no appropriated dollars for the program to help in the nonborder areas of the United States.

I would beg my colleagues who are supporting this, please look beyond just the border and even for the border, recognize who is making the pollution and who should pay for it. But please do not disenfranchise communities across our country that are losing jobs.

I will end with this story. One of the companies that has just left my district in Sandusky, Ohio, Dixon Ticonderoga, one of the workers just committed suicide. The head of that company called me and said, Congresswoman, we're going to leave you a building, an empty hulk. I said, well, sir, all I've got is NADBank. So I called NADBank about 2 weeks ago and I said, they're leaving us an empty hulk. What can we do with a loan or grant program to create something, some type of economic activity inside that building? And the answer was, We have no funds. So we are talking here about only one square on a very large board.

I urge my colleagues to please withdraw this bill today. Let us work together and put language in there that helps all of the United States and all of North America, all of North America that has been so badly harmed by NAFTA, including agricultural adjustment provisions, so that no Mexican worker will die in this country because there is not a labor registration system across this continent that gives them the dignity of a work card where they cannot be bonded and sold by those coyotes all across this continent. There are huge problems that NADBank could be the vehicle to solve. Please vote ''no,'' or withdraw this bill today in order that we bring something back to this Congress that can help us perfect an agreement that is badly flawed.

Mrs. BIGGERT. Mr. Speaker, I yield 1½ minutes to the gentleman from California (Mr. OSE), another member of the Committee on Financial Services.

Mr. OSE. I thank the gentlewoman for yielding me this time, and I rise in support of the bill. In California, as in many of the other border States, we are working with our friends to the south to try and address many things. One of the things in this bill that I was so pleased to be part of with the gentleman from Texas (Mr. GONZALEZ), the gentleman from Texas (Mr. HINOJOSA), and the gentleman from Nebraska (Mr. BEREUTER) was trying to give some direction to NADBank about expanding the things that they could invest in.

Specifically, we have a problem in California where discharge of wastewater and the like from some of the facilities south of the border flows into the Pacific Ocean, then by virtue of currents and tides goes north on the beach and eventually gets to the point where it spoils our beaches. There are many in this body who would argue that we need to delay and defer and not take action on this. However, frankly, one of our greatest assets in California is our beaches. It is my intention, and I am grateful for the support from other parts of the country, to try and do something to frankly address the issue of pollution hitting the beach in California. The language that we proposed and that my colleagues supported and that is now in the bill directs the NADBank to take this issue seriously and to address it when considering future projects.

Secondly, my friend, the gentleman from California (Mr. ROYCE), talked about water issues being a key element for California's success. The provision that he has placed in the bill directs NADBank to incorporate water development issues in their deliberations. I am pleased by that because, as he said, we have had population growth there of around 30 percent, but water supply growth of only about 2. I ask support of the bill.

□ 1430

Mrs. BIGGERT. Mr. Speaker, I urge my colleagues to support these changes to the NADBank and join me in voting to approve H.R. 254.

Mr. ORTIZ. Mr. Speaker, I rise to offer some context for our debate today surrounding the NADBank as it relates to my district in South Texas.

I support NADBank and believe it is an important part of border development, particularly the small rural communities like San Benito and La Feria in South Texas. Hopefully, NADBank will continue to work with these municipalities to maximize their infrastructure.

But NADBank's recent decision to offer grants and resources in terms that are twice as favorable to Mexico, over injured South Texas farmers, is very troubling to me. Very briefly, it was Mexico's non-compliance—for over a decade—with a 1944 treaty that apportions the waters of the Rio Grande that bankrupted hundreds of South Texas farmers and precipitated the need for NADBank to offer assistance—however late—to those injured by Mexico's action.

Here's what has troubled me about this; there are 2 primary reasons:

First, NADBank is offering up to 50 percent of the cost of irrigation projects to South Texas farmers in grants and the balance in low-interest loans, while making the same assistance available to Mexican agricultural interests at 100 percent grants. Since the actions of Mexico were the instigation of the injury to South Texas farmers, it is galling that NADBank is giving Mexican farmers 100 percent of the cost of their projects in grant funding, while South Texans are getting half that.

Secondly, the entire reason NADBank has a package offering relief to farmers for irrigation needs is the enormous, permanent injury to

South Texas farmers directly due to Mexico's violation of the 1944 treaty. I have been perplexed as to the reason that all four border states have access to the relief package. If the injury was to South Texas farmers, then that is who should be the target of the relief.

Of note, this bill does recognize several important things for the first time: Mexico is in default of the 1944 Water Treaty; Mexico has accumulated 1.5 million acre feet of water debt to the U.S.; and the NADBank Board should support projects in the lower Rio Grande Valley.

While NADBank is an important part of border development, the decision to give South Texas farmers—injured by Mexico's deliberate action—half what they are offering to Mexican farmers is a step in the wrong direction. Part of the problem with this policy is that it was formulated in Washington and dictated to San Antonio by officials in the Departments of Treasury, State, and the Environmental Protection Agency. When Washington dictates decisions to states and local governments without their input, those decisions are more likely to inspire anger and resentment than gratitude.

I ask my colleagues to remember this action and to encourage NADBank to re-think the wisdom of how they are distributing funds under this program.

Mr. REYES. Mr. Speaker, I am proud to join my colleagues in support of H.R. 254, which will amend the law that established the North American Development Bank. The needs along the U.S.-Mexico border are ever increasing. Population growth is rapid, estimated at more than 100 percent in the next 20 years. Today about 11 to 12 million people live along the border. By 2020, 22 million people will reside in the region. On the U.S. side of the border, the per capita income is 79 percent of the national average. Four of the ten poorest counties in the United States are along the U.S.-Mexico border.

In October of 1993, the United States and Mexico agreed to a new institutional structure to promote border environmental cleanup. The North American Free Trade Agreement (NAFTA) authorized the establishment of the North American Development Bank (NADBank) and the Border Environment Cooperation Commission (BECC) which work jointly to address some of the many environmental problems caused by free trade between Mexico and the United States. The primary focus of these two organizations has been to address the water and waste water needs of communities in the border region. And appropriately so: it is estimated that $8 billion would be required to address needs for sewage treatment, drinking water, and municipal solid waste infrastructure projects along the border over the next decade. The BECC is directed to help border states and communities coordinate and design environmental infrastructure projects, and to certify projects for financing, while the NADBank evaluates the financial feasibility of projects certified by the BECC and provides financing as appropriate.

Despite the creation of the NADBank to provide loans to finance border environmental infrastructure projects, grants from the Environmental Protection Agency (EPA) have accounted for the vast majority of funding provided through the NADBank thus far.

As I expressed to the House Financial Services Committee last May, the financing provided by NADBank is often at too high of an interest rate to be affordable by many impoverished communities. I am pleased that enough of my colleagues recognized this problem, which led to the introduction of this legislation in the 107th Congress and its reintroduction this year.

This bill will allow for the NADBank to come closer towards reaching its full potential by allowing for non-market rate loans and grants to be made towards water and waste management infrastructure.

In order to expand the capacity of both institutions to address important binational environmental needs, this bill will expand the geographic scope for BECC and NADBank operations in Mexico from 100 kilometers to 300 km from the border. The geographic limit in the United States will remain unchanged at 100 km from the border. There is no doubt that the area encompassed within 100 km from the border is the area with the most dire needs. However, infusing additional funds within 300 km of the border on the Mexican side makes sense in helping build infrastructure and expanding the economy on Mexico's northern border. Assisting Mexico with infrastructure development needs in its northern border region will eventually relieve some of the pressure on the U.S. side of the border by providing opportunities for Mexican residents in Mexico.

The welcome changes this bill brings to the NADBank are a first step towards expanding the NADBank's role in financing infrastructure improvements along the U.S.-Mexico Border. In the future, I hope that the NADBank will be further authorized to finance any public infrastructure need along the border that can not be financed by conventional means. For example, in addition to needing water and sewage infrastructure, colonias are in desperate need of paved roads and a reliable energy supply. These communities suffer from a host of dire living conditions which should not be tolerated in our country.

I would like to thank my colleagues in the House Financial Services Committee for their work in moving this important piece of legislation to the floor so quickly in this Congress and look forward to working with them in the future to bring additional needed assistance to the U.S.-Mexico border region. I urge all my colleagues to vote in favor of H.R. 254.

Mr. OXLEY. Mr. Speaker, I rise today in support of H.R. 254, an important piece of legislation which makes changes to the operation of the North American Development Bank. These changes were negotiated by the United States and Mexico after President Bush and Mexican President Fox met to discuss ways to improve border conditions between our countries. The NADBank has been in operation for nearly 10 years, and is equally capitalized by both the U.S. and Mexico. However, in this time period the NADBank has made only a few loans while having over $450 million in paid-in capital and a total lending capacity of $2.7 billion.

I would like to commend my colleague, Mr. BEREUTER, for crafting this bill with input from both sides of the aisle and from Members representing each of the Border States. H.R. 254 contains the key changes requested by the Administration which will result in more NADBank programs without any increased costs to the taxpayers. The changes will allow the NADBank to finance projects further into Mexico from the U.S. border and will permit below-market rate loans and grants to be used for projects on either side of the border. Additionally, the bill contains a requirement for the Treasury Department to report annually to Congress on the operations and disbursements of the NADBank. Several sections express the sense of Congress as to what types of projects the NADBank should pursue. These include water conservation, coastal conservation and air pollution projects. This bill is identical to H.R. 5400 which was approved by the House in the 107th Congress.

The NADBank is an important tool for financing environmental infrastructure projects on the border between the U.S. and Mexico. The changes we consider today will increase the ability of the NADBank to fulfill its mission and improve the environmental conditions along the border region while making it a stronger and more effective institution.

It is critical that the U.S. and Mexico work in close cooperation to improve environmental conditions along the border region. This institution and the changes we consider today will do just that. This bill has been requested by the President, negotiated by the Administration, and approved by voice vote in the Financial Services Committee. I strongly urge my colleagues to support these changes to the NADBank and join me in voting to approve H.R. 524.

Mr. BONILLA. Mr. Speaker, I rise in support of H.R. 254. This legislation will reauthorize the North American Development Bank (NADBank) and allow NADBank to make grants and loans to improve water supplies and the environment along the border at more flexible rates. As I travel my district, which includes approximately 800 miles of the U.S-Mexico border, I am repeatedly reminded of the tremendous need for potable water, wastewater treatment, and municipal solid waste management.

Many towns in my district have directly benefitted from the investment brought by NADBank over the years. In Del Rio, the construction of a potable water treatment plant, the replacement of water pumping facilities and a potable water ground storage tank was recently completed with the help of NADBank financing. In Eagle Pass, NADBank is currently financing the replacement of two water treatment plants and the construction of a new wastewater treatment plant. Thanks to NADBank investment, water distribution lines and wastewater collection lines will be installed and water storage facilities built to serve 15 colonias surrounding Laredo in the near future. Uvalde recently benefitted from NADBank financing of landfill expansion and equipment purchases for efficient operation.

Many of these important projects would not have been possible were it not for NADBank investment. Thanks to this investment, environmental conditions and living standards along the border have been dramatically improved.

I urge the House to pass this legislation so that these communities and other like them may continue to reap the benefits of NADBank investment.

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

The SPEAKER pro tempore (Mr. FLAKE). The question is on the motion

offered by the gentlewoman from Illinois (Mrs. BIGGERT) that the House suspend the rules and pass the bill, H.R. 254.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

AMERICAN 5-CENT COIN DESIGN CONTINUITY ACT OF 2003

Mrs. BIGGERT. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 258) to ensure continuity for the design of the 5-cent coin, establish the Citizens Coinage Advisory Committee, and for other purposes, as amended.

The Clerk read as follows:

H.R. 258

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 5-Cent Coin Design Continuity Act of 2003''.

TITLE I—U.S. 5-CENT COIN DESIGN CONTINUITY

SEC. 101. DESIGNS ON THE 5-CENT COIN.

(a) IN GENERAL.—Subject to subsection (b) and after consulting with the Citizens Coinage Advisory Committee and the Commission of Fine Arts, the Secretary of the Treasury may change the design on the obverse and the reverse of the 5-cent coin for coins issued in 2003, 2004, and 2005 in recognition of the bicentennial of the Louisiana Purchase and the expedition of Meriwether Lewis and William Clark.

(b) DESIGN SPECIFICATIONS.—

(1) OBVERSE.—If the Secretary of the Treasury elects to change the obverse of 5-cent coins issued during 2003, 2004, and 2005, the design shall depict a likeness of President Thomas Jefferson, different from the likeness that appeared on the obverse of the 5-cent coins issued during 2002, in recognition of his role with respect to the Louisiana Purchase and the commissioning of the Lewis and Clark expedition.

(2) REVERSE.—If the Secretary of the Treasury elects to change the reverse of the 5-cent coins issued during 2003, 2004, and 2005, the design selected shall depict images that are emblematic of the Louisiana Purchase or the expedition of Meriwether Lewis and William Clark.

(3) OTHER INSCRIPTIONS.—5-cent coins issued during 2003, 2004, and 2005 shall continue to meet all other requirements for inscriptions and designations applicable to circulating coins under section 5112(d)(1) of title 31, United States Code.

SEC. 102. DESIGNS ON THE 5-CENT COIN SUBSEQUENT TO THE RECOGNITION OF THE BICENTENNIAL OF THE LOUISIANA PURCHASE AND THE LEWIS AND CLARK EXPEDITION.

(a) IN GENERAL.—Section 5112(d)(1) of title 31, United States Code, is amended by inserting after the 4th sentence the following new sentence: ''Subject to other provisions of this subsection, the obverse of any 5-cent coin issued after December 31, 2005, shall bear the likeness of Thomas Jefferson and the reverse of any such 5-cent coin shall bear an image of the home of Thomas Jefferson at Monticello.''.

(b) DESIGN CONSULTATION.— The 2d sentence of section 5112(d)(2) of title 31, United States Code, is amended by inserting '', after consulting with the Citizens Coinage Advisory Committee and the Commission of Fine Arts,'' after ''The Secretary may''.

SEC. 103. CITIZENS COINAGE ADVISORY COMMITTEE.

(a) IN GENERAL.—Section 5135 of title 31, United States Code, is amended to read as follows:

''§ 5135. Citizens Coinage Advisory Committee

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—There is hereby established the Citizens Coinage Advisory Committee (in this section referred to as the 'Advisory Committee') to advise the Secretary of the Treasury on the selection of themes and designs for coins.

''(2) OVERSIGHT OF ADVISORY COMMITTEE.—The Advisory Committee shall be subject to the authority of the Secretary of the Treasury (hereafter in this section referred to as the 'Secretary').

''(b) MEMBERSHIP.—

''(1) APPOINTMENT.—The Advisory Committee shall consist of 11 members appointed by the Secretary as follows:

''(A) 7 persons appointed by the Secretary—

''(i) 1 of whom shall be appointed from among individuals who are specially qualified to serve on the Advisory Committee by virtue of their education, training, or experience as a nationally or internationally recognized curator in the United States of a numismatic collection;

''(ii) 1 of whom shall be appointed from among individuals who are specially qualified to serve on the Advisory Committee by virtue of their experience in the medallic arts or sculpture;

''(iii) 1 of whom shall be appointed from among individuals who are specially qualified to serve on the Advisory Committee by virtue of their education, training, or experience in American history;

''(iv) 1 of whom shall be appointed from among individuals who are specially qualified to serve on the Advisory Committee by virtue of their education, training, or experience in numismatics; and

''(v) 3 of whom shall be appointed from among individuals who can represent the interests of the general public in the coinage of the United States.

''(B) 4 persons appointed by the Secretary on the basis of the recommendations of the following officials who shall make the selection for such recommendation from among citizens who are specially qualified to serve on the Advisory Committee by virtue of their education, training, or experience:

''(i) 1 person recommended by the Speaker of the House of Representatives.

''(ii) 1 person recommended by the minority leader of the House of Representatives.

''(iii) 1 person recommended by the majority leader of the Senate.

''(iv) 1 person recommended by the minority leader of the Senate.

''(2) TERMS.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), members of the Advisory Committee shall be appointed for a term of 4 years.

''(B) TERMS OF INITIAL APPOINTEES.—As designated by the Secretary at the time of appointment, of the members first appointed—

''(i) 4 of the members appointed under paragraph (1)(A) shall be appointed for a term of 4 years;

''(ii) the 4 members appointed under paragraph (1)(B) shall be appointed for a term of 3 years; and

''(ii) 3 of the members appointed under paragraph (1)(A) shall be appointed for a term of 2 years.

''(3) PRESERVATION OF PUBLIC ADVISORY STATUS.—No individual may be appointed to the Advisory Committee while serving as an officer or employee of the Federal Government.

''(4) CONTINUATION OF SERVICE.—Each appointed member may continue to serve for up to 6 months after the expiration of the term of office to which such member was appointed until a successor has been appointed.

''(5) VACANCY AND REMOVAL.—

''(A) IN GENERAL.—Any vacancy on the Advisory Committee shall be filled in the manner in which the original appointment was made.

''(B) REMOVAL.—Advisory Committee members shall serve at the discretion of the Secretary and may be removed at any time for good cause.

''(6) CHAIRPERSON.—The Chairperson of the Advisory Committee shall be appointed for a term of 1 year by the Secretary from among the members of the Advisory Committee.

''(7) PAY AND EXPENSES.—Members of the Advisory Committee shall serve without pay for such service but each member of the Advisory Committee shall be reimbursed from the United States Mint Public Enterprise Fund for travel, lodging, meals, and incidental expenses incurred in connection with attendance of such members at meetings of the Advisory Committee in the same amounts and under the same conditions as employees of the United States Mint who engage in official travel, as determined by the Secretary.

''(8) MEETINGS.—

''(A) IN GENERAL.—The Advisory Committee shall meet at the call of the Secretary, the chairperson, or a majority of the members, but not less frequently than twice annually.

''(B) OPEN MEETINGS.—Each meeting of the Advisory Committee shall be open to the public.

''(C) PRIOR NOTICE OF MEETINGS.—Timely notice of each meeting of the Advisory Committee shall be published in the Federal Register, and timely notice of each meeting shall be made to trade publications and publications of general circulation.

''(9) QUORUM.—7 members of the Advisory Committee shall constitute a quorum.

''(c) DUTIES OF THE ADVISORY COMMITTEE.—The duties of the Advisory Committee are as follows:

''(1) Advising the Secretary of the Treasury on any theme or design proposals relating to circulating coinage, bullion coinage, congressional gold medals and national and other medals produced by the Secretary of the Treasury in accordance with section 5111 of title 31, United States Code.

''(2) Advising the Secretary of the Treasury with regard to—

''(A) the events, persons, or places that the Advisory Committee recommends be commemorated by the issuance of commemorative coins in each of the 5 calendar years succeeding the year in which a commemorative coin designation is made;

''(B) the mintage level for any commemorative coin recommended under subparagraph (A); and

''(C) the proposed designs for commemorative coins.

''(d) EXPENSES.—The expenses of the Advisory Committee that the Secretary of the Treasury determines to be reasonable and appropriate shall be paid by the Secretary from the United States Mint Public Enterprise Fund.

''(e) ADMINISTRATIVE SUPPORT, TECHNICAL SERVICES, AND ADVICE.—Upon the request of the Advisory Committee, or as necessary for the Advisory Committee to carry out the responsibilities of the Advisory Committee under this section, the Director of the

United States Mint shall provide to the Advisory Committee the administrative support, technical services, and advice that the Secretary of the Treasury determines to be reasonable and appropriate.

''(f) CONSULTATION AUTHORITY.—In carrying out the duties of the Advisory Committee under this section, the Advisory Committee may consult with the Commission of Fine Arts.

''(g) ANNUAL REPORT.—

''(1) REQUIRED.—Not later than September 30 of each year, the Advisory Committee shall submit a report to the Secretary, the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate. Should circumstances arise in which the Advisory Committee cannot meet the September 30 deadline in any year, the Secretary shall advise the Chairpersons of the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate of the reasons for such delay and the date on which the submission of the report is anticipated.

''(2) CONTENTS.—The report required by paragraph (1) shall describe the activities of the Advisory Committee during the preceding year and the reports and recommendations made by the Advisory Committee to the Secretary of the Treasury.

''(h) FEDERAL ADVISORY COMMITTEE ACT DOES NOT APPLY.—Subject to the requirements of subsection (b)(8), the Federal Advisory Committee Act shall not apply with respect to the Committee.''.

(b) ABOLISHMENT OF CITIZENS COMMEMORATIVE COIN ADVISORY COMMITTEE.—Effective on the date of the enactment of this Act, the Citizens Commemorative Coin Advisory Committee (established by section 5135 of title 31, United States Code, as in effect before the amendment made by subsection (a)) is hereby abolished.

(c) CONTINUITY OF MEMBERS OF CITIZENS COMMEMORATIVE COIN ADVISORY COMMITTEE.—Subject to paragraphs (1) and (2) of section 5135(b) of title 31, United States Code, any person who is a member of the Citizens Commemorative Coin Advisory Committee on the date of the enactment of this Act, other than the member of such committee who is appointed from among the officers or employees of the United States Mint, may continue to serve the remainder of the term to which such member was appointed as a member of the Citizens Coinage Advisory Committee in one of the positions as determined by the Secretary.

(d) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 5112(l)(4)(A)(ii) of title 31, United States Code, is amended by striking ''Citizens Commemorative Coin Advisory Committee'' and inserting ''Citizens Coinage Advisory Committee''.

(2) Section 5134(c) of title 31, United States Code, is amended—

(A) by striking paragraph (4); and

(B) by redesignating paragraph (5) as paragraph (4).

TITLE II—TECHNICAL AND CLARIFYING PROVISIONS

SEC. 201. CLARIFICATION OF EXISTING LAW.

(a) IN GENERAL.—Section 5134(f)(1) of title 31, United States Code, is amended to read as follows:

''(1) PAYMENT OF SURCHARGES.—

''(A) IN GENERAL.—Notwithstanding any other provision of law, no amount derived from the proceeds of any surcharge imposed on the sale of any numismatic item shall be paid from the fund to any designated recipient organization unless—

''(i) all numismatic operation and program costs allocable to the program under which such numismatic item is produced and sold have been recovered; and

''(ii) the designated recipient organization submits an audited financial statement that demonstrates, to the satisfaction of the Secretary, that, with respect to all projects or purposes for which the proceeds of such surcharge may be used, the organization has raised funds from private sources for such projects and purposes in an amount that is equal to or greater than the total amount of the proceeds of such surcharge derived from the sale of such numismatic item.

''(B) UNPAID AMOUNTS.—If any amount derived from the proceeds of any surcharge imposed on the sale of any numismatic item that may otherwise be paid from the fund, under any provision of law relating to such numismatic item, to any designated recipient organization remains unpaid to such organization solely by reason of the matching fund requirement contained in subparagraph (A)(ii) after the end of the 2-year period beginning on the later of—

''(i) the last day any such numismatic item is issued by the Secretary; or

''(ii) the date of the enactment of the American 5-Cent Coin Design Continuity Act of 2003,

such unpaid amount shall be deposited in the Treasury as miscellaneous receipts.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply as of the date of the enactment of Public Law 104–208.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Illinois (Mrs. BIGGERT) and the gentlewoman from New York (Mrs. MALONEY) each will control 20 minutes.

The Chair recognizes the gentlewoman from Illinois (Mrs. BIGGERT).

GENERAL LEAVE

Mrs. BIGGERT. Mr. 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 on the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Illinois?

There was no objection.

Mrs. BIGGERT. Mr. Speaker, I rise in support today of H.R. 258.

Mr. Speaker, I yield such time as he may consume to the gentleman from Virginia (Mr. CANTOR), the sponsor of this bill.

Mr. CANTOR. Mr. Speaker, I thank the gentlewoman for yielding me this time.

Mr. Speaker, I rise today to speak in favor of the American 5–Cent Coin Design Continuity Act which is almost identical to H.R. 4903 that passed the House unanimously on July 22, 2002. This legislation will allow the U.S. Mint to remove Monticello from the nickel for the next 3 years to recognize the Louisiana Purchase and historic Lewis and Clark expedition, two great accomplishments of Jefferson's Presidency. After 3 years Monticello, the Virginia home of President Thomas Jefferson, will be returned to the reverse side of the nickel. Additionally, the bill would establish a Citizens Coin Design Advisory Committee that reports directly to the Secretary of the Treasury. The purpose of the committee would be to advise the Secretary on the design or redesign of coins and medals, providing a broad range of input from professional and citizen representatives. I believe that the Treasury Secretary needs a second independent opinion on proposals to redesign circulating coinage and on other mint products, and this committee will provide that opinion.

Finally, Mr. Speaker, this bill will clarify congressional intent regarding the disbursement of surcharges raised through the sale of Mint-produced commemorative coins. Mr. Speaker, this bill represents the bipartisan work of the entire Virginia delegation. I want to thank them because it will result in honoring the courageous Lewis and Clark expedition and its benefactor, Thomas Jefferson. I urge my colleagues to support H.R. 258 today.

Mr. Speaker, I rise today to speak in favor of the American 5-Cent Coin Design Continuity Act (H.R. 258), which is almost identical to H.R. 4903 that passed the House unanimously on July 22, 2002.

This legislation will allow the U.S. Mint to remove Monticello from the nickel for the next 3 years to recognize the Louisiana purchase and historic Lewis and Clark expedition, two great accomplishments of Jefferson's presidency. After 3 years Monticello, the Virginia home of Thomas Jefferson, will be returned to the reverse side of the nickel.

Additionally, H.R. 258 would establish a Citizens Coin Design Advisory Committee that reports directly to the Secretary of the Treasury. The purpose of the committee would be to advise the Secretary on the design or redesign of coins and medals, providing a broad range of input from professional and citizen representatives. I believe the Treasury Secretary needs a second, independent, opinion on proposals to redesign circulating coinage, and on other Mint products and this committee will provide that opinion.

Finally, H.R. 258 will clarify Congressional intent regarding the disbursement of surcharges raised through the sale of Mint-produced commemorative coins.

This correction will allow the University of Virginia and several other organizations access to funds from pre-existing commemorative coins at no cost to the American taxpayer.

I originally introduced this legislation after representatives from the mint came to my office last summer and informed me that the image of Thomas Jefferson's Monticello would be removed from the reverse of the nickel and would be replaced by a questionable image to recognize the 200th anniversary of the Lewis and Clark expedition. Although I fully support celebrating the great achievements of the Corps of Discovery, I was surprised by the way the Mint made its decision on this issue.

The Treasury Department has the authority to change the nickel once every 25 years, and this new design was presented as the replacement for Monticello. I learned from the Mint representatives that this new design was chosen internally without input from the American people or Congress. Even more disturbing, I also learned the Mint planned to announce its redesign shortly after our meeting.

I was concerned about the Mint's plan because Jefferson's beloved Monticello represents so much to the people of the Commonwealth of Virginia and to all Americans,

But, I also feared that the new design being proposed was reminiscent of the Sacagawea experience that has been extremely unpopular with the American public.

Monticello is the autobiographical masterpiece of Thomas Jefferson or as he called it, his ''essay in architecture'' and is recognized as an international treasure. It is the only home in America on the World Heritage List of sites that must be protected at all costs. At his beloved Monticello, Jefferson assumed his place in history as one of the greatest public servants of all time, shaping, debating, and honing his beliefs in liberty, democracy, and equality for all.

H.R. 258 authorized the Mint to implement a four-year plan that will change the design on the reverse side of the nickel for 2003, 2004, and 2005 in order to recognize the 200th anniversary of the Louisiana Purchase and the Lewis and Clark expedition. In 2006, Monticello will return to the reverse of the nickel and this coin will become the new circulating 5 cent piece.

Additionally, so that we don't experience another Sacagwea type failure, my bill provides a mechanism to ensure public input is considered during the redesign of our coinage.

The bill creates an independent Coin Design Advisory Committee which will make recommendations to the Secretary of the Treasury as to the appropriate designs for the Lewis and Clark series and all future coin redesigns.

I emphasize the word independent. Mr. Speaker, this panel is not intended to merely ratify proposals, but is intended to be able to speak with its own voice.

It will review all designs or redesigns of circulating and commemorative coins and of Congressional Gold Medals ideas that the Mint puts forward. This committee will be made up of a coin collector, an internationally recognized coin museum curator, an expert in American history, and either a sculptor or a medallic artist—all appointed by the Treasury Secretary—as well as four persons named by the leadership in the House and Senate. It will be able to provide the Secretary with a broad range of expertise and input to ensure that any redesign of circulating coinage, as well as the designs for commemorative coins and Congressional Gold Medals, be artistically appropriate and consistent with broad American themes and values.

Finally, Mr. Speaker, unlike a predecessor design review panel that reported to the Mint and considered only commemorative coin designs, this panel will meet in public.

Additionally, Title II of my legislation clarifies language in the Commemorative Coin Reform Act of 1995 regarding the distribution of surcharge money raised by this sale of commemorative coins. That legislation specified that no surcharges were to be paid out until taxpayers had been repaid for the cost of the program, reforming a commemorative coins program that had cost taxpayers tens of millions of dollars in the past.

After taxpayer costs were recovered, it specified that beneficiary organizations enumerated in the enabling legislation can benefit from these surcharges.

H.R. 258 clarifies the intent of the specified disbursement procedure. Two programs have not received any surcharge disbursement despite having raised substantial private funds: the Black Revolutionary War Patriots coin program and the Leif Ericson coin program.

The University of Virginia will benefit from this change and be able to fund a student exchange program with Iceland, that will help foster Jeffersonian ideals between these two long standing democracies.

Mr. Speaker, this bill represents the bipartisan work of the entire Virginia delegation and will result in honoring the courageous Lewis and Clark expedition and its benefactor, Thomas Jefferson. I urge my colleagues to support H.R. 258 today.

Mrs. MALONEY. Mr. Speaker, I yield myself as much time as I may consume.

I rise in support of legislation that will preserve Monticello on the United States nickel. All Americans are familiar with the role Thomas Jefferson played in our Nation's founding. Jefferson was the third President of the United States, author of the Declaration of Independence, and the founder of the University of Virginia. Thomas Jefferson's beautiful home, Monticello, was where one of America's foremost thinkers produced many of his finest writings and great work. Monticello still stands outside of Charlottesville, Virginia, and it is appropriate that we preserve its place in our national heritage upon our national coinage.

This year marks the 200th year celebration of the Louisiana Purchase and the voyage of Lewis and Clark into the western frontier. In an effort to recognize this important journey, the United States Mint has proposed celebrating this anniversary by commemorating the voyage and discoveries of Lewis and Clark on the nickel. The intent of the legislation we are considering today is to allow this anniversary to be celebrated while mandating that Monticello will return to the nickel after the celebration of Lewis and Clark.

The gentleman from Virginia (Mr. CANTOR), whose district contains Monticello, has put forth a plan to allow the U.S. Mint to commemorate the journey of Lewis and Clark on the nickel for 3 years, after which the nickel will revert to the Monticello portrait in 2006.

The likeness of Thomas Jefferson and Monticello is a fixture on our national coinage. This legislation ensures that the memory and importance we hold for the author of our Declaration of Independence will be preserved while we celebrate the achievements of Lewis and Clark. Additionally, title II of this legislation makes technical changes to the Commemorative Coin Reform Act enacted in 1995. These changes are intended to make coin programs operate more smoothly.

I thank the gentleman from Virginia (Mr. CANTOR) for his leadership on this bill. I know he has worked with the Mint and Treasury to resolve the issues that were raised, and I urge my colleagues to support this legislation.

Mr. Speaker, I reserve the balance of my time.

Mrs. BIGGERT. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia (Mr. GOODE).

Mr. GOODE. Mr. Speaker, I too want to solute the Congressman from Virginia's Seventh District for crafting this bipartisan measure covering in a fine way the interest of all the stakeholders. The original Mint proposal was to remove both the current Thomas Jefferson and Monticello from the nickel. Needless to say, that proposal created an uproar in central Virginia, which is home to Thomas Jefferson and Monticello, the dwelling of our Nation's third President.

Under this proposal the nickel will feature scenes from the discovery of Lewis and Clark and the Louisiana Purchase. That journey of Lewis and Clark which left St. Louis in 1804 had its beginnings in Charlottesville on January 18, 1803, when Jefferson requested funding from Congress for the Lewis and Clark expedition. In 2006 the nickel will return to its original front of Thomas Jefferson and the reverse of Monticello in a design similar to that which has been in place since 1938. I hope it will be the pleasure of this body to overwhelmingly pass this measure and lay the foundation for its enaction this year

Mrs. MALONEY. Mr. Speaker, I yield 2 minutes to the gentleman from the great State of Washington (Mr. BAIRD) where Lewis and Clark reached their final destination.

Mr. BAIRD. Mr. Speaker, I thank the gentlewoman for yielding me this time, and I thank my good friend from the State of Virginia. It is appropriate that I follow him because, whereas the journey of Lewis and Clark began in his great district, it ended in mine, at least the first half of it. They went back home afterwards. But it is a great privilege and honor to represent the great State of Washington where Lewis and Clark, almost 200 years ago now, arrived at the coast, looked out across that ocean, hoping they would find a ship. They saw none, and they had to winter over across the river in the gentleman from Oregon's (Mr. WU) district.

But this commemoration is a chance not only to celebrate the accomplishments of Lewis and Clark but also the contributions of the Native Americans who helped them along their way to reinvigorate this Nation's spirit of adventure at a time when we sorely need it. By changing the nickel temporarily in this fashion, we can honor Lewis and Clark and also honor that great man, Thomas Jefferson, who sent them on the way.

I rise in strong support of this, thank my colleagues for their leadership on it, and hope the American people will find new inspiration when they use this nickel with the new design.

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

Mrs. BIGGERT. Mr. Speaker, I yield 1 minute to the gentleman from Nebraska (Mr. BEREUTER).

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

Mr. BEREUTER. Mr. Speaker, I rise in strong support of the legislation. I

am a co-chairman of the Lewis and Clark Caucus here in Congress. There is an equivalent effort in the Senate. We have been functioning for several years. The Members that have just spoken, from Virginia and Washington State, are certainly members of that. I think it is an outstanding item of legislation we have before us.

Just this January the celebration of the Corps of Exploration, which will continue through 2006, began at Monticello. I know the gentleman undoubtedly was very proud of that event, and now I think we will have many celebrations and commemorations for the next several years to celebrate the bicentennial of the Corps of Exploration. This gives additional attention to this dramatic involvement of American history, and I rise in support and ask the Members of the body to support it.

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

Mr. CASTLE. Mr. Speaker, I also rise in support of the legislation, for all the underlying reasons that we have here.

I would like to just mention one other aspect, and I will submit a statement in full with respect to this. But the commemorative coin reform language, which required the beneficiary organization to raise private funds matching the surcharge they receive, has been misinterpreted by the Mint in a well-intentioned but unfortunate mix-up that has resulted in two coin program beneficiaries not receiving any surcharge distribution despite their coins having sold respectable numbers and having raised respectable amounts of private matching funds. They interpret the legislation that one had to sell to the maximum amount; and we believe one should have to sell to the minimum amount, to make a long story short.

This is something which we think should be corrected for these groups and long term. We spent a lot of time working with the subcommittee when I headed it, trying to make sure that we did not lean on public funding for these programs, but groups could benefit from it as they made proper sales. To make a long story short, that is essentially what is included in this legislation along with the Lewis and Clark, and I will submit a fuller explanation.

Mr. Speaker, I would like to take a few minutes to explain why I believe Mr. CANTOR's ''American 5-Cent Coin Continuity Act'' is important.

When I served as chairman of the old House Banking Committee's Domestic and International Monetary Policy subcommittee from 1995–98, a central portion of the subcommittee's business dealing with the United States Mint focused on increasing the usefulness of circulating coins and on reforming the nation's commemorative coin program, which had begun to cost taxpayers fairly large sums of money.

When reform of the commemorative coin program, we eliminated the costs to the taxpayer, limited the number of coin programs each year to enhance their importance and desirability, and established the important principle that a group that is the beneficiary of the surcharges from the sale of commemorative coins should not view that as ''free money,'' but should have to raise marching funds from the private sector before receiving the surcharge money.

The second title of this bill clarifies the surcharge-distribution section of any commemorative-coin reform language. That language, requiring the beneficiary organization to raise private funds matching the surcharges they receive, has been misinterpreted by the Mint in a well-intentioned, but unfortunate mixup that has resulted in two coin program beneficiaries not receiving any surcharge distribution despite their coins having sold respectable numbers and having raised respectable amounts of private matching funds. Both the Black Revolutionary War Patriots program and the Leif Ericson program would likely be eligible for surcharge distribution. As before, this involves no taxpayer funds whatsoever.

To make sure there is no further confusion about how the matching is supposed to work, I want to take a moment to illustrate it with an example. In a case where the maximum possible surcharges that could be collected for the commemorative coin was $5 million, but the Mint only managed to sell enough coins to collect $3 million in surcharges, the private matching funds that would have to be raised to collect any portion of the $3 million in surcharges must be $3 million, nothing less. The intent is to set a high bar for matching funds so those programs with the most public support, as demonstrated through their ability to raise private matching funds, receive the surcharges. If the bar for matching funds were set too low, the commemorative coin program would be flooded with programs in search of ''free'' federal dollars.

Mr. Speaker, there is no cost involved in this bill at all. In fact, if our experience with the 50-state quarters is any guide, there may even be a modest gain to the Treasury, as some coins are taken out of circulation permanently as collectibles. So Mr. Speaker, I see this as one of the rare pieces of legislation we handle around here that has bipartisan support and for which there are no losers, only winners. I urge its immediate, unanimous passage.

Mr. GOODLATTE. Mr. Speaker, I am proud to be a cosponsor of this important legislation and am pleased to join the other members of the Virginia Delegation in supporting The American 5-Cent Coin Design Continuity Act of 2003.

The strong support this bill has received from the Virginia Delegation is evidence of how important this bill is to preserving important symbols of American History.

As you all know, the Nickel currently displays a likeness of Thomas Jefferson on its face in addition to view of Monticello, Jefferson's home, on the reverse.

Thomas Jefferson, author of the Declaration of Independence and the Fourth President of the United States, is one of eight great men who rose to become President from Virginia, and is a source of great pride for not only Virginians, but for all Americans.

H.R. 258 was introduced to commemorate the 200th Anniversary of the Lewis and Clark Expedition, commissioned by President Thomas Jefferson to explore the new territory acquired through the Louisiana Purchase.

Earlier this year I was honored to attend the Commencement Ceremony of the Lewis and Clark Bicentennial at Monticello, the home of Thomas Jefferson outside of Charlottesville, Virginia, where the expedition began in 1803.

From 2003 through 2006 our nation will observe the bicentennial of this incredible journey, this will also serve as the 200-year anniversary as the complete nation Jefferson envisioned.

H.R. 258 would authorize the Secretary of the Treasury to redesign the Nickel over a four-year period to commemorate the Louisiana Purchase and the Lewis and Clark Expedition. At the end of this period the nickel would revert to being a permanent tribute to Thomas Jefferson and Monticello, which are of invaluable historical importance to our great nation.

A similar bill was passed in the 107th Congress by the House on July 22, 2002. The bill was referred to the Senate where unfortunately no action was taken during the 107th Congress.

I urge all members to support this important piece of legislation that not only commemorates two brave explorers, but also ensures that a great symbol of American history is preserved.

Ms. HOOLEY. Mr. Speaker, thank you for the opportunity to speak to you today about the bicentennial of the Voyage of Meriweather Lewis and William Clark. As you know, Lewis and Clark were true pioneers who are integral to the history of my home state of Oregon. The final destination of their journey, was, after all, the Pacific Coast of Oregon. In fact, they spent a winter, and discovered a beached whale, just a few short miles north of my district. One might say that, if there were not so courageous and brave to make the difficult journey that they did, neither I nor the other representatives from the Pacific Northwest would be here in Congress today! Well, I for one am very thankful that they completed that journey!

I'm excited and encouraged by the legislation before our committee today to honor the bicentennial of the Voyage of Lewis and Clark. In these troubling times, when fear seems all too commonplace, I believe it is important for all of us to look to those great adventurers that helped make this country what it is, and to take heart in the courage, perseverance, and dedication with which they overcame their own obstacles.

Thank you again Mr. Speaker for the opportunity to offer my support for this legislation.

Mrs. BIGGERT. Mr. Speaker, I urge support of the legislation, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Illinois (Mrs. BIGGERT) that the House suspend the rules and pass the bill, H.R. 258, as amended.

The question was taken.

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

Mrs. BIGGERT. Mr. 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.

RENAMING GUAM SOUTH ELEMENTARY/MIDDLE SCHOOL IN HONOR OF NAVY COMMANDER WILLIAM ''WILLIE'' MCCOOL

Mr. HEFLEY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 672) to rename the Guam South Elementary/Middle School of the Department of Defense Domestic Dependents Elementary and Secondary Schools System in honor of Navy Commander William ''Willie'' McCool, who was the pilot of the Space Shuttle *Columbia* when it was tragically lost on February 1, 2003, as amended.

The Clerk read as follows:

H.R. 672

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

SECTION 1. DESIGNATION OF COMMANDER WILLIAM C. MCCOOL ELEMENTARY/MIDDLE SCHOOL, APRA HEIGHTS, GUAM.

(a) FINDINGS.—Congress finds the following:

(1) Commander William C. McCool of the United States Navy, pilot of the Space Shuttle Columbia when it was tragically lost on February 1, 2003, attended Dededo Middle School and John F. Kennedy High School on Guam.

(2) Commander McCool carried a flag commemorating the liberation of Guam on NASA mission STS–107 of the Space Shuttle Columbia.

(3) Commander McCool pursued his dream of space flight with vigor and passion and, by his life and accomplishments, is an inspiration for school children everywhere to dare to dream big things, to believe in themselves, and to reach for the stars.

(b) DESIGNATION.—The Guam South Elementary/Middle School of the Department of Defense Domestic Dependents Elementary and Secondary Schools System in Apra Heights, Guam, shall be known and designated as the ''Commander William C. McCool Elementary/Middle School'', in honor of William C. McCool, who was a commander in the United States Navy and pilot of the Space Shuttle Columbia when it was tragically lost on February 1, 2003.

(c) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the Guam South Elementary/Middle School shall be deemed to be a reference to the ''Commander William C. McCool Elementary/Middle School''.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Colorado (Mr. HEFLEY) and the gentlewoman from Guam (MS. BORDALLO) each will control 20 minutes.

The Chair recognizes the gentleman from Colorado (Mr. HEFLEY).

GENERAL LEAVE

Mr. HEFLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill under consideration.

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

There was no objection.

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

Mr. Speaker, I rise in strong support of H.R. 672, the act to rename the Guam South Elementary/Middle School in honor of Navy Commander William ''Willie'' McCool, who was pilot of the Space Shuttle *Columbia* when it was tragically lost on February 1, 2003.

This bill recognizes the intrepid spirit, commitment to public service, and the ultimate sacrifice made by Commander McCool. The United States space program and our entire Nation lost a highly skilled and courageous member of our superb Armed Forces when Commander McCool and his fellow astronauts were lost earlier this month. It is entirely fitting that as a former student of the Guam South Elementary and Secondary Schools System, Commander McCool be remembered by naming the Guam South Elementary/Middle School in his honor.

This measure is a small step in recognizing Commander McCool's brilliant career and his selfless dedication to our Nation as well as memorializing his spirit at a place where he spent a formative period in his youth.

We can all be proud to support this bill, secure in the knowledge that future generations of students can draw inspirations from his example. Commander McCool's service represents the very best evidence of the long-term commitment to this country to space exploration and it reminds us why those who represent us all in space represent the very best in America.

□ 1445

Mr. Speaker, I ask my colleagues to support this measure.

Mr. Speaker, I reserve the balance of my time.

Ms. BORDALLO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I introduced H.R. 672 to rename the Guam South Elementary/Middle School as the Commander William C. McCool Elementary/Middle School in memory of the pilot of Space Shuttle *Columbia* on its final mission.

I would like to thank the gentleman from Colorado (Mr. HEFLEY), the 26 bipartisan cosponsors of this legislation, as well as the leadership of the Committee on Armed Services for their assistance in bringing this legislation to the floor to coincide with the memorial service for Commander McCool being held this week at the U.S. Naval Academy.

With this act of Congress, I hope that Commander McCool's bravery and academic excellence will be permanently affixed in the hearts and minds of the children of Guam. Commander McCool lived on Guam while his father served as a Navy pilot, and he attended Dededo Middle School and John F. Kennedy High School. He was an exceptional student and a talented long distance runner.

He studied hard and earned the opportunity to attend the United States Naval Academy, where he graduated second in his class in 1983. He went on to receive his Masters of Science in computer science at the University of Maryland in 1985. After completing several deployments with Tactical Electronic Warfare Squadrons 129 and 133, Commander McCool was accepted into the Naval Postgraduate School/Test Pilot School, TPS, in 1989.

After graduating from TPS in 1992, Commander McCool managed a wide range of projects, often coordinating studies and tests of aviation vessels with the United States Navy. His distinguished record of service led to his selection in NASA's astronaut program in April of 1996.

Commander McCool pursued his dream of space flight with vigor and passion. He lived his dream, and we on Guam are amazed that someone we knew, who was part of our island community, was the pilot of a space shuttle. Teachers on Guam point to his remarkable life to inspire school children to dare to dream big things, to believe in themselves, and to reach for the stars. Today, we are reminded of his dream. We are inspired by his strength of character, and we are called to do our part to keep his dream alive.

Guam South is part of the Department of Defense Domestic Dependence Elementary and Secondary School System. Commander McCool would be proud to be associated with it. The school was established in 1997 and now has 750 students. The elementary school is 550 students strong, with blue and white as its colors and the Jaguar as its mascot. The middle school is 200 students strong, with the Guam South Stingrays as their mascot. Guam South is ably run by Principal William Hall and 75 outstanding teachers.

The clients of the school are primarily Navy families, just like Commander McCool's. Willie McCool was a dedicated husband and father. He leaves behind his lovely wife, Lani, and their three sons, Sean, 22; Christopher, 20; and Cameron, 15. He is survived by his parents, Barry and Audrey McCool, as well as Lani's parents, Atilana and Albert Vellejos, who live in Dededo, Guam. They join the families of Rick Husband, David Brown, Ilan Ramon, Kalpana Chawla, Michael Anderson, and Laurel Clark in bearing the burden and the glory of this Nation's space aspirations.

So for all of them and for the future participants of our space program studying on Guam, I commend this legislation to my colleagues and urge its swift passage.

I would like to end my remarks by calling for a moment of silence to remember the crew of Space Shuttle *Columbia* on Mission STS–107.

As we say good-bye to Willie McCool, I would like to point out that here he is standing before the shuttle just before leaving with our island flag. Pues adios, Willie; in guaiya hao. In our Chamorro language this means goodbye, Willie; we love you.

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

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

The SPEAKER pro tempore (Mr. FLAKE). The question is on the motion offered by the gentleman from Colorado (Mr. HEFLEY) that the House suspend the rules and pass the bill, H.R. 672, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8, rule XX, proceedings will resume on motions to suspend the rules previously postponed.

Votes will be taken in the following order:

House Concurrent Resolution 36, by the yeas and nays; and

H.R. 258, by the yeas and nays.

The first electronic vote will be conducted as a 15-minute vote. The remaining electronic vote will be conducted as a 5-minute vote.

CELEBRATING THE 140TH ANNIVERSARY OF THE EMANCIPATION PROCLAMATION AND COMMENDING ABRAHAM LINCOLN'S EFFORTS TO END SLAVERY

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the concurrent resolution, H. Con. Res. 36.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Virginia (Mrs. JO ANN DAVIS) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 36, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 415, nays 0, not voting 19, as follows:

[Roll No. 35]

YEAS—415

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
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)
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
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clay
Coble
Cole
Collins
Combest
Cooper
Costello
Cramer
Crane
Crenshaw
Crowley
Cubin
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
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
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
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
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)
Kildee
Kilpatrick
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)
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
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 (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
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
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
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velazquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Weiner
Weldon (FL)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)

NOT VOTING—19

Burr
Carson (IN)
Clyburn
Conyers
Cox
Gephardt
Hoeffel
Hyde
Kennedy (RI)
Linder
McCrery
Millender-McDonald
Nadler
Peterson (MN)
Snyder
Tiahrt
Waxman
Weldon (PA)
Young (FL)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. OSE) (during the vote). The Chair reminds Members there are 2 minutes remaining in this vote.

□ 1511

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

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. OSE). Pursuant to clause 8 of rule XX, the next vote will be conducted as a 5-minute vote.

AMERICAN 5-CENT COIN DESIGN CONTINUITY ACT OF 2003

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 258, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Illinois (Mrs. BIGGERT) that the House suspend the rules and pass the bill, H.R. 258, as amended, on which the yeas and nays are ordered.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 412, nays 5, not voting 17, as follows:

[Roll No. 36]

YEAS—412

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
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)
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
Cardin
Cardoza
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clay
Coble
Cole
Combest
Cooper
Costello
Cramer
Crane
Crenshaw
Crowley
Cubin
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
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Farr
Feeney
Ferguson
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
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
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)
Kildee
Kilpatrick
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)
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
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
Pastor
Paul
Payne
Pearce
Pelosi
Pence
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
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
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
Tiberi
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velazquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)

NAYS—5

Capuano
Everett
Lucas (OK)
Pascrell
Tierney

NOT VOTING—17

Carson (IN)
Clyburn
Collins
Conyers
Cox
Fattah
Gephardt
Hart
Hoeffel
Hyde
Kennedy (RI)
Millender-McDonald
Peterson (MN)
Snyder
Tiahrt
Waxman
Young (FL)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). The Chair reminds Members there are 2 minutes remaining in this vote.

□ 1520

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

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

RECESS

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

Accordingly (at 3 o'clock and 22 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 1730

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. PORTER) at 5 o'clock and 30 minutes p.m.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 534, HUMAN CLONING PROHIBITION ACT OF 2003

Mrs. MYRICK, from the Committee on Rules, submitted a privileged report (Rept. No. 108–21) on the resolution (H. Res. 105) providing for consideration of the bill (H.R. 534), to amend title 18, United States Code, to prohibit human cloning, which was referred to the House Calendar and ordered to be printed.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will now entertain 1-minute speeches.

HONORING AIR FORCE STAFF SERGEANT STEPHEN M. ACHEY

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

Mr. BROWN of South Carolina. Mr. Speaker, each day we ask the members of our armed services to perform their jobs with bravery and courage. Air Force Staff Sergeant Stephen M. Achey of Summerville, South Carolina is a shining example of an airman who rose above and beyond the call of duty.

Sergeant Achey, a command and control specialist with the 20th Air Operations Support Squadron, earned a Silver Star for his heroism in Afghanistan last March.

While surviving a mortar round explosion and crippled with a disabled radio, Sergeant Achey endured heavy enemy fire while coordinating and directing an air strike that saved the lives of many American soldiers. Pinned down for 18 hours, he managed to divert American aircraft, saving them from destruction and sparing many lives. He also provided cover fire for the rescue of all wounded soldiers.

This man exhibited the virtues of a true Lowcountry hero. If it were not for the courageous actions of Sergeant Achey, many of his comrades may not have survived and returned home. His gallantry is truly amazing and I am proud that he calls the First District of South Carolina his home.

CUTTING IMPACT AID FUNDING HURTS CHILDREN

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

Mr. INSLEE. Mr. Speaker, the weekend before last, I attended the deployment at the 8th Hospital Unit, some proud sailors from Bremerton, Washington. We wanted to show our support for our troops and our sailors. And that is why I was so chagrined to return home to find out that the President wants to cut funding for these sailors' children.

That is right. The President has proposed cutting $10 million from Federal assistance to the Central Kitsap School District. Why would the President, at the very time we are deploying our soldiers and our sailors to the Mideast, want to cut the educational funding for these proud American servicemen's and women's own education? It is flat wrong.

This $10 million hit on the budget of my local school district is going to adversely affect the children whose mothers and fathers are now flying to the

Mideast for service to their country. We will do everything we can to stop the President of the United States from cutting educational funding at the very time that our people are deploying in the Mideast in order to finance the tax cuts for the rich that he wants to push through this Congress.

Mr. Speaker, I hope that we will develop a bipartisan consensus that this is a very bad idea to cut the impact aid funding that is going to so many heavily service-dependent economies in our region. If we do so, it will strike a blow for the men and women and their children who ought to have their schools protected at the time we are in the Mideast.

SUPPORTING THE PRESIDENTIAL STIMULUS PACKAGE

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

Mr. REHBERG. Mr. Speaker, 2 years ago the Americans got a taste of tax relief with a promise that one day they might see an end to the marriage penalty, an end to death tax, a reduction of tax rates, and an increase in child tax credits.

With today's economy struggling and with the price of gasoline and heating oil going through the roof, Americans need more than promises, more than a mere taste of tax relief. Americans are looking for Congress to transform the temporary tax relief of 2001 into something permanent.

Mr. Speaker, I have always believed that the best way to stimulate the economy is not with more government spending but with more people spending. You cannot improve the well-being of families by spending more on government programs and bureaucracies. You can by ending the marriage penalty, killing the death tax, increasing child credits and reducing burdensome tax rates. It is time to put tax dollars back into the hands of the people who need it most.

Join me in supporting the President's economic stimulus package.

MIGUEL ESTRADA FOR FEDERAL JUDGE

(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 in support of Miguel Estrada who has been nominated by President Bush to the Circuit Court of Appeals.

Mr. Estrada has an outstanding record. He graduated magna cum laude in 1986 from Harvard Law School where he was editor of the Harvard Law Review. He has clerked for the U.S. Supreme Court and served in a high position for the Manhattan U.S. Attorney's Office. He has practiced constitutional law and argued 15 cases before the Supreme Court.

Miguel Estrada's credentials prove that he is ready to be a Federal judge.

As the Washington Post said in a February 17 editorial, ''The arguments against Mr. Estrada's confirmation range from the unpersuasive to the offensive.'' Some say he is too young or lacks judicial experience, and some have even disgracefully inferred that he is not a real Hispanic.

It is time for these shameful antics against Miguel Estrada to end, as he is well-qualified to be a Federal judge. I stand beside the President in support of Mr. Estrada.

CONDEMNING THE OSCAR NOMINATION OF ROMAN POLANSKI

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

Mr. PUTNAM. Mr. Speaker, just about every day the media glorifies and offers a platform for actors and actresses who speak out on the great issues of the day: war, environment, human rights. These social icons usually stress that they are taking these stands for our children; and rightfully so, cause we should all strive to be models for future generations.

That is why I was puzzled to learn that the Academy of Motion Pictures Arts and Sciences has nominated Roman Polanski for an Oscar as best director. Mr. Speaker, he fled the United States a quarter of a century ago to escape sentencing after having pled guilty to the rape of a 13-year-old girl. In fact, if he returns to the United States to receive his Oscar, he will be apprehended by the LAPD.

The Academy, however, is in good company with their nomination. The French have also nominated Mr. Polanski and are recognizing him by bestowing their Cesar Award for his work.

Mr. Speaker, there is something fundamentally wrong with the value system present in Hollywood today when the Academy would honor a pedophile who fled the country rather than face sentencing. It is times like these when it becomes brutally apparent just how out of touch Hollywood is with mainstream American values.

HELPING WOMEN COMBAT HEART DISEASE

(Mrs. CAPITO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. CAPITO. Mr. Speaker, as many of us know, February has been designated American Heart Month. Too many Americans are suffering from heart disease, especially women. It is a little known fact that heart disease is a leading cause of deaths among women, with over 370,000 deaths every year. In fact, heart disease kills more women than all forms of cancer combined.

Sadly, 1 in 25 women will die from breast cancer but 1 in 2 will die from heart disease. In my home State of West Virginia, heart disease statistics are staggering. Thirty-one percent of all deaths were from heart disease in the year 2000.

This month the United States Department of Health and Human Services and the National Institutes of Health, and the National Heart, Lung, and Blood Institute have made it their mission to educate women about heart disease, because regardless of their age, it is never too late to combat heart disease.

A woman's risk of heart disease starts to rise gradually between the age of 40 to 60, but heart disease develops gradually and can start at a very young age. Older women need to take action to prevent and control the risk factors for heart disease. Regardless of our ages, it is never too late for women to combat heart disease. We should be spreading that message today and every day.

SPECIAL ORDERS

The SPEAKER pro tempore. 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.

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

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

HUMAN CLONING BAN

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

Mr. RENZI. Mr. Speaker, I rise today to support the gentleman from Pennsylvania (Mr. WELDON) and the gentleman from Michigan (Mr. STUPAK) for reintroducing H.R. 534, the Human Cloning Prohibition Act of 2003.

The American public needs to be made aware of the political spin and propaganda that the so-called medical research community is using to deceive us. The cloned sheep, Dolly, was created by the cloning procedure called somatic cell nuclear transfer.

Some want to use this procedure for research on humans which they now call ''therapeutic cloning.'' As the debate has intensified, what was called human cloning is now referred to as ''nuclear transplantation.'' I ask my fellow Americans not to be deceived by their words which are designed to be politically correct.

Those who want to perform therapeutic cloning claim that the future holds cures to many of the diseases that ail our human society. This argument plays to the hearts and minds of

compassionate Americans. It hits all the political hot buttons and it makes it seem as though human cloning is a great discovery in our day and age that will cure cancer, diabetes, Parkinson's disease and even keep our country safe from the terrorists by identifying the origins of germ and biological weapons.

However, creating cloned human embryos raises the real possibility that one day they will be implanted into a woman's uterus to create a human cloned baby. Over 95 percent of all animal clonings attempted end in failure; and, like Dolly the sheep, cloned animals have genetic abnormalities.

Most scientists agree that human cloning poses a serious risk of producing babies that are stillborn, unhealthy, and have severe malformations.

Let us not forget the ethical problems associated with human cloning. Cloning is entirely unsafe to practice on human beings because it poses serious risks to the developing cloned baby and to pregnant women due to genetic abnormalities. The attempts to perfect human cloning despite the high risk of injury would constitute a violation of the fundamental principles of all medical research to do no harm.

Research cloning will not only make reproductive cloning more likely, it is unethical. Regardless of what you think about the moral status of human embryos, human beings should not be created solely for research. Human cloning for research involves the creation of a human cloned embryo to be bought, sold and stripped, and exploited for its many parts.

□ 1745

Such proponents have crossed the ethical line universally adopted even by supporters of embryo stem cell research.

As always, in simplicity we find the truth. Human cloning, whether for research or reproduction, involves the creation of a new human life. We have reached a point in our Nation's history where arrogant scientists and medical researchers have become so emboldened with the race to become the first to genetically manipulate human life that they have set aside all standards of human decency, morality, and ethics. They rush to usher in a new era in which genetic alteration of human life is common place; and, therefore, they become the creators of human life. They become the idols of their peers.

I urge my colleagues to not allow such a gross violation of human dignity.

CONFIRMATION OF MIGUEL ESTRADA

(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, as of today there has not been a vote on the nomination of Miguel Estrada to the U.S. Court of Appeals for the District of Columbia. Article II, section 2 of the U.S. Constitution states that the President has the power to appoint judges with the advice and consent of the Senate, advice and consent. Those two little words represent the difference between an organized process of judicial nomination and sheer chaos.

President Bush first nominated Miguel Estrada on May 9, 2001, 18 months ago. For 18 long months, we have waited for the confirmation of Mr. Estrada. Time is running out. For the sake of the integrity of the nomination process, for the sake of decency and simple fairness, the process must move forward.

The American people sent us to Washington to get a job done, not to waste time. It is time to vote on Miguel Estrada. The American people do not want obstructionism.

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

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

CONSERVATIVES AGAINST A WAR WITH IRAQ

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

Mr. DUNCAN. Mr. Speaker, most people do not realize how many conservatives are against going to war in Iraq.

A strong majority of nationally syndicated conservative columnists have come out against this war. Just three of the many, many examples I could give include the following:

Charlie Reese, a staunch conservative, who was elected a couple of years ago as the favorite columnist of C-SPAN viewers, wrote that a U.S. attack on Iraq ''is a prescription for the decline and fall of the American empire.''

Paul Craig Roberts, who was one of the highest-ranking Treasury Department officials under President Reagan and now a nationally syndicated conservative columnist, wrote: ''An invasion of Iraq is likely the most thoughtless action in modern history.''

James Webb, a hero of Vietnam and President Reagan's Secretary of the Navy, wrote: ''The issue before us is not whether the United States should end the regime of Saddam Hussein, but whether we as a Nation are prepared to occupy territory in the Middle East for the next 30 to 50 years.''

It is a traditional conservative position, Mr. Speaker, to be against huge deficit spending.

The Congressional Budget Office estimated that a very short war, followed by a 5-year occupation of Iraq, would cost the U.S. $272 billion, this on top of an estimated $350 billion deficit for the coming fiscal year.

It is a traditional conservative position to be against the U.S. being the policeman of the world. That is exactly what we will be doing if we go to war in Iraq.

It is a traditional conservative position to be against world government, because conservatives believe that government is less wasteful and arrogant when it is small and closer to the people.

It is a traditional conservative position to be critical of, skeptical about, or even opposed to the very wasteful, corrupt United Nations; yet the primary justification for this war, what we hear over and over again, is that Iraq has violated 16 U.N. resolutions. Well, other nations have violated U.N. resolutions; yet we have not threatened war against them.

It is a traditional conservative position to believe it is unfair to U.S. taxpayers and our military to put almost the entire burden of enforcing U.N. resolutions on the U.S.; yet that is exactly what will happen in a war against Iraq. In fact, it is already happening, because even if Hussein backs down now, it will have cost us billions of dollars in war preparations and moving so many of our troops, planes, ships and equipment to the Middle East.

It is a traditional conservative position to be against huge foreign aid, which has been almost a complete failure for many years now. Talk about huge foreign aid, Turkey, according to reports, is demanding 26 to $32 billion; Israel wants 12 to $15 billion; Egypt, Jordan, Saudi Arabia want additional aid in unspecified amounts.

Almost every country that is supporting the U.S. in this war wants something in return. The cost of all these requests have not been added in to most of the war costs calculations. All this to fight a bad man who has a total military budget of about $1.4 billion, less than three-tenths of 1 percent of ours.

The White House said Hussein has less than 40 percent of the weaponry and manpower that he had at the time of the first Gulf War. One analyst estimated only about 20 percent.

His troops surrendered then to camera crews or even in one case to an empty tank. Hussein has been weakened further by years of bombing and economic sanctions and embargoes. He is an evil man, but he is no threat to us; and if this war comes about, it will probably be one of the shortest and certainly one of the most lopsided wars in history.

Our own CIA put out a report just a few days before our war resolution vote saying that Hussein was so weak economically and militarily he was really not capable of attacking anyone unless forced into it. He really controls very little outside the city of Baghdad.

The Washington Post 2 days ago had a column which said, ''The war in Iraq,

likely in the next few weeks, is not expected to last long, given the overwhelming U.S. fire power to be arrayed against the Iraqis. But the trickier job may be in the aftermath.''

Fortune Magazine said, ''Iraq, we win. What then? A military victory could turn into a strategic defeat . . . a prolonged, expensive, American-led occupation . . . could turn U.S. troops into sitting ducks for Islamic terrorists . . . All of that could have immediate and negative consequences for the global economy.''

Not only have most conservative columnists come out strongly against this war, but also at least four conservative magazines and two conservative think tanks.

One conservative Republican member of the other body said last week that the ''rush to war in Iraq could backfire'' and asked, ''We are wrecking coalitions, relationships and alliances so we can get a 2-week start on going to war alone?''

The Atlantic Monthly magazine said we would spend so much money in Iraq we might as well make it the 51st State. I believe most conservatives would rather that money be spent here.

It is a traditional conservative position to be in favor of a strong national defense, not one that turns our soldiers into international social workers, and to believe in a noninterventionist foreign policy, rather than in globalism or internationalism. We should be friends with all nations, but we will weaken our own Nation, maybe irreversibly, unless we follow the more humble foreign policy the President advocated in his campaign.

Finally, Mr. Speaker, it is very much against every conservative tradition to support preemptive war. Another member of the other body, the Senator from West Virginia, not a conservative but certainly one with great knowledge of and respect for history and tradition, said recently, ''This is no simple attempt to defang a villain. No. This upcoming 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.''

Mr. Speaker, I would insert at this point my full statement in the RECORD.

Mr. Speaker, most people do not realize how many conservatives are against going to war in Iraq.

A strong majority of nationally-syndicated conservative columnists have come out against this war. Just three of many examples I could give include the following:

Charley Reese, a staunch conservative, who was selected a couple of years ago as the favorite columnist of C–Span viewers, wrote that a U.S. attack on Iraq: ''is a prescription for the decline and fall of the American empire. Overextension—urged on by a bunch of rabid intellectuals who wouldn't know one end of a gun from another—has doomed many an empire. Just let the United States try to occupy the Middle East, which will be the practical result of a war against Iraq, and Americans will be bled dry by the costs in both blood and treasure.''

Paul Craig Roberts, who was one of the highest-ranking Treasury Department officials under President Reagan and now a nationally-syndicated conservative columnist, wrote: ''an invasion of Iraq is likely the most thoughtless action in modern history.''

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Fortune Magazine said: ''Iraq—We win. What then?'' ''A military victory could turn into a strategic defeat. . . . A prolonged, expensive, American-led occupation . . . could turn U.S. troops into sitting ducks for Islamic terrorists. . . . All of that could have immediate and negative consequences for the global economy.''

Not only have most conservative columnists come out strongly against this war, but also at least four conservative magazines and two conservative think tanks.

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The Atlantic Monthly Magazine said we would spend so much money in Iraq we might as well make it the 51st state. I believe most conservatives would rather that money be spent here instead of 7,000 miles away.

It is a traditional conservative position to be in favor of a strong national defense, not one that turns our soldiers into international social workers, and to believe in a noninterventionist foreign policy rather than in globalism or internationalism.

We should be friends with all nations, but we will weaken our own nation, maybe irreversibly unless we follow the more humble foreign policy the President advocated in his campaign.

Finally, Mr. Speaker, it is very much against every conservative tradition to support preemptive war.

Another member of the other Body, the Senator from West Virginia, Senator BYRD, not a conservative but certainly one with great knowledge of and respect for history and tradition said recently:

''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 the revolutionary doctrine applied in an extraordinary way at an unfortunate time. The doctrine of preemption—the idea that the United States or any other nation can legitimately attack a nation that is not imminently threatening but may be threatening in the future—is a radical new twist on the traditional idea of self-defense.''

The columnist William Raspberry, again not a conservative but one who sometimes takes conservative positions, wrote this week these works: ''Why so fast. Because Hussein will stall the same way he's been stalling for a dozen years. A dozen years, by the way, during which he has attacked no one, gassed no one, launched terror attacks on no one. Tell me its because of American pressure that he has stayed his hand, and I say great. Isn't that

better than a U.S.-launched war guaranteed to engender massive slaughter and spread terrorism?''

Throughout these remarks, I have said not one word critical of the President or any of his advisors or anyone on the other side of this issue.

I especially have not and will not criticize the fine men and women in our Nation's armed forces. They are simply following orders and attempting to serve this country in an honorable way.

Conservatives are generally not the types who participate in street demonstrations, especially ones led by people who say mean-spirited things about our President. But I do sincerely believe the true conservative position, the traditional conservative position is against this war.

FOUR KEYS TO CONTEXTUALIZE THE BUSH BUDGET

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

Mr. BAIRD. Mr. Speaker, it is time for this body and for our President to level with the people of the United States of America. Just a couple of years ago when people ran for office, we were all talking about the Social Security and Medicare lockbox. We need to be honest with the American people and say that that lockbox has been opened up. It has been turned upside down and every penny's been shaken out of it.

When we hear talk these days about the budget deficits, those deficits are masked and artificially lowered because we are unfortunately, once again, borrowing from Social Security and Medicare.

My colleagues will hear various talks about what the deficit is. Often times they will hear that the unified deficit is, let us say, for example, $304 billion for next year or $307 billion for the following year. The only way we arrive at those figures, which are admittedly very substantial, is by borrowing from Social Security and Medicare.

Were it not for that borrowing, what would the real deficits be? The real deficits for next year or for this year would be $468 billion. For next year, they would be $482 billion; and that is without budgeting for the cost of occupation of Iraq, nor is it for budgeting for the cost of fixing the alternative minimum tax, which this body should do.

We need to be honest. We cannot run for office 1 year and say we are going to establish a lockbox and the next year pretend that we have not opened it as we have.

Our friends on the other side are going to try to say that it is not so much deficits that matter. These, by the way, are the folks who have previously talked about a balanced budget amendment in which I think we need to balance the budget. They will say it is not deficits. It is deficits as a percentage of GDP.

The trouble with that is our own Treasury Secretary Mr. John Snow in 1995 said, and here is the quote, that a credible sustained reduction in Federal deficits will bring about major economic benefits. He was right, and he suggested that if the government spends less and borrows less from investors to cover the climbing deficits, more capital will be available for investment in the private sector of the economy. Inflationary pressure would ease and interest rates would respond by declining as much as 2 percentage points.

Today, Mr. Snow and many of his colleagues are saying it is a matter of deficits as a percentage of GDP; but when he said this in 1995, the budget deficits at that time were about where they are now as a percentage of GDP. In other words, deficits mattered in 1995. Deficits matter in the year 2003, and deficits are going to matter in the year 2013 when our kids have to pay off the debt we are creating today, and those kids are going to have to pay the debt tax.

We have heard a lot about the debt tax. The death tax is the tax on estates that are passed on to people, and it affects about two percent of the population. The debt tax, D-E-B-T, debt tax affects every member of this population from the day they are born. It is over $4,000 a year for an average family of four and it is rising.

We need to return to fiscal responsibility. That was a concept once embraced by conservatives. I still believe it is a conservative concept. Unfortunately, it is not a concept that is shared by many erstwhile conservatives.

So what is the take-home message? The take-home message is if we are going to put Social Security and Medicare in a lockbox, we should do so and we should be honest with the American people.

Let us look again at what the deficit really is. The projection for 2004 is $482 billion.

One final note. People will say we could solve the problem of deficits if only the Democrats or the Congress would hold down spending. There is some truth to that, but the combined nondefense discretionary spending projection for 2004 is $429 billion. The deficit is $482 billion. If the nondefense discretionary spending is only $429 billion, this means we could eliminate every nondefense discretionary program, and that includes Head Start, environmental protection, agriculture, transportation, many veterans benefits, the National Institutes of Health, not hold the line on inflation, eliminate these programs and countless others entirely, eliminate law enforcement from the Federal Government to support, et cetera.

We would still then have a deficit. This deficit is not caused solely by any means by spending. It is caused to a significant degree by the exorbitant tax cuts that have been passed and the increasing tax cuts that are proposed; and if we are going to pass those, we need to at least level with the American people and tell them what the true costs are today and the true costs are in the future.

FOUR KEYS TO CONTEXTUALIZE THE BUSH BUDGET

The ''On-Budget'' Deficit projections for the next five years are listed below along with the corresponding figures for the Projected Non-defense Discretionary Outlays.

	2003	2004	2005	2006	2007
On-budget deficit	−468	−482	−407	−412	−406
Non-defense discretionary spending	416	429	440	447	455
Net if all non-defense outlays were eliminated	−52	−53	+33	+35	+49

Numbers in $billions, not including any projections for costs of Iraq war and occupation or adjustments to fix the AMT.

Source: Table S–2, page 312 OMB Budget.

KEY POINTS

1. Democrats should only refer to ''On-Budget Deficits'' and not let Republicans mask the true deficit by borrowing from Social Security and Medicare. The President, most Republicans in Congress, and many members of our own caucus were elected based on the ''lockbox'' pledge. If those pledges were honored, the deficits, as shown above, are far higher than the Administration or Republican Members of Congress acknowledge.

2. When Republicans say we could achieve balance if only Democrats would limit spending, they are lying. As the chart shows, even if all non-defense spending were completely eliminated, not simply reduced slightly, we would still face on budget deficits. Furthermore, the on-budget deficits in the chart above are based on Republican revenue and spending proposals. If the Republicans truly wanted to reduce deficits, they could make the cuts or increase revenues, but they have refused to do so and instead prefer to borrow from Social Security and Medicare to mask their policies.

3. The Republican dodge of expressing deficits as a percentage of GDP is clearly a ruse because the newly appointed Secretary of the Treasury, John Snow, vigorously called for deficit reductions in 1995, a time when deficits as a percentage of GDP were almost identical to levels projected for 2003. Republicans may counter this argument by saying the projections at that time showed a widening deficit problem over the projected 5 years and the Administration's current deficit projections are shrinking. However, the Administration's present budget forecast includes no cost for a war in Iraq, no AMT fix and rosy growth forecasts. These costs will certainly add significantly to the growing deficit over the next 5 years.

4. The consequence of such borrowing to pay for the Republican tax cuts for the wealthy is an increase in the ''Debt Tax''. Simply put, the ''Debt Tax'' is the average amount every American must pay each year simply to service the interest on the national Debt. The difference between the ''Death Tax'' which the Republicans want to repeal, and the ''Debt Tax'' which they are covertly increasing, is that the former only affects the wealthiest two percent of our citizens when they die. By comparison, the ''Debt Tax'' confronts every single American from the moment they are born and for the rest of their lives until we pay down the debt.

SUPPORT IMPACT AID

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

Mr. KIRK. Mr. Speaker, I rise today to express my support for the Impact Aid program. Earlier today, along with 30 bipartisan cosponsors, we introduced my Government Reservation Accelerated Development for Education, or GRADE–A, bill from the 107th Congress.

This bill was intended to fulfill an obligation of the Federal Government made in 1950 when Congress passed, and President Truman signed into law, the Impact Aid program.

□ 1800

Impact aid was created by Congress recognizing the obligation of the Federal Government to assist school districts and communities that experience a loss in their local property tax due to the presence of the Federal Government. Between 1950 and 1969, the impact aid program was fully funded by the Congress. But since that time, the funding level has not kept pace with the amount required to cover the Federal Government's obligation.

As we prepare for war and deploy troops overseas, I can think of no better time to support our military personnel and their families. This support should begin with ensuring our soldiers that their children are receiving a quality education. There are 15 million school children in this Nation who are eligible for impact aid. Enrolled in one of 1,331 eligible school districts, these schoolchildren depend on their schools to provide them with an education, and their parents depend on the schools to act as a community of support when they are deployed in our Nation's defense.

In my congressional district, 36 percent of all students attending North Chicago's School District 187 are impact aid military children. School District 187 spends an average of $6,500 per pupil on education. And herein lies the problem. The North Chicago School District receives only $3,250 per pupil from the Federal Government for their military impact aid children. With over 1,400 impact aid students, District 187 finds itself over $4.5 million short in funding levels. This shortfall creates a huge financial strain on the school district overall, decreasing the quality of education for every child in that school district.

Mr. Speaker, the quickest way to take a soldier or sailor's mind off their mission is to have them worrying about their children's education back home. Kids from military families come from some of the hardest working, most patriotic families, but the schools they attend sometimes face bankruptcy because they lack the tax revenues from the military housing where the kids come from. We need to fund our Nation's schools. Impact aid honors our commitment to military families and families of Native American Indians. It guarantees those families who serve to protect our freedom that they are in turn protected by the Federal Government.

Our Constitution commands that the first job of the Federal Government is to ''provide for the common defense.'' As we improve the pay and benefits of our men and women in uniform, we must also support their kids and the local schools they attend. This may take many years to accomplish, but the time is now, especially now, to support schools that educate the children whose parents wear our Nation's uniform. Let us recognize our duty to America's children and to our military and support the GRADE–A bill.

BLUE DOG COALITION ON THE FEDERAL DEBT

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

Mr. STENHOLM. Mr. Speaker, this week the Blue Dog Coalition expressed our deep concern over the announcement that the Federal Government had reached the debt limit just 9 months after increasing it by $450 billion.

The Federal Government hitting the debt limit so soon after raising it by so much merely validates our concern of the fiscal policies we are now following. Due to the debt limit being reached, the Department of the Treasury announced it will dip into Federal retirement programs to circumvent the debt limit, an action for which House Republicans severely criticized Secretary of Treasury Bob Rubin for taking in 1996. Less than 6 years ago, 225 of my Republican friends voted to soundly reprimand and prohibit then-Secretary Rubin from taking precisely the actions announced this week by Secretary Snow. The silence of the Republicans in Congress about the announcement made by the Bush administration stands in stark contrast to the reaction from many of my same Republican colleagues to Secretary Rubin's action.

A 1995 resolution, authored by a then anti-deficit Republican majority, insisted that a balanced budget would ensure lower interest rates, a faster rate of economic growth, increased national wealth, increased rates of savings and investment, faster growth in the capital stock, higher productivity, and improved trade balances. I agreed with my Republican colleagues 6 years. I wish they agreed with me today.

Now, we can disagree about what has put us in the deficit hole today, but we should be able to agree that digging the hole deeper is ill-advised. Yet the President's budget proposes policies that would increase the deficit by more than $2 trillion over the next 8 years. According to the White House Office of Management and Budget, the tax cut signed by the President and new proposals in his budget are responsible for 45 percent of the $7.9 trillion deterioration in our budget outlook. Now, that is 45 percent. Fifty-five percent is the recession and the war and other things that are occurring today. Not the upcoming war.

The suggestion that we will be able to grow our way out of the deficit was contradicted in testimony by Federal Reserve Chairman Alan Greenspan earlier this month. Even under the most optimistic, dynamic estimates of the President's tax cut, large deficits will continue as far the eye can see. And the projections of the economic benefits of tax cuts ignore the economic harm caused by government borrowing to finance deficits, higher interest rates, and lower investments in American businesses.

Now, contrary to some suggestions, my concern about the budget deficit has always applied to spending, increased spending, as well as unfinanced tax cuts. Even before many of my House Republican colleagues, I volunteered to help hold the line on spending at the level last year requested by the President. I hope the President, Mr. President, that you will send to Congress a list of pork-barrel items that you believe should be eliminated from the funding bill endorsed by the House leadership and recently signed into law. If you do, I will support those spending cuts. But the reality is that under the President's budget the deficit hole will be dug deeper.

Now, the rhetoric from my Republican friends about controlling spending just does not hold up to factual examination. In the 8 years since Republicans took control of the Congress, discretionary spending has increased by an average of 6.5 percent per year, compared to the previous 8 years of 1.6 percent. Those are the facts, not the rhetoric we hear on this floor every time someone stands up and questions the economic direction that we are going.

Now, some days, some of us ignore the most wasteful spending in the Federal budget, the $332 billion collected from taxpayers simply to cover our national interest payments. This debt tax consumed a whopping 18 percent of all Federal tax dollars last year. Under the budget, the economic game plan that I hear we are going to have on the floor in 2 or 3 weeks, the debt tax will increase 50 percent in the next 5 years. A 50 percent increase in taxes, the debt tax, is what is being advocated.

Now, I do not understand the logic of that. I agreed with the President, and I do agree with the President, and I believe him to be sincere when he says this Congress should not pass on to our children and future generations our debt. That is what we are doing under the proposal that is before us today.

To my friends on this side of the aisle, there are many on this side of the aisle that are ready to reach out and accept the hand and are beginning to work and to recognize that we need a change in direction. Yes, we need to restrain spending. And, yes, we need to

restrain our desire to give tax cuts to the current generation, just as we anticipate sending our youngest and finest over to fight a war. It is not fair to them. It is not fair to our children and grandchildren.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair reminds Members to address their remarks to the Chair and not to the President.

SUPPORT TRUTH IN DOMAIN NAMES ACT

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, tonight I rise more as a father than as a Member of Congress. I am, proudly, the father of three small children, all under the age of 11. And today when I introduced the Truth in Domain Names Act, I did it very much with Michael and Charlotte and Audrey in mind.

This legislation, which we first conceived of in the 107th Congress, would punish those who use misleading domain names to attract children to sexually explicit Internet sites. There would be fines of up to a quarter of a million dollars, and even imprisonment of up to 2 years.

As a member of the Subcommittee on Courts, the Internet, and Intellectual Property of the Committee on the Judiciary, I know well, Mr. Speaker, that the Internet can be a force for good, but it can also be a force for evil. At its best, the Web is used to disseminate information and provide educational materials to children. Teachers and parents often encourage children to turn to the Internet for research, school projects, and homework, just as I did with my 8-year-old daughter this last Tuesday night, sitting with her on my knee, doing her homework and searching the Web.

The reality is that there is also the worst of the Internet, equally accessible to our children. The Internet can actually be used to deceive children into viewing inappropriate material. According to a survey conducted in the year 2000 by the Crimes Against Children Research Center, they found that 71 percent of teenagers had accidentally come across inappropriate sexual material on the Internet. An FBI spokesman told the Subcommittee on Crime, Terrorism and Homeland Security of the Committee on the Judiciary in 1999 that pedophiles often lure children into viewing pornography to ''encourage their victims to engage in sex.''

Even in my own experience this Tuesday night, Mr. Speaker, I found that even though we were entering words in a search engine to help my second grade daughter do her homework, nevertheless the sites we were accessing, I had to cover her little eyes and see first what popped up because of the type of prurient materials that would come with the most innocuous word search.

So I ask my colleagues to join me today in this very simple proposal to provide criminal penalties to those who would name Web sites in a way to deceive children into being exposed to prurient material. The Truth in Domain Names Act is all about protecting the innocent from those who would prey upon them.

The Good Book tells us it would be better to have a millstone tied around their neck and have them thrown into the sea that would mislead and lead astray these little ones. Not a lot of millstones around this city, Mr. Speaker, but we can tie the seriousness of the law to those who would prey upon our children with prurient intent by this session of Congress adopting the Truth in Domain Names Act.

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

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

EXPRESSION OF GRATITUDE TOWARDS FRANCE

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

Ms. KAPTUR. Mr. Speaker, tonight I wish to express my profound gratitude toward President Jacques Chirac and toward the French Parliament for their enduring alliance with our country and with NATO. I would also like to offer my respect to French Foreign Minister Dominique de Villipin. The civilized world cannot know yet the best method for stemming the growing terrorism that is engendered by the revolutionary fervor found in the Middle East and Central Asia, but I am certain of one thing: We will not succeed without our historic and valuable allies in Europe. They are priceless. War must be the last resort, only after tough and thorough inspections performed by U.N. agents have been exhausted.

I would like to speak of relations between the Governments of France and the United States and between the citizens of our countries. Our friendship is important and historic and dates from the days when General Marquis de Lafayette helped us win our own revolution for independence. Our very capital city, the city of Washington, was designed by a Frenchman, Pierre L'Enfant, and was modeled after Paris. The words of the French Revolution, ''liberty, equality, fraternity,'' remain true today, and in our Congress they are truly carved for all time.

Just this week, I opened a medal for our Uncle Stanley Rogowski, who had fought in Normandy. Three Bronze stars. Bloodied for 3 years across the northern plains of France. As I visited the cemeteries there, I thought about the close alliance between the American people and the people of France and the struggle for freedom over tyranny in the 20th century.

U.S. President and U.S. Ambassador to France Thomas Jefferson wrote, ''I do not believe war the most certain means of enforcing principles. Those peaceable coercions which are in the power of every nation, if undertaken in concert and in time of peace, are more likely to produce the desired effect.'' He wrote that in 1801. He loved France. He traveled there, he learned much, and he helped weave that into the fabric of American life in our earliest years.

□ 1815

As Archbishop Desmond Tutu of South Africa urged from a continent torn by terrorism in Sudan, in the Ivory Coast, in Egypt, in Nigeria, ''Peace. Peace. Peace. Shouldn't America listen to the rest of the world?,'' he said. ''Give the inspectors time.''

Note what is happening throughout the world. The largest antiwar turnouts in U.S. history. In London, 750,000 citizens marched against the war, that city's largest demonstration ever. In Rome, 1 million people. In Spain, millions marched in Madrid and Barcelona. In Berlin, half a million. People marching in nations whose homelands have been ripped apart by past wars and who are victims of terrorism as well. Surely they know the price of suffering.

Imagine the message these demonstrations are sending across the caves of terrorism. America is being isolated in world opinion. This is neither wise nor politically sustainable for our Nation to go it alone. The war on terrorism can only be won with a broad and committed international coalition starting with America's most historic allies.

In this new struggle of righteousness, moral force is more important than bombs. The war on terrorism is actually a political insurgency halfway around the world, first against the corrupt regimes in the world of Islam, much like a civil war. Lacking any experience with democracy, desperate and politically motivated masses grasp Islam as a metaphor for political change and reform. The United States should not become the beleaguered referee caught between warring factions who also happen to sit atop the world's largest oil wells on which we have become dependent. Rather, America must unhook ourselves from that oil addiction; and as important, America must work with a broad international coalition to support the forces of popular reform and rising hopes for a better and more just way of life.

In some of the most undemocratic places in the world, in places like Pakistan and Afghanistan, two-thirds of the

population is younger than 20, uneducated and often hungry. A major international commitment to feeding hungry children while educating them would serve the world much more durably in the years ahead.

In embracing the future, America must hold to its deepest ideals in this sea of political discontent and ally with rising aspirations of the dispossessed and forgotten. America should not, as happened in Iran, be caught on the wrong side of an unsustainable dictatorship or propping up weak regimes. Only broad and committed international coalitions can triumph in this struggle. Of three facts we are certain: we need our friends; America cannot win this battle alone; and only with justice will peace come.

THE DEBT LIMIT

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

Mr. SANDLIN. Mr. Speaker, there is a phrase that famously set atop President Truman's desk stating, ''The buck stops here.'' Mr. Speaker, looking at the administration's fiscal year 2004 budget, nothing could be further from the truth.

President Truman's phrase implies that real leaders have to make tough choices. Real leaders do not assure the American people that our country can afford a war of indeterminate length and massive new tax cuts simultaneously. In fact, the budget is nothing more than smoke and mirrors. Did you know that in spite of an imminent war, not one single dime, not one penny, not anything is budgeted for the looming war? That means the entire budget is nothing but a farce.

Though our country's anticipated effort to disarm Saddam Hussein and his weapons of mass destruction is necessary, and certainly we support our military 100 percent in their efforts, any future action in Iraq which is likely to come will by necessity increase our Federal spending and expand our deficit and the national debt for years and years and years to come. In addition to war with Iraq, which appears nowhere in the budget, the White House is pushing full steam ahead with its $388 billion plan to exempt dividend income from individual taxation. That may be good long-term planning and certainly no one supports taxing anything twice; that is poor policy. But the question is, can we afford it right now today at this time in the face of record deficits? The only realistic outcome of the revenue losses and increased government spending included in the President's budget is massive increases in the national debt. In the interest of bipartisanship, to quote another popular former Republican President, Mr. Reagan, ''There you go again.''

Just 8 months ago, the House passed an increase in the statutory debt limit by a single vote. Now, here we go again, having to raise the debt limit for the second time in 12 months. Last June, Congress had to raise the debt limit by $450 billion, to $6.4 trillion. Amazingly, this increase in the debt limit was $300 billion less than Treasury requested. Our debt is currently over $6 trillion and we are spending over $1 billion a day in interest. In fact, 180 of every $1,000 that east Texans send in to the government goes to interest payments alone. That is outrageous. It is unacceptable.

Treasury and the majority party in the House will not even specify, will not tell us what their desired increase in the debt limit is. It is feasible it will be over $7 trillion. At what point? When will the majority realize its fiscal irresponsibility in burying this Nation under a mountain of debt? John Adams said, ''Facts are stubborn things.''

What are the facts? Just 2 years ago, we had a projected budget surplus of $5.6 trillion. Those predictions of surpluses are long gone, and they have been replaced with projections of deficits and higher debt levels for as far as the eye can see. In fact, our financial condition changed to the worst, $8 trillion in 24 months. Equally amazing is the fact that as a direct result of the President's fiscal year 2004 budget, total spending in interest alone to finance the debt will increase from $332 billion in 2002 to nearly $500 billion in 2008. Further, the higher debt levels embedded in the President's budget will result in $1.1 trillion more in spending on interest payments on the debt than the government projected just last year. That is simply a waste of money.

It seems all fiscal discipline has blown out the window with this budget and any hope for our children and grandchildren to live in fiscally prosperous times. Instead, we are saddling future generations with accumulating debt payments. Just how much will a family have in net cash savings if this administration's tax cut and budget is passed? If the President's current tax cuts and spending plans are enacted, the average American family of four will pay approximately $6,500 a year in higher interest payments, far outstripping any negligible tax savings. In addition to the higher long-term interest rates Americans will face as a result of government borrowing in the capital markets, national priorities like health care, Social Security, and homeland security needs will be underfunded as the Federal Government pays more and more and more money to finance our national debt. An exponentially rising debt has consequences and is financed by sacrificing our seniors and our children, sacrificing Social Security, sacrificing Medicare, and sacrificing education.

Congress needs to hold increases in the debt limit to no more than $100 billion at a time until Congress and the White House have worked together to balance the unified budget by the end of the decade and to include PAYGO rules and discretionary spending caps.

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

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

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

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

PUBLICATION OF THE RULES OF THE COMMITTEE ON AGRICULTURE 108TH CONGRESS

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

Mr. GOODLATTE. Mr. Speaker, I am pleased to submit for printing in the CONGRESSIONAL RECORD, pursuant to Rule XI, clause 2(a) of the Rules of the House, a copy of the Rules of the Committee on Agriculture, which were adopted at the organizational meeting of the Committee on February 12, 2003, and modified on this date, February 26, 2003.

Appendix A of the Committee Rules will include excerpts from the Rules of the House relevant to the operation of the Committee. Appendix B will include relevant excerpts from the Congressional Budget Act of 1974. In the interests of minimizing printing costs, Appendices A and B are omitted from this submission.

RULES OF THE COMMITTEE ON AGRICULTURE—108TH CONGRESS

RULE I.—GENERAL PROVISIONS

(a) *Applicability of House Rules.*—(1) The Rules of the House shall govern the procedure of the Committee and its subcommittees, and the rules of the Committee on Agriculture so far as applicable shall be interpreted in accordance with the Rules of the House, 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 nondebatable privileged motions in the Committee and its subcommittees. (See Appendix A for the applicable Rules of the U.S. House of Representatives.)

(2) As provided in clause 1(a)(2) of House Rule XI, 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. (See also Committee rules III, IV, V, VI, VII and X, *infra*.)

(b) *Authority to Conduct Investigations.*—The Committee and its subcommittees, after consultation with the Chairman of the Committee, may conduct such investigations and studies as they may consider necessary or appropriate in the exercise of their responsibilities under Rule X of the Rules of the House and in accordance with clause 2(m) of House Rule XI.

(c) *Authority to Print.*—The Committee is authorized by the Rules of the House to have printed and bound testimony and other data presented at hearings held by the Committee

and its subcommittees. All costs of stenographic services and transcripts in connection with any meeting or hearing of the Committee and its subcommittees shall be paid from applicable accounts of the House described in clause 1(i)(1) of House Rule X in accordance with clause 1(c) of House Rule XI. (See also paragraphs (d), (e) and (f) of Committee rule VIII.)

(d) *Vice Chairman*.—The Member of the majority party on the Committee or subcommittee designated by the Chairman of the full Committee shall be the vice chairman of the Committee or subcommittee in accordance with clause 2(d) of House Rule XI.

(e) *Presiding Member*.—If the Chairman of the Committee or subcommittee is not present at any Committee or subcommittee meeting or hearing, the vice chairman shall preside. If the Chairman and vice chairman of the Committee or subcommittee are not present at a Committee or subcommittee meeting or hearing the ranking Member of the majority party who is present shall preside in accordance with clause 2(d), House Rule XI.

(f) *Activities Report*.—(1) 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. (See also Committee rule VIII (h)(2).)

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

(3) The oversight section of such report shall include a summary of the oversight plans submitted by the Committee pursuant to clause 2(d) of House Rule X, 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 with respect thereto.

(g) *Publication of Rules*.—The Committee's rules shall be published in the Congressional Record not later than thirty days after the Committee is elected in each odd-numbered year as provided in clause 2(a) of House Rule XI.

(h) *Joint Committee Reports of Investigation or Study*.—A report of an investigation or study conducted jointly by more than one committee may be filed jointly, provided that each of the committees complies independently with all requirements for approval and filing of the report.

RULE II.—COMMITTEE BUSINESS MEETINGS—REGULAR, ADDITIONAL AND SPECIAL

(a) *Regular Meetings*.—(1) Regular meetings of the Committee, in accordance with clause 2(b) of House Rule XI, shall be held on the first Wednesday of every month to transact its business unless such day is a holiday, or Congress is in recess or is adjourned, in which case the Chairman shall determine the regular meeting day of the Committee, if any, for that month. The Chairman shall provide each member of the Committee, as far in advance of the day of the regular meeting as practicable, a written agenda of such meeting. Items may be placed on the agenda by the Chairman or a majority of the Committee. If the Chairman believes that there will not be any bill, resolution or other matter considered before the full Committee and there is no other business to be transacted at a regular meeting, the meeting may be cancelled 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. This paragraph shall not apply to meetings of any subcommittee. (See paragraph (f) of Committee rule X for provisions that apply to meetings of subcommittees.)

(b) *Additional Meetings*.—The Chairman may call and convene, as he or she considers necessary, after consultation with the Ranking Minority Member of the Committee, 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 additional meetings pursuant to a notice from 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 such special meeting. Such request shall specify the measure or matters to be considered. Immediately upon the filing of the request, the Majority Staff Director (serving as the clerk of the Committee for such purpose) shall notify the Chairman of the filing of the request. If, within three 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 measures or matter to be considered at that special meeting in accordance with clause 2(c)(2) of House Rule XI. The Committee shall meet on that date and hour. Immediately upon the filing of the notice, the Majority Staff Director (serving as 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.

RULE III.—OPEN MEETINGS AND HEARINGS; BROADCASTING

(a) *Open Meetings and Hearings*.—Each meeting for the transaction of business, including the markup of legislation, and each hearing by the Committee or a subcommittee shall be open to the public unless closed in accordance with clause 2(g) of House Rule XI. (See Appendix A.)

(b) *Broadcasting and Photography*.—Whenever a Committee or subcommittee 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 (See Appendix A). When such radio coverage is conducted in the Committee or subcommittee, written notice to that effect shall be placed on the desk of each Member. The Chairman of the Committee or subcommittee, shall not limit the number of television or still cameras permitted in a hearing or meeting room to fewer than two representatives from each medium (except for legitimate space or safety considerations, in which case pool coverage shall be authorized).

(c) *Closed Meetings—Attendees*.—No person other than Members of the Committee or subcommittee and such congressional staff and departmental representatives as the Committee or subcommittee may authorize shall be present at any business or markup session that has been closed to the public as provided in clause 2(g)(1) of House Rule XI.

(d) *Addressing the Committee*.—A Committee member may address the Committee or a subcommittee on any bill, motion, or other matter under consideration (See Committee rule VII (e) relating to questioning a witness at a hearing). The time a member may address the Committee or subcommittee for any such purpose shall be limited to five minutes, except that this time limit may be waived by unanimous consent. A member shall also be limited in his or her remarks to the subject matter under consideration, unless the Member receives unanimous consent to extend his or her remarks beyond such subject.

(e) *Meetings to Begin Promptly*.—Subject to the presence of a quorum, each meeting or hearing of the Committee and its subcommittees shall begin promptly at the time so stipulated in the public announcement of the meeting or hearing.

(f) *Prohibition on Proxy Voting*.—No vote by any Member of the Committee or subcommittee with respect to any measure or matter may be cast by proxy.

(g) *Location of Persons at Meetings*.—No person other than the Committee or subcommittee Members and Committee or subcommittee staff may be seated in the rostrum area during a meeting of the Committee or subcommittee unless by unanimous consent of Committee or subcommittee.

(h) *Consideration of Amendments and Motions*.—A Member, upon request, shall be recognized by the Chairman to address the Committee or subcommittee at a meeting for a period limited to five minutes on behalf of an amendment or motion offered by the Member or another Member, or upon any other matter under consideration, unless the Member receives unanimous consent to extend the time limit. Every amendment or motion made in Committee or subcommittee shall, upon the demand of any Member present, be reduced to writing, and a copy thereof shall be made available to all Members present. Such amendment or motion shall not be pending before the Committee or subcommittee or voted on until the requirements of this paragraph have been met.

(i) *Demanding Record Vote*.—

(1) A record vote of the Committee or subcommittee on a question or action shall be ordered on a demand by one-fifth of the Members present.

(2) The Chairman of the Committee or Subcommittee may postpone further proceedings when a record vote is ordered on the question of approving a measure or matter or on adopting an amendment. If the Chairman postpones further proceedings:

(A) the Chairman may resume such postponed proceedings, after giving Members adequate notice, at a time chosen in consultation with the Ranking Minority Member; and

(B) notwithstanding any intervening order for the previous question, the underlying proposition on which proceedings were postponed shall remain subject to further debate or amendment to the same extent as when the question was postponed.

(j) *Submission of Motions or Amendments In Advance of Business Meetings*.—The Committee and subcommittee-Chairman may request and Committee and subcommittee Members should, insofar as practicable, cooperate in providing copies of proposed amendments or motions to the Chairman and the Ranking Minority Member of the Committee or the subcommittee twenty-four hours before a Committee or subcommittee business meeting.

(k) *Points of Order*.—No point of order against the hearing or meeting procedures of the Committee or subcommittee shall be entertained unless it is made in a timely fashion.

(l) *Limitation on Committee Sittings*.—The Committee or subcommittees 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.

(m) Prohibition of Wireless Telephones.—Use of wireless phones during a committee or subcommittee hearing or meeting is prohibited.

RULE IV.—QUORUMS

(a) *Working Quorum*.—One-third of the members of the Committee or a subcommittee shall constitute a quorum for taking any action, other than as noted in paragraphs (b) and (c).

(b) *Majority Quorum*.—A majority of the members of the Committee or subcommittee shall constitute a quorum for:

(1) the reporting of a bill, resolution or other measure (See clause 2(h)(1) of House Rules XI, and Committee rule VIII);

(2) the closing of a meeting or hearing to the public pursuant to clauses 2(g) and 2(k)(5) of the Rule XI of the Rules of the House; and

(3) the authorizing of a subpoena as provided in clause 2(m)(3), of House Rule XI. (See also Committee rule VI.)

(c) *Quorum for Taking Testimony*.—Two members of the Committee or subcommittee shall constitute a quorum for the purpose of taking testimony and receiving evidence.

RULE V.—RECORDS

(a) *Maintenance of Records*.—The Committee shall keep a complete record of all Committee and subcommittee 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) written minutes shall include a record of all Committee and subcommittee action and a record of all votes on any question and a tally on all record votes.

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 and by telephone request. 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.

(b) *Access to and Correction of Records*.—Any public witness, or person authorized by such witness, during Committee office hours in the Committee offices and within two weeks of the close of hearings, may obtain a transcript copy of that public witness's testimony and make such technical, grammatical and typographical corrections as authorized by the person making the remarks involved as will not alter the nature of testimony given. There shall be prompt return of such corrected copy of the transcript to the Committee. Members of the Committee or subcommittee shall receive copies of transcripts for their prompt review and correction and prompt return to the Committee. The Committee or subcommittee may order the printing of a hearing record without the corrections of any Member or witness if it determines that such Member or witness has been afforded a reasonable time in which to make such corrections and further delay would seriously impede the consideration of the legislative action that is subject of the hearing. The record of a hearing shall be closed ten calendar days after the last oral testimony, unless the Committee or subcommittee determines otherwise. Any person requesting to file a statement for the record of a hearing must so request before the hearing concludes and must file the statement before the record is closed unless the Committee or subcommittee determines otherwise. The Committee or subcommittee may reject any statement in light of its length or its tendency to defame, degrade, or incriminate any person.

(c) *Property of the House*.—All Committee and subcommittee hearings, records, data, charts, and files shall be kept separate and distinct from the congressional office records of the Members serving as Chairman and such records shall be the property of the House and all Members of the House shall have access thereto. The Majority Staff Director shall promptly notify the Chairman and the Ranking Minority Member of any request for access to such records.

(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 House Rule VII. The Chairman shall notify the Ranking Minority Member of the Committee of the need for a Committee order pursuant to clause 3(b)(3) or clause 4(b) of such House Rule, to withhold a record otherwise available.

(e) *Special Rules for Certain Records and Proceedings*.—A stenographic record of a business meeting of the Committee or subcommittee may be kept and thereafter may be published if the Chairman of the Committee, after consultation with the Ranking Minority Member, determines there is need for such a record. The proceedings of the Committee or subcommittee in a closed meeting, evidence or testimony in such meeting, shall not be divulged unless otherwise determined by a majority of the Committee or subcommittee.

(f) *Electronic Availability of Committee Publications*.—To the maximum extent feasible, the Committee shall make its publications available in electronic form.

RULE VI.—POWER TO SIT AND ACT; SUBPOENA POWER

(a) *Authority to Sit and Act*.—For the purpose of carrying out any of its function and duties under House Rules X and XI, the Committee and each of its subcommittees is authorized (subject to paragraph (b)(1) of this rule)—

(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, memoranda, papers and documents, as it deems necessary. The Chairman of the Committee or subcommittee, or any member designated by the Chairman, may administer oaths to any witness.

(b) *Issuance of Subpoenas*.—(1) A subpoena may be authorized and issued by the Committee or subcommittee under paragraph (a)(2) in the conduct of any investigation or series of investigations or activities, only when authorized by a majority of the members voting, a majority being present, as provided in clause 2(m)(3)(A) of House Rule XI. Such authorized subpoenas shall be signed by the Chairman of the Committee or by any member designated 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) Notice of a meeting to consider a motion to authorize and issue a subpoena should be given to all Members of the Committee by 5 p.m. of the day preceding such meeting.

(3) 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.

(4) A subpoena duces tecum may specify terms of return other than at a meeting or hearing of the committee or subcommittee authorizing the subpoena.

(c) *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 to which he or she is entitled. If hearings are held in cities other than Washington D.C., the subpoenaed witness may contact the Majority Staff Director of the Committee, or his or her representative, before leaving the hearing room.

RULE VII.—HEARING PROCEDURES

(a) *Power to Hear*.—For the purpose of carrying out any of its functions and duties under House Rule X and XI, the Committee and its subcommittees are authorized to sit and hold hearings at any time or place within the United States whether the House is in session, has recessed, or has adjourned. (See paragraph (a) of Committee rule VI and paragraph (f) of Committee rule X for provisions relating to subcommittee hearings and meetings.)

(b) *Announcement*.—The Chairman of the Committee shall after consultation with the Ranking Minority Member of the Committee, make a public announcement of the date, place and subject matter of any Committee hearing at least one week before the commencement of the hearing. The Chairman of a subcommittee shall schedule a hearing only after consultation with the Chairman of the Committee and after consultation with the Ranking Minority Member of the subcommittee, and the Chairmen of the other subcommittees after such consultation with the Committee Chairman, and shall request the Majority Staff Director to make a public announcement of the date, place, and subject matter of such hearing at least one week before the hearing. If the Chairman of the Committee or the subcommittee, with concurrence of the Ranking Minority Member of the Committee or subcommittee, 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 of the Committee or subcommittee, as appropriate, shall request the Majority Staff Director to make such public announcement at the earliest possible date. The clerk of the Committee shall promptly notify the Daily Digest Clerk of the Congressional Record, and shall promptly enter the appropriate information into the Committee scheduling service of the House Information Systems as soon as possible after such public announcement is made.

(c) *Scheduling of Witnesses*.—Except as otherwise provided in this rule, the scheduling of witnesses and determination of the time allowed for the presentation of testimony at hearings shall be at the discretion of the Chairman of the Committee or subcommittee, unless a majority of the Committee or subcommittee determines otherwise.

(d) *Written Statement; Oral Testimony*.—(1) Each witness who is to appear before the Committee or a subcommittee, shall insofar as practicable file with the Majority Staff Director of the Committee, at least two working days before day of his or her appearance, a written statement of proposed testimony. Witnesses shall provide sufficient copies of their statement for distribution to Committee or subcommittee Members, staff, and the news media. Insofar as practicable,

the Committee or subcommittee staff shall distribute such written statements to all Members of the Committee or subcommittee as soon as they are received as well as any official reports from departments and agencies on such subject matter. All witnesses may be limited in their oral presentations to brief summaries of their statements within the time allotted to them, at the discretion of the Chairman of the Committee or subcommittee, in light of the nature of the testimony and the length of time available.

(2) As noted in paragraph (a) of Committee rule VI, the Chairman of the Committee or one of its subcommittees, or any Member designated by the Chairman, may administer an oath to any witness.

(3) To the greatest extent practicable, each witness appearing in a non-governmental capacity shall include with the written statement of proposed testimony a curriculum vitae and disclosure of the amount and source (by agency and program) of any Federal grant (or subgrant thereof) or contract (or subcontract thereof) received during the current fiscal year or either of the two preceding fiscal years.

(e) *Questioning of Witnesses.*—Committee or subcommittee Members may question witnesses only when they have been recognized by the Chairman of the Committee or subcommittee for that purpose. Each Member so recognized shall be limited to questioning a witness for five minutes until such time as each Member of the Committee or subcommittee who so desires has had an opportunity to question the witness for five minutes; and thereafter the Chairman of the Committee or subcommittee may limit the time of a further round of questioning after giving due consideration to the importance of the subject matter and the length of time available. All questions put to witnesses shall be germane to the measure or matter under consideration. Unless a majority of the Committee or subcommittee determines otherwise, no committee or subcommittee staff shall interrogate witnesses.

(f) *Extended Questioning for Designated Members.*—Notwithstanding paragraph (e), the Chairman and Ranking Minority member may designate an equal number of Members from each party to question a witness for a period not longer than 60 minutes.

(g) *Witnesses for the Minority.*—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 as provided in clause 2(j)(1) of House Rule XI.

(h) *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 of the Committee or subcommittee shall, to the extent practicable, make available to the members of the Committee any official reports from departments and agencies on such matter. (See Committee rule X(f).)

(i) *Open Hearings.*—Each hearing conducted by the Committee or subcommittee shall be open to the public, including radio, television and still photography coverage, except as provided in clause 4 of House Rule XI (see also Committee rule III (b).). In any event, no Member of the House may be excluded from nonparticipatory attendance at any hearing unless the House by majority vote shall authorize the Committee or subcommittee, for purposes of a particular series of hearings on a particular bill or resolution or on a particular subject of investigation, to close its hearings to Members by means of the above procedure.

(j) *Hearings and Reports.*—(1)(i) The Chairman of the Committee or subcommittee at a hearing shall announce in an opening statement the subject of the investigation. A copy of the Committee rules (and the applicable provisions of clause 2 of House Rule XI, regarding hearing procedures, an excerpt of which appears in Appendix A thereto) shall be made available to each witness upon request. Witnesses at hearings may be accompanied by their own counsel for the purpose of advising them concerning their constitutional rights. The Chairman of the Committee or subcommittee may punish breaches of order and decorum, and of professional ethics on the part of counsel, by censure and exclusion from the hearings; but only the full Committee may cite the offender to the House for contempt.

(ii) Whenever it is asserted by a member of the committee that the evidence or testimony at a hearing may tend to defame, degrade, or incriminate any person, or it is asserted by a witness that the evidence or testimony that the witness would give at a hearing may tend to defame, degrade, or incriminate the witness, such testimony or evidence shall be presented in executive session, notwithstanding the provisions of paragraph (j) of this rule, if by a majority of those present, there being in attendance the requisite number required under the rules of the Committee to be present for the purpose of taking testimony, the Committee or subcommittee determines that such evidence or testimony may tend to defame, degrade, or incriminate any person. The Committee or subcommittee shall afford a person an opportunity voluntarily to appear as a witness; and the Committee or subcommittee shall receive and shall dispose of requests from such person to subpoena additional witnesses.

(iii) No evidence or testimony taken in executive session may be released or used in public sessions without the consent of the Committee or subcommittee. In the discretion of the Committee or subcommittee, witnesses may submit brief and pertinent statements in writing for inclusion in the record. The Committee or subcommittee is the sole judge of the pertinency of testimony and evidence adduced at its hearings. A witness may obtain a transcript copy of his or her testimony given at a public session or, if given at an executive session, when authorized by the Committee or subcommittee. (See paragraph (c) of Committee rule V.)

(2) A proposed investigative or oversight report shall be considered as read if it has been available to the members of the Committee for at least 24 hours (excluding Saturdays, Sundays, or legal holidays except when the House is in session on such day) in advance of their consideration.

RULE VIII.—THE REPORTING OF BILLS AND RESOLUTIONS

(a) *Filing of Reports.*—The Chairman shall report or cause to be reported promptly to the House any bill, resolution, or other measure approved by the Committee and shall take or cause to be taken all necessary steps to bring such bill, resolution, or other measure to a vote. No bill, resolution, or measure shall be reported from the Committee unless a majority of Committee is actually present. A Committee report on any bill, resolution, or other measure approved by the Committee shall be filed within seven calendar days (not counting days on which the House is not in session) after the day on which there has been filed with the Majority Staff Director of the Committee a written request, signed by a majority of the Committee, for the reporting of that bill or resolution. The Majority Staff Director of the Committee shall notify the Chairman immediately when such a request is filed.

(b) *Content of Reports.*—Each Committee report on any bill or resolution approved by the Committee shall include as separately identified sections:

(1) a statement of the intent or purpose of the bill or resolution;

(2) a statement describing the need for such bill or resolution;

(3) a statement of Committee and subcommittee consideration of the measure including a summary of amendments and motions offered and the actions taken thereon;

(4) the results of each record vote on any amendment in the Committee and subcommittee and on the motion to report the measure or matter, including the names of those Members and the total voting for and the names of those Members and the total voting against such amendment or motion (See clause 3(b) of House Rule XIII);

(5) the oversight findings and recommendations of the Committee with respect to the subject matter of the bill or resolution as required pursuant to clause 3(c)(1) of House Rule XIII and clause 2(b)(1) of House Rule X;

(6) the detailed statement described in section 308(a) of the Congressional Budget Act of 1974 if the bill or resolution provides new budget authority (other than continuing appropriations), new spending authority described in section 401(c)(2) of such Act, new credit authority, or an increase or decrease in revenues or tax expenditures, except that the estimates with respect to new budget authority shall include, when practicable, a comparison of the total estimated funding level for the relevant program (or programs) to the appropriate levels under current law;

(7) the estimate of costs and comparison of such estimates, if any, prepared by the Director of the Congressional Budget Office in connection with such bill or resolution pursuant to section 402 of the Congressional Budget Act of 1974 if submitted in timely fashion to the Committee;

(8) a statement of general performance goals and objectives, including outcome-related goals and objectives, for which the measure authorizes funding;

(9) a statement citing the specific powers granted to the Congress in the Constitution to enact the law proposed by the bill or joint resolution;

(10) an estimate by the committee of the costs that would be incurred in carrying out such bill or joint resolution in the fiscal year in which it is reported and for its authorized duration or for each of the five fiscal years following the fiscal year of reporting, whichever period is less (see Rule XIII, clause 3(d)(2), (3) and (h)(2), (3)), together with—(i) a comparison of these estimates with those made and submitted to the Committee by any Government agency when practicable, and (ii) a comparison of the total estimated funding level for the relevant program (or programs) with appropriate levels under current law (The provisions of this clause do not apply if a cost estimate and comparison prepared by the Director of the Congressional Budget Office under section 403 of the Congressional Budget Act of 1974 has been timely submitted prior to the filing of the report and included in the report);

(11) the changes in existing law (if any) shown in accordance with clause 3 of House Rule XIII;

(12) the determination required pursuant to section 5(b) of Public Law 92–463, if the

legislation reported establishes or authorizes the establishment of an advisory committee; and

(13) the information on Federal and intergovernmental mandates required by section 423(c) and (d) of the Congressional Budget Act of 1974, as added by the Unfunded Mandates Reform Act of 1995 (P.L. 104–4).

(14) a statement regarding the applicability of section 102(b)(3) of the Congressional Accountability Act, Public Law 104–1.

(c) *Supplemental, Minority, or 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 subsequent calendar days (excluding Saturdays, Sundays, and legal holidays except when the House is in session on such date) in which to file such views, in writing and signed by that Member, with the Majority Staff Director of the Committee. When time guaranteed by this paragraph has expired (or if sooner, when all separate views have been received), the Committee may arrange to file its report with the Clerk of the House not later than one hour after the expiration of such time. All such views (in accordance with House Rule XI, clause 2(1) and House Rule XIII, clause 3(a)(1)), as filed by one or more Members of the Committee, shall be included within and made a part of the report filed by the Committee with respect to that bill or resolution.

(d) *Printing of Reports.*—The report of the Committee on the measure or matter noted in paragraph (a) above shall be printed in a single volume, which shall:

(1) include all supplemental, minority or additional views that have been submitted by the time of the filing of the report; and

(2) bear on its cover a recital that any such supplemental, minority, or additional views (and any material submitted under House Rule XII, clause 3(a)(1)) are included as part of the report.

(e) *Immediate Printing; Supplemental Reports.*—Nothing in this rule shall preclude (1) the immediate filing or printing of a Committee report unless timely request for the opportunity to file supplemental, minority, or additional views has been made as provided by paragraph (c), or (2) the filing by the Committee 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.

(f) *Availability of Printed Hearing Records.*—If hearings have been held on any reported bill or resolution, the Committee shall make every reasonable effort to have the record of such hearings printed and available for distribution to the Members of the House prior to the consideration of such bill or resolution by the House. Each printed hearing of the Committee or any of its subcommittees shall include a record of the attendance of the Members.

(g) *Committee Prints.*—All Committee or subcommittee prints or other Committee or subcommittee documents, other than reports or prints of bills, that are prepared for public distribution shall be approved by the Chairman of the Committee or the Committee prior to public distribution.

(h) *Post Adjournment Filing of Committee Reports.*—(1) After an adjournment of the last regular session of a Congress sine die, an investigative or oversight report approved by the Committee may be filed with the Clerk at any time, provided that if a member gives notice at the time of approval of intention to file supplemental, minority, or additional views, that member shall be entitled to not less than seven calendar days in which to submit such views for inclusion with the report.

(2) After an adjournment of the last regular session of a Congress sine die, the Chairman of the Committee may file at any time with the Clerk the Committee's activity report for that Congress pursuant to clause 1(d)(1) of Rule XI of the Rules of the House without the approval of the Committee, provided that a copy of the report has been available to each member of the Committee for at least seven calendar days and the report includes any supplemental, minority, or additional views submitted by a member of the Committee.

RULE IX.—OTHER COMMITTEE ACTIVITIES

(a) *Oversight Plan.*—Not later than February 15 of the first session of a Congress, the Chairman shall convene the Committee in a meeting that is open to the public and with a quorum present to adopt its oversight plans for that Congress. Such plans shall be submitted simultaneously to the Committee on Government Reform and to the Committee on House Administration. In developing such plans the Committee shall, to the maximum extent feasible—

(1) consult with other committees of the House that have jurisdiction over the same or related laws, programs, or agencies within its jurisdiction, with the objective of ensuring that such laws, programs, or agencies are reviewed in the same Congress and that there is a maximum of coordination between such committees in the conduct of such reviews; and such plans shall include an explanation of what steps have been and will be taken to ensure such coordination and cooperation;

(2) review specific problems with federal rules, regulations, statutes, and court decisions that are ambiguous, arbitrary, or nonsensical, or that impose severe financial burdens on individuals; and

(3) give priority consideration to including in its plans the review of those laws, programs, or agencies operating under permanent budget authority or permanent statutory authority; and

(4) have a view toward ensuring that all significant laws, programs, or agencies within its jurisdiction are subject to review at least once every ten years.

The Committee and its appropriate subcommittees shall review and study, on a continuing basis, the impact or probable impact of tax policies affecting subjects within its jurisdiction as provided in clause 2(d) of House Rule X. The Committee shall include in the report filed pursuant to clause 1(d) of House Rule XI a summary of the oversight plans submitted by the Committee under clause 2(d) of House Rule X, a summary of 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.

(b) *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. 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 therefor would be made annually.

(c) *Budget Act Compliance: Views and Estimates* (See Appendix B).—Not later than six weeks after the President submits his budget under section 1105(a) of title 31, United States Code, or at such time as the Committee on the Budget may request, the Committee shall, 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 (under section 301 of the Congressional Budget Act of 1974—see Appendix B) that are within its jurisdiction or functions; and (2) an estimate of the total amounts of new budget authority, and budget outlays resulting therefrom, to be provided or authorized in all bills and resolutions within its jurisdiction that it intends to be effective during that fiscal year.

(d) *Budget Act Compliance: Recommended Changes.*—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 (See Appendix B).

(e) *Conference Committees.*—Whenever in the legislative process it becomes necessary to appoint conferees, the Chairman shall, after consultation with the Ranking Minority Member, determine the number of conferees the Chairman deems most suitable and then recommend to the Speaker as conferees, in keeping with the number to be appointed by the Speaker as provided in House Rule I, clause 11, the names of those Members of the Committee of not less than a majority who generally supported the House position and who were primarily responsible for the legislation. The Chairman shall, to the fullest extent feasible, include those Members of the Committee who were the principal proponents of the major provisions of the bill as it passed the House and such other Committee Members of the majority party as the Chairman may designate in consultation with the Members of the majority party. Such recommendations shall provide a ratio of majority party Members to minority party Members no less favorable to the majority party than the ratio of majority party Members to minority party Members on the Committee. In making recommendations of Minority Party Members as conferees, the Chairman shall consult with the Ranking Minority Member of the Committee.

RULE X.—SUBCOMMITTEES

(a) *Number and Composition.*—There shall be such subcommittees as specified in paragraph (c) of this rule. Each of such subcommittees shall be composed of the number of members set forth in paragraph (c) of this rule, including ex officio members. The Chairman may create additional subcommittees of an ad hoc nature as the Chairman determines to be appropriate subject to any limitations provided for in the House Rules.

(b) *Ratios.*—On each subcommittee, there shall be a ratio of majority party members to minority party members which shall be consistent with the ratio on 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 and ratios below reflect that fact.

(c) *Jurisdiction.*—Each subcommittee shall have the following general jurisdiction and number of members:

Department Operations, Oversight, Nutrition and Forestry (21 Members, 11 majority and 10 minority).—Agency oversight; review and analysis; special investigations; food stamps, nutrition and consumer programs;

forestry in general, forest reserves other than those created from the public domain; energy and biobased energy production; and dairy.

Livestock and Horticulture (23 Members, 12 majority and 11 minority).—Livestock; poultry; meat; seafood and seafood products; inspection, marketing, and promotion of such commodities; aquaculture; animal welfare; grazing; fruits and vegetables; marketing and promotion orders.

General Farm Commodities and Risk Management (31 Members, 16 majority, 15 minority).—Program and markets related to cotton, cottonseed, wheat, feed grains, soybeans, oilseeds, rice, dry beans, peas, lentils; Commodity Credit Corporation; crop insurance; and commodity exchanges.

Specialty Crops and Foreign Agriculture Programs (17 Members, 9 majority and 8 minority)—Peanuts; sugar; tobacco; honey and bees; marketing orders relating to such commodities; foreign agricultural assistance and trade promotion programs, generally.

Conservation, Credit, Rural Development and Research (21 Members, 11 majority and 10 minority)—Soil, water, and resource conservation; small watershed program; agricultural credit; rural development; rural electrification; farm security and family farming matters; agricultural research, education and extension services; plant pesticides, quarantine, adulteration of seeds, and insect pests; and biotechnology.

(d) Referral of Legislation.—

(1)*(a) In General*.—All bills, resolutions, and other matters referred to the Committee shall be referred to all subcommittees of appropriate jurisdiction within 2 weeks after being referred to the Committee. After consultation with the Ranking Minority Member, the Chairman may determine that the Committee will consider certain bills, resolutions, or other matters.

(b) Trade Matters.—Unless action is otherwise taken under subparagraph (3), bills, resolutions, and other matters referred to the Committee relating to foreign agriculture, foreign food or commodity assistance, and foreign trade and marketing issues will be considered by the Committee.

(2) The Chairman, by a majority vote of the Committee, may discharge a subcommittee from further consideration of any bill, resolution, or other matter referred to the subcommittee and have such bill, resolution or other matter considered by the Committee. The Committee having referred a bill, resolution, or other matter to a subcommittee in accordance with this rule may discharge such subcommittee from further consideration thereof at any time by a vote of the majority members of the Committee for the Committee's direct consideration or for reference to another subcommittee.

(3) Unless the Committee, a quorum being present, decides otherwise by a majority vote, the Chairman may refer bills, resolutions, legislation or other matters not specifically within the jurisdiction of a subcommittee, or that is within the jurisdiction of more than one subcommittee, jointly or exclusively as the Chairman deems appropriate, including concurrently to the subcommittees with jurisdiction, sequentially to the subcommittees with jurisdiction (subject to any time limits deemed appropriate), divided by subject matter among the subcommittees with jurisdiction, or to an ad hoc subcommittee appointed by the Chairman for the purpose of considering the matter and reporting to the Committee thereon, or make such other provisions deemed appropriate.

(e) *Participation and Service of Committee Members on Subcommittees*.—(1) The Chairman and the Ranking Minority Member shall serve as ex officio members of all subcommittees and shall have the right to vote on all matters before the subcommittees. The Chairman and the Ranking Minority Member may not be counted for the purpose of establishing a quorum.

(2) Any member of the Committee who is not a member of the subcommittee may have the privilege of sitting and nonparticipatory attendance at subcommittee hearings or meetings in accordance with clause 2(g)(2) of House Rule XI. Such member may not:

(i) vote on any matter;

(ii) be counted for the purpose of a establishing a quorum;

(iii) participate in questioning a witness under the five minute rule, unless permitted to do so by the subcommittee Chairman in consultation with the Ranking Minority Member or a majority of the subcommittee, a quorum being present;

(iv) raise points of order; or

(v) offer amendments or motions.

(f) *Subcommittee Hearings and Meetings*.—(1) Each subcommittee is authorized to meet, hold hearings, receive evidence, and make recommendations to the Committee on all matters referred to it or under its jurisdiction after consultation by the subcommittee Chairmen with the Committee Chairman. (See Committee rule VII.)

(2) After consultation with the Committee Chairman, subcommittee Chairmen shall set dates for hearings and meetings of their subcommittees and shall request the Majority Staff Director to make any announcement relating thereto. (See Committee rule VII(b).) In setting the dates, the Committee Chairman and subcommittee Chairman shall consult with other subcommittee Chairmen and relevant Committee and Subcommittee Ranking Minority Members in an effort to avoid simultaneously scheduling Committee and subcommittee meetings or hearings to the extent practicable.

(3) Notice of all subcommittee meetings shall be provided to the Chairman and the Ranking Minority Member of the Committee by the Majority Staff Director.

(4) Subcommittees may hold meetings or hearings outside of the House if the Chairman of the Committee and other subcommittee Chairmen and the Ranking Minority Member of the subcommittee is consulted in advance to ensure that there is no scheduling problem. However, the majority of the Committee may authorize such meeting or hearing.

(5) The provisions regarding notice and the agenda of Committee meetings under Committee rule II(a) and special or additional meetings under Committee rule II(b) shall apply to subcommittee meetings.

(6) If a vacancy occurs in a subcommittee chairmanship, the Chairman may set the dates for hearings and meetings of the subcommittee during the period of vacancy. The Chairman may also appoint an acting subcommittee Chairman until the vacancy is filled.

(g) *Subcommittee Action*.—(1) Any bill, resolution, recommendation, or other matter forwarded to the Committee by a subcommittee shall be promptly forwarded by the subcommittee Chairman or any subcommittee member authorized to do so by the subcommittee. (2) Upon receipt of such recommendation, the Majority Staff Director of the Committee shall promptly advise all members of the Committee of the subcommittee action.

(3) The Committee shall not consider any matters recommended by subcommittees until two calendar days have elapsed from the date of action, unless the Chairman or a majority of the Committee determines otherwise.

(h) *Subcommittee Investigations*.—No investigation shall be initiated by a subcommittee without the prior consultation with the Chairman of the Committee or a majority of the Committee.

RULE XI.—COMMITTEE BUDGET, STAFF, AND TRAVEL

(a) *Committee Budget*.—The Chairman, in consultation with the majority members of the Committee, and the minority members of the Committee, shall prepare a preliminary budget for each session of the Congress. Such budget shall include necessary amounts for staff personnel, travel, investigation, and other expenses of the Committee and subcommittees. After consultation with the Ranking Minority Member, the Chairman shall include an amount budgeted to minority members for staff under their direction and supervision. Thereafter, the Chairman shall combine such proposals into a consolidated Committee budget, and shall take whatever action is necessary to have such budget duly authorized by the House.

(b) *Committee Staff*.—(1) The Chairman shall appoint and determine the remuneration of, and may remove, the professional and clerical employees of the Committee not assigned to the minority. The professional and clerical 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. (See House Rule X, clause 9)

(2) The Ranking Minority member of the Committee shall appoint and determine the remuneration of, and may remove, the professional and clerical staff assigned to the minority within the budget approved for such purposes. The professional and clerical 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.

(3) From the funds made available for the appointment of Committee staff pursuant to any primary or additional expense resolution, the Chairman shall ensure that each subcommittee is adequately funded and staffed to discharged its responsibilities and that the minority party is fairly treated in the appointment of such staff (See House Rule X, clause 6(d)).

(c) *Committee Travel*.—(1) Consistent with the primary expense resolution and such additional expense resolution as may have been approved, the provisions of this rule shall govern official travel of Committee members and Committee staff regarding domestic and foreign travel (See House rule XI, clause 2(n) and House Rule X, clause 8 (reprinted in Appendix A)). Official travel for any member or any Committee staff member shall be paid only upon the prior authorization of the Chairman. Official travel may be authorized by the Chairman for any Committee Member and any Committee staff member in connection with the attendance of hearings conducted by the Committee and its subcommittees and meetings, conferences, facility inspections, and investigations which involve activities or subject matter relevant to the general jurisdiction of the Committee. Before such authorization is given there shall be submitted to the Chairman in writing the following:

(i) The purpose of the official travel;

(ii) The dates during which the official travel is to be made and the date or dates of the event for which the official travel is being made;

(iii) The location of the event for which the official travel is to be made; and

(iv) The names of members and Committee staff seeking authorization.

(2) In the case of official travel of members and staff of a subcommittee to hearings, meetings, conferences, facility inspections and investigations involving activities or subject matter under the jurisdiction of such subcommittee to be paid for out of funds allocated to the Committee, prior authorization must be obtained from the subcommittee Chairman and the full Committee Chairman. Such prior authorization shall be given by the Chairman only upon the representation by the applicable subcommittee Chairman in writing setting forth those items enumerated in clause (1).

(3) Within 60 days of the conclusion of any official travel authorized under this rule, there shall be submitted to the Committee Chairman a written report covering the information gained as a result of the hearing, meeting, conference, facility inspection or investigation attended pursuant to such official travel.

(4) Local currencies owned by the United States shall be made available to the Committee and its employees engaged in carrying out their official duties outside the United States, its territories or possessions. No appropriated funds shall be expended for the purpose of defraying expenses of Members of the Committee or is employees in any country where local currencies are available for this purpose; and the following conditions shall apply with respect to their use of such currencies;

(i) No Member or employee of the Committee shall receive or expend local currencies for subsistence in any country at a rate in excess of the maximum per diem rate set forth in applicable Federal law; and

(ii) Each Member or employee of the Committee shall make an itemized report to the Chairman within 60 days following the completion of travel showing the dates each country was visited, the amount of per diem furnished, the cost of transportation furnished, and any funds expended for any other official purpose, and shall summarize in these categories the total foreign currencies and appropriated funds expended. All such individual reports shall be filed by the Chairman with the Committee on House Administration and shall be open to public inspection.

RULE XII.—AMENDMENT OF RULES

These rules may be amended by a majority vote of the Committee. A proposed change in these rules shall not be considered by the Committee as provided in clause 2 of House Rule XI, unless written notice of the proposed change has been provided to each Committee member two legislative days in advance of the date on which the matter is to be considered. Any such change in the rules of the Committee shall be published in the Congressional Record within 30 calendar days after its approval.

THE FEDERAL BUDGET

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentleman from North Carolina (Mr. PRICE) is recognized for 60 minutes as the designee of the minority leader.

Mr. PRICE of North Carolina. Mr. Speaker, I and a number of colleagues wish to address this body and the American people this evening on our country's fiscal situation and the decisions facing Congress as we propose a budget for the 2004 fiscal year. We speak with some urgency, and I think colleagues will sense that, because our situation has worsened drastically, and we are convinced that the President's 2004 budget would move our country dramatically in the wrong direction. In the minutes to follow, we will elaborate on our concerns and explain on the alternative course that we should be taking.

Mr. Speaker, just 3 years ago, the Federal budget achieved its first surplus that did not rely on either the Social Security trust fund surplus or the Medicare surplus in many, many years. In fact, in the last years of the Clinton administration, we actually paid down $400 billion of the publicly held debt. This first chart tells the story: the deepening deficits in the 1980s, the climb out of deficit spending that occurred after the historic 1993 budget vote, and then, in the last years of the Clinton administration, a surplus, almost unheard of in this postwar period. This surplus enabled us to pay down a portion of the publicly held debt and to look forward to being able to meet the obligations of Social Security and Medicare as the baby boomers retire.

This situation, unfortunately, has now drastically reversed. As this chart indicates, we have in this second Bush administration a plunge into deficit spending that breaks the record set in the first Bush administration and promises red ink as far as the eye can see. After just 2 years in office, the Bush administration would spend the entire Medicare surplus, the entire Social Security surplus, and would pile up trillions in the debt we once set out to retire. Never in our country's history have we had a fiscal reversal of this magnitude. The next charts will make that especially clear.

We had, at the start of this administration, a projected $5.6 trillion surplus over the next 10 years. That surplus now is not only gone—and you see here the successive projections as our fiscal situation worsened. Now we are looking at no surplus and, in fact, at a $2.1 trillion deficit for that same 10-year period. That is a fiscal reversal of almost $8 trillion, unprecedented in our country's history. The deficit for 2003 is projected to be over $300 billion and for 2004 around $307 billion. The next chart shows those same figures with the Social Security and Medicare surpluses removed. Of course, that makes the situation even more alarming, because when you remove the cushion of the Social Security and Medicare surpluses which the Bush budgets would spend in their entirety over the next 10 years, the hole is even deeper. Where we were formerly looking at a $3 trillion on-budget surplus over the next 10 years, we are now looking at a $4.4 trillion deficit.

This chart indicates what happens to trust fund revenues. The red bars are the Social Security surplus. The yellow bars are the Medicare surplus. The olive bars are the deficit beyond these surpluses. The Bush budget plans to spend those surpluses entirely and to borrow considerably beyond that. All this is going to add to the national debt. We are going to add some $2 trillion to the national debt in the next 5 years.

Some Members will recall that at the end of the Clinton administration, we were talking about actually retiring the publicly held debt by 2008. There was even some debate about whether we could fully pay it down. Well, you can forget about that debate, because now we have a $5 trillion publicly held debt predicted for 2008. As many speakers have already said this evening, that will not only be a huge burden on future generations but it will also sap our annual budgets, because we are going to have to pay an additional $1.5 trillion in money down the rat hole in interest on that publicly held debt.

□ 1830

This will amount to a debt tax, d-e-b-t tax of more than $200 billion a year for the forseeable future. That comes to about $4,500 per year for the average family, and it is rising. This chart indicates how that debt tax, the accumulated debt taxes, will grow by $1.5 trillion by virtue of these projected Federal deficits and the piling up of debt.

Unfortunately, in the face of the worst fiscal reversal in the Nation's history, what is the response of the Bush administration? The response is actually to propose more of the same failed policies. The budget proposes $1.5 trillion in new tax cuts, every penny of which is funded by increased government debt, and when we add the interest costs, those new tax proposals, on top of the old ones, come to almost $2 trillion. These tax cuts mainly benefit the wealthiest taxpayers in this country. They will not only increase the deficit, but they will restrict the money available for education, for the environment, and for transportation, health care, and law enforcement.

In fact, Mr. Speaker, this Bush budget gives us the worst of both worlds. It take us over the cliff fiscally, but then it actually underfunds critical domestic priorities.

We know, for example, that our States are flat on their back fiscally. Our next speaker will elaborate on that.

The No Child Left Behind Act passed with great bipartisan enthusiasm. But it is not funded in the President's budget proposal, leaving the states to their own devices. Homeland Security has been underfunded in the 2003 budget. The President promised $3.5 billion in additional funding for first responders, but then taking the money away from conventional law enforcement grants, leaving the states with less than a billion dollars in new money.

The most obvious way to help the States from the federal level would be to increase the cost sharing percentage temporarily on Medicaid. But just this week the President reiterated that he has no intention of doing that. So the States can forget it when it comes to any relief from their fiscal distress. We may be faced with a situation of cutting taxes here at the Federal level and

having like amounts reimposed by the States to meet their obligations, and that of course would mean that the net stimulative effect was zero.

So, Mr. Speaker, by proposing a budget that mandates enormous deficits into the indefinite future while cutting important domestic priorities, this administration utterly fails to meet the fiscal challenges facing our Nation, and I and my colleagues participating in this special order wish to elaborate on where the Bush budget would take us.

First we will hear from a new Member of this body who has significant experience in politics and in government and is already making his mark, the gentleman from Illinois (Mr. EMANUEL).

Mr. EMANUEL. Mr. Speaker, I thank the gentleman from North Carolina for yielding.

Mr. Speaker, President Kennedy once said, ''To govern is to choose.'' I think it is very interesting, in the very week that the President was telling the Governors that we had no more money for their health care, Medicaid plans, their education, college, every State is raising tuition on middle-class families who are affording college and higher ed, the Leave No Child Behind. The very week that the President of the United States said to our Governors, I am sorry, there is not another penny for them, is the very week that we upped and sweetened our bid to Turkey; so we have now given Turkey $24 billion.

I want to meet the person that was negotiating for Turkey. They have done themselves a wonderful job. We finally got ourselves a job plan and economic growth package. The problem is it is for Turkey, not for the United States. And we have done ourselves, I think, a world of damage here. And I believe personally that we need a northern front in our fight if we are going to war in Iraq and I do not think we should spare anything to save our lives; so clearly having a northern front in this war is going to be important. But I want my colleagues to think about the fact that in the very week that we told our Governors and, most importantly, the citizens of our States that there would not be another penny for higher ed, there would not be another penny in assistance on health care, that we could not fully fund the Leave No Child Behind on the education program, is the very week that we sweetened our offer to the nation of Turkey.

To all the police departments that need money for fire, for all the cities that need assistance for police departments and fire for training on terrorism, I want them to now know Istanbul has their money. So I have come to the conclusion that maybe our States need to apply to Turkey for foreign aid. They have our money.

When it comes to making sure that all our police departments and fire departments are fully trained for dealing with terrorism, they do not have the resources to deal with that. We do not have all the money that they need. They are not going to get all the training they need to deal with terrorism. And when we have an act here at home, which everybody knows that this war will instigate as further terrorism here in the United States, our police and fire departments do not have all the resources they need to act on that.

I want my colleagues to think about the choices here, because as I have said early on, that President Kennedy once said there are choices. The amount of money that we have now guaranteed for Turkey, $24 billion, is twice the money we spend on Pell grants. We spend $11 to $12 billion a year. It is twice the money for Pell grants. The loan guarantees for Turkey, the same amount of money that we have now given Turkey, we could make two thirds of the existing tuition free at public universities.

These are choices we are making. So as we make this assistance, as we tell our Governors we do not have money for them and there is not another penny for them and yet we tell Turkey here is another $2 billion, the same week we did that, I would like the left hand of the administration to meet the right hand of the administration, because somebody has not got a clear plan; and we are giving money away to Turkey while we are telling our own people here at home we do not have enough money for them.

How did we get there? I have a chart here that shows the last 50 years of fiscal and economic management by Presidents. It goes back to the second term under Truman, and it goes through all the Presidents and tells how they did in managing the economy. And our present President, our President, has the most anemic economic growth of any President in the last 50 years. And since we are in the mood of quoting former Presidents, Ronald Reagan once said, ''Facts are a stubborn thing.'' And since the 2000 election, we have lost 2½ million jobs in this economy; 925,000 manufacturing jobs in the years 2001, 2002; 4 more million Americans are without health insurance; nearly a trillion dollars' worth of corporate assets have been foreclosed on, and 2 million more Americans have left the middle class for poverty.

Facts are a stubborn thing. That is the record of this present President and the economic management at this time. And what has he chosen to do and what has the administration chosen to do? Having argued for a tax cut 14 months ago to get the economy moving, the net result has been the worst anemic growth of any President in 50 years: More people unemployed, more people without health insurance, more businesses closed, and more people joining the ranks of poverty. He has decided to put his foot on the accelerator and pushed further for more tax cuts. He is the only President in history, in a time of war, who has decided to have tax cuts. So we will ask our men and women to sacrifice, that those in the wealthiest corridors of our country will not be sacrificing and joining the rest of us as we do sacrifice.

This is the wrong way to economic management. We can have a bipartisan approach that puts our fiscal house in order, invests in our future, and defends our interests overseas. As a person and individual Member of this Chamber who does support in some capacity military action, I think the notion of the last 2 weeks in Turkey where it was let us make a deal, unfortunately Turkey has walked away with the resources that our kids need, our police departments need, and our doctors and nurses need to provide health care.

Mr. PRICE of North Carolina. Mr. Speaker, I especially appreciate the gentleman's pointing out the plight of the States and the tongue-in-cheek advice to how the States might improve their situation. Of course we had the Governors here in Washington this week, the Governors from both parties. Is there any indication they got any satisfaction at all from the President?

Mr. EMANUEL. Mr. Speaker, no. But I am thinking of recommending to the Governors Association that they hire the person who was negotiating for Turkey and maybe he could do them a good job. So there is no indication of that. In fact, what has happened is if the gentleman will read the Wall Street Journal report out of the meeting that the President had with the Governors, in fact he told them there will be no more assistance in that area. And mind you, this is not a partisan issue. It is the worst fiscal condition of all 50 States since World War II.

Mr. PRICE of North Carolina. Mr. Speaker, I ask the gentleman, is it not true that a number of the items under discussion were things that the Federal Government has mandated?

Mr. EMANUEL. Correct.

Mr. PRICE of North Carolina. Mr. Speaker, for example, the education reforms under No Child Left Behind.

Mr. EMANUEL. Right.

Mr. PRICE of North Carolina. Mr. Speaker, of course there has been a good deal of help promised in the homeland security area, particularly for upfitting and getting better equipment, better communications capacity for first responders, for fire and emergency medical and police. The Republican Governors went to the White House and apparently came away empty-handed. It seemed even they had a hard time putting a good face on this.

Mr. EMANUEL. Mr. Speaker, what we have decided is we just do not have the same sense of urgency. And let me add one other point that I lost in here is that today there was a story, I think in the Wall Street Journal again, that States have borrowed more money this year than at any time in the last 50 years for the States, greater I think in times by a magnitude of 3 in borrowing

more money, and again they are making cuts again at the same time, the most severe cuts in the areas of health care and education; and we are basically mandating they have to meet certain obligations, not giving them the assistance and resources they need to meet those obligations.

What are those obligations? They are in the area of health care where we have a health care crisis; 42 million Americans who work full time without healthcare. We do not have an agenda or plan to help them meet that obligation.

We have not had a raise in the Federal level in the Pell grant to help people go to college. In over 4 years, the tuitions on average are going up 9, 10 percent this year. So we have put not only a burden on our States and our Governors, our State legislatures, to fund requirements that we pass here, most importantly we are putting demands and further burdens on middle-class, hard-working families who are trying to raise their kids right, with the right sense of values and get on to college so that they can succeed in life, and yet we are not giving them the resources they need.

And that is why I brought up this point about both the Pell grant or public universities and the choices we make. We make choices. We have said that Turkey in that effort over there is more important. We have given Turkey now, in one year, twice the money we have given in Pell grants in this country to help middle-class and lower-middle-class children go to college. If we took the same type of resources, we could make free two thirds of public university education to kids. These are American children. We have a commitment to do right when we win this war, if we are going to go to war. I want our troops to succeed, but we have an obligation over here, and the truth is if we had a balanced deal we would not have to make a choice. These are not either/or choices.

Mr. PRICE of North Carolina. Mr. Speaker, I thank the gentleman.

Now I am happy to recognize the gentleman from Virginia (Mr. SCOTT), a Member who has long studied Federal budgets and understands very well the dire situation that we are facing.

Mr. SCOTT of Virginia. Mr. Speaker, I thank the gentleman for yielding. I think it is helpful just to use the charts because the charts tell the story better than anything else. I mean, we have all this rhetoric about how good the economy is, how good this is, and whether or not there is going to be a deficit. But one does not produce numbers and charts like this by accident.

If we look at when President Reagan came in, my colleagues will remember that his budget passed pretty much as he introduced it. He had enough support in Congress to get his budget passed. And we see what happened to the deficit after Johnson, Nixon, Ford, Carter, what happened to the deficit under Reagan and Bush. It was essentially their budgets that passed.

When President Clinton came in, it was his budget that passed. Very narrowly without a single Republican vote in the House or the Senate, his budget passed, and we saw the deficit declining year after year. When the Republicans took over, it was still President Clinton's budget, because he vetoed the budgets passed by Congress several times. My colleagues will remember that the Republicans shut down the government because they would not accept President Clinton's budget. They sent him a budget. He vetoed it. They closed the government down, he kept vetoing the bills. Finally, the budget kept going with continuing resolutions and otherwise, but essentially it was President Clinton in charge of the budget.

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He had enough support in Congress to sustain his vetoes, and it was essentially his budget that created the situation where there were smaller and smaller deficits, up to the point where there was, in fact, a surplus. This is the nontrust fund, so this is the surplus after you secure Social Security and Medicare, save them for Social Security and Medicare; and we still had a surplus.

President Bush comes in, and it is his budget that is adopted; and we see what happens to the deficit this first year. September 11 is within 3 weeks of the end of the fiscal year, so most of this happened before September 11, and we see as far as the eye can see what is happening to the budget.

When we look at the President's proposal, we see that, according to his budget, we started out 2000 with the surplus; the first year, 2001, we spent all of Medicare and some of Social Security; 2002, all of Medicare, all of Social Security, and about $160 billion more in debt. The budget year we are in now looks to be worse than that. The budget projection for as far as the President's budget goes, according to his budget, he is recommending all of these deficits.

Now, I think you have to put those numbers in some kind of context. This is the President's budget out to 2008. The on-budget deficit for this year is going to be $468 billion. In the 2004 budget, the one he is recommending, it is going to be $482 billion. It is offset somewhat by Social Security, so it is not quite as bad as it looks. But the on-budget, after you have taken just the on-budget part, before you offset it by spending the Social Security and Medicare, it is $468 billion and $482 billion.

Now, the President says if we just would not spend as much, maybe the budget would go into balance. It has already been pointed out that the entire non-Social Security/Medicare/defense part of the budget, nondefense discretionary budget, is about $425 billion. In other words, we would have to eliminate all of education, all of transportation and roads, all of the Department of Justice, FBI, prisons, all of NASA, all of foreign aid, all the veterans benefits, eliminate all of government outside of Social Security, Medicare and defense, and we still would not have the budget in balance. So when he says just cut a little spending, look at the numbers.

The next chart is when you run up deficits, it is not free. This bottom line is what the Federal payment on the national debt would be and what it was supposed to be when the President came in. We would have paid off almost the entire national debt by 2011 to 2015. Instead, we are running up debt. So we have to pay more in the debt tax.

Mr. PRICE of North Carolina. If the gentleman will yield, the debt tax was on the way down because the interest payments on the national debt naturally go down as the debt itself is paid off. We had begun paying the debt off. But as that chart seems to indicate, those are on the way right back up, over $200 billion a year in money that I think all of us could think of more productive ways to spend than paying interest on the debt.

Mr. SCOTT of Virginia. We were about to pay off the entire national debt, so there would have been no interest on the national debt. Even if you do not pay off any of the debt, you still have to pay the interest. These are big numbers. Let us divide it and see what it means to a family of four.

For a family of four, dividing the population into the interest on the national debt, we have gotten it down to $4,500. As you saw, it would have gone down to virtually zero. It was $4,500 for a family of four, headed toward zero. But instead, it is going to be $6,500 by 2008, and going up at a rate of about $500 a year as far as you can see. By 2008 it will be $6,500 just interest on the debt before you have got any government at all.

Now, as it gets worse and worse and the debt tax gets worse and worse, we are trying to prepare for the baby boomers and Social Security. This is the chart of the Social Security surplus. Social Security, we are bringing in more than we are sending out; and we have a surplus, temporarily. In 2017 it will be about even, and then it gets worse and worse, and we will have almost $1 trillion in deficit out here in 2037.

Now, if we had banked all this money and invested it, we would be able to pay this. In fact, we could have covered all of the Social Security deficit out 75 years with one-half of the tax cut that has already been implemented. In other words, if they had cut taxes only in half and allocated the other half to the Social Security problem, we would have had a solvent Social Security system for 75 years. But instead, they spent all of the Social Security surplus.

Now, people ask, what is our plan? They have ruined the budget. What is our plan? I remind them that our plan is right here in green. When Democrats

controlled the budget, the deficit was less and less, into surplus, going towards the end of the national debt. That was our plan.

This is President Bush's plan. Now, when we were leading, this is how we led. I do not think you can escape this chart. You do not create a chart like this by accident.

Mr. PRICE of North Carolina. Mr. Speaker, I thank the gentleman for a very convincing demonstration of where we have been and where, unfortunately, it appears we are going, unless we take corrective action.

The gentleman from Maryland (Mr. VAN HOLLEN) is one of our new Members, who is already actively participating in the work of this body. We are happy to have him as part of this Special Order here tonight.

I yield to the gentleman from Maryland (Mr. VAN HOLLEN).

Mr. VAN HOLLEN. Mr. Speaker, I thank the gentleman from North Carolina for yielding.

Mr. Speaker, this is actually the first time I have made remarks on this floor; and I deliberated, as I am sure many new Members do, over what subject I should address first, and I can think of no more important matter facing this Congress than the future economic health of our Nation and what investments we decide to make for the common good.

The actions we take here this session will affect the well-being of Americans for generations to come. We need to adopt an economic plan that will put America back to work and a budget that reflects the priorities of the American people.

The budget plan submitted by the President a few weeks ago, it is a long document filled with thousands of numbers. Like most budgets, it is not exciting reading unless you like to put on the green eye shades. But it is probably the most important document we will work with this year as Members of Congress, because just as each family has to make many tough decisions about their household budgets, so must we make the tough decisions for our entire American family. And how we decide to invest our collective resources should tell us a lot about what we care about as a people and who we are as a people. The budgets and economic plans we adopt here this session I hope will reflect the priorities of the American people.

Mr. Speaker, I have listened carefully to the people in my district, and I think that their priorities are the same as priorities of Americans around this country. They want a country where every child has the opportunity to get a great start in life with a first-rate education. They want a country where every American has access to quality health care. They want an America where every American and every individual who is ready to roll up his or her sleeves and go to work can find a job. And they want to know that their government is taking all reasonable steps to protect our homeland and be prepared to respond to national emergencies.

These are simple things that we all want for our families. We want them for our neighbors; we want them for our fellow Americans. We are a great Nation, and we can do these things. But to do so we are going to have to work with the President to change the course that he has charted with the economic plan he has submitted and the budget that he has proposed to Congress.

Just a few weeks ago I had the privilege to attend and sit in this Chamber when the President delivered his State of the Union address. I was sitting right over there. I was very eager to hear what he had to say.

Very early in his speech, he made the following statement: ''We will not deny, we will not ignore, we will not pass along our problems to other Congresses, to other Presidents, to other generations.''

I must say, when I heard that statement I nearly fell out of my chair, because the budget and the economic plan proposed by the President does exactly what he says he does not want to do. It does ignore our problems; and, if we do not fix those problems, we will simply be passing the buck to future Congresses, to future Presidents, and to future generations.

Let us look at education. Last year with great fanfare the President signed the Leave No Child Behind Act. But the ink was barely dry before the administration submitted a budget that fell well short of the promised funding. When you leave the funding behind, you also leave millions of children behind, and leave them with nothing but broken promises. The President's budget for the coming fiscal year promise falls $9 billion short of what had been authorized, and it is a terrible message to send to our school children and to our teachers.

Let us look at health care. The President has made no meaningful proposal to address the problem of the 41 million Americans who have no health insurance. Apparently, the Bush administration proposes to leave this problem to future Congresses, to future Presidents and future generations.

And how about domestic security? The President's proposed budget ignores the needs outlined by the heads of his own agencies. The U.S. Customs Service, the Coast Guard, the Department of Energy, they have all said that they need more resources to meet the threat than the President has proposed in his budget.

So what has the President proposed? What is the President's top domestic priority? We have heard tonight, another huge tax cut that overwhelmingly benefits the superwealthy. Apparently the administration has decided that the most pressing domestic problem, the one issue that cannot wait, is that the superwealthy are paying too much in taxes. And this comes on the heels of the $1.4 trillion tax cut in 2001 that disproportionately benefits already the very wealthy.

And don't be fooled by averages. Sure, when you combine the estimated tax break of $325,000 that Bloomberg News says Vice President Cheney will receive, and others with very high incomes with the small tax breaks that most will receive, you get an average refund of over $1,000. That's like saying if Bill Gates were elected to the House of Representatives, on average, all 435 members in this chamber would be multi-millionaires. It's a great statistic, but nobody is really any better off.

What is the result? What is the result of the President's tax plan? Even the administration officials have conceded it will do virtually nothing to help get the economy going right now, to help stimulate our economy, to get people back to work; and the real result, as we have seen, will be rivers of red ink and rising interest rates.

The President's plan would result in a $304 billion deficit this year, and his plans will lead to the sharpest reversal in America's fiscal fortunes in history. We have gone from a projected $5.6 trillion surplus over 10 years to a projected $2.1 trillion deficit, and that does not even include the cost of war in Iraq and the aftermath.

As our colleague from Illinois stated, just this week we have promised Turkey $24 billion, and that before the conflict has even begun. This administration has not begun to come clean on the costs of war.

So who is going to pick up this mountain of debt? In the end, it is the American people who will always be left holding the bag. And there are only two ways to deal with the debt in the long term. We all know that. Either you raise taxes on our children in the next generation, or you deeply cut expenditures. And as our colleague from Virginia just pointed out, where you have to go to cut expenditures to make up these deficits are Medicare and Social Security. There is no other way to do it.

The President is already using the funds from the Social Security trust funds to pay for his tax cuts. The lockbox we all heard so much about, well, it was picked so long ago, and the raid is on. The President's plan is a guided missile aimed at Social Security and Medicare, and it is not just the money in the trust fund that will be lost; we are also going to lose the trust of the American people.

So, Mr. Speaker, I am very concerned with the reckless economic course that the President has set. It does exactly what he said he did not want to do. It ignores our very real needs and passes on the burdens of tax cuts to Social Security, Medicare, future congresses and future generations.

I believe his plan is out of touch with the true hopes and aspirations of the American people. We have an obligation to confront these issues squarely, as we are talking about tonight. We need to talk straight to the American

people; and I hope this Congress, before we get out, will adopt an economic plan and a budget that reflects the true priorities of the American people and does not pass the buck to future generations.

□ 1900

Mr. PRICE of North Carolina. Mr. Speaker, I appreciate the recollection of the President's quote about not passing along problems to future generations. We had a little more candid quote from the director of OMB the other day, Mr. Daniels, who said, ''We have returned to an era of deficits, but we ought not hyperventilate about this issue.''

Well, I do not see anybody hyperventilating here tonight, but what I have heard tonight from the gentleman from Maryland is a passionate and persuasive case for confronting this budget issue and getting our fiscal house in order, getting back on the right track, so I appreciate very much his contribution to our discussion.

I am happy to yield to the gentlewoman from Santa Barbara, California (Mrs. CAPPS), a treasured colleague, for her remarks on this situation that we are facing.

Mrs. CAPPS. Mr. Speaker, I thank the gentleman from North Carolina, and it is a pleasure to be here with my colleagues. I could be no place else. We are really at a crossroads in this country, facing a budget such as we have received from the President to deal with.

I want to echo what my esteemed colleagues are talking about with respect to the budget, and I have asked that this chart be left here. It has been referred to already, but it points out clearly the huge deficits, as far as the eye can see is the way we phrase it, and this, after we finally did bring our Federal budget into line in the late 1990s.

Maybe this is a good time to mention a quote by the Fed Chairman, Alan Greenspan, last fall. ''History suggests that an abandonment of fiscal discipline will eventually push up interest rates, crowd out capital spending, lower productivity growth, and force harder choices upon us in the future.''

The administration has no plans to address this budget deficit and, in fact, in this latest budget is proposing to make it much worse. The reckless tax cut that we cannot afford that will not help to restart the economy and, for the most part, goes to precisely the people who do not need it, is what they are proposing.

I must be up front and admit that a couple of years ago I did vote for the tax cut, the big one. I believed then and I continue to believe now that it had some good provisions: increasing the child care tax credit, getting rid of the marriage penalty, dealing with estate taxes. At that time we were told we had a $5.6 trillion surplus and that we could afford a tax cut. Clearly, things have changed. Everything, that is, except the administration's approach.

I believe it is so irresponsible to propose these kinds of tax cuts to a Nation at war. We are at war in Afghanistan and in other parts of the world against terrorism. We are asking all Americans to sacrifice, and yet this tax cut will fatten the wallets of a few. This is not shared sacrifice. The tax cut that the President is proposing will cripple our ability to deal with an important part of the war on terrorism: our homeland security. We are facing a possible war with Iraq for which there is no mention in the President's budget, and we have ongoing needs such as some I will address in my time today: health care needs of our senior citizens, and others. These are some real problems that we are facing of economic security in our land, of health security, environmental security.

I want to talk about just one small example, and I brought it up today with our Secretary of Health and Human Services, Tommy Thompson. Our country has a huge shortage of nurses, all kinds of nurses. They are the backbone of our health care system. They are critical to our efforts to provide everyday health care to millions of Americans, and they are on the front lines of our efforts to fight bioterrorism. They will be the ones to identify victims, to vaccinate the healthy, to assist doctors in treatment. We have 19,000 nurses in Armed Forces Reserves. We are going to face a continued crisis as they are called up.

So last year, Congress passed my Nurse Reinvestment Act. It was a bipartisan effort by my committee chairman, the gentleman from Louisiana (Mr. TAUZIN), the gentleman from Michigan (Mr. DINGELL), the gentleman from Florida (Mr. BILIRAKIS), and lots of Members worked hard on it, the President signed it into law, Tommy Thompson raved about it and was glowing about it. I want to just read two sentences from his ''Budget in Brief: Fiscal Year 2004'' from the Department of Health and Human Services addressing the national nursing shortage:

''The Nation continues to face a nursing shortage. In 2000, the estimated national demand for registered nurses was over 100,000, 6 percent more than the supply. Demand for nurses is rapidly increasing as a result of a growing and aging population that needs more health care as well as continued medical advances that heighten the need for nurses. The nursing supply is not keeping pace with demand due to a decline in nursing school graduates and an aging of the work force.''

At the time that the bill was signed into law, the omnibus bill of last year, the amount of the budget was increased to a nice size; but then, in this year's budget, it is again reduced. So these are empty words, empty rhetoric, that have come from the administration, just one piece of our complex but very important health care delivery system.

This budget request that we are facing this year has a 13 percent cut in the nurses' education and training fund. It slashes funding for advanced practice nursing in half, and it defunds programs to train nurse faculty and geriatric nurses. I talked with Secretary Thompson about this today. I like him; I think he is an innovative thinker and committed to the issues. I asked him about these cuts and his response was, ''Well, yes. We will be sticking with this proposal to cut funding for these programs,'' despite their assessment that the nurse supply is not keeping pace with the demand. They are just not going to do anything about it.

I believe, I say to my colleagues, that this is plainly irresponsible. We need to provide the funds to train new nurses, which we desperately need both for our ongoing medical needs and health needs, but also in the event of a bioterrorist attack. We should not be cutting this important program. I urge my colleagues who worked with me to get this Nurse Reinvestment Act to step up where the administration has not.

I told Secretary Thompson that we were going to adjust the budget to include sufficient funds for the nurse program. I apologize for making this sidebar. It is part of an overall budget that is way out of kilter, but I think it speaks in a precise way to a matter of great concern to the health and security, really, of our Nation at this time in our history.

Mr. PRICE of North Carolina. Mr. Speaker, there is no Member better qualified than the gentlewoman from California to speak to the nursing shortage and to the deficiencies in this budget with respect to nursing education. So she has done all of us a service in pointing this out, and we appreciate very much her contribution.

It is now my pleasure to yield to the gentleman from Virginia (Mr. MORAN), a member of the Committee on Appropriations and the Committee on the Budget.

Mr. MORAN of Virginia. Mr. Speaker, there are so many reasons why these tax cuts that have been proposed in the President's budget are irresponsible. One of them, obviously, is the fact that just as the budget deficits and the public debt balloons in 2008 and thereafter is when the baby boom generation, our generation, starts to retire. So we are no longer making money, helping to solve the problem; we become the problem. When I say ''we,'' I refer to the fact that most of the Members of Congress are members of the baby boom generation. We are going to double the retirement numbers, and yet what we would be doing with this tax cut is to use every last dime of the Social Security and Medicare Trust Funds to pay for these tax cuts. Mr. Speaker, $4.4 trillion over the next decade. That is the first element of irresponsibility.

Second, of course, is that we do not know what the costs are really going to be from other parts of the budget. We had an analysis in The New York Times yesterday. They consulted the

Congressional Budget Office, any number of distinguished economists, all of the best sources, to figure out what might be the cost of war in Iraq and of fulfilling the responsibilities that the President said that he would make us responsible for once we go in. They estimated the costs would be between $100 billion and roughly $569 billion. The point is, we do not know what the cost is, yet we are going to go ahead with these tax cuts when we do not know how much money we are going to have available. So we have no idea how much we are going to be borrowing from the next generation.

The third that has been aptly discussed is the fact that the money is going to the very wealthiest people in this country, the people who needed the tax cut the least and who are the least likely to spend it immediately to stimulate the economy. So it does not make a whole lot of economic sense when what we are really trying to do is to pull this country out of a lingering recession.

The last issue that I would like to address is some of the foregone alternatives that are caused as a result of the tax cut. Today we heard from the Secretary of Health and Human Services. The administration has a prescription drug plan. They are touting it. They should be ashamed of it, because the fact is that it is woefully inadequate. Medicare beneficiaries are going to spend more than $1.8 trillion on prescription drugs over the next 10 years, and even if every dollar of the President's proposal went to our prescription drug coverage, which it will not, there is really only about $300 billion that actually goes to covering prescription drugs, the plan would only cover 22 percent of beneficiaries' medication needs. Seniors who spend more than $5,500 of their own money would get only 20 percent reimbursement for their drug costs.

But it seems to me that when we look at a plan like this, we really ought to consider what we get as Members of Congress, and there is where the deficiency is most pronounced. The President wants seniors to pay a $275 deductible each year. Most Members of Congress pay no deductible. The President wants seniors to pay 50 percent coinsurance for the first $3,000. Members of Congress only pay 25 percent. The President wants seniors to have a gap in coverage where they pay 100 percent of the cost when their need is between $3,000 and roughly $7,000. Most Members of Congress have no gaps in prescription drug coverage, and yet the administration says that they want it modeled after the Federal Employees Health Benefits Plan.

Mr. Speaker, it is not just the prescription drug coverage that is going to be necessarily inadequate. The Medicaid program is going to be capped with block grants. We look at programs like housing programs, HOPE 6 that the President has touted and, in fact, HOPE 6 is eliminated in this budget. This budget cuts education, it cuts 36,000 seniors from Meals-on-Wheels, not to mention No Child Left Behind which was the President's principal domestic initiative, and it is $619 million less than what is needed just to offset inflation. I could go down a long list. I am not going to do that.

Mr. Speaker, the fact is that the President's budget and the President's economic plan does the American people an injustice. It needs to be defeated.

Mr. PRICE of North Carolina. Mr. Speaker, I thank the gentleman from Virginia for a very useful look at a number of critical items in the President's 2004 budget.

I yield to the gentleman from Massachusetts (Mr. TIERNEY), our esteemed colleague.

Mr. TIERNEY. Mr. Speaker, I thank the gentleman for his hard work in putting this time together.

Mr. Speaker, I rise today to discuss President Bush's 2004 budget which, unfortunately, and I think disturbingly, at a time of continued economic insecurity and global instability, fails to put America's priorities ahead of politics and idealogy. The President continues to pursue an irresponsible economic policy that focuses solely on multiyear tax cuts for our wealthiest citizens, while offering little assistance to countless working individuals and families that need it the most. One of my colleagues said it best earlier today: This is the most irresponsible fiscal situation of an administration since the days of Nero.

□ 1915

All this is going on while the same wealthy individuals and corporations that have already pocketed the lion's share, the disproportionate share of $1.6 trillion in tax cuts for 2001 and 2002, are out there, while the number of unemployed workers, white-collar and blue-collar, are higher than they have ever been in decades.

Further, although the President says he supports education, homeland security, prescription drugs for seniors, and a myriad of other responsible needs, his budget reflects otherwise. There is a clear disconnect between what the President promises and what he produces. His rhetorical support for many critical domestic processes is simply not reflected in the budget's numbers and figures. The reality is that children will be left behind. Our first responders, those that protect our borders and ports, will not be adequately funded; and our senior citizens will be short-changed.

On top of all of this, we are having the biggest defense buildup in the past 20 years. The costs of disarmament or a potential war with Iraq are not even included within the President's budget or within those Department of Defense numbers. While the White House speaks of little else besides Iraq these days, the one place they are conspicuously silent is in the budget.

Today's report in the Washington Post says the President is going to request a supplemental spending bill of as much as $95 billion to pay for any military action in Iraq. Why is that not in the 2004 budget? Why is it not being talked about with the American people today as the cost of what we are looking at here?

They have already offered $26 billion to Turkey for the use of our bases on their northern front against Iraq. All of this, the $95 billion, the $26 billion to Turkey, God knows how much else to other countries whose silence or participation is being bought with respect to the invasion of Iraq, is in addition to the $400 billion in the fiscal year 2004 budget already proposed for the Department of Defense for our military, and there is no end in sight.

Estimates for the cost of war, even if it is successful in military terms, and Iraq's reconstruction are between $50 billion to $200 billion. At the same time, we are continuing to spend 650 to $750 million a month in Afghanistan to try to rebuild that country. We are going to continue to do that for the foreseeable future.

We have to put this budget in perspective. When we add all of that up, without the cost of Iraq, this $5.6 trillion budget surplus we looked at at the beginning of this Presidential term has already been replaced by a $2.1 trillion deficit. This is close to an $8 trillion turnaround in just 2 years, and the numbers are staggering.

At the same time, there are record job losses and poor economic growth. Two million jobs have been lost since January of 2001. The stock market has gone down while the unemployment rate has gone up. Consumer confidence is at its lowest level in nearly 10 years.

Meanwhile, in response to all of this, all this administration can do is to continue to promote and advance the narrow economic plan of tax cuts for the few without regard to the plight of the many.

There are consequences for this flawed fiscal policy, and our vital domestic programs on which many people depend are what are going to suffer. They were underfunded even before we started talking about what is going to happen in Iraq, and they are going to be even more severely underfunded after that.

No Child Left Behind will leave many children behind. It is $9 billion beneath the amount that the President promised.

After-school programs, a cut. Two million children will be left without the benefit of those programs. In April of 2002, the President went to New Mexico and told us all about his support for Even Start, but he cuts that program; and he cuts the Head Start program, as well.

The President cuts vocational and technical funding. Even though 34 percent of our children are all that go on to higher education for 4 years, he is cutting money from vocational and

technical programs that might give other children the chance to go on and have a well-prepared background for a life that gets them ready for the future.

I could go on and on, but I know other Members want to speak. I would simply say this budget is totally irresponsible, and it has yet to put in the amount of money we are going to be spending in Iraq and in occupying Iraq.

I think the President owes the American people an explanation of just what that amount is and what are the costs, not only in terms of human life of Iraqis and United States individuals, and others, but what is the cost in treasure, and what are we giving up for his decision not to go ahead and contain this country, and not to go through the United States Security Council to bring that matter to a resolution, but rather to go in unilaterally and peremptorily invade at a significant cost. That is what the American people have to know and debate.

Mr. PRICE of North Carolina. Mr. Speaker, I am pleased to yield to my colleague, the gentleman from North Carolina (Mr. ETHERIDGE), who served as our superintendent for instruction and therefore knows our education budget very, very well, but also has been a very strong spokesman in this body for fiscal responsibility.

Mr. ETHERIDGE. Mr. Speaker, I thank the gentleman for yielding to me, and I thank him and the gentleman from South Carolina for pulling this Special Order together.

Mr. Speaker, I have been working hard to get Federal support for our schools. Although this White House talks a good game about education, when it comes to the budget, the devil is always in the details; and the details of the Bush budget certainly provide tremendous cuts to vital education aid in my military communities.

I want to talk about just one area tonight: those communities. Mr. Speaker, President Truman established Federal support known as Impact Aid for school districts that are impacted by heavy Federal presence because they do not pay property taxes. In my district, Forts Bragg and Pope are two major bases; and other people can talk about theirs, where thousands of soldiers, airmen, and their families are based. Because these Federal entities do not pay taxes, we provide for something called Impact Aid to help with books, teachers' salaries, buildings and the like. Impact Aid was designed to compensate for the revenue losses.

Well, in these areas across the country, they have seen devastating cuts this year because of State budgets being put in trouble because of this administration's policies. In this budget they are proposing to cut $173 million from Impact Aid, a 14.5 percent cut, at the very time when we are asking our men and women to deploy and go overseas, and leave their children back home for an education. This is just terrible.

By not allowing federally connected school districts to count children where parents reside off base, this is what they said in Cumberland County, the President is ignoring 240,000 children who attend the schools in the areas around these bases. Abandoning these children is not only a mistake; it is absolutely immoral.

Last week the Fayetteville Observer reported that under the Bush budget, funding for 14,600 children living off the post there would be eliminated for funding. Mr. Speaker, my State's economy is hurting because of this administration's economic policies. Other States are seeing the same. State budgets are being slashed.

We cannot allow, in one of the largest deployments, at a time when impending war is here, allow these men and women to be concerned about their children being educated at home. Rather than being compassionate, these cuts in Impact Aid are absolutely cold cruelty, and I urge my colleagues to restore these devastating cuts.

Mr. Speaker, I rise tonight to join my colleague from South Carolina, Mr. SPRATT, and Mr. PRICE of North Carolina to talk about the serious consequences of President Bush's misguided budget proposals. I want to thank my friend for his unsurpassed leadership in this vital area.

As the former Superintendent of North Carolina's public schools, I have made federal support for education my top legislative priority as a member of the U.S. House. Although this White House talks a good game about education, when it comes to budgets the devil's in the details. And the details of the Bush budget contain an inexcusable cut to vital education aid for our military communities.

Mr. Speaker, President Truman established federal support known as ''Impact Aid'' for school districts that are impacted by a heavy federal presence. For example, in my Congressional District, we have Fort Bragg and Pope Air Force Base where thousands of soldiers, airmen and their families are based. Because these federal entities do not pay local property taxes, the school districts are deprived on their normal source of revenue for books, teacher salaries, school buildings and the like.

Impact Aid was designed to compensate for some of that revenue loss. In areas like Cumberland County, NC, Impact Aid is a crucial component of the annual budget, and if it's not there, that community will face massive property tax increases, devastating cuts to schools, police and fire and other vital services.

Under its proposed budget for next year, the Bush Administration has proposed cutting $173 million for Impact Aid. That's a 14.5 percent cut.

In addition, the Administration proposes to end Impact Aid for children of military families who live off base. Earlier this month, the head of the National Association of Federally Impacted Schools said, ''By not allowing federally connected school districts to count children whose parents reside off-base . . ., the President is totally ignoring over 240,000 children who must attend these schools.'' Abandoning these children is not only a mistake, it's immoral.

Last week, the Fayetteville Observer reported that under the Bush budget, funding for 14,600 children living off the post would be eliminated.

Mr. Speaker, my state's economy is hurting because of this Administration's terrible economic policies. The state government has been forced to slash funding. At the same time, military families are dealing with large-scale deployments for the looming was against Saddam Hussein. And the communities that support these military facilities already face devastating losses of commerce and tax base.

Rather than being compassionate, these cuts in Impact Aid are cold cruelty. I urge my colleagues to restore these devastating cuts, and I thank my colleague Mr. PRICE for his leadership on budget issues and for organizing this Special Order.

Mr. PRICE of North Carolina. Mr. Speaker, I thank the gentleman for his contribution with respect to Impact Aid, a subject we have heard about tonight. That certainly is a deficiency in the President's budget.

I am happy to yield the remainder of our time to the gentleman from South Carolina (Mr. SPRATT), the chairman of our Committee on the Budget, for whom I am substituting tonight. He has been tied up in a meeting. We are glad to have him here on the floor to wrap up this Special Order with his own insights.

Mr. SPRATT. Mr. Speaker, I thank my friend and colleague, the gentleman from North Carolina (Mr. PRICE), for taking charge of this Special Order and making this information available. It is awfully difficult to get all of this detail and all of its complexity out so that everybody can understand why we are so concerned. This is not just political rhetoric we are going through tonight.

I have one chart here which runs the risk of being a little complex, but it tells a great deal about where we are. First of all, it shows the surplus that we thought we had that OMB estimated in January of 2001 as $5.637 trillion. A few weeks ago, OMB came back to us, the Office of Management and Budget, and says, whoops, we were wrong. We have to make economic adjustments to that surplus of $3.174 trillion. What that means is that the adjusted surplus, the real surplus in economic reality now is $2.463, not $5.63 trillion.

Then if we look at these enacted policies, and these are things done today, legislated, which have committed the available surplus, we will find they add up to mostly the tax cuts, $2.6 trillion. As a consequence, we have already committed all of the available surplus still remaining after economic adjustments from the $5.6 trillion surplus last January. In fact, we are $19 billion over and above that surplus if we do not do another thing, just sit still and do not increase any policies.

However, the administration, knowing that, is proposing nearly $2 trillion in additional action, the lion's share of which goes to additional tax cuts, two tax cuts that come to about $1.4 trillion. As a consequence, they are adding

$2.1 trillion to the national debt, which, with cumulative deficits between 2002 and 2011, will come to $2.1 trillion.

Here in one chart, very graphic, is why we are concerned. Now we are living in this sweet spot. Those are the peak years of the baby boomers when they are doing better and paying into the Social Security and building up a surplus, for now. As this chart shows graphically with these red bars here below the line, in 2017 that gravy train comes to a halt. Social Security goes cash negative, and it is that that we should be getting ready for right now. We are doing just the contrary of what we should be doing to prepare for those years when the baby boomers will be retiring.

Mr. PRICE of North Carolina. Mr. Speaker, I thank the gentleman for contributing to the Special Order.

UNFAIR DELAY IN CONFIRMING APPOINTMENT FOR MR. MIGUEL ESTRADA

The SPEAKER pro tempore (Mr. PORTER). Under the Speaker's announced policy of January 7, 2003, the gentleman from Florida (Mr. MARIO DIAZ-BALART) is recognized for 60 minutes as the designee of the majority leader.

Mr. MARIO DIAZ-BALART of Florida. Mr. Speaker, it is an honor to be here in this wonderful Chamber to discuss what I think is a rather puzzling situation that has taken over our government, our legislative branch of the government, and in particular, the legislative branch on the other side of the Rotunda.

We have seen that a number of people have tried to do anything and everything to avoid, to stop a brilliant young attorney who has been nominated by the President of the United States to be on the Appellate Court for the District of Columbia.

I say he is a brilliant young attorney because everybody has had to recognize his brilliance. Those that have worked with him have had to recognize his brilliance. He has worked not only as a prosecutor from the great State of New York; he has also worked in the office of the Solicitor General with two administrations, a Republican administration and also a Democrat administration.

All the people who have worked with him from both parties in both administrations have publicly recognized the brilliance, the decency, the integrity of this brilliant young attorney; a man who got here to the United States at age 17, Mr. Speaker, barely speaking English, and he got here and worked and studied, and was able to graduate with honors just a few years later from that most prestigious university, Columbia University; with honors, I repeat.

Then he went on to study law, but not just in any law school, in Harvard Law School, probably, I guess, among the most prestigious law schools in the entire country; I would rather say in the entire world.

He also graduated from that university, that law school, with honors. While he was studying, he was also the editor of the law journal there, the law review in that prestigious law school. He graduated with honors and went on to become a prosecutor in the State of New York. That was after he was prosecutor, I am sorry. He went on to work with the Solicitor General's office under President George Bush, Senior; and then he also worked for President Clinton's administration in the Office of the Solicitor General; an incredible, impeccable record.

I am trying to see if I can get some of my colleagues here to maybe try to explain to me what is going on here. Why is it that this brilliant young man, this brilliant Hispanic lawyer, is being treated differently than others who have had similar records, similar experiences, who have gone on to become judges and have not received the obstacles, have not been attacked the way Mr. Miguel Estrada is being attacked today? And this attack has been going on now for a long, long time.

I brought just a calendar to kind of let us know how long it has been. It has been almost 2 years, 2 years since this young brilliant, talented, effective man of integrity has been held hostage. As we see here, not only has Miguel Estrada been held hostage, but diversity in our court system has been held hostage.

□ 1930

I just do not get it. I see here the gentleman from Florida (Mr. FEENEY).

I do not know if the gentleman has an explanation as to why it is that the minority party in the other Chamber insists on not letting this man even come up for a vote, to the point where they are using all sorts of procedural matters to not permit this man to even have the opportunity for his nomination to be voted up or down.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair would request Members refrain from improper references to the Senate.

Mr. FEENEY. Mr. Speaker, I thank my dear friend from South Florida and, indeed, a colleague in the Florida legislature, a mentor, advisor, and a dear friend of mine for many years. And I want to congratulate the gentleman for his leadership, because as long as I have known the gentleman from South Florida (Mr. MARIO DIAZ-BALART) when he sees wrongdoing going on, he speaks out and he does so with a passion and a fervor.

The gentleman understands the difference between freedom and oppression because of his background on the Communist state of Cuba and the freedom he enjoys and fights for every day and hour of his waking life here in America. And I want to thank the gentleman for being such a great friend not just of mine but, more importantly, to freedom.

The gentleman has asked me to explain the inexplicable: why a man like this would be held hostage; why diversity would be held hostage by his critics; he has asked me to explain why somebody with incredible merits, impeccable academic background, incredible moral background, a hard-working gentleman who came to America as a 17-year-old and has led and proven the American dream.

The gentleman has asked me to explain why enormous integrity is actually held against an applicant for the United States Federal bench, and I cannot explain the inexplicable even though I am a politician, while there will be some politicians that will try. Being punished for having all the enormous merit that Miguel Estrada has is something that I find very personally offensive. I think it is offensive to the American way. I think it is offensive to the entire notion of an independent judiciary.

And I will state for those of the American public that are watching tonight, maybe they do not understand all the details of what it takes to succeed and get to the Federal bench. I want to boil it down.

I am a former practicing attorney in business in the real estate field. I want to boil it down so I think that normal people, people that really are not politicians or lawyers, can understand. There are really two basic qualifications, I think every American would agree with this, in order to get appointed to and succeed on the Federal bench:

Number one, you need to be fit. You need to be fit morally. You need to be fit intelligently. You need to be fit academically.

Number two, you need to adhere to the United States Constitution and to the rules of law.

I would suggest to my great friend that the sin that Miguel Estrada is being accused of is that he is enormously well fit and he is enormously dedicated to adherence to the Constitution and the rule of law. And that bothers some people because they want to pull it aside. They want to twist the Constitution. They want to rewrite the Constitution.

I will tell you that one of the things that the gentleman is being held up for is because when he was asked specifically how he would rule on specific cases that might come before him as a United States Supreme Court Justice, he said that he would have to decline to say specifically, because the entire notion of an independent bench is not to make promises.

It is not like the political world that we live here in the Congress. It is not like the executive branch. In the executive branch and the legislative branches we share our biases with the voting public. We say we are for this and we are against that. People get to vote in a representative democracy in

favor of one candidate against another because of their political biases. But on the bench you are supposed to put your political biases away and you are supposed to adhere to the Constitution and adhere to the rule of law. That is what offended political activists who want to take over the judiciary and use it in a way to take over the representative government. In my view, that is the fundamental reason why Miguel Estrada has been torpedoed.

But he has another sin. The fact that he is, as the gentleman understands, a great colleague of mine, he represents a great district in south Florida, both east and west coast. The notion that this is a gentleman with an ethnic background that is not white, Caucasian like me, but that comes from a wonderful part of our American society, but he does not adhere to the liberal big-government notion of rewriting the Constitution in some people's minds disqualifies him from serving on a bench that they want to turn into a political operation.

And by the way, the wonderful thing about the arguments that we are able to make, and our colleagues on behalf of the Miguel Estrada nomination, is that no individual critic of his has come forward with a specific sin. They admit that he was one of the brightest students, actually the brightest student, magna cum laude, editor of the Law Review at Harvard Law School, as the gentleman pointed out. He has the intellectual IQ. They have admitted that he has incredible integrity. There is no question about the gentleman's integrity. He has fantastic integrity.

They have admitted that he has got a great background, that he has worked hard, that he has lived the American dream. Their problem is that they cannot point to one flaw in this man's character, his capability, his academic career, his working career. And so as a sort of camouflage for why they are really opposed to Miguel Estrada's nomination to the Federal bench they say this; and, by the way, as the gentleman knows, he would be the first Hispanic American ever on this appeals court that he has been nominated to. They say little things like he has not disclosed secret advice in a legal memorandum to his client.

Now, I can state that while I was a business and real estate lawyer, that if we are going to force every applicant to the Federal bench to disclose secret memorandums and advice to their clients, a couple things will happen: Number one, nobody who has ever written candid advice to their clients in the public or private sector will ever apply to the bench. We will disqualify all the best lawyers in the country, because the truth of the matter is that the obligation of an attorney is to zealously advocate for their client and give them candid, secret, private advice. The attorney/client privilege is critical because if you do not have it, your lawyer will not tell you the truth about what you need to do to protect yourself.

There is a second application here in terms of undermining the attorney/client privilege, and that is that people in government will not get the best advice that is available. If lawyers who work for the government know that everything they say to their clients one day will remain public, then the President, individual Members of Congress, and others will know every day that their lawyers are not going to tell the truth to them. What their lawyers are going to prepare is documents prepared later for a publishment so that the whole world will see exactly what their advice to their clients was. This will undermine the entire legal system in my view, and, in all candor, anybody who has ever been subject to a traffic ticket, some sort of criminal problem; who has had a civil litigation matter, if they can imagine; a divorce, for example, as my colleague may know some people, we dealt with some divorce law in Florida.

Imagine going through a divorce and as a spouse fighting over a child's custody, fighting over issues of whether or not you will be able to get enough alimony to support your children. Imagine if everything your lawyer tells you or writes to you is going to be published in the New York Times and the rest of the journals throughout the world tomorrow, imagine how candid and honest and decent your lawyer is going to be with you. He is not.

Mr. MARIO DIAZ-BALART. Mr. Speaker, may I ask a question on that note? If I may, there is a letter that has been, that we have all seen, that is signed by every living former Solicitor General, some of them are Republicans, some of them are Democrats, stating exactly what the gentleman has just said; how that would be devastating for the country in that office's ability to represent the U.S. before the United States Supreme Court.

So, again, the gentleman is stating some pretty obvious, I think, commonsense reasons as to why that should not be released.

Number two is that every Solicitor General, former Solicitor General of both parties, so this is bipartisan, this is a bipartisan statement, in writing have said exactly what the gentleman has just said: that that information cannot be released.

But I have to admit to the honorable gentleman from Florida that the part that has me more preoccupied, more worried, is that if that is the standards that some people want to use as to why certain nominees for judge should be disqualified, then it may be wrong. It clearly is because every living Solicitor General of both parties has stated it in writing. If that is the standard, there is an argument. What really worries me is the double standard that is being applied to Mr. Estrada.

There have been seven judges that have come out of the Office of Solicitor General. Seven judges. And not once have those documents been requested of those individuals. Not once was that deemed to be necessary. Not once was that deemed to be essential. And clearly never was that used as a something to block the nomination of seven other people who have come from the same office. So why the double standard? Why the double standard on this brilliant Hispanic lawyer who, as the gentleman stated so eloquently, there is nothing in his record other than talents, discipline, hard work, decency, integrity. Why the double standard when there are seven other people who have passed this process and those documents were never asked of them, and now that is being used as an excuse for this one individual. That is what really worries me.

And I do not know if the honorable distinguished gentleman from Florida (Mr. FEENEY) has any comments on that, because I really am worried about that.

Mr. FEENEY. Well, I have some sure thought, and then I know the gentleman has some other Members here that are really passionate about how offensive it is about what is happening to Miguel Estrada. But I will tell you this: There is a double standard. Miguel Estrada would be the first Hispanic ever on this bench. He is a Solicitor General not in just the Republican administration, but he worked for President Clinton's administration. He got high marks everywhere he worked.

The problem is this. The critics of Miguel Estrada do not want a vote. They do not want a debate over his talents, his capabilities, his integrity, his morals, his academic achievements; and they especially do not want to discuss the fact that this wonderful gentleman came here as a 17-year-old, lived the American dream, and now is an outstanding American statesman. They cannot vote against a man if they have to live with a description of his incredible achievements.

So what the critics are using is all sorts of excuses. And as the gentleman points out, they have never ever once demanded that any of the nominees in the past live up to the technical requirements that they are trying to place on him. The double standard the gentleman speaks about, in my view, is because Mr. Estrada is a lesson to Americans that you do not have to think, just because you are a Hispanic American, in a one-little-box mentality. You do not have to be a liberal activist. You do not have to promise to undermine and rewrite the original intents of the United States Constitution. And the lesson that the liberal critics want to teach not just Mr. Estrada, but everybody else, that they are going to crush you if you believe that the Founding Fathers wrote what they meant, meant what they said. And we are especially going to crush you if you come from some minority background or if you are a woman, for example, because they never, never want to have a day in America where people, regardless of their ethnic background or their gender or their race or their

religion, can actually think outside a small liberal box.

And I want to tell the gentleman once again that for as long as I have known him, he has been a freedom fighter. When he sees wrong going on, he leads the fight to basically stand up for decency, for values, for the American way. I am a huge fan of the gentleman from south Florida and I believe, as I know he does, that if we just let the American people know that there is a crime being committed in public against Miguel Estrada, that two things will happen: Number one, he eventually, despite, despite this ugly episode led by his opponents attacking him in a surreptitious way because they cannot do it directly, he has no flaws in his background; despite that, he will end up on the Federal bench.

□ 1945

Secondly, the wonderful news is that free thinkers throughout America, regardless of whether they are women or what their religion is or what their ethnic background is, will be sent the message they do not have to pander to the liberal left wing special interest groups; they can be true to the United States Constitution; they can still make it as a Federal judge. That is a great message.

Mr. MARIO DIAZ-BALART of Florida. I thank the gentleman from Florida for that very clear explanation, crystal clear explanation as to what some of the problems that we are seeing with this move to use all sorts of procedural maneuvers to try to block, torpedo the nomination of Mr. Miguel Estrada; and again, it is hard to believe that this is actually happening in this day and age.

We have talked about, as the honorable gentleman from Florida talked about, the double standard; and it is not just one double standard that is being applied to Mr. Estrada. It is multiple double standards; and it is multiple double standards, and some of the people that are actually speaking these words and opposing Mr. Estrada's nomination are on record in the past saying just the opposite. Why? Why all of the sudden, when it is this person, again, the first Hispanic American ever to be nominated to this most prestigious court, why is it that now there is this double standard?

There are people who have said, for example, that the gold seal to determine if one is so qualified or not is the ABA's rating; and yet Mr. Estrada has been rated as the highest-qualified person that that organization rates anybody. And yet all of the sudden, for Miguel Estrada, that is not good enough, and it seems to me a very sad day when people who just a few months ago said something totally different are now backtracking on their own words, reversing what they said. Were they not saying what they meant then, or are they not saying what they mean now? Were they deceiving the people then or are they deceiving the people now? It is a very, very sad state of affairs.

I am honored to have the gentleman from the State of Colorado here join us today; and I would, Mr. Speaker, like to yield some of my time to the honorable gentleman from Colorado.

Mr. BEAUPREZ. Mr. Speaker, I thank the gentleman from Florida; and Mr. Speaker, I would like to address this subject very directly.

The gentleman from Florida just mentioned moments ago the rating from the American Bar Association, the American Bar Association, as well qualified for Miguel Estrada to serve on the Federal bench. That rating, I might remind the Speaker, and I doubt that I need to remind the gentleman from Florida, they not only granted that rating of well qualified, the highest rating, they unanimously granted a well-qualified rating for Miguel Estrada to serve on the Federal bench.

I would like to tell a very personal story that I just last week experienced about Miguel Estrada. Many of us were back in our districts last week. Many of us had neighborhood meetings, town meetings, meetings with constituents. I did the same; and at every meeting I went to, every meeting, certainly questions came up about the possibility of war in the Middle East and people are concerned about that and about the economy. Amazing to me, amazing to me was that people, average people, normal folks that are concerned about their everyday living know who Miguel Estrada is; and they understand clearly that an injustice is being done, Mr. Speaker. An injustice is being done to this fine American.

How fine of an American is he? The gentleman from Florida explained very well. He comes here as an immigrant, barely speaks the language. He not only graduates from the university, he graduates with honors, magna cum laude from Columbia College in New York, from Harvard Law School, edits the Harvard Law Review, not exactly your average fraternity newsletter. He is not only well qualified. He is eminently qualified.

He served on the U.S. court of appeals as a law clerk. He served as a clerk in the Supreme Court for Justice Kennedy. He served as the Assistant U.S. Attorney and deputy chief of the appellate section of the U.S. Attorney's office of the Southern District of New York where he argued appeals cases before the second circuit court. He served as the Assistant Solicitor General of the United States, as the gentleman from Florida already pointed out, for two Presidents' administrations, President Clinton and President Bush 41. Still he has opponents. Why?

In my town meetings, again, my constituents, average Americans, they had it figured out. I asked them what do they think this is about. They said it is about politics. It is about politics. I understand that if they are talking about me. I expect the gentleman from Florida (Mr. MARIO DIAZ-BALART) understands that if they were talking about him. We are, after all, politicians.

Mr. Estrada aspires to be a judge, a judge; and in the very definition of judge, the word ''judgment,'' that is what we expect him to do is exercise good, balanced, educated, unbiased judgment over the laws that our colleagues will pass in this Chamber, that have been passed in this Chamber by politicians, legislators before us.

The folks back home understand that Mr. Estrada, who wants to be a judge, is being subjected to the judgment that is typically reserved for politicians. That is the injustice. That is the injustice that is being perpetrated on a good American, an American that has achieved the American dream; that has passed all standards; that has been nominated by a President; that deserves a fair hearing and is not getting one.

Mr. Estrada, some of his opponents say he has never been a judge. How can one who has never been a judge be a judge? Well, to the average observer, perhaps that makes sense. Should he not be a judge first? Amazingly enough, I find that five of eight judges currently serving on this current D.C. circuit court, five of the eight had no previous experience as judges before they were nominated and confirmed, including two of President Clinton's appointees.

Mr. MARIO DIAZ-BALART of Florida. Mr. Speaker, let me, if I may interrupt the gentleman from Colorado. Let me see if I understand what the gentleman just said because that is a key point there.

Some of them who are objecting to him are saying that because he has not been a judge before, that alone disqualifies him? Just that fact alone disqualifies Mr. Miguel Estrada?

Mr. BEAUPREZ. Correct.

Mr. MARIO DIAZ-BALART of Florida. Mr. Speaker, but what the gentleman has just expressed right now, and I want to make sure this is clear because this almost sounds funny, the gentleman is saying that in the same court where Mr. Miguel Estrada has been nominated to sit, right now there are five judges that, before they were there, they had never been judges before, and is the gentleman telling me that there was no objection on that basis to those judges?

Mr. BEAUPREZ. They were nominated, they were confirmed, they serve on the court. It gets better.

Mr. MARIO DIAZ-BALART of Florida. Please proceed.

Mr. BEAUPREZ. Mr. Speaker, it gets better. On the Supreme Court of the United States, two recent Supreme Court Justices, names that are certainly familiar to me, I expect familiar to most Americans, Byron White, Wizard White from my State, Colorado. Byron White was nominated by President Kennedy, confirmed by the Senate, served with distinction on the Supreme Court, never was a judge prior to being nominated to the highest court

in the land, not just a Federal judgeship, the highest court in the land, the Supreme Court.

William Rehnquist, currently the Chief Justice, of course, no prior judicial experience before being appointed to the Supreme Court.

Mr. MARIO DIAZ-BALART of Florida. I thank the gentleman from Colorado for his comments.

Those are disturbing facts. Those are very disturbing facts because if the litmus test, as some are saying for Mr. Estrada, is that he has never been a judge, how is it possible that there are others on that same court, today, right now, as we speak, and of course, as you just mentioned, sir, the Chief Justice of the Supreme Court of the United States right now, they had never been judges, and yet those same individuals that are now saying that that is the reason why Mr. Estrada cannot be a judge, those same individuals did not object to these other fine public servants on the court?

Mr. BEAUPREZ. Mr. Speaker, if the gentleman would yield.

Mr. MARIO DIAZ-BALART of Florida. Please. I am having a very difficult time understanding this.

Mr. BEAUPREZ. Mr. Speaker, I shared some of this same information again with my constituents back home. They said, are his opponents grasping for straws? I said, well, one might conclude. Allow me, allow me to pursue the possibility, I think a reasonable possibility, that this is really about politics.

What we are looking for is a judge, someone who can exercise judgment; again, one who is fair and balanced; one who can be praised and acknowledged and accepted by both people of a more liberal as well as a more conservative political bias, people who are still going to accept one who carries the title of judge, the distinguished title of judge, carries that title, carries it well and that people of all different perspectives are going to recognize their skill, their talent, their fairness, such as Ron Clay, former Vice President Gore's chief of staff.

A Democrat, Vice President's former chief of staff, said this about the same Miguel Estrada: ''Miguel is a person of outstanding character, tremendous intellect and with a deep commitment to the faithful application of precedent.'' That is what judges do. ''Miguel will rule justly toward all without showing favor to any group or individual.''

I cannot think of a stronger mission statement, a stronger definition, a stronger statement about the credentials that I would hope all judges could pass before being appointed, nominated, confirmed to a judgeship as important as the U.S. Court of Appeals for the District of Columbia; and I certainly hope, it is my belief, it is my prayer, that a true American hero, these are the kind of stories, these are the kind of individuals we in this body ought to be about raising up as a standard of excellence, something for our young people, for all Americans, for all citizens of the world to look at and say that is what is America. That is the best of America. That is what America is for. And yet this poor man is being persecuted, not praised and not elevated.

I thank the gentleman from Florida for the time, and I thank him for what he is doing to advance the cause of this fine American.

Mr. MARIO DIAZ-BALART of Florida. Mr. Speaker, I want to thank the gentleman from Colorado for really shedding some light, and I had a friend who used to say do not let the facts confuse the issue, and there are some people that do not want to let the facts confuse the issue.

The honorable gentleman from Colorado just brought some impressive facts. He talked about Miguel Estrada's qualifications. Yes, he would be the first Hispanic to sit on this court; but let me tell my colleagues, I am of Hispanic descent, and I am very proud of that, but I am not supporting Miguel Estrada merely because he is Hispanic. I am supporting him because of his talents, because of his integrity, because of his record, because of his life of achievements; and we heard from the gentleman from Colorado what some of those achievements are: graduated Phi Beta Kappa from Columbia College, magna cum laude from Harvard Law School, unanimously stated to be well qualified, the highest rating from the American Bar Association, and then, yes, he worked at the Department of Justice for both Republican and Democrat Presidents and has been called ''an extraordinary legal talent and generally compassionate,'' by President Clinton's Solicitor General.

□ 2000

What, then, is the real reason? What is the true reason that the body across the hall is using procedural measures to stop a vote? They do not even want him to have a vote. They do not want this gentleman to have the possibility to receive a vote, a public vote in front of the entire country, to let people decide in an open fashion whether they should vote up or down. Why is it then, if he is so qualified, why is it then, if the reasons du jour, the excuses du jour, are proven to be false, like the ones we just heard before, that the reason he cannot be a judge is because he has never been a judge before, yet there are five members of that same court that had never been a judge? That was never a problem for them. Why is it only a problem for this man?

They say, well, some documents have not been released. But there are seven individuals that have also come out of that same office who have become judges, and those documents were never asked of them. And in a bipartisan fashion, all living ex-Solicitors General have said, both Republicans and Democrats, that those papers cannot be released, and they have never been requested. Why is it then, that only for this man, for this individual, these things are requested? And why is it then, that they are going to the most extraordinary means to use procedural measures to not even permit a vote, to not even permit a vote on one who would be the first Hispanic, the first Hispanic in the history of this noble country to reach that position?

I am honored tonight to also have the distinguished gentlewoman from the State of Michigan, and who comes here with an extensive public record from her State, who I will yield to at this time, Mr. Speaker.

Mrs. MILLER of Michigan. Mr. Speaker, I certainly thank and appreciate the gentleman from south Florida for yielding to me.

Mr. Speaker, I am a new Member of Congress, as I know my colleague is as well, and when I thought about what I wanted to do with the rest of my career, I thought about the idea of running for Congress; because I have watched, as I think so many Americans have watched, the political partisanship and the gridlock that has happened in our Nation's Capital. I am sure it has always been there, but it seems to have gotten worse over time. And what is happening to Miguel Estrada is a very vivid demonstration of political gridlock and it must be stopped. It has to be spoken out against, and I am here tonight to try to do so; at least to lend my voice to that as well.

How can we stop the political posturing, how can we break the gridlock? I think one of the charts that my good colleague from south Florida held up here tonight, he titled it ''Diversity Held Hostage,'' has a very vivid demonstration of how long this nomination has been held up. The chart, with just a simple calendar, has the X's as the days and the days go by. The months are going by. Years now are going by on the Miguel Estrada nomination. In fact, President Bush nominated Miguel Estrada to the D.C. Circuit Court of Appeals in May of 2001. 2001. In May of 2001. Nearly 2 years later, Miguel Estrada has yet to be confirmed. I would say that this, by any reasonable standard, is quite outrageous. I believe that to be quite outrageous.

Miguel Estrada, as has been mentioned here tonight by many of my other colleagues, quite frankly is the American dream. We are a Nation of immigrants. I am first generation here, from Scotland. We are all immigrants. We are a Nation of immigrants. We are a Nation that reflects how to build the American dream, and he certainly represents the mainstream American values as well as mainstream American law. If we think about it, from his roots in Honduras, certainly his struggle as an immigrant who came here speaking very little English, Mr. Estrada has literally risen to the very top of the legal profession, of his chosen field, and now he is on the brink of making history in our Nation. If confirmed, Mr. Estrada would be the very

first Hispanic ever, ever to serve on the D.C. Circuit. Many consider this actually to be the second most important Federal court in America. Unfortunately, regrettably, his appointment has been held up, as we say, by the very smallest of causes. And that, I truly believe, sincerely believe, is simply political posturing.

Mr. Estrada should be confirmed because he is highly qualified to serve on the Federal bench, period. He has every possible qualification that would meet any reasonable standard. And let me just reiterate some many have been spoken about previously, but I think it bears speaking again. This is an individual who actually earned his law degree magna cum laud from Harvard Law School, and he did so at the same time he was serving as the editor of the Harvard Law Review. Five years after his graduation, he was clerking for the United States Supreme Court. He served as a clerk for the U.S. Supreme Court. He served as an assistant United States Solicitor General under both President Clinton as well as President George Bush. He has had experience in the Manhattan United States Attorney's office. He has practiced constitutional law extensively. He actually argued, and I find this fact really quite fascinating, he actually argued 15 cases before the Supreme Court before the age of 40. That is really quite remarkable. The American Bar Association has unanimously, unanimously being the operative phrase here, rated Mr. Estrada as well qualified, which is the very highest rating that anyone can possibly achieve. Some Senators actually refer to this as the gold standard. He has very strong bipartisan support. And, again, when we speak about how we break political gridlock, political posturing, he has very high bipartisan support.

Mr. Estrada, as I say, would be the first Hispanic judge on the U.S. Court of Appeals for the D.C. Court. So, of course, I am here speaking out in support of him. I do support the President's choice. But, fortunately, it is not just me or the President or the vast majority of Americans who support Mr. Estrada. In fact, there are a number of organizations who have spoken out very publicly in support of Mr. Estrada. And let me just read a couple of quotes, because I think they speak volumes to the background of this individual and why this nomination must proceed and proceed successfully.

These, again, are bipartisan, some of them through the media. This is what the President of the Latino Coalition said about Mr. Estrada. ''To deny Latinos, the Nation's largest minority, the opportunity to have one of our own serve on this court in our Nation's Capital is unforgivable'' .

The chief of staff of former Vice President Al Gore had this to say about Mr. Estrada. ''Miguel is a person of outstanding character, tremendous intellect, and with a deep commitment to the faithful application of precedent. Miguel will rule justly toward all, without showing favor to any group or any individual.''

And this from Seth Waxman, who was a former Solicitor General to President Clinton. ''I have respect both for Mr. Estrada's intellect and for his integrity. In no way did I ever discern that the recommendations Mr. Estrada made or the views that 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.''

And one other quote as well. The president of the Hispanic National Bar Association said, ''Mr. Estrada's confirmation will break new ground for Hispanics in the Judiciary.''

Clearly, the support for Mr. Estrada lies on both sides of the aisle. He is a role model, and not only for Latinos; all Americans can look to this individual certainly as a role model. I believe holding up this confirmation process is completely unnecessary. I think we need to allow Mr. Estrada to make history. He is well deserving of it. I am not an attorney, never served as a judge, but I am married to a judge, and I am well familiar with the exhaustive background check that goes on before someone is selected to serve on the bench, whatever that bench is. And I also know what is fair. And what is happening here to Mr. Estrada is unfair. In fact, I believe it to be un-American, and I wanted to come here tonight to speak out about this.

As many of my colleagues did, I spent last week, while we were in recess, going around my district and holding town hall meetings, talking to people, and I was amazed on this particular issue how well versed people are. It has really, I believe, caught the attention of the average American because they see the unfairness of this. They see the persecution of this individual, and for no good reason. For absolutely no good reason.

Mr. MARIO DIAZ-BALART of Florida. If I may reclaim my time, Mr. Speaker, for just a moment. Let me ask the gentlewoman from the State of Michigan a question. Because one of the things I get back home a lot, and like my colleague mentioned, I am new to this process here in Washington, D.C., but one of the things I get a lot and I have heard for years is, well, people are just fed up with the double talk. They say, all that double talk up there in Washington. And certainly some people say one thing one day and something else a different day, and so they are fed up. That is one of the things that we all, I guess, and I am going to ask the gentlewoman if she has heard a lot of that in her years of public service also, during her campaign, and now that she is having public hearings.

I have seen some really interesting examples of that, which I have to admit have shocked me. Even having heard that all these years, upon arriving here I have seen some examples that have frankly shocked me. They have been so blatant, frankly, it is to the point of being shocking. When, as the gentlewoman mentions, certain people say the standard, the ABA rating, is the gold standard, and then all of a sudden, oops, just kidding, never mind, not for Mr. Estrada. For everybody else, yes, but not for Mr. Estrada.

Then we have certain people, distinguished people, very well-respected people, people we see in the news all the time, and people that we see interviewed all the time who have stated that, for example, that they would fight tooth and nail against filibustering of any judicial nominee, any judicial nominee. And I have read this from the Senate record, that they have said I am opposed to any filibustering of any judicial nominee, whether I like the person or not, because they have the right to have a vote. And then, all of a sudden, that same individual is one of those leading the fight to do what, to filibuster Mr. Estrada's nomination. Not vote against him, but filibustering. Just a while ago he said that he would go to the extreme to stop a filibuster for any nomination, for any judicial nomination.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MURPHY). The Chair would caution the gentleman to refrain from any improper references to the Senate or to individual Senators.

Mr. DIAZ-BALART. Mr. Speaker, I apologize. I do not think I mentioned it was a Senator, but I guess it is pretty well known.

But that double talk is really shocking to me. And we have heard it now, frankly, more than I really expected. I do not know if that is something that the gentlewoman has gotten back home as well, as to how extreme the double talk and double standards have been in the case of Mr. Miguel Estrada.

Mrs. MILLER of Michigan. Well, if I might comment on that, the gentleman used the term double, double standard, a double standard. It actually is no longer a double standard. It is not as though there is one standard here and there is another standard here. I think what is happening in this particular case is that they are raising the standard. They are raising the bar so that it could never be achieved by Mr. Estrada. They are going to raise the bar to make sure that there is under no set of circumstances that he will ever be able to rise up to the level that they are setting for this individual.

This is a question of basic fairness. And the American public, if they understand anything, they know what is fair. And they know what is happening to this individual, to this good man, with his background, is unfair.

□ 2015

This whole concept of filibustering, we are here in Washington, again we are new Members, we are trying to understand what all this filibustering means and what is the relevance of it and those kinds of things. What the

American people are saying at home is, give the man a vote. Vote up or vote no on his nomination. Vote yes or vote nay. But they are saying, give the man a vote. That is not happening. That is the kind of comment that I heard back in my town hall meetings.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MURPHY). The Chair would ask the gentlewoman to be careful about characterizing Senate action or urging Senate action.

Mrs. MILLER of Michigan. I appreciate that. I will try to exercise the proper decorum here. I am getting a little carried away with it.

Let me just close with one final comment. In one of my town hall meetings, I have five counties in my district, and in one of my counties there are seven county commissioners. One of the commissioners, I will not name his name, but he is a Hispanic gentleman, very well known, well respected in the community, has had an outstanding military background, well thought of by everyone. He and I spoke about this for quite a long time. He is of the opposite party of myself. But he did express his consternation. Again it came to an issue of basic fairness. Basically that is what he expressed to me. He said, if you have anything to say about this nomination at all, let the vote happen. Just let it happen. Let them vote yes or let them vote no. But it is a question of basic fairness.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair again reminds the gentlewoman.

Mr. MARIO DIAZ-BALART of Florida. That is a very interesting point, because there is bipartisan support for Mr. Estrada. In the Senate we keep hearing that he has more than enough votes, that if in fact these procedural steps are just not done and they allow an up or down vote, that the votes are there. But they just do not even want to allow for a vote. I want to get back to the gentlewoman from Michigan; but before I do so, we are also joined by the gentleman from Oklahoma. We just heard the passion from our dear friend from Michigan. She is passionate about it because of the injustice of what is happening to this fine individual. Again, he would be the first Hispanic in the history of this country, the first Hispanic American in the history of this country to reach that position, to be on such a prestigious court. His record is impeccable. Democrats and Republicans have stated that his record is impeccable. Those that worked for him have stated just about the quality and the talent and the integrity, the immense integrity of this human being. There has been nothing that they have been able to find negative in his record. Nothing. Absolutely nothing. Yet the bar, or the goal posts are continuously being moved by those that would oppose him.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. I am trying to give the gentleman some latitude, but to review this. Please refrain from remarks that characterize the Senate or call for action.

Mr. MARIO DIAZ-BALART of Florida. Mr. Speaker, I will try to do so. I thank the Speaker for letting me know about that.

It is hard to believe why this is happening. It is hard to believe why this gentleman is being treated differently than others who have come before him. It is hard to understand why others who are equally qualified or less qualified have not had the problems in the process that Mr. Estrada has had. He has answered more questions than just about anybody. Because I have heard that one of the reasons is that, well, he has not answered enough questions. But he has answered over 125 questions from the esteemed Members of the other body. Other judges have answered many less.

One judge recently, of President Clinton's two nominees to the court, one answered three questions; the other answered, I believe, 20. Mr. Estrada answered 125 questions. Yet some will say, that is not enough. It was enough for others, but not for Mr. Estrada. I would like to know if the honorable Member from Oklahoma is as dismayed to see what is happening as are many of us who are watching this going on and are wondering what is the real reason, what is really behind this. It is not the reasons that they are stating, so what are the real reasons?

I yield, Mr. Speaker, to the gentleman from Oklahoma.

Mr. COLE. Mr. Speaker, I thank the gentleman for yielding. It is a great pleasure to be with my good friend, the distinguished Member from Florida. I did not come here with prepared remarks and certainly I do not pretend to be able to match the eloquence of my good friend, the gentlewoman from Michigan, or the gentleman from Colorado; but I came because I was compelled, listening to the debate and having watched the debate over many days, to express my solidarity and my sentiments about the great injustice that I feel is being done here.

This is the ultimate expression of politics over principle. And what kind of principles are at stake? The principle first of merit. There is no question about Miguel Estrada's merit. He is a jurist of outstanding quality and a lawyer of distinguished accomplishment, someone who Members of both parties have recognized for his individual brilliance. This is a triumph over the principle of diversity. It is a good thing in a diverse country to have a diverse bench, to have people of different backgrounds, with a common faith and belief in this country but representing different cultural and different racial and different ethnic traditions to occupy important positions.

It is the triumph of politics over the principle ultimately of fair play, the most fundamental American principle of all, the right to have a vote, the right to be heard, the right for a decision to be made. It is unfortunate. And it is the triumph of politics over the principle of bipartisanship, as my good friend from Florida has pointed out. There are Democrats and Republicans of good will, of differing philosophies, of differing points of view but united in their belief that Miguel Estrada is a person of outstanding integrity, of great ability and as deserving of the position to which the President has nominated him.

I reflect back, Mr. Speaker, on what might have happened had similar things occurred when Colin Powell was nominated for his position as a member of the Joint Chiefs of Staff, an action which takes approval, of what might have happened when our distinguished national security adviser was chosen for her respective position. Questions were not raised then about them, what their political philosophy might be, because they were people of outstanding character and outstanding ability. Their appointment to the posts which they both currently hold is an indication of respect on both sides of the aisle for their ability.

I think in this case again we are seeing an individual punished not on the basis of merit, not on the basis even of philosophy directly but on the off chance that he might be a conservative. Certainly he is not being punished simply because he is a Hispanic. I would hope not, and I would certainly expect not. I would not attribute that motive to any of those who oppose him. But there is a sort of subtle double standard here in terms of you have to be the right kind of Hispanic. You have to believe in the right set of principles in order to occupy a position of trust and responsibility in the United States. That is simply inappropriate.

As you know, Mr. Speaker, I have a Native American heritage. Many of the people in the tribe to which I belong are historically Democrat. But frankly they supported me because they thought I had the ability to represent their views and their point of view. That is in essence what is at stake here, whether or not we will discriminate or stand idly by and watch someone discriminated against simply because they hold a view which a minority of people think might be unpopular but which the majority in this country clearly support.

I want to thank the gentleman from Florida again for taking on this fight, for waging it so diligently and for mobilizing so much support on behalf of not just an individual but on behalf of the defense of fundamental American principles.

Mr. MARIO DIAZ-BALART of Florida. I want to thank the distinguished gentleman from Oklahoma. As always, he has a way of really speaking with a lot of common sense. I want to thank the gentleman for that, for bringing some sense of reality to what sometimes can be a pretty crazy process.

Mr. Speaker, in my remaining time, I just want to really thank and commend Senator HATCH, Senator

SANTORUM, and many others on that side for standing up for the Constitution of the United States, for standing up for fairness.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The gentleman is admonished to not mention individual Senators.

Mr. MARIO DIAZ-BALART of Florida. There are many who are standing up for the Constitution.

RECOGNIZING A NATIONAL DAY OF REMEMBRANCE TO INCREASE PUBLIC AWARENESS OF EVENTS SURROUNDING INTERNMENTS OF JAPANESE AMERICANS DURING WORLD WAR II

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentleman from California (Mr. HONDA) is recognized for 60 minutes.

Mr. HONDA. Before I get started, let me just compliment the gentleman from Pennsylvania for his patience in being here this evening. I appreciate your presence, Mr. Speaker.

Mr. Speaker, I rise today to discuss House Resolution 56, a resolution I introduced earlier this month. This is a resolution supporting the goals of the Japanese American community and recognizing a national day of remembrance to increase the public awareness of the events surrounding the restriction, exclusion, and the internments of individuals and families during World War II.

Let us be clear about this. In 1942, more than 120,000 people were rounded up in this country, primarily from the west coast, and incarcerated. Families were torn apart. Hardworking people had to sell their businesses for pennies on the dollar. Everything these people worked so hard for evaporated overnight. I spent part of my childhood in a camp in southeast Colorado, an internment camp called Amache. House Resolution 56 also recognizes that some in the German and the Italian communities experienced deprivation during this period as well.

This resolution has been referred to the Committee on the Judiciary and has currently over 60 cosponsors. This year marks the 61st anniversary of President Franklin D. Roosevelt's signing of executive order 9066 on February 19, 1942; and it is the 15th anniversary of the Civil Liberties Act of 1988 signed by President Reagan.

The day of remembrance is as important now as it has ever been. We are again living in perilous times. Our country is at war against terrorism. We may soon be at war with Iraq. The history of World War II demonstrated that our Constitution is tested in times of trauma, tension, and turmoil. In 1942, our political leaders failed. Therefore, today we must work to educate the public about the internment of Americans today in order to prevent similar injustices to be forced upon other Americans. Our civil liberties have not been in as much risk since World War II, and this time we as political leaders cannot fail.

Many might be aware of the comments made by one of our colleagues earlier this month on a live radio call-in show. Our colleague said that he agreed that President Roosevelt's decision to sign executive order 9066 was appropriate. He said, with the information the President had at the time, he made the best decision he could. He also stated that the incarceration of Japanese Americans was for their own safety. In addition, statements were further made that some Japanese Americans during World War II were probably intent on doing us harm just as some Arab Americans are probably intent on doing harm to us today. Such statements are inaccurate and simply wrong. As my father always said to me when I was a child, if we were put in camps for our own protection, then why were we the ones behind barbed wires and why were the machine guns pointed inwards toward us?

□ 2030

Furthermore, such statements from a government official are disturbing and dangerous, as they appear to endorse a policy of racial and ethnic profiling that has long been discredited. Saying that the internment of Japanese Americans was appropriate is simply unacceptable and factually inseparable.

One of the most concise rebuttals that I have read to the notion that Japanese Americans were placed in camps because they either posed a threat to national security or for their own safety comes from a law professor, Eric Muller, of the University of North Carolina at Chapel Hill in a letter dated February 7, 2003. And I would like to, Mr. Speaker, submit this letter into the record at this point without reading its full content. However, most importantly though, we must remember that the Commission on Wartime Relocation found that it was not a military necessity that the Japanese American community be rounded up from the west coast, but it was rather based upon race prejudice, war hysteria, and a failure, and I will repeat, a failure of political leadership. This was probably the largest single act of racial and ethnic profiling conducted by our government in modern times.

True to the democratic process, however, our Nation has been able to look back and admit errors from its past. I can think of no greater evidence to show why the United States, with all its flaws, still is looked to worldwide as the Nation with the strongest and fairest form of government. By admitting that the government did wrong in its treatment of its citizens and legal residents who were aliens during World War II, Congress and the President reaffirmed our Nation's commitment to the principles founded in the Constitution. However, we must always be vigilant in the protection of our civil liberties, and in this time of tension as we wage a war against terrorism, we must again reaffirm our commitment to the principles in the Constitution. While national security is always a paramount concern for those of us making the laws as well as executing and interpreting the laws, we see that there are those in government who continue to pursue policies once again that target our civil liberties.

I find it disturbing that none of my colleagues on the other side of the aisle have come out against the statements of this gentleman from North Carolina. But now more than ever, we must strive to balance our cherished civil liberties with the need to protect our homeland. Finding this balance is the enduring lesson that the Day of Remembrance resolution teaches and the lesson that cannot be lost on our Nation's policy makers and our citizens.

Mr. Speaker, I yield to the gentleman from Hawaii (Mr. CASE) who represents probably a good portion of the population not only in the mainland, the U.S., but also in Hawaii.

Mr. CASE. Mr. Speaker, I thank the gentleman from California for yielding, and I bid him and my colleagues here in the House a very fond aloha from my home State of Hawaii.

As the gentleman has noted, my home State of Hawaii is a State that has a tremendous representation of people of Asian descent. Pacific islanders and Asians make up more than 50 percent of the composition of my State. So in areas of ethnic issues, we are particularly sensitive for both our history and for our modern day; and my State is a State that is very proud of many things, many things about it, from our fantastic environment which so many people have enjoyed, to our native Hawaiian culture which has brought really to the world a spirit of aloha, a spirit of how to live together in harmony with both nature and with each other.

But I think the one thing that we are the most proud of in Hawaii and certainly that I am the most proud of in Hawaii, as somebody whose family goes back for four generations there, is our multiethnic tradition. We are again easily the most diverse ethnic composition of any State in the entire country. No ethnic group of the many that we have in Hawaii has a majority. The highest ethnic group in Hawaii has only about 26, 27 percent; the second highest, 24, 25 percent. So we are very conscious of our relationships with each other from an ethnic perspective, a State where over 50 percent now of all marriages are multiethnic marriages; over 50 percent of all births are multiethnic births, including my own children who carry the blood of eight separate ethnic groups in their own veins and carry it without anybody giving any thought to it whatsoever; and where Americans of Japanese ancestry have long been a very significant minority in our history.

So for all of us in Hawaii, all of us, whether we are of Japanese ancestry or

Caucasian ancestry or Portuguese ancestry or Chinese ancestry or Korean or some of the more recent immigrant groups such as Marshallese, Laotian, Vietnamese, Thai, when we read of comments by one of my colleagues on the internment of Japanese Americans during World War II, the Chair of the Judiciary Subcommittee on Homeland Security, the very subcommittee that is being called upon to make judgments on behalf of all of us in this country on matters of internal security, how we treat our citizens during a time of war, our reactions range from puzzlement, frankly, in some cases to outrage. And, Mr. Speaker, I must confess I do not really know myself what to make of those comments, because those thoughts expressed are so foreign to my own thinking and to the thinking of those in my State.

And as I went back to my district over the district work period and talked to my constituents, they brought up these comments. It was not really always a matter of outrage, although some were outraged. It was more a matter of puzzlement. What was it that was occurring? What was it that this colleague was thinking? What exactly was it? Was it just a slip of the tongue? We all make slips of the tongue, and we all are willing to forgive a slip of the tongue. Was it ignorance of the facts, or was it a reflection of more deliberate thinking? And unfortunately we do not know which one it is because, to this day, there has been no good explanation offered.

Personally I am willing to accept, and I think most of the people in my State and perhaps in the country are willing to accept, that it was ignorance; willing to accept, as my State legislature right now is resolving, that what is needed here is not any kind of accusations, not any kind of harsh words. What is really needed is education and sensitization to the fact, and that while we need to get beyond this specific incident, nonetheless it again tells us that we must remember that sometimes well-intentioned people can act inexcusably, out of simple ignorance, and that by constant remembrance we can avoid repeats.

So I want to remember today what happened in my own State during the time of the Second World War, during the time when 100-some-odd thousand-plus Americans of Japanese ancestry were rounded up and interned in internment camps on the U.S. mainland. I want to remember what happened in Hawaii because that is a part of this story that is not often told. What happened in a State where 37 percent of the population on December 7, 1941, 37 percent were Americans of Japanese ancestry? What happened in a State which was the very site of the attack that put us into World War II? Again 37 percent, and this was not just an isolated population on the mainland. There were a number of Americans of Japanese ancestry mostly living in the smaller communities, not always but mostly. They were not quite as integrated into the society. In Hawaii it was a full integration. We had lived there. They had lived there for over 100 years. For decades they had been fully integrated into the society. In 1941 many were already serving in our U.S. Armed Forces. They had already been drafted. They were already serving in the famous 100th battalion, which was formed out of draftees prior to World War II, including my own former boss right here in this Chamber, my political mentor, the former U.S. Congressman and U.S. Senator from Hawaii, Spark Matsunaga. They were the vanguard of what became a legend in U.S. military history in the second world war because the 100th battalion and later the 442nd regimental combat team, which later merged, in which 3,000 Americans of Japanese ancestry from Hawaii volunteered, a unit which went on throughout the Second World War to become the most decorated unit for its size in the entire history of the United States military; a number of medals of honor including my colleague, the senior Senator from Hawaii, Daniel K. Inouye; a number of Distinguished Services Crosses, Silver Stars, Bronze Stars, French Croz de Guerres; 649 killed in action, 67 missing, 9,486 Purple Hearts.

These were people obviously that were dedicated to their country, and yet on December 8, 1941, 1,500 of them were rounded up, Japanese ancestry Americans living in Hawaii were rounded up and interned in Hawaii on Sand Island and interrogated. Some were released; but some, over half of them, were sent to the mainland and interned for the duration of the war. And not only did it affect them, it affected their families. In many cases they went to the mainland to become interned. Why? They were American citizens. Their families had lived in the United States in Hawaii. They were interned because they were educators, because they were Buddhist priests, because they were business leaders. If they were in positions of leadership in the Japanese community in Hawaii, they were suspect just because of that. And there was more than one case in which a son would serve his country in World War II on Anzio and other locations up and down Italy and France while his own father was interned in an internment camp in the United States. Imagine a son, imagine the dedication to a country of a son going into battle when his own father was interned. Yes, it was not as serious as the mainland Americans of Japanese ancestry.

And there were heroes in this story, and one of the heroes was the FBI agent in charge in Hawaii during this period, a gentleman by the name of Robert Shivers. It is a little known fact that Robert Shivers arrived in Hawaii in 1939, probably, we would suspect, with perhaps the same sentiments as others that had come from the mainland to a strange place where Americans of Japanese ancestry were 38 percent of the population, at a time when the United States knew it was going to war with Japan and all Americans of Japanese ancestry really were suspect in some people's eyes, and yet only 1,500 were rounded up. Why was that? Because Agent Shivers spent 2 years trying to understand the community, because he went out into the community. He said that after conferring with people in Hawaii, citizens that had lived in this multiethnic society, he said this: ''It was not until I conferred with you that I began to understand the complex racial conditions in Hawaii. You gave me a group of loyal citizens of Japanese ancestry who proved invaluable in helping me shape my course.'' And it is obvious to all of us now in retrospect, after the action of this Congress in issuing an apology and in the actions to evaluate the work of our government during the Second World War in cases such as Koramatsu, it is obvious that had Agent Shivers not been the person that he was, no doubt Americans of Japanese ancestry in Hawaii would have met the same basic conditions as occurred to their colleagues and their family members on the mainland.

So, Mr. Speaker, I give these words. I give these words because again I say that what we can all take out of the occurrence of the remarks by our colleague is not to drag him over the coals. I think we are way beyond that. That is not what this is about. This is simply an opportunity again for us to remember, all of us to remember, that good people can sometimes have thoughts that are just not right, and it is simply a matter of not knowing.

So we can look to history in this case. We can look to the history of the Americans of Japanese ancestry. They were not unique. The same thing happened to Americans of German ancestry, Americans of Italian ancestry. And we can say to ourselves that there is absolutely no reason in the whole world why the same thing could not happen again under similar circumstances to ethnic groups in our country other than those three.

So as we consider this resolution which I have been very proud to cosponsor, as we consider the motivation behind the resolution, and I commend the gentleman from California (Mr. HONDA) for introducing this resolution, let us consider again that this is a time simply for us to all pause, let us take a deep breath, and let us just remember what happened and think to ourselves is there any reason whatsoever to assume that without constant vigilance, constant caution, and constant remembrance could it not happen again? That is the lesson for us to carry outside of this unfortunate occurrence, and that is the lesson that my own home State of Hawaii can offer to our country and the rest of the world.

I thank the gentleman for yielding.

Mr. HONDA. Mr. Speaker, I thank the gentleman from Hawaii (Mr. CASE) for his words and the experiences that

he has shared with us because I think that at times the lesson is sometimes missed, that Members from Hawaii who are of Japanese ancestry volunteered for the service with the 101st battalion and joining forces with the 442 here in the mainland.

□ 2045

One of the things that they learned, the Japanese Americans from Hawaii, was that when they became part of the 442 with the mainland Japanese Americans, they often wondered why they were different from the Japanese Americans from Hawaii, because they grew up on a pretty predominant and highly populated island with a lot of Japanese Americans, whereas the Americans of Japanese descent on the mainland were a little different. Their attitude and view of life was different.

It was not until some of the Members from Hawaii visited the camps, along with their colleagues whose parents were incarcerated, that they truly understood the unfairness and injustice of executive order 9066.

So we say we did not know, and so it is that House Resolution 56 is to educate and to further educate our communities in this country and also other members of this globe.

Mr. Speaker, if I may ask the gentleman from Washington (Mr. INSLEE) if he would mind sharing some of his thoughts.

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

Mr. INSLEE. Mr. Speaker, I thank the gentleman for his leadership on this issue, bringing this to our Nation's attention with this resolution. The reason I have come to join the gentleman this evening to talk about this important national matter is I represent the first district in the State of Washington, in the Seattle area; and I live in a place called Bainbridge Island, a little island directly across Puget Sound from Seattle.

Back in the 1940s, pursuant to an order of the American President, the United States Army marched 277 Americans of Japanese American descent down to the Taylor Landing dock and at bayonet point essentially sent them to camps for the duration of the war.

These were our neighbors on Bainbridge Island, good people, great people, some of whom still live on Bainbridge Island; and we think it is appropriate and important for the Nation to remember that injustice, that mistake, where an America did succumb to fear, and this day of remembrance is one way to do that.

The reason I think it is important for America to do that is two-fold: first to honor those individuals who went through this experience, but had their sons and daughters serving in the military during World War II, and then returned, a lot of them, to Bainbridge Island to become important parts and leaders of the community, and we want to honor their commitment and contributions to our national and local communities.

But I also think it is very important for us in the future for us to learn from this experience, because we are undergoing some similar strains right now. We understand what fear is again like, like we experienced in the 1940s; and it is very important for us to realize what can happen if you succumb to fear, what can happen to civil liberties, what can happen to civil rights, what can happen to your basic freedoms. So learning from that experience is important that we not replicate it and we not again give in to our sense of fear that the Nation may hold.

I should alert the gentleman, as you know, we are doing some things on Bainbridge Island. We are starting a national park, a national memorial, we hope, in a bill the gentleman helped pass the last session of Congress that the President has now signed, which will memorialize this event at the very site where the very first Japanese Americans were interned. These were the first Americans who were subjected to this, the very first detainees.

Some great people on Bainbridge Island, a fellow named Clarence Moriwaki is doing tremendous work, Frank Kinamoto, to memorialize this event and to teach Americans for future generations about what can happen when we succumb to fear. So this is one part of telling this story, and I am happy to be able to.

I will tell you just one good story, if I can, about Bainbridge Island, though. There was a lot of sorrow and sadness, and I have always been so impressed with people who went through this experience but came home willing to be good Americans and leaders in their local community and got over, maybe did not get over, but surmounted the sense of bitterness that certainly must have been there. I have just been so admiring of that sense of courage and true commitment to America.

But another little spirit that I saw, we dedicated a county park to a place where a radio interception facility was on Bainbridge that actually intercepted the December 7 radio transmission to the Japanese ambassador in Washington D.C.

One of the fellows intercepting those messages on the day that my neighbors were interned, he took a day of furlough and went down to one of his buddies to get his refrigerator and his pickup truck to make sure he protected them all during the war for his pal. He took a day's furlough to do it. That is part of the American spirit too.

I want to thank the gentleman for his leadership to make sure that America knows this story.

Mr. HONDA. I thank the gentleman from Washington, especially for his leadership and having set aside Bainbridge Island as an educational activity and also in memory and commemorating the folks who were interned from that community.

Also I think it is appropriate to mention that there have been many stories that come to light when we talk about the day of remembrance, one of which is the story of a young man by the name of Ralph Laso from East L.A. whose friends were Japanese Americans, and when they were being incarcerated he argued this is not right; they are not enemies. He himself decided to join a family and to be incarcerated himself along with the family.

But there are many other stories that can be told if we move forward with the resolution on the Day of Remembrance.

I would like to ask the gentlewoman from the gem of the Pacific, the great territory of the Island of Guam (Ms. BORDALLO), to share her thoughts.

Ms. BORDALLO. Mr. Speaker, I thank the gentleman for his very, very wonderful description of my island home.

I am pleased to join my colleagues this evening in this most important dialogue. I want to thank our colleague, the gentleman from California (Mr. HONDA), for his leadership on these issues, and in particular for his sponsorship of House Resolution 56, which seeks to increase our awareness and further public understanding of the internment of American citizens during World War II.

The internment of the Japanese Americans, German Americans, and Italian Americans was a grave injustice and a violation of their civil rights. There are lessons to be learned from this experience, and these lessons cannot be learned without discussing and understanding the circumstances surrounding the enactment of executive order 9066.

We must be cognizant of the fragile nature of our civil rights, which have been won on the battlefield and in the halls of Congress. We must always be mindful of the threats to our freedom and security, and likewise we must be mindful of how our own perceptions of our fellow Americans and our own prejudices affect our very freedom.

These are not academic issues in a history book. These are experiences that must be understood in the context of the current debate on homeland security. It is now more important than ever because of the many issues that have arisen concerning security in the aftermath of September 11.

As we reflect on these events of World War II, we are appalled at our actions toward fellow citizens. We must be mindful that our actions today will be subjected to the same hindsight. As we wage the war on terrorism and face the possibility of war with Iraq, the need for awareness and education is especially important. We must ensure that we have an understanding of who among us is the threat, not based on race, color or religion, but based on facts that will withstand the scrutiny of history. As we fight for our freedom and security, let us not cast aside our own humanity.

Mr. Speaker, as difficult as it is, we must come to terms with our national

mistakes, just as we celebrate our national achievements. We must acknowledge our misgivings in the past if we are to strengthen our ability to avoid mistakes in the future.

As President Ford said in 1976 when he formally rescinded executive order 9066, learning from our mistakes is not pleasant, but we must do so if we want to avoid repeating them.

Mr. Speaker, I thank the gentleman for this opportunity to be here tonight to support this resolution.

Mr. HONDA. I thank the gentlewoman. The gentlewoman from Guam (Ms. BORDALLO) continues the great legacy of Guam, of social justice and constitutional protection.

Mr. Speaker, if I may yield to a colleague of mine from Santa Clara County, a very personable person, someone who always does not mind speaking up when things need to be addressed, a long time friend and colleague, the gentlewoman from Santa Clara County, California (Ms. LOFGREN).

Ms. LOFGREN. Mr. Speaker, I thank the gentleman from California (Mr. HONDA) for organizing this Special Order.

Mr. Speaker, on February 19, 1942, then President Franklin D. Roosevelt issued executive order 9066 authorizing the Secretary of War to define military areas in which ''the right of any person to enter, remain in or leave shall be subject to whatever restrictions are deemed necessary or desirable.''

By the spring of 1942, California, Oregon, Washington, and Arizona were designated as military areas. In May of 1942, Santa Clara Valley Japanese Americans were ordered to ''close their affairs promptly and make their own arrangements for disposal of personal and real property.''

Official government fliers were posted around parts of California instructing families to report to the area's assembly center, the Santa Anita Racetrack, with just the bare necessities, leaving behind their homes, their lives and most personal belongings. Because permanent camps were yet to be built, the Santa Anita Racetrack was home to Santa Clara Valley's internees for at least 3 months. Santa Clara Valley Japanese Americans were forced to live in horse stables until a permanent camp was built for them.

In America, 110,000 Japanese Americans and others, not aliens, people of German and Italian descent who were Americans, were evacuated from their homes and incarcerated throughout the duration of the war. Three thousand of those interned were Japanese Americans from Santa Clara Valley.

By the fall of 1942, most Santa Anita internees were transported to a camp far away from home, the Heart Mountain Internment Camp in northern Wyoming. Most remained there until the end of the war, 3 long years later.

The horror for Santa Clara County Japanese Americans did not end there. Upon release, approximately 7,000 people moved back to Santa Clara County. Most had no shelter, food, money, much less a job. Some returned to find their homes looted and destroyed. The San Jose Buddhist Church offered what it could, shelter and hot meals for most families. In Santa Clara County, the family of Bob Peckham, later to become Federal District Court Judge Bob Peckham, took title to the property of some Japanese American neighbors and was able to preserve that property and return it at the end of the internment so some people in our area did not lose their homes and businesses.

All of this happened before I was born, but I remember very well learning about it even before it was added to the history books. My mother was a young woman in 1942. My dad was in the Army, and she was building airplanes at the Douglas aircraft factory for the war effort.

She told me when I was young about driving past the race track and how ashamed and guilty she felt. There were people locked up at the race track living in horse stables who she knew had done nothing wrong. People who had been her neighbors had been rounded up suddenly and taken away.

My mother told me how helpless she felt. She knew what her government was doing was wrong, but she did not know how to change it. She felt powerless, but she also felt guilty and ashamed because of what the United States Government had done. She was a life-long Democrat and cast her first Presidential vote for FDR, but she never agreed about what he did to her neighbors.

There was no apology, no financial support, no help from the Federal Government until many years later. On February 19, 1976, President Gerald Ford formally rescinded executive order 9066.

□ 2100

And in 1980 Congress funded the adopted legislation, establishing the Commission on Wartime Relocation and Internment. August 10, 1988, the Civil Liberties Act was signed into law, authorizing payments of $20,000 to each person that suffered from internment and established the Office of Redress to identify, locate, and pay these individuals. Most importantly, an apology was finally given.

By then, my neighbors and my parents' neighbors who had been unjustly incarcerated, our friend, Ed, Jimmy, dad's neighbors, Ted, Raiko, Sam, and many others, received at long last an apology. Some lived long enough to receive the compensation provided for in the law.

These efforts were celebrated in the community of Japanese Americans. But they were also celebrated in the broader community, because Americans who were not incarcerated, like my mother, felt the shame and the guilt. And while an apology could not undo the injustice and the compensation did not fully cover the loss, it helped that our country admitted the mistake and tried to make amends.

I am proud to say that on February 5 of this year, my colleague from Santa Clara County (Mr. HONDA) introduced H. Res. 56, a resolution supporting the goals of the Japanese, German, and Italian American communities in recognizing a national day of remembrance and to increase public awareness of the events surrounding the restriction, exclusion, and internment of individuals and families during World War II. This resolution has been referred to the House Committee on the Judiciary on which I serve and currently has over 60 cosponsors.

Today, I support the resolution of the gentleman from California (Mr. HONDA) to recognize February 19 as a Day of Remembrance. It is the least we can do, spend one day per year reflecting on the horrors of internment, remember those who suffered, and work to find ways never to repeat that page in history. I would urge the chairman of the Committee on the Judiciary, my colleague, the gentleman from Wisconsin (Mr. SENSENBRENNER), to quickly schedule action for this important resolution so that the country can, once again, engage in healing, and I honor my colleague, the gentleman from California (Mr. HONDA) for his efforts in helping all Americans to heal.

Mr. HONDA. Mr. Speaker, I thank the gentlewoman from Santa Clara County for especially sharing the experience of her interactions with her mom and the way her mom felt when the Japanese were taken away, and then the sense that this country can make amends for the wrongs that have occurred. The signing and the final recognition of wrongdoing by this government through the Civil Liberties Act of 1988, signed by President Reagan when he said, upon signing he said, ''This is a great day for America.'' And when President Ford rescinded 9066, he indicated, as the gentlewoman from Santa Clara said, that it was an ordinance that should have never been there.

The whole point of the Day of Remembrance resolution is about learning, is about being persistent about the lessons that we have learned from the Japanese American experience that is really an American lesson on the Constitution and is also a lesson of the American character, where, upon reconciliation, there is a healing. There is a healing among not only those who were incarcerated, but also healing among those who were affected but maybe not necessarily incarcerated. So victims are both those who were directly victimized and those who were indirectly victimized by a bad action of our government.

Also, the further learning, when we talk about the Day of Remembrance, is that other communities get to reflect upon their own experience at that time and project into the future whether this kind of thing should happen again.

For example, a few years ago when we did this in the State of California, there was also a movement and discussion among the Italian communities

and there was a reawakening of the experiences that they experienced in World War II when Executive Order 9066 was applied, was applied to Italian Americans and German Americans. And upon reflection, they found out that they too were subjected to embarrassment, to ridicule. One of the stories that came out, because of the order by General DeWitt that no persons who are aliens in the United States may live west of highway 1, which is along the coast, forced families to separate themselves, Italian American families who were engaged in the fishing industry whose parents and grandparents had to live in tents across the road while the children lived in the homes. It was things like this they started to remember and started to chronicle among themselves and to teach their children that these kinds of actions by government is not acceptable. Upon the receipt of the apology, we found that there was healing and there was teaching going on among, not only among themselves, but among the greater population of this country.

As a teacher, I want to reemphasize the necessity for this resolution, that it continues to teach us the old maxim that those of us who do not learn from the mistakes of our past are doomed to repeat them.

So in today's current light, I just want to personally reemphasize that national security is my highest priority, is our highest priority, and I support efforts to fight our war against terrorism. But we also understand that in doing so, we must not have a failure among our political leadership, we must not fall back on more hysteria, we must not fall back to racial prejudice and discrimination and profiling.

So today, it is critically important, more than ever, to speak up against possible unjust policies that may come before this body, and we must also be able to speak to it. And it is even more important than ever to educate Americans of the Japanese American experience during World War II, as well as the experience of other groups like the Japanese Latin Americans who were extricated from Latin America, brought over here, had their documents taken away from them, and becoming individuals without a country to be used as pawns in exchange for POWs. And then the German and Italian Americans who were also victimized.

In order to learn the important lessons from our own history, I did introduce H.R. 56, the Day of Remembrance resolution here in this body. Teaching the lessons of those dark days is more important today than it ever was, remembering Executive Order 9066, signed on February 19, 1942 and then rescinded on August 10 of 1988, there are many events that flowed from those two orders and that we must continue to learn from our history.

There is a maturity in this country that I am very proud of. That maturity says we can learn from our mistakes of the past and we can also teach others of our lessons that we have learned from our past. We have learned that the Executive Order 9066 was not signed out of military necessity, was not signed out of national security, was not signed out of personal safety and security of the Japanese American, but the Commission on Wartime Internment and Relocation of Civilians said, and they concluded, that it was a result of racial prejudice, war hysteria, and the failure of political leadership.

Today, as we heard from our colleagues today, Mr. Speaker, that this leadership must not fail again. and to that end, we must continuously teach ourselves and reteach ourselves and remember the lessons of the past so that we do not repeat them again. It is a country like the United States, it is a country like this country that my father, although he was interned with the rest of his family, and although he even volunteered for the military intelligence service to teach language to the naval intelligence officers, that he held this sense of loyalty to this country, even though the families were incarcerated. And he taught us that in spite of these experiences, that we, his children, must be a good reflection of his loyalty and that we, as we grow up, must become more American than anybody else that we could run into, and that we must be 110 percent American. Part of that Americanism is to never, ever make the same mistakes again.

We learned from that experience in 1942, and we learned from the experience of 9/11, that this Constitution of this country is never tested in times of tranquility, that our Constitution is always tested in times of trauma, tragedy, terrorism, and tension, and that the very principles of our Constitution need to be, continuously need to be taught until it is ingrained in our own character, so that every decision we make as a citizen, as adults, as children, as students and as policymakers, that we will always be true to the principles of our Constitution. For it is for those reasons why people around this world fight to come to this country and be part of this country, struggle to be a part of this democracy, because they know that the protection of this Constitution is the American dream. The protection of our Constitution is that which our forefathers and our veterans have shed their blood and sacrificed their limbs and lives so that our Constitution may live and really be reflected in every action that we have, not only in this body, but by every action of every citizen of this country.

So, Mr. Speaker, I thank my colleagues for this opportunity to bring Resolution 56, the Day of Remembrance, before this body.

GENERAL LEAVE

Mr. HONDA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the subject of this Special Order.

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

There was no objection.

Mr. LANTOS. Mr. Speaker, I rise to join my dear friend and fellow Californian Congressman MIKE HONDA in support of H. Res. 56, commemorating the suffering of the Japanese-American, German-American, and Italian-American communities during World War II by recognizing February 19 as a National Day of Remembrance. It is my sincere hope and belief that by establishing a National Day of Remembrance, Congress will increase public awareness of the wholesale exclusion and internment of individuals and entire families in this country during World War II.

Following the issuance of Presidential Executive Order No. 9066 on February 19, 1942, tens of thousands of Americans were evicted from their homes, rounded up, and sent to internment camps across the western United States. In San Francisco, this program began in earnest on April 1, 1942, when all persons of Japanese ancestry—whether they were American citizens or not—were notified to report for ''relocation.'' In my own district, 7,800 people were assembled against their will in the San Bruno Tanforan Racetrack. Seven-thousand eight hundred human beings were confined there for months, living in horse stables. Today, we realize that such a policy was outrageous.

But Mr. Speaker, I submit that it is not only in retrospect that the internment of the Japanese appears absurd and unacceptable. As early as 1946, Harold Ickes, President Roosevelt's own Secretary of the Interior, characterized the mass detention of Japanese Americans as ''mass hysteria over the Japanese''; he noted that ''we gave the fancy name of 'relocation centers' to these dust bowls, but they were concentration camps.'' Mr. Speaker, the way we treated Japanese Americans was inexcusable. Moreover, any purported national security benefit derived from the government's internment policy was vastly outweighed by the enormous human suffering and the violation of civil liberties that policy caused and the hatred it sowed.

Mr. Speaker, I submit to you that the internment of Japanese Americans during World War II is one of the most ignominious and repugnant acts our nation has committed. Our government has taken cautious and gradual steps toward recognizing the insidiousness of its World War II internment policy, but it is not enough to apologize or to pay reparations for the wrongs committed by the United States government during that period. The internment was so evil that its commemoration merits more than the customary apologies and financial compensation. Indeed, we ought to be reminded on a regular basis of the dangers of fanaticism, and that is what this resolution is about.

In addition to making amends for our country's inhumane treatment of Japanese Americans, Mr. Speaker, we must acknowledge the anti-democratic policies adopted by our government against Italian Americans and German Americans. Though their communities were not rounded up en masse as the Japanese Americans were, in many cases property owned by Italian Americans and German Americans was expropriated, and Italian- and German-American citizens were unlawfully detained and questioned, their patriotism ignored

and their civil rights denied. While the Wartime Violation of Italian Americans Civil Liberties Act of 2000 represents an important measure of progress on this issue, it is my heartfelt belief that more needs to be done.

And that, Mr. Speaker, is why it is my privilege to proclaim my support for my dear friend Mr. Honda's bill, which would make room for a day of mourning, reflection, and remembrance of the chain of egregious injustices against Japanese Americans, Italian Americans, and German Americans that was officially begun by our government on February 19, 1942.

Mr. Speaker, this bill takes a day that is already a day of mourning in the Japanese-American community and reconsecrates it as a day of American remembrance. It also acknowledges the real and acute suffering of the Italian- and German-American communities during the war. I urge my colleagues to follow their conscience and join in commemorating this American tragedy.

POSSIBLE WAR WARRANTS RESPONSIBLE PRESS

The SPEAKER pro tempore (Mr. MURPHY). Under the Speaker's announced policy of January 7, 2003, the gentleman from Colorado (Mr. TANCREDO) is recognized for 60 minutes.

Mr. TANCREDO. Mr. Speaker, we have had a number of discussions in the House over the last several days dealing with the issue of the possibility of a conflict in the Middle East and the efficacy thereof, and whether or not it is in the national interests of the United States to embark upon this venture, whether a preemptive strike by the United States is justified, whether or not our sending men and women into harm's way is appropriate. And this is the place, of course, where that debate should be carried on. Throughout the United States, of course, around water coolers and in offices and around dinner tables, the debate continues. It is certainly appropriate that it goes on here.

I just want to reflect upon something that happened not too long ago in Denver, Colorado when I was asked to speak at a rally, and the rally was organized by people who wanted to show the armed forces, especially the Armed Forces of the United States, that the American people believe in them, that the American people trust them, that the American people admire and respect them, and that we know we place our safety in their hands. We know that we place this great Nation in their hands, and we know that, in fact, we place the western civilization, in fact, in their hands. Its survival will be determined by the actions of people like those that we are sending off to the Middle East.

So it was billed in the newspapers as a pro-war rally. And I was asked to speak at this rally, and I indicated to the people in the audience that I thought that it had been misidentified by the press. And that in fact I knew no one, I really cannot tell my colleagues that I have ever met anyone who was, in fact, pro-war, just pro-war.

□ 2115

I do not know anybody like that. There may be people out there who live for the idea of risking life and limb or taking someone else's in the act of war, but I just do not know them; and I do not know that anybody at that rally could have been so classified or identified. Nonetheless, that is the way the press billed it, a pro-war rally.

As I said, I think it has been mischaracterized. I know why the organizers asked me to speak and why I am here, because it is a pro-America rally. I am here, as I said, to lend my voice to those that have already spoken who have indicated their strong support for the actions of our government and for the people who are going to serve and are serving in the military.

But I said that also it was interesting to me because there were many other rallies that had been held up to that point in time, certainly many here in Washington, many on the Mall, and they were organized for the most part by the Workers' Party and similar groups. The people who spoke at these rallies were people who said little about the issue of the advisability of peace in the Middle East, but they did say a lot about what was wrong, in their minds, anyway, with America.

I quoted from some of the speeches that had been made right here in Washington on the Mall at these rallies. The quotes were those that reflected the sort of atmosphere that prevailed at these ''pro-peace rallies.'' I suggested that they were also misidentified by the press as pro-peace rallies, just as we were misidentified by the press as a pro-war rally; and that most of the discussions and most of the people exhorting the crowd were not really interested in just the concept of peace and the need for it, but they talked mostly about the problems with America: that America needed ''regime change''; that America needed a ''revolution''; that President Bush was, well, I will not go into the kind of epithets that they tossed out against the President and against our system. Also, they led chants of Allah Akbar, Allah Akbar, at these rallies.

When we read what they said, when we read this, we came to the conclusion that there was something a little bit different; that maybe it was not just a pro-peace rally, but that perhaps their real concern was America itself, this Nation and everything it stands for. I indicated that I believed that those rallies could be more accurately identified as anti-America rallies.

Now, not everyone, of course, who attends such a rally could be identified as anti-American. Many people went there, I am sure, because they just simply wanted peace and believed that the foreign policy of the United States vis-a-vis Iraq was inaccurate, was incorrect.

But the organizers of the rally and the people who spoke at these rallies were for the most part unconcerned with the actual issues that we are confronting here with regard to Iraq, and they were much more concerned with what they considered to be the problems with the United States, with our system of government, and essentially with who we are.

Now, shortly thereafter the newspapers in my State carried several stories about the rally, and about what I said. I was characterized as someone who said, if you are not supporting the war effort, you are un-American. Of course, that was not accurate; but it is certainly not the first time that my statements or anyone's, especially those of us here in this body, have been mischaracterized in the press.

But it made me think about the way in which so many Americans have been inclined over the last several decades, really, to look first at what America's warts are, America's problems, America's shortcomings, without being even the slightest bit interested in what America's values are and what America represents for the world.

I was intrigued by a number of things in this particular debate, not the least of which is the attention we pay to people like movie stars and entertainment, people in the entertainment business. We focus on them.

As I was coming over here, I was listening to something that was referencing an actor. He was on the radio, and I think it was simulcast on television. I got to see just part of it, actually, before I came over. This actor was talking about what his opinions were with regard to the war. He was, of course, very critical about the United States and our actions.

Now, this particular actor has every right to, of course, express his opinions, as does the postman, as does the waitress, as does any other citizen of this country. What is intriguing to me is the attention that we pay to that particular point of view by these people, who admittedly have no particular expertise that differentiates them from any of the people that I just mentioned in their walks of life: the waitress, the postman, the cab driver.

As a matter of fact, I remember reading something a little bit ago about a cab driver here in Washington, D.C. when ex-President Clinton was addressing a group at Georgetown University right after 9–11. Mr. Clinton suggested in this particular speech that the reason the United States had suffered such a blow from these terrorists was because of the way we had treated Native Americans in the past and because of the history of slavery in the United States. That is why we essentially deserved what we got. This is from an ex-President.

Now, it is understandable that the media would cover his interpretation of the events. He was, as a matter of fact, of course, an ex-President of the United States, emphasizing here, to my great relief, the prefix ''ex'' before the word ''President.''

In Washington there was a cab driver, and by the way, this was reported in

the press, of course. I read this story about a gentleman getting into a cab. He saw on the front seat of the cab the newspaper, and it was turned to this particular article about the President's speech, about the ex-President's speech.

The person getting into the cab said to the cab driver, I see you read about President Clinton's speech. The cab driver said, yes. He said, what did you think of it? The cab driver said, I thought it was baloney. He said, these people do not hate us for what we have done wrong; they hate us for what we do right.

Now, I heard that, this particular little vignette, I heard it in a speech that was given not too long ago by the individual who was actually the person getting into the cab. I thought to myself at the time what an interesting and, I thought, profound observation. That was my opinion of that cab driver's observation. He said, you know, we do stuff right. We help people. We have such freedoms in the United States, freedom of speech and the press and freedom of religion, especially freedom of religion, and freedom of the sexes to vote and to share the rights afforded to all citizens; which is not, of course, the case with people in other parts of the world, people in other civilizations, who do not allow that kind of thing to exist in their societies.

This cab driver was observing that our system was better and that we do it right. That is why they hate us. That is why we got attacked. I thought, what a very profound observation.

Now, I will tell the Members that that little story, of course, appeared nowhere that I know of in the press, in the national media. Perhaps there was no reason for it to be reported, because, after all, this was a cab driver in Washington, D.C. What was his expertise? He talks to a lot of people, that is true, but not really a person that we would say, well, yes, gee, whiz, that is the guy we should listen to because of his great acumen, great experience, or whatever.

Yet, interestingly, the press pays a great deal of attention to people in the media, people in the entertainment world, I should say, who come forward with their pronouncements about what is right in terms of our foreign policy and what is wrong, actors like Sean Penn and actress, although she does not want to be called an actress because that distinguishes a gender difference, actresses like Susan Sarandon, actors like George Clooney, and this guy, Mike Farrell. The closest he has come, I think, to being involved in any sort of conflict was his portraying a doctor on the TV series called ''M*A*S*H.''

These people are given a lot of attention and great air time. People listen to them and say, gee, whiz, that is how they feel. I know I am intrigued by it, because of course they are all, without exception, everybody I mentioned, and far more than that in the entertainment industry, being extremely liberal, they are, of course, opposed to our actions in Iraq.

Now, I do not remember any of them saying a thing about our going into Yugoslavia. I do not remember anybody condemning President Clinton, ex-President Clinton, for tossing missiles around when he felt it appropriate, and actually pursuing a war in Yugoslavia that was against a country that posed absolutely no threat to the United States whatsoever.

No one ever suggested in their wildest dreams that Milosevic was a threat to the United States. He was a bad guy, no doubt, but what was his threat to the United States? Yet we in fact carried out a war against him. All of these people stayed silent, if I remember correctly. I do not remember them being quite so vocal, or vocal at all during that period of time.

But this war against a madman in Iraq, against a person that I have never heard anyone, even these people, suggest is a reasonable individual with whom we can ''do business,'' these people rail against the United States and we pay attention. The media pays attention.

But I suggest that they have absolutely no more cache on this issue than the cab driver here in Washington, D.C. I happen to, of course, agree with his interpretation, but I do not think I ever saw him on television talking about it. He has exactly the same, or in fact one might say, because of the many people that he sees during the course of the day, and here in Washington, D.C. he may be transporting people in various capacities that discuss world issues, so he may be more politically astute than anyone in Hollywood. Yet, of course, we will never be talking about him because he is not a national figure, and because he happens to actually take a different point of view than the liberal left-wing anti-American sentiment that is expressed by the folks I just mentioned who are actors and actresses, noble profession that it may be.

Certainly, I am not capable, not qualified, to make any sort of comment that anyone would take seriously about their acting abilities, or about the movies in which they appear. I do not know. I must admit, I had to ask somebody in the Cloakroom for some of these names, because I remembered some of the movies, but I could not remember the names of the individuals.

□ 2130

And so if I were to go out and talk about what their movies were like, I mean I have that right to express my opinion and to either pay for the tickets or not, but I do not expect that the press would surround me and say, What do you think about the qualities of the movies these people make? Because, of course, it is of no consequence to the world what I think about their abilities. Why would it be of consequence to the world what they think about whether or not the United States should go to war? They are entitled to their opinion, absolutely, but why does anyone pay attention to it is the question I guess I raise.

And it gets me to a point, you know, as I sat here listening to the discussion from the gentleman earlier about his resolution that I sort of recognize some of the fault of the United States in terms of the way they treated Japanese Americans or my ancestors, Italian Americans or German Americans who were, in fact, interred just like Japanese Americans were, and what a bad decision it was at the time. Certainly I will not argue that it was a good decision. But I remember I just started thinking to myself how interesting it would be if one were to run a resolution saying is it not great that the United States of America, this great republic, this great system, unique really in the world, is such a place in which the children of people who were interred can become Members of the Congress of the United States, and how wonderful it is that we can reflect upon our past and take the actions that are appropriate in terms of apologies and that sort of thing. But again, few, if any other country, would ever, ever think about that. And I wonder why we should not celebrate that aspect of America as much as we condemn and dwell upon the warts.

But there is a philosophy in this land that has permeated our society, certainly permeated the media, the entertainment industry, the textbooks in our schools, the academic communities in the United States. It is sometimes referred to as multiculturalism, cultural relativism, and it has achieved a stature far, far higher than it deserves from my point of view. It does permeate American society and it is reflected by the kind of things that we see and hear all of the time, from people who are not just looking at the United States with some degree of objectivity and making determinations as to the good things we do as opposed to the bad things we do and what is good about America as opposed to what is bad.

They only focus on what is bad not just on America, but about western civilization, of which we are, of course, the leader. And they dwell upon and they are obsessed with the problems, the mistakes, the inadequacies of western civilization and of American society in particular. And we teach our children that there is really nothing unique about America, that it is just one of those places people happen to be, nothing special. In fact, in fact, if it is different at all, it is different because of how bad it is, how ugly is its history: slavery, mistreatment of Native Americans, mistreatment of immigrant groups, all of which of course have some degree of truth, but pale in comparison to what we have given in this world, pale in comparison to the wonderful things western society, civilization, and America in particular have given to this world. Certainly the rule

of law, certainly the idea of the value of the individual, certainly the idea of the freedom of worship.

But these things are never discussed as values. They are never taught to our children. Certainly in the last 20 or 30 years anyway, they are not taught to children as being values worthy of their allegiance. It is surprising to me sometimes that there are still those people, and thank God for it, who are willing to risk their lives for what so many of our forefathers gave theirs. And so it is this peculiar obsession that so many have with the negative side of America and of western civilization in general that propels them, I think, to the street; even to the point of taking the side of someone like Saddam Hussein who has exhibited the most, the same characteristics, the same traits and has committed the same atrocities as some of the greatest devils that have ever beset the world in human form, including Stalin and Hitler.

But people are so wrapped up in this anti-American, anti-western civilization, multiculturalist concept that they can not bring themselves to think about the possibility that action, even to the point of taking violent action in the form of a war, may be necessary to rid this world of an evil so great that it threatens the very existence of our own society; because, of course, to many of those people, evil is not something that really exists in the world; that everything is relative and the other forms of government, the other systems of governments, are all equally good or equally bad, but certainly nothing is worth fighting for or risking one's life for.

Now, the reason why I address that issue tonight is because it does play a role in what I think is another huge problem that we have face in this Nation. And that is the need for our society, for western civilization to be coherent in the way in which it identifies itself and the way in which it projects its philosophy to the rest of the world. Put simply, Mr. Speaker, Americans have to know who we are, what we are all about, what are the principles that hold us together, that binds us together, and dwell on those and think about those as opposed to dwelling upon and thinking of only those things that tear us apart as a Nation and, again, as a civilization.

Because I do believe, Mr. Speaker, that it is a clash of civilization with which we are involved. I believe that western civilization is at risk. It is at risk from what we might call fundamentalist Islam, perhaps more appropriately, extremist elements in the Islamic community. And I believe that it is a war that is fought both with arms, with the force of arms in places like Afghanistan, in the Philippines and Iraq, but it is also fought with the force of ideas. And that to be successful in this battle we not only have to field the best Army which, of course, I believe we have, with the best equipment, which I believe we can provide them; we also have to field individuals capable of defending western civilization in an intellectual arena.

It is a war of arms. It is a war of ideas. And our civilization is threatened. Our ability to actually be successful in this clash will be determined not just by the valor exhibited on the battlefield in Afghanistan or Iraq or anywhere else that we determine these brave young men and women need to be deployed, but our success will be determined by the way in which we project the ideas of western civilization and defend them. And we need to understand as a society, as a civilization, as a Nation, we need to understand who we are, what it is we are all about, where we want to go, what our history is, a common history. I think it is imperative for us to be successful.

And that is why oftentimes I take the floor of the House, evenings like this, on special orders to exhort my colleagues to think about another aspect of this problem, and that is the degree to which massive immigration into the country combined with this philosophy of multiculturalism can be and, in my estimation, is a dangerous, dangerous phenomenon.

Massive immigration into the country unchecked, massive immigration that is combined with this, that is combined with this philosophy I describe as multiculturalism does not help us develop a coherent society. It does not help us develop a strong intellectual base of support for the ideals of western civilization. It pulls people apart rather than pulls them together. We have a tendency to vulcanize our society rather than bring it together as one United States of America, both geographically and intellectually and emotionally.

Immigration is a very, very significant problem. And it goes far beyond the issues of jobs that may be being taken by people from outside the country, although that is a significant issue. And believe me, if your job has been taken by someone from another country, then it is the most important issue to you. And I understand that. But the problems that arise as a result of this kind of massive immigration combined with this bizarre and rabid multiculturalism that pervades our society are such that I think that they actually pose a great and significant threat to the United States of America and, in fact, to western civilization.

I think that the need is great for at least the debate of this topic. It is a topic that we eschewed, that we have avoided, that we have attempted to move aside because it is uncomfortable. That is true. The debate over immigration and its effect on our country at this point in its history needs to be undertaken, but is very, very uncomfortable for many Members of this body and certainly many people throughout the country. But I believe with all of my heart that debate needs to be undertaken.

There are these more esoteric aspects of it that I have tried to address here, and then there are some very practical and very dramatic effects of massive immigration that need to be explored also.

Mr. Speaker, last week a couple of the Members of this body and several members of the Arizona State legislature accompanied me on a trip I took down to Cochise County, Arizona, which is on the border, of course, of Mexico, to observe firsthand what was happening there and to try to bring back to the people that serve in this body and to the rest of the United States a picture, perhaps a little bit different than the picture of illegal immigration that is portrayed by the local media in the various cities and States of the people of the people here in the Congress of the United States.

□ 2145

I know that in my own city, Denver, Colorado, the media enjoys the presentation of the concept of or the reality I should say of illegal immigration. It always presents the picture of illegal immigration as one of a very benign sort of concept and that the people here, those people who are identified as illegal immigrants into this country are just folks looking for a job and willing to do a job that ''other Americans will not do,'' and that they are, generally speaking, beneficial to the country from the standpoint of our economy and from just the standpoint of the type of individuals that make up the Nation.

That is the picture of illegal immigration that is portrayed by the media in many of our districts; but if we go to the border, almost any point of the border, southern or northern border, of the United States, we will find a completely different picture, one that is hardly ever portrayed in the press. We will find a very ugly picture, a picture of violence, a picture of criminal activity revolving around the importation of illegal narcotics, a picture of threat to the national security of the United States as a result of having porous borders across which people are coming, some of them with the intent to do great harm.

That is a different picture entirely and one, as I say, we hardly ever see; but it is absolutely as real as the one that is presented in the local media of many of the newspapers and television stations and radio stations of the folks of the hometown of the folks who actually serve in this body; and so I wanted to go there and show people a different picture, another picture that I think they should see.

We went to the Coronado National Forest for the first day, and we looked at the environmental degradation in that forest, brought about by the fact that thousands and thousands and thousands of people coming into the country illegally every single week come across that national forest and do enormous damage to it from an environmental standpoint. They drive across in vehicles creating roads,

''roads,'' of course, where there should not be roads. They walk across, and the impact of thousands and thousands and thousands of feet on pathways that are created does enormous damage to the environment, very pristine environment, a very delicate environment in the southwest part of the United States, a desert environment.

They start warming fires. These people, undocumented illegal immigrants, start warming fires in the night, walk away from them in the morning; and they, of course, during this draught are devastating. When I was there last, when I was in the Coronado National Forest little over a year ago, I left on a Sunday morning. By the time I returned back to Denver, Colorado, a fire that had started that morning by an illegal alien had consumed 35,000 acres of the Coronado.

The trash that is distributed throughout the forest is enormous, are enormous, monumental. It is hundreds of thousands of pounds of trash discarded by the people coming through there, so much so that one would think that the Coronado National Forest should be renamed the Coronado National Dump because that is what it looks like. Yet, of course, and interestingly we have never seen or ever heard the Sierra Club or any other environmental organization in America take issue with this problem.

One can talk to the forest supervisor. One can talk to anybody who works there, the parks people, the forest service people, and they will tell my colleagues what is happening to that forest as a result of porous borders, as a result of people being shoved out of Mexico by their own government, across the borders by the thousands and into the United States.

We went the next day to Organ Pipe Cactus National Park, just adjacent to the Coronado, also a scene of environmental degradation that is truly disturbing. All of the same problems of the Coronado but it is also the site of the death of a park ranger by the name of Chris Eggle, E-G-G-L-E, Chris Eggle, 28 years old, killed by two Mexicans coming across the border escaping from the crimes they have committed in Mexico, several other murders that they had just committed in relationship to some sort of drug deal, drug situation.

Chris was ambushed by them and killed. His life ended at 28 years old in Organ Pipe Cactus National Park, and we went there to that site with his father, Robert Eggle. Mr. Eggle has relived this event now three or four times. He has gone down to the national park to see where his son was killed and to relive that event, and he does so because he believes that his son's death cannot be forgotten nor should it be in vain, and it should not in either case. It should not be forgotten, and it certainly should not be in vain.

He talks about the need to secure our own borders. He talks about the need to prepare and train the people who have to deal with the invasion that is occurring on our southern border so that the next person confronting someone coming across the border armed with AK–47s will be a little more able to defend themselves than poor Chris was.

Then we went the next day to a ranch house, a ranch owned by the Kuykendall family, B.J. and Tom Kuykendall, wonderful people who have lived there for generations, and they brought their neighbors in from all over the county, people who had also lived there for generations and who for generations had dealt with the issue of some degree of illegal immigration, peopling coming across the border periodically. They would seek them out for food. These ranchers would give them food, would sometimes give them jobs; but it was never an issue, never a problem, no big deal.

In the last 4 or 5 years something has changed they say. It has become not just an annoyance; it has become a threat to their very existence. Their ranches are being destroyed. Their cattle are being killed. Their homes are being broken into. Their families are being intimidated. Their entire way of life is being threatened, and they ask, where is my government? Who is here to protect us? What is happening to our life?

Thousands of people we have on videotape, thousands of people crossing those borders, tearing down the fences, breaking the water wells, destroying the property, bringing with them tons of trash, depositing human waste in amounts that are certainly dangerous in terms of the health issues that they represent, bringing with them diseases that we cannot even treat, we do not have means to treat. We do not have the antibiotics to treat some of the most virulent forms of tuberculosis and something called Shakas disease, all these things being brought across by people into the United States.

We are witnessing an invasion. It is an invasion that is being prompted by the Mexican Government to satisfy some of their needs, as was told to me by a Mexican official by the name of Juan Hernandez who was the head of something called the Ministry for Mexicans Living in the United States. And I asked him what is the purpose of such a ministry. It was just created about a year and a half ago, and there were two other Congressmen with me, two other Members of the House who were with me, in Mexico when we visited him.

By the way, Mr. Hernandez is a very, very sophisticated gentleman, very urbane, very competent and articulate and a dual citizen of the United States and Mexico and interestingly serves or served on the cabinet of Vicente Fox, an American citizen serving in Mexico on the cabinet of the Mexican President, an interesting situation. He said, the purpose of my agency is to increase the flow of people into the United States, of Mexican nationals into the United States. I said what do you want to do that for, knowing in my heart of course exactly why.

Because he had been so forthcoming, so candid, I thought this is great. I have hardly ever heard anybody be so candid about the designs of the Mexican Government vis-a-vis immigration policy; and he said the reason is simple, the more people we have in the United States, the more possibilities there are for us to influence your policy vis-a-vis Mexico, and he said there is the issue of remittances.

''Remittances,'' for those Members who do not know, Mr. Speaker, is just a term that applies to the money that is sent back home to Mexico from people living outside of Mexico, working outside of Mexico, and it actually amounts to a huge amount of money. Some 30-some percent of the Mexican GDP is a result of these remittances. Mexico has also experienced an enormous population growth, almost doubling in 25 years; and they have a stagnant economy because they are stuck with a socialistic economy which is combined with a completely corrupt system from the cop on the beat to the highest levels of government, and that combination makes for a lousy economy, and always will, regardless of NAFTA or free trade arrangements of any kind. Because of that, of course, they need to get some of those people out of there because they are very young, they are unemployed. That is a destabilizing factor and why not send them north.

We, on the other hand, have chosen to accept this policy on the part of our southern neighbor and ''friend,'' that ''friend'' by the way who is threatening a ''no'' vote in the security council against the resolution that we are presenting to bring Saddam Hussein to bay. They are threatening a ''no'' vote until we agree to some sort of attempt to provide amnesty for all the Mexican nationals living in the United States illegally. That is their quid pro quo. That is what they want.

These are our friends in the south. Now whether they are going to stick, whether we are going to be able to get them to vote ''yes'' or not soon in the security council remains to be seen, but this is what they are presenting to us as being their demands, like Turkey asking for several billion dollars for the right to provide American troops some air space and flyover opportunities.

He said that, and he went on to say, Mr. Speaker, another fascinating thing as far as I was concerned, an immensely incredible statement. He said it is not two countries we are talking about. It is just a region. It is not two countries he said. It is just a region. That may be his true opinion. It is the opinion I think of some of the colleagues with whom I serve here, that the borders are really not significant. They are not of importance, they are anachronisms, and that they should be

erased for the purposes of allowing for the free flow of goods and services and people. It is a libertarian point of view that is expressed on this floor and by several Members of this body.

Mr. Speaker, I want to engender that debate with those folks. I do not want them just talking about it in the halls or with me individually. I want that debate here on this floor in front of the American people. I want to know whether this government, whether this government believes that, in fact, borders are necessary or not. I want to know the opinion of this government because I think I know the opinion of the people of this country, but I may be wrong. I may be in the minority. Maybe it will turn out that, in fact, borders are determined to be by a majority of the people in this body and the President of the United States, they are determined to be irrelevant and that we should allow for the, again, free flow of people, goods, and services.

If that is a decision that is reached through the process that we have established for making policy in this country, so be it. I am a ''no'' vote, but so be it.

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What I am telling you, Mr. Speaker, and my colleagues, that what is happening is that that is the direction we are moving. That is the de facto sort of arrangement we are going to achieve, an open borders policy. But it will never be as a result of a debate or a particular piece of legislation where people have to vote yes or no. It will always be done in an incremental fashion. And the people in Cochese County will suffer the consequences. Their lives will be ruined. Their ranches will be destroyed.

But they will just be the tip of the iceberg in terms of the sacrifice that this country will make as a result of our commitment to open borders. Because, of course, the people coming across those borders are not just people who are strewing trash all over the land, breaking fences, poisoning wells, breaking the pipes on wells and allowing all the water to drain out, invading ranch houses, threatening and in fact assaulting ranchers, pulling up these rock barriers on the highway to stop the cars to then carjack the people. It will not be just those people coming across to do ''jobs no one else will do.''

And, by the way, along those lines, about a month ago in the Rocky Mountain News in Denver, a Denver newspaper, there was a very large article about a restaurant, a Mexican restaurant that I have been to several times, called Luna Restaurant. It is in my old stomping grounds in north Denver, and I know it well. There was an article, a strange article, because it was talking about the fact that this restaurant put an ad in the paper for a waiter, a $3-an-hour waiter position. Three dollars an hour. Of course, with tips, you get more. That first day that the ad went in the paper there were 600 applicants for the job. One day, 600 applicants.

Now, do you believe, Mr. Speaker, that every one of those 600 applicants were illegal immigrants wanting to do a job that no American would do? I do not think so. I think there were plenty of American citizens looking for that job. But nonetheless, nonetheless this is what we hear all the time; that that is the only thing we have going on; that these are just people coming to do jobs that no American will do and, therefore, we should not be concerned about what is happening on the border, and we should not be concerned by the Kuykendalls or the Barnetts, or any of the other people who have lived there for generations and who are trying to sustain themselves on that border. We should not be concerned about them. We are going to sacrifice them for cheap labor for the Republicans and for potential votes for the Democrats.

That is why we refuse to secure our borders. It is a political decision of this body to not secure the borders because of the fact that it will harm what we believe to be a political base, a power base that we either want to get or that we have at the present time, and all the time these people are coming across those borders, yes, mostly with no ill intent, most with the same purpose of my grandparents and perhaps yours, who came to seek a better life. But across those porous borders also come other people, people with much more dangerous motives. And you see, Mr. Speaker, we have not figured out a way to create a sieve on the border that effectively siphons out those people who are coming across with no ill intent and keeps out those who have other purposes in mind. We do not know how to do that.

So, therefore, the border is open and we are fearful of closing it. Because if you close the border, if you seal your borders and only allow people to come in legally, then you stop the flow of illegal immigration. And the country of Mexico becomes disturbed by that, because now they have to deal with the problem of unemployment, the problem of their own sinking economy, and the fact that the United States Government may not be quite as sympathetic to their particular concerns. So they do not like the idea of closing those borders and they, in fact, make demands upon the United States to keep those borders open and let their people come through. They even provide buses for them, observed on our side of the border through binoculars; buses that come up to the border and unload people who walk across into the United States. These buses are part of a governmental project, a governmental agency.

We do nothing about it because we are fearful of the response. We do not like the possibility that the political ramifications in the United States to either party might be detrimental. So we put this Nation at risk, we put our very lives at risk, and we damage not only our national security apparatus and we place upon those agencies given the responsibility for internal security issues, finding out who is here to do us harm, we place upon them enormous burdens of trying to identify people in a sea of people who are here as immigrants. This is not good for the United States.

Beyond that, I go back to the original part of my discussion here this evening. It does something to us, Mr. Speaker, in our inability to create a society that has a singleness of purpose and an understanding of exactly who and what we are. I had the opportunity to have lunch not too long ago with a Catholic bishop in Denver by the name of Bishop Gomez, a very fine gentleman who happens to disagree with me entirely on this issue. And he said to me at lunch, Congressman, I do not know why you get so exercised about this. He said, you know, for the most part, these people coming here from Mexico today, they do not want to be Americans. They do not want to be Americans. He was thinking that would alleviate my concerns. I said, well, of course, Bishop, that is the problem.

The other thing is, the agency I mentioned earlier, the Ministry for Mexicans Living in the United States, the other thing that was stated by Mr. Hernandez in that very candid conversation that we had was that part of his responsibility was to work with the Mexican nationals who had come to the United States to make sure that they retained, as he said, a connection to Mexico, a political, cultural, linguistic connection to Mexico. Because they want them, he said, to continue to have that loyalty to Mexico. Otherwise, pretty soon they are not sending home the kind of money that they are today, and also they are not agitating for any sort of change in American policy to Mexico if they essentially go native. That is really what he was concerned about, that the Mexicans would come here and essentially become part of the American mainstream, integrate into the American culture, become Americans.

But as Bishop Gomez says, that is not their intent. That is not their desire. They are here to get a job, make some money, send it back, perhaps go home later. Well, you see, many people could have come here over the centuries for that same purpose, without any strong desire to become American, but in fact this country forced them into it. There was no such thing as a multiculturalist philosophy that permeated American culture. We did not allow for people to remain segregated for all that long. We required, in order for them to, as my grandfather had to do, in order to achieve anything in this country, he had to do a couple of things. One was to learn English. And my grandfather, and perhaps yours, and certainly most people that I know, their grandparents came here with a strong desire to separate themselves

from the past and from the countries from which they came. No desire to hang on to that. A desire to become American.

And there were obstacles put up sometimes in this country. You know, we were antagonistic to immigrants many times. But over the course of time, and with a strong desire to integrate, what we saw was this infusion of people into the American mainstream that made us a great Nation. Diversity, in fact, can be a good thing. But unity is also a good thing. E pluribus unum, out of many, one. Not out of many, many, which is today's concept, today's admonition.

So I think this issue of immigration has many implications, far far greater than, as I say, are discussed most of the time with regard to issues like jobs and other things. This will determine, Mr. Speaker, I believe, not just what kind of country we will be, that is divided or united, but this issue will determine whether we will be a country at all; whether we will be a Nation at all. That is why it is worthy of our debate on this floor and in this House.

We are challenged by a variety of things in this world, and our ability to succeed will be based almost entirely upon our ability to defend, understand and, therefore, defend the principles of western civilization. And I think it is something worth thinking about. And as I say, Mr. Speaker, I may be wrong. I may be totally wrong; completely, 100 percent, wrong. I want the debate, however. Is that too much to ask, I wonder? And let us determine the course of our Nation. Let it not happen in a way that does not allow for the intelligent analysis of the events and their implications. Let us think about who we are, what we are, where we are going, and what we have to do to get there.

We can certainly allow people into this country from all over the world, from Mexico and Africa and Asia and Europe. We can allow them from all over the world, but we have to determine how this will happen and it has to be a process that we determine to be governed by the rule of law. How you come into this country should be a factor of the laws that we pass in this body, and that is all I ask. That is the plea I make tonight. It is for the United States, it is for Western Civilization, and for the threats that I see that are aligned and arrayed against it.

ENROLLED BILL AND JOINT RESOLUTION SIGNED

Mr. Trandahl, Clerk of the House, reported and found truly enrolled a bill and joint resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 395. An act to authorize the Federal Trade Commission to collect fees for the implementation and enforcement of a ''do-not-call'' registry, and for other purposes.

H.J. Res. 19. Joint resolution recognizing the 92d birthday of Ronald Reagan.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. CLYBURN (at the request of Ms. PELOSI) for February 25 and today on account of family illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. SANDLIN) to revise and extend their remarks and include extraneous material:)

Mr. DEFAZIO, for 5 minutes, today.

Mr. MEEK of Florida, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Mr. STENHOLM, for 5 minutes, today.

Mr. TURNER of Texas, for 5 minutes, today.

Mr. SANDLIN, for 5 minutes, today.

Mr. BOSWELL, for 5 minutes, today.

Mr. HINCHEY, for 5 minutes, today.

Mr. BAIRD, for 5 minutes, today.

(The following Members (at the request of Mr. RENZI) to revise and extend their remarks and include extraneous material:)

Mr. BURNS, for 5 minutes, February 27.

Mr. KIRK, for 5 minutes, today.

Mr. PENCE, for 5 minutes, today.

Mr. GOODLATTE, for 5 minutes, today.

ADJOURNMENT

Mr. TANCREDO. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 14 minutes p.m.), under its previous order, the House adjourned until tomorrow, Thursday, February 27, 2003, at 1 p.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

766. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting Agency's final rule—Lambda-cyhalothrin; Pesticide Tolerances for Emergency Exemptions [OPP–2002–0335; FRL–7285–2] received December 30, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

767. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Mesotrione; Pesticide Tolerance [OPP–2002–0303; FRL–7282–4] received December 30, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

768. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—S-metolachor; Pesticide Tolerances for Emergency Exemptions [OPP–2002–0331; FRL–7283–2] received December 30, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

769. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a report involving U.S. exports to Italy, pursuant to 12 U.S.C. 635(b)(3)(i); to the Committee on Financial Services.

770. A letter from the Assistant Secretary for Housing—Federal Housing Commissioner, Federal Housing Administration, transmitting the Administration's Annual Report On Initiatives To Address Management Deficiencies Identified In The Audit of FHA's FY 2001 Financial Statements; to the Committee on Financial Services.

771. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Clean Air Interim Approval of the Alternate Permit Program; Territory of Guam [GU02–01; FRL–7433–5] received December 30, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

772. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Final Exclusion [SW–FRL–7432–8] received December 30, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

773. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Protection of Stratospheric Ozone: Process for Exempting Quarantine and Preshipment Applications of Methyl Bromide [FRL–7434–1] received December 30, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

774. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—TSCA Inventory Update Rule Amendments [OPPT–2002–0054; FRL–6767–4] (RIN: 2070–AC61) received December 30, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

775. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—National Emission Standards for Hazardous Air Pollutants for Secondary Aluminum Production [FR–7430–6] (RIN: 2060–AE77) received December 30, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

776. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of State Air Quality Plans for Designated Facilities and Pollutants; the District of Columbia; Control of Emmissions from Existing Hospital/Medical/Infectious Waste Incinerator (HMIWI) Units [DC051–7002a; FRL–7434–7] received December 30, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

777. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of State Air Quality Plans for Designated Facilities and Pollutants; the District of Columbia, and the City of Philadelphia, Pennsylvania; Control of Emissions from Existing Municipal Solid Waste Landfills [DC051–7001a; PA186–7001a; FRL–7434–9] received December 30, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

778. A letter from the Deputy Assistant for Regulatory Programs, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Taking of Threatened or Endangered Species Incidental to Commercial Fishing Operations

[Docket 020626160–2309–03; I.D. 061902C] (RIN: 0648–AQ13) received February 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

779. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 630 of the Gulf of Alaska [Docket No. 021212306–2306–01; I.D. 011402B] received February 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

780. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Atka Mackerel Lottery in Areas 542 and 543 [Docket No. 021212307–2307–01; I.D. 011403C] received February 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

781. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Atka Mackerel in the Bering Sea and Aleutian Islands [Docket No. 021212307–2307–01; I.D. 011303D] received February 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

782. A letter from the Secretary, Department of Education, transmitting Final Regulations—Administrative Wage Garnishment, pursuant to 20 U.S.C. 1232(f); to the Committee on the Judiciary.

783. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Drawbridge Operation Regulation; Mississippi River, Dubuque, IA [CGD08–02–042] (RIN: 2115–AE47) received February 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

784. A letter from the Secretary, Department of the Treasury, transmitting notification of the Secretary's determination that by reason of the public debt limit, the Secretary will be unable to fully invest the Government Securities Investment Fund of the Federal Employees Retirement System in special interest-bearing Treasury securities beginning on February 20, 2003, pursuant to 5 U.S.C. 8348(l)(2); to the Committee on Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. OXLEY: Committee on Financial Services. H.R. 258. A bill to ensure continuity for the design of the 5-cent coin, establish the Citizens Coinage Advisory Committee, and for other purposes; with an amendment (Rept. 108–20). Referred to the Committee of the Whole House on the State of the Union.

Mrs. MYRICK: Committee on Rules. House Resolution 105. Resolution providing for consideration of the bill (H.R. 534) to amend title 18, United States Code, to prohibit human cloning (Rept. 108–21). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

[Submitted on February 25, 2003]

By Mr. BEREUTER (for himself, Mr. SHIMKUS, Mr. NUSSLE, and Mr. PETERSON of Minnesota):

H. Res. 106. A resolution congratulating Lutheran schools, students, parents, teachers, administrators, and congregations across the Nation for their ongoing contributions to education, and for other purposes; to the Committee on Education and the Workforce.

[Submitted February 26, 2003]

By Mr. MENENDEZ (for himself, Ms. PRYCE of Ohio, Mr. GREEN of Texas, Ms. ROS-LEHTINEN, Mr. THOMPSON of Mississippi, Mr. LINCOLN DIAZ-BALART of Florida, Mr. RODRIGUEZ, Mrs. WILSON of New Mexico, Mrs. CHRISTENSEN, Mr. QUINN, Mr. SERRANO, Mr. MCCOTTER, Mr. PALLONE, Mr. PEARCE, Mr. UDALL of New Mexico, and Mr. MARIO DIAZ-BALART of Florida):

H.R. 918. A bill to authorize the Health Resources and Services Administration, the National Cancer Institute, and the Indian Health Service to make grants for model programs to provide to individuals of health disparity populations prevention, early detection, treatment, and appropriate follow-up care services for cancer and chronic diseases, and to make grants regarding patient navigators to assist individuals of health disparity populations in receiving such services; to the Committee on Energy and Commerce.

By Mr. ETHERIDGE (for himself, Mr. WELDON of Pennsylvania, Mr. HOYER, Mr. OXLEY, Mr. MCHUGH, Mr. SPRATT, Mr. DEUTSCH, Mrs. MCCARTHY of New York, Mr. SMITH of Michigan, Mr. EMANUEL, Mr. WALSH, Ms. WATSON, Mr. MCINTYRE, Mr. QUINN, Ms. CARSON of Indiana, Mr. WILSON of South Carolina, Mr. KIND, Mr. ACEVEDO-VILA, Mr. SERRANO, Ms. KILPATRICK, Mr. HINCHEY, Mr. MARKEY, Ms. NORTON, Ms. KAPTUR, Mr. SANDLIN, Mr. SHIMKUS, Mr. FRANK of Massachusetts, Mr. WATT, Mrs. MALONEY, Mr. LOBIONDO, Mr. JEFFERSON, Mr. GREEN of Texas, Mr. FROST, Mr. PRICE of North Carolina, Mr. DEFAZIO, Mr. LUCAS of Kentucky, Mr. BOSWELL, Mr. CRANE, Mr. ALLEN, Mr. WEXLER, Mr. BELL, Mr. UDALL of Colorado, Mr. MCNULTY, Mr. ACKERMAN, Mr. LAMPSON, Ms. HOOLEY of Oregon, Ms. BALDWIN, Mr. WU, Mr. PALLONE, Mr. BALLANCE, and Mr. MILLER of North Carolina):

H.R. 919. A bill to ensure that a public safety officer who suffers a fatal heart attack or stroke while on duty shall be presumed to have died in the line of duty for purposes of public safety officer survivor benefits; to the Committee on the Judiciary.

By Mr. BACA (for himself, Ms. WOOLSEY, and Mr. MCNULTY):

H.R. 920. A bill to amend the Public Health Service Act to promote careers in nursing and diversity in the nursing workforce; to the Committee on Energy and Commerce.

By Mr. CAMP (for himself, Mr. UPTON, and Mr. SMITH of Michigan):

H.R. 921. A bill to require amounts remaining in Members' representational allowances at the end of a fiscal year to be used for deficit reduction or to reduce the Federal debt, and for other purposes; to the Committee on House Administration.

By Mr. CAMP:

H.R. 922. A bill to amend the September 11th Victim Compensation Fund of 2001 to provide for the liquidation of blocked assets of terrorists and terrorist organizations in order to reimburse the Treasury for the compensation of claimants; to the Committee on the Judiciary, and in addition to the Committee on International Relations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. DOOLITTLE:

H.R. 923. A bill to amend the Small Business Investment Act of 1958 to allow certain premier certified lenders to elect to maintain an alternative loss reserve; to the Committee on Small Business.

By Mr. DUNCAN:

H.R. 924. A bill to direct the Secretary of the Interior to replace the U.S. Fish and Wildlife Service as the Federal agency responsible for the administration, protection, and preservation of Midway Atoll, and for other purposes; to the Committee on Resources.

By Mr. GUTIERREZ (for himself, Mr. RUSH, Mr. LIPINSKI, Ms. SCHAKOWSKY, Mr. WELLER, Mr. SHIMKUS, Mr. EVANS, Mr. EMANUEL, Mr. JACKSON of Illinois, Mr. COSTELLO, Mr. JOHNSON of Illinois, Mr. DAVIS of Illinois, Mr. CRANE, Mr. LAHOOD, Mrs. BIGGERT, and Mr. MANZULLO):

H.R. 925. A bill to redesignate the facility of the United States Postal Service located at 1859 South Ashland Avenue in Chicago, Illinois, as the ''Cesar Chavez Post Office''; to the Committee on Government Reform.

By Ms. HART (for herself, Mr. PITTS, Mr. HAYES, Mr. PICKERING, Mr. TERRY, Mr. DOOLITTLE, Mr. WILSON of South Carolina, Mr. SENSENBRENNER, Mr. LEWIS of Kentucky, Mr. SHIMKUS, Mr. ADERHOLT, Mr. PENCE, Mr. AKIN, Mr. KENNEDY of Minnesota, Mr. ROGERS of Michigan, Mr. BARTLETT of Maryland, Mr. FORBES, Mr. RYUN of Kansas, Mr. DEMINT, Mrs. MYRICK, Mr. PAUL, Mr. BURTON of Indiana, Mr. SCHROCK, Mr. RENZI, Mr. ROGERS of Alabama, Mr. KING of Iowa, Mrs. JO ANN DAVIS of Virginia, Mr. BEAUPREZ, Mr. SAM JOHNSON of Texas, Mr. KLINE, Mr. WELDON of Florida, Mr. HOEKSTRA, Mrs. NORTHUP, Mr. RYAN of Wisconsin, Mr. SHADEGG, Mr. SOUDER, Mr. PEARCE, Mr. HOSTETTLER, Mr. CHABOT, Mr. FLAKE, Mr. BRADY of Texas, Mr. VITTER, Mr. TOOMEY, Mr. LAHOOD, Mr. STEARNS, and Mr. NORWOOD):

H.R. 926. A bill to amend the General Education Provisions Act to prohibit Federal education funding for elementary or secondary schools that provide access to emergency postcoital contraception; to the Committee on Education and the Workforce.

By Mr. HULSHOF (for himself and Mr. SANDLIN):

H.R. 927. A bill to amend the Internal Revenue Code of 1986 to provide for Farm and Ranch Risk Management Accounts, and for other purposes; to the Committee on Ways and Means.

By Mr. ISAKSON:

H.R. 928. A bill to suspend temporarily the duty on Cerium Sulfide; to the Committee on Ways and Means.

By Mr. ISAKSON:

H.R. 929. A bill to suspend temporarily the duty on 1,8 Dichloroanthraquinone; to the Committee on Ways and Means.

By Mrs. JOHNSON of Connecticut:

H.R. 930. A bill to amend the Internal Revenue Code of 1986 to expand the incentives for the construction and renovation of public schools; to the Committee on Ways and Means, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. KING of New York (for himself, Mr. PAUL, Mr. GOODE, Mr. CRANE, Mr. DUNCAN, Mr. FORBES, Mr. AKIN, Mr. EVERETT, Mr. COBLE, Mr. BURR, Mr.

BAKER, Mr. NEY, Mr. KING of Iowa, and Mr. DOOLITTLE):

H.R. 931. A bill to amend title 4, United States Code, to declare English as the official language of the Government of the United States, and for other purposes; to the Committee on Education and the Workforce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. KIRK (for himself, Mr. LARSEN of Washington, Mrs. DAVIS of California, Mr. THOMPSON of California, Mr. BLUMENAUER, Mr. MCINTYRE, Mr. COSTELLO, Mr. FILNER, Mr. SCHROCK, Mr. RUSH, Mr. DAVIS of Illinois, Mr. RODRIGUEZ, Mr. GREEN of Wisconsin, Mrs. KELLY, Mr. BELL, Mr. RENZI, Mrs. TAUSCHER, Mrs. JO ANN DAVIS of Virginia, Mr. HONDA, Mr. STENHOLM, Mr. UDALL of New Mexico, Mr. SIMMONS, Mr. HERGER, Mr. TAYLOR of Mississippi, Mrs. MCCARTHY of New York, Mr. PAYNE, Mr. PETERSON of Minnesota, Mr. HINCHEY, Mr. CARSON of Oklahoma, Mr. INSLEE, and Mr. EVANS):

H.R. 932. A bill to amend the impact aid program under the Elementary and Secondary Education Act of 1965 to improve the delivery of payments under the program to local educational agencies; to the Committee on Education and the Workforce.

By Mr. KOLBE (for himself, Mr. PASTOR, Mr. SHADEGG, Mr. HINOJOSA, Mr. REYES, Mr. FLAKE, Mr. BERMAN, Mr. FILNER, Mrs. DAVIS of California, Mr. HAYWORTH, Mr. HUNTER, Mr. RODRIGUEZ, Mr. ORTIZ, and Mr. GRIJALVA):

H.R. 933. A bill to amend the Immigration and Nationality Act to authorize appropriations for fiscal years 2004 through 2010 to carry out the State Criminal Alien Assistance Program; to the Committee on the Judiciary.

By Mrs. MCCARTHY of New York:

H.R. 934. A bill to amend the Higher Education Act of 1965 to expand the loan forgiveness and loan cancellation programs for teachers, to provide loan forgiveness and loan cancellation programs for nurses, and for other purposes; to the Committee on Education and the Workforce.

By Mr. MCDERMOTT (for himself, Mr. ABERCROMBIE, Mr. MATSUI, Ms. NORTON, Ms. LEE, Mr. FILNER, Mr. NADLER, Mr. GEORGE MILLER of California, Ms. CARSON of Indiana, Ms. LOFGREN, Mr. LANTOS, Mr. WAXMAN, Mr. KOLBE, Ms. WOOLSEY, Mr. BLUMENAUER, and Mr. BERMAN):

H.R. 935. A bill to amend the Internal Revenue Code of 1986 to extend the exclusion from gross income for employer-provided health coverage for employees' spouses and dependent children to coverage provided to other eligible designated beneficiaries of employees; to the Committee on Ways and Means.

By Mr. GEORGE MILLER of California (for himself, Mr. WEXLER, Mr. HOEFFEL, Mrs. NAPOLITANO, Mr. PAYNE, Mr. OWENS, Mr. SERRANO, Mr. KENNEDY of Rhode Island, Mr. KILDEE, Mr. ANDREWS, Mr. UDALL of New Mexico, Mr. BROWN of Ohio, Mr. ABERCROMBIE, Mrs. DAVIS of California, Ms. LEE, Ms. WOOLSEY, Ms. SOLIS, Mr. KUCINICH, Ms. MILLENDER-MCDONALD, Mr. SCOTT of Virginia, Mr. MORAN of Virginia, Mr. TIERNEY, Ms. PELOSI, Mr. STARK, Ms. WATSON, Mr. FARR, and Ms. LOFGREN):

H.R. 936. A bill to leave no child behind; to the Committee on Ways and Means, and in addition to the Committees on Energy and Commerce, Education and the Workforce, Agriculture, the Judiciary, Government Reform, and Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MORAN of Kansas (for himself, Mr. TURNER of Texas, Mr. BERRY, Mr. OTTER, Ms. BALDWIN, Mr. PICKERING, Mr. OSBORNE, Mr. HASTINGS of Washington, Mr. PAUL, Mr. MCINTYRE, Mr. SANDLIN, Mr. KIND, Mr. TIAHRT, Mr. MURTHA, Mr. WHITFIELD, Mr. STENHOLM, and Mr. FROST):

H.R. 937. A bill to amend title XVIII of the Social Security Act to provide for improvements in access to services in rural hospitals and critical access hospitals; to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. PAUL:

H.R. 938. A bill to prohibit Federal payments to any individual, business, institution, or organization that engages in human cloning; to the Committee on Energy and Commerce.

By Mr. PENCE:

H.R. 939. A bill to amend title 18, United States Code, to punish persons who use false or misleading domain names to attract children to Internet sites not appropriate for children; to the Committee on the Judiciary.

By Mr. RAMSTAD:

H.R. 940. A bill to amend the Internal Revenue Code of 1986 to provide that the foreign tax credit not be redetermined with respect to refunds of unlawful foreign taxes to taxpayers who successfully challenge those taxes; to the Committee on Ways and Means.

By Mr. RAMSTAD (for himself, Ms. ESHOO, Mr. PITTS, Mr. CRANE, Mr. CAMP, and Ms. DUNN):

H.R. 941. A bill to amend title XVIII of the Social Security Act to provide for the expeditious coverage of new medical technology under the Medicare Program, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. REGULA (for himself, Ms. BALDWIN, Mr. CUNNINGHAM, Mr. GOODLATTE, Mr. HAYES, Mr. OTTER, Mr. PICKERING, Mr. ROGERS of Michigan, Mr. SCHROCK, Mr. SIMMONS, Mr. TANCREDO, Mr. WAMP, Mr. WICKER, Mr. WILSON of South Carolina, Mrs. JO ANN DAVIS of Virginia, and Mr. HOEKSTRA):

H.R. 942. A bill to amend the Higher Education Act of 1965 to provide student loan borrowers with a choice of lender for loan consolidation; to the Committee on Education and the Workforce.

By Mr. RYUN of Kansas (for himself, Mr. WALSH, Mr. PAYNE, and Mrs. MCCARTHY of New York):

H.R. 943. A bill to amend the Internal Revenue Code of 1986 to allow a credit against income tax for the purchase of hearing aids; to the Committee on Ways and Means.

By Mr. SIMMONS (for himself, Mrs. MCCARTHY of New York, Mr. PAUL, Mr. MCGOVERN, Mr. BEREUTER, Mr. OBERSTAR, Mr. FLAKE, Mrs. JOHNSON of Connecticut, Mr. ABERCROMBIE, Mr. ACKERMAN, Mr. FRANK of Massachusetts, Mr. TIERNEY, Mr. MCHUGH, Ms. CARSON of Indiana, Mr. CASE, Mr. GREEN of Wisconsin, Mr. KILDEE, Mr. BAKER, Mr. ETHERIDGE, Mr. MEEHAN, Mr. MICHAUD, Mr. SHIMKUS, Ms. LOFGREN, Mr. ROTHMAN, Mr. JONES of North Carolina, Mr. GERLACH, Mr. MATHESON, Mr. SHAYS, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. MANZULLO, Mr. HOLDEN, Ms. HART, Ms. NORTON, and Ms. WOOLSEY):

H.R. 944. A bill to ensure that amounts in the Victims of Crime Fund are fully obligated; to the Committee on the Judiciary.

By Mr. STEARNS (for himself, Mr. TOWNS, Mr. BASS, Mr. DEAL of Georgia, and Mr. WALDEN of Oregon):

H.R. 945. A bill to exercise authority under article I, section 8, clause 3 of the Constitution of the United States to clearly establish jurisdictional boundaries over the commercial transactions of digital goods and services conducted through the Internet, and to foster stability and certainty over the treatment of such transactions; to the Committee on Energy and Commerce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. TANCREDO (for himself, Mr. SAM JOHNSON of Texas, Mr. DEAL of Georgia, Mr. KING of Iowa, Mr. NORWOOD, Mr. DUNCAN, and Mr. GOODE):

H.R. 946. A bill to effect a moratorium on immigration; to the Committee on the Judiciary.

By Mr. WEINER:

H.R. 947. A bill to authorize local educational agencies to prohibit the transfer of students under section 1116 of the Elementary and Secondary Education Act of 1965 to schools that are at or above capacity, and for other purposes; to the Committee on Education and the Workforce.

By Mr. WICKER (for himself and Mr. PICKERING):

H.R. 948. A bill to amend title 23, United States Code, to require the Secretary of Transportation to carry out a grant program for providing financial assistance for local rail line relocation projects, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. WYNN:

H.R. 949. A bill to prohibit certain transfers or assignments of franchises, and to prohibit certain fixing or maintaining of motor fuel prices, under the Petroleum Marketing Practices Act; to the Committee on Energy and Commerce.

By Mr. YOUNG of Alaska:

H.R. 950. A bill to expand Alaska Native contracting of Federal land management functions and activities and to promote hiring of Alaska Natives by the Federal Government within the State of Alaska, and for other purposes; to the Committee on Resources.

By Mr. YOUNG of Alaska:

H.R. 951. A bill to amend the Alaska Native Claims Settlement Act to provide for equitable allotment of lands to Alaska Native veterans; to the Committee on Resources.

By Mr. YOUNG of Alaska:

H.R. 952. A bill to amend the Internal Revenue Code of 1986 to allow a charitable contribution deduction for certain expenses incurred by whaling captains in support of Native Alaskan subsistence whaling; to the Committee on Ways and Means.

By Mr. EVANS:

H. Con. Res. 56. Concurrent resolution expressing the sense of the Congress that States should require candidates for driver's licenses to demonstrate an ability to exercise greatly increased caution when driving in the proximity of a potentially visually impaired individual; to the Committee on Transportation and Infrastructure.

By Mr. MCCOTTER (for himself, Mr. DINGELL, Mr. UPTON, and Mr. STUPAK:

H. Res. 100. A resolution recognizing the 100th anniversary year of the founding of the Ford Motor Company, which has been a significant part of the social, economic, and cultural heritage of the United States and many other nations, and a revolutionary industrial and global institution.

By Mr. MENENDEZ:

H. Res. 104. A resolution electing Members and Delegates to certain standing committees of the House of Representatives; considered and agreed to.

By Mrs. MYRICK:

H. Res. 105. A resolution providing for consideration of the bill (H.R. 534) to amend title 18, United States Code, to prohibit human cloning.

By Mr. BOOZMAN (for himself and Mr. BLUNT):

H. Res. 107. A resolution commending and supporting the efforts of Students in Free Enterprise (SIFE), the world's preeminent collegiate free enterprise organization, and its president, Alvin Rohrs; to the Committee on Education and the Workforce.

By Mr. PALLONE:

H. Res. 108. A resolution expressing the sense of the House of Representatives that India should be a permanent member of the United Nations Security Council; to the Committee on International Relations.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 5: Mr. BEAUPREZ, Mrs. CUBIN, Mr. ISSA, and Mr. SAXTON.

H.R. 40: Mr. OLVER, Ms. LEE, and Mr. BISHOP OF GEORGIA.

H.R. 57: Mr. CHOCOLA, Mr. SMITH of Texas, Ms. GERLACH, Mr. TAUZIN, Ms. GINNY BROWN-WAITE of Florida, Mr. GUTKNECHT, Mrs. MUSGRAVE, Mr. FORBES, and Mr. BISHOP of Utah.

H.R. 97: Mr. STUPAK, Mr. GOODE, and Mr. JEFFERSON.

H.R. 111: Mr. CULBERSON Mr. KUCINICH, Mr. PALLONE, Mr. BISHOP of Georgia, and Mr. CLAY.

H.R. 133: Mr. GOODE.

H.R. 168: Ms. ROS-LEHTINEN and Mr. GREEN of Wisconsin.

H.R. 200: Mr. RODRIGUEZ.

H.R. 218: Ms. MCCARTHY of Missouri, Mr. CHABOT, Mr. GALLEGLY, Mr. WEINER, and Mr. LANGEVIN.

H.R. 258: Mr. HILL.

H.R. 279: Mr. MCINTYRE.

H.R. 300: Mrs. JO ANN DAVIS of Virginia.

H.R. 302: Mr. STUPAK and Mr. BURR.

H.R. 303: Mr. POMEROY, Mr. SHAYS, Mr. BONNER, Mr. INSLEE, Mr. FLAKE, Ms. LOFGREN, Mr. ROGERS of Kentucky, Mr. CARDOZA, Mr. SANDERS, and Mrs. KELLY.

H.R. 313: Mr. MATHESON.

H.R. 339: Mr. ISAKSON, Mr. BARRETT of South Carolina, Mr. OXLEY, Mr. SOUDER, Mr. WAMP, Mr. FOLEY, and Mr. CANNON.

H.R. 343: Mr. GREEN of Wisconsin and Mr. GRIJALVA.

H.R. 348: Mr. EVANS.

H.R. 377: Mr. SIMMONS and Mr. HOSTETTLER.

H.R. 430: Mr. WICKER.

H.R. 440: Ms. VELAZQUEZ, Mr. RANGEL, and Mr. OWENS.

H.R. 442: Mr. GREEN of Texas, Mr. MCDERMOTT, Mr. PAUL, Mr. SHIMKUS, Mr. PASTOR, Mr. MENENDEZ, Ms. MILLENDER-MCDONALD, Mr. HOLDEN, Mr. TERRY, Mr. BROWN of Ohio, Mr. UPTON, Mr. MURPHY, and Mr. FROST.

H.R. 457: Mr. HOSTETTLER.

H.R. 466: Mr. SCHIFF, Ms. WOOLSEY, Mr. LIPINSKI, Mr. CARDOZA, and Mr. STARK.

H.R. 483: Mr. HOSTETTLER.

H.R. 485: Mr. MCDERMOTT and Ms. SCHAKOWSKY.

H.R. 498: Mr. SESSIONS and Mrs. MUSGRAVE.

H.R. 501: Mr. MCHUGH, Mr. FALEOMAVAEGA, and Mr. FORBES.

H.R. 502: Mr. BARRETT of South Carolina.

H.R. 504: Ms. LEE and Mr. ACEVEDO-VILA.

H.R. 515: Mr. ABERCROMBIE, Mr. BAIRD, Mr. BRADY of Pennsylvania, Mr. BERMAN, Mr. KUCINICH, and Mr. RYAN of Ohio.

H.R. 528: Mr. LIPINSKI.

H.R. 588: Mr. HOEFFEL, Mr. OWENS, and Mr. BROWN of Ohio.

H.R. 627: Mr. BISHOP of Georgia, Mr. CONYERS, Mr. DAVIS of Illinois, Mr. GOODE, Ms. HART, Ms. KAPTUR, Mr. LAMPSON, Mrs. NAPOLITANO, Mr. PAYNE, Mr. RAHALL, Mr. SCHROCK, Mr. SHUSTER, and Mr. THOMPSON of Mississippi.

H.R. 662: Mr. STENHOLM, Mr. PAUL, Mr. TOWNS, Mr. FRANK of Massachusetts, Mr. GILLMOR, Mr. MARSHALL, Mr. FROST, Mr. REYES, Mr. KOLBE, Mr. SNYDER, Mr. FOLEY, Mr. WILSON of South Carolina, Mr. NEY, Mrs. JONES of Ohio, Mr. CASE, Mr. FORD, Mr. SIMMONS, Mr. UDALL of Colorado, and Mr. OWENS.

H.R. 672: Mr. ORTIZ, Mr. OWENS, Ms. JACKSON-LEE of Texas, Mr. PORTER, Ms. LINDA T. SANCHEZ of California, and Mr. GRIJALVA.

H.R. 695: Mrs. MUSGRAVE and Mr. MATHESON.

H.R. 709: Mr. STUPAK and Mr. BEREUTER.

H.R. 714: Mr. SIMPSON and Mr. CANTOR.

H.R. 721: Mr. KILDEE and Mr. SANDERS.

H.R. 735: Mr. KOLBE.

H.R. 737: Ms. KILPATRICK, Mrs. MCCARTHY of New York, Mr. EMANUEL, Mr. CARDIN, and Mr. LIPINSKI.

H.R. 740: Mr. GUTIERREZ, Ms. JACKSON-LEE of Texas, Mr. DICKS, and Mr. CASE.

H.R. 741: Ms. LEE.

H.R. 742: Mr. KILDEE, Mr. MORAN of Kansas, Mr. FLETCHER, Mr. ANDREWS, Mr. GOODE, and Mr. BOYD.

H.R. 743: Mr. HULSHOF, Mr. HAYWORTH, Mr. MCNULTY, Mr. ANDREWS, Mr. ROSS, and Mr. MARSHALL.

H.R. 751: Mr. GRIJALVA.

H.R. 756: Mr. LIPINSKI.

H.R. 760: Mr. SHIMKUS, Mr. TAUZIN, Mr. BARTLETT of Maryland, Mr. KING of New York, Mr. WELLER, Mr. ALEXANDER, Mr. SKELTON, Mr. BUYER, Mr. NUSSLE, Mr. FLAKE, and Mr. PETERSON of Minnesota.

H.R. 765: Mr. WILSON of South Carolina and Mr. RENZI.

H.R. 768: Mr. WEXLER, Mr. MATHESON, and Mr. OWENS.

H.R. 773: Mr. BECERRA.

H.R. 784: Mrs. CHRISTENSEN, Mr. LATOURETTE, and Mr. UPTON.

H.R. 785: Mr. FROST, Mr. SOUDER, Mr. DEUTSCH, and Mr. POMEROY.

H.R. 794: Mr. CANNON and Mr. BISHOP of Utah.

H.R. 801: Mr. CONYERS and Ms. LOFGREN.

H.R. 813: Ms. WOOLSEY.

H.R. 841: Mr. PASTOR.

H.R. 847: Mr. CASE, Ms. SLAUGHTER, Mr. BISHOP of New York, Mr. RAHALL, Mrs. NAPOLITANO, Mr. WEINER, Mr. ALLEN, Mr. BELL, Mr. WEXLER, Mr. KLECZKA, Mr. MICHAUD, and Mrs. JONES of Ohio.

H.R. 865: Ms. HARMAN and Mr. WEXLER.

H.R. 866: Mr. BURGESS.

H.R. 874: Mr. SIMMONS.

H.R. 876: Mr. GRAVES and Mr. ISAKSON.

H.R. 878: Mr. PORTMAN, Mr. MCINNIS, Mr. MCCRERY, Mr. JONES of North Carolina, Mr. COLE, and Mr. SIMMONS.

H.R. 887: Mr. GREEN of Texas, Mr. UDALL of Colorado, Mr. ROSS, Mr. FROST, Ms. MILLENDER-MCDONALD, and Mr. CARDOZA.

H.R. 891: Ms. WOOLSEY and Mr. WYNN.

H.R. 892: Mr. MCNULTY.

H.R. 894: Ms. KILPATRICK, Mr. PAYNE, and Mr. MCNULTY.

H.J. Res. 3: Mr. POMBO.

H.J. Res. 10: Mr. COX.

H. Con. Res. 18: Mr. CONYERS.

H. Con. Res. 36: Mr. HILL.

H. Con. Res. 38: Mr. FROST.

H. Con. Res. 39: Ms. SCHAKOWSKY and Mr. BRADY of Pennsylvania.

H. Res. 42: Mr. HOSTETTLER.

H. Res. 53: Mr. RANGEL, Ms. CORRINE BROWN of Florida, Mr. EMANUEL, Ms. LOFGREN, Ms. JACKSON-LEE of Texas, and Mr. STARK.

H. Res. 72: Mr. BROWN of Ohio, Mr. MCNULTY, Mr. MOORE, and Mr. MORAN of Virginia.

H. Res. 76: Mr. KING of New York, Mr. SOUDER, Mr. WEINER, and Ms. LOFGREN.

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Congressional Record

PROCEEDINGS AND DEBATES OF THE 108th CONGRESS, FIRST SESSION

Vol. 149 WASHINGTON, WEDNESDAY, FEBRUARY 26, 2003 No. 31

Senate

The Senate met at 9:30 a.m. and was called to order by the President pro tempore (Mr. STEVENS).

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Majestic God, Creator of many different races and colors in the human family, we ask for love as inclusive as Your love and attitudes as free of prejudice as You have shown in Your care for all people.

This month as we gratefully recognize the importance of African Americans in our history, remind us of the truth that Dr. Martin Luther King expressed that ''the content of our character'' is the highest goal we can achieve. So many outstanding black Americans have risen to prominence in our Nation's history because of the content of their character.

We thank You for Phillis Wheatley, who, in the 18th century at a very young age, achieved international fame as the first black woman poet. We remember women's rights activist and abolitionist Sojourner Truth and civil rights heroine Rosa Parks. We also remember Richard Allen, who, at the dawning of the 19th century, mobilized the black community in Philadelphia and formed the first independent black denomination. We praise You for distinguished athletes like Jackie Robinson and educators like George Washington Carver.

As we work today, may these principled Americans be our examples. Let our words, thoughts, and actions reflect the content of Your character. Thank You for being our Lord and Saviour. Amen.

PLEDGE OF ALLEGIANCE

The Honorable HARRY REID, a Senator from the State of Nevada 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.

SCHEDULE

Mr. FRIST. Mr. President, the Senate will spend the day in executive session deliberating, once again and for the 10th day, the nomination of Miguel Estrada to be a circuit judge for the DC Circuit. Indeed, today will be a very full day. I envision a protracted session extending late into the evening. Roll-call votes are expected in an effort to make progress toward confirming this nominee in order to fill this judicial vacancy.

There is an empty courtroom and a backed up docket awaiting this judge. I hope my colleagues will cooperate so that this ready, willing, and able nominee can report for work at the DC Circuit courthouse.

I ask unanimous consent that a letter to the President dated February 25, 2003, signed by 52 Senators, stating that they ''express the strong, majority support in the United States Senate for Miguel Estrada,'' be printed in the RECORD.

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

UNITED STATES SENATE,
Washington, DC, February 25, 2003.

The Hon. GEORGE W. BUSH,
The White House, 1600 Pennsylvania Avenue, N.W., Washington, DC

DEAR MR. PRESIDENT: We write to express the strong, majority support in the United States Senate for Miguel Estrada, your nominee to the United States Court of Appeals to the District of Columbia Circuit.

Mr. Estrada's professional accomplishments and personal achievement are truly impressive. He graduated magna cum laude from both Columbia College, where he was elected to Phi Beta Kappa, and Harvard Law School, where he served as an editor of the Harvard Law Review. He clerked on the Second Circuit Court of Appeals and the Supreme Court of the United States. Miguel Estrada served with distinction as an assistant U.S. Attorney in the prestigious Southern District of New York, rising to Deputy Chief of the Appellate section, and in the Solicitor General's office during both Republican and Democrat Administrations where he argued fifteen cases before the Supreme Court.

It is no wonder Mr. Estrada received a rare, unanimous rating of ''well qualified'' from the American Bar Association, what many of our colleagues call the coveted ''Gold Standard.''

Mr. Estrada's professional successes are even more remarkable in light of his compelling personal story. After emigrating from Honduras at the age of seventeen, he reached the pinnacle of his profession by overcoming a speech impediment and mastering a second language. These are daunting challenges for anyone; they are particularly impressive when one's profession is the practice of oral advocacy before the nation's highest court.

Despite his obvious qualifications and remarkable personal story, we have been unable to obtain fair consideration on the Senate floor for Mr. Estrada's nomination. Nevertheless, we, the undersigned majority in the United States Senate, commend you for your outstanding choice, and will continue to work diligently to ensure Mr. Estrada receives a simple up or down vote on the Senate floor.

Sincerely,

Mitch McConnel, Zell Miller, Bill Frist, Conrad Burns, Norm Coleman, Lisa Murkowski, Pete Domenici, Joe Kyl, John Cornyn, Jim Bunning, Judd Gregg, Arlen Specter, Orrin Hatch, Robert Bennett, Mike Crapo, Jim Talent, Michael B. Enzi, Lindsey Graham, George Allen, Susan Collins, Ben Nighthorse Campbell, Ted Stevens, Lamar Alexander, Wayne Allard, Richard Shelby, Mike Dewine, Craig Thomas, George V. Voinovich, Richard G. Lugar, Jeff Sessions, John Ensign, Rick Santorum, John E. Sununu, Elizabeth Dole, Don Nickles, Pat Roberts, James Inhofe, Saxby Chambliss, Peter Fitzgerald, Trent Lott, Thad Cochran, Kay Bailey Hutchison, Chuck Hagel, Larry E. Craig, Gordon Smith, John McCain, Sam Brownback, Kit Bond,

● This ''bullet'' symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Printed on recycled paper.

John Warner, Chuck Grassley, Lincoln Chafee, and Olmypia Snowe.

Mr. FRIST. I will be very brief, but I will quote four paragraphs from this letter which does demonstrate the majority support of Senators for this nominee. The letter itself is dated February 25, 2003. The letter is to the President of the United States.

First paragraph:

Dear Mr. President, we write to express the strong, majority support in the United States Senate for Miguel Estrada, your nominee to the United States Court of Appeals to the District of Columbia Circuit.

The second paragraph reads:

Mr. Estrada's professional accomplishments and personal achievement are truly impressive. He graduated magna cum laude from both Columbia College, where he was elected to Phi Beta Kappa, and Harvard Law School, where he served as an editor of the Harvard Law Review. He clerked on the Second Circuit Court of Appeals and the Supreme Court of the United States. Miguel Estrada served with distinction as an assistant U.S. attorney in the prestigious Southern District of New York, rising to Deputy Chief of the Appellate section, and in the Solicitor General's Office during both Republican and Democrat Administrations, where he argued fifteen cases before the Supreme Court.

It is no wonder Mr. Estrada received a rare, unanimous rating of ''well qualified'' from the American Bar Association, what many of our colleagues called the coveted ''Gold Standard.''

Mr. Estrada's professional successes are even more remarkable in light of his compelling personal story. After emigrating from Honduras at the age of seventeen, he reached the pinnacle of his profession by overcoming a speech impediment and mastering a second language. These are daunting challenges for anyone; they are particularly impressive when one's profession is the practice of oral advocacy before the nation's highest Court.

Mr. President, the last paragraph before the pages of the signators of a majority of people in this body, 52 Senators, reads:

Despite his obvious qualifications and remarkable personal story, we have been unable to obtain fair consideration on the Senate floor for Mr. Estrada's nomination. Nevertheless, we, the undersigned majority in the United States Senate, commend you for your outstanding choice, and will continue to work diligently to ensure Mr. Estrada receives a simple up or down vote on the Senate floor.

Again, there are 4 pages of signatures. The first page is signed by Senators MITCH MCCONNELL and ZELL MILLER, followed by 50 signatures, which is now in the RECORD.

We will have a full day today. I look forward to continuing the discussions as we go forward.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

EXECUTIVE SESSION

NOMINATION OF MIGUEL ESTRADA, OF VIRGINIA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE DISTRICT OF COLUMBIA

The PRESIDING OFFICER. Under the previous order, the Senate will now go into executive session and resume consideration of Executive Calendar Order No. 21, which the clerk will report.

The assistant 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. The Senator from Nevada.

ORDER FOR RECESS

Mr. REID. Before the majority leader leaves the floor on a matter regarding what we are going to do this afternoon, at 2:30 today it is my understanding the Secretary of Defense will be here to brief Senators. I think it would be in everyone's interest if we had at least an hour recess during the time the Secretary is here.

Mr. FRIST. Mr. President, given the circumstances surrounding and leading to the discussion today at 2:30, that would be satisfactory on our part.

We will likely be in session late this afternoon, into the evening, because there are a number of issues we do want to address. It is appropriate to be in recess from 2:30 to 3:30 today.

Mr. REID. I ask unanimous consent that that be in order.

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

The Senator from Nevada.

Mr. REID. Mr. President, Senator HATCH is in the Chamber, as well as Senator DORGAN, who has been trying to speak for 2 days now. It is obvious there are not enough votes, as indicated by the letter sent to the President. The fact is that there are three ways to dispose of Estrada: No. 1, pull the nomination so we can go to other issues that affect this country, such as the economy, such as have a discussion relating to the global warming document that came out today indicating there certainly needs to be a lot more done regarding global warming. It certainly is time we should be talking about the education of our children. Yesterday, the Democratic leader offered an economic stimulus plan. We wanted to bring that to the floor. So the nomination should be pulled for those other reasons.

If that is not the case, then there is another way of disposing of this matter perhaps—by having the majority file a cloture motion. That failing, it seems to me they should meet our request to have him honestly—I should not say honestly—thoroughly answer questions that have been propounded to him; and, secondly, submit the memos to this body, at least to the Judiciary Committee, so they can review the memos he wrote while he was Solicitor General.

That failing, we can stay in tonight and tomorrow night, whatever the leader decides to do, but as I have indicated before, now that the majority has changed, the majority has to preside and we will have people to protect our interests on the floor, so that is certainly no punishment to us.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I have been interested in the approach by the other side. Yesterday, they came on the floor and said, oh, my goodness, we should get rid of this because we have so many important issues to take care of. There is one way to get it rid of it, and that is to let the people's representatives in the Senate vote. That is what the Washington Post said: Just vote. Vote up or down.

The real reason they are not allowing a vote—because, as we can see from the letter, we have at least 52 votes and there have been at least 3 other Senators on the minority side who have said they are going to vote for Mr. Estrada. So there are at least 55 votes for Mr. Estrada, and I believe there will be others votes as well.

It is one thing to support your party and to stand in an intractable way against the first Hispanic ever nominated to the Circuit Court of Appeals for the District of Columbia. It is another thing to come on the floor and say we are not going about the people's business because we are dealing with this incidental judicial nomination. Well, it is not incidental. It is one of the most important nominations in the country.

This is a man who really deserves to be on the Circuit Court of Appeals for the District of Columbia. This is a man who has every credential and has not had a glove laid on him. That is why the fishing expedition request into privileged matters. They want to get his recommendations, or I suppose in the future anybody's recommendations, especially Republicans who might have worked in the Solicitor General's Office, on appeals, on certiorari petitions, and on amicus curiae matters. Those have never been given to anybody. Those are the crucial documents upon which the Solicitor General, the people's attorney, makes decisions as to where to go and what to do. There is only one reason they would like to get these privileged documents, and that is they are on a fishing expedition because they have not been able to find anything to hang on Miguel Estrada yet, other than these phony accusations that he has not answered the questions.

My gosh, the hearing transcript is that thick; the briefs he has filed and the answers in the testimony before the Supreme Court, two volumes, that thick. They have more materials on Mr. Estrada to know what he is and what he is about than almost any judicial nominee, other than the Supreme Court, who has been nominated in the whole 27 years I have been in the Senate. I think my colleagues can take it

from me because I have been involved in every one of these nominations. As chairman, now twice, I can say there has very seldom been anybody as scrutinized as Mr. Estrada. And since there is still nothing they can point to that is a good reason for keeping him out of this position, what one has to conclude is the reason they are doing this—well, I will leave that up to the American people, and I will leave it up to the people in the Hispanic community. My personal conclusion is that they do not like having a Republican, Hispanic, conservative who thinks for himself as an independent thinker.

Mr. DURBIN. Will the Senator yield?

Mr. HATCH. Not yet. I will make a statement first before I yield for a question. I will do that later, however. I have been very good about yielding, so I hope my colleague does not feel badly about my decision to make my statement first.

I cannot believe the arguments that have been used in this matter, and I cannot believe my colleagues on the other side, with their feet in concrete, cannot understand why this is such an important nomination.

The fact is this fellow is immensely qualified. I have had countless people tell me that, in addition to my own studies, and I have had a lot of Democrats say he is really qualified—but.

''But'' what? These phony accusations that he has not answered questions? Come on. The Democrats conducted the hearings. They controlled the process. They could have kept the hearings going for days. It would have been very unusual for them to do that, but they could have. The hearings were conducted by Senator SCHUMER. Every Democrat had a chance to come and ask questions. After the hearings were over, they had an opportunity to present written questions to him. Guess how many of those nine Democrats offered written questions. Only two of them.

I will say, the distinguished Senator from Illinois has tried to get to the bottom of what he is concerned about in Federal judgeships. I commend him for it. He wrote questions, and he got answers. Senator KENNEDY, who takes a very active role on the committee, wrote questions, and he got answers. Where were the rest of them? Why all the complaining now, 2 years later? Are we going to make every circuit court of appeals judge wait 2 years?

Actually, we are finding a slowdown in the Federal judiciary like I have never seen before, except for district court nominees about whom they do not seem to worry too much. If they are qualified, district court nominees are the trial court nominees. Circuit court nominees should be qualified, too, and this one—I would not say overly qualified, but not many people can match his qualifications in this whole society today—here, in the 10th or 11th day of debate, he is being treated very shabbily.

We are in the middle of a filibuster, no matter what anyone says. That is exactly what it is. I noted my friend from New York, Senator SCHUMER, said on Sunday this is not a filibuster. If it is not, I don't know what it is. And, frankly, I know a lot about filibusters, having led one of the most important filibusters in history on labor law reform in 1978 that lasted at least a month. It was very tough, mean, miserable, and in some ways tremendously difficult.

My colleague, the distinguished ranking member on the committee, on June 18, 1998, said: ''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.''

So I suppose the distinguished Senator from Vermont will be another vote for Mr. Estrada, if he really meant what he said. Knowing him, I am sure he did mean what he said. So that would get us up to 56 votes right there. He also said: ''I do not want to get to having to invoke cloture on judicial nominations. I think it is a bad precedent.''

Boy, I sure agree with that. I spent 6 years during the Clinton years when a lot of liberal judges were put up, who were qualified, arguing with some on our side, a relative few, but some who believed we should filibuster those judges. I said: No way. We can't get into filibustering of judges. It diminishes the power of the administration, the executive office, the executive branch of Government, which is supposed to be coequal with the legislative branch. But in addition to diminishing the power of the executive branch, it diminishes the power of the judiciary with regard to its coequality with the executive branch, so both would be diminished while the executive branch was augmented and made superior over both of those branches.

Why? Because a filibuster means that from here on in, with every nominee who may be ''controversial,'' you are going to have to have a supermajority of 60 votes. Or will you? If the Democrats have their way, that is how it will be. And it will be both ways. There will not be any more well-known liberals or well-known conservatives, as great as many in the past have been, on the courts of this country; there will be people who do not have a paper trail, do not have any opinions, on whom you do not know what is going on in their minds. They will be the only ones who can get through for the circuit court of appeals positions or the Supreme Court. That would be indeed a tragedy for this country.

What we get when we elect a President is a person who picks the judges in this country. The Senate's obligation is to vote on those judges. If you do not like what you see, you vote no. If you like what you see, you vote aye. But they get a vote on the Senate floor. That is not what is happening here.

If press reports are to be believed, some Senators are contemplating a dramatic change to the Senate's treatment of the President's judicial nominees. A new requirement: The nominees to the Nation's courts must receive at least 60 votes in order to be confirmed. Since our friends on the other side are filibustering Mr. Estrada's nomination to the Circuit Court of Appeals for the District of Columbia, and if the filibuster results in the nomination being rejected, Democrats will have forced a permanent change in the political and constitutional landscape, a very dangerous and bad change.

Mr. DURBIN. Will the Senator yield?

Mr. HATCH. I am happy to.

Mr. DURBIN. I will only ask one question and would like the Senator's response.

I think there has been a very constructive and valuable suggestion by one of your colleagues, Senator BENNETT of Utah, who came to the floor last week and suggested, to end this impasse, that we can finally bring this matter to a vote on Mr. Estrada simply by producing the controversial documents to be reviewed by you and Senator LEAHY, and if a decision is made by either of you that there is something worth pursuing by way of written questions or further hearing, then we can bring this to closure.

I asked Senator DASCHLE on the floor yesterday, would this be a good end game for the Estrada issue? He said it was acceptable to him. So I ask the Senator from Utah if he would entertain the suggestion of his colleague, Senator BENNETT, to produce these work documents that reflect on Mr. Estrada's philosophy, for you, personally, for Senator LEAHY personally, and followup, if necessary, so that we can finally move on to important issues that we should be considering on the Senate floor?

Mr. HATCH. That is a good question. I have to say, no administration worth their salt, no executive branch of government worth any constitutional knowledge, would give up those papers, even to people they trust, such as Senator LEAHY and myself. The reason is they have to maintain the dignity of that Solicitor General's Office. They have to maintain the discipline of that office. They have to maintain the privileged nature of those documents. If those documents are disclosed, that means they will have to be disclosed henceforth forever in every case where a person has worked in the Solicitor General's office. It would demean the office and diminish the ability to get forthright and accurate information, and it would impinge upon the work of the Solicitor General.

The only reason those letters were written requesting those documents is that they knew this would constitute a red herring. The only thing they have to argue against Miguel Estrada is a red herring, so they can say: We cannot vote for him because we cannot get these documents. Which is right, they cannot get them. No self-respecting administration would give them.

Mr. DURBIN. One last question. The chairman suggested it would be unprecedented to produce these documents. But is the chairman not aware of the fact that similar documents were produced when William Rehnquist was being nominated to the Chief Justice of the Supreme Court, when Robert Bork's nomination came before the Senate, Benjamin Civiletti, and several other cases?

This is not unprecedented and has happened before. To suggest this administration would be breaking new ground—would the Senator from Utah concede that other administrations, Republican administrations, and Democrat, have disclosed this kind of information? We are suggesting, through Senator BENNETT, a limited disclosure to you and Senator LEAHY—

Mr. HATCH. The Senator is again mistaken. He is absolutely wrong, totally inaccurate.

The fact is the request was for his recommendation on his appeal recommendations, his certiorari recommendations, his amicus curiae recommendations. Those have never ever been given to anybody up here on Capitol Hill. And they shouldn't be given to anybody. Those are the most crucial recommendations the Solicitor General gets and relies upon.

There are some cases where documents for appeal, certiorari, amicus curiae documents, were leaked to Democrat Senators in the past, and there were one or two cases where there were allegations of criminal behavior, or potential criminal behavior, where very selected documents were produced. But there has never, ever been a production of internal, privileged recommendations for appeals, certiorari, and amicus curiae. Again, the Senator is mistaken. I hesitate to point that out, but it is something that has to be pointed out.

I believe with all my heart that my friends on the other side know that. So this is a phony issue they have raised. Here is a man who has the highest rating of the American Bar Association, given by a majority of Democrats who have supported financially other Democrats, and yet they found him worthy of the highest rating of the American Bar Association. I know my colleagues do not like that, even though many of them said he deserves it, he is that good, but we are going to vote against cloture anyway—because we are Democrats, I guess.

Is that really the reason? What is the reason there is a double standard with regard to Miguel Estrada? Is it because we are Democrats? I hope not. Is it because we are liberals? You got that one right. Is it because he is an independent thinker? You have that one right. Is it because he just does not toe the line of the Democratic Party? You got that right. Is it because he is a Republican Hispanic? You got that right. Is it because he is a Republican Hispanic who may be conservative? You bet. Is it because he is a Republican Hispanic who may be conservative who might even be pro-life? I don't know what he is that way, but that is surely part of it.

In other words, it is a double standard, even though we did not take that standard on our side. There were some who wanted to, I admit that. But I didn't take that standard in approving 377 Clinton judges, the second all-time record of judicial confirmations in the history of the Presidency, second only to Ronald Reagan, who had 6 years of a Republican Senate to help him, where President Clinton had only 2 years of a Democrat Senate to help him.

Think about it. What do you conclude is the reason they are fighting this? Because they found something wrong with Miguel Estrada? Show me what it is. Because of this red herring issue—and they know it is a red herring issue—that they know is improper to even ask for?

But counting on their friends in the media to ignore the seven former Solicitors General, four of whom are Democrat, leading liberal Democrat Solicitors General who say those papers should never be given to the legislative branch—it would upset and ruin the work of the Solicitor General of the United States; he is the people's attorney. That is the only thing they have. Yet they are filibustering this man, this Hispanic, this first Hispanic ever nominated to the Circuit Court of Appeals for the District of Columbia, and one of the few ever nominated to the circuit courts of appeals in this country. It is amazing to me.

What really louses this up for them, as far as I am concerned, is their claim that he does not have any judicial experience; therefore, he should not have this position. That is condemning every Hispanic lawyer to never be a Federal court judge, by and large, because hardly any of them have judicial experience. The only way they get it is by rising in the profession, like Miguel Estrada, reaching the top of the profession, and getting nominated by a President of the United States.

It is a tough road for Hispanics. Here is one who has made it, and my colleagues on the other side are standing in his way, blocking his path, taking away his future. He is the embodiment of the American dream, and they are taking away his future as a judge. I suppose part of it also is to discourage conservative Hispanics, conservatives of other minorities, from wanting to be judges if they are Republicans because it is not worth going through this kind of a battle.

I chatted with Miguel Estrada yesterday. Miguel Estrada said it is worth going through this battle. He will do a great job on that court. He will do it in the best interests of the American people, regardless of ideology. That is basically what he said in answers to these questions that were raised by Democrats. He basically said he would follow the law as he always has as a top-flight attorney.

Now, are we going to have to have 60 votes to confirm ''controversial'' nominees? If his nomination is rejected by a filibuster, then Democrats will have forced a permanent change in the political and constitutional landscape.

Never again could any future President—or even this President—fairly expect a judicial nominee, whose nomination reaches the Senate floor, to receive an up-or-down vote. And never again would the Senate minority party fear that blocking of a judicial nominee by partisan filibuster, or 41 votes, was unprecedented.

If the Estrada nomination is permanently blocked by filibuster, the political baseline shifts forever. What is sauce for the goose is going to be sauce for the gander. And I think it is terrible. I am doing everything in my power to fight against that. It is even bigger than this nomination, as important as this nomination is, because it could taint the Federal judiciary henceforth and forever because of partisan politics on the Democrat side.

To understand just how stunningly extraordinary this state of affairs is, one needs to examine the Senate's record of confirming judicial nominations.

The first filibuster of a judicial nominee that resulted in a cloture vote was in 1968. In other words, in all the history of this country, that was the first filibuster, in 1968. Since then, the Senate has confirmed approximately 1,600 judicial nominations—since 1968. That filibuster was on the Fortas nomination. Since then, they have confirmed approximately 1,600 judicial nominations, and the vast majority—nearly 1,500—of them without even a rollcall vote, as most are confirmed by unanimous consent.

Indeed, of those some 1,600 judicial nominations confirmed by the Senate since 1968, only 14 even underwent a cloture vote. And with the exception of the bipartisan 1968 filibuster of Abe Fortas's nomination to be Chief Justice of the United States, the Senate has never—let me repeat that—has never blocked by filibuster a judicial nominee to any court in this land—never; never—until this, I think, ill-fated, hopefully, attempt on the part of some of our colleagues on the other side.

I am just wondering why some of my strong colleagues are being led like lambs to the slaughter in this matter without standing up and saying: Hey, enough is enough. We have made our point. We have roughed this guy up. We made it clear to him that, ''you had better behave yourself on the court or you will never be on the Supreme Court.'' That is part of this, I know. That may be a legitimate part as far as I am concerned. They have a right to rough anybody up, I suppose, although I question the propriety of it from time to time.

What follows is an account of all past debates over judicial nominees which

required cloture votes. The history establishes a consistent, bipartisan resistance to taking the step that some Democrats are really doing right now.

Let me talk about the bipartisan Fortas filibuster because, indeed, that was a bipartisan filibuster. It was not just one side, as it is here. But I decry that. That filibuster should not have occurred either.

Judicial nominations have been especially contentious since the days of the Warren Court. That was from 1954 to 1969. Nowhere has that controversy been more pronounced than for nominees to the Nation's highest court. In particular, Supreme Court nominees such as Abe Fortas, William Rehnquist, and Clarence Thomas all faced considerable opposition in the Senate during their confirmations. Yet despite this controversy, only one nomination, Justice Fortas's nomination to be Chief Justice in the tumultuous summer of 1668, caused the Senate to filibuster and block confirmation.

President Lyndon Johnson nominated Associate Justice Abe Fortas to be Chief Justice in June of 1968. A bipartisan coalition of Senators soon formed to oppose Justice Fortas's elevation. The reasons were varied. Some opposed the nomination because Justice Fortas often joined the ''progressive'' Earl Warren wing of the activist Supreme Court. Other Senators opposed Fortas because of his admissions before the Judiciary Committee that he remained involved in White House political affairs even while serving on the Supreme Court, including advising the President during the Vietnam war and the then-recent race riots in Detroit. When it was discovered that Justice Fortas accepted $15,000—more than $75,000 in 2001 dollars—from controversial sources to teach a 9-week academic course, his support further deteriorated. Yet as the heated 1968 election season continued, some Democrats were wary of defeating Fortas if that meant leaving the nomination to soon-to-be-President-elect Richard Nixon.

Nevertheless, bipartisan opposition to Fortas's elevation was substantial and the filibuster did ensue. The filibuster itself was controversial, as some Republicans, such as Nixon himself, believed that Fortas should receive an up-or-down vote as a matter of principle. That would have been my position at the time. And it is my position now. Senators persisted, and on October 1, a cloture vote failed by a margin of 45 to 43. Twenty-four Republicans and nineteen Democrats voted against the cloture motion, with 10 Republicans and 35 Democrats in favor of cutting off debate. President Johnson then withdrew the nomination.

Now let me chat a little bit about the effect of the Fortas filibuster on future Supreme Court battles.

After the Fortas filibuster, the Senate rejected outright two of President Nixon's nominees to the Supreme Court, Clement Haynsworth—that was on a vote of 45 to 55—and G. Harold Carswell—on a vote of 48 to 51. But neither nominee faced a filibuster attempt despite the close votes. The Fortas affair is, therefore, especially important for what it did not lead to: a pattern of blocking by filibuster controversial judicial nominees.

That refusal to block nominees by filibuster is most dramatic and important in the context of the Supreme Court. The Supreme Court nominations that most divided the Senate since the Haynsworth and Carswell defeats were those of William Rehnquist—in 1972 to the Court, and in 1986 to be Chief Justice—and Clarence Thomas in 1991.

Rehnquist's nomination to be Associate Justice provoked considerable controversy and division within the Senate, but he nonetheless received a full Senate vote after but a few days' debate. The same was true in 1986, when he was nominated to become Chief Justice.

During Clarence Thomas's hard-fought nomination battle of 1991, outside activist groups urged Justice Thomas's Senate opponents to filibuster his nomination, but Senate Democrats, such as then-Judiciary Chairman JOSEPH BIDEN, and leading Thomas opponent Senator Howard Metzenbaum, balked. Former Judiciary Committee Chairman PATRICK LEAHY publicly declared himself ''totally opposed to a filibuster,'' adding, ''We should vote for or against [Thomas].'' I commend my colleague for that. He was right then, and he would be right today to do the same. No filibuster was attempted, and Justice Thomas was confirmed 52 to 48.

As is well known, President Clinton's nominations of both Ruth Bader Ginsburg and Stephen Breyer sailed through the Senate with minimal debate and no filibusters. Justice Ginsburg was confirmed 96 to 3, and Justice Breyer was confirmed 87 to 9.

Now I want to make the point that lower court nominees have never been blocked by filibusters.

Given the Senate's general unwillingness to filibuster nominees—even Supreme Court nominees—it is surprising that the Senate has never blocked by filibuster a nominee to any lower court. Furthermore, the Senate has never blocked—by a partisan filibuster—any judicial nominee, including Justice Fortas. The only successful rejection by filibuster was the aforementioned case of Justice Fortas, which was clearly bipartisan. Thus, there is no historical example of a filibuster conducted solely by one party that denied the President his judicial nominee—until now. This is the first time in the history of this country. It is amazing to me that my colleagues on the other side are so blatant about it.

Now, there have been recent, what some people have called, quasi-filibusters of President Bush's judicial nominees.

During the Democratic control of the Senate during 2001 to 2002, only 17 Bush circuit court nominees reached the floor for votes. In three of the cases where they did—the nominations of Julia Smith Gibbons, Richard B. Clifton, and Lavenski R. Smith—cloture motions were filed, and the motions easily carried. However, none of those cloture votes was responding to a genuine effort to filibuster a nominee. Rather, cloture motions were filed as a Senate time-management device—certainly in the Clifton and Gibbons matters—or in response to a small number of Senators who wished to force the cloture vote to draw attention to another issue unrelated to the nominee—such as in the case of nominee Smith.

Now, despite a Republican majority during 6 years of President Clinton's term, no judicial nominee was ever deprived of a vote on the Senate floor because of a floor filibuster of the nomination.

Many Senators may recall the controversy over President Clinton's nominations of Marsha Berzon and Richard Paez to the U.S. Court of Appeals for the Ninth Circuit. Although most Republican Senators opposed their confirmations, the majority of Republican Senators also opposed any effort to prevent the full Senate from voting on their nominations. Debate on each nomination lasted only 1 day. These were very liberal, some thought activist, nominees, and yet the debate lasted 1 day. We are now on our 11th, I think—10th or 11th—day on this debate.

So debate on each nomination lasted only 1 day, and a majority of Republicans joined all Democrats in supporting cloture motions for debate on each nomination, including over 20 Republicans who would eventually vote against confirmation and a majority of the Republican members of the Judiciary Committee.

In neither case did Republicans mount a party-line filibuster effort to prevent voting on any nominee. Indeed, Majority Leader LOTT filed the cloture motions for the above debates.

The situation was similar in 1994, when some Republicans voiced objections to President Clinton's nomination of H. Lee Sarokin to the U.S. Court of Appeals for the Third Circuit. A majority of Republicans supported a cloture motion after a relatively brief period of debate, and cloture was invoked by a vote of 85 to 12. It was clear it was a time-management device. It was not a filibuster. Judge Sarokin was then confirmed by a vote of only 63 to 35.

The only judge nominated by President Clinton who faced a partisan filibuster was Brian Theadore Stewart, a nominee to the Federal District Court in Utah. However, it was the Senate Democrats—not Republicans—who filibustered this Clinton nominee in protest over purported delays in bringing other judicial nominees to the floor. A cloture motion was voted upon on September 21, 1999, and it failed—by falling short of 60 votes—by a vote of 55 to 44,

with all Democrats except Senator Moynihan opposing cloture. But once again, the Democrats' objection was not to Judge Stewart himself, who has since proven to be an excellent judge on the bench, and on October 5, 1999, the Senate confirmed him by a vote of 93 to 5. So it clearly was not a serious filibuster, even though the Democrats used that for various reasons, none of which related to Judge Stewart.

For all the hand wringing about the ''treatment'' of President Clinton's nominees, one thing is clear: Every nomination taken up for debate on the floor received an up-or-down vote.

Even when Democrats attempted to filibuster Republican Presidents' judicial nominees, those efforts were still unsuccessful, as a substantial majority of Senators resisted using the partisan filibuster as a means to block judicial nominations.

When President Bush nominated Edward Carnes to be a judge on the U.S. Court of Appeals for the Eleventh Circuit, in 1992, many Democrats opposed the nomination on the merits, in particular because of his past prosecution of death penalty cases.

Aware of this opposition, the Senate agreed by unanimous consent to 2 days of debate, with a cloture vote to follow. The debate proceeded, and the cloture motion carried by a vote of 66 to 30, with 24 Democrats joining 42 Republicans to close the debate. The Senate proceeded immediately to confirm Judge Carnes by a vote of 62 to 36.

I hope my friends on the other side will realize that they have raised a big fuss here. They certainly got their points across—whatever those points are—whether valid or invalid. It is time to vote on the nomination.

A similarly close cloture vote occurred in March 1986 when the Senate considered President Reagan's nomination of Sidney Fitzwater to be a Federal district court judge in Texas. Many Democrats opposed Judge Fitzwater on the merits and after a few days' debate, Majority Leader Dole filed a cloture motion which, by unanimous consent, was to be voted on the next day the Senate was in session. That cloture motion prevailed, 64–33, with the support of 12 Democrats. The Senate proceeded immediately to confirm Judge Fitzwater by a vote of 52–42.

The only other judicial nominee of President Reagan's to face a cloture vote was J. Harvie Wilkinson to the U.S. Court of Appeals for the Fourth Circuit. Many Democrats opposed the nominee and filibustered the nomination. An initial cloture motion failed on July 31, 1984, 57–39, because some Senators argued that additional information had arisen since Judge Wilkinson's original Judiciary Committee hearings and that further investigation was necessary. Judge Wilkinson returned to the Judiciary Committee on August 7, his nomination was returned to the floor of the Senate, and a second cloture motion prevailed on August 9 by a vote of 65–32. The Senate then proceeded immediately to confirm Judge Wilkinson by a vote of 58–39.

It is apparent that Democrats historically have been more willing than Republicans to vote against cloture motions and to attempt to prevent votes on Republican judicial nominees. In other words, they have been more than willing on occasion to filibuster Republican nominees. Apparently not in true filibusters, however. However, it is important to note that even in the cases above, many Democrats found the filibuster process inappropriate in the judicial nominee context and insisted upon full Senate votes.

Senators, Led by Republican Gordon Humphrey and Democrat Robert Morgan of North Carolina, Filibustered the nomination of Justice Stephen Breyer to be a judge on the U.S. Court of Appeals for the First Circuit in late 1980. Their objection was not to Mr. Breyer's qualifications—indeed, this is the same Stephen Breyer currently serving as a Supreme Court Justice—but to the process by which he was nominated and reported to the full Senate. The Senators argued that the Judiciary Committee had improperly reported out Mr. Breyer's nomination without proper committee approval and without regard to many other earlier-nominated persons waiting for hearings. After forcing the Judiciary Committee to reconvene and approve the nominee through proper procedures, the Senate invoked cloture, 68–28, and confirmed Mr. Breyer, 80–10.

So it clearly was not a filibuster, a real filibuster.

This history demonstrates that while some nominees have been filibustered and cloture petitions filed in those and other situations, the only nominee ever to have been defeated or withdrawn after a filibuster was Abe Fortas in 1968. Even key Democrats who opposed Republican nominees voted for cloture. So, if a partisan filibuster of Miguel Estrada resulted in his nomination being defeated, it would be unprecedented.

A partisan attempt to block Mr. Estrada's nomination by filibuster would contradict the repeated and emphatic statements of Democrats who have served for a long time in positions of special responsibility in these matters. I am calling on those Democrats to continue to be responsible, not irresponsible. To vote against cloture in this case I think would be irresponsible because they know how serious this is. Consider the past comments by Senators regarding judicial and executive nominees:

Senator LEAHY, past Judiciary Chairman and current Ranking Member said:

> 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 was on June 18, 1998, right in the CONGRESSIONAL RECORD.

The distinguished Senator from Vermont again:

> I have said on the floor, although we are different parties, I have agreed with Gov. George Bush, who has said that in the Senate a nominee ought to get a [floor] vote, up or down, within 60 days.

That was on October 11, 2000.

The distinguished minority leader, Senator DASCHLE, had this to say:

> As Chief Justice Rehnquist has recognized: ''The 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 ask for [Clinton judicial nominees] Berzon and Paez.

That was on October 5, 1999.

The distinguished Senator from Delaware, a past Judiciary Committee Chairman said:

> 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 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 a vote. . . .

That was on March 19, 1997.

The distinguished Senator from Massachusetts, also a past Judiciary Committee Chairman:

> The Chief Justice of the United States Supreme Court said: ''The 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.'' Which is exactly what I would like.

That was on March 7, 2000.

Again, Senator KENNEDY, the distinguished Senator from Massachusetts said on February 3, 1998:

> We owe it to Americans across the country to give these nominees a vote. If our Republican colleagues don't like them, vote against them. But give them a vote.

That is exactly what I would like.

The Senator from California, Ms. FEINSTEIN, a distinguished member of our Judiciary Committee on September 16, 1999, said:

> A nominee is entitled to a vote. Vote them up; vote them down.

There are others but I will leave it at that. Absent from any of the current debate over Miguel Estrada is any explanation as to why he should be denied the floor vote that every one of President Clinton's judicial nominees who reached the floor received.

The rejection of Abe Fortas to serve as chief Justice of the United States marked the first and only time the Senate has rejected a President's judicial nominee by way of a filibuster. Yet, Miguel Estrada presents none of the concerns that caused a bipartisan coalition of Senators to block Justice Fortas's elevation to Chief Justice. Mr. Estrada is an outstanding nominee, fully qualified for this judgeship, who

has committed to enforce the Constitution as interpreted by the Supreme Court, not to interpose his personal political views into his jurisprudence. The American Bar Association unanimously gave him its highest rating of ''well-qualified''; and Democrats such as President Clinton's Solicitor General, Seth Waxman, and Vice President Gore's attorney, Ron Klain, have praised his intellect, judgment, and integrity.

But the stakes here are much greater than the fate of a single judicial nominee. At issue is whether the Senate should reinterpret its constitutional advise and consent obligation to require 60 rather than 51 votes to confirm a judicial nominee. This is a position that the Senate has never taken in the context of lower court nominees, and Republicans especially have eschewed. To adopt this new standard would fundamentally alter the balance of power between the Executive and the Senate in the judicial confirmation process and would seriously erode the comity that generally has existed between the two branches in the past.

For the life of me, I don't understand why my colleagues on the other side are delaying this explosive issue like they are. They are just asking for it. I think our side is far more capable of conducting filibusters than they are. I think the past proves it. And we have won on them. I think they are totally capable of conducting this filibuster if they ignore all the precedents, if they ignore all the history, if they ignore the Constitution, and the unconstitutionality of what they are doing, they ignore the future and what is going to happen when Democrat nominees become President. I think they are making a tremendous mistake to even go this far. I call upon my colleagues, at least I call upon the reasonable people on the other side, I call upon the people who have good faith in the Senate, who believe in the process, who really want to have a fair deal in judicial nominations, who really don't want to have this whole system break down, although it has been called broken by no less than a former Solicitor General, Walter Dellinger, one of the four who basically have said Miguel Estrada is a good man, and who basically has said these documents should never be given to the legislative branch because they are privileged executive documents—Democrats said that. I think it is very important my colleagues, the ones who are clear thinkers on the other side, the ones who really believe in this institution, the ones who really believe in the judicial nominations process, the ones who really can see the future and not just the instant, that they stop this filibuster and give an up-or-down vote, voting whichever way they want, on Miguel Estrada.

Mr. President, I ask unanimous consent that the distinguished Senator from North Dakota, Mr. DORGAN, be permitted to speak, and then immediately following Senator DORGAN, Senator SPECTER from Pennsylvania be recognized to speak.

The PRESIDING OFFICER (Mr. GRAHAM of South Carolina). Is there objection?

Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I hope I perhaps am one of those clear thinkers and ''reasonable'' people the Senator from Utah was referring to. I suspect there are a good many in this Chamber who are self-proclaimed clear thinkers and reasonable people.

I am not out here as a member of the Judiciary Committee. I do not spend a lot of time on judicial issues, on a point of nomination. And on judicial nominations, I want to work with President Bush.

We have had two Republican nominees for judges in the east and west districts of North Dakota in the last year and a half. I have been pleased to work with President Bush on their nominations. We now have investiture of a Republican judge in the western district of North Dakota, someone I supported—a Republican but someone I strongly supported. He will be a fine Federal judge. I know I am going to be proud of him.

There is a nominee before the Judiciary Committee for the east district in Fargo. I likewise have strong support for that nominee of President Bush. I think he will be a fine Federal judge. He is a Republican. But the fact is he will, I think, make us proud of the Federal bench. I am very pleased to say that the President chose well. He consulted with us. And I was very supportive of the two judges who will now assume the bench in the Federal districts of North Dakota.

So I am not someone who comes to this saying I am a Democrat with respect to this process and the process should be political. That is not the way I come to this.

But I do believe this Congress has a responsibility to advise and consent, and it is not a responsibility to have a huge rubberstamp, where the President sends us a nomination and we say, yes, sir; yes, sir, count us in. That is not the responsibility of advise and consent.

The constitutional responsibility for Congress is equal to the President's. He proposes and we make a judgment on his proposal. He sends us a nomination. We make a judgment.

Now this is not some ordinary decision on the floor of the Senate. This is a lifetime appointment. When we decide to confirm a nominee sent to us by the White House, this is not for 2 years or 5 years or 15 years or 25 years; it is for a lifetime. And we ought to take that seriously. I know most Members of the Senate do. So if we are going to be passing judgment on a nominee who is going to be there for a lifetime, let's know a little about the nominee.

I was proud to support Dan Hovland, who is now the confirmed Federal judge in the west district of North Dakota. President Bush nominated him, and I was proud to support him. But unlike Miguel Estrada, Mr. Hovland cooperated with the Judiciary Committee. He was asked during his confirmation process, ''Can you list three Supreme Court cases that you disagree with?'' And unlike Mr. Estrada, Mr. Hovland had no difficulty answering that simple question.

Why would one ask a nominee that question? To get a sense of how they think and reason. Mr. Hovland didn't object to that. Judge Hovland readily identified a couple of recent cases—Thompson v. Western States Medical Center, Behrens v. Peltier. He cited a case that most would cite, Korematsu v. the United States, the case in which the Supreme Court affirmed the conviction of a person of Japanese ancestry for the violation of a curfew order solely because of the individual's ancestry. So Mr. Hovelnd was asked a simple question and was happy to give us a glimpse of how he was thinking about things, and how he viewed some of these decisions. He didn't object to answering that question. He was asked a simple question, and he gave a straightforward answer that was helpful to my colleagues and me.

Other nominees have been asked the same kinds of questions. Mr. Estrada, however, has not been willing to answer those questions. He apparently thinks there is some inherent right to be confirmed by the Senate.

There is no inherent right for a confirmation. We have a responsibility to understand who these nominees are and then to pass judgment on them as to whether or not we think they deserve a lifetime appointment to the bench. As I have indicated, on at least two Federal judgeships in North Dakota, I was proud to support Republicans. I think President Bush chose well.

I don't have the information about Mr. Estrada with which to make that judgment. Some say, well, look, you don't need the information, you don't deserve the information, and we don't want you to get the information. So belly up here and vote. If you don't like it, it doesn't matter, just vote.

Really, how would you vote if you don't have basic information? We have sent Mr. Estrada a letter saying you have not answered basic questions; you have not allowed to have released the basic information. Provide all of that and let's have a vote.

I am for that. For me, this isn't about a filibuster. It is about saying we ought to have nominees provide the basic information to Members of the Senate before there is a vote. Mr. Estrada has not done that. It is simple. He hasn't done that. Perhaps when he does it, he will get a big vote in the Senate. I don't know. But I think it is a terrible precedent for the Senate to allow a nominee to say, I am not going to answer your questions; I will show up and give you my name and tell you

where I went to school, but I don't intend to talk about much else at all.

Mr. Estrada has never been a judge. We don't have judicial record to examine. We don't have any information about that. That is the reason we have asked him the same kinds of questions we have asked others. The difference is he has not responded. I don't understand that.

Let me also say something else. I have listened to my colleague from Utah, and he is one of the more capable Members of the Senate. He talked about delay and how terrible it was to delay this, that, and the other thing. Let me tell you something. We understand what it feels like to be faced with delay on judicial nominations. We have been on the receiving end of it for a long time. Notwithstanding that fact, I don't believe we ought to delay anybody just for the sake of delay. I think we get the information and we move forward. If we don't get the information requested of a nominee, there is no inherent right for a nominee to go to a vote, to receive a lifetime appointment.

We know a little about facing delay. I find it interesting that those who were the architects of delay for so long now come to the floor—many of them—and say it is terrible what has happened here.

I will give you examples of what has happened. James Beatty was nominated by President Clinton to the Fourth Circuit, rated well qualified by the ABA. He had no hearing and no vote. Do you know how long his nomination languished up here? Three years. Do you suppose he knows a little something about delay?

Robert Cindrich, nominated to the Third Circuit, found well qualified by the ABA; he didn't get a hearing and certainly no vote. Not a hearing and not a vote. He would know something about delay, I guess.

H. Alston Johnson, nominated to the Fifth Circuit by the previous administration, was rated well qualified by the ABA. He never got a hearing or a vote. His nomination was up here 696 days. He never got a hearing, never got a vote.

The question is, Why? It was the previous administration that sent them up, and those who controlled the Judiciary Committee at that point didn't want to provide a hearing or a vote. I suppose that is a filibuster in its effect, isn't it?

James Duffy, a Ninth Circuit Court nominee, was up here for 640 days. Well qualified by the ABA, no hearing, no vote.

The list is fairly lengthy. I shall not go through it all. Kathleen Lewis, nominated by the Sixth Circuit, found well qualified by the ABA; no hearing, no vote.

These are just a few nominations that came from the President, the previous administration. Those on the other side who want to push Mr. Estrada through without our getting the information we have asked of him, those are the same Senators who blocked all of these other nominees. They didn't get to the floor or get a hearing, let alone a vote in the committee. Not even a hearing, for gosh sakes. So we understand a little about facing delay.

Some of these delays, as you know, stretched to 4 full years, with not even a hearing. I find it interesting that people here who talk about delay are those who took nominations from the previous administration and said: They are irrelevant as far as we are concerned. We don't even intend to hold a hearing.

Well, Mr. Estrada got a hearing. I think Mr. Estrada would get a vote on the floor of the Senate, as soon as he provided the information he has been requested to provide. The ranking member of the Judiciary Committee and the minority leader have sent a letter and said here is what he has not provided. It is a lifetime appointment. Provide the information and let us move forward. I think that is what we ought to do.

I am not part of a filibuster. I have only spoken one time previously on the floor about Mr. Estrada. It is not a filibuster, as far as I am concerned.

I just don't think the Senate ought to vote on a nominee for a lifetime appointment to the Federal bench—whether it is a circuit court or any court—if the nominee says: I am sorry, I don't intend to answer your questions.

Here is a question posed to Miguel Estrada: What are several Supreme Court rulings over a good many years with which you disagree, and why?

Is that a reasonable thing to ask somebody who aspires to serve on the Federal bench? I think so, and most other nominees have answered that question. The nominee I was proud to support for the western district judgeship in North Dakota didn't object to that. I thought he answered that question easily and with good judgment, which gave me some comfort about that nominee.

Mr. Estrada won't answer that question. I just don't think there is an inherent right—certainly there is no inherent requirement in the Constitution—that we move forward and cast a vote on a nominee that has not yet provided the information that has been requested of him.

This nomination should not yet be on the floor of the Senate. It ought to be in the Judiciary Committee, and the nominee ought to not have his name brought to the floor until he has satisfied the members of the Judiciary Committee with respect to the information they are requesting. The information they are requesting is not unusual, not extraordinary. It is information that has been requested of others and provided by others. And with respect to this lifetime appointment, my feeling is the country will be best served if we decide as a Senate not to treat lifetime appointments to the Federal bench in a trifling way.

It is a trifling way if we say to people, by the way, if your nomination comes before this Senate, you can just get by with saying: I don't intend to answer your questions. I don't have answers to your questions. We don't need to have that dialogue. You have a responsibility to vote because the President sent the nomination down to the Senate.

Well, as I have described, those who ran the Judiciary Committee during the last administration felt no such obligation. They created a special ''jail'' for nominees, and nominations went into that jail and the door was locked forever. A good many of them were very well-qualified men and women, and they didn't even get a hearing, let alone a vote. So I don't think we ought to be lectured by anybody about delays and about tactics that somehow injure a nominee.

Plenty of nominees have been derailed unjustifiably, in my judgment. It is not my intention in any way to derail the nomination of Mr. Estrada. It is my intention as one Member of the Senate to insist—yes, to demand—that a nominee who expects a Senate to consider his or her nomination provide the information requested by the Senate.

The minute this nominee complies with the request of the ranking member of the Judiciary Committee, the former chairman of the committee, for information that was requested on behalf of the members of the minority on the committee and on behalf of dozens of Members in the Senate, I think that nomination should be on the floor of the Senate, and we should have a vote. Until then, I do not think we ought to.

I have voted now for, I believe, well over 100 Federal judges submitted to this Senate by President Bush. I believe I have voted against only one. With respect to the two Republicans nominated in North Dakota, I have been a strong supporter. I have spoken in the committee and on the floor in support of their nominations.

I do not think anyone can take a look at me and say I am trying to obstruct anything. I am not. I think I am pretty clear-headed on these matters. But I do not feel an obligation to vote on anybody until we get the information requested of them, especially for a lifetime appointment. That is clear-headed. That is common sense. And the Senate will rue the day it decides it is all right for nominees to come to the Senate and simply say: I am going to stonewall; I do not provide information; I do not answer questions. That will not, and should not, be the rule of the day with respect to considering lifetime appointments.

HYDROGEN ECONOMY AND FUEL CELLS

Mr. President, one of the problems with having the Estrada nomination on the floor for a great length of time is that there are so many other matters we ought to be working on.

President Bush, in his State of the Union speech and his subsequent appearance a week later in Washington, DC, talked about the need to move to a hydrogen economy and fuel cells as a way of extending America's energy independence, making us less dependent on foreign energy. I support this idea, and I would much rather we all discuss that issue on the floor of the Senate, rather than being at parade rest on the Estrada nomination.

We import over one-half of the oil that we use—20 million barrels a day. Here are our top sources of imported oil: No. 1 is Saudi Arabia; Venezuela is No. 4; Iraq is No. 6. These and other of our top suppliers are beset by turmoil.

The fact is, it makes no sense for our economy to be this dependent on foreign sources of energy, and yet we will always be that dependent unless we do something about transportation. Let me describe why, using this chart.

In this country today, the transportation sector is the sector for the great majority of our imported oil. And as one can see, the total demand for oil is increasing. This line is moving steadily upward. As one can see, the transportation demand is what is driving it; that is, putting gasoline through our carburetors. And we have done that for a century. Nothing has changed. With the Model T Ford, they pulled up to a pump and pumped gas. With a 2003 Ford, you pull up to a pump and pump gas. Nothing has changed in almost a century.

If we do not do something about this demand, this line will continue to go up. We will dramatically increase our dependence on foreign oil, and our economy will be held hostage to things we cannot control.

As you can see from this press release that the White House issued, we import 55 percent of our oil, and that is expected to grow to 68 percent by 2025. Nearly all of our cars and trucks run on gasoline. Two-thirds of the 20 million barrels of oil we use each day is used for transportation, and one-third of it comes from a troubled part of the world. Does this make any sense to anybody?

What the President said—and I fully agree—is we ought to move to a hydrogen economy and fuel cells. He proposed a $1.2 billion program, though only $700 million of that is new money. I think that is too timid, not bold enough, but it is definitely a step in the right direction.

What is that right path? The right path, it seems to me, is to see if we can find a way to power America's transportation fleet in a different manner.

There is a new book written by Jeremy Rifkin called ''The Hydrogen Economy,'' that discusses the possibility of using hydrogen as a fuel, to radically transform our economy. The fact is, hydrogen is ubiquitous. Hydrogen is everywhere. It is in water. Electrolysis can separate hydrogen and oxygen from water, and you can use that hydrogen in a fuel cell to power an electric engine, an electric motor, power a vehicle.

When we use hydrogen fuel cells to power a vehicle, we put only water vapor out the tailpipe. What a wonderful thing.

Now the hydrogen has to be obtained using other energy sources, but we can use every source available to us. We can use fossil fuels, coal, natural gas, but also renewable sources, like wind and solar. By using hydrogen as a fuel, we make the most efficient use of every domestically available fuel source, and what comes out of the tailpipe of a fuel cell vehicle is water vapor. Boy, that makes a lot of sense. The quicker we get to that point, the better.

That does not mean abandoning oil, natural gas, and coal for some long while. But if digging and drilling is our only strategy with respect to our future energy supply, then our energy program is something I call yesterday forever, and it is not an energy program that makes this country secure, that does what we need to do to be reasonably independent with respect to energy sources.

When President Bush moves us in this direction, I say absolutely: I am with you; let's do this. I say let's be bolder than he suggests. Let's be less timid. Let's develop an Apollo-type project, a real project, a big project. With the Apollo project, we said we were going to put a man on the Moon at the end of a decade. Let's do an Apollo-type project where we agree that in the next 5, 10, 15 years we are going to convert America's vehicle fleet to hydrogen economy and fuel cells. We can do that. We cannot do that if we are timid, but we can set goals, and commit the necessary resources.

The goal we ought to set for this country is to have a period, whether it is 10, 15, or 20 years out, in which we have a large number of vehicles that are hydrogen vehicles and fuel cell vehicles.

I am going to introduce a piece of legislation that is a robust Apollo-type project, with $6.5 billion invested over 10 years, and with specific goals. I would like 2.5 million vehicles on the roads by the year 2020 that use fuel cells and hydrogen.

Last year when we wrote the energy bill in the Senate, we passed a provision that I authored, which said that we should have 2.5 million fuel-cell vehicles on the road in this country by the year 2020.

The fact is we already have some cars running on fuel cells. We had a demonstration car go from Los Angeles to New York. I have driven demonstration fuel-cell cars.

Mr. SCHUMER. Mr. President, will my colleague yield for a unanimous consent request?

Mr. DORGAN. Certainly, I will yield for a question.

Mr. SCHUMER. I understand, Mr. President, that there has already been a request that Senator SPECTER immediately follow Senator DORGAN. I haven't had a chance to speak in the last few days. I ask unanimous consent that I be allowed to follow Senator SPECTER when he finishes his remarks.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. SCHUMER. I thank the Chair.

I thank my colleague. I think what he is doing on these fuel-cell cars is great and the way to the future. I commend him for his bill.

Mr. DORGAN. Mr. President, I began talking about the Estrada nomination, about how we wish we could resolve that, and turn to other important issues.

I think this issue of fuel-cell vehicles and a hydrogen economy is something we will deal with in an energy bill. I visited with Senator DOMENICI, who is now chairman of the Energy Committee, and my colleague Senator BINGAMAN as well, the ranking member, about this issue.

Now, I want to show my colleagues that this fuel cell technology is not pie in the sky. Here is a fuel-cell vehicle—a Ford Focus production-ready prototype introduced in the autumn of 2002. And this is a fuel-cell vehicle at the hydrogen fueling station. PowerTech Laboratories created this infrastructure for fueling, which, of course, you have to have if you are going to have these kinds of vehicles.

This next chart shows a Nissan X-Terra fueled by compressed hydrogen and tested on public roads in California in the year 2001.

Finally, this is the General Motors Hy-Wire Fuel Concept Car unveiled in August 2002.

The fact is we can do this and should do this as a country, but it won't happen unless we make it happen. That is the point of my legislation.

The Director of Environmental Affairs at Daimler Chrysler has said that political support is vital for the car industry to make inroads in fuel cell technology. They can do a lot themselves, but at a certain point they need legislative and financial support to stimulate this important sector. For that, they need the Government. The European Union has already earmarked 2 billion euros for research over the next 5 years. The central focus will be hydrogen fuel cells.

This is a big idea. This is something our country needs to do. It is the equivalent of going to the Moon by the end of the decade, as John F. Kennedy proposed.

President Bush is right to propose an initiative in this area. I was pleased to support him. I was working with him a year ago. We had in the energy bill goals that I had set. I am convinced we will make much more progress this year.

At a recent hearing, I asked officials from the Department of Energy what kind of vision we have for the year 2025 or 2050 about the type of fuel we are

going to use in American vehicles. The answer was they didn't have a guess. I said: That is interesting. We project out 25 to 50 years and talk about what kind of financial circumstances will exist for Social Security or Medicare. But we have no such goals with respect to the energy? The answer was: No, we don't really have that kind of planning.

It is long past time to start that kind of planning. This country needs a big idea. The President has proposed an approach that I support. It is something I have worked on for the last couple of years. I think by working together—Republicans and Democrats—we can embrace a big idea and move in a very significant way to improve America's energy future to make our country less dependent—less dangerously dependent—on foreign sources of energy. That is my goal.

It is not my goal to turn my back on coal, oil, and natural gas. The fact is the leaders in this effort in this hydrogen economy and in the move to this hydrogen economy will be many of the utility companies and the energy companies of today.

They are the ones in the forefront—United Technologies, Shell, BP. I could go on and name at great length the companies that are involved in this right now at the front end. They are going to be the leaders.

I just think this is the right thing to do. It is important for our country to establish goals. If ever we needed to think about the fragile nature of this American economy, it is now. With the threat of terrorism, with the problems in the Middle East, and with the potential war against Iraq, we ought to be thinking: do we want to depend for over half of our oil from areas of the world that are troubled areas? If not, let us do something about it, and do it now, and let us do it together.

That is why I am introducing my bill, setting forth $6.5 billion over a 10-year period, so that we will establish and reach ambitious goals, in partnership with the private sector, and with the support, I hope, of the President of the United States. I think we can do this, and I think if we do it, it will be extraordinarily helpful to this country.

THE TRADE DEFICIT

Mr. President, one of the other issues I wanted to come to the floor and talk about is the issue of the trade deficit. I think this is a vitally important issue, and I wish my colleagues and I were debating this at length, rather than continuing to dwell on the Estrada matter.

On Thursday last, the Commerce Department announced that our trade deficit was at a record for the year 2002. Our country's deficit in goods last year was $470 billion. That means we sold $470 billion less to other countries than we purchased from other countries. What does all that mean?

This chart shows that our trade deficit has exploded since 1991, a little over a decade ago—and our merchandise trade deficit is now $470 billion. When the Washington Post reported that on the day it was announced, they finally said, it will put a significant damper on U.S. economic growth. Now, the Washington Post is not in the habit of sounding the alarm about the trade deficit. You cannot get them to print an op-ed on that subject. They have a rosy view of trade, and view everyone who raises these questions as some sort of isolationist xenophobes. But here is the Washington Post, in its report last week, saying that the record deficit will put a significant damper on economic growth. They noted that a combination of increasing imports and falling exports clipped a half of a percentage point off the increase in GDP last year.

The Post further reported that nearly one-fourth of the year's trade deficit was with China, which sold $103 billion more in goods to the United States than we were able to sell there. I will speak about China in a couple of moments, but China is by no means the only country with which we have a trade deficit.

This chart shows we have a trade deficit with nearly every country with whom we do business. One notable exception is Australia, but I think that is going to get remedied because our trade negotiators are now negotiating a free trade agreement with Australia, and our trade negotiators are able to lose almost immediately when they negotiate trade agreements.

Will Rogers once said the United States of America has never lost a war and has never won a conference. He surely must have been talking about our trade negotiators.

So every time we have a new trade agreement, it ends up hurting us and helping those with whom we reach the agreement. I guess we are fixing to do an agreement with Australia so perhaps our positive trade balance with Australia will be gone soon.

This chart, sourced from the Department of Commerce, shows that with virtually every major trading partner we have a very large trade deficit. Our deficit with Canada now is $50 billion; deficits with Mexico, $37 billion. Before our negotiators went to negotiate with Canada and Mexico and created this trade agreement, which I thought was a terrible agreement and sold out certain American interests in exchange for other benefits, we had a reasonably modest trade deficit with Canada and a small trade surplus with Mexico. We have managed to turn that into a huge deficit with Canada and a very large deficit with Mexico.

We have deficits with every major Asian country except Singapore. We have deficits with the major economies of Latin America.

Not only do we have deficits with virtually all of our major trading partners, we also have deficits in about every major sector of goods trade. A $110 billion deficit in vehicle trade—vehicles, mind you—a $47 billion deficit in consumer electronics; a $58 billion deficit in clothing, for example.

Some might say agriculture is a bright spot, isn't it, because we are a net exporter of agricultural goods? But even our modest surplus on agricultural products has now been reduced by 30 percent, just over the last year, from $14.2 billion to $10.9 billion in 2002. Our surplus in meats declined by $1 billion. Our deficit in livestock trade reached $1.5 billion. Our deficit in vegetables and fruits reached $2.5 billion.

I mentioned trade with China. We have a deficit with China of $103 billion.

One innocent sounding sector in which we have a trade deficit with China is toys. We have a trade deficit of $14 billion with China in the area of toys. Now, let me describe a news report that I read last year, about conditions in a Chinese toy factory.

The story is entitled ''Worked Till They Drop. Few Protections For China's New Laborers.''

On the night she died, Li Chunmei must have been exhausted. Co-workers said she had been on her feet for nearly 16 hours, running back and forth inside the toy factory, carrying toy parts from machine to machine.

This was the busy season before Christmas.

The factory food was so bad, she said, she felt as if she had not eaten at all. Long hours were mandatory, and at least 2 months had passed since Li and other workers had enjoyed even a Sunday off. ''I want to quit,'' one of her roommates remembered her saying. ''I want to go home.'' Her roommates had fallen asleep when Li started coughing up blood. They found her in the bathroom a few hours later, curled up on the floor, moaning softly in the dark, bleeding from her nose and mouth.

She died before she could arrive at a hospital. The exact cause of her death remains unknown, they say.

What happened to her last November is described by family and friends and coworkers as an example of what China's more daring newspapers have actually given a name. They call it ''guolaosi.'' The phrase means ''overwork death.'' They actually have a name for it in China. It usually applies to young workers who suddenly collapse and die after working exceedingly long hours day after day.

Think of it. Think of working 16-hour days with no day off, inadequate food, in unsafe factories, working children to death in a country where they do it often enough so there is actually a name for it.

Is this the sort of playing field that our manufacturers should be competing in? With children working long hours, for months on end, for virtually no money?

There is another reason, of course, for our trade deficit with China, and that is our markets are open to virtually all of their products, and their markets are not open to ours. The Washington Times ran an article documenting many of the trade barriers that China puts up to our products, particularly the agricultural products. It quotes the American Farm Bureau, which says the Chinese market is no

more open today than it was when China entered the WTO.

At the end of the WTO negotiations, China was a $2 billion market. We expected substantial growth, the Farm Bureau says, but we have not seen that growth because China has not done what it was supposed to do.

Trade barriers are as numerous as they are creative. Import regulations are nearly impossible to figure out. Health inspection standards have changed one month to the next, and it goes on and on.

The bottom line is our agricultural products are not getting into China. China is a country of 1.3 billion people, and they have a $103 billion trade surplus with us, or we a deficit with them. That story in the Washington Times tells us another reason why.

One does not have to travel as far as China to find closed markets for U.S. products. We have a $50 billion trade deficit with Canada. In 2002, for example, our deficit with Canada was $90 million in durum wheat, $160 million in spring wheat. It is pretty easy to calculate that. Do you want to know why? Because our exports to Canada in these areas in wheat are zero. You cannot get it in. I know that personally because I have been on a truck trying to get through the border into Canada with 200 bushels of durum wheat, watching all the Canadian durum ship south on the trip north, and we were stopped at the border.

On February 15 of last year, the USTR found that Canada was guilty of unfair trade, but they said: We will not impose tariff rate quotas. In the absence of tariff rate quotas, one recent study says, U.S. wheat producers lost $124 million in sales in the last crop year.

On April 19, I held a hearing in the Commerce subcommittee I then chaired and talked to agriculture negotiator Ambassador Allen Johnson and said: We need to take action now. I showed him an article in the Bismarck Tribune where the Canadian Wheat Board president was gloating saying USTR had not imposed tariff rate quotas on Canadian wheat. Therefore, they have won. Since the USTR's decision on February 15, last year, enough wheat has come in from Canada to fill 50,000 18-wheel trucks, and the Canadians have not changed their practices at all.

Are farmers upset about that? You are darn right they are. They do not think anybody stands up for them or speaks out for them, and they are sick and tired of it.

We also have a trade deficit with the European Union of $82 billion. One area that is a chronic problem is beef. They will not allow American beef into the European Union. They claim that our beef is made with dangerous growth hormones, even though there is no evidence that such beef is bad for people.

So they have decided that this is what livestock in America looks like: a two-headed cow. Therefore, $100 million in U.S. beef is banned from the EU each year.

Now, we go to the WTO and we get a ruling against the Europeans. What does that mean? Nothing. It does not mean a thing. So then our country takes action against the Europeans. Do you know what we do to the Europeans? We take action against European truffles, goose liver, and Roquefort cheese. Now, my God, that is enough to scare the devil out of any country. Truffles, goose liver, and Roquefort cheese.

Let's talk about Korea. The year 2001, the last year for which I have figures, Korea sent 618,000 automobiles into our country; we were able to get 2,800 cars into Korea. I repeat that because people think that cannot be right. Korea shipped us 618,000 automobiles made in Korea and we were able to get 2,800 U.S. vehicles into the Korean marketplace. Why? Because Korea does not want American vehicles in their marketplace. End of story. We have a $13 billion trade deficit with Korea. If you do not like to talk automobiles, let's talk about potato flakes, the ingredient they use for snack food, and on which they impose a 300-percent tariff.

The list goes on and on. I have not even talked about Japan. We have had a deficit with them forever. It has gone on and on and on. We had a deficit with them when the dollar was strong, when the dollar was weak, when we were growing, when we were in recession, it does not matter.

All of these countries have decided they will use the American marketplace for their benefit and keep American goods out of their marketplace for their benefit. The result is the American consumers pay the price. Some say it is good for consumers that we have all of this trade deficit because this means cheap foreign goods coming in. But our consumers are also people who work. And when you lose your job, which is the result of a trade deficit that is $470 billion, when you lose your job, your time as a consumer is just about over.

One can make a case, I suppose, that the Federal budget deficit is money we owe to ourselves. Some economists make that case. You cannot make that case with respect to the trade deficit. That is money we owe to others outside of this country and will be repaid, inevitably will be repaid, with a lower standard of living someday in this country.

Just once I want our trade negotiators and want this administration and future administrations to stand up for this country's interests. No, not to put a wall around this country. But I would like for this country to believe that its trade policies are in this country's best interests. And they have not been. NAFTA has not been. The United States-Canada FTA was not. The WTO is not.

Just look at the bilateral we did with China—do you know what our negotiators did with China 2 years ago? They sat down, always in secret, and then the door opened, and they trumpeted this new agreement. Do you know what they agreed to with the Chinese? After a phase-in period, we will agree that we will have a tariff on Chinese automobiles that come to the United States that is only one-tenth of the tariff we allow the Chinese to allow on U.S. vehicles that go to China. Our negotiators agreed that we would allow the Chinese to have ten times larger tariffs against U.S. automobiles going to China.

I don't know who agreed to that. I would love to get a name. But these are amorphous groups of people who go over and meet in secret and they lose a trade agreement the minute they sit down with another country.

Harry Truman used to say, I want a one-armed economist because they always say on the one hand this, on the other hand that. I want one economist who supported all the trade agreements we have had to come forward and make a case that this has worked.

It is not working. It is hurting this country. No country will long remain a world power without a strong manufacturing sector. And our manufacturing sector is being sucked out of the middle of this country.

When they talked about NAFTA, with U.S. and Mexican trade, they said U.S.-Mexican trade will all be the product of low-skilled labor coming from Mexico to the United States. That is what we will get from Mexico. Not true. Not true at all. The three largest imports from Mexico, including the maquiladora area, are automobiles, automobile parts, and electronics, the product of high-skilled labor. You can see what is happening in this country as a result of these trade agreements.

Just once I would like to see somebody stand up for this country's producers and its interests. I know a lot of companies that you think of as American companies like these trade agreements. And the chambers of commerce and others that support them support these agreements. Why? Because they are really multinational, international companies. They think this is just fine. Take a jet, fly around the world, look down on the ground and see where you can produce for 14 cents, hire 14-year-olds and work them 14 hours a day. Where can you do that? And then ship the product back to Toledo, Bismarck, Los Angeles, or Denver? Where can you do that? It is about profit, not about strengthening our country. It is about international profit.

I care about this country's long-term economic interests. A $470 billion trade deficit, especially given the circumstances that exist with those with whom we have that deficit—Japan, Europe, Korea, China, Canada, Mexico—shame on us for deciding this is acceptable. It is not acceptable. In the long term it will hurt every child in this country who grows up and experiences a lower standard of living because we

did not have the guts to decide we would demand fair trade with other countries.

Fair trade means if we cannot compete, that is our fault. But fair trade insists that the rules be fair. And no American worker and no American company ought to have to compete against someone that wants to hire 14-year-olds and work them 14 hours a day.

You say it does not happen? I will give you names. Of course it happens. It happens all the time, all over the world. No American should have to compete against a company that decided to renounce its citizenship, moved its headquarters on paper to Bermuda to avoid paying U.S. corporate income tax, and then moved its production to yet a third country, somewhere where they can dump chemicals into the water and chemicals into the area and run a factory that is unsafe, where they hire kids. No American should have to compete against that. It is not fair competition, and at some point, in some way, some day, someone will say this is not in our interest.

It is in our interest to encourage expanded trade; that clearly is in our interest. On behalf of those who produce in this country and who work in production in this country, it is in our interest to demand fair trade rules. Globalization has galloped far ahead of the rules of trade and no one is willing to admit it or do anything about it. And it is injuring this country, inevitably injuring this country.

The question is, When will we have a real debate about it? You can put on a blindfold and listen. You can listen to Democratic Presidents and Republican Presidents and you will not hear a bit of difference on international trade. For 20 years, we have had the same mindless mantra about this trade. And when I finish this speech, some will say that I am a protectionist, a xenophobic isolationist protectionist, someone who just does not get it.

Well, I get it. What I get is I have seen the unfairness that is undermining American farmers, American manufacturers, American businesses, and it ought to stop. The only way it will stop is if we have someone, someplace, somewhere who has the guts to stand up and stop it.

We had a vote in this Chamber recently on something called fast track. They called it trade promotion authority, which is just a goofy way of putting some new clothing on a old, bad deal—fast track. I voted against it. I would not give it to President Clinton. I would not give it to President George H.W. Bush. I did not think either of them should have it.

President George W. Bush now has fast-track authority. What does that mean? That trade agreements are being negotiated in secret somewhere around the world, and when they are done negotiating, they will be brought back to this Chamber for a straight up-or-down vote. Fast track means that no one in this Chamber, under any circumstances, at any time, will ever be able to offer an amendment to strike out an offending provision, to strike out something we think inherently injures this country. Nobody will be able to offer the amendment. Why? Because we decided to handcuff ourselves. I have no idea why Members of the Senate think we ought to be doing that. And it is exactly what we have done.

So this, unfortunately, is not going to get better. It is going to get worse, unless enough of us decide in this country that American jobs are important, that yes, globalism is here, but the rules of globalism must keep pace, and we must insist and demand fair trade. We must demand that other countries open their markets in exchange for an admission to the American marketplace. All of these things are conditions that are inherent to the well-being and stability of this country's future.

I am obviously frustrated, from time to time, about trade issues because no one seems to care. There is a sense that there are only two sides: There are the expansionists and the protectionists. That is fundamentally wrong. There are people like me who believe in expanded trade, but believe, on behalf of the things we fought for for a century in this country, that such expanded trade needs to be done with fair rules.

We fought for a century, I would say, for people to have the right to go into a factory that is safe, to have a safe workplace. We fought for a long while about preventing people from dumping chemicals into streams and the air. People lost their lives demonstrating on the streets for the right to be able to collectively bargain.

And now we decide that did not matter much, just skip all that, and pole-vault over it all and move your plant, in fact, renounce your citizenship while you are at it, become a Bermuda paper company so you do not even pay your taxes.

Bermuda has a navy that has 26 people. Maybe the next time a U.S. company that decides to become a Bermuda paper company, and they are in trouble, and someone wants to expropriate their assets, maybe they ought to call on the Bermudan Navy. Maybe that is where they ought to get their protection.

I am going to come back and speak at some greater length on trade. This is such an important issue.

I represent a State that produces agricultural products, for which we must find a foreign home for a sizable portion of it. I am not anti-trade. I very strongly support expanded trade. But I am sick and tired of this country being taken advantage of. I am sick and tired of seeing wheat farmers being injured by bad agreements and by bad practices that you can't stop. And the same is true with the textile workers. And the same is true for those who manufacture aircraft. It just goes on and on. We have a responsibility to stop it.

We should be a world leader and say we support globalization and world trade, providing the rules are fair. The rules are not fair. We ought to say, we, by God, are going to change them. We have to be the leader that changes those rules to make sure we have a fair chance at a world trade regime that is beneficial not just to those with whom we trade, but beneficial to this country as well.

So I will continue this at a later time. I did tell my colleague that I would be finished at about this time. I thank him for his patience.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I have sought recognition to support the confirmation of Miguel Estrada to be a judge for the Court of Appeals for the District of Columbia Circuit.

We are seeing a Democratic filibuster, which essentially constitutes a revolution on the advice and consent process. It is unprecedented. What we are seeing is the culmination of 41 opposition Senators holding the judicial confirmation process hostage.

The advice and consent function has traditionally been structured where the President makes the nomination and, unless there is some reason to oppose, some objection, some basis for opposition, the confirmation follows.

In this situation there is no reason not to confirm Mr. Estrada. He has an extraordinary academic background. Phi Beta Kappa, magna cum laude from Columbia; magna cum laude from Harvard Law School. He was on the Harvard Law Review. He argued 15 cases before the Supreme Court of the United States. He is the member of a distinguished law practice. He has had service as an Assistant Solicitor General. This is a great American success story of a man coming from a very humble background and achieving real success, with real credentials for the court of appeals.

The opponents to Mr. Estrada have contended that he has not answered questions to their satisfaction in the Judiciary Committee hearing. I suggest that a fair reading of the record shows the contrary.

Nominees are not supposed to give their opinions or judgments on hypothetical cases or in matters which may come before the court. The judicial process works so that cases in controversy depend upon the specific facts. Then briefs are submitted to the court. Then there is oral argument before the court. Then the judges deliberate, talk among themselves, reflect on the case, ultimately come to a judgment, write an opinion, and express themselves as to their conclusions.

That is a very different matter from someone being asked: What is your judgment on issue A? What is your judgment on issue B? How would you find on issue C? The judicial process does not function that way.

Traditionally, nominees have been accorded an understanding that they do not have to answer such questions.

It is commonplace for questions to be asked. And I refer now to the confirmation hearings of Merrick Garland, where I asked now-Judge Garland:

Do you favor, as a personal matter, capital punishment?

Mr. Garland:

That is really a matter of settled law now. The Court has held that capital punishment is constitutional, and lower courts are required to follow that rule.

There was an extended discussion which followed, but the upshot of the matter was that Mr. Garland—now Judge Garland—did not give his views. And I accepted that. He said that it was a matter of established law, and as a lower court judge he would be obliged to follow the law.

There was a very controversial nominee, now Judge Marsha Berzon. She was asked about her view on Roe v. Wade and her thoughts about the abortion issue. And Marsha Berzon responded:

I'm bound by Casey in that regard.

That is referring to the case of Casey v. Planned Parenthood. And Marsha Berzon was a nominee by President Clinton, as was Judge Garland a nominee by President Clinton.

When the shoe was on the other foot, these nominees did not give answers to these questions, but responded in the traditional way. And they were confirmed.

Judge Rogers was questioned by Senator Cohen and asked about constitutional interpretation, where Senator Bill Cohen said:

This is an evolutionary interpretation of what was originally defined at least in the Constitution. Would you agree with that general statement?

Judge Rogers responded, ''My job as an appellate judge is to apply precedent.''

And so it goes with the tradition being established that nominees do not answer specific questions.

Mr. Estrada has agreed to make himself available to talk to any Senator who wishes to talk to him and to respond to inquiries and to have a discussion as to his judicial qualifications and answer questions consistent with appropriate practice. I think that is sufficient, certainly in the context where Mr. Estrada has already had his hearing by the Judiciary Committee and has been reported out.

There has been an effort to obtain the legal papers of Miguel Estrada when he worked as an Assistant Solicitor General. I say with all due respect that that kind of contention is a red herring. Seven former Solicitors General wrote to the then chairman of the Judiciary Committee, Senator LEAHY, outlining this issue in a succinct way. Reading the letter would express it as briefly as it can be expressed. Solicitors General Seth Waxman, a Democrat, Walter Dellinger, a Democrat, Drew Days, a Democrat, Kenneth Starr, a Republican, Charles Fried, a Republican, Robert H. Bork, a Republican, Archibald Cox, a Democrat—a four to three balance for Democrats—wrote as follows:

We write to express our concern about your recent request that the Department of Justice turn over ''appeal recommendations, certiorari recommendations and amicus recommendations'' that Miguel Estrada worked on while in the Office of Solicitor General. As former heads of the Office of Solicitor General, we can attest to the vital importance of candor and confidentiality in the Solicitor General's decision-making process. The Solicitor General is charged with weighing responsibility, of deciding whether to appeal adverse decisions in cases where the United States is a party, whether to seek Supreme Court review of adverse appellate decisions, and whether to participate as amicus curiae and other high-profile cases that implicate an important Federal interest. The Solicitor General has the responsibility of representing the interests not just of the Justice Department nor just of the executive branch but of the entire Federal Government, including Congress. It goes without saying that when we make these and other critical decisions we rely on frank, honest, and thorough advice from our staff attorneys, such as Mr. Estrada. Our decision-making process requires the unbridled, open exchange of ideas, and exchange simply cannot take place if attorneys have reason to fear that their private recommendations are not private at all but vulnerable to public disclosures. Attorneys inevitably will hesitate before giving their honest, independent analysis if their opinions are not safeguarded from future disclosures. High-level decision-making requires candor, and candor in turn requires confidentiality. 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 U.S. litigation interests, a cost that would also 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 is signed by four former Democratic Solicitors General for Democratic Presidents who were Democrats, and three former Solicitors General who served in that capacity for Republican Presidents.

What is really happening here is that the advise and consent function is being turned into an advise and dissent function. Beyond the qualifications of Mr. Estrada to be on the Court of Appeals for the District of Columbia Circuit, this is obviously a preliminary battle for the next nominee to the Supreme Court of the United States.

I emphasize the issue of the unprecedented nature of this challenge and this procedure where 41 Senators can hold the confirmation process hostage. In order to cut off debate—to get what we call cloture—60 votes are required. So as long as 41 Senators of the opposition party vote against cloture, the nomination process cannot go forward and there cannot be an up-or-down vote on a nominee.

It has been said many times that if the opponents of Mr. Estrada seek to vote him down, let them do so. But it is plain that there are more than 51 Senators who are ready to vote to confirm Miguel Estrada. It is reported that some 55 Senators are prepared to vote for cloture. If this process goes on long enough, I think it is true that 60 votes would be obtained, cloture would be invoked, debate would be cut off, and there would be a vote on Miguel Estrada and he would be confirmed.

But this lengthy process comes at the expense of very important other business of the Senate. The minority leader appeared in the Chamber earlier this week and asked to proceed to a discussion of the economy, which is a very important subject. That was obviously a tactic to make a point of trying to get off of Estrada and going to something else. But we should conclude Estrada not by way of removing the nomination from the floor but by way of voting on Miguel Estrada and then moving on to other very important items.

There are very important issues which this Senate has to consider—an economic stimulus package, the prospects of a war in Iraq, and the issue of terrorism, which I am going to speak about in a few minutes. But right now, there is a stranglehold on the Senate with both sides having dug in.

I will concede that when President Clinton was in the White House and we Republicans controlled the Senate that we did not give due deference to Presidential nominees. The record is also plain that I was willing to and did support Democratic nominees who were qualified. Other Republicans did as well. When we had a majority in the Judiciary Committee, we voted out nominees who were Democrats.

It is my hope that one day we will find a resolution to this issue by establishing a protocol where the practice is established that so many days after a nomination is submitted there is a hearing in the Judiciary Committee; some days later, there is a vote by the committee; so many days after that, there is a floor debate and a vote by the Senate could be extended.

On the most controversial nomination we have had during my tenure, the nomination of Justice Clarence Thomas, which was decided on the 52-to-48 vote with a lot of acrimonious debate remembered well in this Chamber although it was back in October of 1991, the opposition party did not resort to a filibuster. In 1991, the Senate was controlled by the Democrats. They had a majority of the Senators. Justice Thomas was confirmed 52 to 48 in a very hotly contested, very partisan, very controversial nomination.

Now to move to Miguel Estrada to be on the lower court, the District of Columbia Circuit Court, and with a matter of his qualifications, is sending the confirmation process into turmoil from which it may never recover, or if it does recover it is going to be a very long time. The fallout on this issue goes beyond the nomination process but to the essence of collegiality and the workings of the Senate, which is very much to the detriment of this

body and very much to the detriment of the American people whom we are supposed to serve.

It is my hope that we yet might be able to come to some accommodation—not on Miguel Estrada but on the broader issues where we can have a protocol and establish a procedure that is not partisan, not political.

We ought to take the judicial nominating process out of politics so that when you have a Republican President and a Senate controlled by the Democrats, or a President who is a Democrat with a Senate controlled by the Republicans, we do not get into a logjam. And now we have a President who is a Republican and a Senate controlled by the Republicans, but as long as there are 41 who will stand up and oppose and filibuster, then the entire process breaks down.

TERRORISM

Mr. President, I intend to talk on another subject. I have gotten the acquiescence of the chairman of the committee, Senator HATCH. This is not about the Estrada nomination that we are generally talking about, although Senators have talked about other subjects. The subject I am now going to discuss is a matter of great national importance. It relates to a report that was issued yesterday by Senator LEAHY, Senator GRASSLEY, and myself. It is in reference to the issue of terrorism.

The Judiciary Committee is scheduled to have a hearing next Tuesday, and there are matters that require discussion so that we are in a position to get responses from the Director of the FBI and move ahead with the Judiciary Committee hearings scheduled, as I said, for next Tuesday.

Yesterday, as a matter of senatorial oversight, Senator LEAHY, Senator GRASSLEY, and I released a 37-page report that deals with the issue of the FBI's activities under the Foreign Intelligence Surveillance Act (''FISA'') and the ability of the Federal Bureau of Investigation and the Department of Justice to handle counterterrorism. The report can be found on my office's internet website at specter.senate.gov.

It is my view that there is a critical issue of the FBI's competence to handle terrorism, in light of the clear-cut failures of the FBI prior to 9/11, and the FBI's failure to answer important questions about what the FBI has done to correct the current failures.

The report we released yesterday refers to the FBI's handling of the famous Phoenix memorandum, where there was a suspicious person who was taking flight training in the Phoenix area, and he had a big picture of Osama bin Laden on his wall. A detailed FBI report was submitted to Washington and was lost in the shuffle at FBI headquarters.

At pages 31–32 of the report that we filed yesterday, there is a reference to the Phoenix memo. Had it been forwarded to the right personnel and understood at FBI headquarters, the Foreign Intelligence Surveillance Act request in the Moussaoui case from the Justice Department's Office of Intelligence Policy and Review would have been handled in a different manner. With that Phoenix report, coupled with the information from Zacarias Moussaoui's computer, and coupled with other information, 9/11 might well have been prevented.

There was information in the hands of the Central Intelligence Agency about individuals in Kuala Lampur, Malaysia, who later turned out to be among the hijackers on 9/11—information that was not turned over to the Immigration and Naturalization Service. Had it been turned over, those individuals would have been kept out of the United States and would not have been hijackers on 9/11.

There had been information as early as 1996 from a Pakistani named Abdul Hakim Murad, an al-Qaida member, who had plans to fly an airplane into the White House or CIA headquarters.

Had the information on Zacarias Moussaoui been properly handled, it could have led to a FISA search authorization for Moussaoui's computer and the information contained on that computer, and might well have prevented 9/11.

The Zacarias Moussaoui case received national prominence when a conscientious FBI agent named Coleen Rowley wrote a 13-page, single-spaced letter to the FBI Director, which the Judiciary Committee ultimately saw and was the subject of a very important Judiciary Committee hearing last June 6. FBI Agent Rowley was honored on the cover of Time Magazine as one of the persons of the year—three so-called whistleblowers, which is a categorization that doesn't sound too complimentary on its face, but it is very important when somebody knows what is going on within the Government that is wrong and has the courage to stand up and expose it and subject himself or herself to retaliation.

But in the course of what Agent Rowley wrote to FBI Director Mueller, it was apparent the FBI was applying the wrong standard for a warrant under the Foreign Intelligence Surveillance Act.

The letter from Agent Rowley pointed out that they were being held to a standard of preponderance of the evidence—meaning more likely or more probable than not—meaning 51 percent or more. In the course of that hearing, I raised with Director Mueller and with Agent Rowley the case of Illinois v. Gates, 462 U.S. 213, 1983, which appears at pages 23–24 of the report that Senators LEAHY, GRASSLEY, and I released yesterday, which defined probable cause as ''circumstances which warrant suspicion'' under the ''totality of the circumstances analysis.''

This case was decided in 1983 and it referred back to an opinion of Chief Justice Marshall in 1813. So this had been the law for a long time. But at the hearing, Agent Rowley testified that was not the standard that was used, and there is a real question which has yet to be answered as to whether FBI Director Mueller knew what the right standard was.

In light of the fact that a warrant was not obtained under the Foreign Intelligence Surveillance Act, Moussaoui, a key participant in the 9/11 planning, developed into a burgeoning, very major case in the United States in the intervening months. We then proceeded to have a closed-door session, where we brought in attorneys and personnel from the FBI who were in charge of handling warrants under the Foreign Intelligence Surveillance Act. This appears at page 27.

My questioning:

What is the legal standard for probable cause for a warrant?

FBI attorney:

A reasonable belief that the facts you are trying to prove are accurate.

Question by me:

Reason to believe?

Answer by the attorney:

Reasonable belief.

Question by me:

Reasonable belief?

Answer by the attorney:

More probable than not.

My question:

More probable than not?

Mr. President, that is not the standard. The standard is suspicion under the totality of the circumstances. Here is the key attorney who is supposed to pass on applications for warrants under the Foreign Intelligence Surveillance Act, and he doesn't know the standard.

My question was:

Are you familiar with Gates v. Illinois?

Answer:

No, sir.

He doesn't know the baseline case for deciding what the standard is for probable cause, and he is the man who is supposed to approve warrants under the Foreign Intelligence Surveillance Act so that we can find out what men like Zacarias Moussaoui are doing and protect the American people.

I was absolutely astounded at what I heard. I was astounded because the June 6 hearings, more than a month before we had this closed-door session on July 9, were widely publicized. They were on C–SPAN. Maybe nobody watches C–SPAN. Maybe nobody is watching C–SPAN now. Maybe nobody ever watches C–SPAN. But beyond being publicized on C–SPAN, there was extensive newspaper coverage about it. One would have expected that the agents who deal with the Foreign Intelligence Surveillance Act would be looking at a hearing which was squarely on their subject. Or one would also expect that the Director of the FBI, who was at the hearing, and found that key FBI personnel had applied the wrong standard in the Zacarias Moussaoui case—causing them not to apply for a search warrant—that the

FBI Director would take specific steps to see to it that the people in charge of handling those warrant applications would have known what was going on.

From June 6 to July 9 is 33 days. The world could turn in 33 days. People could be doing highly suspicious things, people could be planning terrorist attacks, and no action was taken by the Director of the FBI to see to it that the people who were charged with the responsibility of applying for these warrants did so.

The very next day, I wrote to the Director of the FBI:

> Dear Bob, In a hearing before the Judiciary Committee on June 6 . . . I called your attention to the standard on probable cause in the opinion of then-Associate Justice Rehnquist in Illinois v. Gates. . . .

I go through the business about suspicion and totality of the circumstances. My letter continues:

> In a closed door hearing yesterday, seven FBI personnel handling FISA warrant applications were questioned, including four attorneys.
>
> A fair summary of their testimony demonstrated that no one was familiar with Justice Rehnquist's definition from Gates and no one articulated an accurate standard for probable cause.
>
> I would have thought that the FBI personnel handling FISA applications would have noted this issue from the June 6th hearing; or, in the alternative, that you or other supervisory personnel would have called it to their attention.
>
> It is obvious that these applications, which are frequently made, are of the utmost importance to our national security and your personnel should not be applying such a high standard that precludes submission of FISA applications to the Foreign Intelligence Surveillance Court.
>
> I believe the Judiciary Committee will have more to say on this subject but I wanted to call this to your attention immediately so that you could personally take appropriate corrective action.

Days followed, weeks followed, and no response from Director Mueller.

Then on September 10, I again raised these issues with a representative of the Department of Justice who appeared before the Judiciary Committee. On September 12, I received an undated letter signed by the Assistant Director for the Office of Public and Congressional Affairs. It is very unusual to get undated letters. The representation has been made that the letter was sent on July 25, but it was received in my office on September 12.

Mr. President, I ask unanimous consent that my letter to Director Mueller dated July 10 and the undated response from John E. Collingwood be printed in the CONGRESSIONAL RECORD at the conclusion of my remarks.

Mr. SCHUMER. Reserving the right to object—and I am not going to object—I want to get a time line. My friend has important things to say. How much longer does my colleague from Pennsylvania—if he will yield for a question—expect to hold the floor?

Mr. SPECTER. I will not say regular order, but there is no basis for the inquiry, but I will respond. I expect to be about 15 minutes more.

Mr. SCHUMER. I thank my colleague. I am trying to work out our schedule. I have no objection, of course. I am very interested in what my colleague has to say.

The PRESIDING OFFICER (Mr. THOMAS). Without objection, it is so ordered.

(See exhibit 1.)

Mr. SPECTER. Mr. President, the FBI then put out a memorandum dated September 16. That was in response to my questioning the Department of Justice representative at the Judiciary Committee hearings on September 10. Again, Mr. President, I ask unanimous consent that this memorandum be printed in the CONGRESSIONAL RECORD following my statement.

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

(See exhibit 2.)

Mr. SPECTER. Mr. President, I will not read the memo or analyze it in detail, but I invite readers of the CONGRESSIONAL RECORD to do so. This is a virtually unintelligible memorandum, if agents are supposed to read this and know what to do about applications for warrants under the Foreign Intelligence Surveillance Act.

In paragraph 3, it talks about ''which deal with probabilities.'' It makes a reference to ''it requires more than unfounded suspicion,'' but it is not probabilities that involve the standards, it is suspicion. Obviously, not unfounded suspicion, but suspicion based on a totality of the circumstances.

At that stage, I again wrote to Director Mueller noting the questions which I had propounded to him and Special Agent Coleen Rowley on June 6 and the July 10 letter which I wrote to him which had still not been answered. This undated letter from John E. Collingwood provides no answer at all. I will not read it in detail, but it will be in the RECORD.

The closest the letter from John E. Collingwood, the Assistant Director for the Office of Public and Congressional Affairs, comes is:

> This guidance will also address the concerns raised in your letter in your meeting with FBI personnel on July 9, 2002. We anticipate approval of the guidance shortly and will immediately disseminate it to field offices for implementation.

That is as close as they come to an answer which, obviously, on its face is no answer at all.

So I again wrote Director Mueller on September 24, 2002. I referenced the July 10 letter, and I referenced the fact that on September 12, my office received an undated letter from Assistant Director Collingwood which was totally unresponsive. I referenced the September 16 FBI memo, and concluded by saying I would like an explanation from him as to why it took the FBI so long to disseminate information on the standard for probable cause under Illinois v. Gates for a Foreign Intelligence Surveillance Act warrant. As yet, I have not received an answer from FBI Director Mueller to that important question as to why it took so long.

Then I supplemented that letter on October 1, inquiring what were the specifics on the standard of probable cause used by the FBI for warrants under the Foreign Intelligence Surveillance Act from June 6, the date of our Judiciary Committee hearing, until September 16, when the memorandum went out. As yet, I have not gotten an answer to that letter.

I ask unanimous consent that both of those letters be printed at the conclusion of my remarks.

In the sequence of events, we next sent over to the FBI the report which we issued yesterday to give them an opportunity to review it and an opportunity to make comments. Finally, last Friday, February 21, 2003, we received another letter dated February 20 from the Department of Justice which referenced the outstanding questions—not sent to me, the person who had raised the questions, but sent to Senator HATCH, with a copy to me—and ending with the statement of what standard had been applied. The letter is signed by Acting Assistant Attorney General Jamie E. Brown:

> The standard they employed was consistent with ''Illinois v. Gates'' both before and after they received the memorandum.

That is patently false. The standard which had been employed before the memorandum was more probable than not, 51 percent, as testified by Special Agent Coleen Rowley, and it is undetermined as to what standard was used thereafter.

The issues under the Foreign Intelligence Surveillance Act have been raised in other oversight hearings relating to Wen Ho Lee, when the Department of Justice, on a matter handled by Attorney General Janet Reno personally, declined to request a warrant under the Foreign Intelligence Surveillance Act where there was ample probable cause, a matter which was reviewed in depth by the subcommittee which I chaired on Department of Justice oversight.

The Attorney General designated Assistant U.S. Attorney Randy Bellows to review the Wen Ho Lee case. Mister Bellows filed an extensive report on May 12, 2000, saying that Attorney General Reno was wrong and the subcommittee of the Judiciary Committee was correct that a warrant should have been issued.

Just in the last few weeks, an indictment has been returned, charging Mr. Sami Al-Arian for gathering funds for terrorist organizations since the early 1990s, an indictment based on extensive evidence collected pursuant to the Foreign Intelligence Surveillance Act, raising a real question as to the interpretation by the FBI and the Department of Justice of the Foreign Intelligence Surveillance Act, going back to Wen Ho Lee, going back to the 1990s, and surviving up until very recently, when they failed to utilize the provisions of the Foreign Intelligence Surveillance Act for criminal prosecutions.

Prior to the enactment of the PATRIOT Act in the fall of 2001, the standard for Foreign Intelligence Surveillance Act surveillance had been interpreted by the courts to be that the primary purpose for the surveillance had to be for intelligence gathering, but saying ''primary purpose'' left latitude for some law enforcement purpose.

Then the PATRIOT Act amended the Foreign Intelligence Surveillance Act standards to say ''significant purpose,'' broadening to some extent the issue of using Foreign Intelligence Surveillance Act warrants for law enforcement purposes. So in that substance, there is a persistent question as to the activities of the Department of Justice in implementing the Foreign Intelligence Surveillance Act, passed in 1978, at a time when gathering information and evidence against terrorists is of the utmost importance for the security of the American people.

In our oversight hearing which we conducted last July 9, and in subsequent hearings and correspondence, we asked the Department of Justice for an opinion written by the Foreign Intelligence Surveillance Court, which the Department of Justice declined to give us. We finally had to get it from the court itself. In that matter, the Foreign Intelligence Surveillance Court criticized the Department of Justice and the FBI for some 75 cases where, as the court put it, the applications for search warrants had contained substantial inaccuracies. Then there was an appeal taken, the first such appeal, where the Court of Appeals for the Foreign Intelligence Surveillance Act found that there was broader discretion for law enforcement, which was very important in the war against terrorism.

All of this is very complicated, and I have gone to some length to put this into the RECORD.

I ask unanimous consent, on behalf of Senator LEAHY, Senator GRASSLEY, and myself, that the full text of the report issued yesterday be printed in the RECORD. As I noted earlier, the report can also be found on my office's website at specter.senate.gov.

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

INTERIM REPORT ON FBI OVERSIGHT: FISA IMPLEMENTATION FAILURES

I. EXECUTIVE SUMMARY AND CONCLUSIONS

Working in a bipartisan manner in the 107th Congress, the Senate Judiciary Committee conducted the first comprehensive oversight of the FBI in nearly two decades. That oversight was aimed not at tearing down the FBI but at identifying any problem areas as a necessary first step to finding constructive solutions and marshaling the attention and resources to implement improvements. The overarching goal of this oversight was to restore confidence in the FBI and make the FBI as strong and as great as it must be to fulfill this agency's multiple and critical missions of protecting the United States against crime, international terrorism, and foreign clandestine intelligence activity, within constitutional and statutory boundaries.

Shortly after the Committee initiated oversight hearings and had confirmed the new Director of the FBI, the Nation suffered the terrorist attacks of September 11, 2001, the most serious attacks on these shores since Pearl Harbor. While it is impossible to say what could have been done to stop these attacks from occurring, it is certainly possible in hindsight to say that the FBI, and therefore the Nation, would have benefitted from earlier close scrutiny by this Committee of the problems the agency faced, particularly as those problems affected the Foreign Intelligence Surveillance Act (''FISA'') process. Such oversight might have led to corrective actions, as that is an important purpose of oversight.

In the immediate aftermath of the attacks, the Congress and, in particular, the Senate Judiciary Committee responded to demands by the Department of Justice (DOJ) and the FBI for greater powers to meet the security challenges posed by international terrorism. We worked together to craft the USA PATRIOT Act to provide such powers. With those enhanced powers comes an increased potential for abuse and the necessity of enhanced congressional oversight.

Our oversight has been multi-faceted. We have held public hearings, conducted informal briefings, convened closed hearings on matters of a classified nature, and posed written questions in letters in connection with hearings to the DOJ and FBI. Although our oversight has focused primarily on the FBI, the Attorney General and the DOJ have ultimate responsibility for the performance of the FBI. Without both accountability and support on the part of the Attorney General and senior officials of the DOJ, the FBI cannot make necessary improvements or garner the resources to implement reforms.

At times, the DOJ and FBI have been cooperative in our oversight efforts. Unfortunately, however, at times the DOJ and FBI have either delayed answering or refused to answer fully legitimate oversight questions. Such reticence only further underscores the need for continued aggressive congressional oversight. Our constitutional system of checks and balances and our vital national security concerns demand no less. In the future, we urge the DOJ and FBI to embrace, rather than resist, the healthy scrutiny that legitimate congressional oversight brings.

One particular focus of our oversight efforts has been the Foreign Intelligence Surveillance Act (FISA). This report is focused on our FISA oversight for three reasons. First, the FISA is the law governing the exercise of the DOJ's and FBI's surveillance powers inside the United States to collect foreign intelligence information in the fight against terrorism and, as such, is vitally important to our national security. Second, the concerns revealed by our FISA oversight highlight the more systemic problems facing the FBI and the importance of close congressional oversight and scrutiny in helping to provide the resources and attention to correct such problems before they worsen. Third, members of this Committee led the effort to amend key provisions of the FISA in the USA PATRIOT Act, and the sunset or termination of those amendments in four years makes it imperative that the Committee carefully monitor how the FISA changes are being implemented.

This report is in no way intended to be a comprehensive study of what did, or did not, ''go wrong'' before the 9/11 attacks. That important work was commenced by the Joint Intelligence Committee in the 107th Congress and will be continued by the National Commission on Terrorist Attacks (the ''9/11 Commission'') established by an act of Congress at the end of the last session. The focus of this report is different than these other important inquiries. We have not attempted to analyze each and every piece of intelligence or the performance of each and every member of the Intelligence Community prior to the 9/11 attacks. Nor have we limited our inquiry to matters relating only to the 9/11 attacks. Rather, we have attempted, based upon an array of oversight activities related to the performance of the FBI over an extended period of time, to highlight broader and more systemic problems within the DOJ and FBI and to ascertain whether these systemic shortcomings played a role in the implementation of the FISA prior to the 9/11 attacks.

The FISA provides a statutory framework for electronic and other forms of surveillance in the context of foreign intelligence gathering. These types of investigations give rise to a tension between the government's legitimate national security interests, on the one hand, and, on the other hand, constitutional safeguards against unreasonable government searches and seizures and excessive government intrusion into the exercise of free speech, associational, and privacy rights. Congress, through legislation, has sought to strike a delicate balance between national security and constitutionally protected interests in this sensitive arena.

The oversight review this Committee has conducted during the 107th Congress has uncovered a number of problems in the FISA process: a misunderstanding of the rules governing the application procedure, varying interpretations of the law among key participants, and a break-down of communication among all those involved in the FISA application process. Most disturbing is the lack of accountability that has permeated the entire application procedure.

Our FISA oversight—especially oversight dealing with the time leading up to the 9/11 attacks—has reinforced the conclusion that the FBI must improve in the most basic aspects of its operations. Following is a list of our most important conclusions:

FBI Headquarters did not properly support the efforts of its field offices in foreign intelligence matters. The role of FBI Headquarters in national security investigations is to ''add value'' in two ways: by applying legal and practical expertise in the processing of FISA surveillance applications and by integrating relevant information from all available intelligence sources to evaluate the significance of particular information and to supplement information from the field. In short, Headquarters' role is to know the law and ''connect the dots'' from multiple sources both inside and outside the FBI. The FBI failed in this role before the 9/11 attacks. In fact, the bureaucratic hurdles erected by Headquarters (and DOJ) not only hindered investigations but contributed to inaccurate information being presented to the FISA Court, eroding the trust in the FBI of the special court that is key to the government's enforcement efforts in national security investigations.

Key FBI agents and officials were inadequately trained in important aspects of not only FISA, but also fundamental aspects of criminal law.

In the time leading up to the 9/11 attacks, the FBI and DOJ had not devoted sufficient resources to implementing the FISA, so that long delays both crippled enforcement efforts and demoralized line agents.

The secrecy of individual FISA cases is certainly necessary, but this secrecy has been extended to the most basic legal and procedural aspects of the FISA, which should not be secret. This unnecessary secrecy contributed to the deficiencies that have hamstrung the implementation of the FISA.

Much more information, including all unclassified opinions and operating rules of the FISA Court and Court of Review, should be made public and/or provided to the Congress.

The FBI's failure to analyze and disseminate properly the intelligence data in the agency's possession rendered useless important work of some of its best field agents. In short, the FBI did not know what it knew. While we are encouraged by the steps commenced by Director Mueller to address this problem, there is more work to be done.

The FBI's information technology was, and remains, inadequate to meet the challenges facing the FBI, and FBI personnel are not adequately trained to use the technology that they do possess. We appreciate that Director Mueller is trying to address this endemic problem, but past performance indicates that close congressional scrutiny is necessary to ensure that improvements continue to be made swiftly and effectively.

A deep-rooted culture of ignoring problems and discouraging employees from criticizing the FBI contributes to the FBI's repetition of its past mistakes in the foreign intelligence field. There has been little or no progress at the FBI in addressing this culture.

It is important to note that our oversight and conclusions in no way reflect on the fine and important work being done by the vast majority of line agents in the FBI. We want to commend the hard-working special agents and supervisory agents in the Phoenix and Minneapolis field offices for their dedication, professionalism, and initiative in serving the American people in the finest traditions of the FBI and law enforcement. Indeed, one of our most basic conclusions, both with respect to FISA and the FBI generally, is that institutional and management flaws prevent the FBI's field agents from operating to their full potential.

Although the DOJ and FBI have acknowledged shortcomings in some of these areas and begun efforts to reform, we cannot stress strongly enough the urgency of this situation. The pace of improvement and reform must quicken.

We are issuing this interim public report now so that this information is available to the American people and Members of Congress as we evaluate the implementation of the USA PATRIOT Act amendments to the FISA and additional pending legislation, including the FBI Reform Act. We also note that many of the same concerns set forth in this report have already led to legislative reforms. Included in these was the bipartisan proposal, first made in the Senate, to establish a cabinet level Department of Homeland Security, a proposal that is already a legislative reality. Our oversight also helped us to craft and pass, for the first time in 20 years, the 21st Century Department of Justice Appropriations Authorization Act, P.L. 107–296, designed to support important reforms at the Department of Justice and the FBI. In addition, concerns raised by this Committee about the need for training on basic legal concepts, such as probable cause, spurred the FBI to issue an electronic communication on September 16, 2002, from the FBI's Office of the General Counsel to all field offices explaining this critical legal standard.

Additionally, this report may assist the senior leadership of the DOJ and FBI, and other persons responsible for ensuring that FISA is used properly in defending against international terrorists.

II. OVERVIEW OF FBI OVERSIGHT IN THE 107TH CONGRESS

A. The Purposes of FBI Oversight: Enhancing Both Security and Liberty

Beginning in the summer of 2001 and continuing through the remainder of the 107th Congress, the Senate Judiciary Committee conducted intensive, bipartisan oversight of the FBI. The purpose of this comprehensive oversight effort was to reverse the trend of the prior decades, during which the FBI operated with only sporadic congressional oversight focused on its handling of specific incidents, such as the standoffs at Ruby Ridge, Idaho, or Waco, Texas, and the handling of the Peter Lee and Wen Ho Lee espionage cases. It was the view of both Democrats and Republicans on the Judiciary Committee that the FBI would benefit from a more hands-on approach and that congressional oversight would help identify problems within the FBI as a first step to ensuring that appropriate resources and attention were focused on constructive solutions. In short, the goal of this oversight was to ensure that the FBI would perform at its full potential. Strong and bipartisan oversight, while at times potentially embarrassing to any law enforcement agency, strengthens an agency in the long run. It helps inform the crafting of legislation to improve an agency's performance, and it casts light on both successes and problems in order to spur agencies to institute administrative reforms of their own accord. In short, the primary goal of FBI oversight is to help the FBI be as great and effective as it can be.

So, too, is oversight important in order to protect the basic liberties upon which our country is founded. Past oversight efforts, such as the Church Committee in the 1970s, have exposed abuses by law enforcement agencies such as the FBI. It is no coincidence that these abuses have come after extended periods when the public and the Congress did not diligently monitor the FBI's activities. Even when agencies such as the FBI operate with the best of intentions (such as protecting our nation from foreign threats such as Communism in the 1950s and 1960s and fighting terrorism now), if left unchecked, the immense power wielded by such government agencies can lead them astray. Public scrutiny and debate regarding the actions of government agencies as powerful as the DOJ and the FBI are critical to explaining actions to the citizens to whom these agencies are ultimately accountable. In this way, congressional oversight plays a critical role in our democracy.

The importance of the dual goals of congressional oversight—improving FBI performance and protecting liberty—have been driven home since the 9/11 attacks. Even prior to the terrorist attacks, the Judiciary Committee had begun oversight and held hearings that had exposed several longstanding problems at the FBI, such as the double standard in discipline between line agents and senior executive officials. The 9/11 attacks on our country have forever redefined the stakes riding upon the FBI's success in fulfilling its mission to fight terrorism. It is no luxury that the FBI perform at its peak level—it is now a necessity.

At the same time, the increased powers granted to the FBI and other law enforcement agencies after the 9/11 attacks, in the USA PATRIOT Act, which Members of this Committee helped to craft, and through the actions of the Attorney General and the President, have made it more important than ever that Congress fulfills its role in protecting the liberty of our nation. Everyone would agree that winning the war on terrorism would be a hollow victory indeed if it came only at the cost of the very liberties we are fighting to preserve. By carefully overseeing the DOJ's and FBI's use of its broad powers, Congress can help to ensure that the false choice between fundamental liberty and basic security is one that our government never takes upon itself to make. For these reasons, in the post-9/11 world, FBI oversight has been, and will continue to be, more important than ever.

B. Judiciary Committee FBI Oversight Activities in the 107th Congress

1. Full Committee FBI Oversight Hearings

Beginning in July 2001, after Senator Leahy became chairman, the Senate Judiciary Committee held hearings that focused on certain longstanding and systemic problems at the FBI. These included hearings concerning: (1) the FBI's antiquated computer systems and its belated upgrade program; (2) the FBI's ''circle the wagons'' mentality, wherein those who report flaws in the FBI are punished for their frankness; and (3) the FBI's flawed internal disciplinary procedures and ''double standard'' in discipline, in which line FBI agents can be seriously punished for the same misconduct that only earns senior FBI executives a slap on the wrist. Such flaws were exemplified by the disciplinary actions taken (and not taken) by the FBI and DOJ after the incidents at Waco, Texas, and Ruby Ridge, Idaho, and the apparent adverse career effects experienced by FBI agents participating in those investigations who answered the duty call to police their own.

The Committee's pre-9/11 FBI oversight efforts culminated with the confirmation hearings of the new FBI Director, Robert S. Mueller, III. Beginning on July 30, 2001, the Committee held two days of extensive hearings on Director Mueller's confirmation and closely questioned Director Mueller about the need to correct the information technology and other problems within the FBI. In conducting these hearings, Committee Members understood the critical role of the FBI Director in protecting our country from criminal, terrorist, and clandestine intelligence activities and recognized the many challenges facing the new Director.

Director Mueller was questioned very closely on the issue of congressional oversight, engaging in four rounds of questioning over two days. In response to one of Senator Specter's early questions, Director Mueller stated ''I understand, firmly believe in the right and the power of Congress to engage in its oversight function. It is not only a right, but it is a duty.''

In response to a later question, Director Mueller stated:

''I absolutely agree that Congress is entitled to oversight of the ongoing responsibilities of the FBI and the Department of Justice. You mentioned at the outset the problems that you have had over a period of getting documents in ongoing investigations. And as I stated before and I'll state again, I think it is incumbent upon the FBI and the Department of Justice to attempt to accommodate every request from Congress swiftly and, where it cannot accommodate or believes that there are confidential issues that have to be raised, to bring to your attention and articulate with some specificity, not just the fact that there's ongoing investigation, not just the fact that there is an ongoing or an upcoming trial, but with specificity why producing the documents would interfere with either that trial or for some other reason or we believed covered by some issue of confidentiality.''

Incoming Director Mueller, at that time, frankly acknowledged that there was room for improvement in these areas at the FBI and vowed to cooperate with efforts to conduct congressional oversight of the FBI in the future.

Director Mueller assumed his duties on September 4, 2001, just one week before the terrorist attacks. After the terrorist attacks, there was a brief break from FBI oversight, as the Members of the Judiciary Committee worked with the White House to craft

and pass the USA PATRIOT Act. In that new law, the Congress responded to the DOJ's and FBI's demands for increased powers but granted many of those powers only on a temporary basis, making them subject to termination at the end of 2005. The ''sunset'' of the increased FISA surveillance powers reflected the promise that the Congress would conduct vigilant oversight to evaluate the FBI's performance both before and after 9/11. Only in that way could Congress and the public be assured that the DOJ and FBI needed the increased powers in the first place, and were effectively and properly using these new powers to warrant extension of the sunset.

Passage of the USA PATRIOT Act did not solve the longstanding and acknowledged problems at the FBI. Rather, the 9/11 attacks created a new imperative to remedy systemic shortcomings at the FBI. Review of the FBI's pre-9/11 performance is not conducted to assess blame. The blame lies with the terrorists. Rather, such review is conducted to help the FBI prevent future attacks by not repeating the mistakes of the past. Thus, the enactment of the USA PATRIOT Act did not obviate the need to oversee the FBI; it augmented that need.

Within weeks of passage of the USA PATRIOT Act, the Senate Judiciary Committee held hearings with senior DOJ officials on implementation of the new law and other steps that were being taken by the Administration to combat terrorism. The Committee heard testimony on November 28, 2001, from Assistant Attorney General Michael Chertoff and, on December 6, 2001, from Attorney General Ashcroft. In response to written questions submitted in connection with the latter hearing, DOJ confirmed that shortly after the USA PATRIOT Act had been signed by the President on October 26, 2001, DOJ began to press the Congress for additional changes to relax FISA requirements, including expansion of the definition of ''foreign power'' to include individual, non-U.S. persons engaged in international terrorism. DOJ explained that this proposal was to address the threat posed by a single foreign terrorist without an obvious tie to another person, group, or state overseas. Yet, when asked to ''provide this Committee with information about specific cases that support your claim to need such broad new powers,'' DOJ was silent in its response and named no specific cases showing such a need, nor did it say that it could provide such specificity even in a classified setting. In short, DOJ sought more power but was either unwilling or unable to provide an example as to why.

Beginning in March 2002, the Committee convened another series of hearings monitoring the FBI's performance and its efforts to reform itself. On March 21, 2002, the Judiciary Committee held a hearing on the DOJ Inspector General's report on the belated production of documents in the Oklahoma City bombing case. That hearing highlighted longstanding problems in the FBI's information technology and training regarding the use of, and access to, records. It also highlighted the persistence of a ''head-in-the-sand'' approach to problems, where shortcomings are ignored rather than addressed and the reporting of problems is discouraged rather than encouraged.

On April 9, 2002, the Committee held a hearing on the Webster Commission's report regarding former FBI Agent and Russian spy Robert Hanssen's activities. That hearing exposed a deep-seated cultural bias against the importance of security at the FBI. One important finding brought to light at that hearing was the highly inappropriate handling of sensitive FISA materials in the time after the 9/11 attacks. In short, massive amounts of the most sensitive and highly classified materials in the FBI's possession were made available on an unrestricted basis to nearly all FBI employees. Even more disturbing, this action was taken without proper consultation with the FBI's own security officials.

On May 8, 2002, the Judiciary Committee held an oversight hearing at which FBI Director Mueller and Deputy Attorney General Thompson testified regarding their efforts to reshape the FBI and the DOJ to address the threat of terrorism. It was at this hearing that the so-called ''Phoenix Memorandum'' was publicly discussed for the first time. Director Mueller explained in response to one question:

''[T]he Phoenix electronic communication contains suggestions from the agent as to steps that should be taken, or he suggested taking to look at other flight schools . . . . He made a recommendation that we initiate a program to look at flight schools. That was received at Headquarters. It was not acted on by September 11. I should say in passing that even if we had followed those suggestions at that time, it would not, given what we know since September 11, have enabled us to prevent the attacks of September 11. But in the same breath I should say that what we learned from instances such as that is much about the weaknesses of our approach to counterterrorism prior to September 11.''

In addition, Director Mueller first discussed at this hearing that FBI agents in Minnesota had been frustrated by Headquarters officials in obtaining a FISA warrant in the Zacharias Moussaoui investigation before the 9/11 attacks, and that one agent seeking the warrant had said that he was worried that Moussaoui would hijack an airplane and fly it into the World Trade Center.

On June 6, 2002, the Committee held another hearing at which Director Mueller testified further regarding the restructuring underway at the FBI. Significantly, that hearing also provided the first public forum for FBI Chief Division Counsel Coleen Rowley of the Minneapolis Division to voice constructive criticism about the FBI. Her criticisms, the subject of a lengthy letter sent to Director Mueller on May 21, 2002, which was also sent to Members of Congress, echoed many of the issues raised in this Committee's oversight hearings. Special Agent Rowley testified about ''careerism'' at the FBI and a mentality at FBI Headquarters that led Headquarters agents to more often stand in the way of field agents than to support them. She cited the Moussaoui case as only the most high profile instance of such an attitude. Special Agent Rowley also described a FBI computer system that prevented agents from accessing their own records and conducting even the most basic types of searches. In short, Special Agent Rowley's testimony reemphasized the importance of addressing the FBI's longstanding problems, not hiding from them, in the post-9/11 era.

As the head of the Department of Justice as a whole, the Attorney General has ultimate responsibility for the performance of the FBI. On July 25, 2002, the Judiciary Committee held an oversight hearing at which Attorney General Ashcroft testified. The Committee and the Attorney General engaged in a dialogue regarding the performance of the DOJ on many areas of interest, including the fight against terrorism. Among other things discussed at this hearing were the Attorney General's plans to implement the Terrorism Information and Prevention System (TIPS), which would have enlisted private citizens to monitor ''suspicious'' activities of other Americans. After questioning on the subject, Attorney General Ashcroft testified that he would seek restrictions on whether and how information generated through TIPS would be retained. Later, as part of the Homeland Security legislation, TIPS was prohibited altogether.

On September 10, 2002, the Committee held an oversight hearing specifically focusing on issues related to the FISA. Leading experts from the DOJ, from academia, and from the civil liberties and national security legal communities participated in a rare public debate on the FISA. That hearing brought before the public an important discussion about the reaches of domestic surveillance using FISA and the meaning of the USA PATRIOT Act. In addition, through the efforts of the Judiciary Committee, the public learned that this same debate was already raging in private. The FISA Court (FISC) had rejected the DOJ's proposed procedure for implementing the USA PATRIOT Act, and the FISA Court of Review was hearing its first appeal in its 20-year-plus existence to address important issues regarding these USA PATRIOT Act amendments to the FISA. The Committee requested that the FISA Court of Review publicly release an unclassified version of the transcript of the oral argument and its opinion, which the Court agreed to do and furnished to the Committee. Thus, only through the bipartisan oversight work of the Judiciary Committee was the public first informed of the landmark legal opinion interpreting the FISA and the USA PATRIOT Act amendments overruling the FISC's position, accepting some of the DOJ's legal arguments, but rejecting others.

These are only the full Judiciary Committee hearings related to FBI oversight issues in the 107th Congress. The Judiciary Committee's subcommittees also convened numerous, bipartisan oversight hearings relating to the FBI's performance both before and after 9/11.

2. Other oversight activities: classified hearings, written requests, and informal briefings

The Judiciary Committee and its Members have fulfilled their oversight responsibilities through methods other than public hearings as well. Particularly with respect to FISA oversight, Members of the Judiciary Committee and its staff conducted a series of closed hearings and briefings, and made numerous written inquiries on the issues surrounding both the application for a FISA search warrant of accused international terrorist Zacharias Moussaoui's personal property before the 9/11 attacks and the post–9/11 implementation of the USA PATRIOT Act. As with all of our FBI oversight, these inquiries were intended to review the performance of the FBI and DOJ in order to improve that performance in the future.

The Judiciary Committee and its Members also exercised their oversight responsibilities over the DOJ and the FBI implementation of the FISA through written inquiries, written hearing questions, and other informal requests. These efforts included letters to the Attorney General and the FBI Director from Senator Leahy on November 1, 2001, and May 23, 2002, and from Senators Leahy, Specter, and Grassley on June 4, June 13, July 3, and July 31, 2002. In addition, these Members sent letters requesting information from the FISA Court and FISA Court of Review on July 16, July 31, and September 9, 2002. Such oversight efforts are important on a day-to-day basis because they are often the most efficient means of monitoring the activities of the FBI and DOJ.

3. DOJ and FBI non-responsiveness

Particularly with respect to our FISA oversight efforts, we are disappointed with the non-responsiveness of the DOJ and FBI. Although the FBI and the DOJ have sometimes cooperated with our oversight efforts, often, legitimate requests went unanswered

or the DOJ answers were delayed for so long or were so incomplete that they were of minimal use in the oversight efforts of this Committee. The difficulty in obtaining responses from DOJ prompted Senator Specter to ask the Attorney General directly, ''how do we communicate with you and are you really too busy to respond?''

Two clear examples of such reticence on the part of the DOJ and the FBI relate directly to our FISA oversight efforts. First, Chairman Sensenbrenner and Ranking Member Conyers of the House Judiciary Committee issued a set of 50 questions on June 13, 2002, in order to fulfill the House Judiciary Committee's oversight responsibilities to monitor the implementation of the USA PATRIOT Act, including its amendments to FISA. In connection with the July 25, 2002, oversight hearing with the Attorney General, Chairman Leahy posed the same questions to the Department on behalf of the Senate Judiciary Committee. Unfortunately, the Department refused to respond to the Judiciary Committee with answers to many of these legitimate questions. Indeed, it was only after Chairman Sensenbrenner publicly stated that he would subpoena the material that the Department provided any response at all to many of the questions posed, and to date some questions remain unanswered. Senator Leahy posed a total of 93 questions, including the 50 questions posed by the leadership of the House Judiciary Committee. While the DOJ responded to 56 of those questions in a series of letters on July 29, August 26, and December 23, 2002, thirty-seven questions remain unanswered. In addition, the DOJ attempted to respond to some of these requests by providing information not to the Judiciary Committees, which had made the request, but to the Intelligence Committees. Such attempts at forum shopping by the Executive Branch are not a productive means of facilitating legitimate oversight.

Second, the FBI and DOJ repeatedly refused to provide Members of the Judiciary Committee with a copy of the FISA Court's May 17, 2002, opinion rejecting the DOJ's proposed implementation of the USA PATRIOT Act's FISA amendments. This refusal was made despite the fact that the opinion, which was highly critical of aspects of the FBI's past performance on FISA warrants, was not classified and bore directly upon the meaning of provisions in the USA PATRIOT Act authored by Members of the Judiciary Committee. Indeed, the Committee eventually had to obtain the opinion not from the DOJ but directly from the FISA Court, and it was only through these efforts that the public was first made aware of the important appeal being pursued by the DOJ and the legal positions being taken by the Department on the FISA Amendments.

In both of these instances, and in others, the DOJ and FBI have made exercise of our oversight responsibilities difficult.

It is our sincere hope that the FBI and DOJ will reconsider their approach to congressional oversight in the future. The Congress and the American people deserve to know what their government is doing. Certainly, the Department should not expect Congress to be a ''rubber stamp'' on its requests for new or expanded powers if requests for information about how the Department has handled its existing powers have been either ignored or summarily paid lip service.

III. FISA OVERSIGHT: A CASE STUDY OF THE SYSTEMIC PROBLEMS PLAGUING THE FBI

A. Overview and Conclusions

The Judiciary Committee held a series of classified briefings for the purpose of reviewing the processing of FISA applications before the terrorist attacks on September 11, 2001. The Judiciary Committee sought to determine whether any problems at the FBI in the processing of FISA applications contributed to intelligence failures before September 11th; to evaluate the implementation of the changes to FISA enacted pursuant to the USA PATRIOT Act; and to determine whether additional legislation is necessary to improve this process and facilitate congressional oversight and public confidence in the FISA and the FBI.

We specifically sought to determine whether the systemic problems uncovered in our FBI oversight hearings commenced in the summer of 2001 contributed to any shortcomings that may have affected the FBI counterterrorism efforts prior to the 9/11 attacks. Not surprisingly, we conclude that they did. Indeed, in many ways the DOJ and FBI's shortcomings in implementing the FISA—including but not limited to the time period before the 9/11 attacks—present a compelling case for both comprehensive FBI reform and close congressional oversight and scrutiny of the justification for any further relaxation of FISA requirements. FISA applications are of the utmost importance to our national security. Our review suggests that the same fundamental problems within the FBI that have plagued the agency in other contexts also prevented both the FBI and DOJ from aggressively pursuing FISA applications in the period before the 9/11 attacks. Such problems caused the submission of key FISA applications to the FISA Court to have been significantly delayed or not made. More specifically, our concerns that the FBI and DOJ did not make effective use of FISA before making demands on the Congress for expanded FISA powers in the USA PATRIOT Act are bolstered by the following findings:

(1) The FBI and Justice Department were setting too high a standard to establish that there is ''probable cause'' that a person may be an ''agent of a foreign power'' and, therefore, may be subject to surveillance pursuant to FISA;

(2) FBI agents and key Headquarters officials were not sufficiently trained to understand the meanings of crucial legal terms and standards in the FISA process;

(3) Prior problems between the FBI and the FISA Court that resulted in the Court barring one FBI agent from appearing before it for allegedly filing inaccurate affidavits may have ''chilled'' the FBI and DOJ from aggressively seeking FISA warrants (although there is some contradictory information on this matter, we will seek to do additional oversight on this question);

(4) FBI Headquarters fostered a culture that stifled rather than supported aggressive and creative investigative initiatives from agents in the field; and

(5) The FBI's difficulties in properly analyzing and disseminating information in its possession caused it not to seek FISA warrants that it should have sought. These difficulties are due to:

(a) a lack of proper resources dedicated to intelligence analysis;

(b) a ''stove pipe'' mentality where crucial intelligence is pigeonholed into a particular unit and may not be shared with other units;

(c) High turnover of senior agents at FBI Headquarters within critical counterterrorism and foreign intelligence units;

(d) Outmoded information technology that hinders access to, and dissemination of, important intelligence; and

(e) A lack of training for FBI agents to know how to use, and a lack of requirements that they do use, the technology available to search for and access relevant information.

We have found that, in combination, all of these factors contributed to the intelligence failures at the FBI prior to the 9/11 attacks.

We are also conscious of the extraordinary power FISA confers on the Executive branch. FISA contains safeguards, including judicial review by the FISA Court and certain limited reporting requirements to congressional intelligence committees, to ensure that this power is not abused. Such safeguards are no substitute, however, for the watchful eye of the public and the Judiciary Committees, which have broader oversight responsibilities for DOJ and the FBI. In addition to reviewing the effectiveness of the FBI's use of its FISA power, this Committee carries the important responsibility of checking that the FBI does not abuse its power to conduct surveillance within our borders. Increased congressional oversight is important in achieving that goal.

From the outset, we note that our discussion will not address any of the specific facts of the case against Zacharias Moussaoui that we have reviewed in our closed inquiries. That case is still pending trial, and, no matter how it is resolved, this Committee is not the appropriate forum for adjudicating the allegations in that case. Any of the facts recited in this report that bear on the substance of the Moussaoui case are already in the public record. To the extent that this report contains information we received in closed sessions, that information bears on abstract, procedural issues, and not any substantive issues relating to any criminal or national security investigation or proceeding. This is an interim report of what we have discovered to date. We hope to and should continue this important oversight in the 108th Congress.

B. Allegations Raised by Special Agent Rowley's Letter

The Judiciary Committee had initiated its FISA oversight inquiry several months before the revelations in the dramatic letter sent on May 21, 2002, to FBI Director Mueller by Special Agent Coleen Rowley. Indeed, it was this Committee's oversight about the FBI's counterintelligence operations before the 9/11 attacks that in part helped motivate SA Rowley to write this letter to the Director.

The observations and critiques of the FBI's FISA process in this letter only corroborated problems that the Judiciary Committee was uncovering. In her letter, SA Rowley detailed the problems the Minneapolis agents had in dealing with FBI Headquarters in their unsuccessful attempts to seek a FISA warrant for the search of Moussaoui's lap top computer and other personal belongings. These attempts proved fruitless, and Moussaoui's computer and personal belongings were not searched until September 11th, 2001, when the Minneapolis agents were able to obtain a criminal search warrant after the attacks of that date. According to SA Rowley, with the exception of the fact of those attacks, the information presented in the warrant application establishing probable cause for the criminal search warrant was exactly the same as the facts that FBI Headquarters earlier had deemed inadequate to obtain a FISA search warrant.

In her letter, SA Rowley raised many issues concerning the efforts by the agents assigned to the Minneapolis Field Office to obtain a FISA search warrant for Moussaoui's personal belongings. Two of the issues she raised were notable. First, SA Rowley corroborated that many of the cultural and management problems within the FBI (including what she referred to as ''careerism'') have significant effects on the FBI's law enforcement and intelligence gathering activities. This led to a perception among the Minneapolis agents that FBI Headquarters personnel had frustrated their efforts to obtain a FISA warrant by raising

unnecessary objections to the information submitted by Minneapolis, modifying and removing that information, and limiting the efforts by the Minneapolis Field Office to contact other agencies for relevant information to bolster the probable cause for the warrant. These concerns echoed criticisms that this Committee has heard in other contexts about the culture of FBI management and the effect of the bureaucracy in stifling initiative by FBI agents in the field.

In making this point, SA Rowley provided specific examples of the frustrating delays and roadblocks erected by Headquarters agents in the Moussaoui investigation:

''For example at one point, the Supervisory Special Agent at FBIHQ posited that the French information could be worthless because it only identified Zacharias Moussaoui by name and he, the SSA, didn't know how many people by that name existed in France. A Minneapolis agent attempted to surmount that problem by quickly phoning the FBI's Legal Attache (Legat) in Paris, France, so that a check could be made of the French telephone directories. Although the Legat in France did not have access to all of the French telephone directories, he was able to quickly ascertain that there was only one listed in the Paris directory. It is not known if this sufficiently answered the question, for the SSA continued to find new reasons to stall.

''Eventually, on August 28, 2001, after a series of e-mails between Minneapolis and FBIHQ, which suggest that the FBIHQ SSA deliberately further undercut the FISA effort by not adding the further intelligence information which he had promised to add that supported Moussaoui's foreign power connection and making several changes in the wording of the information that had been provided by the Minneapolis agent, the Minneapolis agents were notified that the NSLU Unit Chief did not think there was sufficient evidence of Moussaoui's connection to a foreign power. Minneapolis personnel are, to this date, unaware of the specifics of the verbal presentations by the FBIHQ SSA to NSLU or whether anyone in NSLU ever was afforded the opportunity to actually read for him/herself all of the information on Moussaoui that had been gathered by the Minneapolis Division and [redacted; classified]. Obviously[,] verbal presentations are far more susceptible to mis-characterization and error.''

Even after the attacks had commenced, FBI Headquarters discouraged Minneapolis from securing a criminal search warrant to examine Moussaoui's belongings, dismissing the coordinated attack on the World Trade Center and Pentagon as a coincidence.

Second, SA Rowley's letter highlighted the issue of the apparent lack of understanding of the applicable legal standards for establishing ''probable cause'' and the requisite statutory FISA requirements by FBI personnel in the Minneapolis Division and at FBI Headquarters. This issue will be discussed in more detail below.

C. Results of Investigation

1. The Mishandling of the Moussaoui FISA Application

Apart from SA Rowley's letter and her public testimony, the Judiciary Committee and its staff found additional corroboration that many of her concerns about the handling of the Moussaoui FISA application for a search warrant were justified.

At the outset, it is helpful to review how Headquarters ''adds value'' to field offices in national security investigations using FISA surveillance tools. Headquarters has three functions in such investigations. The first function is the ministerial function of actually assembling the FISA application in the proper format for review by the DOJ's Office of Intelligence Policy and Review OIPR and the FISA Court. The other two functions are more substantive and add ''value'' to the FISA application. The first substantive function is to assist the field by being experts on the legal aspects of FISA, and to provide guidance to the field as to the information needed to meet the statutory requirements of FISA. The second function is to supplement the information from the field in order to establish or strengthen the showing that there is ''probable cause'' that the FISA target was an ''agent of a foreign power,'' by integrating additional relevant intelligence information both from within the FBI and from other intelligence or law enforcement organizations outside the FBI. It is with respect to the latter, substantive functions that Headquarters fell short in the Moussaoui FISA application and, as a consequence, never got to the first, more ministerial, function.

Our investigation revealed that the following events occurred in connection with this FISA application. We discovered that the Supervisory Special Agent (SSA) involved in reviewing the Moussaoui FISA request was assigned to the Radical Fundamentalist Unit (RFU) of the International Terrorism Operations Section of the FBI's Counterterrorism Division. The Unit Chief of the RFU was the SSA's immediate supervisor. When the Minneapolis Division submitted its application for the FISA search warrant for Moussaoui's laptop computer and other property, the SSA was assigned the responsibility of processing the application for approval. Minneapolis submitted its application for the FISA warrant in the form of a 26-page Electronic Communication (EC), which contained all of the information that the Minneapolis agents had collected to establish that Moussaoui was an agent of a foreign power at the time. The SSA's responsibilities included integrating this information submitted by the Minneapolis division with information from other sources that the Minneapolis agents were not privy to, in order to establish there was probable cause that Moussaoui was an agent of a foreign power. In performing this fairly straightforward task, FBI Headquarters personnel failed miserably in at least two ways.

First, most surprisingly, the SSA never presented the information submitted by Minneapolis and from other sources in its written, original format to any of the FBI's attorneys in the National Security Law Unit (NSLU). The Minneapolis agents had submitted their information in the 26-page EC and a subsequent letterhead memorandum (LHM), but neither was shown to the attorneys. Instead, the SSA relied on short, verbal briefings to the attorneys, who opined that based on the information provided verbally by the SSA they could not establish that there was probable cause that Moussaoui was an agent of a foreign power. Each of the attorneys in the NSLU stated they did not receive documents on the Moussaoui FISA, but instead only received a short, verbal briefing from the SSA. As SA Rowley noted, however, ''verbal presentations are far more susceptible to mis-characterization and error.''

The failure of the SSA to provide the 26-page Minneapolis EC and the LHM to the attorneys, and the failure of the attorneys to review those documents, meant that the consideration by Headquarters officials of the evidence developed by the Minneapolis agents was truncated. The Committee has requested, but not yet received, the full 26–page Minneapolis EC (even, inexplicably, in a classified setting).

Second, the SSA's task was to help bolster the work of the Minneapolis agents and collect information that would establish probable cause that a ''foreign power'' existed, and that Moussaoui was its ''agent.'' Indeed, sitting in the FBI computer system was the Phoenix memorandum, which senior FBI officials have conceded would have provided sufficient additional context to Moussaoui's conduct to have established probable cause. (Joint Inquiry Hearing, Testimony of Eleanor Hill, Staff Director, September 24, 2002, p. 19: ''The [FBI] attorneys also told the Staff that, if they had been aware of the Phoenix memo, they would have forwarded the FISA request to the Justice Department's Office of Intelligence Policy Review (OIPR). They reasoned that the particulars of the Phoenix memo changed the context of the Moussaoui investigation and made a stronger case for the FISA warrant. None of them saw the Phoenix memo before September 11.'') Yet, neither the SSA nor anyone else at Headquarters consulted about the Moussaoui application ever conducted any computer searches for electronic or other information relevant to the application. Even the much touted ''Woods Procedures'' governing the procedures to be followed by FBI personnel in preparing FISA applications do not require Headquarters personnel to conduct even the most basic subject matter computer searches or checks as part of the preparation and review of FISA applications.

2. General Findings.

We found that key FBI personnel involved in the FISA process were not properly trained to carry out their important duties. In addition, we found that the structural, management, and resource problems plaguing the FBI in general contributed to the intelligence failures prior to the 9/11 attacks. (The Joint Inquiry by the Senate and House Select Committee on Intelligence similarly concluded that the FBI needs to ''establish and sustain independent career tracks within the FBI that recognize and provide incentives for demonstrated skills and performance of counterterrorism agents and analysts; . . . implement training for agents in the effective use of analysts and analysis in their work;?improve national security law training of FBI personnel;?and finally solve the FBI's persistent and incapacitating information technology problems.'' (Final Report, Recommendations, p. 6).) Following are some of the most salient facts supporting these conclusions.

First, key FBI personnel responsible for protecting our country against terrorism did not understand the law. The SSA at FBI Headquarters responsible for assembling the facts in support of the Moussaoui FISA application testified before the Committee in a closed hearing that he did not know that ''probable cause'' was the applicable legal standard for obtaining a FISA warrant. In addition, he did not have a clear understanding of what the probable cause standard meant. The SSA was not a lawyer, and he was relying on FBI lawyers for their expertise on what constituted probable cause. In addition to not understanding the probable cause standard, the SSA's supervisor (the Unit Chief) responsible for reviewing FISA applications did not have a proper understanding of the legal definition of the ''agent of a foreign power'' requirement. Specifically, he was under the incorrect impression that the statute required a link to an already identified or ''recognized'' terrorist organization, an interpretation that the FBI and the supervisor himself admitted was incorrect. Thus, key FBI officials did not have a proper understanding of either the relevant burden of proof (probable cause) or the substantive element of proof (agent of a foreign power). This fundamental breakdown in training on an important intelligence matter is of serious concern to this Committee.

Second, the complaints contained in the Rowley letter about problems in the working relationship between field offices and FBI Headquarters are more widespread. There must be a dynamic relationship between Headquarters and field offices with Headquarters providing direction to the efforts of agents in the field when required. At the same time, Headquarters personnel should serve to support field agents, not to stifle initiative by field agents and hinder the progress of significant cases. The FBI's Minneapolis office was not alone in this complaint. Our oversight also confirmed that agents from the FBI's Phoenix office, whose investigation and initiative resulted in the so-called ''Phoenix Memorandum,'' warning about suspicious activity in U.S. aviation schools, also found their initiative dampened by a non-responsive FBI Headquarters.

So deficient was the FISA process that, according to at least one FBI supervisor, not only were new applications not acted upon in a timely manner, but the surveillance of existing targets of interest was often terminated, not because the facts no longer warranted surveillance, but because the application for extending FISA surveillance could not be completed in a timely manner. Thus, targets that represented a sufficient threat to national security that the Department had sought, and a FISA Court judge had approved, a FISA warrant were allowed to break free of surveillance for no reason other than the FBI and DOJ's failure to complete and submit the proper paper work. This failure is inexcusable.

Third, systemic management problems at FBI Headquarters led to a lack of accountability among senior FBI officials. A revolving door at FBI Headquarters resulted in agents who held key supervisory positions not having the required specialized knowledge to perform their jobs competently. A lack of proper communication produced a system where no single person was held accountable for mistakes. Therefore, there was little or no incentive to improve performance. Fourth, the layers of FBI and DOJ bureaucracy also helped lead to breakdowns in communication and serious errors in the materials presented to the FISA Court. The Committee learned that in the year before the Moussaoui case, one FBI supervisor was barred from appearing before the FISC due to inaccurate information presented in sworn affidavits to the Court. DOJ explained in a December 23, 2002, response to written questions from the July 25, 2002, oversight hearing that:

''One FBI supervisory special agent has been barred from appearing before the Court. In March of 2001, the government informed the Court of an error contained in a series of FISA applications. This error arose in the description of a ''wall'' procedure. The Presiding Judge of the Court at the time, Royce Lamberth, wrote to the Attorney General expressing concern over this error and barred one specifically-named FBI agent from appearing before the Court as a FISA affiant. . . . FBI Director Freeh personally met twice with then-Presiding Judge Lamberth to discuss the accuracy problems and necessary solutions.''

As the Committee later learned from review of the FISA Court's May 17, 2002, opinion, that Court had complained of 75 inaccuracies in FISA affidavits submitted by the FBI, and the DOJ and FBI had to develop new procedures to ensure accuracy in presentations to that Court. These so-called ''Woods Procedures'' were declassified at the request of the authors and were made publicly available at the Committee's hearing on June 6, 2002. As DOJ further explained in its December 23, 2002, answers to written questions submitted on July 25, 2002:

''On April 6, 2001, the FBI disseminated to all field divisions and relevant Headquarters divisions a set of new mandatory procedures to be applied to all FISAs within the FBI. These procedures known as the ''Woods procedures,'' are designed to help minimize errors in and ensure that the information provided to the Court is accurate. . . They have been declassified at the request of your Committee.''

DOJ describes the inaccuracies cited in the FISA Court opinion as related to ''errors in the 'wall' procedure'' to keep separate information used for criminal prosecution and information collected under FISA and used for foreign intelligence. However, this does not appear to be the only problem the FBI and DOJ were having in the use of FISA.

An FBI document obtained under the Freedom of Information Act, which is attached to this report as Exhibit D, suggests that the errors committed were far broader. The document is a memorandum dated April 21, 2000, from the FBI's Counterterrorism Division, that details a series of inaccuracies and errors in handling FISA applications and wiretaps that have nothing whatsoever to do with the ''wall.'' Such mistakes included videotaping a meeting when videotaping was not allowed under the relevant FISA Court order, continuing to intercept a person's email after there was no authorization to do so, and continuing a wiretap on a cell phone even after the phone number had changed to a new subscriber who spoke a different language from the target.

This document highlights the fact apart from the problems with applications made to the FISC, that the FBI was experiencing more systemic problems related to the implementation of FISA orders. These issues were unrelated to the legal questions surrounding the ''wall,'' which was in effect long before 1999. The document notes that the number of inaccuracies grew by three-and-one-half times from 1999 to 2000. We recommend that additional efforts to correct the procedural, structural, and training problems in the FISA process would go further toward ensuring accuracy in the FISA process than simply criticizing the state of the law.

One legitimate question is whether the problems inside the FBI and between the FBI and the FISA Court either caused FBI Headquarters to be unduly cautious in proposing FISA warrants or eroded the FISA Court's confidence in the DOJ and the FBI to the point that it affected the FBI's ability to conduct terrorism and intelligence investigations effectively. SA Rowley opines in her letter that in the year before ''the September 11th acts of terrorism, numerous alleged IOB [Intelligence Oversight Board] violations on the part of FBI personnel had to be submitted to the FBI's Office of Professional Responsibility (OPR) as well as the IOB. I believe the chilling effect upon all levels of FBI agents assigned to intelligence matters and their managers hampered us from aggressive investigation of terrorists.'' (Rowley letter, pp. 7–8, fn. 7). Although the belated release of the FISA Court's opinion of May 17, 2002, provided additional insight into this issue, further inquiry is needed.

Fifth, the FBI's inability to properly analyze and disseminate information (even from and between its own agents) rendered key information that it collected relatively useless. Had the FBI put together the disparate strands of information that agents from around the country had furnished to Headquarters before September 11, 2001, additional steps could certainly have been taken to prevent the 9/11 attacks. So, while no one can say with certainty that the 9/11 attacks could have been prevented, in our view, it is also beyond reasonable dispute that more could have been done in the weeks before the attacks to try to prevent them.

Certain of our findings merit additional discussion, and such discussion follows.

3. FBI's Misunderstanding of Legal Standards Applicable to the FISA

a. The FISA Statutory Standard: ''Agent of a Foreign Power''

In order to obtain either a search warrant or an authorization to conduct electronic surveillance pursuant to FISA, the FBI and Justice Department must establish before the FISA Court probable cause that the targeted person is an ''agent of a foreign power.'' An agent of a foreign power is defined as ''any person who . . . knowingly aids or abets any person in the conduct of [certain] activities.'' Those certain activities include ''international terrorism,'' and one definition of ''foreign power'' includes groups that engage in international terrorism. Accordingly, in the Moussaoui case, to obtain a FISA warrant the FBI had to collect only enough evidence to establish that there was ''probable cause'' to believe that Moussaoui was the ''agent'' of an ''international terrorist group'' as defined by FISA.

However, even the FBI agents who dealt most with FISA did not correctly understand this requirement. During a briefing with Judiciary Committee staff in February 2002, the Headquarters counterterrorism Unit Chief of the unit responsible for handling the Moussaoui FISA application stated that with respect to international terrorism cases, FISA warrants could only be obtained for ''recognized'' terrorist groups (presumably those identified by the Department of State or by the FBI itself or some other government agency). The Unit Chief later admitted that he knew that this was an incorrect understanding of the law, but it was his understanding at the time the application was pending. Additionally, during a closed hearing on July 9, 2002, the Supervisory Special Agent (''SSA'') who actually handled the Moussaoui FISA application at Headquarters also mentioned that he was trying to establish whether Moussaoui was an ''agent of a recognized foreign power''.

Nowhere, however, does the statutory definition require that the terrorist group be an identified organization that is already recognized (such as by the United States Department of State) as engaging in terrorist activities. Indeed, even the FBI concedes this point. Thus, there was no support whatsoever for key FBI officials' incorrect understanding that the target of FISA surveillance must be linked to such an identified group in the time before 9/11. This misunderstanding colored the handling of requests from the field to conduct FISA surveillance in the crucial weeks before the 9/11 attacks. Instead of supporting such an application, key Headquarters personnel asked the field agents working on this investigation to develop additional evidence to prove a fact that was unnecessary to gain judicial approval under FISA. It is difficult to understand how the agents whose job included such a heavy FISA component could not have understood that statute. It is difficult to understand how the FBI could have so failed its own agents in such a crucial aspect of their training.

The Headquarters personnel misapplied the FISA requirements. In the context of this case, the foreign power would be an international terrorist group, that is, ''a group engaged in international terrorism or activities in preparation therefore.'' A ''group'' is not defined in the FISA, but in common parlance, and using other legal principles, including criminal conspiracy, a group consists of two or more persons whether identified or not. It is our opinion that such a ''group''

may exist, even if not a group ''recognized'' by the Department of State.

The SSA's other task would be to help marshal evidence showing probable cause that Moussaoui was an agent of that group. In applying the ''totality of the circumstances,'' as defined in the case of Illinois v. Gates, 462 U.S. 213 (1983), any information available about Moussaoui's ''actual contacts'' with the group should have been considered in light of other information the FBI had in order to understand and establish the true probable nature of those contacts. (The Supreme Court's leading case on probable cause; it is discussed in more detail in the next section of this report.) It is only with consideration of all the information known to the FBI that Moussaoui's contacts with any group could be properly characterized in determining whether he was an agent of such a group.

In making this evaluation, the fact, as recited in the public indictment, that Moussaoui ''paid $6,800 in cash'' to the Minneapolis flight school, without adequate explanation for the source of this funding, would have been a highly probative fact bearing on his connections to foreign groups. Yet, it does not appear that this was a fact that the FBI Headquarters agents considered in analyzing the totality of the circumstances. The probable source of that cash should have been a factor that was considered in analyzing the totality of the circumstances. So too would the information in the Phoenix memorandum have been helpful. It also was not considered, as discussed further below. In our view, the FBI applied too cramped an interpretation of probable cause and ''agent of a foreign power'' in making the determination of whether Moussaoui was an agent of a foreign power. FBI Headquarters personnel in charge of reviewing this application focused too much on establishing a nexus between Moussaoui and a ''recognized'' group, which is not legally required. Without going into the actual evidence in the Moussaoui case, there appears to have been sufficient evidence in the possession of the FBI which satisfied the FISA requirements for the Moussaoui application. Given this conclusion, our primary task is not to assess blame on particular agents, the overwhelming majority of whom are to be commended for devoting their lives to protecting the public, but to discuss the systemic problems at the FBI that contributed to their inability to succeed in that endeavor.

b. The Probable Cause Standard

i. Supreme Court's Definition of ''Probable Cause''.—During the course of our investigation, the evidence we have evaluated thus far indicates that both FBI agents and FBI attorneys do not have a clear understanding of the legal standard for probable cause, as defined by the Supreme Court in the case of Illinois v. Gates, 462 U.S. 213 (1983). This is such a basic legal principle that, again, it is impossible to justify the FBI's lack of complete and proper training on it. In Gates, then-Associate Justice Rehnquist wrote for the Court:

''Standards such as proof beyond a reasonable doubt or by a preponderance of the evidence, useful in formal trials, have no place in the magistrate's decision. While an effort to fix some general, numerically precise degree of certainty corresponding to ''probable cause'' may not be helpful, it is clear that ''only the probability, and not a prima facie showing, of criminal activity is the standard of probable cause.'' (462 U.S. at 236 (citations omitted.)

The Court further stated:

For all these reasons, we conclude that it is wiser to abandon the ''twopronged test'' established by our decisions in Aguilar and Spinelli. In its place we reaffirm the totality of the circumstances analysis that traditionally has informed probable cause determinations. The task of the issuing magistrate is simply to make a practical, common-sense decision whether, given all the circumstances set forth in the affidavit before him, including the ''veracity'' and ''basis of knowledge'' of persons supplying hearsay information, there is a fair probability that contraband or evidence of a crime will be found in a particular place. And the duty of a reviewing court is simply to ensure that the magistrate had a ''substantial basis for . . . conclud[ing]'' that probable cause existed. We are convinced that this flexible, easily applied standard will better achieve the accommodation of public and private interests that the Fourth Amendment requires than does the approach that has developed from Aguilar and Spinelli.''

Accordingly, it is clear that the Court rejected ''preponderance of the evidence'' as the standard for probable cause and established a standard of ''probability'' based on the ''totality of the circumstances.''

ii. The FBI's Unnecessarily High Standard for Probable Cause.—Unfortunately, our review has revealed that many agents and lawyers at the FBI did not properly understand the definition of probable cause and that they also possessed inconsistent understandings of that term. In the portion of her letter to Director Mueller discussing the quantum of evidence needed to reach the standard of probable cause, SA Rowley wrote that ''although I thought probable cause existed ('probable cause' meaning that the proposition has to be more likely than not, or if quantified, a 51% likelihood), I thought our United States Attorney's Office, (for a lot of reasons including just to play it safe), in regularly requiring much more than probable cause before approving affidavits, (maybe, if quantified, 75%–80% probability and sometimes even higher), and depending upon the actual AUSA who would be assigned, might turn us down.'' The Gates case and its progeny do not require an exacting standard of proof. Probable cause does not mean more likely than not, but only a probability or substantial chance of the prohibited conduct taking place. Moreover, ''[t]he fact that an innocent explanation may be consistent with the facts alleged . . . does not negate probable cause.''

On June 6, 2002, the Judiciary Committee held an open hearing on the FBI's conduct of counterterrorism investigations. The Committee heard from Director Mueller and DOJ Inspector General Glenn Fine on the first panel and from SA Rowley on the second panel. The issue of the probable cause standard was specifically raised with Director Mueller, citing the case of Illinois v. Gates, and Director Mueller was asked to comment in writing on the proper standard was asked for establishing probable cause. The FBI responded in an undated letter to Senator Specter and with the subsequent transmission of an electronic communication (E.C.) dated September 16, 2002. In the E.C., the FBI's General Counsel reviewed the case law defining ''probable cause,'' in order to clarify the definition of probable cause for FBI personnel handling both criminal investigations and FISA applications.

At the June 6th hearing, SA Rowley reviewed her discussion of the probable cause standard in her letter. During that testimony three issues arose. First, by focusing on the prosecution of a potential case, versus investigating a case, law enforcement personnel, both investigators and prosecutors, may impose on themselves a higher standard than necessary to secure a warrant. This prosecution focus is one of the largest hurdles that the FBI is facing as it tries to change its focus from crime fighting to the prevention of terrorist attacks. It is symptomatic of a challenge facing the FBI and DOJ in nearly every aspect of their new mission in preventing terrorism. Secondly, prosecutors, in gauging what amount of evidence reaches the probable cause standard, may calibrate their decision to meet the de facto standard imposed by the judges, who may be imposing a higher standard than is required by law. Finally, SA Rowley opined that some prosecutors and senior FBI officials may set a higher standard due to risk-averseness, which is caused by ''careerism.''

SA Rowley's testimony was corroborated in our other hearings. During a closed hearing, in response to the following questions, a key Headquarters SSA assigned to terrorism matters stated that he did not know the legal standard for obtaining a warrant under FISA.

''Sen. Specter: . . . [SSA], what is your understanding of the legal standard for a FISA warrant?

[SSA]: I am not an attorney, so I would turn all of those types of questions over to one of the attorneys that I work with in the National Security Law Unit.

Question: Well, did you make the preliminary determination that there was not sufficient facts to get a FISA warrant issued?

[SSA]: That is the way I saw it.

Question: Well, assuming you would have to prove there was an agent and there was a foreign power, do you have to prove it beyond a reasonable doubt? Do you have to have a suspicion? Where in between?

[SSA]: I would ask my attorney in the National Security Law Unit that question.

Question: Did anybody give you any instruction as to what the legal standard for probable cause was?

[SSA]: In this particular instance, no.''

The SSA explained that he had instruction on probable cause in the past, but could not recall that training. It became clear to us that the SSA was collecting information without knowing when he had enough and, more importantly, making ''preliminary'' decisions and directing field agents to take investigating steps without knowing the applicable legal standards. While we agree that FBI agents and supervisory personnel should consult regularly with legal experts at the National Security Law Unit, and with the DOJ and U.S. Attorneys Offices, supervisory agents must also have sufficient facility for evaluating probable cause in order to provide support and guidance to the field.

Unfortunately, our oversight revealed a similar confusion as to the proper standard among other FBI officials. On July 9, 2002, the Committee held a closed session on this issue, and heard from the following FBI personnel: Special Agent ''G,'' who had been a counterterrorism supervisor in the Minneapolis Division of the FBI and worked with SA Rowley; the Supervisory Special Agent (''the SSA'') from FBI Headquarters referred to in SA Rowley's letter (and referred to the discussion above); the SSA's Unit Chief (''the Unit Chief''); a very senior attorney from the FBI's Office of General Counsel with national security responsibilities (''Attorney #1''); and three attorneys assigned to the FBI's Office of General Counsel's National Security Law Unit (''Attorney #2,'' ''Attorney #3,'' and ''Attorney #4''). The purpose of the session was to determine how the Moussaoui FISA application had been processed by FBI Headquarters personnel. None of the personnel present, including the attorneys, appeared to be familiar with the standard for probable cause articulated in Illinois v. Gates, and none had reviewed the case prior to the hearing, despite its importance having been highlighted at the June 6th hearing with the FBI Director. To wit:

Sen. Specter: . . . [Attorney #1] what is the legal standard for probable cause for a warrant?

[Attorney #1]: A reasonable belief that the facts you are trying to prove are accurate.

Question: Reason to believe?

[Attorney #1]: Reasonable belief.

Question: Reasonable belief?

[Attorney #1]: More probable than not.

Question: More probable than not?

[Attorney #1]: Yes, sir. Not a preponderance of the evidence.

Question: Are you familiar with ''Gates v. Illinois''?

[Attorney #1]: No, sir.

However, ''more probable than not'' is not the standard; rather, ''only the probability, and not a prima facie showing, of criminal activity is the standard of probable cause.'' (Gates, 462 U.S. at 36 (citations omitted).)

Similarly, Attorneys #2, #3, and #4 were also not familiar with Gates. Under further questioning, Attorney #1 conceded that the FBI, at that time, did not have written procedures concerning the definition of ''probable cause'' in FISA cases: ''On the FISA side of the house I don't think we have any written guidelines on that.'' Additionally, Attorney #1 stated that ''[w]e need to have some kinds of facts that an agent can swear to a reasonable belief that they are true,'' to establish that a person is an agent of a foreign power. Giving a precise definition of probable cause is not an easy task, as whether probable cause exists rests on factual and practical considerations in a particular context. Yet, even with the inherent difficulty in this standard we are concerned that senior FBI officials offered definitions that imposed heightened proof requirements. The issue of what is required for ''probable cause'' is especially troubling because it is not the first time that the issue had arisen specifically in the FISA context. Indeed, the Judiciary Committee confronted the issue of ''probable cause'' in the FISA context in 1999, when the Committee initiated oversight hearings of the espionage investigation of Dr. Wen Ho Lee. Among the many issues examined was whether there was probable cause to obtain FISA surveillance of Dr. Lee. In that case, there was a disagreement as to whether probable cause existed between the FBI and the DOJ, within the DOJ, and among ourselves.

In 1999, Attorney General Janet Reno commissioned an internal DOJ review of the Wen Ho Lee investigation. The Attorney General's Review Team on the Handling of the Los Alamos National Laboratory Investigation was headed by Assistant United States Attorney Randy I. Bellows, a Senior Litigation Counsel in the Office of the United States Attorney for the Eastern District of Virginia. Mr. Bellows submitted his exhaustive report on May 12, 2000 (the ''Bellows Report''), and made numerous findings of fact and recommendations. With respect to the issue of probable cause, Mr. Bellows concluded that:

''The final draft FISA application (Draft #3), on its face, established probable cause to believe that Wen Ho Lee was an agent of a foreign power, that is to say, a United States person currently engaged in clandestine intelligence gathering activities for or on behalf of the PRC which activities involved or might involve violations of the criminal laws of the United States . . . . Given what the FBI and OIPR knew at the time, it should have resulted in the submission of a FISA application, and the issuance of a FISA order.''

The Bellows team concluded that OIPR had been too conservative with the Wen Ho Lee FISA application, a conservatism that may continue to affect the FBI's and DOJ's handling of FISA applications. The team found that with respect to OIPR's near-''perfect record'' before the FISA Court (only one FISA rejection), ''[w]hile there is something almost unseemly in the use of such a remarkable track record as proof of error, rather than proof of excellence, it is nevertheless true that this record suggests the use of 'PC+,' an insistence on a bit more than the law requires.''

The Bellows team made another finding of particular pertinence to the instant issue. It found that ''[t]he Attorney General should have been apprised of any rejection of a FISA request . . . .'' In effect, FBI Headquarters rejected the Minneapolis Division's request for a FISA application, a decision that was not reported to then Acting Director Thomas Pickard. Director Mueller has adopted a new policy, not formally recorded in writing, that he be informed of the denial within the FBI of any request for a FISA application. However, in an informal briefing the weekend after this new policy was publicly announced, the FBI lawyer whom it most directly affected claimed to know nothing of the new ''policy'' beyond what he had read in the newspaper. From an oversight perspective, it is striking that the FBI and DOJ were effectively on notice regarding precisely this issue: that the probable cause test being applied in FISA investigations was more stringent than legally required. We appreciate the carefulness and diligence with which the professionals at OIPR and the FBI exercise their duties in processing FISA applications, which normally remain secret and immune from the adversarial scrutiny to which criminal warrants are subject. Yet, this persistent problem has two serious repercussions. First, the FBI and DOJ appear to be failing to take decisive action to provide in-depth training to agents and lawyers on an issue of the utmost national importance. We simply cannot continue to deny or ignore such training flaws only to see them repeated in the future.

Second, when the DOJ and FBI do not apply or use the FISA as fully or comprehensively as the law allows, pressure is brought on the Congress to change the statute in ways that may not be at all necessary. From a civil liberties perspective, the high-profile investigations and cases in which the FISA process appears to have broken down is too easily blamed on the state of the law rather than on inadequacies in the training of those responsible for implementing the law. The reaction on the part of the DOJ and FBI has been to call upon the Congress to relax FISA standards rather than engage in the more time-consuming remedial task of reforming the management and process to make it work better. Many times such ''quick legislative fixes'' are attractive on the surface, but only operate as an excuse to avoid correcting more fundamental problems.

4. The Working Relationship Between FBI Headquarters and Field Offices

Our oversight revealed that on more than one occasion FBI Headquarters was not sufficiently supportive of agents in the field who were exercising their initiative in an attempt to carry out the FBI's mission. While at least some of this is due to resource and staffing shortages, which the current Director is taking action to address, there are broader issues involved as well. Included in these is a deep-rooted culture at the FBI that makes an assignment to Headquarters unattractive to aggressive field agents and results in an attitude among many who do work at Headquarters that is not supportive of the field.

In addition to these cultural problems at the FBI, we conclude that there are also structural and management problems that contribute to the FBI's shortcomings as exemplified in the implementation of the FISA. Personnel are transferred in and out of key Headquarters jobs too quickly, so that they do not possess the expertise necessary to carry out their vital functions. In addition, the multiple layers of supervision at Headquarters have created a bureaucratic FBI that either will not or cannot respond quickly enough to time-sensitive initiatives from the field. We appreciate that the FBI has taken steps to cut through some of this bureaucracy by requiring OIPR attorneys to have direct contact with field agents working on particular cases.

In addition to hampering the implementation of FISA, these are problems that the Judiciary Committee has witnessed replayed in other contexts within the FBI. These root causes must be addressed head on, so that Headquarters personnel at the FBI view their jobs as supporting talented and aggressive field agents.

The FBI has a key role in the FISA process. Under the system designed by the FBI, a field agent and his field supervisors must negotiate a series of bureaucratic levels in order to even ask for a FISA warrant. The initial consideration of a FISA application and evaluation of whether statutory requirements are met is made by Supervisory Special Agents who staff the numerous Headquarters investigative units. These positions are critical and sensitive by their very nature. No application can move forward to the attorneys in the FBI's National Security Law Unit (NSLU) for further consideration unless the unit SSA says so. In addition, no matter may be forwarded to the DOJ lawyers at the OIPR without the approval of the NSLU. These multiple layers of review are necessary and prudent but take time.

The purpose of having SSAs in the various counterterrorism units is so that those personnel may bring their experience and skill to bear to bolster and enhance the substance of applications sent by field offices. A responsible SSA will provide strategic guidance to the requesting field division and coordinate the investigative activities and efforts between FBI Headquarters and that office, in addition to the other field divisions and outside agencies involved in the investigation. This process did not work well in the Moussaoui case.

Under the FBI's system, an effective SSA should thoroughly brief the NSLU and solicit its determination on the adequacy of any application within a reasonable time after receipt. In ''close call'' investigations, we would expect the NSLU attorneys to seek to review all written information forwarded by the field office rather than rely on brief oral briefings. In the case of the Moussaoui application forwarded from Minneapolis, the RFU SSA merely provided brief, oral briefings to NSLU attorneys and did not once provide that office with a copy of the extensive written application for their review. An SSA should also facilitate communication between the OIPR, the NSLU, and those in the field doing the investigation and constructing the application. That also did not occur in this case.

By its very nature, having so many players involved in the process allows internal FBI finger-pointing with little or no accountability for mistakes. The NSLU can claim, as it does here, to have acquiesced to the factual judgment of the SSAs in the investigative unit. The SSAs, in turn, claim that they have received no legal training or guidance and rely on the lawyers at the NSLU to make what they term as legal decisions. The judgment of the agents in the field, who are closest to the facts of the case, is almost completely disregarded.

Stuck in this confusing, bureaucratic maze, the seemingly simple and routine business practices within key Headquarters units

were flawed. As we note above, even routine renewals on already existing FISA warrants were delayed or not obtained due to the lengthy delays in processing FISA applications.

5. The Mishandling of the Phoenix Electronic Communication

The handling of the Phoenix EC represents another prime example of the problems with the FBI's FISA system as well as its faulty use of information technology. The EC contained information that was material to the decision whether or not to seek a FISA warrant in the Moussaoui case, but it was never considered by the proper people. Even though the RFU Unit Chief himself was listed as a direct addressee on the Phoenix EC (in addition to others within the RFU and other counterterrorism Units at FBI Headquarters), he claims that he never even knew of the existence of such an EC until the FBI's Office of Professional Responsibility (OPR) contacted him months after the 9/11 attacks. Even after this revelation, the Unit Chief never made any attempt to notify the Phoenix Division (or any other field Division) that he had not read the EC addressed to him. He issued no clarifying instructions from his Unit to the field, which very naturally must believe to this day that this Unit Chief is actually reading and assessing the reports that are submitted to his attention and for his consideration. The Unit Chief in question here has claimed to be ''at a loss'' as to why he did not receive a copy of the Phoenix EC at the time it was assigned, as was the practice in the Unit at that time.

Apparently, it was routine in the Unit for analytic support personnel to assess and close leads assigned to them without any supervisory agent personnel reviewing their activities. In the RFU, the two individuals in the support capacity entered into service at the FBI in 1996 and 1998. The Phoenix memo was assigned to one of these analysts as a ''lead'' by the Unit's Investigative Assistant (IA) on or about July 30th, 2001. The IA would then accordingly give the Unit Chief a copy of each EC assigned to personnel in the Unit for investigation. The RFU Unit Chief claims to have never seen this one. In short, the crucial information being collected by FBI agents in the field was disappearing into a black hole at Headquarters. To the extent the information was reviewed, it was not reviewed by the appropriate people.

More disturbingly, this is a recurrent problem at the FBI. The handling of the Minneapolis LHM and the Phoenix memo, neither of which were reviewed by the correct people in the FBI, are not the first times that the FBI has experienced such a problem in a major case. The delayed production of documents in the Oklahoma City bombing trial, for example, resulted in significant embarrassment for the FBI in a case of national importance. The Judiciary Committee held a hearing during which the DOJ's own Inspector General testified that the inability of the FBI to access its own information base did and will have serious negative consequences. Although the FBI is undertaking to update its information technology to assist in addressing this problem, the Oklahoma City case demonstrates that the issue is broader than antiquated computer systems. As the report concluded, ''human error, not the inadequate computer system, was the chief cause of the failure. . . .'' The report concluded that problems of training and FBI culture were the primary causes of the embarrassing mishaps in that case. Once again, the FBI's and DOJ's failures to address such broad based problems seem to have caused their recurrence in another context.

6. The FBI's Poor Information Technology Capabilities

On June 6, 2002, Director Mueller and SA Rowley testified before the Senate Judiciary Committee on the search capabilities of the FBI's Automated Case Support (ACS) system. ACS is the FBI's centralized case management system, and serves as the central electronic repository for the FBI's official investigative textual documents. Director Mueller, who was presumably briefed by senior FBI officials regarding the abilities of the FBI's computers, testified that, although the Phoenix memorandum had been uploaded to the ACS, it was not used by agents who were investigating the Moussaoui case in Minnesota or at Headquarters. According to Director Mueller, the Phoenix memorandum was not accessible to the Minneapolis field office or any other offices around the country; it was only accessible to the places where it had been sent: Headquarters and perhaps two other offices. Director Mueller also testified that no one in the FBI had searched the ACS for relevant terms such as ''aviation schools'' or ''pilot training.'' According to Director Mueller, he hoped to have in the future the technology in the computer system to do that type of search (e.g., to pull out any electronic communication relating to aviation), as it was very cumbersome to do that type of search as of June 6, 2002. SA Rowley testified that FBI personnel could only perform one-word searches in the ACS system, which results in too many results to review.

Within two weeks of the hearing, on June 14, 2002, both Director Mueller (through John E. Collingwood, AD Office of Public and Congressional Affairs) and SA Rowley submitted to the Committee written corrections of their June 6, 2002, testimony. The FBI corrected the record by stating that ACS was implemented in all FBI field offices, resident agencies, legal attache offices, and Headquarters on October 16, 1995. In addition, it was, in fact, possible to search for multiple terms in the ACS system, using Boolean connectors (e.g., hijacker or terrorist and flight adj school), and to refine searches with other fields (e.g., document type). Rowley confirmed the multiple search-term capabilities of ACS and added that the specifics of ACS's search capabilities are not widely known within the FBI.

We commend Director Mueller and SA Rowley for promptly correcting their testimony as they became aware of the incorrect description of the FBI's ACS system during the hearing. Nevertheless, their corrections and statements regarding FBI personnel's lack of knowledge of the ACS system highlights a longstanding problem within the Bureau. An OIG report, issued in July 1999, states that FBI personnel were not well-versed in the ACS system or other FBI databases. An OIG report of March 2002, which analyzed the causes for the belated production of many documents in the Oklahoma City bombing case, also concluded that the inefficient and complex ACS system was a contributing factor in the FBI's failure to provide hundreds of investigative documents to the defendants in the Oklahoma City Bombing Case. In short, this Committee's oversight has confirmed, yet again, that not only are the FBI's computer systems inadequate but that the FBI does not adequately train its own personnel in how to use their technology.

7. The ''Revolving Door'' at FBI Headquarters

Compounding information technology problems at the FBI are both the inexperience and attitude of ''careerist'' senior FBI agents who rapidly move through sensitive supervisory positions at FBI Headquarters. This ''ticket punching'' is routinely allowed to take place with the acquiescence of senior FBI management at the expense of maintaining critical institutional knowledge in key investigative and analytical units. FBI agents occupying key Headquarters positions have complained to members of the Senate Judiciary Committee that relocating to Washington, DC, is akin to a ''hardship'' transfer in the minds of many field agents. More often than not, however, the move is a career enhancement, as the agent is almost always promoted to a higher pay grade during or upon the completion of the assignment. The tour at Headquarters is usually relatively short in duration and the agent is allowed to leave and return to the field.

To his credit, Director Mueller tasked the Executive Board of the Special Agents Advisory Committee (SAAC) to report to him on disincentives for Special Agents seeking administrative advancement. They reported on July 1, 2002, with the following results of an earlier survey:

''Less than 5% of the Agents surveyed indicated an interest in promotion if relocation to FBIHQ was required. Of 35 field supervisors queried, 31 said they would 'step down' rather than accept an assignment in Washington, D.C. All groups of Agents (those with and without FBIHQ experience) viewed as assignment at FBIHQ as very negative. Only 6% of those who had previously been assigned there believed that the experience was positive—the work was clerical, void of supervisory responsibility critical to future field or other assignments. Additionally, the FBIHQ supervisors were generally powerless to make decisions while working in an environment which was full of negativity, intimidation, fear and anxiousness to leave.''

The SAAC report also contained serious criticism of FBI management, stating:

''Agents across the board expressed reluctance to become involved in a management system which they believe to [be] hypocritical, lacking ethics, and one in which we lead by what we say and not by example. Most subordinates believe and most managers agreed that the FBI is too often concerned with appearance over substance. Agents believed that management decisions are often based on promoting one's self interest versus the best interests of the FBI.''

There is a dire need for the FBI to reconsider and reform a personnel system and a management structure that do not create the proper incentives for its most capable and talented agents to occupy its most important posts. The SAAC recommended a number of steps to reduce or eliminate ''disincentives for attaining leadership within the Bureau.'' Congress must also step up to the plate and assess the location pay differential for Headquarters transfers compared to other transfers and other financial rewards for administrative advancement to ensure that those agents with relevant field experience and accomplishment are in critical Headquarters positions.

Indeed, in the time period both before and after the Moussaoui application was processed at Headquarters (and continuing for months after the 9/11 attacks), most of the agents in the pertinent Headquarters terrorism unit had less than two years of experience working on such cases. In the spring and summer of 2001, when Administration officials have publicly acknowledged increased ''chatter'' internationally about potential terrorist attacks, the Radical Fundamentalist Unit at FBI Headquarters experienced the routinely high rate of turnover in agent personnel as other units regularly did. Not only was the Unit Chief replaced, but also one or more of the four SSAs who reported to the Unit Chief was a recent transfer into the Unit. These key personnel were to have immediate and direct control over the fate of

the ''Phoenix memo'' and the Minneapolis Division's submission of a FISA application for the personal belongings of Moussaoui. While these supervisory agents certainly had distinguished and even outstanding professional experience within the FBI before being assigned to Headquarters, their short tours in the specialized counterterrorism units raises questions about the depth and scope of their training and experience to handle these requests properly and, more importantly, about the FBI's decision to allow such a key unit to be staffed in such a manner.

Rather than staffing counterterrorism units with Supervisory Special Agents on a revolving door basis, these positions should be filled with a cadre of senior agents who can provide continuity in investigations and guidance to the field.

A related deficiency in FBI management practices was that those SSAs making the decisions on whether any FISA application moved out of an operational unit were not given adequate training, guidance, or instruction on the practical application of key elements of the FISA statute. As we stated earlier, it seems incomprehensible that those very individuals responsible for taking a FISA application past the first step were allowed to apply their own individual interpretations of critical elements of the law relating to what constitutes a ''foreign power,'' ''acting as an agent of a foreign power,'' ''probable cause,'' and the meaning of ''totality of the circumstances,'' before presenting an application to the attorneys in the NSLU. We learned at the Committee's hearing this past September 10th, a full year after the terrorist attacks, that the FBI drafted administrative guidelines that will provide for Unit Chiefs and SSAs at Headquarters a uniform interpretation of how—and just as importantly—when to apply probable cause or other standards in FISA warrant applications.

All of these problems demonstrate that there is a dire need for a thorough review of procedural and substantive practices regarding FISA at the FBI and the DOJ. The Senate Judiciary Committee needs to be even more vigilant in its oversight responsibilities regarding the entire FISA process and the FISA Court itself. The FISA process is not fatally flawed, but rather its administration and coordination needs swift review and improvement if it is to continue to be an effective tool in America's war on terrorism.

IV. THE IMPORTANCE OF ENHANCED CONGRESSIONAL OVERSIGHT

An undeniable and distinguishing feature of the flawed FISA implementation system that has developed at the DOJ and FBI over the last 23 years is its secrecy. Both at the legal and operational level, the most generalized aspects of the DOJ's FISA activities have not only been kept secret from the general public but from the Congress as well. As we stated above, much of this secrecy has been due to a lack of diligence on the part of Congress exercising its oversight responsibility. Equally disturbing, however, is the difficulty that a properly constituted Senate Committee, including a bipartisan group of senior senators, had in conducting effective oversight of the FISA process when we did attempt to perform our constitutional duties.

The Judiciary Committee's ability to conduct its inquiry was seriously hampered by the initial failure of the DOJ and the Administrative Office of the United States Courts to provide to the Committee an unclassified opinion of the FISA Court relevant to these matters. As noted above, we only received this opinion on August 22, 2002, in the middle of the August recess.

Under current law there is no requirement that FISA Court opinions be made available to Congressional committees or the public. The only statutory FISA reporting requirement is for an unclassified annual report of the Attorney General to the Administrative Office of the United States Courts and to Congress setting forth with respect to the preceding calendar year (a) the total number of applications made for orders and extensions of orders approving electronic surveillance under Title I, and (b) the total number of such orders and extensions either granted, modified, or denied. These reports do not disclose or identify unclassified FISA Court opinions or disclose the number of individuals or entities targeted for surveillance, nor do they cover FISA Court orders for physical searches, pen registers, or records access.

Current law also requires various reports from the Attorney General to the Intelligence and Judiciary Committees that are not made public. These reports are used for Congressional oversight purposes, but do not include FISA Court opinions. When the Act was passed in 1978, it required the Intelligence Committees for the first five years after enactment to report respectively to the House of Representatives and the Senate concerning the implementation of the Act and whether the Act should be amended, repealed, or permitted to continue in effect without amendment. Those public reports were issued in 1979–1984 and discussed one FISA Court opinion issued in 1981, which related to the Court's authority to issue search warrants without express statutory jurisdiction.

The USA PATRIOT Act of 2001 made substantial amendments to FISA, and those changes are subject to a sunset clause under which they shall generally cease to have effect on December 31, 2005. That Act did not provide for any additional reporting to the Congress or the public regarding implementation of these amendments or FISA Court opinions interpreting them.

Oversight of the entire FISA process is hampered not just because the Committee was initially denied access to a single unclassified opinion but because the Congress and the public get no access to any work of the FISA Court, even work that is unclassified. This secrecy is unnecessary, and allows problems in applying the law to fester. There needs to be a healthy dialogue on unclassified FISA issues within Congress and the Executive branch and among informed professionals and interested groups. Even classified legal memoranda submitted by the DOJ to, and classified opinions by, the FISA Court can reasonably be redacted to allow some scrutiny of the issues that are being considered. This highly important body of FISA law is being developed in secret, and, because they are ex parte proceedings, without the benefit of opposing sides fleshing out the arguments as in other judicial contexts, and without even the scrutiny of the public or the Congress. Resolution of this problem requires considering legislation that would mandate that the Attorney General submit annual public reports on the number of targets of FISA surveillance, search, and investigative measures who are United States persons, the number of criminal prosecutions where FISA information is used and approved for use, and the unclassified opinions and legal reasoning adopted by the FISA Court and submitted by the DOJ.

As the recent litigation before the FISA Court of Review demonstrated, oversight also bears directly on the protection of important civil liberties. Due process means that the justice system has to be fair and accountable when the system breaks down.

Many things are different now since the tragic events of last September, but one thing that has not changed is the United States Constitution. Congress must work to guarantee the civil liberties of our people while at the same time meet our obligations to America's national security. Excessive secrecy and unilateral decision making by a single branch of government is not the proper method of striking that all important balance. We hope that, joining together, the Congress and the Executive Branch can work in a bipartisan manner to best serve the American people on these important issues. The stakes are too high for any other approach.

PATRICK LEAHY,
U.S. Senator.
ARLEN SPECTER,
U.S. Senator.
CHARLES E. GRASSLEY,
U.S. Senator.

Mr. SPECTER. I ask unanimous consent that the response of the Department of Justice dated February 20, 2003 be printed in the RECORD.

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

DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, DC, February 20, 2003.

Hon. ORRIN G. HATCH,
Chairman, Committee on the Judiciary,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: This is to follow up on outstanding questions from the Committee's hearings on June 6, 2002, at which FBI Director Mueller testified, a closed hearing on July 9, 2002, at which seven FBI personnel testified, and a September 10, 2002, hearing at which an Associate Deputy Attorney General testified on the FISA process. During this latter hearing, and in follow-up letters, dated September 24, 2002 and October 1, 2002, Senator Specter asked for additional information about the circumstances leading up to the FBI's issuance of guidance on the probable cause standard and the number of FBI requests for FISA warrants between June 6, 2002 and September 16, 2002.

In July 2002, the General Counsel's Office undertook to draft a comprehensive memorandum to provide FBI field and headquarters personnel with a practitioner's guide to the FISA process and the changes resulting from the USA PATRIOT Act. A section of that guidance was to be devoted to a refresher discussion of the probable cause standard. Near the end of that month, however, a new General Counsel reported to the FBI and reviewed the initial draft. After discussions with attorneys in the FBI's National Security Law Unit and the Justice Department, it was determined that the guidance would be issued in three separate memoranda. One would provide a broad overview of the FISA process; one would cover recent revisions to the limitations on the sharing of FISA-derived information; and one would clarify the probable cause standard.

These three memoranda were issued in September 2002 and copies are enclosed for your convenience. The 15-page overview of the FISA process was finalized and posted on the FBI intranet on September 12, 2002. The 11-page guidance on the new information sharing procedures was issued on September 18, 2002, and later superceded by the November 18, 2002 decision of the Foreign Intelligence Surveillance Court of Review which approved the Attorney General's March 6, 2002 Intelligence Sharing Procedures for Foreign Intelligence and Foreign Counterintelligence Investigations Conducted by the FBI. The clarification memorandum on the probable cause standard was released on September 16, 2002 and I am advised that, as a

matter of courtesy, a copy was delivered to Senator Specter's office on that date.

In light of the November 18, 2002, decision of the Foreign Intelligence Surveillance Court of Review, the Department issued ''field guidance'' on intelligence sharing and FISA issues on December 24, 2002, which was sent to all United States Attorneys, all Anti-Terrorism Task Force coordinators and all Special Agents of the FBI. It consisted of three documents: (1) a memorandum jointly issued by the Deputy Attorney General and the Director of the FBI discussing the intelligence sharing procedures for foreign intelligence and foreign counterintelligence investigations, including a chart summarizing the March 6, 2002 Intelligence Sharing Procedures; (2) the Attorney General's March 6, 2002 memorandum on Intelligence Sharing Procedures for Foreign Intelligence and Counterintelligence Investigations conducted by the FBI; and (3) a memorandum from the Deputy Attorney General summarizing the November 18, 2002, decision of Foreign Intelligence Surveillance Court of Review. An electronic copy of the field guidance was provided to the Judiciary Committee on January 17, 2003 (an additional courtesy copy is enclosed).

Also on December 24, 2002, the Deputy Attorney General issued a memorandum instructing the Counsel for Intelligence Policy, the Assistant Attorney General for the Criminal Division, and the Director of the FBI to ''jointly establish and implement a training curriculum for all Department lawyers and FBI agents who work on foreign intelligence or counterintelligence investigations, both in Washington, DC and in the field, including Assistant United States Attorneys designated under the Department's March 6, 2002 Intelligence Sharing Procedures. At a minimum, the training shall address the FISA process, the importance of accuracy in FISA applications, the legal standards (including probable cause) set by FISA, coordination with law enforcement and with the Intelligence Community, and the proper storing and handling of classified information.'' A copy of the December 24, 2002, training memorandum is enclosed.

Senator Specter's letter of October 1, 2002, asked as an additional follow-up question about the number of FBI requests for FISA warrants between Colleen Rowley's June 6, 2002, appearance before the Judiciary Committee and the September 16, 2002, issuance of the probable cause memorandum. The number of FBI applications to the Foreign Intelligence Surveillance Court (FISC) for FISA searches and surveillances during this time period is classified at the SECRET level and is being delivered to the Committee through the Office of Senate Security under separate cover and in accordance with the longstanding Executive branch practices on the sharing of classified intelligence information with Congress. Please note that the total annual number of FISA applications for orders authorizing electronic surveillance filed by the government and the total annual number of such applications either granted, modified, or denied by the FISC are not classified and are provided annually to the Administrative Office of the United States Court and to Congress under section 1807 of FISA.

The question of what probable cause standard was used on FISA applications for warrants during that time was posed to supervisors in the National Security Law Unit and in the Office of Intelligence Policy and Review. They responded that the applications—and their discussions about those applications—reflect that the agents and attorneys involved in the FISA process understood and applied the correct probable cause standard in their analyses of the relevant evidence. Based on their observations, the staff's understanding of probable cause—whether based on a reading of *Illinois* v. *Gates*, 462 U.S. 213 (1983), or of any of the other numerous authoritative judicial statements of the probable cause standard—did not change with the issuance of the probable cause memorandum. The standard they employed was consistent with *Illinois* v. *Gates* both before and after they received the memorandum.

I hope that this information is helpful. If you would like further assistance on this or on any other matter, please do not hesitate to contact me.

Sincerely,

JAMIE E. BROWN,
Acting Assistant Attorney General.

Mr. SPECTER. The oversight is going to continue on this matter. We are dealing with a constitutional responsibility of the Congress, that is the Senate and the Judiciary Committee, to conduct oversight on the Department of Justice and on the Federal Bureau of Investigation. This inquiry has demonstrated to this Senator that such oversight is sorely needed.

When I was District Attorney of Philadelphia and an assistant district attorney before that time, I had occasion to deal with a great many applications for search warrants. To find now that the key FBI personnel entrusted with the responsibility to apply for warrants under the Foreign Intelligence Surveillance Act, to get information on agents of foreign powers, at a time when the United States is threatened by terrorism, and they do not know what the right standard is, is just scandalous.

It has already been detailed on the public record that had they followed the right standard, and had the FBI gotten the computer of Zacarias Moussaoui, that 9/11 might have been prevented.

Then when the Judiciary Committee pursues the issue more than a month later at a subsequent hearing, and finds that the key FBI personnel, including their attorneys, do not know the right standard, it is just incredible. Then when the FBI Director does not respond to inquiries as to what the standards are, and days, weeks, and months follow, I wonder what has happened with many matters where terrorists may be plotting other attacks and our law enforcement officials are not doing the job.

This does raise the very fundamental question of whether the FBI is capable of handling counterterrorism in the United States, and what standards are being applied. Senator LEAHY, Senator GRASSLEY, and I have introduced further legislation requiring more reporting. There is a very important issue about civil liberties, but it all turns on appropriate application of the law, and that certainly has not been followed.

I will be sending a copy of this statement to FBI Director Mueller tomorrow when it is in print, and these issues will be raised at the hearing which is scheduled for next Tuesday. We have a hearing scheduled which will include Attorney General Ashcroft, FBI Director Robert Mueller, CIA Director George Tenet, and Secretary of Homeland Defense Tom Ridge. I am urging Chairman HATCH to break it up and to have only one of those individuals appear. If we have all four of them at one time, we will only be hearing opening statements from the Senators and opening statements from the individuals, and along about 1:15, when nobody has gone to lunch, is when we will really get to serious questioning, and the hearing will not exactly be fruitful. So we really need to take these very important individuals one at a time. So stay tuned on some questions for FBI Director Mueller.

I ask unanimous consent to print the letter in the RECORD.

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

U.S. SENATE,
Washington, DC, September 24, 2002.

Hon. ROBERT MUELLER,
Director, Federal Bureau of Investigation, Washington, DC.

DEAR DIRECTOR MUELLER: In a hearing before the Judiciary Committee on June 6, 2002, I questioned you and Special Agent Colleen Rowley about the erroneous standards being applied by the FBI on applications for warrants under the Foreign Intelligence Surveillance Act. I specifically called your attention to the appropriate standards in *Illinois* v. *Gates*.

On July 10, 2002, I wrote to you concerning a closed door hearing on July 9, 2002 where seven FBI personnel including four attorneys were still unfamiliar with the appropriate standard for probable cause of a FISA warrant under Gates.

At a Judiciary Committee hearing on September 10, 2002, I again raised these issues with a representative of the Department of Justice asking why I had not heard about any action taken by the FBI on these issues.

On September 12, 2002, my office received an undated letter from Assistant Director John E. Collingwood (copy enclosed) which was a totally inadequate response. My office has since been furnished with a copy of a memorandum from the Federal Bureau of Investigation dated September 16, 2002, entitled ''Probable Cause'' which references the Gates case.

I would like an explanation from you as to why it took the FBI so long to disseminate information on the standard for probable cause under Gates for a FISA warrant.

Sincerely,

ARLEN SPECTER.

DEPARTMENT OF JUSTICE,
FEDERAL BUREAU OF INVESTIGATION,
Washington, DC, September 12, 2002.

Hon. ARLEN SPECTER,
Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR SENATOR SPECTER: I am writing in response to your letter to Director Mueller dated July 10, 2002 regarding the standards applied to applications under the Foreign Intelligence Surveillance Act (FISA).

As you know, the events of September 11, 2001 caused the entire Government to review all of its programs to identify any revisions which may help to prevent another terrorist attack. The FISA review process is critical to our counterterrorism mission and, even before September 11th, we were working with the Department of Justice (DOJ), as well as the FISA Court, to simplify and expedite the FISA procedures. We have made significant progress including implementation of the

FISA procedures to ensure accuracy (known as the ''Woods Procedures''), a copy of which has been provided to the Committee.

In addition, we have been crafting new guidance, in consultation with DOJ, to address the FISA process as modified by the USA PATRIOT Act. This guidance will also address the concerns raised in your letter and your meeting with FBI personnel on July 9, 2002. We anticipate approval of the guidance shortly and will immediately disseminate it to field offices for implementation. A copy will be provided to the Committee as well.

I appreciate your concerns and your support in these critical matters. Please contact me if you have any questions.

Sincerely,

JOHN E. COLLINGWOOD,
Assistant Director, Office of Public and Congressional Affairs.

U.S. SENATE,
Washington, DC, October 1, 2002.

Hon. ROBERT MUELLER,
Director, Federal Bureau of Investigation, Washington, DC.

DEAR DIRECTOR MUELLER: Supplementing my letter of September 24, 2002, I would like to know how many requests the FBI made for warrants under the Foreign Intelligence Surveillance Act from June 10, 2002, the date of the Judiciary Committee hearing with you and Special Agent Colleen Rowley, and September 16, 2002, the date on the FBI memorandum citing the Gates case.

I would also like to know the specifics on what standard of probable cause was used on the applications for warrants under FISA during that period.

Sincerely,

ARLEN SPECTER.

EXHIBIT 1

U.S. SENATE,
Washington, DC, July 10, 2002.

Hon. ROBERT MUELLER,
Director, Federal Bureau of Investigation, Washington, DC.

DEAR DIRECTOR: In a hearing before the Judiciary Committee on June 6, 2002, I called your attention to the standard on probable cause in the opinion of then-Associate Justice Rehnquist in *Illinois* v. *Gates*, 462 U.S. 213, 236 (1983) (citations omitted) as follows:

As early as *Locke* v. *United States*, 7 Cranch. 339, 348, 3 L.Ed. 364 (1813), Chief Justice Marshall observed, in a closely related context, that ''the term 'probable cause,' according to its usual acceptation, means less than evidence which would justify condemnation. . . . It imports a seizure made under circumstances which warrant suspicion.'' More recently, we said that ''the quanta . . . of proof'' appropriate in ordinary judicial proceedings are inapplicable to the decision to issue a warrant. Finely-tuned standards such as proof beyond a reasonable doubt or by a preponderance of the evidence, useful in formal trials, have no place in the magistrate's decision. While an effort to fix some general, numerically precise degree of certainty corresponding to ''probable cause'' may not be helpful, it is clear that ''only the probability, and not a prima facie showing, of criminal activity is the standard of probable cause.''

In a closed door hearing yesterday, seven FBI personnel handling FISA warrant applications were questioned, including four attorneys.

A fair summary of their testimony demonstrated that no one was familiar with Justice Rehnquist's definition from Gates and no one articulated an accurate standard for probable cause.

I would have thought that the FBI personnel handling FISA applications would have noted that issue from the June 6th hearing; or, in the alternative, that you are other supervisory personnel would have called it to their attention.

It is obvious that these applications, which are frequently made, are of the utmost importance to our national security and your personnel should not be applying such a high standard that precludes submission of FISA applications to the Foreign Intelligence Surveillance Court.

I believe the Judiciary Committee will have more to say on this subject but I wanted to call this to your attention immediately so that you could personally take appropriate corrective action.

Sincerely,

ARLEN SPECTER.

DEPARTMENT OF JUSTICE,
FEDERAL BUREAU OF INVESTIGATION,
Washington, DC.

Hon. ARLEN SPECTER,
Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR SENATOR SPECTER: I am writing in response to your letter to Director Mueller dated July 10, 2002 regarding the standards applied to applications under the Foreign Intelligence Surveillance Act (FISA).

As you know, the events of September 11, 2001 caused the entire Government to review all of its programs to identify any revisions which may help to prevent another terrorist attack. The FISA review process is critical to our counterterrorism mission and, even before September 11th, we were working with the Department of Justice (DOJ), as well as the FISA Court, to simplify and expedite the FISA procedures. We have made significant progress including implementation of the FISA procedures to ensure accuracy (known as the ''Woods Procedures''), a copy of which has been provided to the Committee.

In addition, we have been crafting new guidance, in consultation with DOJ, to address the FISA process as modified by the USA PATRIOT Act. This guidance will also address the concerns raised in your letter and your meeting with FBI personnel on July 9, 2002. We anticipate approval of the guidance shortly and will immediately disseminate it to field offices for implementation. A copy will be provided to the Committee as well.

I appreciate your concerns and your support in these critical matters. Please contact me if you have any questions.

Sincerely,

JOHN E. COLLINGWOOD,
Assistant Director, Office of Public and Congressional Affairs.

EXHIBIT 2

FEDERAL BUREAU OF INVESTIGATION

To: All Divisions.
From: Office of the General Counsel.

PROBABLE CAUSE

Synopsis: The purpose of this Electronic Communication is to clarify the meaning of probable cause.

Details: In recent legislative hearings, questions have been raised about the concept of probable cause as it applies to the Foreign Intelligence Surveillance Act (FISA). While FBI Agents receive substantial legal training and have ample experience applying the concept in their daily work, it is nonetheless helpful to review the case law defining probable cause. Accordingly, the Office of the General Counsel prepared the following summary for the benefit of all FBI Agents.

In *Illinois* versus *Gates*, 462 U.S. 213 (1983, the Supreme Court explained that the probable cause standard is a practical, nontechnical concept which deals with probabilities—not hard certainties—derived from the totality of the circumstances in a factual situation. Probable cause to believe a particular contention is determined by evaluating ''the factual and practical considerations of everyday life on which reasonable and prudent men, not legal technicians, act;'' it is a ''fluid concept . . . not readily, or even usefully, reduced to a neat set of legal rules.'' 462 U.S. at 231–32.

The courts have broadly defined the parameters of probable cause. While it requires more than an unfounded suspicion, courts have repeatedly explained that probable cause requires a lesser showing than the rigorous evidentiary standards employed in trial proceedings. In Gates, 462 U.S. at 235, the Supreme Court explained that probable cause is less demanding than the evidentiary standards of beyond a reasonable doubt, preponderance of the evidence or even a prima facie case—all that is required to establish probable cause is a ''fair probability'' that the asserted contention is true. It is particularly important to note that probable cause is a lower standard than ''preponderance of the evidence,'' which is defined as the amount of evidence that makes a contention more likely true than not true. See, e.g., *United States* versus *Bapack*, 129 F.3d 1320, 1324 (D.C. Cir. 1997) (preponderance standards means ''more likley than not''); *United States* versus *Montague*, 40 F.3d 1251, 1255 (D.C. Cir. 1994) (''more probable than not''), BLACK'S LAW DICTIONARY 1064 (5th ed. 1979) (''[e]vidence which is of greater weight or more convincing than the evidence which is offered in opposition to it''). Since probable cause is a lower standard than preponderance of the evidence, an Agent can demonstrate probable cause to believe a factual contention without proving that contention even to a 51 percent certainty, as required under the preponderance of the evidence standard. See, e.g., *United States* versus *Cruz*, 834 F.2d 47, 50 (2d Cir. 1987) (probable cause does not require a showing that it is more probable than not that a crime has been committed); *Paff* versus *Kaltenbach*, 204 F.3d 425, 436 (3d Cir. 2000) (probable cause is a lesser showing than preponderance of the evidence); *United States* versus *Limares*, 269 F.3d 794, 798 (7th Cir. 2001) (same); *United States* versus *Mounts*, 248 F.3d 712, 715 (7th Cir. 2001) (probable cause does not require a showing that it is more likely than not that the suspected committed a crime).

Courts have instructed judges to apply no higher standard when they review warrants for probable cause. The magistrate reviewing an application for a criminal search warrant ''is simply to make a practical, commonsense decision whether, given all the circumstances set forth in the affidavit before him, . . . there is a fair probability that contraband or evidence of a crime will be found in a particular place.'' *Gates*, 462 U.S. at 238. As to arrest warrants, the question for the magistrate is whether the totality of the facts and circumstances set forth in the affidavit are ''sufficient to warrant a prudent man in believing that the [suspect] had committed'' the alleged offense—an evaluation that ''does not require the fine resolution of conflicting evidence that a reasonable-doubt or even a preponderance standard demands.'' *Gerstin* versus *Pugh*, 420 U.S. 103, 111–12, 121 (1975).

Similarly, a judge of the Foreign Intelligence Surveillance Court reviewing an application for a FISA electronic surveillance order or search warrant must make a probable cause determination based on a practical, common-sense assessment of the circumstances set forth in the declaration. The judge must first find probable cause that the target of the surveillance or search is a foreign power or an agent of a foreign power. While certain non-U.S. persons can qualify

as agents of a foreign power merely by acting in the United States as an officer or employee of a foreign power, a U.S. person can be found to be an agent of a foreign power only if the judge finds probable cause to believe that he or she is engaged in activities that involve (or in the case of clandestine intelligence gathering activities ''may involve'') certain criminal conduct. 50 U.S.C. 1801(b). For an electronic surveillance order to issue under FISA, the judge must additionally find that there is probable cause to believe that each of the facilities or places to be electronically surveilled is being used, or is about to be used, by a foreign power or an agent of a foreign power. 50 U.S.C. 1805(a)(3). For a FISA search warrant, the judge must find probable cause to believe that the premises or property to be searched is owned, used, possessed by or in transit to or from a foreign power or an agent of a foreign power. 50 U.S.C. 1824(a)(3).

We hope this summary clarifies the meaning of probable cause. Agents with questions about probable cause in a case should consult with their Chief Division Counsel, the Office of the General Counsel, or the Assistant United States Attorney or Justice Department attorney assigned to the case.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, I think Members on both sides of the aisle greatly respect the work of our colleague on the FBI and we appreciate his work.

Mr. SPECTER. I thank my colleague from New York for the generous comments.

Mr. SCHUMER. Well deserved, not just in my opinion but in the opinion of many Members.

Mr. SPECTER. I thank the Senator.

Mr. SCHUMER. Mr. President, I will continue our discussion on so many issues facing the Nation. Obviously, in the Senate the business is the business of Miguel Estrada. I will comment on that in a few minutes.

I do want to say, however, that some on the other side are attempting to convey the impression that it is we, the Democrats, who continue the debate on Miguel Estrada. We do not. We have, indeed, asked Mr. Estrada to answer the most rudimentary questions that every person who seeks to achieve a lifetime appointment of the high office of judge of the DC Circuit Court of Appeals is asked to answer. There are a large number of Members who will not move to vote until those questions are answered. That seems to be entirely logical.

Let me make clear the reason we continue to debate Mr. Estrada—not the economy, not homeland security, not the many issues that our constituents are asking about—is the choice not of the Democratic minority but of the Republican majority that controls the floor.

In fact, 2 weeks ago, when the Republican majority thought they ought to get other things done, they have. We actually approved three other judges at the majority leader's request. We left the subject of Mr. Estrada and debated those judges. We approved the omnibus budget—late, of course—but we approved that budget, the largest amount of Federal spending we have ever voted on, debated it, amended it, while the Estrada nomination was still pending.

I ask my colleagues on the other side of the aisle, until we resolve this impasse about who Mr. Estrada is and what he actually believes, what his judicial philosophy is, and get the best evidence—not hearsay evidence because there is hearsay evidence on both sides—that we do move to other issues.

When I go to New York, virtually none of my constituents ask me about Miguel Estrada. Yes, you will get some editorials and you get some talk shows talking about him one way or the other. But not average voters. Not even any voter except those in the political class.

My constituents are asking me about the war, when we might go to war and what is happening. I get a lot of negative comments about France, which I am sympathetic toward—not France but the negative comments. And more than that I get questions about the economy. I get question after question after question: What are you guys in Washington doing about the economy?

This morning I flew back from New York and the man at the gate of the airport, obviously somebody who makes an average salary working for Delta Airlines, asked me: Senator, when are you guys going to get the economy going?

We on this side would love to start debating on the economy. We would love to start talking about how we will get people to work. As our minority leader, TOM DASCHLE, put it so well yesterday, the Republicans on the other side of the aisle are concerned about one job, that of Mr. Estrada. And by the way, he already has a job. My guess is he is being paid well into the six figures. He can live quite a nice life, as he deserves, on that ample salary.

But what about the 2.8 million Americans who have lost jobs? What about the tens of millions of other Americans who have jobs, but they are not getting the salaries they used to get in terms of buying power? What about all the companies, the small businesses, that say the business climate is not good enough so they can expand? What about the large businesses? I was reading my clips here and some of the largest companies in upstate New York have stopped putting dollars into research or decreased the amount of money they are putting into research, which is the lifeblood of our future, our information-based economy, because very simply, the economy is so squishy soft.

We have plans to deal with the economy. We would like to debate them. I was told this morning that many think the majority leader will not even bring up a stimulus package until late spring. We cannot afford to wait. We can sit here and make the speeches.

Do you know how many times I have heard that Mr. Estrada graduated from Harvard Law School? It is not new news. We are not making any new points in this debate. I guess every one of the Senators could answer this question: How many former Solicitors General have said that the records should not be revealed? We have heard that probably 100 times on the floor. No new ground is being broken in this debate.

Yet for some strange reason the majority leader seeks to keep us on this issue. We all know what the issue is. It is a simple issue. That is, many Members believe Mr. Estrada has to tell not only the Senate but the American people—because the Founding Fathers regarded us as a mechanism by which the American people could learn—his views on fundamental issues. What is his view of the first amendment and whether it is an expansive view or narrowing view?

Right now we are faced with the age-old conflict between security and liberty as we debate the PATRIOT Act. It is all challenged in court. What are Mr. Estrada's views? How does he see it? Is he hard on the security side? Is he hard on the liberty side? What are his views on the commerce clause?

We all know that there is a move among many Justices in the Supreme Court and judges in the courts of appeals to narrow that commerce clause. Some want to narrow it, in my opinion, so severely we could go back not to the 1930s but the 1890s.

The American people are entitled to know his views. They are not simply entitled to know that Mr. Seth Waxman says he is a good fellow. That is not an answer.

I am sure my colleague from Pennsylvania would admit if he were here, direct evidence is a lot better than hearsay evidence. There are various ways you get direct evidence. One is by asking a witness questions. As anyone who has read the transcript of the hearing that I chaired for Mr. Estrada, he went to every length to avoid any answers that were substantive on any direct questions. I have never seen anything like it.

Of course, subsequent to Mr. Estrada answering that way, I believe there are new nominees saying the same thing. But none of the nominees before were ever so restrictive. And I believe the only reason the others have not answered questions, they were afraid they would embarrass Mr. Estrada, acting at the request of the White House. It is a good guess he has been instructed not to answer these.

Another way is to look at somebody's past history. There is only one place where we can find Mr. Estrada's own views in his past history because he has written very little.

He clearly was not previously a judge; he was a lawyer. He was obviously representing clients; that is, by his writings and by his views when he was in the Solicitor General's office. There are some who say those should not be revealed. There are arguments on that side. But there are no legal arguments and there is plenty of precedent on the other side.

Should everybody who worked in the Solicitor General's Office have to reveal such information? Probably it would be better. I believe in openness. But it wouldn't be essential because just about every nominee who has come before us for this kind of high court has had some kind of record.

There are some who say Mr. Estrada is way to the right of Justice Scalia. If that is true, he should not be approved. If, on the other hand, he is a mainstream conservative, he should be approved.

Of the 106 people the President nominated for judge for whom we voted, on whom we have had votes here in the Senate, I have supported 98, 99, or 100 of them. I am sure the vast majority of those were mainstream conservatives—people I might disagree with on this issue or that. But the real issue here is, Is Mr. Estrada so far out of the mainstream on the second highest court in the land that if the American people knew his views they would be aghast?

Do you know what many people say when they hear this argument? When I went back home and anyone asked me—as I said, almost no one did—but when I was asked or when I entered an opinion, there was not a soul who would disagree that he should reveal what he thinks. There is too much power in this awesome lifetime appointment not to do so.

So the issue is drawn. We know the issue. No one has budged over the last 2 to 3 weeks.

Why are we still debating Estrada? Because the Republican majority insists on doing it. Maybe they think they can win political points. I doubt it. I think most people do not care. Maybe they feel so strongly that they want to keep the Senate tied up. I will tell you, if they do, they are not representing what the American people want, which is debate on other issues.

The two issues I think we should be debating now are the economy and what we are doing about homeland security. Those two issues, in my judgment, are the two that have a real impact. We have disagreements on the war. We know that. That is now pretty much in executive branch hands. But what to do about homeland security and what to do about the economy or what the American people are asking us to do—and I will say to you, ladies and gentlemen of America—the reason we are not debating those extremely serious issues is because the Republican majority insists that we stay on the Estrada issue.

If I heard from the other side new arguments that might convince people, I would say, well, maybe they have a point. But a new argument has not been made on this issue for a week or two. Do you know what. If someone comes up with an ingenious argument that might convince a number of Members on this side, we can go back and debate Mr. Estrada. But right now, I will challenge my good friends, my Republican colleagues on the other side of the aisle, to start doing something about the economy. Let us debate that issue.

Again, I say this to the American people. We do not control the floor.

When they say Democrats are filibustering on Mr. Estrada, that is not true. It is the Republican side that is keeping us debating the issue of Mr. Estrada. They say until you see it our way, we are going to stay with Mr. Estrada. If this were the No. 1 issue most Americans think should be tackled, they might have a point. But it isn't, although I am afraid some of my colleagues are sort of out of touch.

I want to quote my good friend, the junior Senator from Pennsylvania, Mr. SANTORUM. He came out of a White House meeting, according to the National Journal, and said that getting Estrada to the Senate was first and foremost on President Bush's mind.

More important than the war in Iraq? More important than protecting our homeland? More important than starting the economy going and getting the jobs we need? I don't think more than 1 percent of the American people would agree with that analysis. If so, the President ought to rethink. If Mr. SANTORUM is properly reporting on President Bush's views that Estrada is first and foremost, then the President ought to get out on the hustings and start talking to the American people and finding out what is on their minds because it isn't Mr. Estrada.

I would like to talk about one thing about the economy which I think is important. Today, along with my colleague from New Jersey, Senator CORZINE, and my colleague from Michigan, Ms. STABENOW, and my colleague from Delaware, Senator CARPER, all members of the Banking Committee, we put in a sense-of-the-Congress resolution that says the independence of the Federal Reserve Board should be preserved; that praises Chairman Greenspan as an independent voice and that asks this Senate to go on record in support of Mr. Greenspan.

Why have we done that? Very simply, 2 weeks ago Mr. Greenspan, before our Banking Committee, was his usual independent self. He said that while he likes the dividend tax cut, that he was so worried about plunging this Nation into fiscal chaos with huge deficits that we only ought to do it if it could be revenue-neutral—in other words, if we could find other cuts in spending or other increases in taxes that would equal the dividend tax cut—a view, by the way, that I find is corroborated by most of the business leaders I talk to.

Right after that happened, there were reports in all the newspapers that the White House was furious at Alan Greenspan. Bob Novak said in his column—which I believe was entitled, ''Goodbye Greenspan?''—the White House was so angry at Alan Greenspan's show of display of independence that they might not reappoint him.

Mr. BURNS. Mr. President, will the Senator yield for a question?

Mr. SCHUMER. I will be happy to yield in a few minutes. I want to finish my point.

When the Federal Reserve Board was set up, it was supposed to be independent. That is why it was a board. That is why the appointments are for such lengths of time. If you go back and read the history, it was set up to be as far removed from the political forces within the White House and elsewhere as it could be. Sometimes the independence of Chairman Greenspan benefits the White House.

Two years ago, many of us on this side of the aisle were quite upset with him when he encouraged a tax cut that many economists thought seemed too high—not that there shouldn't have been a tax cut, but that it was too large. At that point, the White House was very happy with the independence of the chairman. Now he said something else. Our economy is weaker. We have a large deficit. It is getting worse. The White House, which says we have no money for homeland security and no money to help the States out of their problems, has $670 billion for a tax cut.

I tend to like tax cuts. I tend to support them. But they ought to be stimulative to the economy. They ought to be fair. In other words, the middle-class people ought to get a good, decent share of the benefit. And they ought to be responsible. They ought not throw us into such large deficits that our economy has a burden on its shoulders for a decade. Chairman Greenspan was saying on the last point that we need to correct it.

When I mentioned this resolution in the Banking Committee a few hours ago, I was glad to hear that three or four of my Republican colleagues, including Chairman SHELBY, said that Alan Greenspan was a fine man, that the Federal Reserve Board ought to be independent, and that he ought to be reappointed.

I ask unanimous consent right now to bring up that amendment, to bring up that sense-of-the-Senate resolution because that would help calm the markets that are jittery enough as they are right now.

The PRESIDING OFFICER. Is there objection?

Mr. BURNS. I object.

Mr. SCHUMER. I understand that my colleague objected. It didn't surprise me.

But, again, on the issue of great importance to Americans, the state of this economy, and the independence of the Federal Reserve Board and the need that we don't just become profligate with the tax cut or the spending side, the other side wants not to debate that subject and continue debating Mr. Estrada.

I am happy to debate it. I have been on this floor for many hours. But, again, there are no new arguments that come out. I think every one of us could take a quiz on the three major points the Republican side makes and the Democrat side makes. So I say to my

colleagues, it is time to move on. There is another issue I think we should move on to.

I am going to yield just for the purposes of a question to my colleague because I am going on to another little area.

Mr. BURNS. I thank the Senator from New York.

The reason I objected is, that is not the issue at hand on the floor now, and the proper people are not on the floor to strengthen or weaken his argument on Mr. Greenspan.

But I have been watching the debate on Miguel Estrada with a great deal of interest. I would agree with my friend from New York in that I have traveled through my whole State—not the whole State, but a goodly part of it—and it is not the first question we are asked in townhall meetings or in an occasional meeting on the street.

I understand, though, that the Senator from New York questioned Mr. Estrada for about 90 minutes or so in committee. And I think it is general practice here that if you have more questions, even after the committee hearing is over, you submit written questions. I would inquire of my friend from New York: Did you send Mr. Estrada any written questions after the hearing, after he was voted out of committee and his nomination was brought to the floor?

Mr. SCHUMER. Let me respond to my colleague, I did not. I usually do send written questions. I had ample time to question Mr. Estrada. I got to ask a lot of the questions I wanted to ask. There was one problem: I got no answers. When I asked Mr. Estrada his views on, say, the 1st amendment, or on the commerce clause, or on the 11th amendment, I got back an answer that I found extremely unsatisfying. Some might call it disingenuous. I am not going to go that far. He said: Senator, I will follow the law.

Of course, every judge believes they are following the law. But if following the law was all one needed to say, we would not need a confirmation process. How Justice Scalia thinks we ought to follow the law is quite different than how Justice Breyer or Justice Thomas thinks we ought to follow the law.

If simply following the law told us how a judge would vote on the most important issues, then why is it that judges who tend to be appointed by Republican Presidents—not always, but usually—vote quite differently than judges who get appointed by Democratic Presidents? It is because even as you follow the law, your own views always influence you as a judge. And the higher the court is, and the more important the court is, the more that is the case, because there are fewer precedents.

In fact, I commend to my good friend from Montana a study done by Professor Sunstein of the University of Chicago. He looked at this very DC Court of Appeals, and he said there were huge differences on just about every issue between the judges appointed by Democratic Presidents and judges appointed by Republican Presidents.

So the bottom line is, I asked Mr. Estrada, and first he said: I can't answer these questions because it might influence me when I have to make a future decision. And he cited the canons of ethics. We all know that the canons of ethics means you cannot say: Well, there is a case over there about the logging standards in the Sawtooth Mountains. I think those are in Montana.

Mr. BURNS. You got the right mountains, but you have got the wrong State.

Mr. SCHUMER. Idaho. My family and I have traveled through there, and it is a beautiful part of America. We go hiking out there every summer, although I am sure my friend from Montana would think not enough of the West has rubbed off on me yet, but we are trying.

But in any case, that prospective nominee should not answer. But if you ask a prospective nominee his views or her views on: What are your general views on how much leeway the Federal Government has versus the State governments on how logging should be done or how the environment should be regulated? I would argue to my colleague from Montana that is exactly what we should be asking the nominee, and that is exactly what they should be answering.

Let me read you a quote from your leader on the Judiciary Committee. He said, on February 18, 1997, before the University of Utah Federalist Society:

> Determining which of President Clinton's nominees will become activists is complicated and it will require the Senate to be more diligent and extensive in its questioning of nominees' jurisprudential views.

That is exactly what we are saying. He was asked by Senator FEINSTEIN his views on Roe v. Wade. Now, I do not believe in a litmus test, and I would say, of the 99 or so judges I voted for, who were nominated by President Bush, most of them disagree with my view on choice, but I voted for them because they were mainstream conservatives. They were mainstream.

Mr. BURNS. Will the Senator further yield?

Mr. SCHUMER. I will yield when I finish my point.

But when Miguel Estrada was asked if he had any personal views on Roe v. Wade, he said, no—something to that effect. I said to him: Name three Supreme Court cases already decided that you do not like. There would be no worry about the canons of ethics. And guess what he said. ''I won't answer.''

So after 90 minutes of basically being stonewalled, there was no further point in asking written questions and getting the same answers. It is not that we did not ask the questions. We asked him a ton of questions, my colleague from Illinois and all the members of the Judiciary Committee. He just simply dead flat refused to answer them. And that when you are being nominated for the second most important court in the land, a court that is going to have huge power over every one of our lives.

That is not what the Founding Fathers intended. You read The Federalist Papers. It is not fair to this Senate. It makes a mockery of the process. And most of all, I say to my good friend from Montana, it is not fair to the American people. Because the judiciary is the one unelected branch of Government. It is where the people have the least say. That is why sometimes it garners such fervent opinions, pro and con. But the only chance you have—before this lifetime appointment passes—is at this point. And, in all fairness, I cannot think of anybody who has shown less of what he thinks about the major issues of the day before nomination than Mr. Estrada. I am sure my colleague would agree with me, if you asked 100 Americans: Should nominees for such awesome positions be—not required—but should they reveal their views? I bet 99 or 98 would say: Yes.

So I just want to make one other point. I see my other colleagues are in the Chamber. There is another issue—I am going to yield.

I ask the Senator, do you have another question?

Mr. BURNS. Being that the Senate is made up of about 65 to 70 percent attorneys—and I not being one of those—that was the longest ''yes, I did not ask him any further questions in written form'' I have ever heard. But we have to contend with that in this body.

I watched those hearings with a great deal of interest because I believe, as does the Senator from New York, this is a very sensitive and important part of our role in the Senate. However, I think we have injected a double standard here in this case. And I think that case has been made here. But I would say after——

Mr. SCHUMER. Mr. President, just reclaiming my time, I would say it has been made about 50 times—not very well, in my judgment but 50 times.

Mr. BURNS. If I may finish my question. Didn't he answer that question just about the same as the nominees sent up by the previous President of the United States? That is what I am going back to.

Like the Senator from New York, I think we should be moving on. I contend that we have talked about this, we have discussed it and debated it. The only thing I am saying is let's just vote on him.

I plan to come back to the Chamber later today to make a statement. I was interested in the Senator's discussion and his statement. I thank my good friend from New York for responding to the question.

Mr. SCHUMER. I appreciate that.

Mr. President, let me say this. I don't have all of the nominees here. I have been on the Judiciary Committee for 4 years. I have not come across a nominee to the court of appeals, when given

so many extensive questions, who had so few answers as Miguel Estrada.

I don't think there is a double standard. I will quote one. Probably, the nominee of President Clinton that garnered the most controversy—because my colleagues on the other side thought he was too far out of the mainstream from the left side—happened to be a Hispanic nominee named Richard Paez. As the Senator knows, he was held up for over 1,500 days. Let me read the same question that was asked of Mr. Paez—by the way, these were asked by your colleague, my colleague, our friend, Senator SESSIONS. Senator SESSIONS asked him:

> In your opinion, what is the greatest Supreme Court decision in American history?

Did Judge Paez refuse to answer that question, say he could not, as Mr. Estrada did? No. He right away named Brown v. Board of Education.

Senator SESSIONS then asked the same question I asked of Mr. Estrada. He said:

> What is the worst Supreme Court decision?

Again, Paez answered without hesitation, without ducking, without hiding behind some legal subterfuge—which I know my colleague from Montana doesn't like—that it was Dred Scott.

So if these questions were fair to ask Judge Paez, why are they not fair to ask Miguel Estrada?

One other point I will make rhetorically is, we have heard some charges here—not directed at any one of us specifically—that asking Mr. Estrada all these questions means we are against Hispanics. Why wasn't asking these questions of Judge Paez anti-Hispanic? If you want to talk about a double standard, the double standard, I am afraid, has been brought up by many of my colleagues on the other side of the aisle who seem to think it was perfectly OK then.

This is what Senator HATCH said about another Hispanic nominee. Her name was Rosemary Barkett—a Hispanic nominee, by the way, with the same kind of rags-to-riches story—well, Miguel Estrada didn't come from poverty, but it was the same quick advancement story. She tried to become a nun. She worked in schools and made herself a lawyer—very admirable, with high ratings from the American Bar Association. Same thing. This is what our good friend, ORRIN HATCH, said:

> I led the fight to oppose Judge Barkett's confirmation . . . because her judicial records indicated that she would be an activist who would legislate from the bench.

Why isn't what's good for the goose good for the gander? Senator HATCH believed—and nobody on this side stopped him—that he had to ask this nominee, who also happens to be Hispanic—a Mexican American, not from Central America—a whole lot of questions. He had to go through her records and now all of a sudden when Miguel Estrada comes up, not only are we being told we should not ask questions, but it is a ''double standard'' because he is Hispanic. I think the double standard comes from the people who are making that charge on the other side. They ought to look in the mirror.

I yield to my colleague from Nevada for a question.

Mr. REID. The Senator from New York is a member of the Judiciary Committee, true?

Mr. SCHUMER. I am indeed.

Mr. REID. The Senator is familiar with the record of the Judiciary Committee during the time Democrats were in control of the Senate, true?

Mr. SCHUMER. I am.

Mr. REID. Is it true that a hundred judges were approved during that short period of time when we were in control of the Senate?

Mr. SCHUMER. Exactly true.

Mr. REID. Breaking all records.

Mr. SCHUMER. Yes. Senator LEAHY, our chairman, made every effort to bring nominees through. When I tell my constituents—the few who care about this, frankly, because most of them want us to talk about the economy or homeland security—that we have approved something like 99 out of 106 nominees, a lot of them said we approved too many. Everyone should not be rubberstamped.

Mr. REID. If I may ask another question. It is also true, is it not, that during this session of the legislature, the three judges brought before us other than Estrada have been approved unanimously?

Mr. SCHUMER. My colleague is exactly correct. I brought this up before while we were debating Miguel Estrada, so we could go off the Estrada issue to debate the economy and homeland security, which my good friend from Montana had the good grace to say is also far more on the minds of his constituents.

Mr. REID. If the Senator will yield for another question, is the Senator aware that a poll was conducted by the Pew Research Center. You are familiar with polls, as I am.

Mr. SCHUMER. I am not familiar with that particular one, but Pew Research has a good reputation.

Mr. REID. They did a poll of 1,254 people that was completed on February 18. Is the Senator aware that in that poll, the people were asked how President Bush was handling the economy? Is the Senator aware that 43 percent of the people approved of the way President Bush was handling the economy and 48 percent disapproved?

Mr. SCHUMER. I was not aware of that poll.

Mr. REID. Is the Senator aware of the fact that Senator DASCHLE, the Democratic leader, came to the floor yesterday and asked that a bill that had been moved by the majority leader the day before, a rule 14, S. 414, is the Senator aware that Senator DASCHLE asked unanimous consent to bring that bill to the floor so we could start talking about a way to maybe improve President Bush's numbers as it relates to the economy and talk about stimulating the economy? S. 414, is the Senator aware that it was objected to?

Mr. SCHUMER. I am aware of that. I was sitting on the floor when Senator DASCHLE brought it up. He made an excellent point, I thought. He said the other side seemed to be concerned about one man's job, Miguel Estrada.

By the way—and Senator DASCHLE didn't say this—Mr. Estrada already has a job. My guess is that he is probably making in the high six figures, so he can do pretty well feeding his family.

Mr. BURNS. Will the Senator yield for another question?

Mr. SCHUMER. In a minute, I will be delighted to yield.

We have 2.8 million fewer Americans in jobs than we had when President Bush took office. We have tens of millions of Americans who have jobs, but their jobs are not as good as the jobs they used to have. We should be debating that issue.

I say to my colleague from Nevada and my colleague from Montana that we should be debating homeland security, which is vital to our future. Those of us who follow football, or basketball, or baseball know that a good team needs both a good offense and a good defense. There are many opinions on the offense, but clearly President Bush has a plan and has implemented it. I have been sometimes critical, but usually supportive, of the President's plan in that regard. But a good team needs defense.

On homeland security, this country is not doing close to what we need to do. Even if, God willing, tomorrow we were to get rid of Saddam Hussein, Osama bin Laden, and al-Qaida, other groups would come forward. Are we protected from shoulder-held missile launchers? Are our planes protected? No. Are we protected from somebody smuggling a nuclear weapon into this country? Are we doing much about it? No.

Is our northern border, which my State shares with Canada for hundreds of miles, at all adequately guarded so bad people cannot come in? No.

Is there money in the President's budget to do these activities? No.

I do not know if this is true of my colleague from Montana, but when I go back and talk to my police chiefs and fire chiefs of big towns, little towns, urban areas, rural areas, and suburban areas, does my colleague know what they tell me? They have huge new responsibilities post 9/11, and they are not getting one thin dime from Washington. In my opinion, most Americans would rather we debate that than debating Miguel Estrada.

So we are at an impasse with Estrada. We believe records should be revealed. The other side says: No, let's vote on him without the records. Nothing has changed in the last week or two. Why don't we just put the issue of Mr. Estrada aside until someone a lot smarter than the Senator from New

York and the Senator from Montana thinks of some kind of compromise, because right now we are at loggerheads and nothing has budged, and why don't we start talking about the economy, which my colleague from Nevada brought up; why don't we start talking about homeland security as we are on the edge of war with Iraq, which is what, again, my good friend from Montana has admitted his constituents would prefer. I can certainly tell the Senator that my constituents in New York would much prefer that.

I yield for another question.

Mr. BURNS. Mr. President, I say to my friend from New York, I did not get questions on homeland security or the economy while I was up there. We will go over those questions later.

I understand what the Senator from New York said about Judge Paez, but in the end, did he get a vote?

Mr. SCHUMER. I say to my colleague——

Mr. BURNS. Yes or no, and I have a followup question.

Mr. SCHUMER. Wait, in the Senate—I have only been here 4 years, and my colleague has been here longer, but we do not do that yes or no, cross-examination stuff. In fact, when I came here, I only spoke for 5 or 10 minutes on subjects, and people thought I was crazy, but I am not going to take that long. I am not going to take more than 5 minutes.

At first, Judge Paez, as my friend knows, was held up for 4 years. If my colleague wants to make it equal, start complaining in 2 more years about Judge Estrada. Second, and far more important than the amount of time, Judge Paez had an ample record in the courts. By the way, so ample that I believe it was 39 Members from the other side—perhaps my friend from Montana; I do not know how he voted—voted against Judge Paez, and when Judge Paez came before us and was subjected to extensive questioning by Senator SESSIONS, by Senator Ashcroft, who was then a Senator, by many of my colleagues on the Judiciary Committee, did he duck? Did he hide behind the legal shibboleth of: I have to see all the briefs before I answer, or it is a case that might come before me? He did not. He had the courage, he had the decency, and, most of all, he had the respect for the advise and consent process to answer those questions. So he deserved a vote.

I say to my colleague, if in 2005 we have a Democratic President—God willing—and if that Democratic President should nominate somebody who many on the other side fear would be so far over to the left that he would do real damage on the bench, I would support my colleagues, if he did not answer questions and had as skimpy a record and did as much of a job of stonewalling, in not bringing that nominee to a vote as I would today.

This is not an issue of left or right, in my judgment. It should not be. This is not an issue even of my view, which is: Should ideology matter when you vote for judges? I believe it should, but some do not. This is a matter, in my judgment—and I mean this sincerely to my colleague—that goes to the sacredness of the Constitution of the United States.

When the Founding Fathers, in their wisdom, set up the advice and consent clause, they did not intend it to be degraded by having a sham hearing where the witness answers no questions.

Mr. BURNS. Mr. President, if my friend from New York will allow a comment, and maybe a followup question.

Mr. SCHUMER. Well——

Mr. BURNS. No, a followup question. That is a long way to say, yes, he got a vote. Is it snowing outside today, right now?

Mr. SCHUMER. Let me say to my colleague that snow comes from the clouds, and it happens when the temperature is below 32 degrees up in the clouds.

Mr. BURNS. I submit it is snowing inside today also.

I thank the Presiding Officer. I thank my good friend from New York.

Mr. SCHUMER. Mr. President, it is always a pleasure to debate with my colleague from Montana. I say to my colleague, this, plain and simple, he knows in his heart—I hope he knows; I think he knows—that what Miguel Estrada did in terms of how he treated this body—all of us—was wrong, and if it is allowed to continue, we will have dramatic changes in the way this country is governed, and that is why so many of us feel so strongly about this issue.

I reiterate to my colleague once more, he is not going to change our views, at least not with the same old arguments. I have been asked about four or five times did Judge Paez get a vote. Let's put this aside and talk about the issues the American people want us to talk about: the economy and homeland security. If my colleague can get the record of Mr. Estrada, we will be happy then to bring him to a vote.

I thank my colleague. I yield the floor.

The PRESIDING OFFICER (Mr. CHAMBLISS). The Senator from Illinois.

Mr. DURBIN. I thank the Chair.

Mr. President, I thank my colleague from New York and my seatmate on the Senate Judiciary Committee for the statement he made on this important nomination. I think he has made this point. I listened earlier today when President Bush spoke to the Latino Coalition at the White House, in the Executive Office Building. I listened to what he said about Miguel Estrada. I find it difficult to quarrel with any of the statements he said about the man's quality.

I met him personally. There is no doubt he has an inspiring life story, having come to the United States from Honduras with limited knowledge of English and, in a matter of a few years, reaching the heights of a legal education at Harvard Law School. Then, of course, there are his opportunities to serve our Government in a legal capacity, and now in private practice. All of these attest to his legal acumen, his legal skills, and the fact he has overcome adversity. Those are qualities we want to respect and reward when it comes to those seeking public service.

The issue before us is one that is narrow in one respect but much broader in another. It is narrow in that we are not questioning his academic or legal credentials or even his experience. I quarrel with those who say he has never been on the bench, in the judiciary. That is not good enough from my point of view. I have seen first timers on the bench in Federal and State courts who have done very well.

What we are questioning—the narrow aspect—is whether he has been forthcoming, honest, and candid in revealing his views on issues, not going so far as to be intrusive in terms of pending cases before the court, or not suggesting he answer a question that is a conflict of interest, but rather that he comes to the heart of the question: What is in his mind? Is he truly a conservative—and we expect those nominees from this President—or is he something more? And if he is something more, should we pause, should we reflect on this fact? Should we ask the hard question of whether this man is entitled to a lifetime appointment to the bench which the President characterized today as the second highest court in the land, the DC Circuit Court of Appeals?

Sadly, when one looks at the record of responses from Miguel Estrada, it is unfortunate. It is truly unfortunate because I believe he has views that he can share with us. I believe he certainly has the knowledge to answer the questions. But he was coached and trained and cautioned not to come to Capitol Hill and be honest and open in his answers.

I am sure the people at the Department of Justice said: Miguel, you may want to answer these questions, but do not do it. Trust us, do not answer them. Give them an evasive answer for anything. Try to move on, get it behind you, get this to the floor. You have enough votes, and you never have to answer those questions.

He probably said at some point: Wait a minute; I do not mind answering a question such as which Supreme Court case do I disagree with. And they said: Be careful. If you start answering those questions, we do not know where this could lead.

He followed that advice, or followed someone's advice. He came before the Judiciary Committee and refused to answer the questions.

So now we have a broader issue. The broader issue is this: If the Senate, and particularly the Judiciary Committee, is to accept this approach from nominees, why in the world are we here? Why do we swear to uphold this Constitution when it comes to advice and

consent? Why is it we go through any process whatsoever with nominees? Because we know if Miguel Estrada comes through under these circumstances, the order of the day will be for future nominees: Evasion, concealment, refusal to answer the most basic questions. If that is the case, then, frankly, I think we are not meeting our responsibility.

The broader issue is a constitutional responsibility of this Senate. It has been raised before and should be raised again. There is an easy way to end this impasse and end it within a matter of days. We have asked Miguel Estrada to produce the documents which he generated in the Solicitor General's Office, documents which we can review—in fact, we could review them on a restricted basis.

One of the Republican Senators I admire very much, Mr. BENNETT of Utah, suggested these documents be produced and given to Senator HATCH, a Republican, and Senator LEAHY, a Democrat. They can review them. I do not have to see them as a member of the Judiciary Committee. They can decide whether they merit further inquiry, either with written questions or another hearing. If they decide, on the basis of that in camera and private review, that they do not merit that kind of followup, I will accept Senator LEAHY's judgment on that.

I do not speak for myself only. Yesterday, Senator DASCHLE came to the floor and I asked him point blank if Miguel Estrada will produce this documentation, which he says he wants to voluntarily turn over, to be reviewed by Senators HATCH and LEAHY, and if there is anything controversial we have a chance to follow up or not, can this bring the matter to a close, to a vote?

I think Senator DASCHLE spoke for virtually all of us on the Democrat side and said: Yes, it can. I think that is a fair way to bring this to a conclusion.

This morning I said to Senator HATCH: Isn't that a way to bring this to an end? Isn't that a reasonable way, a dignified way, that does not turn loose all these documents for the world to see and for the press to pore over but gives it to Senator HATCH and Senator LEAHY to review them and see if there is anything that merits a followup?

Senator HATCH said: That is absolutely unacceptable. These are privileged documents and never have they been released and we are not going to start now. Start releasing internal memos and documents like this, and there is no end to it and the White House is right. Despite Miguel Estrada's objections, the White House is right to refuse to release those documents.

I call the attention of my colleagues and those following this debate to the fact that Senator HATCH perhaps did not tell the whole story because when we look at requests for writings such as Miguel Estrada's writings, in the past the Department of Justice has provided memos by attorneys during the following nominations: William Bradford Reynolds, nominated to be Associate Attorney General, the Republican Department of Justice provided the documents then. Robert Bork, the controversial—celebrated in some quarters—nominee to the Supreme Court, he, too, was asked to provide the documents. The Department of Justice did. Benjamin Civiletti, nominated to be Attorney General, provided similar documents to this Congress for review by the Senate Judiciary Committee; Stephen Trott, nominated to the Court of Appeals for the Ninth Circuit, same standard applied, documents provided from the Department of Justice.

Finally, I know it is at the bottom of the list and it maybe should have been at the top, Justice William Rehnquist, when he was nominated to be Chief Justice of the Supreme Court, was asked by those before me who were members of the Judiciary Committee for memoranda that he had prepared. They were provided by the Department of Justice.

For Senators' staff and others to argue that this request is patently unreasonable, unacceptable, and unprecedented, I suggest that in five specific instances, Democratic and Republican Departments of Justice, with Democratic and Republican Attorneys General, these documents have been provided.

Let me go further. I am going to ask in a moment for these letters to be printed in the RECORD, but we have letters to the then-chairman of the Senate Judiciary Committee, JOE BIDEN, from the State of Delaware, relative to the nominations of two individuals, Judge Robert Bork to the Supreme Court—I am sorry. Both of these related to Judge Robert Bork's nomination to the Supreme Court.

It is interesting that the Ronald Reagan Department of Justice, with a Republican Attorney General, produced the very documents that we are discussing today, which Senator HATCH and others have said are unprecedented, that there has never been a request of this nature.

Frankly, in reading the letter of transmittal of presentation from the Department of Justice, we see they decided that in the interest of disclosure, in the interest of openness and candor, that they would cooperate, as they say, to the fullest extent possible with the committee to expedite Judge Bork's confirmation process.

And I quote further from this letter signed by John Bolton, Assistant Attorney General:

> Accordingly, we have decided to take the exceptional step of providing the committee with access to responsive materials we currently possess, except those privileged documents specifically described above. Of course, our decision to produce these documents does not constitute a waiver of any future claim of privilege.

And it should not. But in this instance, the Department of Justice, with the Robert Bork nomination to the Supreme Court before them, made a decision to cooperate with the committee.

In this case, Miguel Estrada, realizing he has never sat on the bench before, and he does not have a body of opinion to which we can turn to understand his judicial philosophy and thinking, has said he is prepared to turn over these memos so we can review them. He believes they are not controversial. He believes they will shed light, perhaps, on his point of view. I think he is probably right, but we will not know.

Mr. CRAPO. Will the Senator yield for and respond to a question?

Mr. DURBIN. I am happy to respond to a question.

Mr. CRAPO. I have been listening to the arguments the Senator has made. I have been listening very carefully to the examples the Senator is pointing out about other nominations in which documents were provided. It is my understanding, however, that the Department of Justice has never disclosed confidential deliberative documents on career lawyers in the Solicitor General's Office. These are documents dealing with recommendations on internal deliberations regarding appeals and certiorari or amicus recommendations in pending cases.

From the information I am aware of that the White House has provided in each of the cases that the Senator has listed, there is a very clear difference in each of those cases. Take the situation of Judge Bork to which the Senator was referring. The materials involving Judge Bork were very carefully limited to those that focused on his observations on political questions, such as President Nixon's assertion of the executive privilege or the pocket veto. Never has the Department of Justice allowed access to internal career lawyers' working documents on appeals or on certiorari or amicus recommendations, and that is what I understand the Senator to be requesting.

First, does the Senator understand the distinction that is made between these document explanations that have been made? And does the Senator believe the Senate should start the precedent, which has never been done in this Senate, of asking for access to these career lawyers' deliberations on confidential matters in the Solicitor's Office?

Mr. DURBIN. In response to my colleague, I believe this is a good-faith question and it is one that deserves an honest reply. Do I believe there are some internal memoranda and writings generated within the Department of Justice that should not be subject to public disclosure? I certainly do. I think lines should be drawn.

In the Bork case, the lines were drawn. They said some of the documents you have requested we will produce in the spirit of cooperation; some we cannot and should not produce. And if that is the response

from the Department of Justice when it comes to Miguel Estrada, we may quarrel with their dividing line, but at least it would demonstrate a cooperative effort to work with the Senate Judiciary Committee.

So if they say to us they can give certain memoranda, but they draw the line on others, at least we are moving forward in the process. But at this moment in time, I say to my colleague and friend, the Department of Justice has said flat out: No, not ever; we will not produce anything.

Mr. CRAPO. Will the Senator yield further?

Mr. DURBIN. If I can finish, and then I will be glad to yield for another question.

In the Bork situation, they said: We wish to cooperate to the fullest extent possible. We have decided to take the exceptional step of providing the committee with access to responsive materials we currently possess, except those privileged documents specifically described above.

The Department of Justice, in the Bork situation, said we are drawing a line but we are providing you with these internal memos and information. Now, if the same thing is to apply to Miguel Estrada, as I said, we can debate where the lines can be drawn, but Mr. Gonzales in the White House said, no, we will not consider producing anything.

It leads Members to conclude on this side of the aisle that there is something very damaging in these materials that they do not want disclosed. It is the only conclusion you can draw. The fact that Miguel Estrada volunteered the information, the fact that he is prepared to waive the privilege if it exists, is an indication he does not think the controversy is there, but this White House, tentative and concerned about whether or not Miguel Estrada has said some things that could jeopardize his nomination, refuses to disclose.

I yield to the Senator.

Mr. CRAPO. If I understand correctly, you are reading that the internal work documents of a career attorney of the Solicitor General's Office in making recommendations on how to handle cases would not be something this Senate should try to investigate or to cause to be disclosed?

In each of the cases you have discussed, either it was specific charges of misconduct about which very narrow documents were disclosed or general comments on politics such as the case of Justice Bork. And if you are agreeing with that, perhaps there is some progress we can make. It is my understanding the demand for disclosure is far broader than what you have just described.

Mr. DURBIN. Let me say in response to my colleague, in the case involving Robert Bork, I am reading from a letter from Thomas Boyd, the Acting Assistant Attorney General—and I ask unanimous consent these letters be printed in the RECORD.

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

DEPARTMENT OF JUSTICE, OFFICE OF LEGISLATIVE AND INTERGOVERNMENTAL AFFAIRS,

Washington, DC, August 24, 1987.

Hon. JOSEPH R. BIDEN, Jr.,
Chairman, Senate Judiciary Committee, Washington, DC.

DEAR CHAIRMAN BIDEN: This responds further to your August 10th letter requesting certain documents relating to the nomination of Judge Robert Bork to the Supreme Court. Specifically, this sets forth the status of our search for responsive documents and the method and scope of review by the Committee.

As we have previously informed you in our letter of August 18, the search for requested documents has required massive expenditures of resources and time by the Executive Branch. We have nonetheless, with a few exceptions discussed below, completed a thorough review of all sources referenced in your request that were in any way reasonably likely to produce potentially responsive documents. The results of this effort are as follows:

In response to your requests numbered 1–3, we have conducted an extensive search for documents generated during the period 1972–1974 and relating to the so-called Watergate affair. We have followed the same procedure, in response to request number 4, for all documents relating to consideration of Robert Bork for the Supreme Court by President Nixon or his subordinates. We have completed our search and relevant Department of Justice and White House files for documents responsive to these requests. The Federal Bureau of Investigation also has completed its search for responsive documents, focusing on the period October-December 1973 and on references to Robert Bork generally.

Most of the documents responsive to requests numbered 1–4 are in the possession of the National Archives and Records Administration, which has custody of the Nixon Presidential materials and the files of the Watergate Special Prosecution Force. The Archives staff supervised and participated in the search of the opened files of the Nixon Presidential materials and the files of the Watergate Special Prosecution Force, which was directed to those files which the Archives staff deemed reasonably likely to contain potentially responsive documents.

Pursuant to a request by this Department under 36 C.F.R. 1275, the Archives staff also examined relevant unopened files of the Nixon Presidential materials, and, as required under the pertinent regulations, submitted the responsive documents thus located for review by counsel for former President Nixon. Mr. Nixon's counsel, R. Stan Mortenson, interposed no objection to release of those submitted documents that (a) reference, directly or indirectly, Robert Bork, or (b) were received by or disseminated to persons outside the Nixon White House. Mr. Mortenson on behalf of Mr. Nixon objected to production of the documents which are described in the attached appendix. Mr. Mortenson represents that these documents constitute purely internal communications within the White House and contain no direct or indirect reference to Robert Bork.

Mr. Mortenson also objected on the same grounds to production of unopened portions of two documents produced in incomplete form from the opened files of the Nixon Presidential materials:

1. First page and redacted portion of fifth page of handwritten note of John D. Ehrlichman dated December 11, 1972.

2. All pages other than the first page of memorandum from Geoff Shepard to Ken Cole dated June 19, 1973.

Mr. James J. Hastings, Acting Director of the Nixon Presidential Materials Project, has reviewed these two documents and has advised us that the unopened portions of neither document contain any direct or indirect reference to Judge Bork.

Our search has not yielded a copy of the document referenced in paragraph ''a'' of your request numbered 3, which, as you correctly note, is printed at pages 287–288 of the Judiciary Committee's 1973 ''Special Prosecutor'' hearings.

Among the documents collected by the Department are certain documents generated in the defense of *Halperin*. v. *Kissinger*, Civil Action No. 73–1187 (D. D.C.), a suit filed against several federal officials in their individual capacity, which remains pending. The Department has an ongoing attorney-client relationship with the defendants in Halperin, which precludes us from releasing certain documents containing client confidences and litigation strategy, without their consent. 28 C.F.R. 50.156(a)(3).

All documents responsive to request number 5, concerning the pocket veto, have been assembled.

All documents responsive to request number 6 have been assembled. The exhibits filed by counsel for Edward S. Miller on July 12, 1978 and referred to in your August 10 letter, remain under seal by order of the United States District Court for the District of Columbia. However, a list of the thirteen documents has been unsealed. We have supplied copies of eleven of these documents, including redacted versions of two of the documents (a few sentences of classified material have been deleted). We have supplied unclassified versions of two of these eleven documents, as small portions of them remain classified. We are precluded by Rule 6(e) of the Rules of Criminal Procedure from giving you access to two other exhibits—classified excerpts of grand jury transcripts—filed on July 12, 1978. We also searched the files of several civil cases related to the Felt and Miller criminal prosecution, as well as the documents generated during the consideration of the pardon for Felt and Miller.

With respect to request number 7, Judge Bork has previously provided to the Committee a number of his speeches, which we have not sought to duplicate. We have sought and supplied any additional speeches, press conferences or interviews by Mr. Bork, as well as any contemporaneous documents which tend to identify a date or event where he gave a speech or press interview during his tenure at the Department.

On request number 8, there are no documents in which President Reagan has set forth the criteria he used to select Supreme Court nominees, or their application to Judge Bork, other than the public pronouncements and speeches we have assembled.

Our search for documents responsive to request number 9 has been time-consuming and very difficult, and is not at this time entirely complete. In order to conduct as broad a search as possible, we requested the files in every case handled by the Civil Rights Division or Civil Division, between 1969–77, which concerned desegregation of public education. Although most of these case files have been retrieved, several remain unaccounted for and perhaps have been lost. We expect to have accounted for the remaining files (which may or may not contain responsive documents) in the next few days. We have also assembled some responsive documents obtained from other Department files. The Department of Education is nearing completion of its search of its files, and those of its predecessor agency, HEW.

We have assembled case files for the cases referred to in question 10, with the exception of *Hill* v. *Stone*, for which there is no file. We have no record of the participation of the United States in *Hill* v. *Stone*, or consideration by the Solicitor General's office of whether to participate in that case.

A few general searches of certain front office files are still underway, and we expect those searches to be concluded in the next few days. We will promptly notify you should any further responsive documents come into our possession.

As you know, the vast majority of the documents you have requested 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. The disclosure of such sensitive and confidential documents seriously impairs the deliberative process within the Executive Branch, our ability to represent the government in litigation and our relationship with other entities. For these reasons, the Justice Department and other executive agencies have consistently taken the position, in response to the Freedom of Information Act and other requests, that it is not at liberty to disclose materials that would compromise the confidentiality of any such deliberative or otherwise privileged communications.

On the other hand, we also wish to cooperate to the fullest extent possible with the Committee and to expedite Judge Bork's confirmation process. Accordingly, we have decided to take the exceptional step of providing the Committee with access to responsive materials we currently possess, except those privileged documents specifically described above and in the attached appendix. Of course, our decision to produce these documents does not constitute a waiver of any future claims of privilege concerning other documents that the Committee requests or a waiver of any claim over these documents with respect to entities or persons other than the Judiciary Committee.

As I have previously discussed with Diana Huffman, the other documents will be made available in a room at the Justice Department. Particularly in light of the voluminous and privileged nature of these documents, copies of identified documents will be produced, upon request, only to members of the Judiciary Committee and their staff and only on the understanding that they will not be shown or disclosed to any other persons. Please have your staff contact me to arrange a mutually convenient time for inspection of the documents.

As I stressed in my previous letter, if the Committee is or becomes aware of any documents it believes are potentially responsive but have not been produced, please alert us as soon as possible and we will attempt to locate them.

Should you have any questions or comments, please contact me as soon as possible. Thank you for your cooperation.

Sincerely,

LAURA NELSON
(For John R. Bolton,
Assistant Attorney General).

APPENDIX

DOCUMENTS SUBJECT TO OBJECTION

(By Mr. Nixon's Counsel)

1. Memorandum to Buzhardt and Garment from Charles Alan Wright, January 7, 1973. Subject: June 6th meeting with the Special Prosecutor (document No. 8).

2. Memorandum to Buzhardt and Garment from Charles Alan Wright, January 7, 1973. Subject: June 6th meeting with the Special Prosecutor (document No. 9).

3. Memorandum to Garment from Ray Price, July 25, 1973. Subject: Procedures re: Subpoena (document No. 13).

4. Memorandum to General Haig from Charles A. Wright, July 25, 1973. Subject: Proposed redrafts of letters (document No. 14).

5. Draft letter to Senator Ervin dated July 26, 1973. Subject: two subpoenas from Senator Ervin (document No. 15).

6. Draft letter to Judge Sirica dated July 26, 1973. Subject: subpoena duces tecum (document No. 16).

7. Memorandum to the Lawyers from Charles A. Wright, July 25, 1973. Subject: Thoughts while shaving (document No. 17).

8. Memorandum to the President from J. Fred Buzhardt, Leonard Garment, Charles A. Wright, dated July 24, 1973. Subject: Response to Subpoenas (document No. 18).

9. Memorandum to Ray Price from Tex Lezar, dated October 17, 1973. Subject: WG Tapes (document No. 20).

10. Memorandum to Leonard Garment and J. Fred Buzhardt from Charles A. Wright, dated August 3, 1973. Subject: Discussions with Philip Lacovara (document No. 25).

11. Memorandum to the President from Leonard Garment, J. Fred Buzhardt, Charles A. Wright, dated August 2, 1973. Subject: Brief for Judge Sirica (document No. 26).

12. Memorandum to Len Garment, Fred Buzhardt, Doug Parker and Tom Marinis from Charlie Wright, dated August 1, 1973. Subject: note regarding brief (document No. 27).

13. Memorandum to the President from J. Fred Buzhardt, Leonard Garment, Charles A. Wright, dated July 24, 1973. Subject: Response to Subpoenas (document No. 28).

14. Draft letter to Senator Ervin dated July 26, 1973. Subject: two subpoenas issued July 23rd (document No. 29).

15. Draft letter to Judge Sirica dated July 26, 1973. Subject: subpoena duces tecum (document No. 30).

16. Memorandum to J. Fred Buzhardt, Leonard Garment, Charles A. Wright, from Thomas P. Marinis, Jr. (Undated). Subject: Appealability of Cox Suit (document No. 31).

17. Notes (handwritten) (Undated). Subject: [appears to be notes of oral argument] (document No. 32).

18. Memorandum to the President from Charles Alan Wright, dated September 14, 1973. Subject: Response to Court's memorandum (document No. 34).

19. Handwritten notes (document no. 36).

20. Memorandum to J. Frederick Buzhardt from Charles Alan Wright, dated June 2, 1973. Subject: Executive privilege (document no. 41).

21. Memorandum to J. Frederick Buzhardt and Leonard Garment from Charles Alan Wright, dated June 7, 1973. Subject: June 6th meeting with Special Prosecutor (document no. 42).

22. Memorandum to J. Fred Buzhardt from Robert R. Andrews, dated June 21, 1973. Subject: Executive Privilege (document no. 43).

23. Memorandum to J. Fred Buzhardt and Leonard Garment from Thomas P. Marinis, Jr., dated June 20, 1973. Subject: Prosecutor Wright's attempt to obtain document (document no. 44).

24. Memorandum to J. Frederick Buzhardt and Leonard Garment from Charles Alan Garment (sic), dated June 7, 1973. Subject: June 6th meeting with Special Prosecutor (document no. 46).

25. Draft letter to Senator from Alexander Haig, dated December 12, 1973. Subject: Response to letter of the 5th (document no. 60).

26. Draft letter to Senator from Alexander Haig, dated December 12, 1973. Subject: Response to letter of the 5th (document no. 61).

27. Proposal re: transcription of tapes dated October 17, 1973. (document no. 63).

28. Typed note with handwritten notation: Sent to Buzhardt 12/11/73. Undated. Subject: papers Buzhardt sent to Jaworski (document no. 66).

29. Chronology—Presidential Statements, Letters, Subpoenas dated March 12, 1973. Subject: chronology of same (document no. 71).

30. Handwritten note dated 1/31/74 (January 31, 1974). Subject: Duties and responsibilities of Special Prosecutor (document no. 82).

31. Memorandum to Fred Buzhardt from William Timmons, dated 7/30/73 (July 30, 1973). Subject: refusal to release taped conversations (document no. 91).

32. Memorandum to J. Fred Buzhardt from Paul Troible, dated October 30, 1973. Subject: Cox's disclosure of Kleindienst's confidential communication (document no. 92).

33. Proposal regarding transcription of tape conversations dated 10/17/73 (October 17, 1973). (document no. 94).

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. DURBIN. In this May 10, 1988, letter from Thomas Boyd to JOE BIDEN, then-chairman of the Senate Judiciary Committee:

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.

In response to my friend, the point I am making is they did not draw the same absolute line being drawn by the

Bush White House for Miguel Estrada. They disclosed information which reflected purely internal deliberations and the work product of attorneys and confidential legal advice and did it in the spirit of cooperation. They drew a line, but the line was on the side of disclosure. The line drawn by the Bush White House for Estrada is on the side of concealment, the refusal to disclose this information.

Mr. CRAPO. Will the Senator yield further?

Mr. DURBIN. I am happy to yield.

Mr. CRAPO. If I understand correctly, you are saying, based on the letter, that you indeed are seeking the disclosure of these confidential internal work documents and you believe that letter shows the precedent for disclosure exists, is that correct?

Mr. DURBIN. Certainly the precedent exists. The statement made on the floor by Senator HATCH and others that this has never been done or only been leaked—he used that term this morning—is not a fact.

I concede the point made by my colleague that they do draw a line. The Department of Justice said no to everything, but they did disclose the information I just described when it came to Robert Bork. At this moment in time I don't think this Department of Justice has even entered into an honest conversation with the Senate Judiciary Committee members about whether that line can be drawn. They have said categorically that they are not going to allow anything to be produced.

That is why we are at this impasse. It is troublesome to have a nominee with great credentials, a great resume, a good paying job as an attorney in the District of Columbia. He has not served as a judge so he does not have written opinions. We are trying to get to the heart of the matter. What are his values? Is he conservative or something else?

Mr. CRAPO. Will the Senator yield?

Mr. DURBIN. I am happy to yield for a question.

Mr. CRAPO. I understand your position now, which is that you are asking for the disclosure of this broad array of confidential documents.

I assume you are aware that every living former Solicitor General has rejected this request. This letter was signed by Democrats Seth Waxman, Walter Dellinger, and by Republicans, Ken Starr, Charles Fried, Robert Bork, and Archibald Cox for the very reasons we have been talking about.

I want to get at this principle. Is it the correct policy, is it the right thing for us to do in the Senate, to change the practice? I understand you can list a few cases where there were exceptions in the history of handling judicial nominations in this country, but if you look at the thousands, indeed tens of thousands of judicial nominations, the policy and practice of the Senate has been not to delve into the confidential documents for the very reason every former living Solicitor General has said it would compromise the ability of its office to do its work effectively.

Do you believe it is the right policy for the Senate to begin putting some standard on those who would become nominees of any President, Republican or Democrat, to a position in the U.S. Judiciary? Should we open this door and start demanding that the Solicitor General's Office, the Justice Department, and other contacts, or in any other situation, start revealing these confidential internal work documents by career lawyers?

(Mrs. DOLE assumed the Chair.)

Mr. DURBIN. In response, Miguel Estrada does not see a problem with this at all.

Mr. CRAPO. Miguel Estrada believes his papers will show support for him. But the principle here is the principle—

Mr. DURBIN. I would like to respond, if I could. In fact, because Miguel Estrada does not see a problem with this is an indication to me that perhaps some in the White House are being overly cautious again. They coached Miguel Estrada to come before us and not answer questions and now when he says, disclose the memoranda, they are saying, no, no, we did not want the Senate raising that.

Going to the point raised by the Senator as to in the history of this Senate how often this has occurred, let me reflect on this for a moment. In most instances, this will never happen. There are only a few nominees who will come before the Senate who actually have generated this kind of documentation in the Solicitor General's Office or the Department. And many of those nominees will have an open record as judges with their writings to indicate what they believe. And most, if not all, of them will have been responsive to the questions that we have asked of the nominees.

We find ourselves backed into this corner with Miguel Estrada because he does not have a body of established opinions as a judge. He does not have an abundance of writings reflecting on his philosophy. He has not answered the questions which we have asked of him. And we are straining to find some information on which to base a reasoned judgment about his nomination to the second highest court of the land for a lifetime appointment.

We find ourselves in the difficult, and I think somewhat rare, situation that has been created by Miguel Estrada and the strategy of the White House in sending this nominee to Capitol Hill. I think that is rare. I hope it does not happen again.

I yield for a question.

Mr. CRAPO. It is not just the White House. As I indicated, this is every living former Solicitor General in the United States who is saying this issue goes far beyond the Miguel Estrada nomination. It goes to the core of what the Senate should be dealing with in terms of its investigation of judicial nominees and what they can do to our judicial system and to the Justice Department in that context.

But you indicated also in your answer that Miguel Estrada did not answer the questions asked of him by the Judiciary Committee. I wish to clarify this because I understand he would not reveal the documents that we are discussing.

Were there any other questions which you asked him or which you are aware of that he has not answered?

Mr. DURBIN. Let me suggest you look at the questions asked of him by Senator KENNEDY, written questions after the nominee appeared, that went to specific decided cases and asked for his response or reasoning. Time after time he came back and said: Well, I have to read all of the pleadings that were filed and all the briefs that were filed before I would hazard an opinion upon this.

Similarly, when Senator SCHUMER asked him what I thought to be a perfectly reasonable question, one that had been asked by Republican Senators of Clinton nominees, repeatedly he refused to answer. The question was one that you would dream of in a constitutional law course in law school. The question was: Name a Supreme Court decision in the last 40 years—or a followup question, at any time in its history—that you would find objectionable.

If that were the question on the final at law school, you would breathe a sigh of relief. You can think of one case with which you disagree. But this man, seeking a lifetime appointment to the second highest court in the land, would not answer that question.

I asked: Which Federal court judge, living or dead, would you emulate or admire on the bench? He went on to say, first, that he could not name a single Federal court judge, living or dead, he would try to emulate on the bench.

He then, in later response to the same question, said: I admire some of the Federal Court Justices I have worked with. I can understand that. That is a reasonable response.

But do you understand how we, sitting on this side of the table, are saying how can this man, who is clearly a gifted individual with extraordinary legal talent, be so afraid to share with us one Supreme Court case that he disagrees with?

That was a question Senator SESSIONS asked of Richard Paez, and I don't believe a Democrat stood up and said: That is not fair. You have gone too far.

It is a reasonable question. It gives you insight. Is he going to mention Brown v. Board of Education? Is he going to mention Roe v. Wade? What case is he going to mention? He wouldn't mention one. Doesn't that trouble you? I ask my colleague and friend, doesn't that trouble you, that someone who is seeking that kind of legal appointment wouldn't be honest and candid with you? For the sake of yielding to my colleague for a question

and for him to answer my question, I will yield.

Mr. CRAPO. I will respond and ask a question, how is that?

Mr. DURBIN. Sure.

Mr. CRAPO. Not having sat in the hearing, I don't know how much it would trouble me. I can't tell you if a witness would not answer my questions I wouldn't be troubled by it. I don't think that would cause me to try to filibuster the nomination, which is really one of the core issues we are dealing with here. I might vote no because of it. And you are perfectly entitled to vote no if you don't like the answers to your questions. But we are way beyond not liking the answers to questions here. We are seeing a filibuster of a nomination to the Circuit Court of Appeals for the District of Columbia. It is based, as I understand it, in large part on the fact that confidential documents are not disclosed.

What I am trying to get at is: What else? What I have heard at this point is the nominee did not identify which was his favorite and least favorite Supreme Court case, and that he would not say how he would have judged a particular case until he had read the briefs and studied the matter more carefully. Frankly, I think that makes him a better candidate.

Mr. DURBIN. I am sorry, I am going to have to interject at that point. We didn't ask him how he would rule on a particular case. We asked him, on deciding cases, to explain his position on an accepted standard of law. We could not and should not and I don't think any Member would ask him how he would rule on a specific case pending before the Court. That is way beyond the bounds.

Let me just say, though, this is an interesting thing on which I think my colleague might reflect. This comes from the Legal Times of April 2002. It's a quote:

> President George W. Bush's judicial nominees received some very specific confirmation advice last week: Keep your mouth shut. Justice Scalia called DC Circuit Judge Silberman at one point, the latter recalled, and told him he was about to be questioned about his views about Marbury v. Madison, the nearly 200-year-old case that established the principle of judicial review.

That's almost the first case—McCulloch v. Maryland and Marbury v. Madison—the first two cases you'll ever read in constitutional law. Listen to what Silberman told him.

> ''I told him as a matter of principle he should not answer that question either,'' Silberman said.

So you understand we are not just dealing with my interpretation as to whether or not Miguel Estrada is cooperative; we are dealing with a strategy: Keep your mouth shut. Don't tell the Senate, don't tell the American people, don't put on the record who you are and what you believe. Zip your mouth, hold tight, wait for the vote, and we will give you a lifetime appointment to the second highest court of the land. I don't think that is a fair way to approach this process.

Mr. CRAPO. Will the Senator yield?

Mr. DURBIN. After I finish. When the Clinton nominees came before the Judiciary Committee under the control of the Republicans, they were peppered with questions. Some of those questions I think went way beyond the realm of reasonable inquiry.

I can recall one woman from California who was asked to explain how she had voted on every proposition before the California voters over the previous 10 years; in other words, to disclose the secrecy of the ballot place, how she had voted and why on every proposition. That was a question propounded by a Republican Senator from the Judiciary Committee, still serving there, to this Clinton nominee. She said that is unfair, and we agreed with her. Because of that stance she took, she waited forever and ever to be confirmed.

In this situation I think what we are dealing with is a reasonable inquiry—positions on Supreme Court Justices, Supreme Court cases. We are not asking for Miguel Estrada to disclose his personal conscience and feelings on issues that may be of some personal note to him, but, rather, to focus on his view of the law. I think that is reasonable. I hope we will continue in our efforts to do that.

I might say to the Senator, I am going to move to another topic. If he is interested in staying, of course, he might.

Mr. CRAPO. Will the Senator entertain one more question before he moves on? I do appreciate him allowing me to engage in this discussion with him.

Again, I am trying to make it clear so we understand just exactly what it is that is being said Miguel Estrada has not disclosed. We talked about the documents in the Solicitor General's Office that he prepared as a career attorney. We talked about his failure to identify which was his favorite and least favorite Supreme Court case. And apparently—I was not at the hearing because I don't sit on the Judiciary Committee—he did not answer Senator KENNEDY's questions about some current cases to the satisfaction of the Senators.

Is there anything else that is holding him back? Again, the reason I am getting at this is because we are facing a remarkably unique circumstance here, the filibuster of a circuit court nomination on the basis of nondisclosure. I want to get out exactly what that nondisclosure is so we and the American public can understand that. Then we can deal with it on a very focused basis, on a point-by-point basis and, where there is merit on either side, deal with it.

But the general charges, it seems to me, of nondisclosure and not answering questions to the satisfaction of a Senator usually result in a Senator saying I don't like the way the answers were given so I am going to vote no on the nomination. Instead, at this point we are facing a filibuster, which I believe is a serious threat to the manner and the protocol with which the Senate has approached Presidential nominations to the judiciary and is much broader than just the nomination of this individual judge.

So we have two issues which to me are much broader than this specific nomination. The first is whether we should have the Senate start inquiries into confidential Solicitor General documents, and the second is whether the Senate should be stopped from voting on a Presidential nomination by a filibuster when we are dealing with nominations to the judiciary. That will change the way this Senate has operated historically.

Mr. DURBIN. Let me just say to my colleague, I have given him great leeway in his questioning.

Mr. CRAPO. You have.

Mr. DURBIN. And for specific reason. I thank him for coming to the floor, even though we disagree on this issue. This deliberative body doesn't deliberate much. There is not much debate on the floor of the Senate and that is sad. I thank him for coming to the floor and for engaging me in questions. I think he will find, almost without exception, I always yield for questions because I happen to believe that is what this is about. It is a deliberative body. We should express our points of view. Let our colleagues and those following debate decide who is right and who is wrong. I thank him for asking those questions.

I think what he has said is he has a difference of opinion from my point of view on the disclosure of documents. That is an honest difference. I think what I have said is in the past there has been disclosure, lines have been drawn, but in this case the White House said no disclosure when it comes to Miguel Estrada's documents, and that is an important issue before us.

Second, he has asked for a bill of particulars: Give us the specific questions that you didn't like when it came to Miguel Estrada's responses. I have given him several. That is not an exclusive or exhaustive list. I think other members of the Judiciary Committee could come up with more.

If the Senator is suggesting we should resubmit the questions and see if he takes the test a second time whether he can pass it, maybe that would move us down the road a little closer to a final vote on this individual.

I want to add here it is unusual for there to be a filibuster on a nominee to such an important bench, but it is not unprecedented. I don't know if my colleague was in the Senate when the Richard Paez nomination came before us. But the fact is, he would not have been confirmed had it not been for a cloture vote that had to be filed. Paez, who waited patiently for over 4 years before the Senate Judiciary Committee, finally had to have a cloture vote in which he prevailed to become a Federal judge.

The Republicans, then in a position to launch a filibuster, did it on a Hispanic nominee not that long ago, in March of 2000. We know when it came to Richard Paez, the standard used by many Republican Senators was we will filibuster him. It took a cloture vote to stop the filibuster. I don't know if the Senator was in the Senate at that time. I think he was. I do not know how he voted. But the fact is some Members felt strongly enough about the Paez nomination that they went ahead and initiated this kind of filibuster.

THE ECONOMY

Mr. President, I would like to move on to another issue if I can. It is one I think bears some attention by the Senate and those following the deliberation. We are now in the third week of debating Miguel Estrada. It is an important issue.

Today, I noticed when President Bush spoke to the Latino Coalition in the Executive Office Building, the first issue he raised was not Miguel Estrada but it was an important issue—and I am sure he did that for emphasis—but when it came to the issues raised by the President of the United States to the Latino Coalition in the Executive Office Building, the first issue he raised was the state of the economy. It is interesting to me that though the President raised this issue, we can't raise this issue on the floor of the Senate.

Yesterday, the minority leader, TOM DASCHLE, made a unanimous consent request which I am going to repeat in a few moments that we move from this debate to a debate on the state of the economy—and I think for good reason.

As you look across America, you think people will realize our economy is in a sad state. This is a recession which has gone on entirely too long. My friends on the Republican side say this is a Clinton recession. I am afraid the statute of limitations has run on that particular complaint.

At this point in time, 2.5 million jobs have been lost since President Bush took office. He is going to have to take ownership for this recession.

There are many factors which led to this recession. There is no doubt the economy heated up prior to his coming into office, and there was going to be a correction. There is no doubt as well that terrorism and 9/11 took its toll on the economy, and continue to, I might add.

There is also no doubt that the economic policy pursued by the Bush tax cut 2 years ago failed. It didn't work. We continue to lose jobs by the cut in interest rates to try to get the economy moving forward again. Frankly, we are in a terrible situation. We understand our economy needs a boost. Consumer confidence in America is at a 10-year low. It was reported yesterday that the Consumer Confidence Index plummeted from 4.6 to the revised 7.8, this the lowest reading since October of 1993.

Unemployment is on the rise. Since January 2000, the number of unemployed increased by nearly 40 percent with nearly 8.3 million Americans out of work, and 2.3 million private sector jobs lost.

Contrast that with the Clinton administration where 22 million jobs were created. In the Bush administration of 2 years and a few months, 10 percent of those jobs have been lost—a 2.3 million increase in the creation of jobs. What we have in the Bush administration is the elimination of jobs which were previously created by the Clinton administration.

Unemployment spells are lengthening because companies are not hiring. It isn't a problem of losing a job today and finding another one next month. The average number of weeks individuals spend unsuccessfully seeking work increased by a month over the past year. Approximately 20 percent of all the unemployed have been looking for work for more than 6 months. Wage growth is now stagnant. The shortage of jobs has slowed—I might add, as has the increase in the cost of health insurance, another issue which this administration summarily ignores.

Today, President Bush spoke to the Latino Coalition about small businesses and what we need to do to help small businesses. Instead of a tax plan that will help small businesses, let me suggest as follows. What the Bush tax plan offers to the wealthiest individuals in America is a three-layered cake. What the Bush tax plan offers to small business is crumbs; things that, frankly, are not controversial in terms of expensing. But the vast majority of the tax cut the President is pushing will not stimulate today's economy, but it will burrow us deep into a deficit which, frankly, is not fair. The fact is they are giving tax breaks to the wealthy people.

The President failed to mention what I would suggest would be the top one or two complaints of small businesses in America today. You pick them. Open the phone books and call a small business person and ask, What is your problem today? They will say the economy is not strong. People aren't buying. What about your expenses in business? What kind of problems do you face? I guarantee you the answer will be the cost of health insurance. And not a word, not one word from the Bush administration about how to deal with that.

I introduced a bill to give a tax credit to small businesses which would allow them to provide health insurance for their employees. It doesn't answer the problem. But at least it is sensitive to trying to help small employers employ their people as well as the owners of the business dealing with health insurance protection. That, to me, is a reasonable approach, and something that would help small businesses, which is summarily ignored by the Bush administration.

The track record we have now for job creation is the worst in 58 years. In order for the Bush administration to tie the Eisenhower administration for the worst job creation record ever, President Bush would have to create 96,000 jobs a month starting today to the end of his term. He is not going to get that done, I am afraid. I hope I am wrong. I hope the economy turns around.

But isn't it interesting, with the economy in a basket struggling to survive, that we can't even engage in a debate on the floor of the Senate about what steps we can take to get this economy back on track. I don't have to tell you about the crisis most States are facing when it comes to their budgets. Illinois will have about a $5 billion deficit which the Governor is going to have to wrestle with under extraordinary circumstances. He will have to cut spending, I am sure. There are some who will say he should raise taxes. Whatever he does will not help us move out after a recession. In fact, it puts a damper on economic growth at a time when we should be putting stimulus. So that situation is out there as well.

I might also add that the situation when it comes to homeland security is also a damper on the economy. So many business people across America are worried about their vulnerabilities when it comes to the economy. They hope this government, starting in Washington, will provide a helping hand. But it hasn't happened, because this administration has been strong on rhetoric and press conferences, but weak when it comes to providing the money so that State and local resources can be increased and enhanced.

Who are you going to call if there is a threat of terrorism in the community? Are you going to ask for a telephone number for 1600 Pennsylvania Avenue to try to get through to President Bush or Vice President Chaney? Not likely. You are likely to call 9–1–1 and a local policeman or firefighter is going to be the voice at the other end of the call. If they are not trained, if they are not equipped, frankly, homeland security is a farce.

We know what is going on in the Middle East today. Troops numbering 180,000 have been sent by our government—military personnel and support personnel—in preparation for the invasion of Iraq. It is clear that America is preparing to attack. But we know from the homeland security side that America is not prepared to defend. We are not prepared to defend the hometown families and neighborhoods and communities across America. This administration has not come up with the resources we need to make that happen.

At this point, I would like to introduce into the RECORD—it probably has been done before, but it certainly bears repeating—a letter sent to President Bush by my friend and colleague, and ranking Member of the Senate Committee on Appropriations, Senator

ROBERT C. BYRD of West Virginia. The letter is dated February 23, 2003. The reason I want to enter it at this point is that Senator BYRD goes through chapter and verse of the take by Democrats in Congress and Congress in general to persuade the Bush administration to put more money into homeland security. He spells out in graphic detail how this White House has stopped our efforts every step of the way. It is a sad reality that as we face terrorists at home we are not providing the resources that are necessary to the local first responders.

I ask unanimous consent that the letter be printed in the RECORD.

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

U.S. SENATE,
COMMITTEE ON APPROPRIATIONS,
Washington, DC, February 25, 2003.

Hon. GEORGE W. BUSH,
Office of the President, The White House, Washington, DC.

DEAR MR. PRESIDENT: In your remarks to the National Governors Association on February 24, 2003, you claimed that Congress was to blame for a reduction in homeland security funding in Fiscal Year 2003. Such a claim is wrong, and I urge you to correct it.

If enacted, the Administration's Fiscal Year 2003 request for first responders, for instance, would have eliminated funding for the Justice Department's Office of Domestic Preparedness; it would have eliminated funding for the Community Oriented Policing Services (COPS) hiring initiative; it would have discarded the Edward Byrne Memorial and the Local Law Enforcement Assistance Block grant programs; and it would have provided absolutely no support for the Assistance to Firefighters grant program.

A lack of Administration commitment to first responders is just the beginning of the empty rhetoric coming from the White House on homeland security funding.

Since September 11, 2001, you have signed, with great fanfare, legislation to authorize improvements in airport, seaport, and border security. Yet, your Administration has opposed efforts to fund those bills. On December 10, 2002, you announced a plan for state and local governments to vaccinate 10 million first responders for a potential smallpox attack. But your Administration has passed the responsibility of paying for these vaccines to the state and local governments.

Last August, you rejected $2.5 billion that Congress, in an overwhelming bipartisan fashion, approved for homeland security efforts. Congress had designated those funds as emergency priorities in the Fiscal Year 2002 Supplemental Appropriations bill. This package include funds to begin to meet the billions of dollars of outstanding applications from 18,000 fire departments for equipment and training. The legislation also included grant funding to make police and fire equipment interoperable—a critical weakness in response efforts on September 11, 2001. The homeland security package contained critical funding for port security, for security enhancements at small and medium airports, and for federal law enforcement counterterrorism efforts. The legislation included funding to strengthen security at nuclear plants and laboratories and to protect the nation's food and water supply.

Instead of embracing this package and agreeing with Congress on its urgency, you called it wasteful. It only took your signature to address these vulnerabilities, but you refused and called the funding wasteful.

I must note that the Senate Appropriations Committee approved that funding unanimously. In fact, the Committee last July approved each of the 13 appropriations bills on a unanimous, bipartisan basis. But your Administration objected again and again to these bills despite the overwhelming needs facing the nation.

This past January, during Senate consideration of the Fiscal Year 2003 Omnibus Appropriations bill, I offered two amendments, both aimed at increasing investments in homeland security initiatives from coast to coast. The amendments focused on funding authorization bills that you signed with great fanfare. But again the Administration said the funds were unnecessary and urged the Senate to reject these amendments. The political strong-arm tactics worked, and the amendments were rejected to partisan votes (roll call votes #002 and #003).

Last spring, the Senate Appropriations Committee held five days of hearings to examine homeland security priorities. The Administration was represented by six Cabinet secretaries, the Attorney General, and the Director of the Federal Emergency Management Agency. They argued the case for homeland security funding plan. However, every local government representative and every representative of fire, police, and emergency response agencies testified that the Administration's funding plan was seriously flawed. They testified that doing away with the funding programs which have proved so valuable was shortsighted and irresponsible.

In your remarks to the governors, you characterized the Congress's decision to use existing and effective programs to deliver funding to our first responders as micromanagement. Congress chose to fully fund your $3.5 billion first responder request through existing, effective channels rather than launch a new, untested program. This was a responsible decision.

In the Fiscal Year 2003 appropriations legislation, Congress chose to be responsible by listening to the men and women on the front lines of homeland security. We heard their needs and answered their calls for help. But, time and time again, the Administration has turned its back to the nation's first responders. Enough is enough.

I appreciate your desire to protect the nation from terrorist attack, but the job cannot be accomplished with continued political grandstanding. The country needs an Administration that takes an honest approach to homeland security instead of continually making empty promises to the nation's police, fire, and emergency medical teams. The American people want to know that if there is an attack close to their homes, their local doctors and nurses have the training to treat the injured. They want to know that their local firemen have the ability and equipment to handle a chemical or biological attack. They want to know that their local police officers are trained in identifying and responding to the variety of terrorist attacks that we now could face.

The enemy is not Congress, Mr. President. The enemy is the terrorist who stands ready to exploit the nation's many security gaps. Especially now, when the terror alert is high and war is looming at our doorstep, we must be acutely aware of the sharply increased threat of attack here at home. Instead of pointing fingers and assigning blame, I implore you to expedite the release of the homeland security funds in the Fiscal Year 2003 appropriations legislation and the funds that still are unobligated from the Fiscal Year 2002 appropriations bills. The fact that these dollars, approved by Congress in December 2001, sit idle is beyond comprehension. I also hope that you consider expanding the investment in homeland security in the upcoming supplemental bill. As a nation, we know where our vulnerabilities lie, and we can be sure that the terrorists do, as well. We should take every step possible to protect the American people and to provide critical funding for homeland security initiatives.

As we move forward, I urge you to work with Congress in a bipartisan fashion to provide homeland security funding will make a significant investment in the protection of the American people.

Sincerely yours,

ROBERT C. BYRD.

Mr. REID. Mr. President, will the Senator yield for a question?

Mr. DURBIN. I would be happy to yield.

Mr. REID. I appreciate very much the Senator entering that letter from Senator BYRD.

I ask the Senator from Illinois: Is he aware that the reason Senator BYRD wrote that letter is because President Bush, at the signing of the omnibus bill when we lumped 11 appropriations bills—is the Senator aware that he had the audacity to say at the signing of that bill that it was OK, but he was upset with Congress for not providing more money for homeland security? Is the Senator aware that is why Senator BYRD wrote that letter, because it is just not true?

Mr. DURBIN. Yes. I am aware of it. It is sadly troubling, because what the President did in making that statement is to mischaracterize what happened.

The Senator may recall, as I do, that Senator BYRD came before this body early on and said to us we have a problem in America. If we are going to protect America, we need to make a substantial investment in changes such as a statewide communications system for Nevada and Illinois so the police, fire, and medical responders can all be on the same network if there is terrorist activity or a disaster. These investments are basic. And also in the area of bioterrorism, to make sure that doctors, nurses, and health care personnel are adequately trained and that hospitals are ready if there is anthrax, God forbid, as we faced on Capitol Hill.

Senator BYRD came time and time again to this floor and begged us, as a nation, to be responsive. Unfortunately, time and time again, he was rejected.

When we finally sent a $2.5 billion amount to the White House, asking them to put that into homeland security, it was effectively vetoed—$2.5 billion stopped. So the President cannot point the finger at Congress.

I say to my friend from Nevada, I am anxious to follow the debate we are going to face in a few weeks when we have this administration come before us and tell us they need $26 billion for Turkey—$6 billion in grants and $20 billion in loan guarantees for Turkey—which has been their demand if we are going to be using Turkey as a base of operations for an invasion of Iraq.

I want the administration to explain to the American people how we can afford $26 billion for the defense and security of Turkey and cannot afford $2 billion for the defense and security of the United States of America when it comes to homeland security. That is going to be an interesting debate.

Mr. REID. Will the Senator yield for another question?

Mr. DURBIN. I am happy to yield for another question.

Mr. REID. Is the Senator aware that one of the reasons Senator BYRD was so upset—and that is probably too calm a term for how he reacted to this statement of the President. Senator BYRD, you will recall, when he was chairman of the Appropriations Committee, last year, held a series of hearings that went over 2 weeks, where we called in various administration officials, people from communities in States around the country, to find out what their needs were for homeland security. That is why he brought the money number before the Congress. And he was rejected by the President.

Is the Senator aware of that?

Mr. DURBIN. I am not only aware of it, I attended many of those hearings, as I believe the Senator from Nevada did as well. And Senator BYRD took it very seriously. He brought in the experts when it came to law enforcement, fire protection, and medical personnel, and asked them what they needed. It was not this porkbarrel that we are often accused of here and of dreaming up ideas on how to spend money.

He asked the people on the ground: What do you need? What will help? When they identified those needs, he put that into legislation, which was rejected by this administration.

So we have a situation, if you would step back for a second, where we have an economy on the ropes. We have a President with a failed economic policy. We have a war on terrorism, which continues to pursue Osama bin Laden, with very little success. We have a homeland security program headed up by a man we both respect, Tom Ridge, which, unfortunately, is not sending the resources necessary to State and local governments so they can protect America.

Instead, we are preparing to launch an invasion of Iraq. We are putting the billions of dollars necessary into that effort and, unfortunately, short-changing homeland security in the process. That, to me, shows misguided priorities.

The President cannot get away with blaming Congress for this. It really is a creation of his own administration and their own priorities in spending.

Mr. REID. I have three questions I wish to ask the Senator. Will the Senator yield for the first question?

Mr. DURBIN. I am happy to yield.

Mr. REID. I had in my office yesterday—and I am wondering if the Senator had people from Illinois in his office recently—people who came from Nevada and represented 911 centers, especially the Las Vegas Metropolitan Police Department, which is a very large police department. I spoke to a woman who has worked there for 20 years. She proceeded to tell me that she is frightened for the people of Clark County. That is in the Las Vegas metropolitan area. If someone calls on a regular telephone from their home, they know where that call is coming from.

But a lot of people—because computer use has become so prevalent, and they are using computers for telephones, and because of the use of cell phones—if someone calls from a computer or cell phone to 911, they have no idea where, or who, or anything about that. It is a terrible tragedy for the American people.

Is the Senator aware that is something that money for homeland security would identify because the technology is there, they just need money to be able to do it?

Mr. DURBIN. The Senator's point is well taken because I visited the 911 center in Chicago. It is really state of the art. But there are gaps that they face as well. They need the funding for training, for improving the communications network, money that is not forthcoming from this administration, from this White House.

I pray to God we never face another terrorist event in America. But if we do, this administration will be held accountable as to whether it spent the money, when it should have, to prepare America to defend itself. And when it comes to this kind of communication effort, I am afraid we have not done that.

Mr. REID. I listened to the Senator outline, as he is so adept at doing, the situation we have in the American economy today, with 2 million people unemployed. The Senator has laid out a very good picture of what we have going on in America today.

Is the Senator aware of the nonpartisan organization called the Pew Research Center? Is the Senator aware of that organization?

Mr. DURBIN. Yes, I am.

Mr. REID. I ask, is the Senator aware they conducted a poll, which was completed on February 18, of 1,254 adults? Is the Senator aware that when asked the question on how President Bush is handling the economy, 43 percent of the people said yes, he is doing fine, but that 48 percent of the people asked that question disapproved? Is the Senator aware of those numbers?

Mr. DURBIN. I heard those numbers when the Senator from Nevada mentioned them earlier. But I think reality has caught up with the administration. Generally, Americans give the President high marks as a President. And the numbers have come down, but only slightly. His general overall rating is positive. I think a lot of that reflects on his leadership since 911 and perhaps in the Middle East. But when asked specifically about the state of the economy, that is when the chickens come home to roost.

I think that is the point where the President and the White House is failing. They have failed because their economic policy—giving tax cuts to the wealthiest people in America, generating the biggest deficits in our history—really has us headed down the road which we all understand would be a road of economic ruin.

Mr. REID. Will the Senator yield for another question?

Mr. DURBIN. I am happy to yield for a question.

Mr. REID. Is the Senator aware that this same poll asked how President Bush is handling tax policy? The Senator has made a number of statements on this floor, and he personally disagrees with the tax policy enunciated by this President. I am happy to report, from this poll, people in America agree with the Senator and not the President.

Is the Senator aware that 42 percent of the people approve of the way George W. Bush is handling tax policy, and 44 percent disapprove? Is the Senator aware of that?

Mr. DURBIN. I had not heard those numbers before, but I think I can understand why the American people reached that conclusion. Because the President promised the age-old Republican response: If you just cut taxes on the wealthiest people in America, it is bound to enliven and energize the economy. Well, he did it. I voted no when it came to that issue. But it passed. It did not work. What happened was we wound up with a deficit and a weaker economy.

So the Bush tax plan failed in the first instance. Now the President has said: I have a new economic policy, and it is called: More of the same; let's try to do this, and do it at even greater levels, which will drag us more deeply into deficit.

I would like to illustrate this point to the Senator from Nevada by showing him a couple charts, if I can find them.

President Bush, on January 29, 2002, in his State of the Union Address, was quoted as saying:

> Our budget will run a deficit that will be [a] small and short term [deficit.]

Then, take a look at what this means. We are going to have record deficits in terms of the Bush administration, the legacy that is going to be left from the President. The actual deficits, which our children will have to pay, are going to break records.

Isn't it interesting that the Republicans, who have fashioned themselves as fiscal conservatives, now find themselves, once again, in a posture of creating the biggest deficits in the history of the United States—harkening back to President Ronald Reagan's administration?

But if you take a look at the surpluses, which we thought we would enjoy for a long time to come, they started with $236 billion to $127 billion. We are paying down the debt in the Social Security trust fund. And then it falls off the table.

In comes the George Bush tax plan, and the state of the economy, and the recession, and look at these deficits start to grow—in the range of $300 billion plus. The administration just gives the back of the hand to those deficits and says they are not really long-term problems.

They are long-term problems because they have to be repaid. And it does not show the kind of discipline, in which we should be engaged. The tax plan proposed by the President is a plan which, sadly, is going to plunge the United States more deeply into deficit and is not going to revive the economy.

Mr. REID. Will the Senator yield for another question?

Mr. DURBIN. I will yield for one last question. I see another colleague is in the Chamber.

Mr. REID. I actually have two questions. I know the Senator is anxious to leave.

I will first lay the basis for my question. The numbers the Senator has on that chart are basically inaccurate to the effect that it does not include the disguise that is taking place down at Pennsylvania Avenue, because Social Security surpluses are there to dampen the amount of the deficit. Actually, the deficit is about $485 billion, not $304 billion, because the Social Security surpluses are being used to disguise the budget.

Is the Senator aware of that?

Mr. DURBIN. I am aware of that. I think it is a good point to be made. These true deficits are at the expense of the Social Security trust fund. In the closing years of the Clinton administration, surpluses that we generated were paying off the debt of the Social Security trust fund, making it a stronger program for years to come, as baby boomers will arrive and ask for benefits.

Now, in the Bush administration, with tax cuts for the wealthiest people in America, we are raiding the Social Security trust fund and weakening it at a time when we know we need it the most.

Mr. REID. Last question. The Senator has spoken about the need for us to be doing something other than just talking about a man who is fully employed, in contrast to the 2.8 million people who have lost jobs under this administration. The man we are debating now has a job downtown where he makes lots of money. We should be doing something else. The Senator, I am sure, is not aware of this statement because it was made during the noon hour and he has been on the floor. I would like the Senator to tell me if he is familiar with Robert Novak.

Mr. DURBIN. Yes. He is an Illinois resident, who grew up in Joliet. I have been on ''Crossfire'' with him many times.

Mr. REID. Bob Novak said today:

> Well, the Republicans figured that they would be home at their recess last week and find out what the people wanted. Apparently, the people weren't interested in Estrada, because the Republicans have no idea what to do in the Senate. They had a leadership meeting yesterday afternoon [that was Tuesday] couldn't figure anything out, had a luncheon of all the Republican senators, didn't figure it out. All that's decided is, they're not going to ask for a cloture vote to force an end to the filibuster, because they'd lose that. But they have no strategy for around-the-clock sessions. They don't know what to do. The Democrats are winning.

So that former resident of the State of Illinois said this, and would the Senator agree with him?

Mr. DURBIN. The Senator is putting me on the spot to agree with Bob Novak. I will not question his conclusion, unless the Senator on that side would like to correct the record. That is the problem faced by the Republican caucus.

I say to the Senator from Nevada that I am prepared to deliver them from their plight. I am prepared to give them hope and direction. I am going to make a unanimous consent request that we stop this debate right now and move immediately to the consideration of an economic stimulus package and that we engage all of the Senators, Democrats and Republicans, to come to the floor and talk about what we can do to turn the economy around, create jobs, create consumer confidence, give businesses some hope, try to find some way to put Americans back to work.

Let's stop talking about Miguel Estrada, who has a good job downtown for a law firm, and start talking about the millions of Americans who are worried about their jobs and whether they will have them in the future.

When I make the unanimous consent request, if there is no objection, I say to those following the debate, we will move directly to the economic stimulus package. In that debate, perhaps by the end of the week, we can come up with something that shows that the Senate cares, that this Congress cares about the state of the economy.

Now, if by chance a Republican Senator stands up and objects to my unanimous consent request, that Senator is saying that he does not want us to talk about the economy, doesn't want us to talk about economic stimulus; he wants us to stay mired down in one judicial nomination for the remainder of this week. I cannot believe any Republican Senator would object to this unanimous consent request, which I will make now. I believe it is going to finally move us away from this judicial nomination to the issue people care about across America, getting this economy moving.

Madam President, I ask unanimous consent that the Senate proceed to legislative session and begin the consideration of Calendar No. 21, S. 414, a bill to provide an economic stimulus package for America.

The PRESIDING OFFICER. Is there objection?

Mr. CRAPO. Madam President, reserving the right to object. I will not object if the request for unanimous consent is amended to provide that prior to moving to the legislative calendar, the Senate move no later than 6 p.m. today to a vote on the Estrada nomination, up or down, and then proceed to the legislative calendar under the consideration of both the Republican and Democratic plans.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Madam President, I ask unanimous consent to modify the request of the distinguished junior Senator from Idaho, that his request be changed to that the vote on Estrada would occur only after the memos from the Solicitor General's Office are provided to us, and that following that, he submits himself to questioning.

Mr. CRAPO. Madam President, I will not accept that modification to my request.

Mr. REID. I object to his request.

Mr. CRAPO. I object to the previous request.

The PRESIDING OFFICER. Objection is heard.

Mr. DURBIN. Madam President, there you have it. I tried my best to move this debate away from one man, one nomination, to the state of the economy.

Basically, what the Senator has said is that unless we can have this one nominee, we don't care about the economy; let it languish, falter, and let the American people lose hope. We are going to stick with this one political issue.

I think there is a way out of this morass with Miguel Estrada. I think we can do it cooperatively, with the production of documents and the honest answering of questions. I don't think we should delay the business of the Senate indefinitely and ignore the serious problems facing our Nation in the process. I hope there will be some reconsideration of the issue.

Mr. CRAPO. Will the Senator yield for a question?

Mr. DURBIN. I will.

Mr. CRAPO. Madam President, it seems to me that we can easily move to any of these other issues that the Senator and his colleagues have been discussing, which we all agree need to be addressed. We can easily move there if your side will agree to give up trying to stop the nomination of this one single judge.

So one could say that those who want to hold the floor and focus on this nomination are willing to delay debate of other issues until we vote on this particular nomination, or that those who are filibustering—which is generally understood by the public as an act of stopping a procedure and moving to a vote—this particular nomination are unwilling to move to these other economic issues.

Would you not agree that it really comes down to the question of whether we want to agree to change the precedent of the Senate and open up investigation into these confidential documents of the Solicitor General's Office?

Mr. DURBIN. I will say to my friend, we have talked about this at length. I

believe it is unprecedented. We are asking for the writings of Mr. Estrada so we may know who he is. I don't think that is unreasonable.

There are three conceivable outcomes of the nomination. One is that there be a cloture vote called for by Senator FRIST to try to bring an end to this debate on the floor. That is his right.

As I noted, there was a cloture vote called on Richard Paez, a Hispanic nominee of the Clinton administration. So it has happened before.

There could be a decision by Senator FRIST to move this nomination back to the calendar. I think the best outcome would be that, finally, Miguel Estrada would be open, candid, honest, and not conceal what he truly believes about the state of law in America. If he is seeking a lifetime appointment to the second highest court of the land, that is the least we can ask of him.

Those are the potential outcomes. What I tried to do was circumvent even those three and say let's move to the economy, and maybe at some later time move back to Miguel Estrada. But the Senator said, no, we don't want to talk about the economic situation in America, about unemployment, about job loss and loss of consumer confidence, the biggest deficits in the history of the United States. We just want to talk about one judicial nomination. That is unfortunate.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

A SAFER WORLD

Mr. LEAHY. Madam President, regarding this debate on Miguel Estrada, we do have a lot of other issues that seem to be ignored. I am back home almost every week in Vermont and I don't find anybody talking to me about Miguel Estrada. Even when the White House has sent people up and various special interest groups to attack me, nobody seems to care—''either the press, the people in my State,'' or anybody else. But what they do care very much about is the economy and Iraq.

More than a half century ago in the aftermath of two catastrophic world wars, the United Nations Charter was signed in San Francisco. It was dedicated to the prevention and peaceful resolution of conflict. The U.N. was largely a creation of the United States, with the support of the other great world powers.

The U.N. has had a difficult history. With the notable exception of the Korean war, the Soviet Union and the United States each worked throughout the Cold War to ensure that the U.N. Security Council remained little more than a toothless forum for debating and passing resolutions of little or no effect.

Even in recent years, the United Nations has had a string of failures. It was unable to prevent the slaughter of half a million people in Rwanda. It failed to prevent the destruction of the former Yugoslavia, which was ultimately stopped only by NATO's intervention. United Nations resolutions seeking to resolve the Israeli—Palestinian conflict have been routinely ignored.

The United Nations has also passed resolutions aimed at eliminating Iraq's nuclear, chemical, and biological weapons programs, but the Iraqi Government has flagrantly tried to subvert those resolutions.

The United Nations is frequently blamed for these failures. It is convenient to ridicule a multilateral organization that often seems to be its own worst enemy. But there are also many examples of U.N. successes, like peacekeeping missions that are strongly supported by the United States but rarely involve any commitment of U.S. troops.

The U.N.'s effectiveness depends on the political—will or lack of will—of its 191 member states. No country—no country—bears more responsibility than the United States for the success or failure of the United Nations. This has never been more true than today when solving so many of the world's problems—especially combating terrorism—depend on U.S. leadership and the cooperation of other nations.

Not surprisingly, when it has served its interests, this administration has praised the United Nations and has urged the Congress to provide the funds to support it. In fact, a Bush administration publication states:

> Acting through the United Nations allows the United States to share the risks and costs of responding to international crises.

I applauded President Bush when he went to the United Nations last September to seek a resolution calling for the return of U.N. weapons inspectors to Iraq. I and others here had urged him to take that step, at a time when many of the President's advisers were insisting that a resolution was both unnecessary and unwise.

And I commended Secretary Powell for recognizing the importance of securing United Nations support for disarming Iraq, and for his work in obtaining a unanimous vote of the U.N. Security Council for that resolution.

Since then, the inspectors have reported mixed cooperation from the Government of Iraq. They have visited hundreds of sites but have not found significant evidence of Saddam Hussein's weapons of mass destruction, despite Saddam Hussein's failure to explain what happened to the thousands of tons of chemical and biological weapons material that was known to exist when the inspectors left Iraq 5 years ago.

The administration's response, with justification, is that Saddam Hussein is once again playing a cat-and-mouse game of deceiving the inspectors, and that time has finally run out. But the solution is not to direct threats and name-calling at some of our oldest allies, or to dismiss the U.N. as irrelevant just because some of its members disagree with us. It is counterproductive and beneath a great nation.

It is no less harmful to mislead the American people. Yesterday's Washington Post reported that the President and other administration officials continue to say publicly that the President has not made a final decision about whether to invade Iraq. These statements lack credibility, especially when the Pentagon continues to amass tens of thousands of U.S. troops on Iraq's borders.

Yet the White House is telling our potential coalition partners that the decision to invade Iraq has been made. The President has made it, they say, and nothing the U.N. Security Council says or does will change that. They warn that unless the U.N. Security Council abandons the inspections process and supports a U.S.-led military invasion, the United Nations will become irrelevant.

At the same time that White House officials dismiss any meaningful role for the Security Council in the decision to go to war, they are calling on the U.N. to prepare to help take care of as many as 2 million Iraqi refugees once the war begins. And they make no secret of the fact that they expect the U.N. to play a central role in the reconstruction of a post-Saddam Iraq.

One of the lessons of the gulf war was that it was far safer for our troops, and of critical importance to our continued relations with the Arab world, to build a broad international coalition in support of the use of force. The importance of that coalition has been lauded by administration officials and Members of Congress, time and again, in public statements and in testimony.

Nothing that has happened since, and nothing that we have heard from this President or his advisers leads one to believe that we should go to war without such a coalition. To the contrary, with the threat of international terrorism fueled by Islamic extremists who fan the flames of hatred of Americans, the arguments for building a strong coalition with the backing of the United Nations are even more compelling.

It has been 28 years since I was first elected to represent my State of Vermont in the Senate. I have served during the administrations of five Presidents Democrat and Republican. I have had my share of agreements and disagreements with each of these Presidents on issues of great importance—from the Vietnam war to the dilemma we face today with Iraq.

But never, in all those years, have I seen such an opportunity to use the tremendous influence of the United States to unite the world behind the common goal of disarmament and in doing so to strengthen the United Nations, mishandled with such arrogance.

Today, apparently only weeks away from a war with Iraq, the United States is telling the rest of the world, ''We don't need you.'' Even though we will be risking the lives of American men and women in uniform to enforce a United Nations resolution, we are

going to war in spite of our U.N. allies who urge caution and patience.

The administration's ultimatum on Iraq is but the latest example of its disdain for working with other nations to solve global problems from arms control to the environment.

They thumbed their noses at the Kyoto Treaty, even though the United States uses wastefully a quarter of the world's resources and is by far the largest contributor to global warming.

They sabotaged the International Criminal Court, despite the fact that the United States was instrumental in its conception.

They have walked away from the Anti-Ballistic Missile Treaty and from an agreement to strengthen the biological weapons convention.

Reasonable people may disagree about the merits of these treaties, but the administration has simply walked away. They have offered no constructive alternatives, they have unnecessarily poisoned relations with allies, and they have undermined our Nation's interests.

This pattern has not only alienated and angered those whose support we need, it has made it easier for others to ignore their own international obligations. It has needlessly and recklessly squandered the good will we felt after September 11, when the Star-Spangled Banner played outside Buckingham Palace and France's Le Monde declared, ''We are all Americans''. This attitude has made us less secure, not more. The administration squandered that worldwide support.

I have no doubt, nor does anyone in this Chamber, that our armed forces can defeat Saddam Hussein's army, which according to all reports is far weaker than it was a decade ago. Nor do any of us differ about the desire to see an end to Saddam Hussein's despicable regime. But the risk that he will use chemical or biological weapons, and of the horror that could result for our own troops, as well as the civilian casualties, are hardly mentioned by the White House.

In the meantime, the situation in Afghanistan so recently the focus of attention remains extremely unstable.

In fact, I read today that Afghanistan has become the largest opium exporter in the world.

The survival of the Karzai government is far from certain, as Pakistan, Russia, and Iran continue to provide support and sanctuary to Afghan warlords and to the Taliban who fled.

Osama bin Laden continues to broadcast threats against Americans, and al-Qaida remains active in dozens of countries.

A nuclear crisis on the Korean peninsula threatens to spiral out of control.

In the Middle East, hardly a day passes without shootings or bombings by both Israelis and Palestinians. The administration appears to have abandoned that crisis.

Our allies are divided about the need to abort the U.N. inspections process and launch a preemptive military invasion of Iraq, and a majority of the American people oppose the use of unilateral U.S. military force.

I am not among those who believe that under no circumstances would force ever be justified to disarm Saddam Hussein. But why now, when there is such discord even among those who agree about the need for Iraq to disarm? Why now, when there is no realistic chance that Saddam Hussein will seek to carry out an act of aggression as long as the U.N. inspectors are there? Why now, when the United Nations is seized with this issue? Why now, when giving the inspectors more time could bring more key nations on board with us if the use of force becomes necessary? Why rush to act in a way that will weaken the United Nations, that will further isolate us from many of our closest allies and create more anti-Americanism and quite possibly more terrorists?

This country is not close to being united in favor of a preemptive, unilateral war with Iraq. It is not a question of whether we can defeat Saddam Hussein. It is a question of the long-term risks to our own security.

The President should listen to the American people. Hundreds of thousands of Americans have braved the freezing cold in recent weeks, as have millions of people in Europe and elsewhere, to demonstrate their opposition to the President's policy. They are protesting not in sympathy with the Iraqi government but in opposition to a war that might yet be prevented.

So today, as our Government moves inexorably towards war, we must continue to question, we must continue to debate, we must continue to do everything we can to support a policy that makes our country and the world safer, not only for tomorrow but for next year and beyond.

If war comes, let us be able to say that it was only because we and our allies exhausted every other option, that we acted with the support of the Security Council, and in doing so we made the United Nations stronger.

I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

FOSTER CARE REFORM

Mrs. CLINTON. Madam President, I thank my friend and colleague from Vermont for his thoughtful comments. He always brings a really good analysis of any situation to the floor and shares it with us, and I am very grateful to him for that.

Occasionally a movie comes to the screen that brings to life the stories that have become routine in our newspapers and on our television stations, and because of that constant repetition we sometimes become numb to the news. That happens across the board on many issues, but there is one in particular I wish to address that I do not think we can ever afford to be numb to or indifferent toward, and that is the abuse and neglect so many children in our country live with every day, the children who are shuffled in and out of our foster care systems, often with little guidance from or connection to any adult. Too often these stories end in the most tragic way possible.

Seven-year-old Faheem Williams in Newark, NJ, was recently found dead in a basement, with his two brothers in a deplorable condition, having been chained in that basement for weeks at a time. Six-year-old Alma Manjarrez in Chicago was beaten by her mother's boyfriend and left to die outside in the snow and cold of the winter. And despite 27 visits by law enforcement officials to investigate violence, 7-year-old Ray Ferguson from Los Angeles was recently killed in the crossfire of a gun battle in his neighborhood.

Unfortunately, I could take up quite a few minutes of my allotted time telling even more tragic stories such as these, but today I want to focus on a different kind of story, a story of hope and possibility, the story of Antwone Fisher.

Mr. Fisher overcame tremendous odds. He was born in prison, handed over to the State, and lived to tell his story of heartbreaking abuse. At the age of 18, he left foster care for the streets, with nowhere to turn. He found the support, education, and structure he desperately needed in the United States Navy. In the Navy, Mr. Fisher received a mentor and professional counselor who helped him turn his life around.

Mr. Fisher survived that childhood of neglect, abuse, and violence, and has lived to inspire us all and send a stern reminder that it is our duty to reform the foster care system. I believe we have a moral obligation to make sure that no child languishes in this system, left to develop his or her own survival skills, without the attention, guidance, discipline, and love every child is entitled to from at least one caring, responsible adult.

I believe Antwone Fisher's success story should be the rule, not the exception. Tonight, House Majority Leader TOM DELAY and I will be cohosting a screening of the movie ''Antwone Fisher''—Mr. Fisher's life story. This is a screening for Members of Congress, but I urge anyone listening or watching today to seek this movie out in their movie theater, because it is an inspirational story. It makes you cry, it makes you laugh, but it leaves you with the very strong fundamental faith that every one of us can do something to help a child like Antwone have a better life.

TOM DELAY and I decided to host this together because we both feel it is imperative to raise national awareness about foster care. Because Antwone Fisher's story is inspirational, we hope his movie will give all of us in this Chamber and in the House the inspiration to tackle this tough issue.

In the year 2000, Congressman DELAY and I received an award together from the Orphan Foundation of America for

the work we have both done over many years in the area of foster care and adoption. My staff and Congressman DELAY's staff have been working together to try to figure out how we could, across party lines, from both Houses of Congress, help to create the kind of attention that is needed in the lives of our foster care children.

I commend the commitment Congressman DELAY and his wife Christine have. This is not just an issue for them. They are certainly strong advocates for foster children, but they are also foster parents.

I hope my colleagues in the Senate will join us tonight at the Motion Picture Association for this viewing. For those who cannot join and for those who are watching at home, I want to share a little bit about Antwone Fisher's story. People should know that his book, called ''Finding Fish,'' is just as good as the movie. So go out and buy that. Pass it around. Make sure everybody you go to school with, you work with, you go to church with sees this book and sees this movie.

I would like to read a section from the book. Here is how Mr. Antwone Fisher describes his life story:

> The first recorded mention of me and my life was from the Ohio State child welfare records: Ward No. 13544. Acceptance: Acceptance for the temporary care of Baby Boy Fisher was signed by Mr. Nesi of the Ohio Revised Code. Cause: Referred by division of Child Welfare on 8–3–59. Child is illegitimate; paternity not established. The mother, a minor is unable to plan for the child.' The report when on to detail the otherwise uneventful matter of my birth in a prison hospital facility and my first week of life in a Cleveland orphanage before my placement in the foster care home of Mrs. Nellie Strange. According to the careful notes made by the second of what would be a total of thirteen caseworkers to document my childhood, the board rate for my feeding and care costs the state $2.20 per day.

Fisher continues to describe the document and writes that the child welfare caseworker felt that his first foster mother had become ''too attached'' to him and insisted that he be given up to another foster home.

The caseworker documents this change,

> Foster mother's friend brought Antwone in from their car. Also her little adopted son came into the agency lobby with Antwone . . . They arrived at the door to the lobby and the friend and the older child quickly slipped back out the door. When Antwone realized that he was alone with the caseworker, he let out a lusty yell and attempted to follow them.
>
> Caseworker picked him up and brought him in. Child cried until completely exhausted and finally leaned back against caseworker, because he was completely unable to cry anymore.

I know a little bit about this because when I was a law student in the late 1960s and very early 1970s, I worked for the Legal Services Organization. The first case I was assigned to was representing a foster mother who had signed up with the State of Connecticut to care for foster children, and in the contract she signed, it said she would never try to adopt any of her foster children. She was just a weigh station. The children were supposed to be just passing by and through. This little girl who came to live with my client was a child of mixed race, a beautiful little girl. She was left with her foster mother for a couple of years. And, boy, did that foster mother get attached. Wouldn't you want a person taking care of a child to become attached? And just as with Antwone Fisher's case, when the State found out that the foster mother had gotten attached to this little girl, they decided they needed to move her on, put her up for adoption, take her to another foster home, but to break the attachment.

I was part of trying to reverse that rule that governed in all the States in the 1960s and early 1970s. I was unsuccessful, although later in Arkansas I tried a case where I was able to reverse that rule, making the argument that is not the best interests of the child supposed to be the guiding standard? Why would we let a bureaucracy and the rules of a bureaucracy determine what is in the best interests of a child, as long as that child was well cared for and that child had a home that was loving and supportive? Why would we break it up?

That is what happened to Antwone Fisher. All through his case files, everyone always seemed to be slipping away in one sense or another. When he arrived at his next foster home and as he grew, he was first not told about the circumstances of his birth. All he knew was that he felt unwanted, that he did not belong anywhere to anyone. It was not long before he came to the conclusion that he was an uninvited guest. It was his hardest earliest truth that he wanted to belong somewhere. He wanted a mother and a father. He never knew that. He never knew a mother, a father, or a permanent home. Instead, he was left to fend for himself until he was expelled from foster care at the age of 18.

That is what we used to do everywhere. It is what we still do in lots of places. When you finish high school, you turn 18, whichever happens first, you are out on the street. I have literally known children whose foster parents and case workers came into the little bedroom, maybe, that they shared with somebody else, took all their belongings, put it in a black garbage bag, handed the garbage bag to the child and said: We are finished with you.

I cannot even imagine that, but that is what happens. That is what happened to Antwone Fisher when he found himself, at the age of 18, on the streets and homeless.

Luckily, somewhere deep inside him, in some sacred place, he found the courage and resilience to keep going with his life, and he found his way to a recruiting station where he volunteered for the U.S. Navy. He needed a place to sleep; he needed food to eat; he needed to be safe on the streets, and thank goodness he did. Thank goodness the U.S. Navy took a chance on Antwone Fisher.

There are lots and lots of children just like him in our foster care system. There are approximately 542,000 children in our Nation's foster care system; 16,000 of these young people leave foster care every year just like Antwone Fisher had to. We worked during the last several years to try to improve conditions.

In 1999, when I was First Lady, I advocated for and Congress passed the Chafee Foster Care Independence Act which provides States with funds to give young people assistance with housing and health care and education. It is funded at $140 million annually. That is not nearly enough for the needs of these children, but I am very grateful that we are doing something to recognize what it means to be the age of 18 and have nowhere to go. I have even met foster children who got admitted into college and during the holidays when most of us who went to college look forward to going home and seeing our friends and seeing our family, they begged to be able to stay in the dorm, even if the heat was turned off, because they had no home to go to.

This bill came after the very important bipartisan Adoption and Safe Families Act of 1997 where we made the most sweeping changes in the Federal child welfare law since 1980 that once and for all said a child's safety is the paramount issue in any placement. If you cannot return a child to his or her home with their biological parents, with their natural family, then let's move to relieve that child of the past and put that child in a position to be adopted and placed in a permanent home.

The next major hurdle we need to tackle is the financing system. Currently, we spend approximately $7 billion annually to protect children from abuse and neglect, to place children in foster care, and to provide adoption assistance. The bulk of this funding falls to States as reimbursements for low-income children taken into foster care when there is a judicial finding that continuation in their home is not safe. This funding provides payments for foster families to care for foster children, as well as training and administrative costs which gives children a safety net. But it is not enough because the financing is focused on the time when the child is in foster care. The longer the child stays in foster care, the more money the States get, which makes no sense to me. We ought to have the incentives in the other direction.

Try to provide the services so you can reunite a child with their family or make the decision to terminate parental rights and put a permanency plan into effect so the child can have a better shot at the future.

I appreciate that President Bush has put a proposal on the table to change the way foster care is financed. I look forward to working with him and my

colleagues to try to deal with some of these legitimate issues around financing. But I cannot support block-granting our child welfare system because it is imperative we have standards. If the States could have done this on their own, without Federal oversight funding and standards, they would have done so.

Therefore, we have to ask ourselves, How do we maintain child safety protections that we passed in the Adoption and Safe Families Act? How do we require the targeting of funds to prevention and postfoster care services? What happens if there is a crisis and more foster care children enter the system? These are all important questions. They deserve answers. But it is critical we begin the process to look at how we change the incentives.

In the past, my colleagues, Senators LANDRIEU, DEWINE, and GRASSLEY, put forth a proposal to restructure the priorities in our child welfare system. I think their proposal was headed in the right direction. It ensured that incentives were in place so that foster care stays would be shorter. I applaud my colleague Senator ROCKEFELLER, who has been a long-time champion on these issues, for his welfare reform bill which offers an alternative to financing child welfare by aligning foster care and adoption assistance with TANF eligibility.

I look forward to tackling this hard issue in the months ahead. I look forward to seeing the number of children in foster care decrease. I look forward to seeing more children in foster care being reunited with their birth families or being placed into permanent, loving homes.

For those of you who want more insight into what this issue is truly all about, I urge you to see the movie ''Antwone Fisher,'' to read Mr. Fisher's book ''Finding Fish,'' to understand that may be just one story but it stands for countless others, innocent children to whom we owe a chance for a better life.

I ask unanimous consent that an article appearing in USA Today be printed in the RECORD.

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

[From USA Today]

EASING FOSTER CARE'S PAIN UNITES DISPARATE POLITICIANS

(By Hillary Rodham Clinton and Tom DeLay)

Occasionally, a movie shines the spotlight of public recognition onto a problem that lingers deep in the nation's shadow. It forces the country either to confront the issue or look away. Today, the movie is Antwone Fisher, and the 542,000 children languishing in our broken foster care system are the issue.

Antwone Fisher tells the true story of a boy born in prison and abandoned by his mother to years of abuse, both emotional and sexual, in foster care. The compelling story of his life, written by Fisher, is about a child's hope and resilience despite an uncaring system. While we cheer Fisher's success against such abysmal odds, the movie also reminds us that too many still suffer needlessly in a foster care system that is inherently flawed.

When Fisher turned 18, the system dropped him onto the streets. Fisher turned to the Navy, where he discovered structure, discipline, the power of education and strong guidance from an adult mentor. This powerful catalyst turned Fisher's life around. But what about all of the others in our foster care system whose longing for meaning and direction goes unrequited?

Every year 16,000 young adults age out of this system. Many grew up without guidance and faced enormous hardships. The foster care system simply did not teach them the basic skills to live independently in the world. They never learned how to cook, balance a checkbook or apply for a job. Without this critical guidance, they emerge from a system unwanted and uncertain about navigating life's turns. In short, they enter adulthood the way they spend their childhood: alone.

RESET PRIORITIES

Fisher's story should spark broad reforms of the foster care system, which needs to be changed, one community at a time, so that no more children fall through the cracks. Despite our political differences, we are committed to working together so that children like Fisher do not languish in foster care until at 18, then get expelled with little guidance and support.

The federal government now gives states almost $7 billion annually to protect children from abuse and neglect, place children in foster care and provide adoption assistance. But the timing is off: Most of the money goes to states for use after a child is removed from a troubled home. Instead, it should be used to provide more preventive resources—to keep children out of foster care to begin with—and to assist children after they leave the system.

Senators and representatives from both parties acknowledge that we have to change the way we finance our foster care system. Greater emphasis needs to be put on reducing both the number of children in the system and the length of time they stay in foster care. American's children need safe, permanent homes—something Fisher never knew as a child.

BUSH OFFERS ONE PLAN

We can find a bipartisan solution to reform the way we finance our child welfare system, but both the House and Senate must make reforms a priority. President Bush has offered one proposal that deserves careful consideration. He wants to give states an option to change the way foster care is financed so they can do more to prevent children from entering foster care, shorten the time spend in such care and provide more assistance to children and their families after they leave the system.

Although reform is never easy, there are proven legislative successes in this area. During the past five years, Congress has passed two major bipartisan child-welfare bills, which we both strongly supported. One helped to nearly double the number of children being adopted from foster care, and the second has helped to provide better transition services for older children who, like Fisher, never are adopted and age out of the foster care system at 18.

We are no doubt surprising many of our friends by writing this piece together, but that just underscores our point. If a public-policy dilemma can bring the two of us together, it clearly deserves a hard look from everyone. Fisher's success should be the norm for all children who travel through the foster care system, not be one exceptional spark in the darkness of countless children's lives.

RECESS

The PRESIDING OFFICER. The hour of 2:30 having arrived, under the previous order the Senate stands in recess until 3:30.

Thereupon, the Senate, at 2:30 p.m., recessed until 3:30 p.m. and reassembled when called to order by the Presiding Officer (Mrs. DOLE).

Mr. REID. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

NOTICE

Incomplete record of Senate proceedings.

Today's Senate proceedings will be continued in the next issue of the Record.

EXTENSIONS OF REMARKS

RECOGNIZING JENNA SOENDKER

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 2003

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Jenna Soendker, a very special young woman who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Girl Scouts of America, Troop 1815, and in earning the most prestigious honor of the Gold Award.

The Girl Scout Gold Award is the highest achievement attainable in Girl Scouting. To earn the Gold Award, a Scout must complete five requirements, all of which promote community service, personal and spiritual growth, positive values, and leadership skills. The requirements include: (1) Earning four interest project patches, each of which requires seven activities that center on skill building, technology, service projects, and career exploration; (2) earning the career exploration pin, which involves researching careers, writing resumes, and planning a career fair or trip; (3) earning the senior Girl Scout Leadership Award, which requires a minimum of 30 hours of work using leadership skills; (4) designing a self-development plan that requires assessment of ability to interact with others and prioritize values, participation for a minimum of 15 hours in a community service project, and development of a plan to promote Girl Scouting, and (5) spending a minimum of 50 hours planning and implementing a Girl Scout Gold Award project that has a positive lasting impact on the community.

For her Gold Award project, Jenna created a family reading night to promote reading.

Mr. Speaker, I proudly ask you to join me in commending Jenna Soendker for her accomplishments with the Girl Scouts of America and for her efforts put forth in achieving the highest distinction of the Gold Award.

BETTER SCRUTINY OF NATIONAL SPACE PROGRAM

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 2003

Mr. GEORGE MILLER of California. Mr. Speaker, everyone in the nation was deeply touched by the terrible tragedy involving the recent loss of seven astronauts aboard the *Columbia* Space Shuttle. As in the case of the *Challenger* Shuttle explosion 17 years ago, Congress must become deeply involved in reviewing the causes of this accident. That review, as our former colleague and highly respected expert on the space program, Tim Roemer reminds us, must be an independent study. Far too much—in money, in effort and in lives—is invested in the manned space program for us to fail to undertake a thorough and fully credible review, including whether or not congressional funding decisions might have affected the adequacy of the resources devoted to shuttle safety.

Congressman Roemer offered sound advice to the Gehman Commission that is charged with investigating the *Columbia* tragedy in a recent column published in Roll Call, which I am submitting to the RECORD.

The article follows:

NASA PANEL NEEDS TO FIND REAL SOLUTIONS

(By Tim Roemer)

After the Challenger space shuttle exploded on takeoff in 1986, the prominent physicist Richard Feynman dramatically conducted an experiment visually linking the cause and effect for all to understand. He carefully dipped the rubber O-rings into a glass of ice water to replicate what had happened when they hardened, cracked and, consequently, malfunctioned. An independent panel, known as the Rogers Commission, generally concluded that NASA officials and contractors were largely at fault. The report went on to list poor communications with management, sacrificing standards to remain within the budget, and not paying enough attention to hazards and warnings.

Now, 17 years later, the Columbia has disintegrated upon re-entry. We cannot merely round up the usual cast of suspects, appoint the same names to an investigation board and point the finger at the predictable target. It is too important to understand how this happened, with decisions led us there and how to fix it.

Whatever the final conclusion, the newly appointed Gehman Commission tasked with discovering the cause should be loaded with independent and aggressive individuals willing to challenge Congressional budgeting decisions and oversight performance. Everything should be on the table.

The commission should have begun its investigation 10 years before last month's takeoff of Columbia. On June 23, 1993, Congress voted 216–215 to authorize $13 billion for space station costs over the next decade. While Members of Congress, the administration and especially NASA recognize that the space station was experiencing significant design glitches, cost overruns and scheduling delays, they also knew that more money would eventually be needed in the overall NASA budget. But the overall NASA budget level would decline in real dollars over the next 10 years. The space station overruns multiplied.

Something had to give. The overall NASA budget went from $14.36 billion in 1993 to $14.9 billion in 2002. However, this declining budget in real dollars included an increase in 2002 for securing the NASA facilities from terrorist threats after the Sept. 11, 2001, attacks. What happened during this same period to the space shuttle budget? In 1994, the budget for the shuttle was $3.8 billion. It was cut each year for eight years by more than $500 million. In 1997, $200 million was moved from the ''shuttle account'' to the ''space station account'' by NASA with Congress' approval. Meanwhile, the space station budget grew to $2.4 billion and then went down to $2.1 billion. Due to NASA's many alternations in accounting during this 10-year period, it is exptemely difficult to calculate precise figures for many of these programs. The commission should get a detailed and thorough explanation on how much was spent and where the money went.

By 1996, a single prime contractor took over the shuttle operations. The ''USA'' on the astronauts' uniforms now stood for ''United Space Alliance,'' a collaboration of private-sector companies. Did Congress object? Approve? Ring the alarm bells? I was a member of one of the responsible committees, and we didn't do enough.

The Gehman Commission should analyze the role of Congress in many of these important decisions. In the end, Congress may or may not be part of the problem. But it can be part of the solution.

The House and Senate space oversight committees have a historic opportunity to conduct 18 months of comprehensive oversight hearings over the remaining 108th Congress. They should produce a comprehensive and long-range report detailing general options for a pared down space station, a plan for robotic space exploration even beyond Mars, a robust replacement shuttle, a bigger and better Hubble telescope, and a vision for human space travel using nuclear propulsion technology. And they must propose an affordable and sustainable budget without sacrificing the viability of one program for the benefit of another.

This would be like the phoenix rising from earth, a testimony and living memorial to the seven Columbia astronauts. Together, their spirits and earthly remains would break ''the surly bonds of earth.''

THE ESTABLISHMENT OF CEDAR CREEK AND BELLE GROVE NATIONAL PARK

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 2003

Mr. WOLF. Mr. Speaker, on January 31, 2003, America opened its 388th park in the National Park Service: Cedar Creek and Belle Grove National Historical Park. The establishment of this park represents years of hard work by many dedicated individuals and institutions. I am inserting into the RECORD an editorial by Adrian O'Connor, ''History at Belle Grove'' which appeared in the Winchester Star on February 1, 2003. This piece outlines the unique partnership which helped create this park and the plans for its future. Following this editorial is a list of those who played a seminal role in bringing this park into existence.

HISTORY AT BELLE GROVE—NOW THERE ARE 388 NATIONAL PARKS

History was made—or, should we say, further history was made—on a chilly, muscle-tightening morning near the front steps of Belle Grove Plantation.

With a gentle snow falling, cattle contentedly lowing in a distant pasture, and a late fog rolling across the surrounding fields—the latter a historical symmetry not lost on Virginia's senior senator, Republican John W. Warner—Cedar Creek Battlefield and Belle Grove Plantation because the 388th star in the National Park Service constellation.

Observing the pristine carpet of snow around Belle Grove, Dr. Stanley Hirschberg, former president of the Cedar Creek Battlefield Foundation, likened it to a ''fresh beginning'' for the historic acreage and manor house near Middletown.

And so it is—a ''fresh beginning'' born of a partnership to preserve or, as Rep. Bob Goodlatte, R-6th, called it, ''a new way to protect and preserve.'' On Friday, the National Park Service officially joined the Cedar Creek Battlefield Foundation, the Shenandoah Valley Battlefield Foundation, and Belle Grove Plantation as caretakers of this historical gem—now known as the Cedar Creek and Belle Grove National Historical Park.

These four entities are now partners in a new-model national park, one whose very approach to land acquisition plows virgin ground in this field. Suffice it to say, at a time when rampant development is threatening the Chancellorsville battlefield park near Fredericksburg and dollars for such new endeavors are scarce in the federal budget, this is soil that needed to be furrowed in such fashion. And a steadfast combination from Virginia's congressional delegation—legislators eager to set a new and different precedent in the creation of national parks—saw that it was done.

What is new and different about this national park? For starters, the approach to acquiring land. There will be no acrimonious condemnation by the Federal government in this process; it will only purchase private property inside the 3,000-acre park when owners express a willingness to sell. Such guidelines, Mr. Warner said, need to be ''replicated'' across America.

''There's little money left for national parks,'' he said, after noting the weather and the fact that Confederate Gen. Judal A. Early attacked the Union Army ringing Belle Grove under a similar cover of fog on Oct. 19, 1864.

''Uncle Sam doesn't have to buy every square foot of land to bring about preservation.''

In addition, all three lawmakers on hand for the ceremony—Messrs. Warner and Goodlatte as well as Rep. Frank Wolf, R-10th—noted that current residents and businesses will be able to live and work within the park's boundaries, and will be free to change or renovate their property as they see fit. And, as Mr. Wolf pointed out, this will be the first national park to allow historical re-enactments—i.e. the annual Battle of Cedar Creek—within its confines.

''There will be a partnership with the community, a reaching out beyond our boundaries,'' said Fran Mainella, director of the National Park Service.

Significant as well is the broad historical scope of this park. Though known primarily as the site of the climactic Civil War battle in the Shenandoah Valley, Cedar Creek/Belle Grove is more than just a Civil War battlefield. Much as its current watchwords—''Back Country to Breadbasket to Battlefield and Beyond''—duly suggest, the park will embrace a wide swath of our blessed heritage. Emphasis will be placed on Native American and French and Indian War history in addition to that of the Civil War. Central to these themes will be the Belle Grove manor house designed, so local lore has it, by Thomas Jefferson.

Thus, Mr. Wolf had it right when, taking in the panoramic surroundings Friday morning, he said that ''we stand on the shoulders of giants.'' Now, however, it is time for us, as residents of this Valley, to build on the vision of these latter-day statesmen who strove so diligently to craft a new-model national park, one of which we can all be proud.

Cedar Creek Battlefield Foundation: Suzanne Chilson, executive director; L.A. ''Butch'' Fravel—vice president; Joseph Whitehorne, President; Board Members: Daniel Ambrose; John Cadden—Secretary; Martin Downey; Stanley Hirschberg; Mike Kehoe; Richard Kleese; Kay Ely Pierce; Sam Riggs; and Gary Rinkerman.

Belle Grove, Inc. Trustees: The late Mr. Jay Monahan; Mr. Frederick Andreae, past president and Belle Grove Park Working Group representative; Mrs. Lilburn T. Talley, past president. Officers: Mr. Robert W. Claytor, President; Mrs. Harry F. Byrd, III, first vice president; Mrs. Charles Schutte, second vice president; Mrs. Mary Potter Robinson, immediate past president; Mr. David N. Carne, treasure; Mrs. Kathryn Perry Werner, assistant treasurer; Mrs. David Powers, secretary; Mrs. Charles O. Davis, assistant secretary; Mr. Jay Hillerson, at-large member, Executive Committee; Mr. D. Richard Hottel, Jr., At-Large Member, Executive Committee. Members: Mrs. Frank Armstrong, III; Mr. Douglas C. Arthur; Dr. Byron Brill; Mrs. Stuart Butler; Mrs. H. Robert Edwards; Mrs. Lee Fawcett; Dr. Clarence Geier; Mr. Lawrence P. Goldschmidt; Mrs. Jeffrey Harris; Ms. Maral Kalbian; Mrs. Thomas Larsen; Mrs. William H. Leachman, III; Mr. Christopher Lewis; Mr. Ron Llewellyn; Mrs. Gilbert McKown; Dr. Thomas S. Truban. Belle Grove staff: Elizabeth McClung, executive director, Park Working Group representative; Amy Keller, administrative assistant; Jacquelyn Williamson, Museum Shop manager/buyer; Ed Presley, program coordinator; Christopher Taucci, maintenance technician. Selected Belle Grove Advisory Council and Docent Guild Members: Advisory: Mr. Malcolm Brumback; Mr. John Copeland, mayor, Middletown, VA; Mr. and Mrs. H. W. Lyon; Mrs. Eve Newman; Mrs. Gee Gee Pasquet. Docent Guild Members: Mrs. Jean Allen; Mr. Charles Davis; Mrs. Robert Dever; Mr. and Mrs. Kermit Frey; Mrs. Dolores Fridinger; Mrs. Mary Ellen Gross; Ms. Paula Hite; Mrs. Wanda Kruetzfeldt; Ms. Barbara Moss.

National Park Service (NPS): Jeffrey P. Reinbold, NPS planner; Alexander ''Sandy'' Rives, NPS Virginia director; Wendy L. O'Sullivan, NPS project manager; Marie G. Rust, NPS Northeast regional director; Donald T. King, NPS chief of lands, Martinsburg office; Charles F. Blouser, NPS realty speciality, Martinsburg office; Fran P. Mainella, NPS director; Denny Galvin, former NPS deputy director; Alma Ripps, NPS legislative affairs specialist; Donald J. Hellmann, NPS deputy assistant director Legislative & Congressional Affairs; Steve Griles, Department of the Interior deputy secretary; Howard G. Miller, lands coordinator & control officer; Richard Moe, president, National Trust for Historic Preservation; David Brown, executive vice president, National Trust for Historic Preservation; Paul Edmondson, vice president and general counsel, National Trust for Historic Preservation; James Vaughan, vice president, Stewardship of Historic Sites, National Trust for Historic Preservation; Robert Nieweg, director, and regional attorney, Southern Field Office National Trust for Historic Preservation; Patrick Lally, director of Congressional Affairs, National Trust for Historic Preservation; Emma Panahy, program assistant, Southern Field Office, National Trust for Historic Preservation.

Members of Congress: Senator John Warner; Senator George Allen; Rep. Bob Goodlatte; former Senator Chuck Robb, the late Rep. French Slaughter.

Shenanndoah Valley Battlefields Foundation Trustees: Patricia L. Zontine, chair of the Board of Trustees; Joseph E. Callahan; Vincent F. Callahan; Faye C. Cooper; James A. Davis; Beverly H. Fleming; Kay D. Frye; Nancy H. Hess; Susie M. Hill; Kathleen S. Kilpatrick; Richard B. Kleese; William B. Kyger, Jr.; Allen L. Louderback; John W. Mountcastle; D. Eveland Newman; David W. Powers; Alexander L. Rives; Dan C. Stickley, Jr.; Kris C. Tierney; James L. White; the late Carrington Williams.

Shenandoh Valley Battlefields National Historic District Commissioners: Daniel J. Beattie; Larry D. Bradford; John L. Heatwole; Donovan E. Hower; Richard D. Kern; Janet O. Kilby; Scot W. Marsh; Nicholas J. Nerangis; the late Eugene L. Newman; William G. O'Brien; Joseph W.A. Whitehorne; H. Alexander Wise, Jr. Staff of the Shenandoah Valley Battlefields Foundation: Howard J. Kittell; John Hutchinson, V; Nancy R. Long; Elizabeth Paradis Stern; Sherman L. Fleek.

Rep. Frank R. Wolf staff members: Daniel Scandling, chief of staff; Chris Santora, legislative assistant.

Senator John Waner staff member: Ann Loomis, legislative director.

RECOGNIZING CARRIE BOYCE

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 2003

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Carrie Boyce, a very special young woman who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Girl Scouts of America, Troop 472, and in earning the most prestigious honor of the Gold Award.

The Girl Scout Gold Award is the highest achievement attainable in girl scouting. To earn the Gold Award, a scout must complete five requirements, all of which promote community service, personal and spiritual growth, positive values, and leadership skills. The requirements include, (1.) earning four interest project patches, each of which requires seven activities that center on skill building, technology, service projects, and career exploration, (2.) earning the career exploration pin, which involves researching careers, writing resumes, and planning a career fair or trip, (3.) earning the Senior Girl Scout Leadership Award, which requires a minimum of 30 hours of work using leadership skills, (4.) designing a self-development plan that requires assessment of ability to interact with others and prioritize values, participation for a minimum of 15 hours in a community service project, and development of a plan to promote girl scouting, and (5.) spending a minimum of 50 hours planning and implementing a Girl Scout Gold Award project that has a positive lasting impact on the community.

For her Gold Award project, Carrie refurbished and painted a playground.

Mr. Speaker, I proudly ask you to join me in commending Carrie Boyce for her accomplishments with the Girl Scouts of America and for her efforts put forth in achieving the highest distinction of the Gold Award.

TRIBUTE TO THE HONORABLE DELANO PALUGHI

HON. JO BONNER

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 2003

Mr. BONNER. Mr. Speaker, I rise today to pay tribute to the life of the Honorable Delano

Palughi, who passed away suddenly and unexpectedly last Saturday, February 22, 2003. Judge Palughi, who served with distinction on the Mobile County District Court, was a pillar of the Mobile community and a man whose character and generosity towards others will be remembered by all who were fortunate enough to know him.

Judge Palughi was deeply religious and attended mass daily, often at St. Mary's Catholic Church. His reverence for his country was strong as he opened his courtroom every morning with the Pledge of Allegiance. His dedication to his community and fellow man throughout his law practice, which he maintained for 40 years, and as Mobile County District Court Judge since his election in 1998, prompted the attendance of more than 600 family, friends, fellow judges and colleagues at the service honoring his life. Judge Palughi will be honored and remembered not only for his service to his community but for his unwillingness and inability to turn down an indigent prospective client during his many years practicing law. He represented the poor and downtrodden when others would not. The Reverend Paul Zoghby recognized Judge Palughi's kindness and humility and stated, at the service, that ''If he's not there (in Heaven), I don't think the rest of us have a chance.'' His charitable nature will be missed amongst the legal community and the City of Mobile.

Mr. Speaker, it is my honor to pay tribute to the life of Delano Palughi. Judge Palughi's love for his wife of 33 years, Frances; his two sons, Vincent and Anthony; his brother, Peter; two grandchildren, family, friends and his church was the foundation of his compassionate and charitable manner towards clients and those who appeared before him as District Court Judge. I would like to extend my prayers and deepest sympathies to his family and friends.

CONFERENCE REPORT ON H.J. RES. 2, CONSOLIDATED APPROPRIATIONS RESOLUTION, 2003

HON. CHARLES F. BASS

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 2003

Mr. BASS. I have come to the floor today to compliment the Committee on an excellent job balancing all the very important programs in the Omnibus Appropriations bill and particularly the Chapter of the bill that includes the matters that relate to the jurisdiction of the VA/HUD Subcommittee. I know the spending limitations necessarily imposed on the Subcommittee do not permit the Chairman and other members to address each and every issue as fully as they would like, but nonetheless the chairman has achieved a balanced and good result. I want to extend this praise to Chairman WALSH and the other members of the subcommittee.

Earlier this year, a number of Members contacted the Subcommittee to express the view that the Veterans Health Administration be as proactive as possible to help ensure that disabled veterans have the most advanced prosthetic and sensory aids devices made available to them, as would be medically appropriate. I want to strongly associate myself with those views and in that regard, I was pleased to see that the committee approved the Administration's fiscal year 2003 budget request for $739.1 million for prosthetic and sensory aids devices providing an increase of $60.3 million over last year's level. I am also most appreciative of the report language the committee included on this subject.

One of the exciting new prosthetic and sensory aids devices known as the IBOT was invented in my home State of New Hampshire. It is a mobility device that climbs stairs, traverses all-terrain, and balances the seated user at standing eye-level. It would be my view that some portion—at least 1 percent—of the approximately 25,000 veterans with service-connected spinal cord injuries should have access to this advanced mobility device. In fact, at the request of Congress, the VHA conducted a study of this mobility device last year that concluded with the finding that ''the subjects were unanimous in their recommendation that the Veterans Health Administration should provide IBOTS to veterans'' and that ''the IBOT could improve integration and work performance.'' Additionally as Secretary Principi has established a priority of ''restoring the capability of disabled veterans to the extent possible'' it is my expectation that such devices will be actively considered and provided to disabled veterans as medically appropriate.

It is my view and the view of Members who I have discussed this matter with the Department should aggressively pursue making this mobility device and other state of the art assistive technologies available to veterans with disabilities as medically appropriate. I should state further that it is my intention to work with the Department and with Chairman WALSH over the next year to ensure that the Department does pursue this matter appropriately.

RECOGNIZING JENNIFER BLACKWELL

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 2003

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Jennifer Blackwell, a very special young woman who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Girl Scouts of America, Troop 511, and in earning the most prestigious honor of the Gold Award.

The Girl Scout Gold Award is the highest achievement attainable in Girl Scouting. To earn the Gold Award, a Scout must complete five requirements, all of which promote community service, personal and spiritual growth, positive values, and leadership skills. The requirements include, one, earning four interest project patches, each of which requires seven activities that center on skill building, technology, service projects, and career exploration; two, earning the career exploration pin, which involves researching careers, writing resumes, and planning a career fair or trip; three, earning the Senior Girl Scout Leadership Award, which requires a minimum of 30 hours of work using leadership skills; fourth, designing a self-development plan that requires assessment of ability to interact with others and prioritize values, participation for a minimum of 15 hours in a community service project, and development of a plan to promote Girl Scouting, and five, spending a minimum of 50 hours planning and implementing a Girl Scout Gold Award project that has a positive lasting impact on the community.

For her Gold Award project, Jennifer collected school supplies for the Community Service League.

Mr. Speaker, I proudly ask you to join me in commending Jennifer Blackwell for her accomplishments with the Girl Scouts of America and for her efforts put forth in achieving the highest distinction of the Gold Award.

CELEBRATING THE 100TH ANNIVERSARY OF THE BOROUGH OF MOUNT PENN

HON. JIM GERLACH

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 2003

Mr. GERLACH. Mr. Speaker, I rise today to honor the Borough of Mount Penn, Pennsylvania during its 100th anniversary celebration. Mount Penn, known as the ''Friendly Borough,'' truly lives up to its moniker.

The area lying at the foot of Mount Penn was settled in 1748; it was originally named Dengler's, after one of its most prominent citizens. With busy Philadelphia Pike running through town, Dengler's quickly became a popular suburb of nearby Reading. Some of the first businesses were carriage and wagon works to help speed travelers along the 55-mile trip between Reading and Philadelphia.

In 1902, residents of the village petitioned the courts to create their own borough. On January 7, 1903, the petition was granted and the 500-citizen Mount Penn Borough was born. As time went on, trolley lines and paved roads running to all points around Mount Penn brought more visitors and settlers to the borough.

Today, Mount Penn has grown to around 242 acres and 3,000 residents—many of whom are third- and fourth-generation ''Mountaineers.'' The Borough contains a thriving business district, including Leinbach's Hardware, which at 82 years old is the longest continually operated business in the borough.

Although the Borough has kept up with the times, it still retains the small-town feel that made it so appealing to travelers many years ago. In a day and age when many people do not even know their neighbors, Mount Penn is a shining example of what a community can be. I congratulate Mount Penn Borough on its one hundredth anniversary and call upon my colleagues to do the same.

TRIBUTE TO JAMES E. STEWART

HON. JO BONNER

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 2003

Mr. BONNER. Mr. Speaker, I rise today to pay tribute to Mr. James E. Stewart of Foley, Alabama, on the occasion of his being honored by his friends, family and colleagues on ''James E. Stewart Day'' in Baldwin County, Alabama.

For the past fifty years, Jim Stewart has been the anchor of the Baldwin County radio

broadcast community. Beginning with the formation of Baldwin County's first radio station, WHEP, in Foley, Alabama, in 1953, Mr. Stewart has been the head of a growing broadcast family that has provided immeasurable joy and valuable information for thousands of listeners along Alabama's Gulf Coast. During his professional career, Mr. Stewart has been actively involved in the life of his community and has taken a leading role in many civic and professional organizations. Many groups including the South Baldwin Chamber of Commerce, the Alabama Council of Hospital Governing Boards, the Foley Rotary Club, and the South Baldwin Health Care Foundation have benefited from his experience, leadership and interest in promoting further growth in Baldwin County, and from his desire to ensure that his fellow residents received the best that life in South Alabama has to offer.

Moreover, Mr. Stewart has received on many occasions the most important recognition of all: the respect and admiration of his professional peers. From his service in the Alabama Radio-Television Broadcasters Association to membership on Legislative Liaison Committees of the National Association of Broadcasters, Jim Stewart has been honored for his outstanding professional and journalistic integrity and for his genuine concern for and love of his community and state.

Mr. Speaker, I don't feet there are a sufficient number of honors or awards to recognize the significant contributions Jim Stewart has made during the past five decades, nor are there enough words to express the thanks of the many people he has touched during that time. I can only express my deepest appreciation for his service to Baldwin County and to the entire State of Alabama. His many accomplishments during his life can be counted; the tremendous number of lives he has impacted cannot.

RECOGNIZING CRYTAL BANUELOS

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 2003

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Crystal Banuelos, a very special young woman who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Girl Scouts of America, Troop 116, and in earning the most prestigious honor of the Gold Award.

The Girl Scout Gold Award is the highest achievement attainable in girl scouting. To earn the Gold Award, a scout must complete five requirements, all of which promote community service, personal and spiritual growth, positive values, and leadership skills. the requirements include, (1) earning four interest project patches, each of which requires seven activities that center on skill building, technology, service projects, and career exploration, (2) earning the career exploration pin, which involves researching careers, writing resumes, and planning a career fair or trip, (3) earning the Senior Girl Scout Leadership Award, which requires a minimum of 30 hours of work using leadership skills, (4) designing a selfdevelopment plan that requires assessment of ability to interact with others and prioritize values, participation for a minimum of 15 hours in a community service project, and development of a plan to promote girl scouting, and (5) spending a minimum of 50 hours planning and implementing a Girl Scout Gold Award project that has a positive lasting impact on the community.

For her Gold Award project, Crystal organized a poetry and writing appreciation program.

Mr. Speaker, I proudly ask you to join me in commending Crystal Banuelos for her accomplishments with the Girl Scouts of America and for her efforts put forth in achieving the highest distinction of the Gold Award.

EXECUTIVE COMMITTEE OF CORRESPONDENTS WISHES A DEAR COLLEAGUE AND FRIEND, DAVID HOLMES, WELL IN HIS RETIREMENT

HON. J. DENNIS HASTERT

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 2003

Mr. HASTERT. Mr. Speaker, I would like to submit the following into the CONGRESSIONAL RECORD:

The Executive Committee of Correspondents conveys its gratitude on behalf of the more than 250 publications and 1,800 reporters who benefited from your 28 years as director of the House Periodical Press Gallery.

Over the decades, you have helped the gallery grow and expand, ranging from the number of reporters served to the amount of information available. You have kept the gallery and its staff up to date with the latest technology and pushed for even greater technological advances.

Reporters have always found you a valuable resource. Your vast knowledge of Congressional rules and procedures will be sorely missed, as will your keen political insights and ability to steer reporters in the right direction.

You have always looked out for the best interests of reporters and fought for increased access to lawmakers and events. You deserve our thanks and gratitude for getting to know the right people throughout the years so that we could do our jobs with minimum of interference.

We also acknowledge your role in defending our interests in court when the need arose and for always being fair and impartial when it came to credentialing new organizations for admittance into the gallery.

For all these and so many more reasons, the Executive Committee thanks you for your many years of service and wishes you and Shauna a happy, long and well-deserved retirement.

Sincerely,

CHERYL BOLEN
HEIDI GLENN
RICHARD COHEN
TIM CURRAN
DOUGLAS WALLER
TERENCE SAMUEL
LORRAINE WOELLERT

INTRODUCTION OF THE FAMILY FARM TAX SIMPLIFICATION ACT OF 2003

HON. EARL POMEROY

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 2003

Mr. POMEROY. Mr. Speaker, I rise today to introduce the Family Farm Tax Simplification Act of 2003, legislation that will allow married co-owners of family farms to significantly reduce the amount of time it takes to prepare a correct income tax return and to provide both spouses with Social Security and Medicare coverage.

As ranking member of the Ways and Means Oversight Subcommittee, I am pleased that we held a hearing on this issue earlier in the month and that, today, we are able to quickly move forward and act to simplify the tax law. I am honored to have the Oversight Subcommittee Chairman HOUGHTON join me in cosponsoring this bill.

The National Taxpayer Advocate has reported that approximately 3,000 family farmers in North Dakota may not be eligible for Social Security and Medicare benefits because of the onerous partnership tax rules associated with preparing the return that allows both spouses to pay into the Social Security and Medicare systems. The IRS estimates that it takes the average partnership approximately 165–200 hours to prepare its return.

As a result, some family farms have chosen to file a sole proprietor return, attributing all income to, and paying self-employment taxes on, only one spouse. Unfortunately, when this occurs, the other spouse will not be covered under the Social Security and Medicare systems. Many, many hard-working couples are getting a bad deal under the current system, and they will not find out about it until it is too late.

For example, take a family farm run equally by husband and wife. If the business files a return with the husband as sole proprietor, he would be awarded Social Security disability benefits if he becomes disabled, alleviating some of the financial burden of his disability on the family. However, if the wife becomes disabled, she is unable to collect Social Security disability. By not collecting this benefit, the business is further financially disadvantaged.

Current law puts husband and wife businesses in a serious dilemma with a difficult choice under our current tax return filing rules. If they file a partnership return which is technically correct they face hundreds of hours in tax return preparation and/or very expensive charges from a tax attorney or accountant. If they file a sole proprietorship return, which is technically not correct, one of the spouses loses coverage for Social Security disability benefits, Social Security survivorship benefits, and Medicare benefits.

The IRS has been ''winking'' at letting couples file as a sole proprietorship since there generally is no tax liability difference between the two approaches to filing. In fact, these couples are subject to serious civil and criminal penalties for filing incorrect returns. This is just a plain, bad arrangement.

The solution is quite simple. The tax law needs to be changed to allow a couple to file a simple return with income attributed to both spouses and both spouses paying into the Social Security/Medicare system.

The Family Farm Tax Simplification Act of 2003 would allow a married couple to elect to file a joint Form 1040 tax return—through which each spouse is treated as a sole proprietor of the business, and each spouse is allocated part of the farm's business income, gain or loss. By offering this election, both spouses are able to pay self-employment taxes and, thus, can both be covered by the Social Security and Medicare systems. With very few exceptions, the proposal would not affect a couples' total income tax liability nor their total Social Security/Medicare tax contribution.

Finally, I have asked the Taxpayer Advocate to provide the Oversight Subcommittee with more information on how legislation, such as I am introducing today, might apply in the case of non-farm small businesses. I will be receiving a State-by-State analysis of such firms and a description of how the commonly-used Schedule C could be modified to simplify returns for these taxpayers. I would hope that tax simplification reforms provided in my bill could be expanded to other types of small family-owned firms.

I look forward to working with my colleagues to help family farmers receive Social Security and Medicare benefits. I hope my colleagues will join me in passing this important legislation.

DEFENSE TRANSFORMATION

HON. MAC THORNBERRY

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 2003

Mr. THORNBERRY. Mr. Speaker, one of the most important challenges facing our Nation is to transform the most successful military in the world so that it is better able to meet the security needs to the years ahead. I would like to submit for the record and commend to my colleagues an outstanding speech entitled, ''Transforming the Defense Establishment,'' by Dr. Stephen A. Cambone, Department of Defense Director of Program Analysis and Evaluation, which was delivered before Bear Stearns and Company on January 27, 2003. In my view, Dr. Cambone's emphasis on changing the culture of organizations is particularly important.

As we consider the President's 2004 defense budget request, we should give careful attention to the excellent insights offered by Dr. Cambone.

In his September 1999 speech at the Citadel, then-candidate George Bush declared that, if elected, he would seize on an opportunity created by what he called a ''revolution in the technology of war.'' As a result of that revolution, he said, power ''is increasingly defined not by mass or size but by mobility and swiftness. Influence is measured in information, safety is gained in stealth, and force is projected on the long arc of precision-guided weapons. This revolution perfectly matches the strength of our country, the skill of our people, and the superiority of our technology. The best way to keep the peace,'' he said, ''is to redefine war on our terms.''

The President went on to sketch his vision of the armed forces. He said, ''Our forces in the next century must be agile, lethal, readily deployable, and require a minimum of logistical support. We must be able to project our power over long distances, in days and weeks, rather than months. Our military must be able to identify targets by a variety of means, from a Marine patrol on the ground to a satellite in space, and then it must be able to destroy those targets almost instantly with an array of weapons from the submarine-launched cruise missile to mobile long-range artillery.''

''Our land forces,'' he said, ''must be lighter, our light forces must be more lethal, and all must be easier to deploy. And, these forces must be organized in smaller, more agile formations, than cumbersome divisions.'' ''On the seas, we need to pursue promising ideas . . . to destroy targets from great distances.'' ''In the air, we must be able to strike from across the world with pinpoint accuracy with long-range aircraft and perhaps with unmanned systems.'' ''In space, we must be able to protect our network of satellites essential to our flow of commerce and defense of our country.''

As a way of underscoring his determination to bring about the transformation of the military forces of the United States, the President reminded the audience of another time of what he called ''rapid change and momentous choices.'' ''In the late 1930s, as Britain refused to adapt to the new realities of war, Winston Churchill observed, 'The era of procrastination, of half-measures, of soothing and baffling expedience, of delays, is coming to a close. In its place we are entering a period of consequences.' ''

Well, that period of consequences arrived here in this city just two years later, on September 11, 2001. The remainder of this talk will focus on how we have answered the call laid down by the President during his candidacy. Let me sum them up: He asked us to do three things. He asked us to assure the well-being of the men and women in uniform and the civilians who work for the Department. He asked us to provide the means to them to defeat today's threats. He asked us to take on the transformation of the defense establishment to meet the challenges of the future. Before I take on each in turn, that is to say, what we've done for our people, how we've met today's challenges, and what we are doing for the future, let me take a moment to tell you what we think transformation is, and what it is not.

What it is, we think, is a continuing effort over time. It is not a static objective in time. So, if you are looking to judge this transformational process or the progress that we have made, and you try to pin it to a certain place in a certain time and use a static measure, you will be disappointed and probably mislead yourself and others.

Secondly, it is a change in culture. A change in culture that is reflected in what we do, how we do it, and the means we choose to accomplish our objectives. I can't stress enough the importance of the change in culture that comes with the transformation. Those of you who have watched various companies merge and come apart over the last decade or so will understand just how important changes in culture are to a transformational effort.

It's also about balancing risk. We have identified risk in four categories. The first area of risk has to do, not surprisingly, with our people. Are we keeping them in proper trim, as it were? Do they have the means to do their training; are they able to see their families; do they live in decent housing? Second, are we able to conduct operations today at a minimum of risk not, mind you, without risk, but at a minimum of risk, by assuring that our people are well positioned, well led, and have the proper means to conduct operations? Third, have we made the investments that are necessary to prepare for the future? and lastly, our business practices; have we gone any way toward reforming them? It is our belief that those four categories of risk need to be properly balanced. We cannot over-invest in any one and expect to succeed in all.

Now, let me say a word about what we think transformation is not. It is not change for its own sake. Nor is it measured as a success or a failure on the basis of programs that have been cancelled, programs that have been completed, or programs that have begun. It is easy to keep score that way, and we will, in a few minutes, talk about some of the programs that we have cancelled and programs that we have begun. But, again, that is not a very good scorecard of the progress of this transformational effort.

I call you back again to what transformation is. It's about culture, about what we do, how we do it, and the means we choose to accomplish those objectives. If you were going to develop a checklist to measure transformation, I offer you the following set of points. There are seven, and I'll give them to you in fairly quick order.

The first would be to look at the guidance that we have given both to our civilian and military personnel. Some of that guidance is available to you, for example, in the form of the National Security Strategy that has been published by the White House and the Quadrennial Defense Review that was published by the Department of Defense. Others are not available to you—except when they're leaked to the newspapers—for example:

The Nuclear Posture Review, which reconfigured our nuclear forces, and allowed the President to take the steps to reduce the size of our nuclear offensive arsenal and to incorporate into our future strategic force conventional weapons as well as nuclear weapons. The Contingency Planning Guidance, which is given to our combatant commanders and signed out by the President, and which directs combatant commanders to prepare plans for contingencies now and into the future that reflect the tenets of the strategy that was laid down in the National Security Strategy and the Quadrennial Defense Review. But guidance is fine going back to my point about culture, however: Are we changing the culture? It is often changed by changes in organizations. And I have to tell you, we have changed organizations quite extensively within the Department. We have done so with the aim of enabling what we call joint operations, i.e., the ability of our land, sea, air, and space forces to be combined under the control of a single combatant commander and used in ways that are most appropriate to achieving the objectives of the campaign that he has laid out.

We have changed the structure of our commands: We have added a combatant command for the United States called Northern Command. It ''stood up'' just recently. We have merged our Space Command and the old Strategic Command into a new command designed to make use of the new instruments of strategic power. We have changed the mission of our Special Operations Command. We have undertaken changes to our organization in the office of the Secretary of Defense. The Army, the Navy, the Air Force—each of them has restructured their staffs and their functions.

Third, I said we were interested in joint operations. Well, it turns out the Department

of Defense does not have a joint concept to guide the conduct of joint operations. What we have are concepts that have been generated by each of the services about how they would prefer to fight. We have, however, no overarching concept for the employment of the joint force. So we have, indeed, set about that task. I would expect by springtime, probably early summer, that we will, indeed, have a joint operational concept that will begin to frame for our services how they ought to go about the task they have under Title X—to man, train, and equip the armed forces of the United States.

But the services—the fourth point of the seven—have not been lagging behind. If, for example, you look at what the Navy is proposing, what the Army is proposing, what the Air Force and the Marines are proposing, you will see their effort to begin transforming their own service and to make it friendly to the joint operational environment. But it's not enough to say we want to fight joint, we have to train joint, so we have taken steps to put in place a substantial amount of funding to enable joint training, and we will do it for the most part in a virtual environment, but this will be an enormous step in the direction toward joint operations.

What about our investments? Investment is made up of a combination of RDT&E—research, development, test and evaluation—coupled to what we procure. We will talk in a few minutes about that investment, but I do believe that, if you look at it, you will begin to notice that it is favoring the enabling of joint warfare. So, as we look through our choices during the course of our just-completed program review, we constantly came back to the same question: What will this investment do for joint warfighting?

Lastly, processes and practices within the Department of Defense. Under Secretary Wynne and Dr. Zakheim, both of whom have spoken to you, and others are working very hard to alter the manner in which we do our business. This will be the most transforming thing the Department of Defense can do. We can spend a great deal of time on any of these seven points, but let me ask you to bear in mind a summary point that arises out of them: Because we do not know who our adversaries may be either in the near term or the long term; or how they may choose to fight; but because we do know that modern technology is available to our adversaries or potential adversaries, as readily as it is available to us; and because we know that as a democratic society we are vulnerable to attack: We decided to pursue our strategy for transformation in a way that would provide our combatant commanders with what we are calling a portfolio of capabilities. We have tried to avoid the point solution to any particular problem. We are looking to equip them with a portfolio of capabilities with which that combatant commander can conduct joint operations. The reason I mention this to you is that, as you begin to review the budget programs and think your way through what that means, you've got to keep coming back to the question: Has the Department chosen the right set of capabilities to support joint operations?

Next, let me outline what those capabilities and joint operations are intended to provide. Let me tick off a list of six points for you that we think are the appropriate characteristics by which to measure these capabilities. First, does it permit the force to rapidly transition from its steady state peacetime garrison its training its presence mission does it allow it to transition rapidly into combat operations? Second, do we have a set of capabilities that will provide timely and wide-ranging effects applied to targets throughout the full depth—the full depth—of an adversary's battle space? Third, can we apply those effects to both fixed and mobile targets? Fixed targets are a delight; they sort of stay right where you always thought they were. It's the ones that move around that vex us all, and it's very, very difficult trying to track and attack those targets. Fourth, does it provide us the kind of persistent surveillance we're going to need especially for the purposes of tracking mobile targets.

Let me digress here for a moment. The difficulties we see in the efforts to gain intelligence is a function of how hard it is to gain that intelligence. If one has only a periodic view of events, it is difficult to collect and stitch that information together. To the extent that we are able to provide a persistent level of surveillance for our combatant commanders, they will be able to make their plans with a great deal more knowledge and information than they have today. We must continue to dominate the air, we need to learn how to operate from sea bases, and we need to improve our ground maneuverability. Fifth, the above capabilities need to allow us, as well, to hold at risk an adversary's command and control network as well as his weapons of mass destruction. Sixth and last, but not least by any means, they are capabilities that we must have in order to be able to force any fight in which we find ourselves to a rapid conclusion.

That concludes the top-level chapeau of what we're trying to do and why. Let me turn to our program proposals. I'll begin with the most important resource that we have, which is our people. We have, since 2001, made a substantial effort to increase the pay and benefits of our troops. We have, in fact, gone farther than others might have thought. We have gone to a targeted pay raise for our senior enlisted and mid-career officers to ensure that we keep the talent that we need and develop the skill sets that a military 10 and 15 years from now is going to require. We have also managed to reduce to near-elimination within two years the kinds of out-of-pocket expenses that our personnel have to pay for their housing when they live on the economy. In terms of housing on bases, we will have eliminated most of (the substandard) housing by 2007, and we will have privatized a lot of that housing, particularly with respect to the Navy and Army. And, as I said, we have gone a long way toward providing the kind of joint, national training that we think our people are going to need in the years to come.

In addition to our people, we need a firm foundation, a solid foundation, in what we call our operations and support activities and in the infrastructure that is part of the Defense establishment. Toward that end, we have included in the proposal that we sent to the President, and that he will send on to Capitol Hill, a great deal of additional monies over this program period designed to support our operations and maintenance budgets. We did this for a very good and sound reason. Over the years, what has happened is that funds for operations and maintenance, the daily upkeep of the force, has been systematically underfunded. The consequence of systematically underfunding it has been that, in the event, in any given year, when those bills begin to mount, the services went looking for dollars. Where that money came from traditionally has been out of the investment account, that is, out of procurement and out of RDT&E. What we are looking to do is to stabilize the investment programs by funding the O&M accounts. That is a principled approach to what we are trying to do. So, the hope is that over time, those investments will be more stable than they have been in the past.

Investments. With respect to the investments, as I said, we have both RDT&E and procurement in the account.That account is up substantially, on average, over what was in the plan that we found when we arrived at the beginning of 2001. What is interesting about it is that, proportionally, we have increased the RDT&E accounts a bit more than we have the procurement accounts. There's a reason for that. One is that it signifies a certain leaning by the Department toward reducing the risks of having inappropriate forces and equipment in future years.

It also reflects an approach toward funding some of our near-term efforts, particularly with respect to the Navy, which will fund the first ship of four new classes of ships that it intends to begin during the course of this program. It will fund that first ship of each class out of its RDT&E accounts because in fact those ships are, indeed, experimental, from the point of view of the Navy. The services, in trying to meet the demands of transformation, have made some important decisions about shifting their resources. You will discover, for example, when looking at the Army's accounts, that: It will have moved roughly $20 billion out of programs it might have funded in its '02 program into different accounts. It has, since 2002, terminated 24 systems, and it has reduced or restructured another 24. It has done so for two reasons: first, in order to be able to fund its highest priority for modernization.

Second, at the same time, the Army, over this coming program period, will shift something on the order of $13–14 billion into the development of its Future Combat System. That is, indeed, its transformational system. The Navy, from the period of 2002 until the end of this program period: will have retired 36 ships. Some of those ships could have been modernized. Service life extension programs could have been conducted for those ships. The Navy decided to retire them, take the savings, and invest those savings into a number of new classes of ships. Those ship classes include a new littoral combat ship, a new cruiser, a new destroyer, a new helicopter-deck ship, and a new prepositioning ship, and it includes resources shifted to a new design for the next generation of aircraft carrier. The Air Force, for its part, has moved something on the order of $20 billion in its budget. It has retired a number of older aircraft, it has done some internal consolidations of its squadrons. It has funded its highest priorities which are its readiness and people and, importantly, it has made commitments to a number of programs which I will discuss in a moment.

So, there is a great deal of work going on inside the Department in terms of reallocating resources. It's not simply a matter of having been afforded more money by Congress, but rather, we have taken steps to move dollars inside the accounts in the Department. Now, when we're done, what we think, is that that capabilities package that I talked about will enable us to better perform what we think are six of the most important operational goals for our force. Let me give them to you: First, we have to defend what we call our bases of operation, that is to say, the United States, our people, our forces abroad, and our allies. We have to protect them not only against the kinds of attacks that occurred two years ago in New York and at the Pentagon, but also against missile strikes and other forms of offensive operations. We have to be able to project and sustain our forces abroad. Recalling the President's words, we need to be able to move quickly in order to bring the fight to a quick conclusion. Third, we need to be able to deny sanctuary to our adversary. This is where the issue of persistent surveillance, for example, comes into play. If we're trying

to find terrorists hiding in remote places, we have to have the ability to essentially sit on top of them and their activities and watch them and follow them as they go about their business. But having done that, we have to be able to attack an adversary no matter where they are and no matter how deep inside the land mass they may be or where they might be on the oceans or in the air. Fourth; we have got to enhance our space capabilities. We are highly dependent upon space for both commercial and defense needs, and we will have made a substantial investment in enhancing those capabilities. Fifth, we need to do what is necessary to leverage our information advantage Last, we need to ensure that the information on the network is secure.

So, in making our investment set, let me tick off for you some of those which have probably gotten your attention for a variety of reasons. The first is missile defense. The President committed to bringing about a missile defense for the United States. We have invested quite heavily in the RDT&E program for missile defense. The President has decided that, beginning in 2004, we will begin to deploy a small number of interceptors inside a test bed arrangement that we have developed for the testing of our land-based missile defense capabilities. Those interceptors will give us a modest capability against a small number of long-range ballistic missile warheads launched at the United States. That test bed is located on land, so the President has asked us as well to see if we couldn't put some missile defense interceptors aboard ship by about the 2004 time frame as well, and we have committed to doing so.

We have made a very large investment in transformational communications. What do I mean by that? It has three parts. We are committed to the development of a laser-based communications satellite, which will allow us to communicate by light via space. Today, we do it by radio-frequency waves, both from ground to satellite and from satellite to satellite. What we hope to be able to do is to do that by light. Essentially, we hope to move fiber optics into space. We have, as well, made a very large investment in expanding what we call our global information grid which is, itself, a fiber-optic net, which will be expanded substantially. We have made major investments in command, control, communications, and computing systems. We have made a similar investment in assuring the information net will work within that transformational communications system.

In order to gain the persistence that I have talked about, we have made investments in systems like Global Hawk, which is an unmanned drone aircraft that is loaded with sensors. You have read, I'm sure, of the exploits of Predator, a much smaller drone that has been used extensively in Afghanistan. But we have also invested in a space-based system, which is a radar. The idea is that, if we are able, around 2012, to put up a constellation of satellites, these radar satellites would enable us to have the kind of persistent surveillance that I talked about a few moments ago. If you take the information that is available on the space-based radar and other surveillance assets and imagine moving them through a system that I described that is essentially a fiber-optics system, you can understand how fast we can move that information, how much information we can move, and the fact that we can move it and deliver it in formats that are useful to the receivers. If we can do that, and we believe we can, we will be able to see, bear, talk, act, and assess much more rapidly than any adversary we could encounter. If we can do that, in near-real time, we will have achieved what many might want to call information superiority.

Shipbuilding. Let me take a moment there. We have committed to about seven ships a year if we can do it. That will enable us to stabilize the shipbuilding base over the course of the FYDP, but we also have made a major decision with respect to the Navy's follow-on aircraft carrier, called CVN–21. The Navy has taken many of the improvements that would have been included in a ship that they had believed would begin building in FY2011 and has moved many of those technologies and changes in the organization and internal structure of the ship and its equipment sets back to the carrier that is slated to begin construction in FY2007. With respect to combat air forces, we have studiously gone about the business of attempting to create competition for the missions in this area. As you know, we have the F–22, the F/A–18. They are the main aircraft in production. The Joint Strike Fighter is intended to follow on toward the end of this decade, but in addition, we have made investments to improve our capabilities with respect to unmanned combat aerial vehicles (UCAVs), unmanned aerial vehicles like Global Hawk and Predator, and their successors. We have made an investment in a national aerospace initiative which will stress hypersonic missile technology which will allow us to move at very rapid speed. As the principal proponent of that program likes to say, ''Speed kills.'' You can imagine that hitting a target at 7 or 8 Mach will do real damage to that target. Lastly, we have tried to look at whether or not we can revive a conventional ballistic missile capability which would, as the President said, allow us to strike around the world at a moment's notice with pinpoint accuracy.

The Army, for its part, is deep into its transformational effort in keeping with the President's words about being more lethal and quicker to move and not taking so long to build up. The Army is attempting to do so with its objective force and its so-called ''Future Combat System.'' They are hopeful to come in this Spring with their proposals on how they intend to proceed with this program, and as I said a moment ago, they have invested near to $14 billion over the FYDP for that program. Those are some of the highlights of the investment strategy, and let me just tick off for you some of those changes. When we started in 2001 on this process of transforming our capabilities, we didn't have a missile defense capability; by 2004, we hope to have a limited capability. We were using conventional radio-frequency waves for our satellite communications; we hope to move to laser-based communications. We didn't have a space-based radar program; we do now, and we hope we can deploy it by 2012. We had no submarines that could launch large numbers of conventional cruise missiles. Well, we've taken four submarines out of the strategic force, took the nuclear weapons off them, and we intend to put conventional cruise missiles on them and use them as strike platforms well into the next decades. I've already mentioned the carriers. We will have a CVN–21 beginning in FY–07. The surface fleet was aging. It will shrink a bit in the coming years, only to begin to increase its numbers as we go into the 2006–7–8 time frame. We will have four new ship classes. We merged the tactical air programs of the Navy and the Air Force. I've mentioned the family of UAVs and the UCAVS, and I've mentioned the housing and the facilities improvements. So, let me conclude. We are a nation at war; we do not know how long it will last, but it is unlikely to be short. We cannot know where all of its battles will be fought.There are multiple fronts in this war, and there is no single theater of operations. We do know that we are all at risk, at home and abroad, civilians and military alike. We do know that battles and campaigns will be both conventional and unconventional in their conduct. Some of those battles and campaigns will be fought in the open, and others will be fought in secret, where our victories will be known to only a few. For the Department of Defense, it means that we now plan and fight today's battles even as we prepare for that longer campaign. In light of this, let me remind you of how the President assesses his 1999 speech at the Citadel. Two years later, in December of 2001, he returned to the Citadel and said the following: ''The need for military transformation was clear before the conflict in Afghanistan and before September 11. At the Citadel in 1999, I spoke of keeping the peace by redefining war on our terms. We have,'' he said, ''a sense of urgency about this task, the need to build this future force while fighting the present war is an urgent need.'' And then he said, ''It's like overhauling an engine when you're going 80 miles an hour, but we have no other choice.'' So, mindful of the urgency to transform, as the President expressed in his Citadel speech a year ago, I can say that we will press this war to its conclusion. But even as we do, we will plan and prepare for the future when that war is won, and the world itself has been transformed. Thank you very much.

RECOGNITION FOR THE ACHIEVEMENTS OF THE WE THE PEOPLE PARTICIPANTS FROM SOUTH DAKOTA

HON. WILLIAM J. JANKLOW

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 2003

Mr. JANKLOW. Mr. Speaker, I would like, today, to recognize the following high school class in Marion, South Dakota.

On April 26, 2003, more than 1200 students from across the United States will visit Washington, D.C. to compete in the national finals of the We the People: The Citizen and the Constitution program, the most extensive educational program in the country developed specifically to educate young people about the Constitution and the Bill of Rights. Administered by the Center for Civic Education, the We the People program is funded by the U.S. Department of Education by act of Congress.

I am proud to announce that the class from Marion High School from Marion will represent the state of South Dakota in this national event. These young scholars have worked conscientiously to reach the national finals by participating at local and statewide competitions. As a result of their experience they have gained a deep knowledge and understanding of the fundamental principles and values of our constitutional democracy.

The three-day We the People national competition is modeled after hearings in the United States Congress. The hearings consist of oral presentations by high school students before a panel of adult judges on constitutional topics. The students are given an opportunity to demonstrate their knowledge while they evaluate, take, and defend positions on relevant historical and contemporary issues. Their testimony is followed by a period of questioning by the judges who probe the students' depth of understanding and ability to apply their constitutional knowledge.

The We the People program provides curricular materials at upper elementary, middle, and high school levels. The curriculum not only enhances students' understanding of the institutions of American constitutional democracy, it also helps them identify the contemporary relevance of the Constitution and Bill of Rights. Critical thinking exercises, problem-solving activities, and cooperative learning techniques help develop participatory skills necessary for students to become active, responsible citizens.

Independent studies by the Educational Testing Service (ETS) revealed that students enrolled in the We the People program at upper elementary, middle, and high school levels ''significantly outperformed comparison students on every topic of the tests taken.'' Another study by Richard Brody at Stanford University discovered that students involved in the We the People program develop greater commitment to democratic principles and values than do students using traditional textbooks and approaches. Researchers at the Council for Basic Education noted, *''[T]eachers feel excited and renewed. . . . Students are enthusiastic about what they have been able to accomplish, especially in terms of their ability to carry out a reasoned argument. They have become energized about their place as citizens of the United States.*

The class from Marion High School is currently preparing for their participation in the national competition in Washington, D.C. It is inspiring to see these young people advocate the fundamental ideals and principles of our government, ideas that identify us as a people and bind us together as a nation. It is important for future generations to understand these values and principles which we hold as standards in our endeavor to preserve and realize the promise of our constitutional democracy. I wish these young ''constitutional experts'' the best of luck at the We the People national finals.

RECOGNIZING SARAH AMBRIZ

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 2003

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Sarah Ambriz, a very special young woman who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Girl Scouts of America, troop 1381, and in earning the most prestigious honor of the Gold Award.

The Girl Scout Gold Award is the highest achievement attainable in girl scouting. To earn the Gold Award, a scout must complete five requirements, all of which promote community service, personal and spiritual growth, positive values, and leadership skills. The requirements include, 1. Earning four interest project patches, each of which requires seven activities that center on skill building, technology, service projects, and career exploration, 2. Earning the career exploration pin, which involves researching careers, writing resumes, and planning a career fair or trip, 3. Earning the Senior Girl Scout Leadership Award, which requires a minimum of 30 hours of work using leadership skills, 4. Designing a self-development plan that requires assessment of ability to interact with others and prioritize values, participation for a minimum of 15 hours in a community service project, and development of a plan to promote Girl Scouting, and 5. Spending a minimum of 50 hours planning and implementing a Girl Scout Gold Award project that has a positive lasting impact on the community.

For her Gold Award project, Sarah organized a music clinic for elementary school children.

Mr. Speaker, I proudly ask you to join me in commending Sarah Ambriz for her accomplishments with the Girl Scouts of America and for her efforts put forth in achieving the highest distinction of the Gold Award.

TRIBUTE TO IRVING L. DILLIARD

HON. JOHN SHIMKUS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 2003

Mr. SHIMKUS. Mr. Speaker, I rise today to honor the life and achievements of Irving L. Dilliard.

A resident of my hometown of Collinsville, IL, Irving passed from this life on October 9th from complications of leukemia. An accomplished writer, editor, and well-known authority on the Constitution and the Supreme Court, Irving wrote more than 10,000 editorials and many books. Irving also wrote about those people who didn't often make headlines; he used his talent to bring attention to various injustices throughout the world.

Irving attended Collinsville High School and was a 1927 graduate of the University of Illinois. While attending the U of I, he was initiated into the Gamma chapter of Alpha Kappa Lamba fraternity. Irving continued his dedication to the fraternity by serving as AKL National President from 1936–38. Irving eventually went on to become one of the first Nieman Fellows at Harvard University, a year-long graduate program for journalists.

Irving became a reporter at the St. Louis Post-Dispatch in the late 1920s. Soon after joining the newspaper staff, Irving wrote a pamphlet on the 1787 Constitutional Convention entitled, ''Building the Constitution'', which was then distributed to schools for free and saw 850,000 copies in print.

Irving joined the war effort in 1943 by enlisting in the Army to serve in World War II. He earned the rank of Lieutenant Colonel and served as a psychological warfare specialist on Gen. Dwight D. Eisenhower's staff. He was also an editorial adviser for the European edition of Stars and Stripes during the war.

Following the war, Irving rejoined the Post-Dispatch, this time as an editorial writer. He worked his way up to editorial page editor by 1949. During his years at the newspaper, Irving was known as an expert on the Supreme Court and Constitution. Irving eventually retired from the Post-Dispatch in 1960. However, his career in journalism did not end at this time; Irving went on to teach that subject for 10 years at Princeton University.

Following his years as an educator, he continued to serve his state and country by serving as the first director of the Illinois Department of Aging. As late as 1995, Irving was still working for the people, this time as an Illinois delegate to the White House Conference on Aging.

Irving held many honors throughout his long career. He was president of the Illinois State Historical Society, the Illinois State Historical Library, and the Society of Professional Journalists. He was elected to the Board of Trustees of the University of Illinois in 1960—receiving more than 2 million votes statewide. Irving also remained loyal to his hometown of Collinsville by holding a seat on the Collinsville Library Board for 52 years; 23 of those years he served as president.

Irving Dilliard was the epitome of a great American citizen. He was a dedicated servant to his community, state, and nation and will be greatly missed.

TRIBUTE TO LUIS MUÑOZ MARÍN

HON. ANÍBAL ACEVEDO-VILÁ

OF PUERTO RICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 2003

Mr. ACEVEDO-VILÁ. Mr. Speaker, last week Puerto Ricans celebrated the birthday of one of our greatest and most beloved leaders: Luis Muñoz Marín. Today I want to honor Muñoz Marín's memory and recognize his contribution to democracy and progress in Puerto Rico and the Americas.

Muñoz was the architect of Puerto Rico's commonwealth status and the promoter of an economic revolution that transformed Puerto Rican society. Muñoz was a true champion of liberalism and democracy and had absolute confidence in the capacity of Puerto Ricans to govern themselves. Muñoz dedicated his life to strengthen our democracy and to promote the best of our culture. His vision translated into the ''Estado Libre Asociado'' (or Commonwealth), which allowed Puerto Ricans to approve their own constitution and achieve a high degree of self-government in association with the United States.

Muñoz understood that social justice was the basis of true prosperity and thus he made social justice the cornerstone of the Popular Democratic Party, which he founded in 1938.

Muñoz worked closely with several Presidents, including Presidents Roosevelt, Eisenhower and Kennedy, and was a key player in the implementation of U.S. foreign policy in Latin America. He was a proud United States citizen, but was also very proud of his Puerto Rican nationhood.

Twice in about a decade, Time Magazine graced its cover with Muñoz Marín's portrait. Muñoz Marín will always be remembered for his contributions to promote democracy and social justice in the Americas. Muñoz died in 1980, but his legacy is very much alive. Today, as a new generation of leaders lays the foundations for a further enhancement of the commonwealth status, let's all remember and honor Luis Muñoz Marín.

RECOGNIZING SHAUNA BRYANT

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 2003

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Shauna Bryant, a very special young woman who has exemplified the finest

qualities of citizenship and leadership by taking an active part in the Girl Scouts of America, troop 1815, and in earning the most prestigious honor of the Gold Award.

The Girl Scout Gold Award is the highest achievement attainable in girl scouting. To earn the Gold Award, a scout must complete five requirements, all of which promote community service, personal and spiritual growth, positive values, and leadership skills. The requirements include: 1. earning four interest project patches, each of which requires seven activities that center on skill building, technology, service projects, and career exploration; 2. earning the career exploration pin, which involves researching careers, writing resumes, and planning a career fair or trip; 3. earning the senior girl scout leadership award, which requires a minimum of 30 hours of work using leadership skills; 4. designing a self development plan that requires assessment of ability to interact with others and prioritize values, participation for a minimum of 15 hours in a community service project, and development of a plan to promote girl scouting, and; 5. spending a minimum of 50 hours planning and implementing a girl scout gold award project that has a positive lasting impact on the community.

For her Gold Award project, Shauna updated a refurbished girl's locker room.

Mr. Speaker, I proudly ask you to join me in commending Shauna Bryant for her accomplishments with the Girl Scouts of America and for her efforts put forth in achieving the highest distinction of the Gold Award.

JULIE DASH—DIRECTOR'S GUILD AWARD NOMINATION, THE ROSA PARKS STORY

HON. DIANE E. WATSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 2003

Ms. WATSON. Mr. Speaker, I rise today to share my pride over the nomination of Ms. Julie Dash for a prestigious Director's Guild Award for her work on The Rosa Parks Story. She was nominated in the category of Outstanding Directorial Achievement in Movies for Television for 2002. The winners will be announced at the 55th Annual DGA Awards Dinner on Saturday, March 1, 2003 at The Century Plaza Hotel in Los Angeles. Ms. Dash is the only female nominated in this category this year.

The Rosa Parks Story stars Angela Bassett, Cicily Tyson and Dexter Scott King, the son of Dr. Martin Luther King, Jr. The film brings to life the peaceful dissent an exhausted Rosa Parks showed on a crowded Montgomery, Alabama bus in 1955, and the Civil Rights Movement that ensued. The movie originally aired on television on February 24, 2002.

It seems appropriate that Ms. Dash would be nominated for this award during Black History Month. African American actors, directors and others in the industry are hard-pressed to find meaningful, quality projects. Given these challenges, I am even more proud of Ms. Dash's achievement today.

Ms. Dash's own story of success is also very inspiring. She was born and raised in New York City, and in 1992 became the first African American woman to have her film, Daughters of the Dust, receive a full-length theatrical release. In 1994 Ms. Dash was chosen as one of the 100 Fearless Women by Mirabella magazine.

She has received numerous awards, including The Sojourner Truth Award from the New York Chapter of the Links, the Maya Deren Award from the American Film Institute, a Candace Award from the National Coalition of 100 Black Women, and the prestigious John Simon Guggenheim Memorial Foundation Fellowship.

I was honored to host a congressional screening of the film, The Rosa Parks Story, last year prior to the film's television debut. I had the good fortune then of meeting Ms. Dash, along with Ms. Cicily Tyson, Ms. Angela Bassett, and many others who were instrumental in the success of this movie.

This film has held meaning and significance for me personally, and it brings me great joy to see Ms. Dash's work recognized by the Director's Guild of America. I wish her the best at the awards ceremony on March 1st!

HONORING EARL F. BROWN, JR.

HON. JOE WILSON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 2003

Mr. WILSON of South Carolina. Mr. Speaker, Earl F. Brown, Jr. has been a true leader in South Carolina for decades, with a long history of service to his community and country. I want to commend him for his tireless work and take a look at his history.

From 1973 to 2001, Mr. Brown was employed with the South Carolina Human Affairs Commission, SCHAC. While at SCHAC he served as Executive Assistant to the Commissioner for External Affairs, Director for Community Relations and Director of Compliance and Investigations.

A native of Jacksonville, Florida, Mr. Brown was educated in the public schools of Duval County. He was accepted at Savannah State College on a basketball scholarship and played the point guard position on the 1952 Southeastern Athletic Conference Championship Team. After completion of the Bachelor of Science in Political Science, he was drafted in the U.S. Army and served as a military aide to Brigadier General Frank F. Bowen, Jr. He received an Honorable Discharge in 1956.

Upon leaving the military in 1956, he joined the staff of the Afro-American Insurance Company in Jacksonville, Florida as an Insurance Counselor. Mr. Brown began his community activities as a volunteer in 1957 with the local NAACP as its Public Relations/Chairman of the Voters Registration Drive for Duvall County and later served on the statewide voter registration team. He served as a community organizer and community leader for eight years in the struggle for equality and employment.

In 1964, he enrolled in Benedict College in Columbia, South Carolina and received an A.B. Degree in Social Science and Psychology in 1966.

Mr. Brown's career as a public servant took flight when in 1966, he assumed the position as a public school teacher at W.A. Perry Junior High School. In 1967, he was offered a position as Probation Officer and Counselor for the Richland County Family Court System. In April 1969, he was awarded a Ford Foundation Scholarship to study at the Duke University Institute of Developmental Administration and Management System. In 1971, he completed Harvard University's Institute of Educational Management program. In 1977, he received a MCJ Degree from the University of South Carolina with a concentration in ''Court Administration''.

Mr. Brown is a 1987 graduate of Leadership Columbia, a graduate of the Governor's Leadership School of South Carolina in 1988, a 1996 graduate of the Executive Institute, and a Certified Labor Arbitrator by the South Carolina Labor Department.

Earl Brown's professional and civic activities as well as his awards and honors are numerous and have included: Life Member of Kappa Alpha Psi Fraternity, Inc.; Chairman of the Board of Commissioners—Richland County Airport; President, Capital Senior Center, Inc.; Southern Regional Vice President-National Association of Human Rights Workers; Chairman of Cooperative Ministries of the Midlands (SC); Vice-President of The Brookland Foundation; Chairman of Board of Directors-Central Midlands (SC) Councils of Government; President of Richland/Lexington (SC) Chapter State Employees Association; Chairman of American Red Cross Blood Service, Board of Directors for South Carolina Region; Chairman of Columbia Housing Development Corporation, Inc.; President of College of Criminal Justice Alumni Association, University of South Carolina; Member of United Way of Midlands (SC); Member of Richland County School District 1 (SC) Education Advisory Committee; Member of American Arbitration Association; Outstanding Citizen Award from the National Council of Negro Women (1980); President's Award for Outstanding Service to Savannah State College (1980); The Southeastern Providence Achievement Award 1971 ''Man of the Year''; Elected to ''Who's Who in America'' 15th Edition (1975); and President's Award for Outstanding Services and Leadership to the American Red Cross Blood Services for the South Carolina Region (1995).

Mr. Brown is a member of Brookland Baptist Church in West Columbia, South Carolina. He is the father of two children, Kim and Felton.

I ask my colleagues to join me in thanking Mr. Brown for setting an example for reaching out to a community in need, and working to make the lives of those around him better. He is an inspiration to South Carolina and the Nation.

INTRODUCING LEGISLATION TO BUILD A NEW BRIDGE NEAR FOLSOM DAM

HON. DOUG OSE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 2003

Mr. OSE. Mr. Speaker, in the 1950s a new artery opened that has helped alleviate traffic in the booming Sacramento region for close to half a century: the Folsom Dam Road.

Built to provide both flood protection and water reserves, a road also runs across the top of the Folsom Dam, thus providing better access to the growing communities in Sacramento, Placer, and El Dorado Counties.

In recent years I have often argued that the growth in the region demands a new, bigger

bridge to handle the more than 18,000 commuters who traveled across the dam each day.

In addition to the congestion on the narrow dam road, I argued that in the wake of the September I I attacks, providing an alternative to traffic became a security risk as well. With the dam so close to Sacramento, the access to the dam was a tempting target to terrorists who might want to attack my hometown and community. Security was increased at the dam—the only facility in the nation with a public road running across it besides the Hoover Dam, and the only one adjacent to a heavily populated area. But many of us still had concerns.

Last week, the Department of the Interior through the Bureau of Reclamation—which runs the dam—came to the same conclusion: allowing traffic on the dam is too dangerous. Last Thursday they announced the closure of the dam road to all vehicle and foot traffic, effective this Friday, February 28, 2003. Said a spokesman for the bureau, ''In order to protect the facility and the 900,000 people below it, we have decided to take this step.''

Unfortunately, there is still no new bridge to provide an alternative to the tens of thousands in the region who used the bridge as their avenue through the area. Those of us who live and commute in the area have less than a week to adjust our patterns.

Last year, my colleague Representative JOHN DOOLITTE and I introduced legislation to build a new bridge. This bill passed the House Resources Committee. Today, Representative DOOLITTLE and I reintroduce this language with even greater necessity. The Bureau of Reclamation unilaterally decided to close the road. But they provided no alternative. They have assured me that they support an effort to provide an alternative and restore a method for crossing the region in the form of this new bridge. Chairman POMBO has already indicated that he will give this bill its proper consideration.

I urge my colleagues in the House to join me in supporting the effort to provide a safe and secure way for all those traveling in the Sacramento region—home to an international port, airport and two interstate highways—to continue to cross through this beautiful and productive region by passing this legislation and building a bridge to replace the Folsom Dam Road.

RECOGNIZING MARY JO ELWELL

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 2003

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Mary Jo Elwell, a very special young woman who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Girl Scouts of America, Troop 3248, and in earning the most prestigious honor of the Gold Award.

The Girl Scout Gold Award is the highest achievement Attainable in girl scouting. To earn the Gold Award, a scout must complete five requirements, all of which promote community service, personal and spiritual growth, positive values, and leadership skills. The requirements include, (1.) earning four interest project patches, each of which requires seven activities that center on skill building, technology, service projects, and career exploration, (2.) earning the career exploration pin, which involves researching careers, writing resumes, and planning a career fair or trip, (3.) earning the senior girl scout leadership award, which requires a minimum of 30 hours of work using leadership skills, (4.) designing a self development plan that requires assessment of ability to interact with others and prioritize values, participation for a minimum of 15 hours in a community service project, and development of a plan to promote girl scouting, and (5.) spending a minimum of 50 hours planning and implementing a Girl Scout Gold Award project that has a positive lasting impact on the community.

For her Gold Award project, Mary Jo organized and ran a T-Ball program.

Mr. Speaker, I proudly ask you to join me in commending Mary Jo Ewell for her accomplishments with the Girl Scouts of America and for her efforts put forth in achieving the highest distinction of the Gold Award.

TRIBUTE TO DR. VELMA LAWS-CLAY FOR HER SERVICE TO THE CITIZENS OF GREATER BATTLE CREEK

HON. NICK SMITH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 2003

Mr. SMITH of Michigan. Mr. Speaker, I rise today to honor Dr. Velma Laws-Clay as Scene Magazine's Woman of the Year.

I am pleased to pay tribute to a woman whose vision, intellect and commitment to community service has made her one of Battle Creek, Michigan's best known and most respected citizens. Whether working quietly behind the scenes or out front leading the charge, Velma's positive attitude and strength of conviction serve as an inspiration to all who know her.

Velma has been described as the consummate community volunteer; giving generously of her time, talent and resources. She serves on numerous boards and committees including NorthPointe Woods, the Art Center of Battle creek, and the Battle Creek Community Foundation, where she became the first African-American to serve as Board Chairman. One of her more prominent roles was serving as chairman of the year-long sojourner Truth 200th Anniversary Celebration and the Sojourner Truth Monument dedication, events which paid tribute to the historic legacy of one of Battle Creek's most famous citizens.

As her affiliation with the Art Center might suggest, Velma has a passion for the arts. It is this passion, along with her knowledge and admiration of her cultural heritage that led her, along with her sister Vivian, to assemble a vast private collection of African American art and artifacts. The collection, known as the ''Journey to Freedom'', encompasses over 300 pieces, ranging from prints and drawings to mixed media and sculptures. It provides individuals the opportunity to experience and learn about the history of African Americans through the eyes and works of the artists.

Velma has been the recipient of many well-deserved accolades. In 2001 she was named Alumnus of the Year by Kellogg Community College and received an Alumni Achievement Award from Western Michigan University. She was also recognized as a George Award winner for her outstanding service to the community, and most recently, was presented with the prestigious Athena Award by the Battle Creek Area Chamber of Commerce.

Those who know and have worked with Velma state that her energy is contagious. She is a positive, motivating force that inspires the best in others. Through her actions and deeds, Velma serves not only as a strong community leader and visionary, but also as a tremendous role model for others in the community.

I am honored to recognize Dr. Velma Laws-Clay for her passionate devotion to promoting and improving the community in which she lives and for truly exemplifying service above self. I join with the citizens of Battle Creek in congratulating her on being named Scene Magazine's Woman of the Year.

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 27, 2003 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

MARCH 4

2:30 a.m.
Veterans' Affairs
To hold hearings to examine the nominations of Bruce E. Kasold, of Virginia, to be a Judge of the United States Court of Appeals for Veterans Claims, and John W. Nicholson, of Virginia, to be Under Secretary of Veterans Affairs for Memorial Affairs.
SR–418

9:30 a.m.
Armed Services
To hold closed briefings on current military operations.
SR–222

Foreign Relations
To hold hearings to examine a new way to aid the Millennium Challenge Account.
SD–419

Judiciary
To hold hearings to examine the war against terrorism, focusing protecting America.
SD–106

10 a.m.
Agriculture, Nutrition, and Forestry
To hold hearings to examine the federal government's initiatives regarding the school breakfast and lunch programs.
SH–216

Banking, Housing, and Urban Affairs
To hold hearings to examine the Administration's proposed Fiscal Year 2004 Budget for the Department of Housing and Urban Development.
SD–538

Energy and Natural Resources
To hold hearings to examine oil, gas, hydrogen, and conservation, focusing on financial conditions of the electricity market.
SD–366

Appropriations
Military Construction Subcommittee
To hold hearings on the proposed budget estimates for fiscal year 2004 for military construction.
SD–138

Appropriations
Military Construction Subcommittee
To hold hearings on proposed budget estimates for the fiscal year 2004 for military construction programs.
SD–138

2:30 p.m.
Energy and Natural Resources
National Parks Subcommittee
To hold hearings to examine S. 164, to authorize the Secretary of the Interior to conduct a special resource study of sites associated with the life of Cesar Estrada Chavez and the farm labor movement, S. 328, to designate Catoctin Mountain Park in the States of Maryland as the ''Catoctin Mountain National Recreation Area'', S. 347, to direct the Secretary of the Interior and the Secretary of Agriculture to conduct a joint special resources study to evaluate the suitability and feasibility of establishing the Rim of the Valley Corridor as a unit of the Santa Monica Mountains National Recreation Area, and S. 425, to revise the boundary of the Wind Cage National Park in the Sate of South Dakota.
SD–366

MARCH 5

9:30 a.m.
Judiciary
To hold hearings to examine pending nominations.
SD–226

10 a.m.
Appropriations
Defense Subcommittee
To hold closed hearings on proposed budget estimates for fiscal year 2004 for operations intelligence.
S–407 Capitol

Appropriations
Energy and Water Development Subcommittee
To hold hearings to examine the Army Corps of Engineers and Bureau of Reclamation Hearing.
SD–124

Appropriations
Energy and Water Development Subcommittee
To hold hearings on proposed budget estimates for fiscal year 2004 for the Army Corps of Engineers and Bureau of Reclamation energy and water development programs.
SD–124

2 p.m.
Judiciary
To hold hearings to examine the asbestos litigation crisis.
SH–216

3 p.m.
Foreign Relations
To hold hearings to examine the Tax Convention with the United Kingdom and Protocols amending Tax Conventions with Australia and Mexico.
SD–419

MARCH 6

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.
SD–106

10 a.m.
Health, Education, Labor, and Pensions
Employment, Safety, and Training Subcommittee
To hold hearings to examine the Workforce Investment Act.
SD–430

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 Veterans 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

9:30 a.m.
Armed Services
To hold hearings to examine military strategy and operational requirements in review of the Defense Authorization Request for Fiscal Year 2004 and the Future Years Defense Program.
SH–216

10 a.m.
Banking, Housing, and Urban Affairs
To hold hearings to examine the Administration's proposed Fiscal Year 2004 Budget for the Federal Transit Administration.
SD–538

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 Reserve Association, and the Air Force Sergeants 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

MARCH 27

9:30 a.m.
Armed Services
To hold hearings to examine the future of the North Atlantic Treaty Organization; to be followed by closed hearings (in Room SH–219).
SH–216

Daily Digest

HIGHLIGHTS

Senate agreed to S. Res. 66, Committees Funding Resolution.

Senate

Chamber Action

Routine Proceedings, pages S2723–S2767

Measures Introduced: Sixteen bills and two resolutions were introduced, as follows: S. 448–463 and S. Res. 66–67. **(See next issue.)**

Measures Passed:

Committees Funding Resolution: Senate agreed to S. Res. 66, authorizing expenditures by committees of the Senate for the periods March 1, 2003, through September 30, 2003, October 1, 2003, through September 30, 2004, and October 1, 2004, through February 28, 2005. **(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 S2724–67 (continued next issue)

A unanimous-consent agreement was reached providing for further consideration of the nomination at 12 noon, on Thursday, February 27, 2003.

(See next issue.)

Motion To Request Attendance: During today's proceedings, by 73 yeas to 1 nay (Vote No. 36), Senate agreed to a motion to instruct the Sergeant at Arms to request the attendance of absent Senators.

(See next issue.)

Motion To Request Attendance: During today's proceedings, by 74 yeas to 1 nay (Vote No. 37), Senate agreed to a motion to instruct the Sergeant at Arms to request the attendance of absent Senators.

(See next issue.)

Appointment:

Antitrust Modernization Commission: The Chair, on behalf of the Majority Leader, pursuant to Public Law 107–273, announced the appointment of the following individuals as members of the Antitrust Modernization Commission: Steve Cannon, of Virginia, and Makan Delrahim, of the District of Columbia. **(See next issue.)**

Nominations Confirmed: Senate confirmed the following nominations:

1 Army nomination in the rank of general.

Routine lists in the Air Force, Army, Marine Corps, and Navy. **(See next issue.)**

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.)**

Record Votes: Two record votes were taken today. (Total—37) **(See next issue.)**

Quorum Calls: Two quorum calls were taken today. (Total—3) **(See next issue.)**

Adjournment: Senate met at 9:30 a.m., and adjourned at 2:08 a.m. on Thursday, February 27, 2003, until 12 noon, on the same day. (For Senate's program, see the remarks of the Majority Leader in the next issue of the Record.)

Committee Meetings

(Committees not listed did not meet)

POST-CONFLICT IRAQ

Committee on Armed Services: Committee met in closed session to receive a briefing to discuss the planning for post-conflict Iraq and potential U.S. military operations in the Philippines from Douglas J. Feith, Under Secretary of Defense for Policy; and Ryan Crocker, Deputy Assistant Secretary of State for Near Eastern Affairs.

FEDERAL DEPOSIT INSURANCE REFORM

Committee on Banking, Housing, and Urban Affairs: Committee concluded hearings to examine reform proposals for the Federal Deposit Insurance System, focusing on benefits and costs of deposit insurance, impact of mergers and consolidations between banks and thrifts, fund management, and premium pricing issues, after receiving testimony from Alan Greenspan, Chairman of the Board of Governors, Federal Reserve System; Donald E. Powell, Chairman of the Board of Directors, Federal Deposit Insurance Corporation; and Peter R. Fisher, Under Secretary for Domestic Finance, John D. Hawke, Jr., Comptroller of the Currency, and James E. Gilleran, Director, Office of Thrift Supervision, all of the Department of the Treasury.

2004 BUDGET: MEDICARE AND MEDICAID

Committee on the Budget: Committee concluded hearings to examine the President's Fiscal Year 2004 Budget proposal for Medicare and Medicaid, enhancing Temporary Assistance for Needy Families (TANF) and Foster Care, and strengthening the Child Support Enforcement Program, after receiving testimony from Tommy G. Thompson, Secretary of Health and Human Services.

SUV SAFETY

Committee on Commerce, Science, and Transportation: Committee concluded hearings to examine issues involving Sport Utility Vehicle (SUV) safety, including data relating to vehicle rollovers, crash compatibility, and seatbelt use, receiving testimony from Jeffrey W. Runge, Administrator, National Highway Traffic Safety Administration, Department of Transportation; Joan B. Claybrook, Public Citizen, former Administrator, National Highway Traffic Safety Administration, Department of Transportation, and Christopher Tinto, Toyota Motor North America, both of Washington, D.C.; R. David Pittle, Consumers Union, Yonkers, New York; Brian O'Neill, Insurance Institute For Highway Safety, Arlington, Virginia; Robert C. Lange, General Motors Corporation, Warren, Michigan; and Susan Cischke, Ford Motor Company, Dearborn, Michigan.

BUSINESS MEETING

Committee on Energy and Natural Resources: Committee ordered favorably reported the following business items:

S. 273, to provide for the expeditious completion of the acquisition of land owned by the State of Wyoming within the boundaries of Grand Teton National Park;

S. 302, to revise the boundaries of the Golden Gate National Recreation Area in the State of California, to restore and extend the term of the advisory commission for the recreation area; and

S. 426, to direct the Secretary of the Interior to convey certain parcels of land acquired for the Blunt Reservoir and Pierre Canal features of the initial stage of the Oahe Unit, James Division, South Dakota, to the Commission of Schools and Public Lands and the Department of Game, Fish, and Parks of the State of South Dakota for the purpose of mitigating lost wildlife habitat, on the condition that the current preferential leaseholders shall have an option to purchase the parcels from the Commission.

Also, Committee approved the views and estimates of the Committee with respect to those portions of the budget for fiscal year 2004 within their jurisdiction.

2004 BUDGET: EPA

Committee on Environment and Public Works: Committee concluded hearings to examine the President's proposed budget request for fiscal year 2004 for the Environmental Protection Agency, after receiving testimony from Christine Todd Whitman, Administrator, Environmental Protection Agency.

BUSINESS MEETING

Committee on Finance: Committee began markup of an original bill entitled ''Miscellaneous Trade and Technical Corrections Act of 2003,'' but did not take final action thereon, and recessed subject to call.

TERRORIST THREAT INTEGRATION CENTER

Committee on Governmental Affairs: Committee concluded hearings to examine the President's proposal to create a Terrorist Threat Integration Center, to consolidate terrorist-related intelligence, after receiving testimony from Gordon England, Deputy Secretary of Homeland Security, Pasquale J. D'Amuro, Executive Assistant Director for Counterterrorism/Counterintelligence, Federal Bureau of Investigation, Department of Justice, and Winston P. Wiley, Associate Director, Central Intelligence for Homeland Security, Central Intelligence Agency, all on behalf of the Senior Steering Group.

BUSINESS MEETING

Committee on Indian Affairs: Committee ordered favorably reported the following business items:

S. 162, to provide for the use of distribution of certain funds awarded to the Gila River Pima-Maricopa Indian Community; and

S. 222, to approve the settlement of the water rights claims of the Zuni Indian Tribe in Apache County, Arizona.

2004 BUDGET: INDIAN AFFAIRS

Committee on Indian Affairs: Committee concluded hearings to examine the Presidents proposed budget request for Fiscal Year 2004 for Indian Programs, after receiving testimony from Tex Hall, National Congress of American Indians, Russell Sossamon, National American Indian Housing Council, and Gary Edwards, National Native American Law Enforcement Association, all of Washington, D.C.; Julia Davis-Wheeler, National Indian Health Board, and Kay Culbertson, Indian Health and Family Services, on behalf of the National Council of Urban Indian Health, both of Denver, Colorado; John Cheek, National Indian Education Association, Alexandria, Virginia; and Ron McNeil, Sitting Bull College, Fort Yates, North Dakota, on behalf of the American Indian Higher Education Consortium.

BUSINESS MEETING

Committee on Rules and Administration: Committee ordered favorably reported an original resolution authorizing expenditures by committees of the Senate for the periods March 1, 2003, through September 30, 2003, October 1, 2003, through September 30, 2004, and October 1, 2004, through February 28, 2005.

2004 BUDGET: VETERANS' PROGRAMS

Committee on Veterans' Affairs: Committee concluded hearings to examine the President's proposed budget request for Fiscal Year 2004 for the Department of Veterans Affairs, focusing on health care system priorities, after receiving testimony from Anthony J. Principi, Secretary of Veterans Affairs; Philip Wilkerson, American Legion, Dennis Cullinan, Veterans of Foreign Wars of the United States, Carl Blake, Paralyzed Veterans of America, all of Washington, D.C.; Rick Surratt, Disabled American Veterans, Cold Spring, Kentucky; and Richard Jones, AMVETS, Lanham, Maryland.

House of Representatives

Chamber Action

Measures Introduced: 35 public bills, H.R. 918–952; and 7 resolutions, H. Con. Res. 56 and H. Res. 100, 104–108, were introduced. **Pages H1394–96**

Additional Cosponsors: **Page H1396**

Reports Filed: Reports were filed today as follows:

H.R. 258, to ensure continuity for the design of the 5-cent coin, establish the Citizens Coinage Advisory Committee, amended (H. Rept. 108–20); and

H. Res. 105, providing for consideration of H.R. 534, to amend title 18, United States Code, to prohibit human cloning (H. Rept. 108–21). **Page H1394**

Speaker Pro Tempore: Read a letter from the Speaker wherein he appointed Representative Terry to act as Speaker pro tempore for today. **Page H1337**

Committee Election—Minority Members: The House agreed to H. Res. 104, electing Representative Lucas of Kentucky to the Committee on Agriculture (to rank immediately after Representative Boswell); Representative Kind to the Committee on the Budget; Delegate Norton to the Committee on Government Reform (to rank immediately after Representative Ruppersberger); Delegate Christensen (to rank immediately after Representative Ryan of Ohio), Representative Davis of Illinois (to rank immediately after Delegate Christensen), Representative Gonzalez (to rank immediately after Representative Davis of Illinois), and Representative Majette (to rank immediately after Delegate Bordallo). **Page H1337**

Suspensions: The House agreed to suspend the rules and pass the following measures:

Celebrating the 140th Anniversary of the Emancipation Proclamation and Commending Abraham Lincoln's Efforts to End Slavery: H. Con. Res. 36, encouraging the people of the United States to honor and celebrate the 140th anniversary of the Emancipation Proclamation and commending Abraham Lincoln's efforts to end slavery (agreed to by yea-and-nay vote of 415 yeas with none voting "nay," Roll No. 35); **Pages H1338–41, H1356**

Emergency Securities Response Act: H.R. 657, amended, to amend the Securities Exchange Act of 1934 to augment the emergency authority of the Securities and Exchange Commission; **Pages H1341–43**

North American Development Bank Reauthorization: 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; **Pages H1343–51**

American 5-Cent Coin Design Continuity: H.R. 258, amended, to ensure continuity for the design of the 5-cent coin, establish the Citizens Coinage Advisory Committee (agreed to by yea-and-nay vote of 412 yeas to 5 nays, Roll No. 36); and

Pages H1351–54, H1356–57

Navy Commander Willie McCool Elementary/Middle School in Apra Heights, Guam: H.R. 672, amended, to rename the Guam South Elementary/Middle School of the Department of Defense Domestic Dependents Elementary and Secondary Schools System in honor of Navy Commander William ''Willie'' McCool, who was the pilot of the Space Shuttle Columbia when it was tragically lost on February 1, 2003. **Pages H1355–56**

Recess: The House recessed at 3:22 p.m. and reconvened at 5:30 p.m. **Page H1357**

Quorum Calls—Votes: Two yea-and-nay developed during the proceedings of the House today and appear on pages H1356 and H1356–57. There were no quorum calls.

Adjournment: The House met at 1 p.m. and adjourned at 10:14 p.m.

Committee Meetings

BUDGET VIEWS AND ESTIMATES; COMMITTEE ORGANIZATION

Committee on Agriculture: Approved Committee Budget Views and Estimates for Fiscal Year 2004 for submission to the Committee on the Budget.

The Committee also met again for organizational purposes.

AGRICULTURE, RURAL DEVELOPMENT, FDA AND RELATED AGENCIES APPROPRIATIONS

Committee on Appropriations: Subcommittee on Agriculture, Rural Development, Food and Drug Administration and Related Agencies held a hearing on Office of Inspector General. Testimony was heard from Phyllis K. Fong, Inspector General, USDA.

INTERIOR APPROPRIATIONS

Committee on Appropriations: Subcommittee on Interior held a hearing on Secretary of the Interior. Testimony was heard from Gale A. Norton, Secretary of the Interior.

MILITARY CONSTRUCTION APPROPRIATIONS

Committee on Appropriations: Subcommittee on Military Construction held a hearing on Army Construction. Testimony was heard from the following officials of the Department of the Army: Mario P. Fiori, Assistant Secretary (Installations and Environment); Major Gen. Larry J. Lust, USA, Assistant Chief of Staff, Installation Management; Major Gen. Collis N. Phillips, USA, Deputy Chief, Army Reserve; and Brig. Gen. Clyde A. Vaughn, USA, Deputy Director, Army National Guard.

The Subcommittee also held a hearing on Navy Construction. Testimony was heard from the following officials of the Department of the Navy: Hansford T. Johnson, Acting Secretary; Rear Adm. Michael R. Johnson, USN, Commander, Naval Facilities Engineering Command; and Brig. Gen. Ronald S. Coleman, USMC, Acting Deputy Commandant, Installations and Logistics.

VA, HUD, AND INDEPENDENT AGENCIES APPROPRIATIONS

Committee on Appropriations: Subcommittee on VA, HUD, and Independent Agencies held a hearing on American Battle Monuments Commission. Testimony was heard from Major Gen. John Herrling, USA (Ret.), Secretary, American Battle Monuments Commission.

The Subcommittee also held a hearing on Selective Service System. Testimony was heard from Lewis C. Brodsky, Acting Director, Selective Service System.

NATIONAL DEFENSE AUTHORIZATION BUDGET REQUEST

Committee on Armed Services: Continued hearings on the fiscal year 2004 National Defense Authorization budget request. Testimony was heard from the following officials of the Department of the Navy: Hansford T. Johnson, Acting Secretary; Adm. Vernon E. Clark, USN, Chief of Naval Operations; and Gen. Michael W. Hagee, USMC, Commandant, Marine Corps.

Hearings continue tomorrow.

EUROPEAN THEATER—U.S. FORWARD-DEPLOYED STRATEGY

Committee on Armed Services: Held a hearing on U.S. forward-deployed strategy in the European Theater. Testimony was heard from Gen. Montgomery C. Meigs, USA (Ret.), former Commanding General, U.S. Army Europe and 7th Army; Fred Kagan, Associate Professor, Military History, U.S. Military Academy, Department of the Army; and a public witness.

HHS BUDGET PRIORITIES

Committee on the Budget: Held a hearing on the Department of Health and Human Services Budget Priorities Fiscal Year 2004. Testimony was heard from Tommy G. Thompson, Secretary of Health and Human Services; and public witnesses.

BACK TO WORK INCENTIVE ACT

Committee on Education and the Workforce: Subcommittee on 21st Century Competitiveness approved for full Committee action, as amended, H.R. 444, Back to Work Incentive Act of 2003.

THEFT AT LOS ALAMOS NATIONAL LABORATORY

Committee on Energy and Commerce: Subcommittee on Oversight and Investigations held a hearing entitled ''Procurement and Property Mismanagement and Theft at Los Alamos National Laboratory.'' Testimony was heard from Gregory H. Friedman, Inspector General, Department of Energy; and public witnesses.

In response to a subpoena, Jaret McDonald testified before the Subcommittee.

HEALTH OF THE TELECOMMUNICATIONS SECTOR: FCC COMMISSIONERS PERSPECTIVE

Committee on Energy and Commerce: Subcommittee on Telecommunications and the Internet held a hearing entitled ''Health of the Telecommunications Sector: A Perspective from the Commissioners of the Federal Communications Commission.'' Testimony was heard from the following officials of the FCC: Michael K. Powell, Chairman; Kevin J. Martin, Michael J. Copps, Kathleen Q. Abernathy, and Jonathan S. Adelstein, all Commissioners.

DEFRAUDED INVESTORS—RETURNING MONEY

Committee on Financial Services: Subcommittee on Capital Markets, Insurance, and Government Sponsored Enterprises held a hearing entitled ''It's only FAIR: Returning Money to Defrauded Investors.'' Testimony was heard from Stephen M. Cutler, Director, Division of Enforcement, SEC.

RUSSIA'S POLICIES TOWARD AXIS OF EVIL

Committee on International Relations: Held a hearing on Russia's Policies Toward the Axis of Evil: Money and Geopolitics in Iraq and Iran. Testimony was heard from public witnesses.

OVERSIGHT—PEER-TO-PEER PIRACY ON UNIVERSITY CAMPUSES

Committee on the Judiciary: Subcommittee on Courts, the Internet, and Intellectual Property held an oversight hearing on ''Peer-to-Peer Piracy On University Campuses.'' Testimony was heard from public witnesses.

HUMAN CLONING PROHIBITION ACT

Committee on Rules: Granted, by voice vote, a structured rule providing 1 hour of debate on H.R. 534, Human Cloning Prohibition Act of 2003. The rule waives all points of order against consideration of the bill. The rule makes in order only those amendments printed in the Rules Committee report accompanying the resolution. The rule provides that the amendments made in order 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 a 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. Finally, the rule provides one motion to recommit with or without instructions. Testimony was heard from Chairman Sensenbrenner and Representatives Stearns, Greenwood, Weldon of Florida, Scott of Virginia, Lofgren and Deutsch.

SBA'S BUDGET; COMMITTEE ORGANIZATION

Committee on Small Business: Held a hearing on the Small Business Administration's Budget for Fiscal Year 2004. Testimony was heard from Hector Barreto, Administrator, SBA; and public witnesses.

Prior to the hearing, the Committee met for organizational purposes.

MISCELLANEOUS MEASURES; BUDGET VIEWS AND ESTIMATES

Committee on Transportation and Infrastructure: Ordered reported the following bills H.R. 875, Over-the-Road Bus Security; H.R. 866, Wastewater Treatment Works Security Act of 2003; H.R. 874, Rail Passenger Disaster Family Assistance Act of 2003. H. Res. 19, designating the room numbered H–236 in the House of Representatives wing of the Capitol as the ''Richard K. Armey Room;'' and H.R. 145, to designate the Federal building located at 290 Broadway in New York, New York, as the ''Ted Weiss Federal Building.''

The Committee also approved Committee Budget Views and Estimates for Fiscal Year 2004 for submission to the Committee on the Budget.

PLANES, TRAINS, AND INTERMODALISM: IMPROVING LINK BETWEEN AIR AND RAIL

Committee on Transportation and Infrastructure: Subcommittee on Aviation and the Subcommittee on Railroads held a joint hearing on Planes, Trains, and Intermodalism: Improving the Link Between Air and Rail. Testimony was heard from R.E.G. Davies, Curator of Air Transport, National Air and Space Museum, Smithsonian Institution; Martin O'Malley, Mayor, Baltimore, Maryland; and public witnesses.

BUDGET VIEWS AND ESTIMATES; ADMINISTRATION'S TRADE AGENDA

Committee on Ways and Means: Approved Committee Budget Views and Estimates for Fiscal year 2004 for submission to the Committee on the Budget.

The Committee also held a hearing on the Administration's Trade Agenda. Testimony was heard from Robert B. Zoellick, U.S. Trade Representative.

TERRORIST THREAT INTEGRATION CENTER

Permanent Select Committee on Intelligence: Subcommittee on Terrorism and Homeland Security met in executive session to hold a hearing on Terrorist Threat Integration Center. Testimony was heard from departmental witnesses.

Joint Meetings

GROWTH AND JOBS PLAN

Joint Economic Committee: Committee concluded hearings to examine the Economic Report of the President, and the economic outlook for the United States and the Administration's policy agenda, after receiving testimony from R. Glenn Hubbard, Chairman, and Randall S. Kroszner, Member, both of the Council of Economic Advisers; and Henry J. Aaron, Brookings Institution, Eric M. Engen, American Enterprise Institute for Public Policy Research, and Daniel J. Mitchell, Heritage Foundation, all of Washington, D.C.

NEW PUBLIC LAWS

(For last listing of Public Laws, see DAILY DIGEST, *p. D140)*

S. 141, to improve the calculation of the Federal subsidy rate with respect to certain small business loans. Signed on February 25, 2003. (Public Law 108–8)

COMMITTEE MEETINGS FOR THURSDAY, FEBRUARY 27, 2003

(Committee meetings are open unless otherwise indicated)

Senate

Committee on Armed Services: to hold hearings to examine the nominations of Stephen A. Cambone, of Virginia, to be Under Secretary of Defense for Intelligence, John Paul Woodley, Jr., of Virginia, to be an Assistant Secretary of the Army, and Linton F. Brooks, of Virginia, to be Under Secretary for Nuclear Security, Department of Energy, 9:30 a.m., SH–216.

Committee on Commerce, Science, and Transportation: organizational business meeting to consider subcommittee assignments and rules of procedure for the 108th Congress, to be followed by hearings to consider the nominations of Richard F. Healing, of Virginia, to be a Member of the National Transportation Safety Board, and Mark V. Rosenker, of Maryland, and Ellen G. Engleman, of Indiana, both to be a Member of the National Transportation Safety Board, 9:30 a.m., SR–253.

Subcommittee on Science, Technology, and Space, to hold hearings to examine U.S. involvement in aerospace research, 2:30 p.m., SR–253.

Committee on Energy and Natural Resources: to hold hearings to examine oil, gas, Hydrogen, and conservation, focusing on energy production on federal lands, 10 a.m., SD–366.

Subcommittee on Public Lands and Forests, to hold hearings to examine S. 32, to establish Institutes to conduct research on the prevention of, and restoration from, wildfires in forest and woodland ecosystems of the interior West, S. 203, to open certain withdrawn land in Big Horn County, Wyoming, to locatable mineral development for bentonite mining, S. 278, to make certain adjustments to the boundaries of the Mount Naomi Wilderness Area, and S. 246, to provide that certain Bureau of Land Management land shall be held in trust for the Pueblo of Santa Clara and the Pueblo of San Ildefonso in the State of New Mexico, 3 p.m., SD–366.

Committee on Environment and Public Works: Subcommittee on Transportation and Infrastructure, to hold hearings to examine the Federal Highway Administration's Fiscal Year 2004 budget, 9:30 a.m., SD–406.

Committee on Finance: to hold hearings to examine the Administration's Fiscal Year 2004 health care priorities, 10 a.m., SD–215.

Committee on Foreign Relations: to hold hearings to examine American public diplomacy with respect to Islam, 9:30 a.m., SD–419.

Committee on Governmental Affairs: to hold hearings to examine the nomination of Clark Kent Ervin, of Texas, to be Inspector General, Department of Homeland Security, 11 a.m., SD–342.

Committee on the Judiciary: business meeting to consider the nominations 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, Jay S. Bybee, of Nevada, to be United States Circuit Judge for the Ninth Circuit, Timothy M. Tymkovich, of Colorado, to be United States Circuit Judge for the Tenth 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, J. Daniel Breen, to be United States District Judge for the Western District of Tennessee, Thomas A. Varlan, to be United States District Judge for the Eastern District of Tennessee, William H. Steele, to be United States District Judge for the Southern District of Alabama, 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, Marian Blank Horn, of Maryland, to be a

Judge of the United States Court of Federal Claims, Timothy C. Stanceu, of Virginia, to be a Judge of the United States Court of International Trade, Joseph Elliott, to be United States Marshal for the Northern District of Ohio, 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, 9:30 a.m., SD–226.

Select Committee on Intelligence: to hold closed hearings to examine certain intelligence matters, 2:30 p.m., SH–219.

Special Committee on Aging: to hold hearings to examine the impact of global aging on the US economy, 10 a.m., SD–628.

House

Committee on Appropriations, Subcommittee on Agriculture, Rural Development, Food and Drug Administration and Related Agencies, on Secretary of Agriculture, 9:30 a.m., 2362A Rayburn.

Subcommittee on Interior, on Secretary of Energy, 10 a.m., B–308 Rayburn.

Subcommittee on VA, HUD, and Independent Agencies, on Community Development Financial Institutions, 10 a.m., and on Office of Science and Technology Policy, 11 a.m., H–143 Capitol.

Committee on Armed Services, to continue hearings on the fiscal year 2004 National Defense Authorization budget request, 9:30 a.m., 2118 Rayburn.

Committee on the Budget, hearing on the Department of Defense Budget Priorities Fiscal Year 2004, 2 p.m., 210 Cannon.

Committee on Energy and Commerce, Subcommittee on Health, hearing entitled ''Assessing the Need to Enact Medical Liability Reform,'' 10 a.m., 2123 Rayburn.

Committee on Financial Services, Subcommittee on Domestic and International Monetary Policy, Trade, and Technology, hearing entitled ''The New Basel Accord-Sound Regulation or Crushing Complexity?'' 10 a.m., 2128 Rayburn.

Committee on Government Reform, Subcommittee on Criminal Justice, Drug Policy and Human Resources, hearing on ''Recovery Now: The President's Drug Treatment Initiative,'' 10 a.m., 2154 Rayburn.

Committee on International Relations,, Subcommittee on the Western Hemisphere, hearing on Overview of U.S. Policy Toward the Western Hemisphere, 2 p.m., 2172 Rayburn.

Committee on the Judiciary, Subcommittee on Immigration, Border Security, and Claims, oversight hearing on ''New York's Sanctuary Policy and the Effect of Such Policies on Public Safety, Law Enforcement, and Immigration,'' 9 a.m., 2237 Rayburn.

Committee on Science, hearing on NASA's Fiscal Year 2004 Budget Request, 10 a.m., 2318 Rayburn.

Committee on Small Business, to consider Committee Budget Views and Estimates for Fiscal Year 2004 for submission to the Committee on the Budget, 9:30 a.m., 2360 Rayburn.

Committee on Transportation and Infrastructure, Subcommittee on Water Resources and Environment, oversight hearing on Agency Budgets and Priorities for Fiscal Year 2004, 10 a.m., 2167 Rayburn.

Committee on Veterans' Affairs, to consider Committee Budget Views and Estimates for Fiscal Year 2004 for submission to the Committee on the Budget, 2 p.m., 334 Cannon.

Committee on Ways and Means, to mark up the following bills: H.R. 877, Patients Safety Improvement Act of 2003; and H.R. 878, Armed Forces Tax Fairness Act of 2003, 12 p.m., 1100 Longworth

Subcommittee on Social Security, hearing on H.R. 743, Social Security Protection Act of 2003, 9 a.m., B–318 Rayburn.

Next Meeting of the SENATE

12 Noon, Thursday, February 27

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.

Next Meeting of the HOUSE OF REPRESENTATIVES

1 p.m., Thursday, February 27

House Chamber

Program for Thursday: Consideration of H.R. 534, Human Cloning Act (structured rule, one hour of debate).

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(Senate proceedings for today will be continued in the next issue of the Record.)

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