As a testament to his ability and promise, the Judiciary Committee unanimously voted to move Mr. Holmes's nomination to this floor for confirmation. Jerome Holmes enjoys bipartisan support not only here in Washington, but, perhaps more telling, he enjoys bipartisan support back home in Oklahoma—where people know best this accomplished man and his good work.

In fact, Oklahoma's Democrat Governor, Brad Henry, said of Mr. Holmes: ''Jerome is a highly qualified candidate, a superb lawyer with a reputation for fairness, ethics, and integrity . . . In short, I do not think you could have a candidate more highly qualified and regarded than Jerome Holmes.'' Again, Mr. President, that high praise comes from Oklahoma's Democrat Governor. Other prominent Democrats in Oklahoma praise Jerome Holmes as ''a person of unwavering integrity,'' a ''principled leader,'' and someone with a ''willingness to listen and respect differing views.'' In short, the people who know this man best—Oklahomans of competing political stripes and policy views—think Jerome Holmes will make a great judge.

Those who know Jerome Holmes best know that he served with distinction as a Federal prosecutor for over a decade. They know that as an Assistant U.S. Attorney he vigorously—but fairly—prosecuted public corruption and civil rights violations—and that he served as his office's antiterrorism coordinator. In fact, Jerome Holmes worked on the prosecution team that built a case against the perpetrators of the Oklahoma City bombing.

I recall vividly that dark day in 1995, the day the Alfred P. Murrah Federal Building was bombed, the day that the people of Oklahoma City were terrorized. The Tenth Circuit's Chief Judge Deanell Reece Tacha pointed out that ''[i]n some ways,'' her circuit and the people of Oklahoma ''knew ahead of the rest of the nation of the horrors of terrorism.''

Those who know Jerome Holmes best know that, he—like so many others in his office—took on this difficult assignment with fairness and care and dedication to see justice done.

President Bush nominated this fine man to the appellate bench for his strong qualifications but also for his demonstrated understanding of the proper, limited role of the Federal judiciary under the U.S. Constitution.

Jerome Holmes himself said it best:

> I recognize very clearly the distinction between the role of a writer on social policy issues in their personal capacity and the role of a judge in adjudicating the rights and liberties of individual litigants.

And Mr. Holmes pointed out that as a judge ''it is inappropriate for me to import my personal views on policy issues into the decision making process.''

I would submit that this statement by Mr. Holmes is exactly correct. Judges should not be seen as politicians in robes. Unfortunately, too many people still view the Federal courts as a vehicle for enacting policy choices that are too extreme to prevail at the ballot box. And, as a corollary, these same people view activist judges as a means to their policy ends.

I am confident that Jerome Holmes understands the proper, limited role that this Nation's Founders assigned to the Federal judiciary. I say that because I am confident that this President understands the judicial role and continues to nominate like-minded men and women to the bench.

The court to which Mr. Holmes is nominated—the Tenth Circuit Court of Appeals—covers a large part of the middle and western United States. The territorial jurisdiction of the Tenth Circuit includes six States: Oklahoma, Kansas, New Mexico, Colorado, Wyoming, and Utah. And the circuit also has jurisdiction over those parts of Yellowstone National Park extending into Montana and Idaho.

Last week, the Senate confirmed another outstanding nominee to the Tenth Circuit, Neil Gorsuch. And when the Senate votes to confirm Jerome Holmes, as I am confident it will, he will join Judge Gorsuch and four other fine Bush nominees on the Tenth Circuit.

So, in closing, I commend President Bush for submitting another fine nominee to the Senate for confirmation, and congratulate my friends from Oklahoma, their constituents, and the entire Tenth Circuit. I believe Jerome Holmes will make a fine appellate judge and will serve this Nation with honor and distinction.

I yield the floor.

Mr. COBURN. 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. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. WARNER). Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate resume legislative session.

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

MORNING BUSINESS

Mr. FRIST. Mr. President, I ask unanimous consent that there now be a period for morning business with Senators permitted to speak therein for up to 10 minutes each.

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

PRESIDENTIAL SIGNING STATEMENTS

Mr. SPECTER. Mr. President, the American Bar Association issued a release today summarizing a report by a blue ribbon task force which concluded that President Bush's signing statements are in violation of and undermine the important doctrine of separation of powers. As it has been widely recorded, President Bush has undertaken a practice of issuing a signing statement at the time he signs congressional action into law. The task force said its recommendations ''are intended to underscore the importance of the doctrine of separation of powers and, therefore, represent a call to the President and to all his successors to fully respect the rule of law and our constitutional system of separation of powers and checks and balances.''

Noting that the Constitution is silent about Presidential signing statements, the task force found that while several Presidents have used them, the frequency of signing statements that challenge laws has escalated substantially, and their purpose has changed dramatically, during the administration of President Bush. According to a press release issued today by the ABA, the task force report notes:

> From the inception of the Republic until 2000, Presidents produced fewer than 600 signing statements taking issue with the bills they signed. According to the most recent update, in his one-and-a-half terms so far, President George Walker Bush . . . has produced more than 800.

The report found that President Bush's signing statements are ''ritualistic, mechanical, and generally carry no citation of authority or detailed explanation.'' Even when ''[a] frustrated Congress finally enacted a law requiring the Attorney General to submit to Congress a report of any instance in which that official or any officer of the Department of Justice established or pursued a policy of refraining from enforcing any provision of any federal statute, . . . this, too, was subjected to a ritual signing statement, insisting on the President's authority to withhold information whenever he deemed necessary.''

This request raises serious concerns on the proceedings for separation of powers. The ABA states that its report goes on to say:

> If left unchecked, the president's practice does grave harm to the separation of powers doctrine and the system of checks and balances that have sustained our democracy for more than two centuries.

The Senate Judiciary Committee held a hearing on this subject and found that this practice does threaten the separation of powers doctrine. The hearing showed that the Constitution is clear, that when both Houses of Congress pass legislation and submit that legislation to the President, the Constitution calls either for the President to sign the legislation, to engage in what could be called a pocket veto, or to veto the legislation and send it back to Congress. If there is a constitutional issue and the President concludes that portions of the statute are unconstitutional, he has an oath to uphold the

Constitution. And the way to fulfill that oath is to return the legislation to the Congress with a veto message noting the unconstitutionality of the provision and giving Congress the option of altering the legislation to satisfy the President's request, passing it over the President's veto, or declining to act further.

Additionally, the task force has urged the Congress to enact legislation to require the President to submit a report to the Congress of any such signing statement and has urged the Congress to enact legislation. During the course of the hearing before the Judiciary Committee, in my capacity as chairman, I made the request to Bruce Fein, who had been a lawyer in the Department of Justice during the Reagan administration, to take the lead and prepare legislation on the subject. Mr. Fein and my staff have been working on legislation. It is my expectation that, before the weekend, we will submit legislation to the Senate which will give the Congress standing to seek relief in the Federal courts in situations where the President has issued such signing statements and which will authorize the Congress to undertake judicial review of those signing statements, with the view to having the President's acts declared unconstitutional. That is our view as to the appropriate status of these signing statements.

It is worth noting that the task force members include a very distinguished array of former public servants, including former CIA Director William Sessions; former Republican House Member Mickey Edwards; Court of Appeals Judge Patricia M. Wald, and others.

At this point, I ask unanimous consent that the full text of the news release from the American Bar Association be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From American Bar Association, News Release, July 24, 2006]

BLUE-RIBBON TASK FORCE FINDS PRESIDENT BUSH'S SIGNING STATEMENTS UNDERMINE SEPARATION OF POWERS

WASHINGTON, DC.—Presidential signing statements that assert President Bush's authority to disregard or decline to enforce laws adopted by Congress undermine the rule of law and our constitutional system of separation of powers, according to a report released today by a blue-ribbon American Bar Association task force.

To address these concerns, the task force urges Congress to adopt legislation enabling its members to seek court review of signing statements that assert the President's right to ignore or not enforce laws passed by Congress, and urges the President to veto bills he feels are not constitutional.

The Task Force on Presidential Signing Statements and the Separation of Powers Doctrine was created by ABA President Michael S. Greco with the approval of the ABA Board of Governors in June, to examine the changing role of presidential signing statements after the Boston Globe on April 30 revealed an exclusive reliance on presidential signing statements, in lieu of vetoes, by the Bush Administration.

In appointing the special task force Greco said, ''The use of presidential signing statements raises serious issues relating to the constitutional doctrine of separation of powers. I have appointed the Task Force to take a balanced, scholarly look at the use and implications of signing statements, and to propose appropriate ABA policy consistent with our Association's commitment to safeguarding the rule of law and the separation of powers in our system of government.''

The task force report and recommendations will be presented to the ABA's policymaking House of Delegates for adoption at its upcoming Annual Meeting Aug. 7–8. Until the ABA House has taken formal action, the report and recommendations represent only the views of the task force.

The bipartisan task force, composed of constitutional scholars, former presidential advisers, and legal and judicial experts, noted that President George W. Bush is not the first president to use signing statements, but said, ''It was the number and nature of the current President's signing statements which . . . compelled our recommendations.''

The task force said its report and recommendations ''are intended to underscore the importance of the doctrine of separation of powers. They therefore represent a call to this President and to all his successors to fully respect the rule of law and our constitutional system of separation of powers and checks and balances.''

The task force determined that signing statements that signal the president's intent to disregard laws adopted by Congress undermine the separation of powers by depriving Congress of the opportunity to override a veto, and by shutting off policy debate between the two branches of government. According to the task force, they operate as a ''line item veto,'' which the U.S. Supreme Court has ruled unconstitutional.

Noting that the Constitution is silent about presidential signing statements, the task force found that, while several recent presidents have used them, the frequency of signing statements that challenge laws has escalated substantially, and their purpose has changed dramatically, during the Bush Administration.

The task force report states, ''From the inception of the Republic until 2000, Presidents produced fewer than 600 signing statements taking issue with the bills they signed. According to the most recent update, in his one-and-a-half terms so far, President George Walker Bush . . . has produced more than 800.''

The report found that President Bush's signing statements are ''ritualistic, mechanical an generally carry no citation of authority or detailed explanation.'' Even when ''[a] frustrated Congress finally enacted a law requiring the Attorney General to submit to Congress a report of any instance in which that official or any officer of the Department of Justice established or pursued a policy of refraining from enforcing any provision of any federal statute . . . this too was subjected to a ritual signing statement insisting on the President's authority to withhold information whenever he deemed it necessary.''

''This report raises serious concerns crucial to the survival of our democracy,'' said Greco. ''If left unchecked, the president's practice does grave harm to the separation of powers doctrine, and the system of checks and balances, that have sustained our democracy for more than two centuries. Immediate action is required to address this threat to the Constitution and to the rule of law in our country.''

Greco said that the task force's report ''constructively offers procedures that consider the prerogatives both of the president and of the Congress, while protecting the public's right to know what legislation is adopted by Congress and if and how the president intends to enforce it. This transparency is essential if the American people are to have confidence that the rule of law is being respected by both citizens and government leaders.''

The bipartisan and independent task force is chaired by Miami lawyer Neal Sonnett, a former Assistant U.S. Attorney and Chief of the Criminal Division for the Southern District of Florida. He is past chair of the ABA Criminal Justice Section, chair of the ABA Task Force on Domestic Surveillance and the ABA Task Force on Treatment of Enemy Combatants; and president-elect of the American Judicature Society.

''Abuse of presidential signing statements poses a threat to the rule of law,'' said Sonnett. ''Whenever actions threaten to weaken our system of checks and balances and the separation of powers, the American Bar Association has a profound responsibility to speak out forcefully to protect those lynchpins of democracy.''

The other task force members, whose brief background information follows, are William S. Sessions, Patricia M. Wald, Mickey Edwards, Bruce Fein, Harold Hongju Kho, Charles Ogletree, Stephen A. Saltzburg, Kathleen M. Sullivan, Mark Agrast, Tom Susman, and adviser Alan Rothstein.

The task force recommendations urge Congress to adopt legislation to permit the president, Congress or other entities to seek court review any time the president claims he has the authority, or states his intention, to disregard or decline to enforce all or part of a law he has signed, or when he interprets the law in a manner inconsistent with the intent of Congress. Currently, Congress lacks legal authority to seek judicial review in those circumstances.

The task force also urges the president to use his veto power, as all prior presidents have done, instead of a signing statement when he believes all or part of a bill is unconstitutional, in keeping with the Constitution's requirement that the president either approve or disapprove in their entirety laws presented to him by Congress.

If the president believes a bill pending before Congress would be unconstitutional if enacted, he should communicate his concerns to Congress before the bill is passed, according to the task force.

Additionally, the task force urges Congress to enact legislation requiring the president promptly to submit to Congress an official copy of every signing statement he issues. Any time the president claims authority or states his intention to disregard or decline to enforce all or part of a law he has signed, the legislation should require him to submit a report to Congress, available in a public database, setting forth in full the reasons and legal basis for his position, said the task force.

Presidential signing statements are not new, according to the task force, which notes that ''Presidents have issued statements elaborating on their views of the laws they sign since the time of President James Monroe.'' But under President Ronald Reagan, ''For the first time, signing statements were viewed as a strategic weapon in a campaign to influence the way legislation was interpreted by the courts and Executive agencies as well as their more traditional use to preserve Presidential prerogatives.'' The report also notes that President Clinton, like his predecessors, used signing statements, but to a significantly lesser degree, and different purpose.

Among President Bush's signing statements, the task force noted refusals to carry out laws involving ''Congressional requirements to report back to Congress on the use

of Patriot Act authority to secretly search homes and seize private papers, [and] the McCain amendment forbidding any U.S. officials to use torture or cruel and inhumane treatment on prisoners.''

Where legislation has mandated reports to Congress on special matters, such as the Intelligence Authorization Act of 2002, the signing statement treated the requirement as only advisory, said the task force. The task force said President Bush's signing statements are ''particularly adamant about preventing any of his subordinates from reporting directly to Congress.''

With more than 410,000 members, the American Bar Association is the largest voluntary professional membership organization in the world. As the national voice of the legal profession, the ABA works to improve the administration of justice, promotes programs that assist lawyers and judges in their work, accredits law schools, provides continuing legal education, and works to build public understanding around the world of the importance of the rule oflaw in a democratic society.

CAPITOL SHOOTINGS ANNIVERSARY

Mr. FRIST. Mr. President, 8 years ago today, two brave men gave their lives in defense of the U.S. Capitol. A plaque in this building commemorates their bravery, their names have been etched indelibly upon the National Law Enforcement Officers Memorial a mile from here, and the headquarters of the U.S. Capitol Police now bears their names.

These memorials are fitting and proper. But they do not do these men full justice. We must also remember them in our words and our actions. All Members of Congress, all congressional staff, and, indeed, all Americans owe a great debt of gratitude to Officer Jacob Joseph Chestnut and Detective John Michael Gibson.

For a few moments, I would like to reflect upon the enormous bravery of these two men.

Officer Chestnut and Detective Gibson were both hardworking family men. Gibson had three children; Chestnut, five. Gibson found great happiness in the exploits of the Boston Red Sox and Boston Bruins. He knew their rosters by heart. Chestnut loved working in his garden. I knew both men by sight. I passed Officer Chestnut most every day on my way in to work.

On Friday, July 24, 1998, both men were nearing the end of a busy work day. But events unfolded with a quick and horrible speed. At about 3:40 p.m. police and prosecutors allege that Russell Eugene Weston entered the Capitol through the East Entrance. He attempted to evade a metal detector and Chestnut stepped into his path to stop him—to protect all of us. Weston shot him at point-blank range.

Weston then allegedly proceeded down the corridor, rushing towards the Office of the Majority Leader of the House of Representatives. Gibson, those who were in the office say, warned everyone to get down. He yelled ''Drop your weapon'' and exchanged gunfire with Weston. The crazed gunman hit Gibson in the leg and the chest. Gibson hit Weston in the leg and chest as well. A female tourist got caught in the crossfire and suffered serious but fortunately non-life threatening wounds. Both men hit the floor, bleeding profusely. Gibson's actions saved lives. As one staffer put it at the time, ''Thank God there was a good guy with a gun.''

Sitting in my Dirksen office, I had begun preparations to leave for the weekend when I was notified an emergency was unfolding at the Capitol. My instincts and my surgical training took over.

I ran to the East ''Law Library Entrance'' at the Capitol. I saw blood all over—a horrible scene. Three bodies lay on the ground. I turned my attention to treating them. In the chaos, I didn't recognize any of the three.

I assisted the medical first responders in controlling the hemorrhaging and securing an airway, and then helping two of the victims into the ambulances. I rode in the ambulance to help control the hemorrhage of one of the injured. It turned out that patient was the alleged perpetrator.

All of us should, every day, give thanks for the bravery and sacrifices of Officer Jacob Joseph Chestnut and Detective John Michael Gibson. Many have contributed funds set up to assist their families and rarely a day goes by that I don't remember both of them in my thoughts and prayers.

The shootings that took place on July 24, 1998, were an attack on this Capitol, a central symbol of our democracy and, thus, an attack on the openness of Congress, and, in turn, upon the very principle of two-way communication between the people and their elected representatives.

Two brave men stood up for us all. They defended our democracy itself. We will not all be called to the same sort of moral heroism but can all learn from their example and all reflect upon their bravery.

Today, we mourn for them, we pray for the families, we thank them, and we remember them.

CLIMATE CHANGE AND ITS POTENTIAL IMPACT ON WILDFIRES

Mr. REID. Mr. President, wildfires have already burned almost 300,000 acres in Nevada this year, and over 1.7 million acres were destroyed by fire last year. One particularly devastating fire last year burned over 500,000 acres in southern Nevada.

Well-established science indicates small, normally occurring wildfires are part of the healthy life-cycle of forests. Large, catastrophic fires, though, can sometimes cause extreme and irreversible damage to the delicate ecosystems in the West.

People in Nevada have always been concerned about wildfires and their ability to destroy homes, businesses, and our State's natural beauty. Recently, though, Nevadans and people throughout the West have begun to notice and ask questions about the dramatic changes in wildfire intensity and frequency.

The Congressional Research Service has concluded that many factors contribute to the threat of wildfires. These factors include unnaturally high fuel loads, the urban-wildland interface, the increase of invasive plant species, unnatural wildfire suppression, and grazing and logging practices.

A recent scholarly article titled ''Warming and Earlier Spring Increases Western U.S. Forest Wildfire Activity'' published online on July 6, 2006, in the Journal of Science focuses on the previously unexplored correlation between climate change and wildfires. The article found that the frequency and intensity of wildfires in the West are growing as the climate gets hotter.

Two of the most telling parts of the article found that ''robust statistical associations between wildfire and hydro-climate in western forests indicate that increased wildfire activity over recent decades reflects subregional responses to changes in climate.'' In addition, the authors assert that ''large increases in wildfire driven by increased temperatures and earlier spring snowmelts in forests where land use history had little impact on fire risks indicates that ecological restoration and fuels management alone will not be sufficient to reverse current wildfire trends.''

Mr. President, I do not believe that the issue of climate change should be a partisan issue. I hope the mountain of scientific evidence that is piling up on climate change will compel my colleagues on both sides and the administration to treat climate change as a moral issue and quickly enact mandatory reductions in global greenhouse emissions.

ADDITIONAL STATEMENTS

DULUTH EAST HIGH SCHOOL, DULUTH, MINNESOTA

• Mr. DAYTON. Mr. President, today I wish to honor Duluth East High School, in Duluth, MN, which recently earned an Award for Excellence in Education for its exceptional and innovative achievements in educating children.

Duluth East High School is truly a model of educational success, which is reflected in the achievements of its students. Duluth East High School boasts a 98-percent graduation rate. Ninety-one percent of its graduates go on to some type of postsecondary education, with over 66 percent enrolling in a 4-year college. The class of 2005 had two students who qualified as National Merit semifinalists; nine received Letters of Commendation from the National Merit Scholarship Corporation; 23 earned a perfect 4.0 grade point average; and, all told, members of the class were offered in excess of $2 million in scholarship monies.

Duluth East provides many challenging courses for high-achieving students, offering advanced placement courses in English, calculus, and European history. All advanced placement