the supreme Court, and all other Officers of the United States, whose Appointments are not herein otherwise provided for, and which shall be established by Law.''

While it may be true that the Senate has traditionally given a President great leeway in choosing his executive branch subordinates, especially those in Cabinet and sub-Cabinet positions, such deference on the part of the Senate has generally not applied to judicial nominations, particularly Supreme Court nominations. On the contrary, the Senate has historically exercised great caution to ensure that it carries out its responsibility, a responsibility that is a fundamental element of the separation of powers established in the Constitution.

While we have been very diligent in granting our consent, I believe, as does Senator SPECTER, that the Senate has been less than energized with respect to the offering of its advice. The Constitution refers to the ''Advice and Consent.''

It doesn't just refer to the word ''consent,'' nor does it put the word ''consent'' in front of the word ''advise.'' It uses the phrase ''advise and consent of the Senate.'' Too often, as the American people are acutely aware, nominations to the High Court have become embroiled in special interest battles. All too often, the qualifications of a nominee have been aside as outside forces—interest groups and so on—have sought to use a nomination as a means of furthering their particular ideological agenda. That is not what the Supreme Court is for. Too often, the eventual loser in the process is not just the individual who has been nominated, but also the Court and its integrity, and also, more than that even, the people of the United States—the whole people, not just some particular interest group, but all of the people.

Mr. President, in an era when the nine life-tenured Justices who sit on our highest Court routinely decide questions that go to the very heart of life, liberty, and the pursuit of happiness, we cannot afford to have anything less than the most highly qualified individuals serving on that Court.

While I do not mean to disparage any of the current Justices, the fact remains that, more and more, nominees are being selected for reasons that go beyond their qualifications, that go beyond their abilities, that go beyond their dedication, their reverence for and dedication to the Constitution. Accordingly, Senator SPECTER has come to the conclusion—and he has allowed me to join him—that the best way to resolve this problem and the best way for the Senate to undertake its advice responsibility is to direct the Judiciary Committee, after consultation with the finest legal minds in our country, to establish a panel of potential nominees that would be made available to the President—this President, or any other President. In so doing, it is our hope that we can begin to depoliticize the nomination process and, in turn, help restore to the High Court the esteem, much of which has been lost over the past few years.

In closing, I again want to thank Senator SPECTER for his thoughtfulness, for his vision, as we have worked on the resolution. I know that he shares my concern that the Senate has not only this responsibility, but it has a duty, a constitutional duty, to ensure that the highest Court in the land is comprised of the best and the brightest talent that our Nation has to offer. I hope that others will join us in this effort.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, I thank my colleague, Senator BYRD, for those comments about the substance of the resolution. When Senator BYRD joins on an issue of constitutional import, there is great weight. I thank him on a personal level for his very kind comments about me. When he started to talk about an appointment of ARLEN SPECTER if Senator BYRD were President, I was about to start a rumor on ''Byrd for President.'' I still might. If it was the Attorney General job, I am not so sure, but if it had been the Supreme Court he was talking about, I might have had a little more motivation on that.

In the case of Raines versus Byrd, where Senator BYRD challenged the line-item veto, in which a curious decision of the Supreme Court said that Senator BYRD, Senator HATFIELD, Senator MOYNIHAN, and Senator LEVIN didn't have standing, that goes to show you we need more advice from the Senate in anticipation. When Senator BYRD said he might have asked me to argue the case, I have argued three cases in the Supreme Court—most recently, in March of 1994, on the Base Closing Commission. It was the fastest 30 minutes of my life, to appear before the Supreme Court, and 7 of those sitting nine Justices had appeared before the Senate Judiciary Committee. I noted a certain tenor of questions from the Court, similar to the ones, I had asked when they appeared as nominees for the Supreme Court. Although, I was not successful in that case, the Court being reluctant to upset 300 base closings, the Harvard Law Review published a detailed critique of the case and found that my position was right on the separation of powers. That was just a word or two on a parenthetical expression.

Mr. President, I am going to revise my approach a little bit and at this time formally offer this resolution on behalf of Senator BYRD and myself on the advise and consent function. I realize that it cannot be acted on in this session, but it will be a guidepost for revision after consultation with our colleagues.

I again thank my colleague, Senator BYRD, and I yield the floor.

SENATE RESOLUTION 147—RELATIVE TO AUTHORIZING TESTIMONY, PRODUCTION OF DOCUMENTS, AND REPRESENTATION

Mr. LOTT (for himself and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to.

S. RES. 147

Whereas, in the case of First American Corp., et al. v. Sheikh Zayed Bin Sultan Al-Nahyan, et al., C.A. No. 93–1309 (JHG/PJA), pending in the United States District Court for the District of Columbia, the plaintiff has requested testimony from Jack Blum, a former employee on the staff of the Committee on Foreign Relations, and the production of documents of the Committee on Foreign Relations;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(2), the Senate may direct its counsel to represent Members, employees, committees, and subcommittees, of the Senate with respect to any subpoena, order, or request for testimony or documents relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistently with the privileges of the Senate: Now, therefore, be it

Resolved, That Jack Blum is authorized to testify in the case of First American Corp., et al. v. Sheikh Zayed Bin Sultan Al-Nahyan, et al., except concerning matters for which a privilege should be asserted, and the chairman and ranking minority member of the Committee on Foreign Relations, acting jointly, are authorized to produce records of the Committee relating to the investigation of the Subcommittee on Terrorism, Narcotics, and International Operations into the Bank of Credit and Commerce, International.

SEC. 2. That the Senate Legal Counsel is authorized to represent Jack Blum, the Committee on Foreign Relations, and any present or former Member or employee of the Senate, in connection with First American Corp., et al. v. Sheikh Zayed Bin Sultan Al-Nahyan, et al.

AMENDMENTS SUBMITTED

THE RECIPROCAL TRADE AGREEMENT ACT OF 1997

CRAIG AMENDMENTS NOS. 1603–1608

(Ordered to lie on the table.)

Mr. CRAIG submitted six amendments intended to be proposed by him to the bill (S. 1269) to establish objectives for negotiating and procedures for implementing certain trade agreements; as follows:

AMENDMENT NO. 1603

On page 41, between lines 16 and 17, insert the following:

(d) ADDITIONAL LIMITATIONS ON APPLICATION OF TRADE AGREEMENT APPROVAL PROCEDURES.—