

I commend and applaud the junior Senator from Tennessee, LAMAR ALEXANDER, for offering this legislation. It is important legislation. He said in his statement that Senator GREGG, who chairs the committee of jurisdiction on this legislation, will move the bill to the Senate floor quickly. I hope that happens. I do hope my Republican colleagues will join with me in adequately funding this program so we can establish in grades K through 12 these academies where teachers can go to summer workshops and learn history and how better to teach history. It will only improve our country and our educational system in particular.

Under the previous order, the second 30 minutes shall be under the control of the Senator from Alaska, Ms. MURKOWSKI, or her designee.

The Senator from Alaska.

EXPRESSING SUPPORT FOR THE PLEDGE OF ALLEGIANCE

Ms. MURKOWSKI. Mr. President, I send a resolution to the desk and ask unanimous consent that it be held at the desk.

Before the Chair rules, I add that it is my hope, and the hope of many Members on this side of the aisle, that we can get this resolution cleared for adoption today.

The PRESIDING OFFICER. Without objection, the resolution will be held at the desk.

Ms. MURKOWSKI. I thank the Chair.

Mr. President, I am pleased to be joined by the Republican whip, Senator MCCONNELL, in introducing a resolution disapproving last week's Pledge of Allegiance ruling by the full Ninth Circuit Court of Appeals.

The full court refused to review a three-judge panel ruling that bars children in public schools from voluntarily reciting the Pledge of Allegiance.

Last week's decision is symptomatic of a court that has become dysfunctional and out-of-touch with American jurisprudence, common sense, and constitutional values. The full Ninth Circuit decision on the pledge represents a type of extremism carried out by individuals who want to substitute their values in place of constitutional values. What they want to do is simply eradicate any reference to religion in public life. That is not what the First Amendment mandates.

In his dissent from the court's decision, Judge O'Scannlain, writing for six judges, called the panel decision "wrong, very wrong—wrong because reciting the Pledge of Allegiance is simply not a 'religious act' as the two-judge majority asserts, wrong as a matter of Supreme Court precedent properly understood, wrong because it set up a direct conflict with the law of another circuit, and wrong as a matter of common sense."

He went on to say: "If reciting the pledge is truly 'a religious act' in violation of the Establishment Clause, then so is the recitation of the Constitution

itself, the Declaration of Independence, the Gettysburg Address, the National Motto or the singing of the national anthem," verse of which says, 'And this is our motto: In God is our trust.' I believe the reasoning of Judge O'Scannlain is absolutely correct.

One should not be surprised that the full Ninth Circuit refused to reconsider this ill-conceived decision. The recent history of the Ninth Circuit suggests a judicial activism that is close to the fringe of legal reasoning.

During the 1990s, almost 90 percent of cases from the Ninth Circuit reviewed by the Supreme Court were reversed.

In fact, this is the court with the highest reversal rate in the country. In 1997, 27 of the 28 cases brought to the Supreme Court were reversed—two-thirds by a unanimous vote.

Over the last 3 years, one-third of all cases reversed by the Supreme Court came from the Ninth Circuit. That's three times the number of reversals for the next nearest circuit and 33 times higher than the reversal rate for the 10th Circuit.

Last November, on a single day, the Supreme Court summarily and unanimously reversed three Ninth Circuit decisions. In one of those three cases, the Supreme Court ruled that the circuit had overreached its authority and stated that the Court "exceed[ed] the limits imposed on federal habeas review . . . substitut[ing] its own judgment for that of the state court."

One of the reasons the Ninth Circuit is reversed so often is because the circuit has become so large and unwieldy. The circuit serves a population of more than 54 million people, almost 60 percent more than are served by the next largest circuit. By 2010, the Census Bureau estimates that the Ninth Circuit's population will be more than 63 million.

According to the Administrative Office of the U.S. Courts, the Ninth Circuit alone accounts for more than 60 percent of all appeals pending for more than a year. And with its huge caseload, the judges on the court just do not have the opportunity to keep up with decisions within the circuit, let alone decisions from other circuits.

In a New York Times article last year it was pointed out that judges on the court said they did not have time to read all of the decisions issued by the court. According to a 1998 report, 57 percent of judges in the Ninth Circuit, compared with 86 percent of Federal appeals court judges elsewhere, said they read most or all of their court's decisions.

Another problem with the Ninth Circuit is that it never speaks with one voice. All other circuits sit as one entity to hear full-court, or en banc, cases. The Ninth Circuit sits in panels of 11. The procedure injects randomness into decisions. If a case is decided 6 to 5, there is no reason to think it represents the views of the majority of the court's 24 active members.

Last week, some legal experts suggested that the Ninth Circuit's unique

11 member en banc panel system may have contributed to the courts' decision on the pledge. It has been suggested that even a majority of the 24 members of the court might have disagreed with the pledge decision but feared that a random pick of 11 members of the court to hear the case might have resulted in the decision being affirmed.

That is not the way the law should be interpreted by the circuit courts of this country. I believe this decision highlights the need for this Congress to finally enact legislation that will split the Ninth Circuit. It has just become dysfunctional.

Later this week I will be introducing such legislation, and I hope my colleagues on both sides of the aisle will join me in that legislation.

I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. COLEMAN. Mr. President, I rise to join my colleague, the Senator from Alaska, in raising my voice in concern and dismay about the recent decision of the 24-judge U.S. Court of Appeals for the Ninth Circuit declaring the phrase "under God" in the Pledge of Allegiance to be unconstitutional. You have to ask yourself: What is the problem? Is the problem the pledge or is the problem the Ninth Circuit?

The distinguished Senator from Tennessee today in his maiden speech talked about what it is to be an American and made reference to this particular issue. The Pledge of Allegiance does speak to what is great about America, our sense of unity and—to quote the Senator from Tennessee—our sense of faith, our value of freedom. It is who we are as Americans that joins us.

If we reflect on the prayer that opened the session today, the pastor talked about prayer and whether it is Allah or whether it is Jesus, whether it is Yahweh, we are joined with a common sense in faith. Walking through the doors to the Chamber across from where the Presiding Officer sits is the phrase: "In God We Trust." We acknowledge that. We accept that. We understand it is not the State saying this is State-sponsored religion. It is simply our recognition of faith as being part of who we are and that it is OK.

If I would take out a dollar bill, if I had one in my pocket, we would see reference to God. This decision defies common sense. It is because we have a court that substitutes its judgment, its own perhaps personal political perspective in ruling from the bench, and that is not what courts are supposed to be.

I speak as a former Solicitor General of the State of Minnesota. I understand the Constitution. I respect the Constitution. I revere the Constitution. Clearly, our Founders and Framers, in their brilliance, in their foresight, and I believe in their being divinely inspired, understood that it was in God we trust. A decision somehow that says it is unconstitutional truly defies common sense.

If I may, I think this decision highlights the importance of confirming Miguel Estrada to the Second Circuit Court of Appeals. I say that because if you look at the criticism that Mr. Estrada is getting from some of my distinguished colleagues on the other side, they are concerned that he is not articulating his personal political perspective on a given issue.

When Mr. Estrada is asked about legal precedent, he says: I will follow it if it is the established law of the land. That is what judges are supposed to do. They are not supposed to take their own personal political belief, a belief that may defy common sense, and bring it to the fore, in this case the Ninth Circuit Court of Appeals ruling that the phrase "under God" is unconstitutional.

When Mr. Estrada was asked about the divisive issue of abortion—clearly divisive, and I am one who would love to find common ground. I believe in America today there is common ground over banning the horror of partial-birth abortion. Most people find common ground.

On this divisive issue, when Mr. Estrada was probed and pushed to say what his personal beliefs are, he stepped back and said: It is the established law of the land. It is a constitutional right to privacy. It is not within the province or responsibility of a judge to bring their personal political perspective or belief to the table. To do that would constitute judicial activism. That is not what I believe the Constitution intended judges to be. They are supposed to interpret the Constitution.

I truly believe this decision of the Ninth Circuit Court of Appeals, which I am hopeful, if not confident, will be overturned—I am supportive of the efforts of the Senator from Alaska and this body speaking out and saying this is the wrong decision; this does not reflect common sense; this does not reflect American values.

This is the wrong lesson to be sending our children about what it means to be an American and the greatness of America. Clearly, we cannot have courts substituting their judgment. We cannot have decisions that are so devoid of common sense that they cut away at the core of the fabric and the heart of what it means to be an American.

I join in speaking out. I join in support of the resolution that says this is wrong, and the Senate recognizes it is wrong.

I thank the Chair. I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. Mr. President, I rise to congratulate the Senator from Alaska and to associate myself with the remarks of the Senator from Minnesota. I mentioned a few moments ago that if our future Federal judges had a few more courses in American history and civics, we might not have these decisions.

I see the Senator from Alabama is in the Chamber. I think of the pivot point of the Revolutionary War when all the Europeans on the western side of the mountain in Tennessee were enraged. They were tired of paying taxes to support the bishop of a church to which they did not belong. So they helped fight the Revolution; that is separation of church and state. They did not want to pay taxes to support another church.

Before they went over the mountain to the Battle of King's Mountain in Watauga, they went down on their knees to pray. The great pioneer preacher, Samuel Doke, prayed about the sword of the Lord and Gideon. They knew how to separate church and state and still be a religious country. If they knew it, why don't Federal judges know it? Why don't they know that George Washington went down on his knees at Valley Forge, and that Abraham Lincoln turned the war over to the Lord, and General Pershing advised troops to pray? Did they not see President Bush take America to church after 9/11 and then walk across the street to a mosque?

We know how to be a religious country and separate church and state, and our Federal judges ought to know how to do that. I suggest one more lesson for teaching American history and civics in our public schools, as the Senator from Alaska suggests, is that we have more Federal judges grow up understanding we are a country that can be as religious as any country in the world and still separate church and state.

Those principles can work together.

Mr. SESSIONS. Mr. President, will the Senator yield for a question?

Mr. ALEXANDER. Yes, of course.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Does the Senator, based on his broad experience in affairs, conclude that this country has the unique history of being a genuinely religious country, but a country that knows how to handle different religions and faiths? As a matter of history, is it not almost unique in the history of the world how we have been able to affirm religious faith and, at the same time, avoid sectarian violence?

Mr. ALEXANDER. The Senator from Alabama is exactly right. One of the most remarkable aspects about America is we have a country that is filled with people from everywhere. If one goes to a naturalization ceremony in any Federal court in America and looks at the men and women coming into our country from everywhere, one will see the variety and diversity of our country. We know how to do that.

Our country is distinguished because despite our diversity, we do not have religious wars in our country. We respect everybody's right. The greatest aspect of our country is not all that diversity; it is the fact we figured out how to turn all that diversity into one country.

Federal judges need to know we have two principles running through this

country: We have the Pilgrims who arrived here and saw the shining city on the hill, and we have the great diversity where we are more religious virtually than any country, but we separate church and state. When the chaplain starts every day here with a prayer, he is not establishing a church in the United States of America; he is recognizing the religious nature of our country, and judges should know that.

The PRESIDING OFFICER (Ms. MURKOWSKI). The Senator from Alabama.

Mr. SESSIONS. I thank the Chair. Madam President, first, I appreciate the remarks of the Senator from Alaska. It was a very effective and thoughtful speech about a very important subject, and that is the Ninth Circuit Court of Appeals and how this Pledge of Allegiance matter highlights the problems we have had there for a long time. I express my appreciation for a wonderful analysis that the Senator from Alaska made. The Senator laid it out very well.

I chair the Subcommittee on Courts of the Senate Judiciary Committee. I have looked at this issue since I have been in the Senate. I was present in Atlanta the day the Eleventh Circuit Court of Appeals was created. The old Fifth Circuit Court of Appeals was divided. It went from Miami to Texas, from El Paso to Miami. It was too big and it could not work well. The judges themselves believed that a division was necessary. The Congress approved. Not one single judge today who is on the new Eleventh Circuit and was on the old Fifth Circuit, would ever want to try to put that monstrosity back together. And it was not nearly as big as the Ninth Circuit.

We had hearings several years ago during which we called chief judges of several circuits as witnesses. Those judges told us they did not want to see the size of their court get any bigger than 10 or 12 judges. When it got any bigger than that, collegiality broke down, the ability to maintain consistency of opinions broke down, and the ability to promote harmony and consistency in law broke down.

The Senator from Alaska is exactly correct, the Ninth Circuit is a particular problem. It is out of the mainstream of American law, and that is one reason I urged and pleaded with this Senate not to put more left-wing activist judges on the Ninth Circuit. I dealt with the question of Judge Marsha Berzon and Judge Paez. We did not filibuster those nominees. We debated those nominees. I voted against those nominees. Both of those judges, by all apparent indication, voted for this opinion that struck down the Pledge of Allegiance in this country. Both of those judges, Berzon and Paez, in separate opinions have voted to strike down California's three-strikes-and-you're-out law, the law that broke the back of a surging crime rate in California, and we have seen the crime rate go down. Why? Because they targeted repeat dangerous offenders. In a Rand Cor-

poration study of prisoners in California, the prisoners admitted they were involved in as many as 200 crimes per year. So when you target repeat offenders under the three-strikes-you're-out law, it brings the crime rate down. The Ninth Circuit has real problems. They have no business striking down California's law. California has a right to set the penalty standards in their State.

The problems in the Ninth Circuit are broadly known. Several years ago, the *New York Times*, in a piece on the problem, noted that a majority of the United States Supreme Court considers the Ninth Circuit to be a rogue circuit, a circuit out of control. One year they reversed the Ninth Circuit 27 out of 28 times. Another year it was 13 out of 17 times. They have the highest reversal rate of any circuit in America. But to have so many cases, there is no way the Supreme Court of the United States can control that circuit, unless it is under control to begin with. We need judges there who follow the law.

This is precisely why, as Senator COLEMAN indicated, we need judges like Miguel Estrada who show restraint. That is what this debate is about. That is what the President is committed to do. He said we are not going to turn criminals loose without a basis. We are not going to be taking down the Pledge of Allegiance. We are not going to be taking down Christmas decorations because of these nutty decisions coming out time and time again. Many of these decisions are under the guise of interpreting the Constitution in ways it has never been interpreted before.

That is what this debate is about. That is why it is important. We need judges who will simply follow the law. Who can be afraid of that? How is our liberty endangered when we have judges who follow the law dutifully? What you have when you have a judge like Judge Reinhardt on the Ninth Circuit, who says that evolving, long-term trends of social conscience enable judges to redefine the meaning of the Constitution to make what they think is correct occur, is very dangerous policy. In fact, that idea undermines democracy.

I could go on and talk about this circuit. I have made probably as many as nine speeches on the floor delineating the problems they have. I strongly believe that reform is needed. I thank the Senator from Alaska for raising that again. Her State is part of the Ninth Circuit. I know she cares deeply about it. We have had a number of proposals to fix it. The way the opponents of reform operate, and the way I have seen them do it, is whatever the proposal is, is not good enough. So they don't deny we need reform, but any time somebody proposes reform, they come along and say it isn't correct, and they turn it into a confused mess.

But it is time for us now to confront this issue, it is time for us to confront the problem of judicial activism in its entirety. Unfortunately, the Pacific coast has drifted further than any from being a disciplined interpreter of the

law. So I will just say, Madam President, thank you for your leadership, thank you for your important first speech. I believe it will help us go forward. It is going to encourage me to push the issue in my committee. So I thank the Senator from Alaska. I look forward to working with you and others who sincerely want to improve the rule of law in America, who want to improve consistency in the rule of law to avoid decisions that embarrass this country, and embarrass the rule of law. I yield the floor.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. CORNYN. Madam President, I congratulate the Senator from Alaska who has kindly taken the chair so I may speak briefly in support of the resolution that she and Senator MCCONNELL have offered this morning.

The reason I do so is that I think we see a remarkable confluence of themes this morning. First, as we know, we are in the fourth week of debate on the nomination of Miguel Estrada to the DC Circuit Court of Appeals, and the debate has often been about what is the proper role for a judge to play under our Government of separated powers, where the legislative branch, executive branch, and judicial branch play distinctive roles, not the same role.

Then we heard from the distinguished Senator from Tennessee this morning offering a bill sponsored on a bipartisan basis, trying to put history and civics back in our classrooms so that American children can grow up knowing what it means to be an American. And then we have this sad, but not totally unexpected, incident of the Ninth Circuit's refusal to reconsider the three-judge panel decision striking the words "under God" from the Pledge of Allegiance. I think these three themes are connected. I want to speak briefly on that.

Madam President, I rise this morning, after an entire month of Senate debate on the nomination of Miguel Estrada to serve on the Federal court of appeals, in continued dismay over what I see as a politicization of our judicial confirmation process. In my view, it is profoundly dangerous to have a judicial confirmation process that, in effect, tells nominees their personal political beliefs will determine whether or not they get to serve as a judge. Such a judicial confirmation process sends exactly the wrong signal and a dangerous message to judges that it is perhaps OK to decide cases based on their personal beliefs, or a political and social agenda and not based on settled law.

Indeed, Miguel Estrada, during the course of these debates, has been criticized. When asked what his judicial philosophy is, he said: I will apply the law as written by the Congress and as decided by precedents of the U.S. Supreme Court. One Senator said: Well, that is not a philosophy. I want to know how Mr. Estrada personally feels about the equal protection clause, about the fourth amendment, the first amendment, and such questions. But,

indeed, I think the Senator has it exactly wrong, and Mr. Estrada has it exactly right. It is the judicial philosophy we ought to embrace and look for.

Indeed, I believe the President has chosen a nominee who says I won't impose my own views or my own political agenda, or what I think the law should be; I will submit to the law of the land, which is what Congress has said the law is, through the laws that are passed and signed by the President, and the decisions made by a higher court and the precedents so established.

Madam President, the Ninth Circuit's decision last Friday to strike down, for a second time, the voluntary recitation of the Pledge of Allegiance as unconstitutional demonstrates exactly what will happen when we politicize the judiciary. It demonstrates what happens when we tell judges you can ignore the law, because what is really important is how you personally feel about these issues. The Ninth Circuit's decision on the Pledge of Allegiance is without any basis in law or in fact. It is a blatantly political decision.

As one of the judges noticed in his dissent, "it doesn't take an Article III judge to recognize that the voluntary recitation of the Pledge of Allegiance in public school does not violate the First Amendment." Surely, he is right. Heaven help us if he is not.

The First Amendment of the Constitution states that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof." These words represent a solemn commitment by our Founders, indeed by all of us, that our Government cannot interfere with the ability of an individual to practice his or her faith or express it in a public forum—no more, and no less. Government shall neither establish an official State religion, nor shall Government interfere with the ability of private citizens to exercise their chosen religion.

Notice what the first amendment does not say. It does not say the Government must be hostile to religion. But, indeed, is that not what has happened? I think about our children and what they are exposed to on a daily basis: Sex, violence, degradation of women, other dangerous influences. And we expect them to sort that out in their own way, hopefully under the guidance and tutelage of parents, teachers, and others.

The one thing people cannot talk about, they cannot talk about the Creator, they cannot talk about their religious faith. That is prohibited. And that is absurd.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. CORNYN. Madam President, I ask unanimous consent that morning business be extended by 5 minutes on this side of the aisle and likewise extended on the other side of the aisle.

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

Mr. CORNYN. As Justice William O. Douglas explained in his decision in *Zorach v. Clauson*, “[t]he First Amendment . . . does not say that in every and all respects there shall be a separation of Church and State. . . . Other-wise . . . [p]olicemen who help parishioners into their places of worship would violate the Constitution. Prayers in our legislative halls,” such as we observed in this Chamber this morning and do every time the Senate meets, “the appeals to the Almighty in the messages of the Chief Executive; the proclamations making Thanksgiving Day a holiday; ‘so help me God’ in our courtroom oaths—these and all other references to the Almighty that run through our laws, our public rituals, our ceremonies would be flouting the First Amendment.”

The Founders of the Constitution did not ratify a Constitution or a Bill of Rights so hostile to religion. To the contrary, the very first day that the first Congress approved the Establishment Clause, it also passed the Northwest Ordinance which declared that “religion, morality, and knowledge, being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged.”

Our Founders thus believed this new Nation could endorse and promote religion and encourage its citizens voluntarily to practice the faith of their own choosing. They are not mutually exclusive.

The Ninth Circuit’s decision to strike down the Pledge of Allegiance finds no basis in the text of the Constitution or the original understanding of our Founding Fathers. Indeed, it defies common sense.

I urge this body to support the resolution offered this morning by the Senator from Alaska and the Senator from Kentucky because the Ninth Circuit’s decision, like far too many decisions coming from our Federal courts, replaces the Constitution with an altogether new and made-up rule preferred by judges who may personally prefer a government that is actively hostile to all expressions of faith in a public forum.

I yield the floor.

The PRESIDING OFFICER (Mr. CORNYN). Under the previous order, the final 60 minutes shall be under the control of the Democratic leader or his designee.

The Senator from Oregon.

STANDING UP FOR THE CONSUMER

Mr. WYDEN. Mr. President, gasoline prices are soaring through the stratosphere, and the Federal Trade Commission, which is supposed to be standing up for the consumer, ought to stop playing footsie with the oil companies and take steps to protect the American people. I have been trying to get the Federal Trade Commission to do its job now for several years. In fact, I have

supplied them with detailed reports outlining anticompetitive practices in the oil industry in hopes that I could get their attention. Unfortunately, they are still sitting on the sidelines.

This morning I will outline what some of those anticompetitive practices are that the oil companies are now using to victimize the American consumer.

The oil companies are redlining. What they have sought to do is keep independent wholesalers known as “jobbers” from competing in markets by refusing to let independent dealers buy better priced gasoline from the local jobbers. This is a technique to wall off whole communities from competition. Redlining is going on today.

The oil companies are also zone pricing. They charge different prices for the same gas at their own branded stores in adjacent neighborhoods, pricing it as high as the market will bear. They have also charged independent dealers higher wholesale prices than they charge the company stores. The end result, the independents cannot compete.

So what we have in communities across the country is two stations that are located next to each other, and because of a Supreme Court decision, oil companies are required to treat those companies similarly situated in the same way. But what the oil companies do very cleverly is divide that community into different zones. Then they can stick it to one of the stations. That station goes out of business. There is a local monopoly and the consumer gets hosed once again.

A third area I have outlined for the Federal Trade Commission is that the oil companies keep the market to themselves. In the past, they have kept down refineries that could have increased supply and introduced new competition. We have given this information to the Federal Trade Commission and, again, they sit on their hands.

Finally, of particular importance to west coast consumers, where up and down the west coast of the United States prices have soared, people are paying \$2 a gallon and close to it in many communities. What we have seen in the past is the oil companies have exported gasoline to Asia at a discount and then more than made up for it by sticking consumers with higher prices in the tight west coast market.

The oil companies today would say they are no longer doing this, but the fact of the matter is that oil company representatives told my Oregon colleague, Senator SMITH, who has worked with me so cooperatively on many of these issues, in an open hearing in the Commerce Committee that they would export to Asia once again whenever it was in their commercial interest. So hypothetically, if they were allowed to drill for oil in the national wildlife refuge in Alaska, apart from the environmental considerations, based on the testimony in the Senate Commerce

Committee, the oil companies would be taking that oil from the wildlife refuge, selling it to Asia at a discount and sticking it to people in Oregon, Washington, and California.

It seems to me the Federal Trade Commission ought to be taking steps to stand up for the consumer. If they do not think they have the authority to stand up for the consumer at this point, they ought to come to the Senate and tell us what authority they actually need in order to protect the consumer and the gas-buying public. The unfortunate response from the Federal Trade Commission has been to simply sit this issue out.

For example, on July 17, 2002, in a hearing before the Senate Commerce Committee, I outlined once again for the Federal Trade Commission these anticompetitive practices. I went through with them the impact of redlining, of zone pricing, of the pressure that has been put on independent gasoline stations. I asked them to furnish for the record any set of concrete steps they have actually taken to protect the consumer.

We cannot find anything. We cannot find any specific action the Federal Trade Commission took, either before July 17, 2002, when I asked them that question, or since then. I am very troubled because I think the problems we are seeing today, and they are long-term problems, cry out for someone in the Federal Government to stand up for the consumer. It is the job of the Federal Trade Commission to deal with anticompetitive practices. These are long-term, anticompetitive practices that are siphoning the competition out of the gasoline markets in the United States.

I hope the Federal Trade Commission will either do its job under existing law—I think they have the authority to deal with these anticompetitive practices—or if they do not believe they do have the authority they need to protect the consumer, they should come to the Senate and outline what powers they need in order to stand up for the American people.

Essentially, both of the reports that I did and have submitted to the Federal Trade Commission found the very same thing. They found that the oil companies were engaging in anticompetitive practices. I hope now, given the enormous impact these huge gasoline price spikes are having on consumers, the ramifications for business—we had scores of businesses and business associations contact us in the past—that we can get the Federal Trade Commission off the side lines. They have a job to do. They are not doing it with respect to protecting the American people from anticompetitive practices in the gasoline businesses.

I intend to keep coming to the floor and the Senate Commerce Committee until the Federal Trade Commission is prepared to do its job.

I yield the floor.

The PRESIDING OFFICER (Mr. ENZI). The Senator from Michigan.