for engaging in free speech under Law 88, the Law for the Protection of National Independence and the Economy of Cuba, which is a notorious law passed 3 years ago by the communist county;

Whereas the imprisoned political opponents of Castro include librarians, journalists, and others who have supported the Varela Project, which seeks to bring free speech, open elections, and democracy to the island nation;

Whereas Fidel Castro has seized the opportunity to expand his brutal oppression of the Cuban people while the attention of the United States and other nations around the world is focused on the war in Iraq; and

Whereas the failure to condemn the Cuban Government's renewed political repression of democracy activists will undermine the opportunity for freedom on the Island: Now, therefore, be it

Resolved, That the Senate—

(1) condemns the recent arrests and other intimidation tactics against democracy activists by the Castro regime;

(2) calls on the Cuban Government to immediately release those imprisoned and held during this most recent crackdown for activities the government wrongly deems ''subversive, counter-revolutionary, and provocative'';

(3) reaffirms Senate Resolution 272, 107th Congress, agreed to June 10, 2002, which was agreed to without opposition and which called for, among other things, amnesty for all political prisoners;

(4) praises the bravery of those Cubans who, because they practiced free speech and signed the Varela Project petition, have been targeted in this most recent government crackdown; and

(5) urges the President to demand the immediate release of these prisoners and to take all appropriate steps to secure their immediate release.

AUTHORIZING TESTIMONY AND LEGAL REPRESENTATION

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 105, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 105) to authorize testimony and legal representation in State of New Hampshire versus Macy E. Morse, et al.

There being no objection, the Senate proceeded to consider the resolution.

Mr. SESSIONS. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to this matter be printed in the RECORD.

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

The resolution (S. Res. 105) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, was agreed to as follows:

S. RES. 105

Whereas, in the case of State of New Hampshire v. Macy E. Morse, et al., pending in Portsmouth District Court for the State of New Hampshire, testimony has been requested from Joel Maiola, a staff member in the office of Senator Judd Gregg;

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 employees of the Senate with respect to any subpoena, order, or request for testimony 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 or administrative 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 Joel Maiola is authorized to provide testimony in the case of State of New Hampshire v. Macy E. Morse, et al., except concerning matters for which a privilege should be asserted.

SEC. 2. The Senate Legal Counsel is authorized to represent Joel Maiola in connection with any testimony authorized in section one of this resolution.

50TH ANNIVERSARY OF FOREIGN AGRICULTURAL SERVICE OF DEPARTMENT OF AGRICULTURE

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 106, which was submitted earlier today by Senator COCHRAN.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 106) expressing the sense of the Senate with respect to the 50th anniversary of the Foreign Agricultural Service of the Department of Agriculture.

There being no objection, the Senate proceeded to consider the resolution.

Mr. SESSIONS. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to this matter be printed in the RECORD.

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

The resolution (S. Res. 106) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 106

Whereas during the term of President Dwight David Eisenhower and the era of Secretary of Agriculture Ezra Taft Benson, it became apparent that the development of external markets was needed to ensure the financial viability of the agricultural sector of the United States;

Whereas the Foreign Agricultural Service was established on March 10, 1953, to develop and expand markets for United States agricultural commodities and products;

Whereas the Foreign Agricultural Service has represented agricultural interests of the United States during a period of expansion of United States agricultural exports from less than $3,000,000,000 in 1953 to more than $50,000,000,000 in 2002; and

Whereas the number of organizations engaged in the public and private partnership established by the Foreign Agricultural Service to promote United States agricultural exports has grown from 1 organization in 1955 to more than 80 organizations in 2003, with market development and expansion occurring in nearly every global marketplace: Now, therefore, be it

Resolved, That the Senate—

(1) on the 50th anniversary of the establishment of the Foreign Agricultural Service on March 10, 1953, recognizes the Service for—

(A) cooperating with, and leading, the United States agricultural community in developing and expanding export markets for United States agricultural commodities and products;

(B) identifying the private partners capable of carrying out the mission of the Service;

(C) identifying and expanding markets for United States agricultural commodities and products;

(D) introducing innovative and creative ways of expanding the markets;

(E) providing international food assistance to feed the hungry worldwide;

(F) addressing unfair barriers to United States agricultural exports;

(G) implementing strict procedures governing the use and evaluation of programs and funds of the Service; and

(H) overseeing the use of taxpayers dollars to carry out programs of the Service; and

(2) declares that March 10, 2003, is a day recognizing—

(A) the 50th anniversary of the establishment of the Foreign Agricultural Service; and

(B) the contributions of the Foreign Agricultural Service and employees and partners of the Service to agriculture in the United States.

NOMINATION OF PRISCILLA OWEN TO BE UNITED STATES CIRCUIT JUDGE

Mr. SESSIONS. Mr. President, I believe the majority leader will be in the Chamber in a moment. While we wait, I will take this opportunity to share a few thoughts about an extraordinary nominee to the United States Court of Appeals for the Fifth Circuit, Priscilla Owen.

She is, from my observation of hearings before the Senate Judiciary Committee, an excellent, superb, truly magnificent nominee for the court of appeals. Justice Owen went to Baylor Law School, a very fine law school, and as I recall, finished second or third in her class, then took the bar exam. Every person who wants to be admitted to the bar in Texas has to take it. They study as they can and take the test. It is reported she made the highest single score on the Texas bar exam when she graduated from Baylor Law School. She was on the Law Review at Baylor law school.

She went to work at one of the finest law firms in Texas, did very well, achieved a very nice level of compensation as would be commensurate with that position, and many considered her to be perhaps the finest litigator in the State of Texas, a very high honor. The State of Texas Supreme Court had

problems and they were looking for good candidates to run for that court. People talked to her about it. She thought about it and decided she would run. She would give up the practice, as lucrative as it was, and give herself to public service. She ran for the Supreme Court of Texas and won that race. She served that term, ran again, and was elected with 87 percent of the vote of the people of Texas.

This is a remarkable record, the finest bar exam score, the highest score in Texas, the very top of her law school class, editor of Law Review at Baylor University Law School, and in every way the kind of background you would want for a Federal appellate judge. Of course, she had a number of years on the Supreme Court of Texas and handled that work in an extraordinary way.

When President Bush thought about who would be a good nominee to his home circuit, the Fifth Circuit—Texas, Louisiana, Mississippi—he looked no further than Justice Owen, who had been so useful on the Supreme Court of Texas, who had been so popular, who was such an outstanding lawyer, a person of the highest possible integrity and great skill and ability. That is why he chose to nominate her. No wonder he did.

Things looked good, it seemed to me. We had a hearing on her in the Judiciary Committee. She answered the questions superbly, with great patience, great clarity of thought and expression. She dealt with each objection anyone would throw out to her. She explained the cases that she ruled on and why she ruled the way she did. She was asked and she told the story about her campaign finance. She had such a good race the second time she ran that she did not spend all the money contributed to her campaign, and she did something I have never heard of before. She sent some of it back to everyone who contributed to her. That is the kind of person we are talking about. I have never seen it in candidates. I have seen them give it to other candidates but not send it back to contributors, when she might yet again run for office and need that money in the future.

I thought we were on the road to a first-rate quick confirmation. Unfortunately, groups raised objections and targeted this nominee. How they pick nominees to target, I don't know, but this fine woman from the Texas Supreme Court is one they should not have targeted, in my view. They raised quite a number of complaints.

One of them alleged that in the Ford Motor Company v. Miles case, a product liability case resulting from an automobile accident, Justice Owen overturned well-established venue precedence. That is a weak argument that did not hold up under scrutiny. Venue is the technical term for the proper county in which to file a lawsuit. In this case, Justice Owen cited settled law in Texas which required that the lawsuit be filed where a company has an agent or a representative. Ford did not have an agent or a representative in the county where this lawsuit was filed. In her opinion, Justice Owen was joined by Democrats. She concluded that the plaintiff should have filed the lawsuit in the county where she lived, where the car was purchased, and the accident occurred.

These same groups have argued that Justice Owen is anticonsumer and antijury because she agreed with the trial court, a lower court, that the plaintiff's claims were without merit in the City of McAllen v. De La Garza. The plaintiff in this case was a passenger in a vehicle driven by a drunk driver. The driver apparently fell asleep, veered off the road, traveled over 100 feet, ran through a wire fence, knocked over several fence poles, all before landing in a limestone pit owned by the city of McAllen. The man was drunk, drove off the road, went through a fence, knocked over several posts, and ran into the pit. And he sued the city. The plaintiff, remarkably argued, despite the fact that he as a drunk driver caused the accident, that the city owed a duty to warn drivers of where the limestone pit was, several feet away from the road, barricaded by a fence and other obstacles not part of the ordinary course of travel.

That is the kind of thing that judges deal with every day. They do not just rule because they like a case or do not like a case. They go back and look at the precedent. They consider the statutes. They consider what the law is, and they determine if the city of McAllen, TX, had a responsibility to put up a specific sign that said there was a limestone pit out there. Maybe the neighbors would not like a tacky old sign saying there was a limestone pit there. They put up a fence so it would not be seen. The groups criticized her for that.

One of the things they complained about, in addition to that, was that she had ruled in favor of lower court judges who had held that young women under Texas law would be required to inform their parents if they intended to have an abortion. Texas passed a law that dealt with this circumstance. What the Texas Legislature concluded was that if a child were to have a serious procedure such as an abortion, they should at least tell the parents. They did not declare that the parents had to consent, just that the child had to tell. And to try to avoid constitutional complaint, they put in the idea that if there was a potential for abuse, if there was some justifiable reason—and they spelled out some of those—the child would not have to tell the parent.

Several cases came up to Judge Owen because she is on the Supreme Court. The lower court judge held a hearing and concluded the young person had no basis not to tell their parents. The parents were not going to abuse them. It was not a problem in this case. You cannot give a child an aspirin in school without parental consent, but here they said you had to tell the parent under Texas law.

Then the case went from that judge to an immediate court of appeals in Texas, and the court of appeals studied the case and studied the trial court judge's ruling and they affirmed it in two or three cases while Justice Owen was on the Supreme Court and they affirmed the trial court, too.

So then it comes up to the Supreme Court of Texas, and Justice Owen read the case and studied the law, and went further than most judges would have. She read the Supreme Court Federal cases about abortion. She thought about the words the Supreme Court used in those cases. She wrote in her opinion that she assumed the statutes were trying to make sure they did not violate Federal law and Federal Supreme Court rulings. Texas tried to word the parental consent statute in a way that was consistent with the U.S. Supreme Court, so she interpreted the words that way and analyzed whether or not the Texas law was such that this child should have to notify her parents or not. She agreed with the three judges and the trial court below her.

So what the groups say is: Oh, she is not fit for the Supreme Court because she is not happy about abortion. She favors having children tell parents about whether or not they have abortions. She does not follow the law.

If somebody studied that opinion, they would see she went to great care to follow the Supreme Court, to follow the language they used. She has, to my knowledge, never publicly expressed an opinion about abortion. She has not been out here campaigning against it or making any big to-do about it. What her personal views are, are her own. Indeed, 80 percent of the American people favor requiring a minor to discuss with her parents a serious procedure such as abortion.

Children in Texas are required to get consent of a parent before they have a tattoo, which is probably a good idea, body piercing, or even an aspirin at school. That is the Texas law that Justice Owen interpreted required a simple notification, but not a consent, of just one parent. Her opinion affirming that law and the lower court judges was not out of the mainstream of American law. There is just no doubt about it.

But there is an ideological movement around here which suggests that anybody who happens to be pro-life—and we don't even know for sure, to my knowledge, whether Priscilla Owen is pro-life or pro-choice—but anyway, anybody who rules in this fashion is not fit for the courts of appeals of the United States.

It is really troubling to me when we see this happen to candidates of the quality of Jeffrey Sutton, the quality of Priscilla Owen, or Miguel Estrada, people who have received the highest ABA rating, unanimously, by the bar association. The American Bar Association does background checks on

nominees. What they do is they make the nominees list all the major cases they have handled, list the judges who tried those cases, list the names of the lawyers on the other side of the cases, and who their clients were. These ABA people—and I like what they do—go out and talk to a lawyer on the other side of the case. They talk to the judge: How did these lawyers handle themselves? Did they conduct themselves with integrity? Were they skilled in argument? Did they understand and make common-sense arguments? Are they hard to deal with? Irritable? Duplicitous and sneaky? That is what they do. They came out and gave her the highest possible rating after doing all of that. That is the reason why I would ask how a person with her background, her skill, her experience, with that kind of rating of the ABA—why they would pick her to try to block? I hope it is not so, really. I hope we do not have a filibuster on this case like we do, in fact, have with Miguel Estrada. Maybe we will and maybe we will not.

I just cannot believe it, frankly. I cannot believe it is possible that Members of this body would conduct a filibuster against a candidate for the court of appeals as qualified, as superbly qualified as Priscilla Owen. It is just beyond my comprehension that that could ever occur here.

There is not one hint she has anything other than the highest integrity. There is no doubt she is brilliant. There is no doubt she has given her life to the law and knows it and that is what she has done throughout her career. She loves the law. She respects it and she cares about it. She cares about it deeply enough to enforce the law as written, whether or not she agrees with it. She will follow Supreme Court rulings even if she were to disagree with them, like she repeatedly pledged to do, because she is a lawyer and a judge who believes in the rule of law.

I think we will be facing a very sad event here in the next day or so if we end up with further objections—objections to bringing her up for a vote, in effect having a filibuster. It is just beyond my comprehension.

In the history of this country, we have never had a filibuster of a court of appeals judge or a district judge. The Constitution says by advice and consent the Senate, in effect, will confirm or reject a President's nominee. The clear meaning of that statute and the way it is written leaves no doubt that it means a majority vote. Yet through the utilization of the filibuster rule, some in this body are using a rule that has never before been used for a court of appeals judge or district court judge in the history of this country. The effect has been to ratchet that up to a 60-percent vote—you have to have 60 votes here.

You know from Miguel Estrada, he has already received 54 or 55 votes for confirmation, which is a clear majority. But because he does not have a 60-vote margin, he is not able to come up for an up-or-down vote.

I hope we are not going to see that in the case of Priscilla Owen. She is entitled to an up-or-down vote. She is entitled to be confirmed as a Justice on the Fifth Circuit Court of Appeals. President Bush knew her, he knew her reputation. He picked one of the finest people who could be picked for any court of appeals position anywhere in this country, right in his home State of Texas. Is that why they are objecting to her, because it is his State? I don't know. But it cannot be on the merits.

I have looked at this matter. I have seen the arguments. I attended her hearing. I saw how well she handled herself. I believe and I hope and pray this body will not descend into a pattern of filibuster of nominees for the courts of appeals of this country, or for the district courts, or even for the Supreme Court of the United States. That would be a terrible alteration of our traditions, maybe even be in violation of the Constitution, which says a majority vote is what it takes to advise and consent on Presidential nominees. It is something we ought to think very seriously about.

I hope my colleagues will not take that route and will give her an up-or-down vote. If they do, I have no doubt she will be confirmed.

I yield the floor and 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. SESSIONS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

EMERGENCY WARTIME SUPPLEMENTAL APPROPRIATIONS ACT, 2003

The PRESIDING OFFICER. Under the order of the Senate of April 3, 2003, the Senate having received H.R. 1559, all after the enacting clause is stricken and the text of S. 762 is inserted in lieu thereof; H.R. 1559 is read the third time and passed. The Senate insists on its amendment, requests a conference with the House, and the Chair appoints Mr. STEVENS, Mr. COCHRAN, Mr. SPECTER, Mr. DOMENICI, Mr. BOND, Mr. MCCONNELL, Mr. BURNS, Mr. SHELBY, Mr. GREGG, Mr. BENNETT, Mr. CAMPBELL, Mr. CRAIG, Mrs. HUTCHISON, Mr. DEWINE, Mr. BROWNBACK, Mr. BYRD, Mr. INOUYE, Mr. HOLLINGS, Mr. LEAHY, Mr. HARKIN, Ms. MIKULSKI, Mr. REID, Mr. KOHL, Mrs. MURRAY, Mr. DORGAN, Mrs. FEINSTEIN, Mr. DURBIN, Mr. JOHNSON, and Ms. LANDRIEU conferees on the part of the Senate.

Under the previous order, the passage of S. 762 is vitiated and the bill is placed back on the calendar.

The Senator from Alabama.

(The remarks of Mr. SESSIONS pertaining to the introduction of S. 807 are printed in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

RENAMING THE GUAM SOUTH ELEMENTARY/MIDDLE SCHOOL OF THE DEPARTMENT OF DEFENSE DOMESTIC DEPENDENTS ELEMENTARY AND SECONDARY SCHOOLS SYSTEM

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Armed Services Committee be discharged from further consideration of H.R. 672, and that the Senate then proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A 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.

There being no objection, the Senate proceeded to consider the bill.

Mr. SESSIONS. Mr. President, I ask unanimous consent that the bill be read three times, passed, and the motion to reconsider be laid upon the table; that any statements relating thereto be printed in the RECORD, without intervening action or debate.

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

The bill (H.R. 672) was read the third time and passed.

APPOINTMENT

The PRESIDING OFFICER. The Chair announces, on behalf of the Secretary of the Senate, pursuant to Public Law 101–509, the appointment of Paul Gherman, of Tennessee, to the Advisory Committee on the Records of Congress.

ORDERS FOR TUESDAY, APRIL 8, 2003

Mr. SESSIONS. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 10 a.m., Tuesday, April 8. I further ask unanimous consent that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and there then be a period of morning business until 10:30 a.m., with the time equally divided between Senator HUTCHISON and the minority leader or his designee; provided that at 10:30 a.m., the Senate return to executive session and resume consideration of the nomination of Priscilla Owen to be a circuit judge for the Fifth Circuit.

I further ask unanimous consent that the Senate recess from 12:30 to 2:15 p.m.