

report which are being denied to the American people.

What are the consequences of this? It significantly reduces the information available to the public about some of the Government's most important actions, or more accurately, inactions prior to September 11. Second, it precludes the American people from asking their Government legitimate questions such as, How was the information that our Government might have had prior to September 11 utilized after September 11 to enhance the security of our homeland and American interests abroad? Third, almost 2 years after the tragedy of September 11, the administration and the Congress, in the main, have not initiated reforms which would reduce the chances of another September 11.

For example, we are allowed to report that the estimates of the CIA's counterterrorism center is that between 70,000 and 120,000 recruits went through al-Qaida's training camps in Afghanistan before those troops were attacked in late 2001. The important questions as to the significance of that statement, to the security of the American people, are not available.

This obsession with excessive secrecy is deeply troubling. The recognition of the evils of secrecy in a free society date back to the beginnings of our Nation. Patrick Henry declared: The liberties of a people never were, nor ever will be, secure when the transactions of their rulers may be concealed from them.

President John F. Kennedy observed in the first year of his Presidency: "the very word secret is repugnant in a free and open society, and we are, as people, inherently and historically opposed to secret societies, to secret oaths, and to secret proceedings. We decided long ago that the dangers of excessive and unwarranted concealment of pertinent facts far outweighed the dangers, which are cited to justify." These are traditional American values that are being trampled.

So the joint committee included our report with this recommendation, recommendation No. 15. "The President should review and consider amendments to the Executive Orders, policies, and procedures that govern the national security classification of intelligence information in an effort to expand access to relevant information for Federal agencies outside the intelligence community and for State and local authorities which are critical to the fight against terrorism and for the American public".

In addition, the President and heads of Federal agencies should assure that the policies and procedures to protect against unauthorized disclosure of classified intelligence information are well understood, fully implemented, and vigorously enforced.

It is my observation that because classification is used so excessively, the corollary is only a minimal effort to enforce classification of materials that truly do deserve to be classified.

Again, I remind my colleagues that these recommendations were written late in 2002 before the current crisis developed over the use and possible misuse of intelligence leading us to war in Iraq. But that crisis has given this recommendation even greater urgency for the Government's credibility with the American people and our credibility with the rest of the world.

These qualities have been severely eroded in large part because of excessive secrecy. To regain the people's trust we must bring new transparency to our decisionmakers. We must bring new transparency to our decision-making. We must move decisions and governmental information into the sunshine. We owe that and much more to the 3,000 victims of September 11.

The PRESIDING OFFICER (Mr. ENZI). The majority leader.

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UNANIMOUS CONSENT AGREEMENT—NOMINATION OF EARL LEROY YEAKEL III, TO BE UNITED STATES DISTRICT JUDGE FOR THE WESTERN DISTRICT OF TEXAS

Mr. FRIST. Mr. President, as in executive session I ask unanimous consent the Senate proceed to executive session for the consideration of Calendar No. 296, Earl Yeakel III, to be U.S. District Judge for the Western District of Texas; I further ask that there then be 5 minutes for debate, equally divided between Senators HUTCHISON and CORNYN, and 5 minutes for Senator LEAHY; further, I ask that following that debate, the Senate proceed to a vote on the confirmation of the nomination, with no further intervening action or debate; finally, that the President be immediately notified of the Senate's action and the Senate then resume legislative session.

The PRESIDING OFFICER. Is there objection?

Mr. DASCHLE. Mr. President, I object.

The PRESIDING OFFICER. Objection is noted.

Mr. FRIST. Mr. President, I now ask unanimous consent that the Senate proceed to the nomination at 4:50 p.m. on Monday, under the exact same conditions.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

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ENERGY POLICY ACT OF 2003—  
Resumed

Mr. FRIST. Mr. President, I now ask for the regular order with respect to S. 14.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 14) to enhance the energy security of the United States, and for other purposes.

Pending:

Campbell amendment No. 886, to replace "tribal consortia" with "tribal energy resource development organizations."

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, parliamentary inquiry: Are we currently on the Indian amendment of Senator CAMPBELL?

The PRESIDING OFFICER. The Campbell amendment No. 886 is pending.

Mr. DOMENICI. I have cleared this on both sides. I ask unanimous consent that amendment be set aside so we can conduct some business this evening. There are two or three amendments of substance that Senators would like to offer. Senator CAMPBELL and Senator BINGAMAN have no objection to setting this aside.

Mr. REID. Reserving the right to object, I have spoken to Senator CAMPBELL earlier this evening. We have, now—however many weeks it has been since we were on this bill. The Senator on our side we said would be here to offer the next amendment is Senator DURBIN. Senator DURBIN is ready whenever the Senator yields the floor.

Mr. DOMENICI. Surely.

Mr. REID. He is ready to offer that right now, whenever the Senator desires.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from New Mexico has the floor.

Mr. DOMENICI. Mr. President, I certainly have no objection to Senator DURBIN having the first amendment this evening. I just want to make sure we have an understanding about how long he might take and what will be next. There are a number of people who want to offer similar amendments. We understood the purpose tonight was to stay, even though it is late, so Senator DURBIN might offer an amendment in the area of CAFE standards, and that two other Senators might follow.

Mr. REID. If I can respond to the Senator from New Mexico, the distinguished chairman of the committee, the Senator from Illinois intends to lay down the amendment tonight and that is all.

Mr. DOMENICI. Before I yield the floor, I ask if the Senator from Georgia wishes to ask something of the Senator from New Mexico, or does he want the floor?

Mr. CHAMBLISS. I ask unanimous consent I be allowed to speak for no more than 5 minutes as in morning business.

Mr. DOMENICI. He asked to speak as in morning business prior to the amendment. I have no objection.

Mr. REID. Mr. President, I would love to hear the Senator from Texas, but Senator DURBIN is going to take less than a minute to do his.

Mr. DOMENICI. We will then sit down. Certainly you can seek recognition.

The PRESIDING OFFICER. The Senator from Illinois.