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Senate

The Senate met at 4 p.m. and was called to order by the President pro tempore (Mr. STEVENS).

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Eternal Spirit, thank You for Your steadfast love and Your unchanging mercy. Your wondrous deeds sustain us and Your compassion keeps us secure. Help us not to have inflated notions of our importance but seek instead to live so that we are worthy of honor, even if it never comes. Remind us that true greatness comes through service, and may we esteem others as better than ourselves. Give us wisdom to follow Your example of generous self sac-

rifice, and keep us from returning to dead-end paths.

Bless our lawmakers today. Strengthen them in their challenging work of striving to find common ground. Shield them from strife and division as they seek unity for the good of our Nation and world. Empower them to trust You without wavering.

We pray this in Your holy Name. Amen.

PLEDGE OF ALLEGIANCE

The President pro tempore led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order the leadership time is reserved.

MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will be a period for the transaction of morning business with Senators permitted to speak therein for up to 10 minutes.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

NOTICE

If the 109th Congress, 1st Session, adjourns sine die on or before December 20, 2005, a final issue of the Congressional Record for the 109th Congress, 1st Session, will be published on Friday, December 30, 2005, in order to permit Members to revise and extend their remarks.

All material for insertion must be signed by the Member and delivered to the respective offices of the Official Reporters of Debates (Room HT-60 or S-123 of the Capitol), Monday through Friday, between the hours of 10:00 a.m. and 3:00 p.m. through Thursday, December 29. The final issue will be dated Friday, December 30, 2005, and will be delivered on Tuesday, January 3, 2006. Both offices will be closed Monday, December 26, 2005.

None of the material printed in the final issue of the Congressional Record may contain subject matter, or relate to any event that occurred after the sine die date.

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By order of the Joint Committee on Printing.

TRENT LOTT, *Chairman*.

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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SCHEDULE

Mr. FRIST. Mr. President, today I do not anticipate a lengthy session, but we are here for important work. We need to pass a short-term continuing resolution, and we are waiting for the House to send us a joint resolution. We expect to clear a package of nominations this afternoon, and we will do that block of executive nominations by voice vote. We will also continue to process some of the other legislative items that have been cleared and are ready to move.

Final discussions continue on the remaining must-do items, and I am hopeful that we will be soon able to take action on these items over the next couple of days. Members will be asking about the schedule, and I will make further announcements shortly on tomorrow's lineup. I want to confer with the chairmen and principals involved in the negotiation and then say more at the close of business today. Again, we will wrap up our work today in as quick a time as possible, and Members should stay tuned as everything is finalized.

There is a lot of work going on in the Capitol today—until late last night and until the early hours of the morning. Just last night and over the last several days we passed very important pieces of legislation. If we look back on Friday, last night, we passed cord blood legislation, which opens up critical new research opportunities and clearinghouses for safe, ethically sound transplantation. That is going to save lives.

We passed the Gulf Opportunity Zone Act of 2005, which will provide a second major round of critical tax relief to our brothers and sisters in the gulf coast region.

We extended the Terrorism Risk Insurance Act, which takes another step toward reducing taxpayers' risk and minimizing the Government's interference with the private market.

We passed an important new provision in the Violence Against Women Act, which will protect rape survivors who have already been victimized once by sexual assault.

We passed the Bahrain Free Trade Agreement this past week, which enhances our bilateral relationship with a strategic friend and ally.

I mention all of these because a lot of them we do actually in what we call wrap-up or by unanimous consent but all are major pieces of legislation. We now have, over the next several days—and I hope it is as few as possible—very important legislation on Defense, both appropriations and authorization, as well as the deficit reconciliation package and nominations that I mentioned. So we have a lot of work to do over the next several days.

 RECOGNITION OF THE
DEMOCRATIC LEADER

The PRESIDENT pro tempore. The Democratic leader is recognized.

DEFENSE AUTHORIZATION

Mr. REID. Through the Chair to the distinguished majority leader, there is some confusion over here because at one time last night, on the conference report on defense authorization—it was signed by everybody. Does the leader have the latest word on that? Senator WARNER and Senator LEVIN, because they were trying to stick other stuff in the bill, were going to withdraw their signatures. Do we know if that happened?

Mr. FRIST. Mr. President, through the Chair, I know it has not passed the House yet. I will have to check and see what the current status is on the Department of Defense authorization. I will have to check and see what the current status of that is. It was my understanding that would be ready at some point—or as of late last night they would be ready sometime today. The House has not yet acted on that.

Mr. REID. We hope to have the Defense appropriations bill tonight or tomorrow? When is that expected?

Mr. FRIST. Defense appropriations will likely be tomorrow. There are several items that remain to be wrapped up. Most of the meetings over the course of last night and today have been with the objective of having that wrapped up as soon as possible, but that will much more likely be tomorrow. It will not be tonight.

Mr. REID. Does the leader have some indication as to what the schedule will be Monday? The leader has indicated that there will be no votes today or tomorrow. Are we going to have votes Monday?

Mr. FRIST. We know we are not going to have rollcall votes today. We will be in a very short period of time today. I would think tomorrow, depending on how things go over the next couple of hours, we would come in fairly late waiting on action from the House of Representatives. Once we have a better feel when they are going to act tonight or in the morning, we will set a time to open tomorrow.

We have not said no rollcall votes tomorrow, but we will be able to say that for sure in just a bit, in all likelihood. Then I expect we will need to come in early Monday and vote early Monday because at that point in time we should have legislation coming from the House. So Monday is going to be a very full day. For right now—we can talk shortly if something else indicates otherwise—we would plan on voting Monday morning.

Mr. REID. I told my Senators on call that they should be ready to go Monday morning, by 10 or so. Is that a fair statement?

Mr. FRIST. I think that is a perfect goal and that we mutually share that, that we could start voting as early as Monday morning. Since we will be in tomorrow, if we can update that because most of our—many of our Senators are out around the country, we will do just that.

AVIAN FLU

Mr. FRIST. Mr. President, I want to make a very brief statement on an issue that I believe requires action before we leave. It is something we have addressed on the floor of the Senate, actually in several different capacities, but I want to restate the importance of that. It has to do with a potential pandemic of an avian or bird influenza—the so-called bird flu. In the 20th century, we have had three influenza pandemics. Remember, about 30,000 people in this country die every year from the seasonal flu. But superimposed on this seasonal flu, on three occasions in the last 100 years, there have been these pandemics. What our public health officials and what our scientists say is, for sure, we are going to have another pandemic. The time is in the near future, and a pandemic is going to occur, but we don't know exactly when. The worst of the three pandemics in the last 100 years was in 1918, the so-called Spanish flu—although it was called the Spanish flu, it probably started actually in Kansas—but that flu went through our population in a period of weeks and killed about half a million people; worldwide it killed somewhere around 40 million people.

The Secretary of Health and Human Services, Secretary Leavitt, warns if past is prologue, the world is overdue for another flu pandemic. I agree with that assessment. The pandemic will occur. We do not know exactly when. But we know we are drastically underprepared; not unprepared but underprepared. If we act with action now, we will be prepared. Preparation means much less destruction or potential destruction by such a pandemic.

The avian flu over the last couple of years has spread from East Asia, to Romania, to Turkey. It looks and acts more similar to the virus of 1918 than either of the other two pandemics, the one in 1957 and the one in 1968. If it achieves the final step in what becomes a pandemic, that is, human-to-human transmission—the first couple of steps are that it is a novel virus, a new virus, and that it spreads to other species, multiple species, and the third big step is transmission, human-to-human transmission. In that case, the consequences could be catastrophic both in loss of human life as well as in economic meltdown in many ways.

Recently, in the last several weeks, the Congressional Budget Office released a study which I had requested specifically on the economic impact of a serious and a mild pandemic of avian flu. Their report demonstrated—much higher than I expected—a 5-percent decline in our gross domestic product over the course of a year. That is about a \$675 billion hit if we were to have a severe pandemic of this avian flu. The clock is ticking. If a pandemic occurs and we are underprepared, if it were to occur today and it were severe, the Congressional Budget Office predicts, with their best economists and access

to public health officials, that is what would occur.

We need to put the wheels in motion, so when and if that avian flu hits, we are prepared. If we are prepared, we diminish the economic impact dramatically. If we do not act and that avian flu pandemic comes to our shores, we in this Senate will be rightly blamed for failing to do our best to protect the American people, given what our scientists and public health officials say today. That finger will be pointing straight at the Congress if we do not act. The good news is we will act. We plan to act in the bills that have come before the Senate in the next couple of days. We need a six-prong approach. We need to address communications, we need to address surveillance, we need to address the appropriate research, we need to address the whole issue of antiviral agents, the Tamiflu, we need to address vaccines. Right now we do not have any vaccines specific to a virus that would be transmitted human to human. That has to be created after we identify the virus. And the sixth component is what we call surge capacity, the stockpiling of antiviral agents and vaccines.

It may sound like a lot of moving parts, but between our researchers and public health officials, our entrepreneurs, our private sector, we do have the intellect, the ingenuity, and the knowledge to get the job done.

Our job as elected officials, my job as an elected official and my job as a physician is to see this thing through to make sure we are adequately prepared, and we can look our constituents in the eyes and say we have done everything possible to see that we are prepared for such a pandemic. Our economy, our country, and our lives may depend on whether we take action.

The President has laid out a comprehensive plan. It is our job to set aside the appropriate resources but also to give the appropriate incentives to tackle this looming threat.

I refer to our colleagues to put aside partisan differences, to hold together, to protect the American people. The flu virus does not know who is a Republican and does not know who is a Democrat. The people who suffer will know who did not get the job done.

We do not need to panic. What we do need is to prepare ourselves. Preparation means action, action in the Congress. The American people are counting on it. That is exactly what we will do over the next several days.

I yield the floor.

The PRESIDING OFFICER (Mr. COBURN). The Senator from Texas.

Mr. CORNYN. I ask unanimous consent to speak for up to 20 minutes as in morning business.

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

USA PATRIOT ACT

Mr. CORNYN. Mr. President, unless the Congress acts, on December 31,

2005, 16 different provisions in the USA PATRIOT Act will expire.

Two days ago we had a vote to determine whether a minority in the Senate would allow a bipartisan majority the chance to have an up-or-down vote on the reauthorization of the PATRIOT Act. As everyone knows, that vote failed. Fifty-two senators voted to close off debate. There being a requirement of 60 votes to cut off debate, that threshold was not met so we did not reauthorize the PATRIOT Act.

So here we are with the clock ticking, with America's security at risk. We find ourselves in the incredible position of seeing certain ordinary law enforcement tools that are used everyday in State and Federal courts all across this country will, in about 2 weeks, no longer be available in the case of international terrorists or spies or cases involving the Foreign Intelligence Surveillance Act.

Perhaps the one provision of the PATRIOT Act that will expire that causes most concern is the so called wall. That, of course, is the term used to describe what previously—before October of 2001—was a wall that separated the sharing of information between our law enforcement personnel and our intelligence authorities. It is clear, as the 9/11 Commission demonstrated, that this wall made us less safe. It was not required by the Constitution. It was not required by any provisions passed by this Senate and signed by the President. It was simply a choice made by the Department of Justice to prevent the sharing of information.

We learned from the bombing of the World Trade Center in 1993 and its investigation, as well as from by the terrible events of September 11, the 9/11 Commission concluded this wall, which was not constitutionally required, prevented the sharing of information between law enforcement and intelligence authorities and this prohibition contributed to the terrible events on September 11.

It was imperative the Congress act as quickly and as carefully as possible to remove any impediments that were not otherwise mandated by the Constitution from investigating and preventing future terrorist attacks against this country.

Those who have opposed this up-or-down vote in the Senate with regard to the reauthorization of the PATRIOT Act are asking us to make a false choice. In other words, they are saying if the PATRIOT Act is reauthorized, somehow Americans' civil liberties will be in jeopardy. They are asking us—or telling us—that we have to choose between our national security and our civil liberties. That, to repeat, is a false choice.

The fact is, we can have a balanced reauthorization of the PATRIOT Act that will protect America from future terrorist attacks. We can continue to disrupt the terrorist cells both here at home and abroad that endanger us and protect our civil liberties at the same time.

This country was founded upon a belief in individual freedom and the protection of individuals against the overwhelming power of the Government. And we have, for more than 200 years, written into our laws—not to mention the Constitution—various protections to make sure our civil liberties and our individual freedoms are protected.

But the No. 1 responsibility of the Federal Government is to keep us safe. There is no other responsibility that comes anywhere close to that imperative. That is why I believe the PATRIOT Act must be reauthorized, and if we fail to act before these provisions expire on December 31, 2005, we will not have met our responsibilities. Indeed, we will have contributed to making this country much more dangerous than it would otherwise be.

Now, as we recall, after the terrible events of September 11, Congress, for 6 weeks, debated the original passage of the PATRIOT Act and, in a vote of 98 to 1, passed the PATRIOT Act. It provided that these 16 provisions would expire at the end of this year. The vote to enact this legislation was 98 to 1 in the Senate, after 6 weeks of debate. In the House, the vote was 365 to 66, again not quite as overwhelming as in the Senate, but it was a lopsided vote in favor of passing the PATRIOT Act. And it was signed into law on October 26, 2001.

Now, I have been surprised at how much misunderstanding there is surrounding the PATRIOT Act, how much outright mythology and disinformation there has been by those who are not just concerned about civil liberties, but those who are actually engaging in almost paranoid delusions about what it is that the PATRIOT Act provides in terms of the authorities to combat and to break up terrorist activities.

The fact is, anyone who has been involved with or even remotely acquainted with our criminal justice system knows and will recognize that the provisions of the PATRIOT Act merely extended to national security cases many of the tools that are used every day in courts all across the Nation and throughout the States. So this breathlessness, this sense of the existence of conspiracy theories, about the Federal Government deciding to suspend the civil liberties of the American people in pursuit of terrorists, is pure fantasy.

I want to talk about the provisions that are being discussed so I think at least those who are listening can understand there has been careful thought and careful negotiations between the House and the Senate and there has been an awful lot of effort put into trying to strike the right balance.

But what the critics are asking us to do is engage in a willing suspension of disbelief. It is almost unthinkable to me that here we are, some 4 years after the terrible events of September 11th, debating these common sense tools almost as if some have forgotten the lessons we learned and lessons we should remember for the rest of our lives.

I was not here in Washington on September 11. I was merely a candidate for the Senate and the attorney general of my State in Texas at the time. I was in Austin, Texas when those planes hit the World Trade Center. We all recoiled in shock and in horror at those terrible events. But I remember, since I have been here in Washington, the number of occasions where we have had warnings of intrusions into the airspace around this Capitol, where people here were running out of the Capitol, some in tears, out of fear that we were going to have another attack here at the Capitol.

As we know, but for the brave acts of some passengers on an airplane who caused that plane to crash in Pennsylvania, it could have been that plane was meant for the White House or the U.S. Capitol, which would have resulted in tremendous additional loss of human life.

So it is amazing to me—and I guess in some ways it is a sign of the times—that our memories are so short and that we need to be reminded about the seriousness of the threat that still remains. We need not let our guard down, instead we need to continue to do everything that is humanly possible to protect the American people against future terrorist attacks.

I know there are some who scoff at it and ridicule the threat, but I would ask them to go back and to read the newspaper accounts, to see the video replays of the terrible events of September 11, and then to reconsider. Those who fear that Government has turned into “big brother” and is simply invading our bedrooms and our libraries and our personal lives in ways that would shock all of us are engaging in, I think, a fantasy.

When you look at the facts—and I would suggest facts are stubborn things—we ought to look at the facts and the provisions that are being debated and then ask ourselves: Aren't these the kinds of tools we would want our law enforcement personnel to have to keep us safe?

I think the American people—when they understand, as they will before this debate has concluded, what is at stake here—would want us to act responsibly to extend and continue to provide these ordinary sorts of law enforcement tools to national security cases.

There is no doubt in my mind that a bipartisan majority of the Senate would pass this reauthorization of the PATRIOT Act if allowed to do so. But, indeed, what we are seeing is a filibuster by a willful minority that is blocking a bipartisan majority from even having the right to cast that vote. I recognize there are some people who have sincere beliefs that reauthorization of the PATRIOT Act is not the right thing to do. While I strenuously disagree with them—and I would welcome a chance to debate with them here on the Senate floor the wisdom of that decision—I respect their right to

hold that opinion. But I do not respect the minority when they block a bipartisan majority from having the chance to vote on tools that, if not extended, will leave this country vulnerable to attack.

Again, I am confident that if we had a vote a bipartisan majority of the Senate would see fit to reauthorize the PATRIOT Act and continue these important protections for the American people. But we find ourselves with the clock ticking, time running out, and America potentially endangered, if on December 31, 2005 these important provisions expire because we in the Senate did not act. A direct consequence of this action, or inaction, will endanger our country.

I would ask my colleagues: What has changed since that 98-to-1 vote in the Senate when, in October 2001, after 6 weeks of debate, the PATRIOT Act was passed? Are there reports of rampant abuses of the PATRIOT Act? No. Are there examples where Members can come to the floor and explain to us, that this is too much power for the Government to have, or that somehow we have an imbalance in the power given to the Government, and that we need to strike a right and better balance?

The fact is, Mr. President, all of the skeptics have is speculation, conspiracy theories, and outright fantasy when it comes to the potential of abuse under any of these provisions of the PATRIOT Act. I am convinced that the chairman of the Judiciary Committee in the Senate, Senator SPECTER, and the conferees in the House and Senate have done their very best given the nature of negotiations and compromise to strike the best balance between civil liberties and the protection of the American people. It would be a failure of responsibility and duty for us not to reauthorize the PATRIOT Act.

But I ask again, what has changed since September 11, 2001? What has changed since October of 2001 to now lead some of our colleagues to say that these provisions are unimportant, are not useful, or are no longer needed? Has the threat of international terrorism receded? Has it gone away?

I looked on the Internet before I came here for a listing, because I wanted to make sure I had all of them, of suspected al-Qaida terrorist attacks across the globe since September of 2001.

In December 2001, a man tried to detonate a shoe bomb on a flight from Paris to Miami. I believe his name is Richard Reid. There was an explosion in April of 2002 at an historic synagogue in Tunisia that left 21 dead, including 14 German tourists. In May of 2002, a car exploded outside a hotel in Karachi, Pakistan, killing 14, including 11 French citizens. In June 2002, a bomb exploded outside the American consulate in Karachi, Pakistan, killing 12 people. In October 2002, a boat crashed into an oil tanker off the Yemen coast killing a single individual. Then there

were the nightclub bombings in Bali, Indonesia, that killed 202 people, mostly Australian citizens, in October of 2002.

Then there was a suicide attack in Mombasa, Kenya, killing 16 in November of 2002. In May of 2003, suicide bombers killed 34, including 8 Americans at housing compounds for westerners in Riyadh, Saudi Arabia. In May 2003, 4 bombs killed 33 people, targeting Jewish, Spanish, and Belgian sites in Casablanca, Morocco. In August 2003, suicide car bombers killed 12 people and injured 150 more at the Marriott Hotel in Jakarta, Indonesia. In November 2003, explosions rocked a Riyadh, Saudi Arabia, housing compound killing 17. In November 2003, suicide car bombers simultaneously attacked two synagogues in Istanbul, killing 25 and injuring hundreds more. In November 2003, truck bombs detonated at a London bank and British consulate in Istanbul, Turkey, killed 26. In March 2004, 10 bombs on 4 trains exploded almost simultaneously during the morning rush hour in Madrid, Spain, killing 202 and injuring more than 1,400 people. In May 2004, terrorists attacked a Saudi oil company office in Khobar, Saudi Arabia, killing 22.

In June 2004, terrorists kidnaped and executed American Paul Johnson, Jr., in Riyadh, Saudi Arabia. Then in September 2004, car bombs outside the Australian Embassy in Jakarta, Indonesia, killed 9. In December 2004, terrorists entered the U.S. consulate in Jeddah, Saudi Arabia, killing 9. In July 2005, bombs exploded on 3 trains and a bus in London, England, killing 52. In October 2005, 22 were killed by 3 suicide bombs, again in Bali, Indonesia. Then most recently in November 2005, 57 were killed at 3 American hotels in Amman, Jordan, including at a wedding party.

Mr. President, I go through this list not to just bore my listeners but rather to recount in horrific detail the threat that still exists to America and American citizens and people all around the world by international terrorists. These are examples of what could happen on our own soil again if we let our guard down as we did before September 11.

Just to remind my colleagues what we have been able to do because we have been on our guard, because we have the PATRIOT Act, because we have equipped our law enforcement and intelligence personnel with the tools necessary to identify and investigate and disrupt terrorist activities, because we have been on the offensive in Afghanistan and Iraq disrupting the ability of terrorists to train, recruit, and then export their terrorist activities, because we have done all of those things, America has not sustained another terrorist attack on our own soil since September 11, 2001. But it is far from certain that it will not happen again.

Some have said it is a matter of when, not if, America will be hit again.

But, thank goodness, because of the diligent efforts of men and women in our law enforcement agencies, in our intelligence agencies, the men and women in our military, and so many other people working together diligently, we have protected Americans on our own soil. There have been at least 10 serious al-Qaida plots disrupted, including 3 al-Qaida plots to attack inside the United States since September 11.

In mid 2002, the United States disrupted a plot to attack targets on the west coast of the United States using hijacked airplanes. The plotters included at least one major operational planner involved in the events of September 11. In mid 2003, the United States and a partner disrupted a plot to attack targets on the east coast of the United States using hijacked commercial airplanes.

The PRESIDING OFFICER. The time of the Senator from Texas has expired.

Mr. CORNYN. I ask unanimous consent for an additional 15 minutes.

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

Mr. CORNYN. Then there is the Jose Padilla plot in May 2002. The United States disrupted a plot that involved blowing up an apartment building in the United States using a dirty bomb or a radiation dispersal device. In mid 2004, the United States and our partners disrupted a plot that involved urban targets in the United Kingdom. These plots involved using explosives against a variety of sites. Then there was a plot in Karachi, a plot at Heathrow Airport in London, another UK plot in 2004, another Arabian Gulf shipping plot, one in the Straits of Hormuz in 2002, and a tourist site targeted by al-Qaida. In 2003 there have been at least 10 disrupted terrorist attacks as a result of the concerted efforts of our law enforcement and intelligence personnel, at least 3 on American soil since September 2001.

I ask my colleagues who are blocking the vote on the renewal and reauthorization of the PATRIOT Act: What could they possibly be thinking to believe that we ought to voluntarily relinquish the tools that have in part made it possible to keep us safe and to protect Americans from these terrorist attacks?

I know, Mr. President, there are others in the Chamber who want to speak on this or related issues. I want to close on one last red herring that has been raised.

As the New York Times reported, the President of the United States has authorized, after counseling with the Department of Justice and various legal authorities, as well as consulting with Congress on up to 12 occasions, the use of intercepted messages from the National Security Agency as part of our ongoing counterterrorism efforts. The New York Times suggested that this was a secret way to threaten the civil liberties of Americans. The fact is, as is now being revealed, Congress was

consulted at least 12 times since September 11th about the President's authorization of these interceptions of communications, interceptions which were not solely within the United States but were from known links to international terrorism in the United States and known links with international terrorism overseas.

It is perhaps not a coincidence that just before the vote on cloture on the reauthorization of the PATRIOT Act, the New York Times released this story. Indeed, at least two Senators—I heard with my own ears—cited this article as a reason why they voted to not allow a bipartisan majority to reauthorize the PATRIOT Act. As it turns out, the author of this article had turned in a book to his publisher 3 months ago. The paper failed to reveal that the story was tied to a book release and sale by the author James Risen. The title of the book is "State of War, the Secret History of the CIA and the Bush Administration." It is about to be published by the Free Press in the coming weeks.

It is a crying shame that America's safety is endangered by the potential expiration of the PATRIOT Act in part because a newspaper has seen fit to release, on the night before the vote on the reauthorization of the Act, and as part of a marketing campaign for selling the book, something that is blatantly misrepresentative of the facts and appears to be an attempt to strike terror or perhaps paranoia into Senators and others out of some unrealistic and inaccurate concern for invasion of civil liberties.

It is appropriate that Congress have hearings to look into this, but the fact is, the President and his administration have briefed high ranking Members of Congress on 12 occasions since this so-called secret program of intercepting communications between known terrorist contacts in the United States and overseas occurred.

When I came to Washington to serve in the Senate almost 3 years ago, someone jokingly referred to it as a logic-free zone where perception is reality. We all got a good laugh out of that. But the hysteria over the USA PATRIOT Act and the fact that people have, in too many instances, not focused on the hard-fought attempts to balance our security with civil liberty concerns by hammering out thoughtful and useful provisions is a disservice to the American people. It is not a typical policy disagreement that we sometimes have about taxes or some other issue. This is one that has the grave potential of endangering American lives because we know the terrorist threat exists. This threat continues to this day.

September 11, while it was 4 years ago, is not an isolated event, as the listing I provided details. Terrorists will, if we let our guard down, hit us again. Then I ask: Where will the blame lie? If we have failed to do everything within our power to protect

the American people, we will have failed to discharge our duty in this body.

I hope our colleagues who are blocking a bipartisan majority from casting a vote to reauthorize the PATRIOT Act which will prevent the expiration of these 16 provisions will reconsider their decision. It is unthinkable to me that anyone would allow these provisions to expire. I realize there are differences of opinion. I am happy to have this debate. I understand that people have conscientiously held opinions that are different than mine about the importance of this Act, but to block a bipartisan majority from having the chance to vote is incredible.

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

Mr. CORNYN. I will.

Mr. SESSIONS. I thank Senator CORNYN for his discussion of this important issue. If the people of America were to hear what he said and consider those issues thoughtfully, their fears would be greatly relieved. I am convinced there is nothing in this legislation that in any way jeopardizes the liberties we have.

The Senator from Texas served as attorney general for the State of Texas. He served on the Supreme Court of the State of Texas. He brings good judgment and legal understanding to the Senate. I urge my colleagues to listen to him.

Senator SPECTER, chairman of the Judiciary Committee and certainly a person who has been a champion of civil liberties all his career, has said that the bill we passed in this body by unanimous consent which went to conference in order to work out differences with the House, came back with 80 percent the provisions contained in the Senate bill untouched, and very few changes in favor of the House version.

I ask the Senator from Texas, the bill we passed here by unanimous consent, is that not the same bill he and I worked on in the Judiciary Committee and that came out of the committee unanimously by an 18-to-0 vote after full discussion about those issues?

Mr. CORNYN. The Senator from Alabama is absolutely correct. He serves with great distinction on the Senate Judiciary Committee, as does the current occupant of the Chair. We all know that it is not the most cohesive committee in the Senate. As a matter of fact, we have some pretty serious disagreements about important policy issues. But on the PATRIOT Act, under Senator SPECTER's guidance, with the ranking member, Senator LEAHY, we were able to reach unanimity and pass the PATRIOT Act out of the Judiciary Committee. That would not happen, given the legal minds and the great advocates we have on the Judiciary Committee, if it were not a good bill. To now suggest, as some have, that this has not been well thought through, that it is not carefully done, flies in the face of the facts.

If I may, Mr. President, through the Chair, I ask my friend from Alabama,

who has been a distinguished U.S. attorney, served as attorney general of his State before coming to the Senate, and has a lot of experience in law enforcement, are the provisions of the PATRIOT Act that are being debated involving wiretaps and production of business records and delayed notice search warrants, are these the sort of ordinary tools that are available to prosecutors in State and Federal courts in regular, ordinary, vanilla criminal cases?

Mr. SESSIONS. I thank the Senator from Texas. He is exactly correct. As a former attorney general of Texas, he knows that every county attorney in America can go to a county judge and issue a subpoena for bank records, for medical records, for telephone toll records, for motel records, for library records, and for bookstore records.

That is done every day and the standard is simply whether those records are relevant to an investigation that the Attorney General or district attorney in any county in America is conducting. That is the way the system works. People act as if issuance of a subpoena for somebody's records is a violation of a constitutional rights. That is beyond my understanding.

So I certainly agree. In fact, with regard to a group of records, the power of the FBI to investigate terrorists, in some ways, is far less than that of a county attorney. A 215 order includes health records, library records, bookstore records—I hate to laugh, but—for which you have to go to a court and get approval before they are issued. The local district attorney issue this type of order if he is investigating somebody for failure to pay county taxes.

I want to ask the Senator about this. One distinguished Senator yesterday on the floor of the Senate declared that an FBI agent could write up a warrant and go out to search your house. With regard to the two categories of records I have mentioned, I add for the RECORD that these are records not in the possession of a potential defendant or terrorist; these are records in the possession of a bank or a telephone company; they are not personal records. But with regards to personal records where the district attorneys in every county and any U.S. Attorney has to get a search warrant and has to have it approved by a judge, and in the case of the FBI, a Federal judge, they have to submit facts under oath to justify the search, and those searches go to a person's home, their automobile, or areas in which they have dominion and control. My question to the Senator is whether he is aware of anything in this legislation that in any way would undermine the standard and burden on investigators before they get a search warrant of somebody's private property?

Mr. CORNYN. Mr. President, I say to the Senator from Alabama he is precisely correct. One of the things that has been carefully taken into consideration in this legislation is to make sure whoever the individual is or

whoever's rights are at issue, that there is an opportunity to go to a judge—in this case, the Foreign Intelligence Surveillance Court, a specialized court with jurisdiction over national security cases—and to ask an impartial judge to intervene.

But some of our colleagues, it seems, have these fantasies about rogue law enforcement personnel with nothing better to do than running roughshod over the rights of American citizens. These are serious professionals. I know my colleague from Alabama, being a former U.S. attorney, has worked closely with the FBI and other Federal law enforcement officials. I ask him—and then I will certainly yield the floor to him for any other remarks he cares to make—is there any basis to this idea that Federal law enforcement agencies, such as the FBI and the intelligence agencies, have nothing better to do or have so little disregard for our laws and Constitution that they look for opportunities to trample on the rights of innocent American citizens?

Mr. SESSIONS. I thank the Senator. That is such a good question. I worked very closely on a daily basis with FBI agents for 15 years as a Federal prosecutor. Some of those agents remain good friends of mine. They are people of high integrity and discipline. They follow the rules. Sometimes they shake their heads in wonderment at the regulations we place on them as they are out trying to protect America. But they comply day after day with whatever rule it is. In fact, I guess some people may have thought when we created a wall between the CIA and the FBI, that if information were important, agents would not pay much attention to that wall, and would share the information anyway. Surely the CIA would tell the FBI if they have information that a dangerous cell may be operating in the U.S.; surely they would tell them. But we prohibited it. There was a wall and this legislation tore it down. Before this wall was torn down, they did not share any information, regardless of how important it may have been.

I was on a show with a distinguished Member of this Senate who made the comment that the people of his State didn't want the FBI patrolling near their homes and searching their houses and getting delayed warrants and staying in their houses and all these other things. I talked to the Attorney General Gonzales today. He said two-tenths of 1 percent—2 out of 1,000 warrants issued in this country, are delayed warrants. There probably hasn't been one issued in his State since the act was passed 4 years ago. The last thing the FBI would want to do is violate the law, risk their careers, or waste their resources prowling into the houses of Americans. To get a delayed notice warrant or any warrant of this kind, they have to go to the court in advance. Then they have to have additional proof if they want to delay the notice to the person whose residence has been searched.

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

Mr. SESSIONS. Mr. President, I ask unanimous consent that I may have 2 additional minutes.

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

Mr. SESSIONS. I thank Senator CORNYN from Texas for his steadfast work on this issue. He is an extremely hard-working Senator. He gets these facts right. He is an extremely skilled lawyer and has a great legal mind. I hope the people will listen to his remarks.

We have gone through this bill. This bill was carefully drafted the first time we voted on it. It came out of the Senate 4 years ago with only one "no" vote. We have had 4 years of experience with it. It is going to expire the end of this calendar year. We passed our version of reauthorization by unanimous consent in this body. Our Senate Judiciary Committee, which has some of the most civil libertarian lawyers in the Senate—in the country, for that matter—passed it out unanimously. I am shocked, surprised, and utterly disappointed that we went to conference—where we maintained position after position on our bill and the House conceded time and time again on their bill, to the extent that about 80 percent of the differing provisions were decided in favor of the Senate—and now have this unbelievable filibuster that blocked a bill which had so much bipartisan support, from coming up and being considered and given a vote.

I thank the Chair. I see the distinguished ranking Member of the Senate Armed Services Committee on the floor, Senator LEVIN. I am delighted to yield to him at this time.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. LEVIN. Mr. President, I thank the Chair and my friend from Alabama.

One quick comment on the PATRIOT Act. Of course, everybody in this body wants to renew the PATRIOT Act. That is not the issue. The issue is the contents of that act and whether this body ought to have an opportunity to debate some of the differences between the version that came back to us from conference and the one that left the Senate. There are significant differences.

There is a bipartisan group that opposes the PATRIOT Act in its current form. We all want to extend that act so there is no gap. Nobody wants a gap in coverage. Everybody agrees it should be extended. The question is, should it be extended for a short period of time to give those of us who have questions and doubts about some of the provisions that came back from conference that were not in the Senate version an opportunity to debate and hopefully change some of those versions.

Mr. SESSIONS. Mr. President, will the Senator yield just 1 second on that point?

Mr. LEVIN. Sure.

Mr. SESSIONS. I urge him to examine the legislation and to examine the

changes that are made. I know some have said they are significant. With the Senator's legal skills and ability to analyze, I think he will find they are not nearly as significant as some say. As a matter of fact, most are very small. I believe he will feel comfortable in the end once again voting for this legislation.

I thank the Chair and yield the floor.

Mr. LEVIN. Mr. President, I thank my friend from Alabama. I have, indeed, studied the version that has come back from conference. The differences are significant, indeed. They are very significant, so much so that some of the more conservative Members of this body have joined in a decision that we should have an opportunity to debate the PATRIOT Act conference report before it is enacted. We all want to extend it to give us that opportunity. But this is not a Democratic or Republican opposition; it is a bipartisan group of Senators who have studied the conference report and have significant differences with it, and I am one of those Senators.

DEPARTMENT OF DEFENSE AUTHORIZATION CONFERENCE REPORT

Mr. LEVIN. Mr. President, I wish to talk about a different bill, a bill we thought was finally put to bed yesterday. When we say "put to bed," what we conferees mean is the conference is over and that all of the members of the conference have signed the conference sheets, the signature sheets which signify that document that is attached to those sheets is the final version and that then will be presented to both Houses for their consideration.

Senator WARNER came to the Chamber last night to express his dismay with what we understand now has happened in the House, and that is that the House leadership is apparently toying with the idea, considering the possibility of trying to insert in that conference report a totally unrelated bill that is not part of either the House or the Senate Defense authorization bill, which is totally unrelated to the subject matter of the Defense Authorization Act.

To me, it is not important what the substance of the bill is that the House Republican leadership wants to attach. The principle is important. The principle is one of the fundamental principles under which we operate in this body and in this Congress, and that is, once a conference report is agreed to, once those signature sheets have been attached, nothing can just be inserted, unless, of course, the conference report is rejected or the report is referred back to conference.

There are rules that the House gets the conference report first, and that allows that body to return a conference report for further consideration. But what is happening here is not that there was going to be a conference report taken up in the House with a mo-

tion to refer back to conference to consider other material. Here, apparently, from what we understand, the House leadership was attempting to find some way to add significant legislation to a conference report on which the signature sheet had already been signed by all of us.

Senator WARNER came to the Chamber last night to express his dismay with this process. As always, Senator WARNER is extraordinarily honorable. For him, it is not important what the subject matter of this added legislation is. It is the principle involved. It is the process involved. We cannot possibly operate under a procedure where after a conference is over and the signature sheets are signed that then there is an effort made without, I guess, the body reopening the conference by sending it back to conference for reconsideration but just simply looking for a mechanism to add legislation to a conference report which had already been signed.

Senator WARNER said something last night that I concur in 1,000 percent. In fact, everything he said last night I concur in 1,000 percent because he is a Senate man. He is an institution man. He loves this institution. And the idea that we could have a process where a conference report is signed and then, somehow or other, through some mysterious mechanism or means, additional legislation is added to it without that conference being reorganized and the House, the first body that receives this conference report, referring it back to conference, is a totally unacceptable process.

The chairman of our committee, Senator WARNER, last night said he was not going to accept this process. He would filibuster his own bill if it contained material we had not considered and was now showing up in a conference report. And I would join him in that filibuster. He would exercise the rules of this body to ask the Chair to rule that there is out-of-scope material in this conference report, and I would join him in asking the Chair to make such a ruling.

This is separate and apart from whether he or I agree with the material which was proposed to be added. By the way, for whatever relevance it has, I think probably both of us would be inclined to support the material which was intended to be added if it ever came to the floor in a proper way. I don't want to commit myself to that position because I haven't seen the actual material proposed to be added, but what I know of the subject matter, it would be the type of change in our law which I probably would support and, without speaking for Senator WARNER, I think he is probably inclined to support, too. That is not the issue. We can't treat our colleagues that way. This is a controversial matter which is proposed to be added. There is a very strong debate over the subject matter.

Regardless of what our position is, as the chairman and ranking member of this committee, we cannot bring back

from the conference a document which contains material which had never been discussed in conference, never the subject of debate in either the House or the Senate, was not in the House or the Senate bill, and is totally nongermane to the subject matter of the conference report.

We all know there are items added to conference reports that were not in either bill. That happens. But under our rule, the only way it now happens is if it is material to which everybody agrees. It cannot be material which is not in agreement by the Members of the two bodies. We cannot possibly, as a matter of principle, have a process where a conference report comes back containing material not germane, not relevant, not material to the conference, not the subject of either bill that passed either House, and which is added after the signature sheets have been signed.

I wanted to come to the Chamber and say what has happened because we heard this effort was being considered—just being considered—by the House Republican leadership. Senator WARNER and I asked our staff to go over to the House and retrieve our signature sheets.

Mr. REID. Will the Senator yield for a question?

Mr. LEVIN. I will be happy to yield.

Mr. REID. Through the Chair to the distinguished ranking member of the Armed Services Committee, I already gave some remarks on the Senate floor last night about my admiration for the chairman of the Armed Services Committee. My admiration of the senior Senator from Virginia is a volume. I think JOHN WARNER is what a Senator is all about, and I said that last night.

I say to my friend from Michigan, I have served in legislative bodies a long time. I have been in public service for more than 40 years. And my respect for the ranking member of the Armed Services Committee is equal to that of the senior Senator from Virginia. There is no better Senator than CARL LEVIN from Michigan—not today or ever. He is one of the best ever.

The working relationship between Senator WARNER and Senator LEVIN is what the Senate should be. But I want to say that what is going on in this Congress is absolutely untoward. We have a Defense appropriations bill that will fund the military, some \$450 billion, that is being held up by sticking onto that bill drilling in Alaska, drilling oil wells in Alaska.

There is a place for that legislation, but it should not hold up this bill, as it has been. As Lord Acton said, "Power tends to corrupt, and absolute power tends to corrupt absolutely." That is what we have a study of in here: The absolute power of the Republicans controlling the White House, the House, and the Senate is leading to a corrupt Congress.

To think that the rules mean nothing, throw them aside, let us change them today, we are going to put something on the Defense appropriations

bill. The other aspect of the Defense authorization bill is taking care of our men and women who are fighting for us. It does things such as taking care of pensions, changes in pay and equipment that the appropriations bill funds, which is what the Senator from Michigan and JOHN WARNER have done.

I saw the chairman of the Armed Services Committee as I was leaving the House yesterday, the distinguished House Member from the San Diego, CA area, whom I served with, DUNCAN HUNTER. I asked, how are we coming on this? He said, it is done, it is just like this. One could not see the line between his fingers.

Then we come back over here and it is not done. They are trying to stick into this some type of campaign finance reform. Think about that. ANWR on the Defense appropriations bill and campaign finance in the Defense authorization bill. What is this Congress turning into?

It is almost Christmas and we cannot get our work done. The intelligence authorization bill—we have people giving these patriotic speeches about all the things that need to be done. We cannot do the intelligence authorization bill. That is the bill that directs our intelligence-gathering activities in America. Why? Because they will not let us talk about Abu Ghraib and what has gone on in the military prisons around the world. They will not let us do it, so they are not going to do the bill—they meaning the Republican leadership.

People complain about appropriations bills having stuff in them that they should not. Well, anybody who has any thought of an appropriations bill being pork, wait until the scope of conference changes.

The distinguished Presiding Officer of the Senate at this time has told me—and I have heard him give public speeches—about how he thinks there should not be extraneous things in appropriations bills. Well, I say to my distinguished friend, who is a medical doctor and extremely intelligent, if you cannot see the incongruity of allowing ANWR to be placed on an appropriations bill, then you are a lot less intelligent than I think you are. How could anybody allow this to happen?

Then the final thing I will mention briefly is the PATRIOT Act. The PATRIOT Act yesterday was brought to this Senate in the form of a conference report. A group of Democrats and Republicans felt the bill that passed the Senate Judiciary Committee unanimously, came to the Senate floor and passed unanimously and was taken to that place across the aisle, the House of Representatives, the other body, and came back here a different animal, is now a different bill. It was not the same thing. The Senate Judiciary Committee approved it unanimously and it was approved unanimously in the Senate. It was different legislation.

That is why human rights and civil rights groups on the right and the left politically opposed it. We did the right

thing. We want the PATRIOT Act to be extended for 3 months to see if Senator SPECTER and Senator LEAHY can work something out so that the problems with it—and there are significant problems—can be worked out.

I do not appreciate insinuations and intimations that those people who opposed cloture yesterday were unpatriotic. I am opposed to terrorists as much as anybody in this country. I voted for the first PATRIOT Act and I am glad I did. We sunsetted certain things in that first PATRIOT Act because we were pushed, because of the events of 9/11, to get the law changed so we could go after terrorists better than we did. So do not come and give lectures about someone being more patriotic than others and understanding the terrorists more than others. Everyone in this Senate, Democrat and Republican, is patriotic and opposes terrorists, these evil people around the world. We want to do everything we can to defeat terrorists, but we want to do it recognizing that we in America live by a document called the U.S. Constitution that directs what we do.

We can have security and we can have liberty at the same time. When we start saying security is more important than the liberties of the American people, this country is in trouble.

The PRESIDING OFFICER (Mr. GRAHAM). The Senator from Alabama.

Mr. SESSIONS. Mr. President, I ask a question of the Senator before he yields the floor.

Mr. LEVIN. Mr. President, I reclaim my time to the floor if I have any time remaining.

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

Mr. LEVIN. In that case I will not reclaim my time.

Mr. SESSIONS. I ask the distinguished Democratic leader—he is a great and skilled advocate, and I know everybody is a bit frustrated at the end of the session, but I do not think he meant to accuse the distinguished Senator COCHRAN and the members of the Appropriations Committee, who have reached a little different conclusion than he would, of being corrupt. He used that word twice. Perhaps it is important for us to recognize that there are a lot of disagreements around here.

Mr. REID. I would be happy to respond to my friend. I respond this way: Corruption is more than money corruption. There is intellectual corruption. The point I was making with the distinguished Senator from Oklahoma, who I care a great deal about, is that people do not like the appropriations process because there is too much money being spent on extraneous matters that they feel are unimportant, such as a swimming pool in Sparks, NV, or something such as that. I am saying if you do not like that, then you are going to hate the process after this precedent is overruled and you can put anything you want in an appropriations bill. There would be no scope of conference and that is what I said and that is what I meant.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. COBURN. Mr. President, I want to respond. First, I think it is unfortunate when somebody is in the chair that such a statement was made without thankfully someone else being in the Chamber to allow me the opportunity to respond to it.

There is a lot wrong with the process in the Senate and I am sure the distinguished Senator from Nevada probably has an intellectual heads-up on me. I do not doubt that. But what is wrong is deception, not policy changes, and you have never heard this Senator say anything about problems with putting policy riders on appropriations bills.

What I have been very clear about from the day I arrived in the Senate is that there should not be earmarks that are used in politically beneficial ways for individual Members of the body because what that does, in fact, is put the country second and us first. It puts the next election ahead of the next generation.

To equate that with policy changes that go along and use my position as somebody who is fighting hard to change the appropriations process and to use me as an example, because you may not at this time be happy—I am not happy we are here, I am not happy that anything gets stuck on anything, but I also recognize the history of things that have gone on in this body and the other body and how at the end of a session things get tacked on to lots of things.

I will not be used, nor will I allow my position to be used, to wedge other people into thinking I am inconsistent, and I will defend that. My consistent criticism of the appropriation process is on earmarks and on earmarks alone and us living within the amount of moneys we have and not using the earmark process to advantage your own political career.

I want to make sure everybody in this country understands that what you are talking about is something wholly different than that. This is policy. I am not happy about any additional spending that is not paid for, I don't care what bill it comes through, and I have made it very clear to my leadership, on any bill that comes out of this end-of-the-year process.

Mr. REID. Mr. President, reclaiming my time, I say through the Chair to the distinguished Senator from Oklahoma, first of all, I thought I was complimenting the Senator from Oklahoma. If I did not, I apologize. I thought explaining—maybe some people watching this don't know that you are a medical doctor. I also would say to my distinguished friend that when someone is presiding and their name is mentioned, they always have the capacity to speak, not as a Presiding Officer but as a Senator. So you would have every right to respond if I said something with which you disagreed.

I would say this. The reason I think you should check out what I said is

that, under the present rules, you cannot put policy on appropriations bills. It is only for money matters. The Senator said he doesn't object to policy matters on appropriations bills. I do because right now it is not within the scope of the rules. That is what they are attempting to change here, and I think it is wrong.

I say, Mr. President, if I in any way embarrassed the Senator from Oklahoma or said something that offended him, I apologize because I certainly didn't mean to do that. I thought just the opposite, I was trying to compliment him. Maybe I need a lesson in how to compliment people, but that is what I was trying to do.

Mr. COBURN. Mr. President, I would tell the Senator from Nevada I take no personal offense but would also state there hasn't been an appropriations bill coming out of this body in 20 years that hasn't had policy changes directed and attached to it. They all do. If you seriously look at them, there are policy directions on every one of them because the Congress spends all its time appropriating rather than authorizing—the very issue the Senator from Michigan is talking about. Consequently, this year we are going to appropriate \$190 billion on items that are not even authorized.

The Senator from Nevada is gracious. I wanted to make sure my point was clear on my position in terms of earmarks and spending. I don't like this process any better than he does, but I am willing to do what we need to do for our country to get it done. I don't want us to corrupt the process, but I will tell you that the process needs to completely be revised in terms of appropriations. We should never be in this position that we find ourselves today.

With that, I yield the floor.

Mr. REID. Through the Chair to the distinguished Senator from Oklahoma, one reason I got on this subject is you were quoted yesterday—actually, it is now Saturday—you were quoted the day before yesterday saying:

It's wrong for members of Congress to use our troops as political cover for new spending. . . . If Senators want to pass additional funds related to hurricane relief or the avian flu, for example, those measures should be amendable and not attached to must-pass bills that cannot be amended.

That is my whole point. Why change the rules? I would further say that I will not raise the Senator's name again other than the quote I just read here.

I am going to read a letter indicating that I am not out in left field about complaining about what is happening to our defense legislation, appropriations and authorization. I have a letter here dated December 17. I think today is the 18th. It is written to me and Senator FRIST.

We are very concerned that the fiscal year 2006 Defense Appropriations Bill may be further delayed by attaching a controversial non-defense provision to the defense appropriations conference report.

It is ANWR.

We know that you share our overarching concern for the welfare and needs of our troops. With 160,000 troops fighting in Iraq, another 18,000 in Afghanistan, and tens of thousands more around the world defending this country, Congress must finish its work and provide them the resources they need to do their job.

We believe that any effort to attach controversial legislative language authorizing drilling in the Arctic National Wildlife Refuge . . . to the defense appropriations conference report will jeopardize Congress' ability to provide our troops and their families the resources they need in a timely fashion.

The passion and energy of the debate about drilling in ANWR is well known, and a testament to vibrant debate in our democracy. But it is not helpful to attach such a controversial non-defense legislative issue to a defense appropriations bill. It only invites delay for our troops as Congress debates an important but controversial non-defense issue on a vital bill providing critical funding for our nation's security.

The final sentence:

We urge you to keep ANWR off the defense appropriations bill.

Signed by:

General, U.S. Marine Corps (Ret.) Joseph P. Hoar; General, U.S. Marine Corps (Ret.) Anthony C. Zinni; Lieutenant General, U.S. Army (Ret.) Claudia J. Kennedy; Vice Admiral, U.S. Navy (Ret.) Lee F. Gunn; and Stephen A. Cheney, Brigadier General, U.S. Marine Corps (Ret.)

That is what we are facing here. We have to get real. The rules we have are rules that we should follow. The reason this body has worked so well for 216 years is that we have rules, and they are to be followed. The debate sometimes is arcane. It takes a long time. Sometimes it is difficult to stop people from talking too much. But those are the rules we have here, and we should follow them.

It does not take a rocket scientist to understand that on a Defense appropriations bill, we should not be debating ANWR. I say to anyone, anyone who is a Senator, we should not let this happen. I don't care who puts it on the bill, no matter how powerful the person may be, we should not allow that to happen. We should not allow that to happen. It is not good for this body, as seen by these senior military.

To put on Defense authorization campaign finance reform is absolutely wrong—wrong.

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

Mr. LEVIN. Mr. President, first we thank the Democratic leader for supporting the fundamental principle that has been violated with this authorization bill. It is a very different principle from the one the Presiding Officer feels so passionately about. It is a principle which I have, I believe, never seen violated.

The Senator from Alabama, who is on the floor, and the Senator from South Carolina, who is on the floor—they signed a signature sheet, I believe, on our Defense authorization. I think every Republican and I think every Democrat signed the signature sheet.

The issue which the Presiding Officer feels so passionately about, which is

earmarks on an appropriations bill and items being added on an appropriations bill, raises a whole different issue under a different rule. I believe his passion on this issue is admired by many in this body. But the principle that Senator WARNER and I are talking about is a principle which is embedded, it is so fundamental—that once a conference report is signed there is no way that it can be or should be changed. No way can material be inserted in a conference report.

This is in all of our interests. If in the conference we decided to add material which had not been discussed by either body, that would then raise the issue in which the good Presiding Officer is very passionately involved. I share many of his concerns. That is not his issue. The conference did not add this material. This is not an earmark added by the conference, which had never gone through either body. This is material that apparently the Republican leadership in the House wants to add after the conference is closed, after we signed the signature sheets, without going through the process of sending the conference report to the House and having them refer it back to conference if they want to. None of us can accept that. As a matter of principle, we cannot accept that.

Mr. GRAHAM. Will the Senator yield?

Mr. LEVIN. I am happy to yield to my friend.

Mr. GRAHAM. Mr. President, this last hour is a good example of what we have come to as a Senate and a Nation. I come to the Senate to support Senator LEVIN's statement and Senator WARNER's statement. We have had a knockdown drag-out over the authorization bill. Everyone gave and we got a product the country can be proud of.

What has happened, as Senator LEVIN has described, we cannot survive politically if this is allowed to stand. A lawyer in private practice could get disbarred for doing something such as this.

My understanding of what has happened—and if I am wrong, I apologize, and I hope Senator LEVIN will correct me if I am wrong—there was a matter added to the conference report totally unrelated to defending our Nation that has a major policy decision—which I happen to support, by the way, but not under these circumstances—that basically changes the entire political process if it is allowed to stand. None of us are safe. Our word means nothing and our signature means nothing if you can change the document after everyone agreed to a certain set of facts.

This is a defining moment for the Senate and the House. If we do not fix this now, it is going to eat at us all and our country will suffer.

Mr. LEVIN. If the Senator will yield, my understanding is there is an effort being made to insert material. It has not yet been inserted because Senator WARNER and I, through our staff, asked our staffs to go over to the House and

withdraw our signatures before the material could be inserted.

It was the effort to insert it, the threat to insert it which was transmitted to Senator WARNER and transmitted to me through him and through Congressman SKELTON. This is not an effort on the part of Chairman HUNTER, by the way. As I understand it, it is the Republican leadership in the House that is determined to find a way to insert material into the conference report after the signature sheets have been signed. That is what I know about it.

Senator WARNER was so disturbed about it, I was so disturbed about it, we decided we were not going to take a chance. We cannot risk this.

Mr. GRAHAM. If the Senator will yield, I wish every American knew what was in the Defense authorization bill. In the Defense authorization bill are provisions to allow guard members and reservists to get health care for themselves and their families. They need it now more than ever. They are authorizing bonus programs for people who are serving worldwide now who are overtasked and underpaid.

To take this bill that will authorize much-needed relief to the troops in the field, that will keep our equipment modern, will allow us to aggressively deal with the war on terror, capture the moral high ground with the McCain language, do the habeas reform package we worked on—to have that come down by inserting something after the fact is a low blow. It will eat away at the heart of this body.

Mr. LEVIN. I thank my dear friend from South Carolina.

It is an effort we cannot allow to succeed. We are in bipartisan agreement on this issue. It is the deepest form of process where we must be able to rely upon each other's commitment and signature. We cannot let that shake. There are all kinds of differences in this Senate. Sometimes between Democrats and Republicans, sometimes between Democrats and Democrats, between Republicans and Republicans. There are differences between us and other Members of the Senate. When a signature is affixed, when a conference report is signed, we cannot possibly contemplate any change in that conference report even if we agree with it.

By the way, as the Senator from South Carolina said, I believe I am in agreement with the principle of the material which they seek to add. I know Senator WARNER told me he is in agreement with it in principle. It is bedrock principles. You do not go deeper than this.

We also have a rule—I know the Presiding Officer is focused on the issue I want to spend 1 minute on—we have a rule relative to legislating on appropriations, which the Senator made reference to in his remarks. We also have rule XXVIII which has to do with material in a conference report which is out of scope. That rule was abided by so that if anyone ever made a point of

order that material in a conference report was out of scope, if the Presiding Officer ruled, the body would not overrule the Presiding Officer.

But we made a mistake in the early 1990s when we overruled the Chair. There is material added to conference reports all the time, by the way, which has the agreement of conferees, which is out of scope that has the agreement of conferees. It might not have the agreement of everyone in the body, but everyone in the conference report agrees to it. That happens all the time. But what never happened until that one moment in the early 1990s, a point of order was made that there was material out of scope in a conference report and the point of order was sustained by the Chair. The Chair was overridden. That created havoc around here. So much so that a few years later we restored the rule and we wiped out the precedent which was created by overruling the Chair.

That is what the issue is in the defense appropriations bill. That is what this issue is going to be. That is different from legislating on an appropriations bill. Forgive me for getting into the details, but I spent a few days studying the difference and I don't want to waste my effort the last few days to try to understand this distinction. The issue on the appropriations bill, since all of us are friends and we are sitting here on a Saturday evening talking to each other this way, the difference on the appropriations bill and not legislating—I forget the number of the rule, but is not rule XXVIII—there is a different rule from the one that is at issue on defense appropriations.

The issue on the defense appropriations bill is whether we would overrule the Chair who will rule that the Arctic drilling issue is out of scope and out of order, and whether we are then going to override that ruling and put us back in the same morass we were in in the early 1990s, which caused us a few years later to reverse that precedent, undo that terrible precedent which actually made our rules into mush. We cannot have a rule which sometimes applies and sometimes does not, we override it every other day and restore it every other day. We cannot operate that way and hold our heads up as being legislators.

I thank my Chair and my friends for their patience. Let me close by confirming what the Senator from South Carolina said about the importance of the bill. It increases pay by 3.1 percent, which is half a percent higher than inflation. We have been fighting for that a long time. It increases the death gratuity to all active-duty deaths from \$12,000 to \$100,000, retroactive to the beginning of Operation Enduring Freedom. It authorizes a new special pay of \$435 a month during hospitalization. It authorizes new leave for up to 21 days when adopting a child. We can go on and on. The Senator from South Carolina mentioned a few of them and my friend from Alabama knows this be-

cause he works hard on these issues, too.

We are trying to put items in here in this bill which are good for the troops, good for their families, good for the Nation, good for our security. We cannot watch this effort go down the drain after it was such a tremendous effort made to finish this bill. We set a record, folks. We had the shortest period of time to do an authorization bill and we had the record number of amendments that we were able to resolve. We set two records on this bill. Those records go down the drain unless the House leadership decides they are not going to try to do something that, as far as I know, has never been done before, which is to insert material in a bill somehow after the signature sheets have been signed.

There is a process. If the bill goes to the House and they want to refer it back to conference to consider something, in scope or out of scope, that is their right. But when this threat came that they were looking for a way to insert other matter into this conference report, after we had signed the sheets, Senator WARNER—I cannot pay enough tribute to Senator WARNER—is taking a very strong stand against the leader of his own party and the House of Representatives. I commend him for it. I hope the leadership of the House will relent and allow us to move forward with this important bill.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, I will follow up on that. I think the House leadership and many on this side do feel the language would be good for the country and it is the right thing to do. And if everybody agrees, a lot of things happen around here. But if Senator LEVIN and Senator WARNER have concluded they do not want to discuss any additional additions, it is not going to happen; it is just not going to happen. Unanimously, if anybody agreed to add something, something that everybody likes, maybe it could occur. Sometimes one side has to push a little harder to make sure the other side understands how strongly they feel about it. But at some point, if Senators WARNER and LEVIN do not agree to this alteration, it is not going to be in the bill.

So as a legal principle, I know they used to always say: There ain't no harm in asking. So they have tried. But I am not sure it will work if we are not going to see their support for it.

ABU GHRAIB

Mr. SESSIONS. Mr. President, I will say something about Senator REID's, the Democratic leader's, reference to Abu Ghraib, suggesting that this bill, the legislation in this Defense bill has been held up perhaps because nobody wants to do anything about what has been going on in Abu Ghraib. Once again, it deeply concerns me. Once again, we are having the suggestion, if

not a plain statement, that we need to pass legislation and we need to have congressional hearings to stop things such as what occurred in Abu Ghraib.

I was a member of the Armed Services Committee. I am a member of the Judiciary Committee. We have had about 20 hearings on Abu Ghraib. But do you know how we found out about Abu Ghraib? We found out about it at a press briefing in Baghdad by a U.S. Army general or colonel who said they had reports of abuse at Abu Ghraib and they were taking steps to investigate it. And they did so. They found people had violated the law. They prosecuted them. A number of them are in jail this very day.

We did not need to pass one single law for that to happen because it was in violation of military standards. In fact, none of the mistreatment of prisoners at Abu Ghraib had to do with trying to interrogate them. These people were not interrogators. They were prison guards, manning the prison at the graveyard shift, who lost their discipline, abused those prisoners, and had no real excuse for it. As one of them said, Smith—I believe he was a sergeant—he said: We all knew there would be hell to pay if anybody found out what we did. It was not approved. We were not ordered to do it. It was not part of our military standard and training.

I remember, very vividly, during that time that an African-American colonel in combat, as soldiers were taking hostile fire—they captured someone, one of the terrorists or bad guys—and he fired a gun beside his head to frighten him and to get him to tell some information. There was a life-and-death matter for his troops. They drummed him out of the service. He never touched the guy. He never hurt him. It was a moment of passion and intense feeling and reaction to being in a life-and-death struggle. He is out of the military even though he had a quite distinguished career.

Our military does not approve of abusing and torturing prisoners. In fact, we have a statute that defines torture, and they have worked hard to stay within it. People who do not stay within it get prosecuted. Now, we have ideas to go further, and that has been put as a part of this bill, and it is going to become law. I hope it doesn't go too far. But we have never approved of the kinds of things that went on in Abu Ghraib. We have never approved of torture. We have a statute, passed by this Congress, that prohibits torture by the military or anyone else. We do not allow that. It is not part of our standards as a nation. But to say there can never be any stress on prisoners who have great intelligence, and who are threats to America, I don't think has been consistent with the law of warfare.

I will note, parenthetically, that it became quite clear, as went through our hearings, that the Geneva Conventions, which protect soldiers in lawful

combat—those protections do not apply to these prisoners. They do not wear uniforms. They do not operate on behalf of a state, a legitimate nation state, even a quasi-legitimate nation state. They do not adhere to standards of behavior. They do not carry their guns openly and their weapons openly. They sneak around and murder women and children, innocent civilians, contrary to the laws of warfare. Therefore, they do not gain the protections of the Geneva Conventions. But they are protected against torture, and they are entitled to that protection. They should be granted it. And if anybody violates those standards, they are prosecuted by the U.S. military.

I think the military has taken far too much abuse on this. They did a huge study of Guantanamo, Gitmo. I have been there twice. I know the standards those guards operate under. They have a phrase they greet each other with when they see each other on the base, one soldier to another. They say: Honor bound. And when they see you, they say: Honor bound, sir. They have high standards. They found three abuse cases, most minor, that were discovered after a review down there, and disciplinary action was taken concerning those. But they are not being mistreated every day, abused or tortured. I reject that.

PATRIOT ACT

Mr. SESSIONS. Mr. President, I also say this. I am not aware of a single proponent of the PATRIOT Act who has accused any Member on the other side, or any Member who opposes the PATRIOT Act, of being unpatriotic. Where did that come from? I would like to search the RECORD. I would like to see that. I do not think it has occurred. I have not heard anybody over here say that. We say: You are wrong. We say you are making a mistake, that you ought to reconsider, you ought to study the act and see that it does not threaten our liberties, that it is consistent with our constitutional protections this great Nation provides.

If you do not pass it, I will repeat, this legislation will lapse as of December 31, and it will place our Nation at greater risk. There is no doubt about that. I would repeat, again, it is stunningly surprising to me that we end up, after the bill passed here unanimously in the Senate, unanimously in the Judiciary Committee, and it went to conference with the House of Representatives. At conference, most of the disagreements were resolved in favor of our bill. Who has ever heard of a bill of this size that did not have some changes in conference? They were all minor. Most of the changes resulted in movement toward the Senate bill.

Some of the provisions were left to be sunsetted in 4 years by the Senate bill. The House said they should be sunsetted in 10 years, so they would stay in effect for 10 years before they would have a full up-or-down review for

reauthorization. We said 4 years. So we went to conference, and we thought agreement had been reached on 7 years. After we signed the conference report—Senator KYL and others—we thought we had an agreement at 7 years. This is what we normally do in these deals, sort of split the difference when you can. And Senator LEAHY and the Democratic members had a fit. No, no, no, it had to be 4 years. It had to be 4 years. And we argued that was not appropriate.

Senator KYL and I, particularly, were involved in those discussions, being members of the conference committee. We thought 7 years was a good compromise. That was the last issue to be decided, and we totally agreed to go to 4.

That was the Senate version exactly. They wanted 7 as a compromise. The House wanted 10 in their bill. We ended up totally winning on the Senate position.

There was a dispute about delayed notification warrants. The Senate bill that passed unanimously in the Judiciary Committee and on the Senate floor said the warrant that is executed, after prior approval by a U.S. judge who has made a specific additional finding on facts presented to that judge, is justified to delay notification to the person's residence who is being served. In those circumstances, delayed notification is essential because these matters are going to involve tremendous security and are of tremendous importance to an investigation of this kind. In the Senate, we decided that investigators should report back to the judge within 7 days. After 7 days, you could then ask for an additional period of time before you notified the person whose residence had been searched.

The House bill set the delayed notification period for 180 days. They said: In a terrorist investigation, you could delay notification to the person whose house was searched for 180 days.

So we had a big brouhaha over that. We agreed to 30 days, which is far closer to the Senate version than to the House. Frankly, it didn't make a whole lot of difference because you have to have prior judicial approval to delay notice. And if you want to continue to delay notice, you have to prove that there is an existing continuing threat and danger. It is not a big deal.

This bill is about to expire, and those are the kinds of things that they say are such tremendous changes that now we should not even get an up-or-down vote. The fact that we are going to allow this bill to expire and not allow it to become law, will result in the wall going back up between the CIA and the FBI. That makes no sense.

Frankly, there are some things in here that worry me. One of the things you have to do to delay notice or to not notify someone under a 215 order is to have an agent certify that not doing would result in a threat to America. It is hard to certify that. Some people think they will just say it anyway.

They can't just say it anyway. These are professionals. They know what the standards are. They know that we have to have some proof to justify delayed notice or non-notification. The notification question has to be so significant that they can articulate and have proof that it represents a threat to somebody. I think that is too high a standard in these kinds of rare cases involving national security and the investigation of terrorism.

There is a show on one of the cable stations right now called "Sleeper Cell." They have an undercover operative in one of these terrorist cells, and he meets with them. That is something you would love to see. One time I saw it. They had some hypothetical scene in which they said this was the only sleeper cell that they had ever penetrated. I don't know how many sleeper cells are penetrated today, but that is a hard thing to do. It is hard to get somebody in one of these closed, tightknit groups to know what they are doing. But if they do, they can go into the person's house. They can go wherever they are invited to go with the bad guys and record them if they have a recorder. That is perfectly legitimate under the law. But you don't often have that. And so how do you protect America?

You have to have records and documents. You have to be able to obtain evidence. Someone says: This individual came into our neighborhood, our community, Mr. FBI Agent. I just heard him talking. It sounded like he was talking about maybe being a terrorist. He sounded like he was involved in terrorist talk.

What does that agent need to do? He needs to act quickly. What would be one of the first things he would want to do? He is in contact with other terrorist groups. Is he communicating with terrorists around the world? How would you find that out? You don't need to tap their phones. All you would really need to do is obtain a subpoena for telephone toll records. A local county district attorney can subpoena telephone toll records to investigate an individual on a marijuana charge. Why in the world couldn't an FBI agent be able to get a subpoena for these records if he certifies under oath that it is related to a national security matter? Then if you see a bunch of telephone toll records between that individual and a known terrorist organization somewhere, you know this is not just a tip, this is the real thing.

That is what goes on in our investigative agencies today. They are not out there trying to snoop on your or my phone calls. They would be bored stiff listening to my phone calls.

This legislation is sound. It has been carefully debated. It came out of the Senate 4 years ago with only one "no" vote. It has even more civil liberties protections in it now than it did then. We ought to be passing it. We don't need to allow this legislation to lapse.

I am chagrined that the leadership was virtually ambushed. From out of

nowhere comes this full-fledged filibuster led by the Democratic side. Yes, there were four Republicans who voted against cloture. But only 2 of the 45 Democrats voted to move the bill forward. It was basically blocked by the Democratic Party. They had the votes to block it.

It is disappointing. We need not to allow this to happen. I hope my colleagues will review the bill, that they will think about those agents out there this very day trying to protect us from harm, and that they will consider carefully their votes. Let's move forward.

There is some thought that we can just moderate this bill some more, that we will just keep on weakening the bill, and that will be the price to pay for passing it. I don't think this bill needs to be weakened. I don't think it needs to be undermined any more than it is right now. It is a sound piece of legislation, and I will oppose that.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. GRAHAM. Mr. President, I rise to echo what Senator SESSIONS just said. I have tried to be involved with this detainee issue in as balanced a way as I can. I don't want my country to go down the road of adopting the tactics of our enemy. That has never been the issue. We have had some people who have done some bad things, and they have been prosecuted. But when you get editorials from major papers such as the New York Times saying our troops routinely abuse people, that is ludicrous. There have been thousands of people detained in this war. Some have been mistreated. We are prosecuting those people. We can do better, but we will do better. We are trying to get a grip on our policies so that we cannot only live up to who we are as a people but defend ourselves, too.

This enemy knows no bounds. This enemy is a ruthless enemy. They train each other to allege abuse. That is part of the al-Qaida manual. They will say anything. We want a process to make sure that real allegations are dealt with honestly and that mere accusations do not require us to let these people go and not be able to defend ourselves.

This editorial refers to the so-called war on terror. That is a mindset we need to reject. This is not a so-called war.

I just got back from Iraq. It is a real war. Five minutes before the polls opened, they lobbed a shell over where we were staying. One marine was injured. It is a real war to him and to all the other people who have been wounded and to the families who have lost their loved ones. It is a real war to the 3,000 people killed on 9/11 and their families. It is a real event. We are at war.

I am insistent that my country live up to its obligations under treaties, the law of armed conflict. I am equally insistent that our law reflect we are at war.

Senator SESSIONS is a former U.S. attorney.

We are not fighting crime here, we are fighting a war or terror. The PATRIOT Act is not about prosecuting people who are involved in criminal enterprises. The PATRIOT Act is about preventing the infiltration of our country by a foreign enemy who wants to blow us up and kill Americans.

During World War II, the War Powers Act was passed, and that makes this bill look like the ACLU. There were some very strong measures taken after Pearl Harbor, and they worked. The Germans and Japanese infiltrators were caught and our country, for the most part, was not infiltrated. The FBI and other organizations did a marvelous job protecting us against ruthless enemies, the Nazis and the Japanese.

This enemy is just as ruthless. We don't have to pick and choose between abandoning the rule of law and civil liberties. We don't have to choose between letting people go or anything goes. That is not the choice. The PATRIOT Act is a balance. Here is what I worry the most about: As we try to straighten out past mistakes, as we try to come up with new policies, I worry that we are slowly but surely losing the idea that we are at war. That is beginning to fade, and we are approaching this problem we face called terrorism as if it were a domestic criminal event. If we do that, our enemy will have opportunities they do not deserve. Our people will suffer.

So count me in and sign me up for adhering to the law of armed conflict and for maintaining the moral high ground. But I reject an effort to criminalize what I think is world war III.

I yield the floor.

(Mr. CHAMBLISS assumed the Chair.)

Mr. SESSIONS. Mr. President, I will ask him to tell us how many years he has been a U.S. Army JAG officer. He has been so familiar with all these issues and has provided much leadership to it with some great ideas in recent weeks on some of the amendments he has offered. I think people need to listen to what he said about the difference between war and criminality.

The President said at the beginning that we cannot treat this as crime; this is war. I think the Congress was all for it. We all said "yes." And now these issues arise again. I thank the Senator for sharing that. I had one more question I wanted to raise with him.

Mr. GRAHAM. I appreciate the compliment. I don't want to defame the Army. I am in the Air Force. I have been in the Air Force as an Active-Duty Reserve lawyer for 20-something years. By no means am I an international expert, but I feel as though I am going to get a master's degree in this type of law when this is all over. The bottom line is, I have a general understanding of how the law of armed conflict works versus domestic criminal law because that is what I used to

do. That is what I kind of still do. I understand the difference between defensive measures. Keeping an enemy from infiltrating a country is a different need than trying to domestically control the behavior of your own citizens. Sometimes your own citizens jump sides and join the enemy. When they do that, I don't have a lot of sympathy for them. So we have a different task at hand.

This is not regulating U.S. domestic criminal enterprises. This is trying to stop an enemy that is hell-bent on coming back. And they are coming. They are here. Thanks to fighting them hard, we have stopped them for 4 years. But it is inevitable that we are going to hit again.

Mr. SESSIONS. Will the Senator yield for one more question?

Mr. GRAHAM. Yes.

Mr. SESSIONS. I was pleased to be able to join with Senator GRAHAM and Senators LIEBERMAN, BAYH, BROWNBACK, and a number of other Senators, in forming a caucus or a group to treat the energy threats to this country as a national security threat. Now I think it is unfortunate—and it is a complex Senate that we are operating in today—that ANWR legislation will be a part of that bill. I wish it did not have to be, but things boiled down at the end of the session to that way. I would like to have the Senator share some thoughts on the philosophy of that bipartisan group that energy is security for our Nation.

Mr. GRAHAM. I thank the Senator for the question. I think we have come to the conclusion, after \$3-a-gallon gas, oil and gas prices are also good domestic politics because we all got our heads handed to us at home. Everybody is upset. If you are working in South Carolina making \$7, \$8, \$10-an-hour and gas is \$3 a gallon, it really hits home. What we came together on is trying to find a political solution to the domestic problem. What Senator SESSIONS indicated is that we came together on the fact that if we are this dependent as a Nation on Mideast oil, fossil fuels, 10 or 20 years from now, we have done our Nation a disservice because our national security interest is best served when we can be independent from forces we cannot control. We should, as a Nation, a long time ago have become more energy independent. It is a national mistake, from a security perspective, to have this much dependence on fossil fuels from a region that is this volatile. It weakens our ability as a Nation to protect ourselves.

In that regard, some Republicans and Democrats have come up with a proposal to be aggressive to wean us off Mideast foreign oil because it really does hurt our national security interest. We should not be this beholden to any region of the world for everyday functions in this country.

A final thought about the PATRIOT Act. Those who oppose it, I respect you for standing up for the American way, civil liberties. But there has to be a

balance here. When I go to the library, I don't want to be bothered. Let me tell you, if there is a reason to believe somebody is going to the library or using everyday life in America as a tool to infiltrate our country and do damage, I think we have to have a balance because they are here. The Presiding Officer knows better than I that they are here. The hijackers of 9/11 had multiple driver's licenses. They know how to game the system. They know how to get access to our technology and our science. If we don't have the common sense to have a balanced approach to get ahead of them, and if we play this game that this is crime and not a war, we are going to empower them beyond what is reasonable.

If we leave as a body and let this act expire because we cannot find common ground, then I think we have done the country a great disservice, and the enemy would appreciate that.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. COBURN. Mr. President, parliamentary inquiry: It is my understanding—and I ask the Chair if this is correct—that a Presiding Officer, under the rules of the Senate, is not allowed to engage in debate other than to object to motions in his capacity from the State from which he comes; is that correct?

The PRESIDING OFFICER. Under the precedent of the Senate, the Presiding Officer has no right to engage in conversation with Senators on the floor. He should not participate in debate.

Mr. COBURN. OK.

The PRESIDING OFFICER. However, a Senator may vote from the chair.

Mr. COBURN. I thank the Chair. In the earlier discussion we had, it was stated by the minority leader that the Presiding Officer can debate from the chair. I did not think that was right. In fact, it is not correct.

I want to wrap up with a couple of thoughts. We have had a lot of discussion this evening about process and precedent and keeping your word. As we think about what that means to our country, we ought to go a little further back and think about the heritage that has been given to this country by those who came before us. I want to characterize a couple points of that.

One is doing whatever we have to do, including personal sacrifice, to assure opportunity and a great future for those who follow.

It seems to me, as we get hung up on a discussion of process, that we ought to pay as much attention to heritage. I mean by that, we are having trouble passing the Labor-HHS bill. It is the first bill to come through this Senate in a number of years that doesn't have any earmarks on it. I suspect the reason people don't want to vote for it is because they did not get the political benefit of placing the public's dollars to their own political advantage.

The other point is we hear debate that it does not supply enough. The

real heritage that came before us is Members of this body making the hard choices—not easy choices, hard choices—about priorities. We are at such a point that this next year is going to be a very difficult year for us in terms of how we pay for a war, how we pay for Katrina, and the related items we have an obligation to pay for, and not diminish the opportunity and the future of our children and our grandchildren.

I think we would be very wise to not put the purity of our own process ahead of our basic morality and ethics of maintaining the heritage this country has.

I will not say any more. I know we are about to wrap up, and I appreciate the time.

I yield the floor, and 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 the order for the quorum call be rescinded.

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

CELEBRATING THE LIFE OF JIM SCHLINKMANN

Mr. REID. Mr. President, today I rise to honor the life of a public servant who worked in one of the most beautiful corners of Nevada, Great Basin National Park. James "Jim" Schlinkmann was chief ranger of the park and passed away while returning home from an assignment on the National Park Service Team assisting with Hurricane Wilma recovery.

I met Jim several times at the park, most recently during this year's Fourth of July weekend when I traveled out to Baker, NV, for the grand opening of the new Great Basin Visitor Center. On that day, Jim personally presented me with a spectacular photo of a Great Basin National Park icon, an ancient bristlecone pine.

I have an especially clear recollection of that day, and of Jim, because the opening of the new visitor center was such a special event. Cowboy poetry was read, patriotic songs were sung, and friends came together to celebrate the tremendous landscape that exists at Great Basin National Park. The picture that Jim presented to me is now hanging in my Reno office and is a joyful reminder of that day and of the last time I got to visit with Jim.

I know from my conversations with Jim and from the park's superintendent that Jim loved the mountains of Great Basin National Park where he spent the last 5 years. He will most definitely be remembered fondly there. And I will remember his dedicated public service at Great Basin and all the many parks he served during his 23-year career.

Some of Jim's many accomplishments include his expertise as a rock

climber that allowed him to make enormous contributions to the National Park Service technical rescue program. Jim helped develop some of the first organized technical rescue courses at Joshua Tree National Park and for 7 years was a lead instructor for the National Park Service Technical Rescue Course, which is taught annually at Canyonlands National Park.

Before coming to Great Basin, Jim served as the chief ranger at Devils Tower National Monument in Wyoming. The former superintendent of Devils Tower recalls Jim as an outstanding liaison to both the climbing community and to the American Indian community. In addition to his tours of duty at Great Basin, Joshua Tree and Devils Tower, Jim also served as a ranger at Shoshone National Forest, Denali National Park and Rocky Mountain National Park.

Jim Schlinkmann was a man who dedicated himself to protecting the very best of America's lands and who represented the very best of America's spirit.

I will miss seeing him on my next visit to Great Basin National Park. And I will be thinking about him the next time I look up at the remarkable snow-covered peaks of the south Snake Range.

COMMEMORATING THE ACHIEVEMENTS OF SANDY LEE AVANTS

Mr. REID. Mr. President, today I rise to honor a woman who has dedicated herself to serving the people of Nevada and who has left a lasting impact through her work in government.

Ms. Sandy Lee Avants was born and raised in Phoenix, AZ. Following graduation from Arizona State University, she moved to Las Vegas. As a testament to Sandy's character, within the first month of her residence in Las Vegas, she immediately became involved in the local community through service clubs.

Sandy has had success both in her professional life and in public service. Following a prosperous private business enterprise, she began her career in Nevada's government when Senator Richard Bryan was serving as Governor. Governor Bryan then appointed Sandy to be chairman of the State of Nevada's Commission on Ethics in 1983 and in 1986 appointed her as the administrator of the Real Estate Division. In 1987, Sandy became the first woman to head a State law enforcement agency when she became the administrator of the Taxicab Authority.

Sandy's accomplishments came at a time when Nevada needed them the most. Her most recent appointment was to the Transportation Service Authority, TSA, in Nevada, where she served as the deputy commissioner, commissioner, and chairwoman. At TSA, she administered and enforced Nevada's law related to passenger transportation, household goods move-

ment, and car towing companies. Additionally, she ensured that consumers utilizing these services were protected. Sandy has met the needs of a rapidly growing public and shown her professionalism and commitment to Nevada and its people.

Those are a few of the many visible contributions that Sandy made to the community, but her most important contributions were made outside of the public eye. Sandy was a founding member and president of the Greater Las Vegas Women's League. She is also a founding member of the International Association of Transportation Regulators, and a Community Advisory Board at the University of Nevada, Las Vegas. During her time in Nevada, Sandy enrolled in various courses at the National Judicial College and received certification as an administrative law judge and mentor. From 1999 through 2002, Sandy worked closely with me in Washington, DC, creating congressional legislation to improve transportation in Nevada.

I have known Sandy for many years and recognize the many contributions she has made to the community. Sandy's hard work and character have left a lasting impression on our State and community.

Sandy recently retired from the Nevada State government, but I am sure that she will continue working in public service through her numerous volunteer positions. The State of Nevada is fortunate to have Sandy Avants. I offer her my gratitude and wish her all the best as she embarks on new endeavors.

FULL FUNDING FOR PANDEMIC FLU PREPAREDNESS

Mr. REID. Earlier today, Senator FRIST spoke about the importance of preparing our Nation for the serious and growing threat of an influenza pandemic.

Members of this body made pandemic flu a priority when it unanimously adopted an \$8 billion amendment to combat avian flu offered by Senate Democrats.

I hope that Senator FRIST will join me in standing by this commitment and will work to ensure that Congress provides for the full \$8 billion America needs to begin addressing this critical issue before we adjourn.

The avian flu has spread to 15 countries and killed 70 of the 137 individuals it has infected. Scientists are warning that it is only a matter of time before this virus mutates to a new strain that will allow for sustained human-to-human transmission and cause the next pandemic.

The human and economic impact of an influenza pandemic on our Nation would be devastating.

According to a recent report by the Congressional Budget Office, a severe flu pandemic could infect 90 million U.S. residents and 2 million would die.

Thirty percent of the workforce would become ill and those who sur-

vived would miss 3 weeks of work. This lost productivity and decrease in consumer spending could cause a \$675 billion reduction in U.S. gross domestic product and move the Nation into a recession.

Perhaps the only thing more troubling than the human and economic consequences of an avian flu pandemic is the fact that our Nation is dangerously unprepared to deal with it.

We are not dedicating enough resources to global surveillance activities that allow us to detect and contain an outbreak of avian flu.

If we are unable to contain a pandemic overseas, our strongest defense at home will be an effective vaccine. However, our domestic vaccine manufacturing capacity is so inadequate it could take nearly a year to produce and distribute a vaccine.

Effective drugs that can slow the spread of a pandemic until a vaccine is developed are only available for 2 percent of our population.

Finally, all of these problems are compounded by the fact that our public health infrastructure cannot handle a pandemic and the medical community, businesses, and general public must be better prepared for a pandemic.

All of these facts are reasons why Congress must immediately address the avian flu threat and why the Senate voted to do just that earlier this year.

I am troubled by reports that congressional Republicans are on the verge of approving about half of the amount approved by the Senate.

Senator FRIST rightly pointed out that the threat of pandemic flu is not and should not be a partisan issue. A pandemic strain of flu will not distinguish between Democrats or Republicans.

That is why I hope that Senator FRIST will stand with me and will continue to fight for the full funding level approved by the Senate so our Government may begin to prepare and protect our Nation from this looming threat.

STEM CELL THERAPEUTIC AND RESEARCH ACT

Mr. BROWNBACK. Mr. President, I rise to speak on the Stem Cell Therapeutic and Research Act of 2005, which would establish a national cord blood stem cell bank. This legislation was agreed to last night during wrap-up under unanimous consent.

I would like to congratulate the majority leader and all parties involved in yesterday's achievement, which resulted in passage of the cord blood bill. As you will recall, it was just 2 days ago that the other side, through the junior Senator from Iowa, reaffirmed their objections to consideration of this important legislation.

Their objections, it seems, were not substantive as this legislation has been championed by Members from both sides of the aisle and as further evidenced by the lifting of objections and

the cord blood bill passing without any opposition. Passage without any opposition in the Senate is truly rare. Rather, the other side's objections were tied to their support for additional funding of highly controversial destructive human embryonic stem cell research, which despite sufficient funding and years of research has yet to cure—or even treat—one human patient yet.

Clearly, the other side wants a vote on their embryonic stem cell legislation, which requires the destruction of young human lives. On the other hand, I and many of my colleagues would also like for us to have an up-or-down vote on the Human Cloning Prohibition Act or the Human Chimera Prohibition Act, but we have been denied this by the other side. There will be a time for a vigorous debate on all of these issues next year, and I look forward to engaging in that debate.

However, ethical, noncontroversial cord blood stem cell research should not have been made the political football that it was for the intervening months between House passage of the bill in May and yesterday's action in the Senate. Once again, I would like to commend all of my colleagues for depoliticizing the issue of cord blood. Patients will be benefited almost immediately, and, yes, more kids' lives will be saved because we passed this bill yesterday, rather than sometime next year. I applaud the other side for recognizing this fact.

Yesterday, the junior Senator from Iowa took to the floor and challenged my statement from Thursday evening that "more kids will die if we don't take up the cord blood bill." I would merely like to spend a few minutes highlighting the truth of my statement.

Cord blood stem cell research involves the blood from human umbilical cords. Cord blood contains a high number of pluripotent stem cells; and it is currently treating real people and saving many lives.

Contemplation of cord blood stem cell's therapeutic power is something that many in my office are currently contemplating, as at least five staff members or their spouses are expecting babies right now. We even thought that one of them was coming a few nights ago, but it was a false alarm.

Unlike human embryonic stem cells, which require the destruction of young human beings, umbilical cord blood stem cells are completely ethical as their derivation and use results in no harm to any human beings. Cord blood has incredible therapeutic power.

To better harness the power of cord blood, thereby saving more lives, the cord blood bill that passed last night was essential. While I had worked closely with Senator SPECTER in channeling appropriation funds to establish a national cord blood stem cell bank, without the authorizing legislation, which we passed last night, these funds did not have the necessary structure to be effective.

However, should the House send the bill to the President tonight—as we expect—a structure will go into effect that will immediately begin collecting cord blood units and making them available to Americans suffering from a variety of diseases from blood cancers to neurological diseases. Without the structure that cord blood bill provides, many fewer patients will benefit and some waiting on cord blood will die.

To highlight this, I will share a few stories of real people who have been successfully treated with cord blood stem cells.

The first story is of Keone Penn, a young man cured of sickle cell anemia a disease that afflicts more than 70,000 Americans, particularly African Americans. Keone, of course, tells his story the best; so listen to his testimony before a Senate Science Subcommittee hearing that I chaired on June 12, 2003:

My name is Keone Penn. Two days ago, I turned 17 years old. Five years ago, they said I wouldn't live to be 17. They said I'd be dead within 5 years. I was born with sickle cell anemia. Sickle cell is a very bad disease. I had a stroke when I was 5 years old. Things got even worse after that. My life has been full of pain crises, blood transfusions every two weeks, and more times in the hospital than I can count. The year before I had my stem cell transplant, I was in the hospital 13 times. I never was able to have a normal life. My stem cell transplant was not easy, but I thank God that I'm still here. I will graduate from high school this year. I want to become a chef because I love to cook. I think I'm pretty good at it. Sickle cell is now a part of my past. One year after my transplant, I was pronounced cured. Stem cells saved my life.

It is important to realize though that cord blood treats many other diseases. Consider the story of Erik Haines, who received a successful cord blood stem cell transplant to treat Krabbe disease. Krabbe disease is an often fatal neurological disease. This helps to illustrate how broadly effective cord blood stem cells really are.

Erik Haines made medical history at age 2 when he became one of the first cord blood transplant patients at the University of Minnesota on July 24, 1994. Erik had suffered from the genetic blood disorder Krabbe disease, from which his younger brother Adam died. Since his umbilical cord blood transplant, annual exams at the University of Minnesota are not full of foreboding or anxiety; and check-ups with Erik's pediatrician likewise seem routine. Also, like many boys, Erik enjoys baseball, soccer, and swimming. Erik's father Paul Haines says:

The only real lasting effects are complications from the radiation he received—small cataracts. He wears glasses and has a little trouble seeing the board from the back of the room.

Both Keone and Erik's treatments took place in the 1990s, and cord blood stem cell research has made even greater progress since then. We learn of new, exciting developments every month.

Just 2 weeks ago, we heard about this on local DC television stations.

On November 30, 2005, two local DC TV stations reported on separate life saving cures emerging from umbilical cord blood stem cells. Channel 7 focused on the Korean cord blood stem cell treatment for spinal cord injury and the procedure's first U.S. patient, a Virginia woman.

Channel 4 highlighted two children in a local family—Riverdale, MD—cured of SCIDS—severe combined immune deficiency syndrome—also known as "bubble boy disease" by cord blood from unrelated donors.

And on October 23, 2005, the Chicago Tribune reported:

Cord blood is surprising researchers with previously unrecognized healing powers that go far beyond its known effectiveness against childhood leukemia and some other disorders. Early research in animals suggests that cord blood may provide a new bounty of cures and treatments for many other medical conditions, including heart attack, Parkinson's disease, stroke, Alzheimer's disease, muscular dystrophy, diabetes, spinal cord injury and amyotrophic lateral sclerosis . . . In May, the New England Journal of Medicine published a study showing that a cord blood transplant performed as soon as possible after birth can, for the first time, stop the deadly course of Krabbe disease.

There are thousands of testimonies of the efficaciousness of cord blood stem cells. There are also innumerable new stories and medical journal articles on amazing advances in disease treatments in real human patients with cord blood stem cells.

There are more than ample, documented medical articles, on which I base my claim that because the Senate acted and passed the cord blood bill this week, more kids' lives will be saved.

As for speculative, destructive, human embryonic stem cell research, there is not yet even one patient trial with embryonic stem cells for any disease; and it is not for lack of years of research, prohibitions—there are none—or lack of funding. It is because embryonic stem cells form cancers and tumors due to their immature state. Regarding destructive human embryonic stem cell research, even the prestigious journal *Science* acknowledged on June 17, 2005, that:

It is nearly certain that the clinical benefits of the research are years or decades away. This is a message that desperate families and patients will not want to hear.

With last night's passage of the Stem Cell Therapeutic and Research Act, the Senate formally recognized the life-saving value of cord blood stem cell research. I have worked closely with Senator SPECTER over the past few years to appropriate nearly \$20 million for the purpose of establishing a national cord blood bank. And I am proud to be an original cosponsor of the bipartisan legislation that passed out of this chamber last night.

I am also proud that we were able to move in a bipartisan manner on this legislation. Working alongside Senators HATCH, DODD, SPECTER, HARKIN, ENZI, and FRIST on this issue was a

pleasure and helps to demonstrate that the two parties can work together effectively.

Everybody wins with cord blood stem cell research. Patients win because they receive successful treatments and cures. Human dignity wins because cord blood stem cell research respects all human life and does not kill the young human embryo, as is the case with human-destructive embryonic stem cell research.

Cord blood doesn't just hold promise. Cord blood is producing real treatments and even real cures for a variety of maladies afflicting real people right now. Passage of this bill should be celebrated, and I commend my colleagues for this wonderful achievement.

I yield the floor.

Mr. CHAMBLISS. Mr. President, I want to congratulate Chairman SPENCER and Chairman ROBERTS for their extraordinary work in forging a conference report on the reauthorization of certain provisions of the USA PATRIOT Act. I remain disappointed that many concessions were made to minority members of the conference which not only did not result in their support of the conference report but which, in my judgment, are unwise on the merits.

On November 17, I wrote to the conferees identifying some of these unwise concessions. They included: a three-part test for relevance in section 215; additional reporting requirements and inspector general audit provisions; sunseting the "lone-wolf" wolf FISA warrant provisions; thirty day initial limit on delayed notice search warrants; applying minimization provisions to subpoenas; and the deletion of important death penalty provisions which were contained in the House version.

In my letter, I urged that no further concessions be made. Yet further concessions were made. These additional concessions include stripping a criminal penalty of up to 1 year imprisonment for a knowing and willful violation of the nondisclosure provision of national security letters. This makes a mockery of the nondisclosure provision itself.

Despite these significant accommodations which were made in the interest of bipartisan compromise, I am distressed to learn that, even now, certain of my colleagues are not only still opposing this bill, but are urging further delay, further compromise, and further weakening of the bill. This effort should be soundly rejected by this body. However, should there be a delay, and the opportunity for additional changes to the conference report, I will urge that we revisit these ill-advised concessions already made and that they be deleted from the bill. That said, I hope that we do not go down that road. I hope that both sides will rise above our particular preferences for a perfect bill, and vote for the good of the Nation and its citizens who have been protected by this historic legislation for the last 5 years.

I am also disappointed that certain of my colleagues have seen fit to oppose the conference report over a single issue—the appropriate standard of judicial review of the national security letters nondisclosure provisions. These opponents would ask courts to assess potential damage to national security rather than the officials in our Government in the intelligence and diplomatic community who are the only ones capable of making such determinations based on all available intelligence and investigative information.

While I am not pleased with every provision of this final bill, some of which I have just reviewed, on balance I am satisfied that overall the final language agreed to represents a reaffirmation of the Nation's commitment to modernization of our criminal and intelligence investigative laws and commonsense law enforcement.

The USA PATRIOT Act provisions, which Congress wisely passed following the terrorist attacks on our soil and the callous murder of innocent civilians, have stood the test of time. The act's provisions have helped to keep us safe and to protect our liberties which were jeopardized, not by expanded governmental authority, but by violent attacks against our way of life by terrorists.

Those who urge further changes and further weakening are, in my judgment, playing a dangerous political game, intended or not, at the expense of our national security and our personal liberties—liberties protected by the commonsense provisions of the PATRIOT Act. Provisions of the act have been utilized to accomplish amazing victories in the war on terrorism and to keep us safe and free. Let me highlight just a few from information provided by the Department of Justice:

The Department of Justice successfully dismantled a Portland, OR, terror cell known as the "Portland Seven." Members of this terror cell had attempted to travel to Afghanistan in 2001 and 2002 to take up arms with the Taliban and al-Qaida against United States and coalition forces fighting there. The USA PATRIOT Act information-sharing provisions were critical in taking down the Portland cell.

The Department of Justice successfully convicted members of an al-Qaida cell in Lackawanna, NY, that involved several residents of Lackawanna who traveled to Afghanistan in 2001 to receive training at an al-Qaida-affiliated camp near Kandahar. Five of the Lackawanna Six pleaded guilty to providing material support to al-Qaida, and the sixth pleaded guilty to conducting transactions unlawfully with al-Qaida. The USA PATRIOT Act information-sharing and national security letter provisions were critical to this case.

The Department of Justice successfully prosecuted the so-called Virginia Jihad case involving members of the Dar al-Arqam Islamic Center, who trained for jihad in Northern Virginia,

including eight individuals who traveled to terrorist training camps in Pakistan or Afghanistan between 1999 and 2001. Six of the defendants have pleaded guilty and three were convicted in March 2004 of charges including conspiracy to levy war against the United States and conspiracy to provide material support to the Taliban. The USA PATRIOT Act was critical to this case.

In May of 2003, Ahmed Omar Abu Ali was arrested after having sought out and joined an al-Qaida cell in Medina, Saudi Arabia, where he received training in weapons, explosives, and document forgery. He, along with other members of the cell, began to develop plans for several potential terrorist attacks against the United States, including a plot to assassinate President Bush. Abu Ali was recently convicted in Federal district court.

On November 23, 2005, Uzair Paracha was convicted in New York of all five counts in an indictment that included charges of conspiracy and providing material support to al-Qaida. Paracha traveled to the United States in February 2003 to assist al-Qaida, including posing as a person Paracha knew to be an al-Qaida associate, obtaining immigration documents that would permit that al-Qaida member to enter the United States, and conducting financial transactions involving the al-Qaida associate's bank accounts.

The Department of Justice also indicted Mohammed Junaid Babar for material support of al-Qaida after he arranged for a month-long jihadi training camp, at which attendees received training in basic military skills, explosives and weapons. Among the attendees were individuals who were plotting to bomb targets abroad. Babar pleaded guilty to providing material support, among other charges, and cooperated with ongoing investigations.

New York defense attorney Lynne Stewart, Mohammed Yousry, and Ahmed Abdel Sattar were recently convicted by a jury of material support charges in connection with passing messages to a terrorist organization, known as the Islamic Group, from Sheik Abdel Rahman, the Islamic Group's imprisoned leader. Abdel-Rahman is serving a life sentence plus 65 years for his role in terrorist activities, including the 1993 bombing of the World Trade Center. Sattar was also convicted of conspiring to kill persons in a foreign country and for solicitation of crimes of violence.

On October 24, 2005, the Department of Justice announced the historic extradition of the notorious Taliban-linked narcoterrorist Baz Mohammad. Mohammad has been indicted for allegedly manufacturing and distributing tens of millions of dollars worth of heroin in Afghanistan and Pakistan. He was closely aligned with the Taliban and other Islamic-extremist groups in Afghanistan, providing financial support to the Taliban with proceeds from heroin sales in the United States.

John Walker Lindh, the "American Taliban" captured on the battlefield in Afghanistan, pleaded guilty to supporting the Taliban and has been sentenced to 20 years in prison. As part of his plea agreement, Lindh has provided information about training camps and fighting in Afghanistan.

Another potentially devastating attack was averted when Richard Reid, the so-called shoe bomber, was foiled in his attempt to detonate a bomb on American Airlines flight 63 during flight. Reid was charged as a trained terrorist for this attempted terrorist attack. He pled guilty to all charges and was sentenced to life imprisonment on January 30, 2003.

The Department of Justice successfully detected and disrupted sinister plans in Lodi, CA. Hamid Hayat was indicted and charged with material support to terrorists after he allegedly attended a terrorist training camp in Pakistan in 2004 and returned to this country with the intent of committing jihad against America. Additional associates have been deported and one charged with two counts of lying to Federal agents.

In *United States v. Odeh*, a naroterrorism case, investigators used a court-issued delayed-notice search warrant to search an envelope mailed to a target of the investigation. The search confirmed that the target was operating an illegal money exchange to funnel money to the Middle East, including to an associate of an apparent Islamic Jihad operative in Israel. The delayed-notice provision allowed investigators to conduct the search without compromising an ongoing wiretap on the target and several confederates.

The information sharing between intelligence and law enforcement personnel made possible by USA PATRIOT Act section 218 was useful in the investigation of two Yemeni citizens, Mohammed Ali Hasan Al-Moayad and Mohshen Yahya Zayed, who were charged in 2003 with conspiring to provide material support to al-Qaida and Hamas. Following their indictment, Al-Moayad and Zayed were extradited to the United States from Germany, and both were convicted in March 2005 of conspiring to provide material support to a foreign terrorist organization.

The Department of Justice used USA PATRIOT Act section 218 to gain access to intelligence that facilitated the indictment of Enaam Amaout, the executive director of the Illinois-based Benevolence International Foundation, BIF. Arnaout had a long-standing relationship with Osama bin Laden and used his charity organization both to obtain funds illicitly from unsuspecting Americans for terrorist organizations, such as al-Qaida, and to serve as a channel for people to contribute money knowingly to such groups. Arnaout ultimately pleaded guilty to a racketeering charge, admitting that he diverted thousands of dollars from BIF to support Islamic militant groups in Bosnia and Chechnya.

He was sentenced to more than 11 years in prison.

The broader information sharing made possible by USA PATRIOT Act section 218 also assisted the prosecution in San Diego of several persons involved in an al-Qaida drugs-for-weapons plot, which culminated in two guilty pleas. Two defendants, Muhamed Abid Afridi and Ilyas Ali, admitted that they conspired to distribute approximately five metric tons of hashish and 600 kilograms of heroin originating in Pakistan to undercover U.S. law enforcement officers. Additionally, they admitted that they conspired to receive, as partial payment for the drugs, four Stinger anti-aircraft missiles that they then intended to sell to the Taliban, an organization they knew at the time to be affiliated with al-Qaida. Afridi and Ali pleaded guilty to the felony charges of conspiracy to provide material support to terrorists and conspiracy to distribute heroin and hashish. The lead defendant in the case is currently awaiting trial.

Section 218 of the PATRIOT Act was critical in the successful prosecution of Khaled Abdel Latif Dumeisi, who was convicted by a jury in January 2004 of illegally acting as an agent of the former government of Iraq as well as two counts of perjury. Before the gulf war, Dumeisi passed information on Iraqi opposition members located in the United States to officers of the Iraqi Intelligence Service stationed in the Iraqi mission to the United Nations. During this investigation, intelligence agents conducting surveillance of Dumeisi pursuant to FISA coordinated and shared information with law enforcement agents and prosecutors investigating Dumeisi for possible criminal violations. Because of this coordination, law enforcement agents and prosecutors learned from intelligence agents of an incriminating telephone conversation that took place in April 2003 between Dumeisi and a coconspirator. This phone conversation corroborated other evidence that Dumeisi was acting as an agent of the Iraqi government and provided a compelling piece of evidence at his trial.

The use of cigarette smuggling to fund terrorism has been of grave concern. On January 23, 2003, in *United States v. Akhdar, et al.*, the Department of Justice indicted members of an organization that smuggled low-taxed and untaxed cigarettes from State to State to evade sales tax. The defendants produced counterfeit tax stamps, laundered money, obstructed justice, and committed arson, and many are suspected of having links to and financing the terrorist organization Hizballah. As the investigation has continued, additional indictments have been filed, and many defendants have pleaded guilty to charges including RICO violations and material support.

Investigators have also been able to avert potentially devastating attacks on our children. Ahmed Hassan al-

Uqaily, an Iraqi national, spoke of "going jihad," and arranged to procure pistols, machine guns, grenades and a "tank missile," while suggesting he might target several Jewish schools in the Nashville area. An undercover agent completed the deal, posing as the weapons supplier, and the Iraqi national agreed to pay \$1,000 for two machine guns, ammunition and inert grenade components. The aspiring terrorist was arrested on October 7, 2004, and was sentenced on October 24, 2005, to 57 months in prison.

The PATRIOT Act has kept us free and kept us safe, and is doing so day in and day out. It is essential that this Congress renew this historic legislation and I urge my colleagues to support the bill. We owe no less to the future generations of Americans and the freedom-loving peoples of the world. The stakes are too high to ignore our obligation.

ADDITIONAL STATEMENT

TRIBUTE TO THE CARROLL COLLEGE FIGHTING SAINTS

• Mr. BURNS. Mr. President, I rise today to pay tribute to the best NAIA football team in the Nation. The Carroll College Fighting Saints of Helena, MT, defeated the St. Francis University Cougars in Savannah, TN, earlier today.

The Saints beat the Cougars by a final score of 27-10 for their fourth straight NAIA National Championship. Today's "Rumble on the River" was also a historic victory marking the first NAIA team to win four straight national titles. Only one other team on any level of modern college football has won four straight titles.

The Saints' defense entered today's game as the best in the Nation allowing an average of only nine points per game this season.

We have some very talented football players in Montana at all levels of play. But today belongs to the Fighting Saints.

As on any football team, each player has a role in the success or failure of the team. However, it is important to recognize those players who were individually awarded for their efforts. All Americans like Kyle Baker, Casey Crites, and Tyler Emmert contribute to the team's success.

Saints' quarterback Tyler Emmert had thrown this season for 3,039 yards and 32 touchdowns prior to entering today's game, becoming the NAIA career leader in total offense.

He has accounted for 13,681 yards in his entire career and owns a record of 50-3 as a starter for the Saints. Now that record is 51-3.

Congratulations as well to Coach Mike Van Diest and his staff as well as to Dr. Thomas Trebon, president of Carroll College.

What an impressive team. What an impressive run of seasons.●

MESSAGES FROM THE HOUSE

At 6:27 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that pursuant to clause 11 of rule 1, the Speaker removes the gentleman from Michigan, Mr. UPTON, as a conferee on S. 1932 and appoints the gentleman from Texas, Mr. BARTON, to fill the vacancy thereon, in the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1932) to provide for reconciliation pursuant to section 202(a) of the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95).

The message also announced that the House agree to the amendment of the Senate to the bill (H.R. 3402) to authorize appropriations for the Department of Justice for fiscal years 2006 through 2009, and for other purposes.

The message further announced that the House has agreed to the following bills, in which it requests the concurrence of the Senate:

H.R. 4519. An act to amend the Public Health Service Act to extend funding for the operation of State high risk health insurance pools.

H.R. 4525. An act to temporarily extend the programs under the Higher Education Act of 1965, and for other purposes.

H.R. 4568. An act to improve proficiency testing of clinical laboratories.

H.R. 4579. An act to amend title I of the Employee Retirement Income Security Act of 1974, title XXVII of the Public Health Service Act, and the Internal Revenue Code of 1986 to extend by one year provisions requiring parity in the application of certain limits to mental health benefits.

ENROLLED BILLS SIGNED

The message also announced that the Speaker has signed the following enrolled bills:

H.R. 4324. An act to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to reauthorize the predisaster mitigation program, and for other purposes.

H.R. 4340. An act to implement the United States-Bahrain Free Trade Agreement.

H.R. 4436. An act to provide certain authorities for the Department of State, and for other purposes.

Under authority of the order of the Senate of today, December 17, 2005, the enrolled bills were signed subsequently by the Majority Leader (Mr. FRIST).

At 7:25 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bill and joint resolution, in which it requests the concurrence of the Senate:

H.R. 4437. An act to amend the Immigration and Nationality Act to strengthen enforcement of the immigration laws, to enhance border security, and for other purposes.

H.J. Res. 75. Joint resolution making further continuing appropriations for the fiscal year 2006, and for other purposes.

The message also announced that the House has agreed to the following con-

current resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 324. Concurrent resolution directing the Secretary of the Senate to make a technical correction in the enrollment of S. 1281.

The message further announced that the House agree to the amendment of the Senate to the amendment of the House to the bill (S. 467) to extend the applicability of the Terrorism Risk Insurance Act of 2002.

The message also announced that the House agree to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (S. 1281) to authorize appropriations for the National Aeronautics and Space Administration for science, aeronautics, exploration, exploration capabilities, and the Inspector General, and for other purposes, for fiscal years 2006, 2007, 2008, 2009, and 2010.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC-5028. A communication from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Cambridge, Newark, St. Michaels, and Stockton, Maryland and Chincoteague, Virginia)" (MB Docket No. 04-20) received on December 12, 2005; to the Committee on Commerce, Science, and Transportation.

EC-5029. A communication from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Mt. Enterprise, Texas and Hodge, Louisiana)" (MB Docket No. 05-34) received on December 12, 2005; to the Committee on Commerce, Science, and Transportation.

EC-5030. A communication from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Connorsville, Madison, and Richmond, Indiana, Erlanger and Lebanon, Kentucky, and Norwood, Ohio; and Lebanon, Lebanon Junction, New Haven, and Springfield, Kentucky)" (MB Docket No. 05-17) received on December 12, 2005; to the Committee on Commerce, Science, and Transportation.

EC-5031. A communication from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Eminence, Potosi, Rolla, Lebanon and Linn, Missouri)" (MB Docket No. 01-151) received on December 12, 2005; to the Committee on Commerce, Science, and Transportation.

EC-5032. A communication from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Lake City, Chattanooga, Harrogate, and

Halls Crossroads, Tennessee)" (MB Docket No. 03-120, RM-10591 and RM-10839) received on December 12, 2005; to the Committee on Commerce, Science, and Transportation.

EC-5033. A communication from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Rankin and Sanderson, Texas)" (MB Docket No. 02-253) received on December 12, 2005; to the Committee on Commerce, Science, and Transportation.

EC-5034. A communication from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Hornbeck, Louisiana, and Mojave and Trona, California)" (MB Docket Nos. 05-46 and 05-109) received on December 12, 2005; to the Committee on Commerce, Science, and Transportation.

EC-5035. A communication from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Terrebonne, Oregon)" (MB Docket No. 02-123) received on December 12, 2005; to the Committee on Commerce, Science, and Transportation.

EC-5036. A communication from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Bass River Township and Ocean City, New Jersey)" (MB Docket No. 05-188) received on December 12, 2005; to the Committee on Commerce, Science, and Transportation.

EC-5037. A communication from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Milner, Ellaville, and Plains, Georgia)" (MB Docket No. 05-106) received on December 12, 2005; to the Committee on Commerce, Science, and Transportation.

EC-5038. A communication from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Wilmington, Mount Sterling, Zanesville, and Baltimore, Ohio)" (MB Docket No. 04-161) received on December 12, 2005; to the Committee on Commerce, Science, and Transportation.

EC-5039. A communication from the Senior Legal Advisor, Chief Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Digital Television Distributed Transmission Systems" (FCC 05-192, MB 05-312) received on December 12, 2005; to the Committee on Commerce, Science, and Transportation.

EC-5040. A communication from the Deputy Chief, Policy and Rules Division, Office of Engineering and Technology, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Requirements for Digital Television Receiving Capability" (ET Docket No. 05-24) received on December 12, 2005; to the Committee on Commerce, Science, and Transportation.

EC-5041. A communication from the Assistant Bureau Chief, Enforcement Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Review of the Emergency Alert System" (EB Docket No. 04-296, FCC 05-191) received on December 12, 2005; to the Committee on Commerce, Science, and Transportation.

EC-5042. A communication from the Associate Bureau Chief, Wireless Telecommunications Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Improving Public Safety Communications in the 800 MHz Band" (WT Docket No. 02-55, FCC 05-174) received on December 12, 2005; to the Committee on Commerce, Science, and Transportation.

EC-5043. A communication from the Assistant Chief, Wireline Competition Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "In the Matter of Federal-State Joint Board on Universal Service, Schools and Libraries Universal Service Support Mechanism, Rural Health Care Support Mechanism, Lifeline and Link-up, Order in CC Docket Nos. 96-45, 02-6, WC Docket Nos. 02-60, 03-109" (FCC 05-178) received on December 12, 2005; to the Committee on Commerce, Science, and Transportation.

EC-5044. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans and Operating Permits Program; State of Iowa" (FRL8010-9) received on December 16, 2005; to the Committee on Environment and Public Works.

EC-5045. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "List of Hazardous Air Pollutants, Petition Process, Lesser Quantity Designations, Source Category List" (FRL8009-5) received on December 16, 2005; to the Committee on Environment and Public Works.

EC-5046. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "NESHAP: National Emission Standards for Hazardous Air Pollutants; Standards for Hazardous Air Pollutants for Hazardous Waste Combustors" (FRL8009-3) received on December 16, 2005; to the Committee on Environment and Public Works.

EC-5047. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "TSCA Inventory Update Reporting Partially Exempted Chemicals List Addition of Certain Aluminum Alkyl Chemicals" (FRL7732-6) received on December 16, 2005; to the Committee on Environment and Public Works.

EC-5048. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "TSCA Inventory Update Reporting Revisions" (FRL7743-9) received on December 16, 2005; to the Committee on Environment and Public Works.

EC-5049. A communication from the President, National Center for Policy Analysis, transmitting, the Center's Third Quarter Report; to the Committee on Finance.

EC-5050. A communication from the United States Trade Representative, Executive Of-

fice of the President, transmitting, pursuant to law, the Office of the U.S. Trade Representative's Buy American Report for fiscal year 2004; to the Committee on Finance.

EC-5051. A communication from the Commissioner, Social Security Administration, transmitting, pursuant to law, a report entitled "Report on Improvements to the Enumeration at Birth Process"; to the Committee on Finance.

EC-5052. A communication from the Regulations Coordinator, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Medicare Program; Coverage and Payment of Ambulance Services; Inflation Update for Calendar Year 2006" (RIN0938-AN99) received on December 16, 2005; to the Committee on Finance.

EC-5053. A communication from the Regulations Coordinator, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Medicare Program; Application of Inherent Reasonableness Payment Policy to Medicare Part B Services (Other Than Physician Services)" (RIN0938-AN81) received on December 16, 2005; to the Committee on Finance.

EC-5054. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Clean Renewable Energy Bond Notice" (Notice 2005-98) received on December 16, 2005; to the Committee on Finance.

EC-5055. A communication from the Assistant Secretary of Defense (Special Operations/Low-Intensity Conflict), transmitting pursuant to law, the Fiscal Year 2005 annual report on the Regional Defense Counterterrorism Fellowship Program; to the Committee on Armed Services.

EC-5056. A communication from the Publications Control Officer, Department of the Army, Department of Defense, transmitting, pursuant to law, the report of a rule entitled "Armed Forces Disciplinary Control Boards and Off-Installation Liaison and Operations" (RIN0702-AA50) received on December 16, 2005; to the Committee on Armed Services.

EC-5057. A communication from the Chairman, Federal Election Commission, transmitting, pursuant to law, the report of a rule entitled "State, District, and Local Party Committee Payment of Certain Salaries and Wages" (Notice 2005-27) received on December 16, 2005; to the Committee on Rules and Administration.

EC-5058. A communication from the Chairman, Federal Election Commission, transmitting, pursuant to law, the report of a rule entitled "Electioneering Communications" (Notice 2005-29) received on December 16, 2005; to the Committee on Rules and Administration.

EC-5059. A communication from the Chairman, Federal Election Commission, transmitting, pursuant to law, the report of a rule entitled "Extension of Administrative Fines Program" (Notice 2005-30) received on December 16, 2005; to the Committee on Rules and Administration.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. BENNETT (for himself and Mr. SCHUMER):

S. 2141. A bill to make improvements to the Federal Insurance Deposit Act; considered and passed.

ADDITIONAL COSPONSORS

S. 2082

At the request of Mr. BAUCUS, his name was added as a cosponsor of S. 2082, a bill to amend the USA PATRIOT Act to extend the sunset of certain provisions of that Act and the lone wolf provision of the Intelligence Reform and Terrorism Prevention Act of 2004 to March 31, 2006.

AMENDMENT NO. 2681

At the request of Mr. KENNEDY, his name was added as a cosponsor of amendment No. 2681 proposed to H.R. 3402, a bill to authorize appropriations for the Department of Justice for fiscal years 2006 through 2009, and for other purposes.

MAKING FURTHER CONTINUING APPROPRIATIONS FOR THE FISCAL YEAR 2006

Mr. FRIST. Mr. President, I ask unanimous consent the Senate proceed to H.J. Res. 75, the continuing resolution, which is at the desk; provided further that the resolution be read three times and passed, and the motion to reconsider be laid on the table.

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

The resolution (H.J. Res. 75) was read the third time and passed.

AUTHORITY TO SIGN

Mr. FRIST. Mr. President, I ask unanimous consent that during the adjournment of the Senate, the majority leader be authorized to sign duly enrolled bills or joint resolutions.

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

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. FRIST. I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nominations on today's Executive Calendar: Calendar No. 213, 365, 374, 383, 425, 426, 442, 465, 466, 467, 468, 470, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482; provided further that the Commerce Committee be discharged from further consideration of the following nominations and the Senate proceed to these en bloc: PN1119, PN1120, PN1121, PN1122. I further ask unanimous consent that the nominations be confirmed en bloc, the motions to reconsider be laid on the table, the President be immediately notified of the Senate's action and the Senate then return to legislative session.

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

The nominations considered and confirmed en bloc are as follows:

ENVIRONMENTAL PROTECTION AGENCY

Susan P. Bodine, of Maryland, to be Assistant Administrator, Office of Solid Waste, Environmental Protection Agency.

DEPARTMENT OF COMMERCE

Santanu K. Baruah, of Oregon, to be Assistant Secretary of Commerce for Economic Development.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

John O. Agwunobi, of Florida, to be an Assistant Secretary of Health and Human Services.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

John O. Agwunobi, of Florida, to be Medical Director in the Regular Corps of the Public Health Service, subject to the qualifications therefore as provided by law and regulations.

NATIONAL TRANSPORTATION SAFETY BOARD

Mark V. Rosenker, of Maryland, to be a Member of the National Transportation Safety Board for a term expiring December 31, 2010. (Reappointment)

Kathryn Higgins, of South Dakota, to be a Member of the National Transportation Safety Board for a term expiring December 31, 2009.

DEPARTMENT OF ENERGY

Jeffrey D. Jarrett, of Pennsylvania, to be an Assistant Secretary of Energy (Fossil Energy).

DEPARTMENT OF JUSTICE

Catherine Lucille Hanaway, of Missouri, to be United States Attorney for the Eastern District of Missouri for the term of four years.

EXECUTIVE OFFICE OF THE PRESIDENT

Dale W. Meyerrose, of Indiana, to be Chief Information Officer, Office of the Director of National Intelligence. (New Position)

FEDERAL TRADE COMMISSION

William E. Kovacic, of Virginia, to be a Federal Trade Commissioner for a term of seven years from September 26, 2004.

J. Thomas Rosch, of California, to be a Federal Trade Commissioner for the term of seven years from September 26, 2005.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Bruce Cole, of Indiana, to be Chairperson of the National Endowment for the Humanities for a term of four years. (Reappointment)

DEPARTMENT OF EDUCATION

Stephanie Johnson Monroe, of Virginia, to be Assistant Secretary for Civil Rights, Department of Education.

UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

Donald A. Gambatesa, of Virginia, to be Inspector General, United States Agency for International Development.

DEPARTMENT OF STATE

Marilyn Ware, of Pennsylvania, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Finland.

MERIT SYSTEMS PROTECTION BOARD

Mary M. Rose, of North Carolina, to be a Member of the Merit Systems Protection Board for the term of seven years expiring March 1, 2011.

DEPARTMENT OF HOMELAND SECURITY

George W. Foresman, of Virginia, to be Under Secretary for Preparedness, Department of Homeland Security.

IN THE COAST GUARD

The following named officer for appointment in the United States Coast Guard Reserve to the grade indicated under Title 10, U.S.C., section 12203:

To be rear admiral (lower half)

Capt. Michael R. Seward, 0000

DEPARTMENT OF COMMERCE

David Steele Bohigian, of Missouri, to be an Assistant Secretary of Commerce.

DEPARTMENT OF THE TREASURY

Antonio Fratto, of Pennsylvania, to be an Assistant Secretary of the Treasury.

DEPARTMENT OF COMMERCE

David M. Spooner, of Virginia, to be an Assistant Secretary of Commerce.

EXECUTIVE OFFICE OF THE PRESIDENT

Richard T. Crowder, of Virginia, to be Chief Agricultural Negotiator, Office of the United States Trade Representative, with the rank of Ambassador.

IN THE COAST GUARD

The following named officer for appointment to the grade indicated in the United States Coast Guard Reserve under title 10, U.S.C., section 12203(a):

To be captain

James R. Montgomery, 0000

The following named officer for appointment to the grade indicated in the United States Coast Guard under title 14, U.S.C., section 276:

To be commander

Richard E. Petherbridge, 0000

The following named officers for appointment to the grade indicated in the United States Coast Guard under title 14, U.S.C., section 271:

To be commander

Benes Z. Aldana, 0000

Robert J. Backhaus, 0000

Robert E. Bailey, 0000

Christopher A. Bartz, 0000

Emile R. Benard, 0000

David C. Billburg, 0000

Elizabeth D. Blow, 0000

Francis T. Boross, 0000

James M. Boyer, 0000

Michael C. Brady, 0000

Craig S. Breitung, 0000

Jeffrey M. Brockus, 0000

Jacob E. Brown, 0000

Scott A. Budka, 0000

Matthew C. Callan, 0000

Nicholas D. Caron, 0000

Jeffrey T. Carter, 0000

David K. Chareonsuphiphat, 0000

Joseph A. Chop, 0000

Richard S. Craig, 0000

David H. Cronk, 0000

Mark T. Cunningham, 0000

Anthony C. Curry, 0000

Kenneth D. Dahlin, 0000

John M. Danaher, 0000

Christopher L. Day, 0000

Ronald R. Dewitt, JR, 0000

Jeffrey F. Dixon, 0000

Brian J. Downey, 0000

David A. Drake, 0000

Darren A. Drury, 0000

Kevin P. Dunn, 0000

Andrew G. Dutton, 0000

James L. Duval, 0000

David W. Edwards, 0000

Eric S. Ensign, 0000

Brad J. Ervin, 0000

David M. Flaherty, 0000

Eric J. Ford, 0000

Theodore B. Gangsei, 0000

Timothy J. Gilbride, 0000

Brian S. Gilda, 0000

Joseph J. Gleason, 0000

Thomas J. Glynn, 0000

Mark E. Hammond, 0000

David C. Hartt, 0000

Charles A. Hatfield, 0000

The following named officers for appointment to the grade indicated in the United States Coast Guard under title 14, U.S.C., section 271:

To Be lieutenant commander

Stephen Adler, 0000

Kristina M. Ahmann, 0000

Michael W. Albert, 0000

Ryan D. Allain, 0000

Brian R. Anderson, 0000

Jeff M. Aparicio, 0000

David L. Arritt, 0000

Reginald I. Baird, 0000

Jonathan D. Baker, 0000

Alain V. Balmaceda, 0000

Clifford R. Bambach, 0000

Timothy J. Barelli, 0000

Michelle C. Bas, 0000

Lamont S. Bazemore, 0000

Carolyn M. Beatty, 0000

Jason L. Beatty, 0000

Anne M. Becker, 0000

Eric M. Belleque, 0000

Kailie J. Benson, 0000

Scott D. Benson, 0000

John Berry, 0000

Robert H. Bickerstaff, 0000

Jeffrey B. Bippert, 0000

Chad E. Bland, 0000

Christopher L. Boes, 0000

Elizabeth A. Booker, 0000

Curtis E. Borland, 0000

Mark A. Bottiglieri, 0000

Joseph R. Boves, 0000

Russell E. Bowman, 0000

Thomas L. Boyles, 0000

Sean T. Brady, 0000

Rachael B. Bralliar, 0000

Lance J. Brant, 0000

Paul Brooks, 0000

Andy S. Brown, 0000

Heath M. Brown, 0000

Thomas R. Brown, 0000

Timothy T. Brown, 0000

William A. Budovec, 0000

Marc A. Burd, 0000

Richard J. Burke, 0000

Travis L. Burns, 0000

Victor G. Buskirk, 0000

Colin E. Campbell, 0000

Donald B. Campbell, 0000

Clinton S. Carlson, 0000

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

FEDERAL DEPOSIT INSURANCE ACT AMENDMENTS

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 2141 introduced earlier today.

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

The assistant legislative clerk read as follows:

A bill (S. 2141) to make improvements to the Federal Deposit Insurance Act.

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

Mr. FRIST. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and any statement related to the bill be printed in the RECORD.

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

The bill (S. 2141) was read the third time and passed, as follows:

S. 2141

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION. 1. TREATMENT OF CERTAIN AGREEMENTS BY CONSERVATORS OR RECEIVERS OF DEPOSITORY INSTITUTIONS.

(a) DEFINITION OF SECURITIES CONTRACT.—

(1) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e)(8)(D)(ii) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(ii)) is amended—

(A) in subclause (I)—

(i) by striking “mortgage loan, or” and inserting “mortgage loan,;” and

(ii) by inserting before the semicolon “(whether or not such repurchase or reverse repurchase transaction is a ‘repurchase agreement’, as defined in clause (v))”;

(B) in subclause (IV)—

(i) by inserting “(including by novation)” after “the guarantee”; and

(ii) by inserting before the semicolon “(whether or not such settlement is in connection with any agreement or transaction referred to in subclauses (I) through (XII) (other than subclause (II))”;

(C) in subclause (IX), by striking “or (VIII)” each place that term appears and inserting “(VIII), (IX), or (X)”;

(D) by redesignating subclauses (VI) through (X) as subclauses (VIII) through (XII), respectively; and

(E) by inserting after subclause (V) the following:

“(VI) means any extension of credit for the clearance or settlement of securities transactions;

“(VII) means any loan transaction coupled with a securities collar transaction, any prepaid securities forward transaction, or any total return swap transaction coupled with a securities sale transaction.”;

(2) INSURED CREDIT UNIONS.—Section 207(c)(8)(D)(ii) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)(D)(ii)) is amended—

(A) in subclause (I)—

(i) by striking “mortgage loan, or” and inserting “mortgage loan,;” and

(ii) by inserting before the semicolon “(whether or not such repurchase or reverse repurchase transaction is a ‘repurchase agreement’, as defined in clause (v))”;

(B) in subclause (IV)—

(i) by inserting “(including by novation)” after “the guarantee”; and

(ii) by inserting before the semicolon “(whether or not such settlement is in connection with any agreement or transaction referred to in subclauses (I) through (XII) (other than subclause (II))”;

(C) in subclause (IX), by striking “or (VIII)” each place that term appears and inserting “(VIII), (IX), or (X)”;

(D) by redesignating subclauses (VI) through (XII), respectively; and

(E) by inserting after subclause (V) the following:

“(VI) means any extension of credit for the clearance or settlement of securities transactions;

“(VII) means any loan transaction coupled with a securities collar transaction, any prepaid securities forward transaction, or any total return swap transaction coupled with a securities sale transaction.”;

(b) DEFINITION OF FORWARD CONTRACT.—Section 11(e)(8)(D)(iv)(I) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(iv)(I)) is amended by striking “transaction, reverse repurchase transaction” and inserting “or reverse repurchase transaction (whether or not such repurchase or reverse repurchase transaction is a ‘repurchase agreement’, as defined in clause (v))”.

(c) DEFINITION OF SWAP AGREEMENT.—

(1) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e)(8)(D)(vi) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(vi)) is amended—

(A) in subclause (I)—

(i) by striking “or precious metals” and inserting “, precious metals, or other commodity”; and

(ii) by striking “or a weather swap, weather derivative, or weather option” and inserting “weather swap, option, future, or forward agreement; an emissions swap, option, future, or forward agreement; or an inflation swap, option, future, or forward agreement”;

(B) in subclause (II)—

(i) by inserting “or other derivatives” after “dealings in the swap”; and

(ii) by striking “future, or option” and inserting “future, option, or spot transaction”; and

(C) by striking “the Securities Act of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, the Trust Indenture Act of 1939, the Investment Company Act of 1940, the Investment Advisers Act of 1940, the Securities Investor Protection Act of 1970, the Commodity Exchange Act, the Gramm-Leach-Bliley Act, and the Legal Certainty for Bank Products Act of 2000” and inserting “the Gramm-Leach-Bliley Act, the Legal Certainty for Bank Products Act of 2000, the securities laws (as that term is defined in section 3(a)(47) of the Securities Exchange Act of 1934) and the Commodity Exchange Act”.

(2) INSURED CREDIT UNIONS.—Section 207(c)(8)(D)(vi) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)(D)(vi)) is amended—

(A) in subclause (I)—

(i) by striking “or precious metals” and inserting “, precious metals, or other commodity”; and

(ii) by striking “or a weather swap, weather derivative, or weather option” and inserting “weather swap, option, future, or forward agreement; an emissions swap, option, future, or forward agreement; or an inflation swap, option, future, or forward agreement”;

(B) in subclause (II)—

(i) by inserting “or other derivatives” after “dealings in the swap”; and

(ii) by striking “future, or option” and inserting “future, option, or spot transaction”; and

(C) by striking “the Securities Act of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, the Trust Indenture Act of 1939, the Investment Company Act of 1940, the Investment Advisers Act of 1940, the Securities Investor Protection Act of 1970, the Commodity Exchange Act, the Gramm-Leach-Bliley Act, and the Legal Certainty for Bank Products Act of 2000” and inserting “the Gramm-Leach-Bliley Act, the Legal Certainty for Bank Products Act of 2000, the securities laws (as that term is defined in section 3(a)(47) of the Securities Exchange Act of 1934) and the Commodity Exchange Act”.

SEC. 2. CLARIFYING AMENDMENTS RELATING TO DEFINITION OF PERSON.

(a) FDIC-INSURED DEPOSITORY INSTITUTIONS DEFINITION OF PERSON.—Section 11(e)(8)(D) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)) is amended by adding at the end the following:

“(ix) PERSON.—The term ‘person’ includes any governmental entity and any entity included in the definition of the term ‘person’ in section 1 of title 1, United States Code.”.

(b) INSURED CREDIT UNIONS DEFINITION OF PERSON.—Section 207(c)(8)(D) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)(D)) is amended by adding at the end the following:

“(vii) PERSON.—The term ‘person’ includes any governmental entity and any entity included in the definition of the term ‘person’ in section 1 of title 1, United States Code.”.

SEC. 3. FEDERAL DEPOSIT INSURANCE CORPORATION IMPROVEMENT ACT OF 1991.

(a) ENFORCEABILITY OF BILATERAL NETTING CONTRACTS.—Section 403 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4403) is amended—

(1) in each of subsections (a) and (f), by striking “paragraphs (8)(E), (8)(F), and (10)(B) of” each place that term appears; and

(2) in subsection (a), by inserting “terminated, liquidated, accelerated, and” after “institutions shall be”.

(b) ENFORCEABILITY OF CLEARING ORGANIZATION NETTING CONTRACTS.—Section 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4404) is amended—

(1) in each of subsections (a) and (h), by striking “paragraphs (8)(E), (8)(F), and (10)(B) of” each place that term appears; and

(2) in subsection (a), by inserting “terminated, liquidated, accelerated, and” after “organization shall be”.

SEC. 4. CONFORMING AMENDMENTS.

(a) CLARIFYING DEFINITIONS.—Title 11, United States Code, is amended—

(1) in section 101—

(A) in paragraph (22)(A)—

(i) by striking “(domestic or foreign)” after “an entity”; and

(ii) by inserting “(whether or not a ‘customer’, as defined in section 741)” after “custodian for a customer”;

(B) in paragraph (22A)—

(i) by striking “on any day during the previous 15-month period” each place it appears and inserting “at such time or on any day during the 15-month period preceding the date of the filing of the petition”; and

(ii) by inserting “(aggregated across counterparties)” after “principal amount outstanding”;

(C) in paragraph (25)(A)—

(i) by inserting “, as defined in section 761” after “commodity contract”; and

(ii) by striking “repurchase transaction, reverse repurchase transaction,” and inserting “repurchase or reverse repurchase transaction (whether or not such repurchase or reverse repurchase transaction is a ‘repurchase agreement’, as defined in this section)”;

(D) in paragraph (53B)(A)—

(i) in clause (i)—

(I) in subclause (II), by striking “or precious metals” and inserting “, precious metals, or other commodity agreement”;

(II) in subclause (VII), by striking “or” at the end;

(III) in subclause (VIII), by striking “weather derivative, or weather option” and inserting “option, future, or forward agreement”;

(IV) by adding at the end the following:

“(IX) an emissions swap, option, future, or forward agreement; or

“(X) an inflation swap, option, future, or forward agreement.”; and

(ii) in clause (ii)—

(I) in subclause (I), by inserting “or other derivatives” after “dealings in the swap”; and

(II) in subclause (II), by striking “future, or option” and inserting “future, option, or spot transaction”; and

(E) in paragraph (53B)(B), by striking “the Securities Act of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, the Trust Indenture Act of 1939, the Investment Company Act of 1940, the Investment Advisers Act of 1940, the Securities Investor Protection Act of 1970, the Commodity Exchange Act, the Gramm-Leach-Bliley Act, and the Legal Certainty for Bank Products Act of 2000” and inserting “the Gramm-Leach-Bliley Act, the Legal Certainty for Bank Products Act of 2000, the securities laws (as that term is defined in

section 3(a)(47) of the Securities Exchange Act of 1934) and the Commodity Exchange Act”;

(2) in section 362(b)—

(A) by striking paragraphs (6) and (7) and inserting the following:

“(6) under subsection (a) of this section, of the exercise by a commodity broker, forward contract merchant, stockbroker, financial institution, financial participant, or securities clearing agency of any contractual right (as defined in section 555 or 556) under any security agreement or arrangement or other credit enhancement forming a part of or related to any commodity contract, forward contract or securities contract, or of any contractual right (as defined in section 555 or 556) to offset or net out any termination value, payment amount, or other transfer obligation arising under or in connection with 1 or more such contracts, including any master agreement for such contracts;

“(7) under subsection (a) of this section, of the exercise by a repo participant or financial participant of any contractual right (as defined in section 559) under any security agreement or arrangement or other credit enhancement forming a part of or related to any repurchase agreement, or of any contractual right (as defined in section 559) to offset or net out any termination value, payment amount, or other transfer obligation arising under or in connection with 1 or more such agreements, including any master agreement for such agreements.”;

(B) by striking paragraph (17) and inserting the following:

“(17) under subsection (a) of this section, of the exercise by a swap participant or financial participant of any contractual right (as defined in section 560) under any security agreement or arrangement or other credit enhancement forming a part of or related to any swap agreement, or of any contractual right (as defined in section 560) to offset or net out any termination value, payment amount, or other transfer obligation arising under or in connection with 1 or more such agreements, including any master agreement for such agreements.”; and

(C) by striking paragraph (27) and inserting the following:

“(27) under subsection (a) of this section, of the exercise by a master netting agreement participant of any contractual right (as defined in section 555, 556, 559, or 560) under any security agreement or arrangement or other credit enhancement forming a part of or related to any master netting agreement, or of any contractual right (as defined in section 555, 556, 559, or 560) to offset or net out any termination value, payment amount, or other transfer obligation arising under or in connection with 1 or more such master netting agreements to the extent that such participant is eligible to exercise such rights under paragraph (6), (7), or (17) for each individual contract covered by the master netting agreement in issue; and”;

(3) in section 741(7)(A)—

(A) in clause (i)—

(i) by striking “mortgage loan or” and inserting “mortgage loan.”; and

(ii) by inserting before the semicolon “(whether or not such repurchase or reverse repurchase transaction is a ‘repurchase agreement’, as defined in section 101)”;

(B) in clause (iii)—

(i) by inserting “(including by novation)” after “the guarantee”; and

(ii) by inserting before the semicolon “(whether or not such settlement is in connection with any agreement or transaction referred to in clauses (i) through (xi))”;

(C) in clause (viii), by striking “or (vii)” each place it appears and inserting “(vii), (viii), or (ix)”;

(D) by redesignating clauses (v) through (ix) as clauses (vii) through (xi), respectively; and

(E) by inserting after clause (iv) the following:

“(v) any extension of credit for the clearance or settlement of securities transactions;

“(vi) any loan transaction coupled with a securities collar transaction, any prepaid forward securities transaction, or any total return swap transaction coupled with a securities sale transaction.”;

(b) LIMITATION OF AVOIDANCE POWERS UNDER MASTER NETTING AGREEMENT.—Section 546 of title 11, United States Code, is amended—

(1) in subsection (e)—

(A) by inserting “(or for the benefit of)” before “a commodity broker”; and

(B) by inserting “or that is a transfer made by or to (or for the benefit of) a commodity broker, forward contract merchant, stockbroker, financial institution, financial participant, or securities clearing agency, in connection with a securities contract, as defined in section 741(7), commodity contract, as defined in section 761(4), or forward contract,” after “securities clearing agency.”;

(2) in subsection (f)—

(A) by striking “that is a margin payment, as defined in section 741 or 761 of this title, or settlement payment, as defined in section 741 of this title.”; and

(B) by inserting “(or for the benefit of)” before “a repo participant”;

(3) in subsection (g), by inserting “(or for the benefit of)” before “a swap participant”; and

(4) in subsection (j), by inserting “(or for the benefit of)” after “made by or to”.

(c) SIPC STAY.—Section 5(b)(2)(C)(iii) of the Securities Investor Protection Act of 1970 (15 U.S.C. 78eee(b)(2)(C)(iii)) is amended—

(1) by inserting “a derivatives clearing organization (as defined in the Commodity Exchange Act), a multilateral clearing organization (as defined in the Federal Deposit Insurance Corporation Improvement Act of 1991),” after “rule or bylaw of”; and

(2) by striking “or a securities clearance agency, a right set forth in a bylaw of a clearing organization or contract market” and inserting “a securities clearing agency, a contract market designated under the Commodity Exchange Act, a derivatives transaction execution facility registered under the Commodity Exchange Act, or a board of trade (as defined in the Commodity Exchange Act).”;

(d) SAVINGS CLAUSE.—Title IX of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (Public Law 109-8, 119 Stat. 146) is amended by adding at the end the following:

“SEC. 912. SAVINGS CLAUSE.

“The meanings of terms used in this title are applicable for the purposes of this title only, and shall not be construed or applied so as to challenge or affect the characterization, definition, or treatment of any similar terms under any other statute, regulation, or rule, including the Gramm-Leach-Bliley Act, the Legal Certainty for Bank Products Act of 2000, the securities laws (as that term is defined in section 3(a)(47) of the Securities Exchange Act of 1934), and the Commodity Exchange Act.”.

SEC. 5. WALKAWAY CLAUSES.

Section 11(e)(8)(G) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(G)) is amended to read as follows:

“(G) WALKAWAY CLAUSES NOT EFFECTIVE.—

“(i) IN GENERAL.—Notwithstanding the provisions of subparagraphs (A) and (E), and sections 403 and 404 of the Federal Deposit In-

surance Corporation Improvement Act of 1991, no walkaway clause shall be enforceable in a qualified financial contract of an insured depository institution in default, provided that any payment or delivery obligations otherwise due from a party pursuant to the qualified financial contract shall be suspended from the time that the receiver is appointed until the earlier of—

“(I) the time that such party receives notice that such contract has been transferred pursuant to subparagraph (A); or

“(II) 5:00 p.m. (eastern time) on the business day following the date of the appointment of the receiver.

“(ii) WALKAWAY CLAUSE DEFINED.—For purposes of this subparagraph, the term ‘walkaway clause’ means any provision in a qualified financial contract that suspends, conditions, or extinguishes a payment obligation of a party in whole or in part or does not create a payment obligation of a party that would otherwise exist solely because of such party’s status as a nondefaulting party in connection with the insured depository institution’s insolvency or the appointment of or the exercise of rights or powers by a conservator or receiver, and not as a result of a party’s exercise of any right to offset, setoff, or net obligations that exist under the contract, any other contract between those parties, or applicable law.”.

SEC. 6. EFFECTIVE DATE.

(a) EFFECTIVE DATE.—This Act and the amendments made by this Act shall take effect on the date of enactment of this Act.

(b) NO RETROACTIVE APPLICATION OF AMENDMENTS.—The amendments made by this Act shall not apply to any cases commenced under title 11, United States Code, or appointments made under any Federal or State law, before the effective date of this Act.

ORDERS FOR SUNDAY, DECEMBER 18, 2005

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 6 p.m. on Sunday, December 18. I further ask 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, and the Senate proceed to a period of morning business with Senators permitted to speak for up to 10 minutes each.

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

PROGRAM

Mr. FRIST. Tomorrow, we will return to session to continue to work on the remaining business before we leave. We will need to come in tomorrow in anticipation of the conference reports which will arrive from the House. I do not believe we will need to have any votes tomorrow evening, but we will alert Members if something arises. If we do not vote Sunday, we would start voting early Monday. We have seven district judges on the calendar. I understand some of those may require votes.

Having said that, I thank all Senators for their patience during this period. It has been difficult because of

our inability, the impossibility to predict with any element of certainty exactly when we will finish. We are working very hard on bills with the House of Representatives. Once those reports are addressed in the House, they can come here. Until that time, we continue to work to see that will occur in an expeditious way. It is the nature of the business. I am appreciative of everyone's assistance.

REFLECTIONS ON HANUKKAH

Mr. FRIST. Mr. President, a very brief comment on this time of year, with a few reflections on a very special time—Hanukkah.

Earlier this year, I had the opportunity, once again, to visit the State of Israel. I say without reserve, the land of Israel touches my soul. It does so when you are there and you have that opportunity to visit the Old City, to visit the Western Wall.

I took the opportunity to meet with Israelis from all walks of life, visiting several of the hospitals there, and visiting my professional colleagues in medicine. I came to appreciate even more deeply the 4,000 years of distinct and vibrant Jewish culture, as well as the Jewish people's hopeful triumph over adversity and persecution.

So now, as Jews all over the world begin to prepare for the celebration of Hanukkah, which this year begins on December 25, I invite my colleagues to reflect on its meaning and its relevance to the continuity of Jewish culture and survival.

The First Book of Maccabees, a venerated ancient text, tells the story of a revolt against a tyrant, the King Antiochus. King Antiochus was a tyrant, a cruel leader, who attempted to outlaw the practice of Judaism, to forbid the study of Torah, and to compel, to force the worship of idols.

Joined by corrupt politicians in the land of Judea, he succeeded for a time. Eventually, however, a popular uprising, led by a group who called themselves the Maccabees—and that translates into “hammer”—expelled his forces and reclaimed the Temple that became the center of the Jewish faith.

Upon entering the desecrated Temple, Jewish soldiers and priests discovered that the eternal flame within had extinguished. The last stores of oil, those last little bits of oil, would only keep the lamp lit for a single day.

They lit the lamp with the oil that was left, and then something miraculous happened. According to the ancient writings, instead of burning

down, the lamp oil continually filled and refilled and refilled, and the light in the Temple burned for 8 full days.

One can think of this story of faith and perseverance as truly emblematic of the Jewish journey. Just as, by God's grace, the lamp was continually filled, continually replenished, so, too, has the Jewish culture continued to thrive.

In honor of the rededication of the Temple and the Miracle of the Lights, Jews all over the world celebrate Hanukkah by lighting a Menorah and drawing their families close.

Children play games and exchange gifts and, as every Jewish family knows, potato latkes and donuts cooked in oil are holiday favorites.

As those of us who are Christian celebrate the birth of Jesus this Christmas, let us also reflect on the story of Hanukkah and the ways in which the Almighty touches our daily lives.

I do wish my fellow Americans of the Jewish faith a happy Hanukkah and a safe, prosperous holiday season.

ADJOURNMENT UNTIL TOMORROW AT 6 P.M.

Mr. FRIST. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:55 p.m., adjourned until Sunday, December 18, 2005, at 6 p.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate Saturday, December 17, 2005:

ENVIRONMENTAL PROTECTION AGENCY

SUSAN P. BODINE, OF MARYLAND, TO BE ASSISTANT ADMINISTRATOR, OFFICE OF SOLID WASTE, ENVIRONMENTAL PROTECTION AGENCY.

DEPARTMENT OF COMMERCE

SANTANU K. BARUAH, OF OREGON, TO BE ASSISTANT SECRETARY OF COMMERCE FOR ECONOMIC DEVELOPMENT.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

JOHN O. AGWUNOBI, OF FLORIDA, TO BE AN ASSISTANT SECRETARY OF HEALTH AND HUMAN SERVICES.

JOHN O. AGWUNOBI, OF FLORIDA, TO BE MEDICAL DIRECTOR IN THE REGULAR CORPS OF THE PUBLIC HEALTH SERVICE, SUBJECT TO THE QUALIFICATIONS THEREFORE AS PROVIDED BY LAW AND REGULATIONS.

NATIONAL TRANSPORTATION SAFETY BOARD

MARK V. ROSENKER, OF MARYLAND, TO BE A MEMBER OF THE NATIONAL TRANSPORTATION SAFETY BOARD FOR A TERM EXPIRING DECEMBER 31, 2010.

KATHRYN HIGGINS, OF SOUTH DAKOTA, TO BE A MEMBER OF THE NATIONAL TRANSPORTATION SAFETY BOARD FOR A TERM EXPIRING DECEMBER 31, 2009.

DEPARTMENT OF ENERGY

JEFFREY D. JARRETT, OF PENNSYLVANIA, TO BE AN ASSISTANT SECRETARY OF ENERGY (FOSSIL ENERGY).

EXECUTIVE OFFICE OF THE PRESIDENT

DALE W. MEYERROSE, OF INDIANA, TO BE CHIEF INFORMATION OFFICER, OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE.

FEDERAL TRADE COMMISSION

WILLIAM E. KOVACIC, OF VIRGINIA, TO BE A FEDERAL TRADE COMMISSIONER FOR A TERM OF SEVEN YEARS FROM SEPTEMBER 26, 2004.

J. THOMAS ROSCH, OF CALIFORNIA, TO BE A FEDERAL TRADE COMMISSIONER FOR THE TERM OF SEVEN YEARS FROM SEPTEMBER 26, 2005.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

BRUCE COLE, OF INDIANA, TO BE CHAIRPERSON OF THE NATIONAL ENDOWMENT FOR THE HUMANITIES FOR A TERM OF FOUR YEARS.

MERIT SYSTEMS PROTECTION BOARD

MARY M. ROSE, OF NORTH CAROLINA, TO BE A MEMBER OF THE MERIT SYSTEMS PROTECTION BOARD FOR THE TERM OF SEVEN YEARS EXPIRING MARCH 1, 2011.

DEPARTMENT OF HOMELAND SECURITY

GEORGE W. FORESMAN, OF VIRGINIA, TO BE UNDER SECRETARY FOR PREPAREDNESS, DEPARTMENT OF HOMELAND SECURITY.

IN THE COAST GUARD

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES COAST GUARD RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be rear admiral (lower half)

CAPT. MICHAEL R. SEWARD

DEPARTMENT OF COMMERCE

DAVID STEELE BOHIGIAN, OF MISSOURI, TO BE AN ASSISTANT SECRETARY OF COMMERCE.

DEPARTMENT OF THE TREASURY

ANTONIO FRATTO, OF PENNSYLVANIA, TO BE AN ASSISTANT SECRETARY OF THE TREASURY.

DEPARTMENT OF COMMERCE

DAVID M. SPOONER, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF COMMERCE.

EXECUTIVE OFFICE OF THE PRESIDENT

RICHARD T. CROWDER, OF VIRGINIA, TO BE CHIEF AGRICULTURAL NEGOTIATOR, OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE, WITH THE RANK OF AMBASSADOR.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

DEPARTMENT OF JUSTICE

CATHERINE LUCILLE HANAWAY, OF MISSOURI, TO BE UNITED STATES ATTORNEY FOR THE EASTERN DISTRICT OF MISSOURI FOR THE TERM OF FOUR YEARS.

DEPARTMENT OF EDUCATION

STEPHANIE JOHNSON MONROE, OF VIRGINIA, TO BE ASSISTANT SECRETARY FOR CIVIL RIGHTS, DEPARTMENT OF EDUCATION.

UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

DONALD A. GAMBATESA, OF VIRGINIA, TO BE INSPECTOR GENERAL, UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT.

DEPARTMENT OF STATE

MARILYN WARE, OF PENNSYLVANIA, TO BE AMBASSADOR TO FINLAND.

IN THE COAST GUARD

COAST GUARD NOMINATION OF JAMES R. MONTGOMERY TO BE CAPTAIN.

COAST GUARD NOMINATION OF RICHARD E. PETHERBRIDGE TO BE COMMANDER.

COAST GUARD NOMINATIONS BEGINNING WITH BENES Z. ALDANA AND ENDING WITH MICHAEL L. WOOLARD, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON DECEMBER 14, 2005.

COAST GUARD NOMINATIONS BEGINNING WITH STEPHEN ADLER AND ENDING WITH PETER E. ZOHIMSKY, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON DECEMBER 14, 2005.