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House of Representatives

The House was not in session today. Its next meeting will be held on Monday, July 8, 2002, at 2 p.m.

Senate

FRIDAY, JUNE 28, 2002

The Senate met at 9:31 a.m. and was called to order by the Honorable DEBBIE STABENOW, a Senator from the State of Michigan.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Gracious God of progress, our hearts are filled with gratitude. Thank You for answered prayer. You have been with the Senators through these intensely busy weeks. You have honored their commitment to hard work. Thank You for the legislation that has been accomplished. We praise You that You guide and provide. When we seek Your direction, goals can be set and achieved to Your glory.

Now we ask You to bless the Senators as they return to their States to work with their constituencies for the Fourth of July recess. While they enjoy a break from the pressures here in Washington, refresh them with rest, renewal, and rejuvenation. Give them quality time with their families and friends. You are our Lord and Saviour. Amen.

PLEDGE OF ALLEGIANCE

The Honorable DEBBIE STABENOW 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.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, June 28, 2002.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DEBBIE STABENOW, a Senator from the State of Michigan, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Ms. STABENOW thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

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

In my capacity as a Senator from Michigan, I suggest the absence of a quorum.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent the order for the quorum call be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SCHEDULE

Mr. DASCHLE. Madam President, the Senate will be in a period of morning business with Senators permitted to speak for up to 10 minutes each. I have already announced there will be no rollcall votes today. The next rollcall vote will occur on Tuesday morning, July 9.

I will use my leader time this morning; if my time exceeds the 10 minutes, I ask the time be taken off leader time.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ACCOUNTING REFORM AND INVESTOR PROTECTION WILL BE THE FIRST ORDER OF BUSINESS WHEN WE RETURN

Mr. DASCHLE. Madam President, our form of government rests on two pillars. One is democracy. The other is free enterprise. We are the strongest, most successful nation in the world because we have maintained the strength of both of those pillars.

We are the most durable democracy in the world because our system is constantly refreshed by new leaders and new ideas. If leaders fail, they can be voted out of office. If ideas fail, they can be either discarded or improved.

The strength of the system rests on the fact that—while not perfect—our Government is open and accountable.

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

We have the strongest economy in the world, because our commitment to free enterprise is strengthened by a system of open markets. Those markets—fed by free-flowing, reliable financial information—channel investment into new ideas and new enterprises. Working at its best, our free enterprise system has generated durable economic growth, wealth, and opportunity that are the envy of the world.

The corruption of one of these pillars threatens the other. The weakening of either threatens our Nation.

This week's news from MCI WorldCom was the latest in a series of disclosures that have shaken confidence in American business.

Recently, we have seen Enron collapse under the weight of inflated earnings and hidden debt. We have seen Halliburton face charges of improperly recording revenue. We've seen Tyco accused of falsifying merger information, and its CEO indicted. Arthur Andersen has been convicted of obstructing justice.

The list goes on: CMS Energy, Computer Associates, Dynegy, Global Crossing, ImClone, Kmart, Lucent, MicroStrategy, Network Associates, PNC Financial Services, Qwest, Reliant Resources, and Xerox are all facing serious questions about their business practices.

This string of disclosures threatens our economy to its core. They undermine investor confidence, scare off foreign investment, and slow an already shaky recovery.

And the impact is much more than some economic abstraction. Thousands of honest, hardworking people have lost their jobs. Millions more have seen their savings, their nest eggs, and their retirements gutted.

When corporate fraud leads to corporate failure, people get hurt.

I am not arguing that the corruption we have seen is systemic. America has some of the world's most innovative executives, people of tremendous energy, skill, and integrity.

They are the vast majority of corporate executives, and they should be the most outraged about the recent news. In my own discussions with corporate leaders, that is actually the case. They are the most outraged. They resent the notion that the corruption is systemic, that the deception is pervasive, and that ''everyone is doing it.''

I know—and most Americans know—that everyone is not doing it.

But the growing list of corporations under question makes clear that we aren't just talking about one or two isolated cases, or rogue executives.

The problem, instead, is a ''climate''—a deregulatory, permissive atmosphere that has relied too much on corporate America to police itself. It is as if the line between right and wrong, legal and illegal, acceptable and unacceptable was so little enforced that it became blurred. Bringing it back into focus—as Enron's collapse did—revealed more than a few businesses standing on the wrong side.

The evidence rolling in is now unambiguous. Self-policing is no replacement for a vigilant cop on the beat. It is time to reform and strengthen the system.

Unfortunately, the desire for reform is not to be found in the approaches taken by the White House, the House, and the SEC.

This game of corporate dominoes we are watching is a wake up call. It is time to abandon this laissez-faire attitude and take action.

For starters, we need to made sure that the laws currently on the books are enforced. The SEC and Justice Department need to do more to aggressively and consistently investigate and prosecute cases of corporate fraud.

But enforcement alone isn't enough. We are now seeing cases where the law itself doesn't stand in the way of these egregious actions.

It is time for us to reform our system of accounting and do more to protect investors.

That is exactly what the Sarbanes bill does. And that is why it will be our first order of business when we return from recess. The Sarbanes bill makes six key improvements over our current system.

First, it creates an independent audit oversight board with the authority to set standards, conduct investigations, and impose punishment if those standards aren't met.

Second, it restricts the nonaudit services that an accounting firm can provide to public companies it audits. In other words, it keeps auditors out of the business of being a company's consultant or tax advisors in addition to being its auditor—the roles that can lead to conflicts of interest.

Third, it holds CEOs and CFOs responsible for the accuracy of operating and financial reports. If it turns out that an earnings report is deliberately misstated, those executives would forfeit profits and bonuses earned after that information was released.

Fourth, if corporate insiders sell stock, those sales must be reported to the SEC within 2 days.

Fifth, it would make sure that investment banking firms that also provide investment analysis don't mix those two functions. It also protects analysts from retaliation if they make unfavorable stock recommendations.

Sixth and finally, this bill includes expanded resources for the SEC. This will help them become more thorough investigators and enforcers. I have called the SEC a toothless tiger. This bill gives the agency some teeth.

In a message to Congress calling for the creation of the Securities and Exchange Commission, President Roosevelt said he sought to ''give impetus to honest dealing in securities and thereby bring back public confidence.''

It is time for us to again, ''give impetus to honest dealing, and bring back public confidence.''

That is what this bill does. It strengthens both our democracy and our system of free enterprise.

Senator SARBANES has done a masterful job in moving it through committee with broad bipartisan support.

For the sake of America's economy, America's workers, and the two pillars on which our nation's greatness rests, I look forward to debating it when we return.

PROGRESS IN THE SENATE

Mr. DASCHLE. Madam President, from time to time I have come to the floor to discuss our progress since we became the majority as Democrats in the Senate. I wanted to talk briefly about the accomplishments during this work period and the list of items we have attempted to address over the course of the now virtually 1 year that we have been in the majority. We took over officially during the month of July of last year. Technically, we are not quite there. But for all intents and purposes, we have now completed 1 year as a majority in the Senate.

We began June with work on the supplemental appropriations bill, a key piece of legislation. That legislation passed in the Senate a couple of weeks ago.

We then moved on to terrorism insurance. We passed that bill out of the Senate with an overwhelming vote.

We passed legislation which expedites the extradition of terrorist suspects. The antiterrorism legislation passed about 10 days ago.

We increased the debt limit on an overwhelmingly bipartisan basis.

We passed the Defense authorization bill, thanks to the extraordinary leadership of our colleague from Michigan, Senator LEVIN.

I might add that all of these issues—the supplemental appropriations, the terrorism insurance bill, the antiterrorism bill, the debt limit, and the Defense authorization bill—passed with overwhelming bipartisan majorities.

I am pleased to be able to announce that because I feel quite confident that is what the American people are expecting—that we attempt to work together, and that these priorities which are certainly their priorities as well be addressed in the way that allows us to enact them into law sometime very shortly.

I will say, having done as much as we can on a bipartisan basis, that I was disappointed by our colleagues on the other side of the aisle when they objected to the passage of the hate crimes legislation. We failed to achieve the 60 votes necessary to obtain cloture on hate crimes.

For the life of me, I am troubled by that. I would think that would be a 100-to-0 vote dealing with hate crimes in this country. It is something that is pernicious, and it is something that we must address in a meaningful legislative way.

We will continue to make the effort to assure that 1 day we will pass meaningful hate crimes legislation.

I also say there was another matter that was not bipartisan. That involved the Republicans' attempt to permanently repeal the estate tax.

I am very proud of the fact that we did not do that. I think that is a good fiscal policy. It is good tax policy, and I am confident that any effort to repeal the estate tax permanently would fail in the future.

Let me hasten to add that the Democrats certainly support reform of the estate tax. We supported an increase in the overall exemption to $7 million, and we are very appreciative of the widespread effort within our caucus and hopefully within the Congress itself to continue to work to reform the estate tax over a period of time. But blocking the permanent repeal of the estate tax saves the Treasury $60 billion a year when it is fully implemented, $600 billion over the course of a 10-year period of time. So we look upon this actually as an accomplishment, as we have with all of the other accomplishments during the month of June.

But I might say, as we look at accomplishments, the list has become quite significant over the course of the last 12 months.

Right after the Democrats took the majority, we passed a Patients' Bill of Rights. After the tragedy of September 11, we passed an antiterrorism use of force resolution and an immediate $40 billion response to the terrorist attacks, the Defense and homeland security appropriations bill, and the USA Patriot Act to deal with the extraordinary challenges we have with regard to law enforcement.

We passed increased airport, border, and port security. We passed terrorism insurance. We passed additional support for the airline industry, which was really struggling after the tragedy of September 11. We passed economic stimulus and unemployment insurance legislation. We passed the campaign finance reform bill. We passed an election reform bill.

We passed 57 judicial confirmations. That is more than any recent Congress has passed in the same period of time, either Republican or Democrat, even in those cases when the Senate was of the same party as the President at that particular time.

We passed clean water and brownfields revitalization legislation. We passed a sweeping comprehensive education reform bill. We passed an energy bill. We passed a farm bill. And as I just noted, we have passed the Defense authorization bill.

I would say, as we look at this list of accomplishments, it would be hard for anyone to argue we have not accomplished a good deal in our first 12 months as members of the majority.

I look with great satisfaction, with great pride, and am very grateful to all of my colleagues for the extraordinary job they have done in working through the committees—and in most cases all of this legislation has come through committees—to address the needs of America in public policy and the tremendous challenges we face as a nation.

We will continue to add to this growing list of accomplishments over the course of the next several months as we complete our work in the 107th Congress. Certainly, the 107th Congress has been historic for so many reasons, but I would say that when all is said and done, at the end of the session we will be able to look with great satisfaction, with great pride, and, I might say, with a certain degree of confidence that we have done what the American people have expected of us.

Passing this legislation is a recognition of what Democrats in the majority can do in the broad array of issues with which we have done it.

So I thank my colleagues. I thank all of those who are responsible for the work on these bills, especially our legislative leadership, the chairs of each committee where these bills have been produced, for the work within the committee, and certainly the management they have demonstrated on the Senate floor as these bills have been passed here on the floor and sent either to the House or to the President.

I see my colleague from Michigan on the floor. I will yield the floor at this time. But I again appreciate the work done by our caucus, and, I might say, in concert, on many occasions, with our Republican colleagues, to achieve the long list of accomplishments we have listed here.

I yield the floor.

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

Mr. LEVIN. Mr. President, before the majority leader leaves the Chamber, let me say he is always giving credit to others for the accomplishments of this body—which have been many—and what he, in his traditional modesty, of course, does not make any reference to is his own leadership and the role of that leadership in these accomplishments. But there is not a Member of this body on either side of the aisle who does not recognize the extraordinary leadership of Senator DASCHLE. And that list is a tribute to his leadership. It obviously involves a lot of other people, as he pointed out. Nonetheless, it is his leadership that has led the way to a successful and long list of achievements so far in this Congress.

Mr. DASCHLE. Mr. President, if the Senator will yield, I am grateful for his kind words. We have always had a tremendous team effort within our caucus and within the legislative leadership of the Senate but I recognize that the workhorses are the chairs. And I am speaking to one as we stand here this morning.

I thank him for his kind words. I thank the Senator for yielding.

THE SHOOTING DEATHS OF DETROIT-AREA CHILDREN

Mr. LEVIN. Mr. President, children are being killed in our cities in record numbers. This year, in Los Angeles, 25 have been killed. The rates are the same in Houston, New York, Chicago, and in every other city where illegal drugs are plentiful and good jobs are scarce, where access to a better life is hard but access to a gun is easy.

Parents put their children to sleep in bathtubs where they might be safer from driveby shootings. Children find guns in homes and on playgrounds, with tragic results. Drug dealers go gunning for each other and don't care who gets killed in the crossfire.

So far this year, 22 children have been wounded by gunfire in my hometown of Detroit, in the metropolitan area. Ten children have been shot and killed. Statistics alone cannot convey the extent of this ongoing tragedy. But here, briefly, are some of the sorrowful and grim stories of these children, their families, and their pain.

On February 25, Ajanee Pollard, 7 years old, was shot and killed, allegedly by a man who was upset that he had just purchased—with two counterfeit $20 bills—a defective radio from a friend of Ajanee's uncle. Ajanee, her uncle, her mother, and three siblings were getting ready to go shopping when one of the three men charged with the murder allegedly fired shots from an M1 rifle into the car Ajanee's mother was driving.

Ajanee was a second grade student at Thomas Houghten Elementary School in northwest Detroit. Ajanee had been named Student of the Month, was a midfielder in the local youth soccer league, and enjoyed going to Bible school at Genesis Evaneglical Lutheran Church.

Ajanee's 6-year-old brother Jason had to have his pancreas and part of his intestines removed from the wounds he suffered as a result of the shooting. Both of Ajanee's sisters suffered gunshot wounds to the legs, and her mother was treated for injuries as well.

On March 23, Destinee Thomas, 3 years old, was shot and killed in her home while watching Mickey Mouse cartoons. A man armed with an AK–47 riddled the house with bullets.

Two men have been arrested and charged with the murder. According to police and press reports, they had been involved in a ''turf battle'' with two drug dealers from a rival street gang.

On March 28, Alesia Robinson, 16 years old and a junior at Kettering High School, sat on the front porch of her home on Detroit's east side while her boyfriend played with a gun. According to police, Alesia—who wanted to become a pediatrician—asked her boyfriend to put the gun away. Instead, he pointed it at her face and pulled the trigger.

On April 3, Christopher James, 11 years old, was killed by a single gunshot wound to the head. His 12-year-old half-brother has been charged in juvenile court with manslaughter. According to family members, the two were playing with a .22 caliber revolver they had found on a playground and that the shooting was an accident.

On April 10, Brianna Caddell, 8 years old, was shot and killed while she was sleeping in her bed. Brianna, her mother Pamela Martin, and her grandmother Dorothy Caddell were fixtures at Truth Evangelical Lutheran Church.

Antoine Foote also involved in drug turf wars, was charged with her murder. According to police, he sprayed more than two dozen rounds at the house with an AK–47.

Brianna was a third grader at the John C. Marshall Elementary School. One of Brianna's classmates, Oshinique Mapp, wants to become a policewoman or doctor or teacher so she can ''change the bad people.'' Another classmate, Jeremiah Russell, wants to go to college so he can get away from the drug dealers in his neighborhood.

On April 19, Irisha Keener, 3 years old, was shot in the head by her mother, as the two lay in bed. Her mother then committed suicide.

On April 30, Cherrel Thomas, 15 years old, was shot and killed while riding in the back seat of a Chrysler Concorde. Cherrel, by the way, was a freshman at McKenzie High School where she played trombone and baritone tuba in the school marching band and jazz ensemble. Terrill Johnson and Jesse Freeman were charged with that murder.

On May 26, Tiffany Taylor, 15 years old, was fatally shot in the head while riding in a car in Mt. Clemens with friends coming home from a roller skating party at the Great Skate Rink in Roseville. Tiffany was a freshman at Roseville Junior High School, where she was on the honor roll and led afterschool programs. Police believe that someone in an abandoned house frequently used by drug dealers and addicts fired five rounds from a handgun at Tiffany as she rode by—for no apparent reason.

On June 2, DeAntoine Trammell, 10 years old, was shot and killed in his grandmother's apartment on Detroit's east side. According to eyewitnesses, the person who killed him came to the house drunk and distraught, threatened to commit suicide, then fired two shots into the kitchen wall instead. The bullets pierced the wall and went into an adjacent bedroom. Moments later, Shawn Trammell, DeAntoine's 14-year-old brother, carried his bloody body into the kitchen. The boys' mother collapsed in shock. Shawn shouted out, ''Come on, Mama, come on. He's breathing!'' They rushed DeAntoine to a clinic but were turned away because it is not a trauma center. DeAntoine died a day later at St. John Hospital.

DeAntoine was a fifth-grader at Bow Elementary School. His basketball team was scheduled to receive a trophy the day after he died. He loved sports, video games, cartoons, and pizza, and often helped out in the school cafeteria.

The week before DeAntoine was killed, he had been paired with Keefe Brooks, 48, a Bloomfield Hills lawyer, as part of the V.I.P Mentors program. According to the Detroit Free Press, Brooks wanted to show DeAntoine the possibilities life held for him. ''I had hoped to expose him to successful people in the city, to help him build positive images and role models,'' Brooks said. ''I cannot bear the thought of my match having been taken from our world before I even got to know him. I cannot bear the thought of more children being slaughtered in our city.''

Gun violence is still an epidemic in our cities. A teenager today is more likely to die of a gunshot wound than of all natural causes of disease. Yet we seem incapable of requiring background checks at gun shows even though the President said he would support doing so when he campaigned in 2000. We seem incapable of requiring gun manufacturers to include trigger locks with their products even though we can regulate just about every other product under the sun. We need to pass these common-sense measures to help stanch the flow of guns and blood in our cities. But the Attorney General files briefs that undermine the enforcement of existing hand gun control laws instead.

As a Nation, we hope and pray that 14-year-old Elizabeth Smart will be returned to her home in Salt Lake City safe and sound. But as a Nation, we overlook the death of Ajanee, and Destinee, and Alesia, and Christopher, and Brianna, and Irisha, and Cherrel, and Tiffany, and DeAntoine. We haven't seen home videos of them on the evening news, but we should. Their families and friends and communities feel the anguish alone.

Is it resignation? Worse yet, is it indifference? I hope neither.

Some in Detroit have responded to the epidemic. The Detroit Police Department and the Wayne County Prosecutor have launched Project Safe Neighborhoods so that criminals who use guns will be prosecuted in federal courts. They have launched Project Destinee, which is an attempt to dismantle the two rival drug gangs whose members have been implicated in that child's murder. The city has Child Death Review Teams to learn everything possible about the murders. People are joining SOSAD, Save Our Sons And Daughters, an organization Clementine Barfield started after her son Derick was killed in 1986, and the Detroit chapter of the Million Mom March, which Shikha Hamilton runs. Other groups involved include the Neighborhood Service Organization, Youth Initiatives Project, and Pioneers for Peace.

On Saturday, May 11, a massive community forum on violence was held at Second Ebenezer Baptist Church. On May 16, a group of 350 religious leaders met at the Northwest Activity Center to kick off their Positive Youth Development Initiative, a collaborative effort among government, religious, and community leaders to help at-risk children. On June 11, Detroit Mayor Kwame Kilpatrick announced a six-point program to curb the violence.

The funerals for the slain children have become impromptu community forums and rallies where people's determination and hope have commingled with their grief and outrage.

The Poet Langston Hughes asked:

What happens to a dream deferred?
Does it dry up
Like a raisin in the sun?
Or fester like a sore—
And then run?
Does it stink like rotten meat?
Or crust and sugar over—
like a syrupy sweet?
Maybe it just sags
like a heavy load.
Or does it explode?

We have learned, sadly, that dreams deferred do explode—in gunfire. And we have seen, sadly, what happens when people don't even have the capacity or the chance to dream.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Ms. STABENOW. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

PUBLIC COMPANY ACCOUNTING REFORM AND INVESTOR PROTECTION ACT

Ms. STABENOW. Mr. President, I rise today to speak about important legislation that we will be considering as soon as we return from the Fourth of July recess.

In February of this year, the banking committee, of which the Chair is a member—and I appreciate the opportunity to serve with him—began a series of 10 hearings touching at ways to strengthen our accounting system, protect investors, and make needed reforms at the SEC.

We all understand every day the growing need to be able to do that.

Our hearings didn't necessarily make the headlines with subpoenas sent to Ken Lay of Enron or Andrew Fastow, but the work that we did I believe was incredibly important, very thorough and very thoughtful.

Chairman SARBANES, our chairman of the committee, is to be commended for his impressive leadership and thoughtfulness and hard work on this subject. At the end of the day, it is due to his commitment to doing this carefully and due to the commitment of my colleagues on the committee who followed panel after panel of witnesses closely—from former SEC Chairs, to Paul Volcker, to consumer groups, to well-respected academics—that we now have before us a bill that will ultimately make the biggest difference for investors and for the markets. We critically need this.

In March, in the midst of our marathon of hearings, I was very pleased to join with Senator DODD and Senator

CORZINE in the introduction of the Investor Confidence in Public Accountability Act of 2002. Our bill was, I believe, a good beginning, an excellent way to begin to tackle the problems about which we were learning. It was measured. It was strong.

I thank Chairman SARBANES for including many of the provisions of our bill in the ultimate bill that has been reported to the floor of the Senate.

This is an excellent bill. We need only to look at the vote in the committee. It passed 17 to 4. It has strong bipartisan support. I hope that support will continue on the floor of the Senate as we take up this legislation in the coming weeks.

But it also has its detractors. There are some, of course, who do not like the legislation. They make outlandish comments about Government takeovers of the accounting industry. But that is not the bill for which I voted. It is not the bill for which Chairman SARBANES voted. That is not the bill for which Senator ENZI, the Senate's very own accountant, voted.

I would like to explain briefly some of the key components of this bill and why they make sense.

In this legislation, we create a strong new regulatory public oversight board to establish and enforce accounting standards, quality control, and ethics standards for public companies. The evidence indicates it is no longer enough for the industry to police itself. Few people would contest that now.

That actually has been in debate over the last several years—two different philosophies, one coming in with a new administration in the House of Representatives back in the mid-1990s. I remember debating this with former Speaker Newt Gingrich and efforts to deregulate our industries and our oversight, with the idea there would be self-regulation and oversight.

We know now that there needs to be public accountability, transparency, openness. But there needs to be public accountability if there is going do be integrity in these systems and if people are going to be willing to invest.

The oversight board we have placed in this legislation would be independently funded by fees on public companies, therefore providing us insulation from the politics of the time. It would conduct regular inspections of accounting firms. The five-member board would have two people with accounting backgrounds and a balanced approach to the board.

We also establish new restrictions on the mixing of consulting services and auditing services, which are very important. We have seen, unfortunately, specific examples of where the mixing of these two services has created devastating results for people.

There has long been a concern that auditors may be tempted to overlook some questionable accounting practices in order not to lose lucrative consulting contracts from the companies they audit. This bill seeks to address that problem without simply banning all consulting services. I think it is an important and reasonable and balanced approach.

Some services would be banned—bookkeeping, financial systems design, investment advice, human resources consulting—while others would have to be approved by the company's audit committee, such as tax services.

Of course, auditing companies would be able to offer any consulting services to a company they were not presently auditing.

We also ensure auditor independence, which is so critical.

Another concern raised in our 10 hearings was that sometimes, over time, auditors develop too cozy a relationship with the companies they audit. They become less critical and more accommodating. We addressed this in the bill we reported from committee.

The bill before us simply says that accounting firms would be required to rotate the leading auditor and review partners of an audit after 5 consecutive years of auditing a public company. It does not force companies to find a new auditor, it just simply requires a rotation of the auditor. Some have feared that this would be too extreme, and the bill is sensitive to those concerns. But we believe it is important that we ensure auditor independence.

Our bill also sets up an internal corporate whistleblower mechanism. This is one particular component of the bill about which I am especially pleased. The bill includes an amendment I offered regarding establishing corporate whistleblower mechanisms. I want to ensure that the audit committees of public companies establish a way for confidential, anonymous submissions of statements by employees regarding questionable accounting procedures.

With Enron and other scandals, people in the company knew there were problems but had nowhere to turn. They were trapped in a corporate culture which squashed dissent. My amendment guarantees that there will be a designated way to report problems to people who are in a position to do something about it, and it seeks to protect those employees who are simply acting in the best interests of their companies and their companies' investors.

I am glad to say that not only do I have the support of such people as my chairman but others, such as the Financial Services Roundtable, have weighed in to support this very important amendment.

Guarantees of new levels of corporate responsibility are also an important part of this legislation. A key component of the bill I am pleased to support is the new level of corporate responsibility required under this bill.

Under the bill that will be before us, audit committees must now be completely independent of management and will be responsible for the appointment, compensation, and oversight of the auditors. The bill also ensures that during a blackout period, when companies are prohibited from selling stock, corporate leaders will also be barred from trading the stock.

Perhaps most significantly of all, this Congress has an opportunity to tell CEOs and CFOs that they must certify the accuracy of financial reports and will have to forfeit bonuses up to 12 months after an earnings misstatement which was brought about by material noncompliance with securities laws.

This is essential. We have had too many corporate leaders walk away from companies they have destroyed, with tens—and sometimes hundreds—of millions of dollars in their pocket while their employees find their pensions drained, their jobs gone, and their dreams destroyed.

This is a strong, comprehensive bill. It does not include every reform that we need, but I would like to take a moment to highlight another piece of legislation that I hope we will incorporate into the bill in its final passage. That is Senator LEAHY's Corporate and Criminal Fraud Accountability Act.

I am proud, also, to be a cosponsor of this important legislation because I think it is a very sound bill and gets to some of the serious reforms that corporate America needs to face. Among other things, it makes it a crime to destroy or conceal records with the intent to obstruct or influence a Federal investigation, such as an SEC examination into accounting malfeasance.

It also amends our Federal bankruptcy law to make penalties relating to the violation of certain Federal and State securities laws nondischargeable.

I am very happy to say the bill provides legal protections again for corporate whistleblowers, employees who report to regulators or Congress or their supervisors. I believe all of these provisions are important and will improve accountability for our country.

Prior to the committee vote on this bill, there was an emerging theme in the media that momentum was fading for strong reform. Powerful special interests, a few congressional opponents of reform were winning, it seemed. But all of that has changed. Unfortunately, the scandals we have seen emerging have reminded us once again of the importance to act. We have seen the stunning revelation regarding WorldCom and the billions of dollars of earnings misrepresented, the 17,000 jobs that will be lost; 17,000 people who did nothing wrong—they got up every day, they went to work, they did their jobs, they worked hard—now are suffering the consequences of a few people at the top who thought it better to cook the books than to represent their employees and their investors.

All of this, of course, came on the heels of Enron and Global Crossing and Tyco and Adelphia and Xerox. We need now only to look to the ongoing weaknesses in our capital markets to see why the 17-to-4 vote in our committee should not have been so surprising.

Investors are concerned. They are angry, and rightfully so. They wonder, can I trust the information companies are giving to me? How do we know if our stocks are valued appropriately? Which company is next?

What we are doing in the Senate is nothing less than trying to ensure the long-term viability of our capitalist system. We have a system that is the strongest and the best in the world, but something is broken. We need to act. A corporate culture of earnings mismanagement and gamesmanship, unfortunately, has prevailed in some quarters. It is casting a pall over too many other publicly traded companies. That is not right, and it has to stop.

We know the majority of companies have integrity. They are doing the right thing. They are providing accurate information. Our corporate leaders who are acting responsibly are the most concerned about what is happening. Too many honest, hard-working people at good, solid companies are indirectly suffering due to the malfeasance of a few greedy people.

As we move ahead, I look forward to working with my colleagues on both sides of the aisle, and with our Presiding Officer, to make sure what we did in committee can be done on the floor, and as quickly as possible.

Republicans such as the Senator from Wyoming, MIKE ENZI, have shown true leadership in joining with the chairman and 15 others on the committee. This is the first step. We need a strong, good debate on this bill and an overwhelming vote to send a message to investors, to pension holders, to hard-working employees and companies everywhere, to those corporate executives who are working hard and doing the right thing, that we are united and that we are serious about making sure their interests are protected. We will still have to reconcile this with a much, unfortunately, more modest version passed in the House, and we will have to send it to the President.

I hope the President will join us in the strongest possible bill. It is incredibly important that we help bring back the integrity and confidence so important in our markets. We are the greatest country in the world. We have had the greatest capitalist system, but there are serious problems today and serious questions. We have the responsibility to act in a way that will stabilize the economy, give investors confidence, let employees know that their pensions will be protected and their hard work will be recognized for the future, and that we will do the kinds of things that will allow us to continue the strongest economy in the world.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. NELSON of Nebraska). Without objection, it is so ordered.

Mr. BYRD. Mr. President, is the Senate conducting morning business at this point?

The PRESIDING OFFICER. That is correct.

Mr. BYRD. Are Senators permitted to speak therein?

The PRESIDING OFFICER. They are, for up to 10 minutes each.

Mr. BYRD. I thank the Chair. I ask unanimous consent that I may speak as long as I may desire.

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

CONNECTING THE DOTS ON IRAQ

Mr. BYRD. Mr. President, over the last several weeks, a number of revelations have surfaced about how our intelligence agencies failed to analyze and connect the pieces of information that they obtained. According to these news accounts, while the September 11 attacks were a shock to the American people, they may not have been a total surprise to the intelligence arms of our Government.

While there is no smoking gun to indicate that the FBI, the CIA, or anyone else or any other agency knew the totality of the September 11 plot before it was carried out, it now seems fairly clear that there were known pieces of information, which, if thoroughly and properly analyzed, could have put our Government on a higher state of alert for a major terrorist attack upon the United States.

President Bush himself has acknowledged that our intelligence agencies were not connecting the dots that would have prepared our homeland for a devastating act of terrorism. In partial response, the President has proposed the creation of a Department of Homeland Security with a new bureau that is intended to sort through the intelligence reports and hopefully connect the dots that are sometimes overlooked or unappreciated by the FBI and/or CIA. The proposal has some merit. However, I am troubled with the manner in which this and other proposals are being crafted by the administration. Shrouded often in ambiguity and cloaked often in deep secrecy, this administration continues suddenly to sometimes unexpectedly drop its decisions upon the public and Congress, and then expect obedient approval without question, without debate, and without opposition.

The Senate is not like that. We scrutinize, we debate, we ask questions.

For months, the President has been sending signals that U.S. efforts to topple Saddam Hussein's regime in Iraq will involve direct military action. In his State of the Union address on January 29, 2002, the President listed Iraq as a member of an ''axis of evil'' that seeks to attack the United States with acts of terrorism and weapons of mass destruction. The President punctuated his bold words with a warning that he ''will not wait on events, while dangers gather,'' and that ''the United States of America will not permit the world's most dangerous regimes to threaten us with the world's most destructive weapons.''

That is saber rattling. This saber rattling prompted many questions for the American public, for Members of Congress, and for our allies. The question being: Will we invade Iraq? When will it happen? Will the United States go it alone? These are some of the questions.

On February 12, 2002, during a Budget Committee hearing, I questioned the Secretary of State about the administration's designs on Iraq. Unfortunately, the answers I got were not sufficiently clear to put to rest my questions. Secretary of State Powell stated that the President had ''made no decisions about war.''

Now, Mr. President, when I was in a two-room school in Algonquin, WV, in 1923, I could read through that answer. That should not require the mind of a genius to interpret.

Secretary Powell stated that the President had ''made no decisions about war.'' So my question remained unanswered.

The Secretary, for whom I have a great deal of respect and with whom I have been associated for many years in several difficult decisions that have arisen over those years, the Secretary of State also stated that he—meaning the President—''has no plan on his desk right now to begin a war with any nation.''

I go back to that two-room schoolhouse in Algonquin in southern West Virginia. I can figure that out. That is not answering the question. Everybody knew it. The Secretary of State knew it. He did not intend to answer that question. While I have a great deal of respect for Secretary Powell, his answers provided more in the way of qualifications and confusion than in the pursuance of clarity.

Earlier this month, President Bush added another dimension to our national security policy. On June 1, 2002, he addressed the cadets at West Point on the progress of the war on terrorism. In his remarks, the President argued that deterrence and containment by themselves are not enough to fight terrorism. He said, ''In the world we have entered, the only path to safety is the path of action.'' And he urged Americans ''to be ready for preemptive action when necessary.''

In order to be ready for such action, the President said that the U.S. military ''must be ready to strike at a moment's notice in any dark corner of the world.''

According to a Washington Post article on June 10, the National Security Council is drafting a new defense doctrine to emphasize the use of preemptive attacks against terrorists and rogue nations. According to this article, the Department of Defense is also now studying how to launch ''no warning'' raids using a ''Joint Stealth Task

Force'' that includes aircraft, ground troops, and submarines.

Mr. President, these ''no warning'' raids will be a devastating application of military force from the air, the ground, and the sea.

On Sunday, June 16, the Washington Post followed up on its reports about this new national security strategy with an article entitled, ''President Broadens Anti-Hussein Order.'' According to this article:

President Bush earlier this year signed an intelligence order directing the CIA to undertake a comprehensive, covert program to topple Saddam Hussein, including authority to use lethal force to capture the Iraqi president, according to informed sources.

The Post article continued:

One source said that the CIA covert action should be viewed largely as preparatory to a military strike.

It then discussed the difficulties involved in carrying out an attack on Iraq, including the large number of U.S. forces that would be required, the size of the Iraqi military, and the contentious relationships between Iraqi opposition groups and the United States.

So what we have is a lot of dots—a dot here, a dot there—about what the foreign policy of the United States is; a dot here, a dot there about what military action our Government might pursue.

I am constrained to ask, Is this a way to run a constitutional government? Is this a way to lead in a Republic? I hear so many of our Senators talk about this ''democracy.'' This is not a democracy.

I ask unanimous consent to have printed at the conclusion of my remarks certain excerpts from SA No. 10 and SA No. 14 of the essays by Jay and Madison and Hamilton, the Federalist essays.

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

(See exhibit 1.)

Mr. BYRD. Senators for themselves can, once again, if they ever have read, read what Madison says about a democracy and what he says about a republic. In those two essays, Senators will find the distinction between a democracy and a republic. I believe this should be required reading on the part of all Senators and all other public officials, essay No. 10 and essay No. 14 by Madison. If Senators want to know the difference between a democracy and a republic, turn to those two essays. Madison is quite clear in the difference.

Saddam Hussein has now had 11 years since the end of the gulf war to rebuild his war machine. New military action against Iraq would be costly in terms of national treasure and blood. It is exactly because of these kinds of considerations that the Constitution vests in Congress the authority to declare war, and the responsibility to finance military action.

We have heard Members of the Senate on both sides of the aisle express their support for military operations against Iraq. The case has yet to be argued, at least in any serious detail, or in open debate before the people. Bold talk of chasing down evildoers, stirring patriotic words, expressions of support for our men and women in uniform, these all have an important place in our national life, but the American people deserve to hear why we need to be an aggressor, why we need to risk the lives of their sons and daughters, why we need to take preemptive action against Iraq.

Now, perhaps we should do so. I am not saying we should not, but I am saying that Congress needs to know about this, and the American people need to have more than just patriotic expressions with visual backup, assemblies and/or words.

If it is the President's intent to oust Saddam Hussein, he would be well advised to obtain the support of the American people, and that would involve seeking congressional authorization to use military force.

I very well understand there are some military actions that we must take on virtually a moment's notice in the interest of protecting this Nation and its people, and the Commander in Chief has that inherent authority under the Constitution. But there comes a time when the Commander in Chief still needs to level with the American people and Congress.

We saw what happened in the case of the war in Vietnam when the support of the people back home declined, when the support of the American people began to go away from pursuing the Vietnam war. That support of the American people is necessary, and that support is expressed in many cases by their elected Representatives in both Houses of Congress. Yet this administration persists in an unwise and dangerous effort to keep the public largely in the dark.

I have to repeat to the administration time and time again, the legislative branch is not a subordinate body. It is not a subordinate department. It is not subordinate to the executive branch. It is an equal branch of the Government. So I think the administration, in embracing secrecy so much and so deliberately, is acting unwisely. It makes no sense. It is dangerous.

We have all seen the folly of military missions launched and maintained without sufficient support of the people. Time and again history has demonstrated that in a democratic republic such as the United States, the sustained support of the people is essential for the success of any long-term military mission.

I recall all too well the nightmare of Vietnam. I remember all too well how Congress, without sufficient information and debate, approved military action in that conflict. I recall all too well the antiwar protests, the demonstrations, the campus riots, the tragic deaths at Kent State, as well as the resignation of a President and a Vice President. I remember all too well the gruesome daily body counts in Vietnam.

The United States was a deeply divided country, and I would say we better read the Constitution more than we read the polls, instead of vice versa—reading the polls first and last and the Constitution somewhere in between.

I recall all too well the words of Senator Ernest Gruening of Alaska, who was sworn in in the same class which I was sworn, 1958. He was one of the two Senators who voted against the Gulf of Tonkin resolution that gave the President the authority to take military action in Vietnam. Senator Gruening said this:

By long and established practice, the Executive conducts the Nation's foreign policy. But the Constitution and particularly, by constitutional mandate, the Senate has the right and the duty in these premises to advise and consent. Especially is this true when it is specifically called upon by the Executive . . . for its participation in momentous decisions of foreign policy.

I recall all too well the words of the other Senator who voted against the Tonkin Gulf resolution. In urging Congress to investigate and hold hearings before endorsing the President's plan, Senator Wayne Morse of Oregon expressed his concern that the Pentagon and the executive branch were perpetrating a ''snow job'' upon Congress and the American people. If the Senate approved the Tonkin Gulf resolution, Senator Morse warned that ''Senators who vote for it will live to regret it.'' I was one of those who voted for it, and thanks to the good Lord, I am still living. I am the last of that class of 1958. I regret that vote on the Tonkin Gulf resolution. I wish I had had the foresight to vote against it, as did Senators Morse and Gruening.

I am determined to do everything I can to prevent this country from becoming involved in another Vietnam nightmare. This determination begins with Congress being fully and sufficiently informed on the undertakings of our Government, especially if it involves a commitment to military action.

We have to depend upon the leadership of the Senate and both sides of the aisle to insist that the Senate be informed. We also have to depend on the leadership of the other body on both sides of the aisle to insist on these things. We represent the American people. They send us here. No President sends me here. No President can send me home. No President sends the distinguished Senator from Nebraska here. No President can send him home. He comes here by virtue of the people of his State. They vote to send him, and he is here to represent them. He is not here to represent a President.

I realize, as our Founding Fathers realized, that in a government of separated powers, one branch of government has to be able to act swiftly and unilaterally at times. Of course, that is the executive branch. In this age of terrorism and weapons of mass destruction, these abilities are needed more than ever. We all know that.

But I also realize, as did our Founding Fathers, the need for another

branch, this branch, the legislative branch, to be able to put the brakes on the executive branch. Those brakes include investigation, hearings, debate, votes, and the power of the purse. That is the greatest raw power, may I say to the pages on both sides of the aisle; the power of the purse is the greatest raw power in this Government—the greatest. Cicero said, ''There is no fortress so strong that money cannot take it.'' Remember that. There is a new book out on Cicero; I must get it. I have heard about it. Remember, I say to these bright young pages—some of them will be Senators one day—Cicero said, ''There is no fortress so strong that money cannot take it.'' He was right.

So, I have heard a lot of talk about the need for this country to speak with one voice on matters of war and peace. Debate on such important issues, say these people, might reveal differences in views on how we ought to act. Our opponents would revel in our discord and the President would lose credibility as he went toe to toe with our enemies. It is as though some think that Congress is an impediment to the interests of this country.

I am sure the executive branch believes quite strongly from time to time that Congress is an impediment. But we still have the Constitution. Thank God for the Constitution. I hold it in my hand, the Constitution of the United States. And also in this little booklet is the Declaration of Independence. I will refer to that a little later. Here is that Constitution. Thank God for the Constitution. The legislative branch can always turn to this Constitution. That anchor holds. There is an old hymn, ''The Anchor Holds.'' Well, this is the anchor, the Constitution which I hold in my hand. This is the anchor. It holds.

I don't think debate is a weakness. Debate is our strength. Debate shows that we are a nation of laws, not of men. It shows that no man, no king—we do not have a king in this country. We have some people who are apparently monarchists. I think we have some in this Chamber who are sometimes monarchists when it comes to voting. They want to support the executive branch. The executive branch will take care of itself. Remember that, may I say to the young pages.

There are three branches of Government: The judicial branch—it will always uphold the prerogatives of the judicial branch, the executive branch—it will always uphold the prerogatives of the executive branch, and grab for more; but it is here in the legislative branch that sometimes half, or a large portion, of the membership does not speak for the prerogatives of the legislative branch under this Constitution; they speak for the prerogatives of the executive branch.

''We must support the Commander in Chief,'' they say. ''We must support the Commander in Chief.'' But, fellow Senators, this Commander in Chief is only here for 4 years. I have served with 11 Commanders in Chief. We have Commanders in Chief, but we do not have to support the Commander in Chief. I don't care if he is a Democrat. I don't have to support the Commander in Chief. And I sometimes don't, even if he is a Democrat.

Well, debate shows that we are a nation of laws and that no man—neither king nor Commander in Chief—has the right to send us to war by virtue of his decision alone.

This Republic—not this democracy; forget it. Read Madison's essays, No. 10 and No. 14—this Republic. There it is, we pledge allegiance to the flag of the United States of America and to the Republic—not ''the democracy.'' The city-states in the time of Athens could have democracies. My little town of Sophia, with about 1,180 persons, could be a democracy. It is small enough. All the people could come together and they could speak for all the people, but not in this great country of 280 million people. This is a republic. We ought to get in the habit of speaking of it as a republic.

We are a model to the world in this respect. By debating and voting on issues of war and peace, Congress is able to express the will of the American people and galvanize support for what could be a costly conflict. Debate and well-meaning disagreement on important issues do not weaken the resolve of the American people. It is secret motives—here is where problems begin—secret motives, clandestine plotting, and lack of confidence in the public that are the swift solvent of our national morale.

If it is the path that this Nation is to take, President Bush ought to present his case to Congress before we must use military force to overthrow Saddam Hussein. That is why the Congress must ask important questions. At least there are some leaders in both Houses, in both parties, who need to be taken into these secrets.

That is why the Congress must ask important questions, including if we are successful in getting rid of the authoritarian who is now in power in Iraq, who will take his place? Have we covertly hand picked a leader for the future of Iraq? If so, who is he? Once such a military operation is undertaken, how will we know when the mission is accomplished?

Let there be no doubt, from what I now know and understand, I would support a change in regimes in Iraq. I suppose every Member of this body would probably do that. There is no doubt in my mind about the serious and continuing danger that Iraq poses to the stability of the Persian Gulf region. Saddam Hussein has sought to build weapons of mass destruction and long-range missiles. His military regularly attempts to shoot down our fighter planes that patrol the No Fly Zones over Iraq. He has worked to heighten the conflict between Israel and the Palestinians. He has promoted the starvation of Iraqi children so that he and his cabal can live in palaces. Saddam Hussein is a scourge on the people of Iraq and a menace to peace. We know that. I know these things. I wasn't exactly born yesterday. But it is the duty of Congress to ask questions. Members of Congress need not be intimidated by polls. We are expected to ask questions.

It is the duty of Congress to ask questions so that we, the people's branch of government, and as a result, the American people, will know what we may be getting ourselves into. It may be that the President already has answers to these questions about Iraq, and that we might awake one morning to see those answers printed in the morning newspaper. As we learned all too well in Korea, Vietnam, and Somalia, it is dangerous to present Congress and the American people with a fait accompli—that is a dangerous thing to do, no matter what the polls say. Those polls can drop suddenly—present Congress and the American people with a fait accompli of important matters on foreign affairs.

When the Administration is asking the American people to send their sons and daughters into harm's way, knowing that some will never return, it is essential that Congress know more, not less, about the Administration's planned course of action. Congress must not be left to connect dots!

All that Congress has been promised so far is that the President would consult with Congress about military action against Iraq. This promise falls well short of the mark, particularly because of what the Administration offers in the way of consultation. Like other members of the Senate, I was taken by surprise by the President's sudden announcement of his plan to create a massive new Department of Homeland Security. I favored such, but it was all hatched in the bowels of the White House. And according to the press, there were, I think, four persons who provided the genius behind the creation. In an unbelievable twist of logic, the Administration maintains that it actually consulted with Congress on the proposal. The administration knows better than that. The President's chief of staff was quoted in The Washington Post on June 9, 2002, as saying, ''We consulted with agencies and with Congress, but they might not have known that we were consulting.'' How do you like that? I have been in Congress 50 years now. I have never seen anything like that, where the administration says we have consulted with Congress but they might not have known we were consulting.

This does not even deserve to qualify for George Orwell's definition of double speak. Such a claim is plain, unmitigated garbage.

In the aftermath of the carnage and turmoil of the Vietnam war, Congress approved the War Powers Resolution, that provided procedures for Congress and the President to participate in decisions to send U.S. Armed Forces into

hostilities. Section 4(a)(1) required the President to report to Congress any introduction of U.S. forces into hostilities or imminent hostilities. Section 3 requires that the ''President in every possible instance shall; consult with Congress before introducing'' U.S. Armed Forces into hostilities or imminent hostilities.

In face of this Congressional resolution, this administration refuses to consult with anyone outside its own inner circle—well, let its own inner circle provide the money when the time comes—anyone outside its own inner circle about what appears to be its plan for imminent hostilities. This Administration convenes meetings of its trusted few in little underground rooms, while sending decoy envoys to meet with Congress and members of the press, and the public.

I have not seen such Executive arrogance and secrecy since the Nixon Administration, and we all know what happened to that group.

I remember too well the Executive arrogance and extreme secrecy that lead to the Iran-Contra scandal. Selling weapons to a terrorist nation in exchange for hostages, and using that money to finance an illegal war in Central America. What a great plan that was! I guess I can understand why the Reagan Administration did not want to tell Congress about that foreign policy adventure.

I have no doubt that as I speak, there are some within this Administration who are preparing to carry out some sort of attack against Iraq. Well, that's all right. We have to make plans before we do things. I am not sure who they are, but I am connecting the dots, and I am concerned about the picture that is developing.

If the President needs to take decisive military action to prevent the imminent loss of American lives, he will receive broad support. But if this country is moving methodically and deliberately toward some kind of showdown with Iraq, Congress is entitled to good-faith consultations from the executive branch. We must consider and debate whether we should use military force against Saddam Hussein. And, barring the most exceptional of circumstances, Congress must vote to authorize the President to use military force against Iraq prior to the outbreak of hostilities if, after appropriate debate and consideration, Congress comes to that conclusion.

As Senator Gruening pointed out, it is the role of the Senate to advise and consent in foreign policy. And those words did not originate with Senator Gruening. Read the Constitution.

As the War Powers Resolution points out, it is the role of Congress to be active participants in foreign affairs, and certainly such adventures as making war.

So, as we proceed, let us connect the dots.

As the Constitution demands, it is the role of Congress to declare war. Yes, we have a Commander in Chief. But what Army and what Navy does he have to command if Congress does not provide the money?

When the President is ready to present his case to Congress, I am ready to listen. But I think we all must be tired of trying to connect dots in the dark.

EXHIBIT 1

THE FEDERALIST NO. 10

JAMES MADISON

* * * * *

From this view of the subject, it may be concluded, that a pure Democracy, by which I mean, a Society, consisting of a small number of citizens, who assemble and administer the Government in person, can admit of no cure for the mischiefs of faction. A common passion or interest will, in almost every case, be felt by a majority of the whole; a communication and concert results from the form of Government itself; and there is nothing to check the inducements to sacrifice the weaker party, or an obnoxious individual. Hence it is, that such Democracies have ever been spectacles of turbulence and contention; have ever been found incompatible with personal security, or the rights of property; and have in general been as short in their lives, as they have been violent in their deaths. Theoretic politicians, who have patronized this species of Government, have erroneously supposed, that by reducing mankind to a perfect equality in their political rights, they would, at the same time, be perfectly equalized and assimilated in their possessions, their opinions, and their passions.

A Republic, by which I mean a Government in which the scheme of representation takes place, opens a different prospect, and promises the cure for which we are seeking. Let us examine the points in which it varies from pure Democracy, and we shall comprehend both the nature of the cure, and the efficacy which it must derive from the Union.

The two great points of difference between a Democracy and a Republic are, first, the delegation of the Government, in the latter, to a small number of citizens elected by the rest: secondly, the greater number of citizens, and greater sphere of country, over which the latter may be extended.

The effect of the first difference is, on the one hand to refine and enlarge the public views, by passing them through the medium of a chosen body of citizens, whose wisdom may best discern the true interest of their country, and whose patriotism and love of justice, will be least likely to sacrifice it to temporary or partial considerations. Under such a regulation, it may well happen that the public voice pronounced by the representatives of the people, will be more consonant to the public good, than if pronounced by the people themselves convened for the purpose. On the other hand, the effect may be inverted. Men of factious tempers, of local prejudices, or of sinister designs, may by intrigue, by corruption or by other means, first obtain the suffrages, and then betray the interests of the people. The question resulting is, whether small or extensive Republics are most favorable to the election of proper guardians of the public weal: and it is clearly decided in favor of the latter by two obvious considerations.

In the first place it is to be remarked that however small the Republic may be, the Representatives must be raised to a certain number, in order to guard against the cabals of a few; and that however large it may be, they must be limited to a certain number, in order to guard against the confusion of a multitude. Hence the number of Representatives in the two cases, not being in proportion to that of the Constituents, and being proportionally greatest in the small Republic, it follows, that if the proportion of fit characters, be not less, in the large than in the small Republic, the former will present a greater option, and consequently a greater probability of a fit choice.

In the next place, as each Representative will be chosen by a greater number of citizens in the large than in the small Republic, it will be more difficult for unworthy candidates to practise with success the vicious arts, by which elections are too often carried; and the suffrages of the people being more free, will be more likely to centre on men who possess the most attractive merit, and the most diffusive and established characters.

It must be confessed, that in this, as in most other cases, there is a mean, on both sides of which inconveniences will be found to lie. By enlarging too much the number of electors, you render the representative too little acquainted with all their local circumstances and lesser interests; as by reducing it too much, you render him unduly attached to these, and too little fit to comprehend and pursue great and national objects. The Federal Constitution forms a happy combination in this respect; the great and aggregate interests being referred to the national, the local and particular, to the state legislatures.

The other point of difference is, the greater number of citizens and extent of territory which may be brought within the compass of Republican than of Democratic Government; and it is this circumstance principally which renders factious combinations less to be dreaded in the former than in the latter. The smaller the society, the fewer probably will be the distinct parties and interests composing it; the fewer the distinct parties and interests, the more frequently will a majority be found of the same party; and the smaller the number of individuals composing a majority, and the smaller the compass within which they are placed, the more easily will they concert and execute their plans of oppression. Extend the sphere, and you take in a greater variety of parties and interests; you make it less probable that a majority of the whole will have a common motive to invade the rights of other citizens; or if such a common motive exists, it will be more difficult for all who feel it to discover their own strength, and to act in unison with each other. Besides other impediments, it may be remarked, that where there is a consciousness of unjust or dishonorable purposes, communication is always checked by distrust, in proportion to the number whose concurrence is necessary.

Hence it clearly appears, that the same advantage, which a Republic has over a Democracy, in controlling the effects of faction, is enjoyed by a large over a small Republic—is enjoyed by the Union over the States composing it.

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THE FEDERALIST NO. 14

JAMES MADISON

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The error which limits Republican Government to a narrow district, has been unfolded and refuted in preceding papers. [See Essays 9 and 10.] I remark here only, that it seems to owe its rise and prevalence, chiefly to the confounding of a republic with a democracy: And applying to the former reasonings drawn from the nature of the latter. The true distinction between these forms was also adverted to on a former occasions. [See

Essay 10.] It is, that in a democracy, the people meet and exercise the government in person; in a republic they assemble and administer it by their representatives and agents. A democracy consequently will be confined to a small spot. A republic may be extended over a large region.

To this accidental source of the error may be added the artifice of some celebrated authors, whose writings have had a great share in forming the modern standard of political opinions. Being subjects either of an absolute, or limited monarchy, they have endeavored to heighten the advantages or palliate the evils of those forms; by placing in comparison with them, the vices and defects of the republican, and by citing as specimens of the latter, the turbulent democracies of ancient Greece, and modern Italy. Under the confusion of names, it has been an easy task to transfer to a republic, observations applicable to a democracy only, and among others, the observation that it can never be established but among a small number of people, living within a small compass of territory.

Such a fallacy may have been the less perceived as most of the governments of antiquity were of the democratic species; and even in modern Europe, to which we owe the great principle of representation, no example is seen of a government wholly popular, and founded at the same time wholly on that principle. If Europe has the merit of discovering this great mechanical power in government, by the simple agency of which, the will of the largest political body may be concentred, and its force directed to any object, which the public good requires; America can claim the merit of making the discovery the basis of unmixed and extensive republics. It is only to be lamented, that any of her citizens should wish to deprive her of the additional merit of displaying its full efficacy on the establishment of the comprehensive system now under her consideration.

As the natural limit of a democracy is that distance from the central point, which will just permit the most remote citizens to assemble as often as their public functions demand; and will include no greater number than can join in those functions; so the natural limit of a republic is that distance from the center, which will barely allow the representatives of the people to meet as often as may be necessary for the administration of public affairs.

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THE PLEDGE OF ALLEGIANCE

Mr. BYRD. Mr. President, we all know that on Wednesday, in a 2-to-1 decision, a three-judge panel of the Ninth Circuit Court of Appeals held that the United States Pledge of Allegiance was unconstitutional. The court held that the pledge was unconstitutional because in 1954 the Congress had the audacity—imagine that—to include a reference to God in its provisions.

Some say these are just mechanical, ceremonial provisions. Get out of my face. That may be what some people think, but the majority of people in this country I don't believe are thinking in terms of ceremonial language.

I was a Member of the U.S. House of Representatives at that time. I am the only Member of Congress today in either body who can say that I was a Member of the House of Representatives on June 7, 1954, when the words ''under God'' were included in the Pledge of Allegiance.

Now I see in the morning paper that the next thing these misguided atheists are wanting to do is to challenge the words ''In God we trust.''

I was a Member of the House of Representatives on that same date, coincidentally, June 7, 1 year later, 1955, when the House voted to add the words ''In God we trust'' to the Nation's coins and currency. Every time you take out a dollar bill—that is a pretty popular bill in my lifetime, a dollar bill; here it is—on it we read the words ''In God we trust.'' It is all there. It is on the coins.

I was a Member of the House of Representatives when Congress voted to make that the motto, and here it is, inscribed, which is said in marble, ''In God we trust,'' right here over this door to the Chamber.

Over to my left are those words, ''Novus Ordo Seclorum,'' a new order of the ages.

''E Pluribus Unum,'' all in one, one in all.

Over here, ''Annuit coeptis,'' God has favored our undertakings.

Here are these inscriptions. Bring in your stone masons and take these off the walls. That is what these pernicious atheists are saying. They want everything to suit themselves.

God have mercy on them. But if they have their way, we will have to have stonemasons come into this Chamber and chisel off these words.

They are not going to have their way. The people of these United States are not going to stand for this. And the courts had better take notice and kind of draw back a little bit. After all, if the American people do not believe in it and if they do not support it, that court decision is not going to be obeyed.

The courts, starting with the Supreme Court, need to take a new look at this first amendment. If anything will ever result in amending the first amendment, then continue to go down this road, I say to the courts. They ought to draw back just a little bit distant from going down the road they are presently on.

I am proud to inform my colleagues that I was in the House when Joint Resolution 243, which was entitled ''A Joint Resolution to codify and emphasize existing rules and customs pertaining to the display and use of the flag of the United States of America'' was enacted. That resolution was approved by the House on June 7, 1954—almost half century ago.

The plaintiff in the case that was just decided is a self-described atheist. His daughter attends elementary school in California. The public schools there, as elsewhere, begin each school day with the Pledge of Allegiance to the Flag. If this court's outlandish and ill-conceived decision is allowed to stand, it will mean that children in public schools in at least nine states will no longer be allowed to recite the pledge of allegiance by referring to America as ''one Nation, under God, indivisible, with liberty and justice for all.''

That is too much power.

Specifically, the court in this case has held that the words ''under God'' are unconstitutional because they support the existence of God but deny ''atheistic concepts.'' Unbelievably, the Court has held that this runs counter to the intent of the First Amendment of the U.S. Constitution, because, according to this court, the Establishment Clause of the First Amendment prohibits the government from endorsing any particular religion, including a belief in one God—which the court calls ''monotheism''—at the expense of atheism.

Take a look at this Bible, which I hold in my hand. Here it is, the Holy Bible. It is the King James version—King James of England. Here is what it says in Psalm No. 127:

> Except the Lord build the House, they labour in vain that build it: except the Lord keep the city, the watchman waketh but in vain.

Those are the words written long before the U.S. Constitution was written—written by wise men in many instances, Solomon, Son of David—long before the Constitution was written, long before the court system was established in these United States. Those are the words:

> Except the Lord build the House, they labour in vain that build it.

Hear me, Judges!

In reading the court's decision, I was astonished by the tortured reasoning of the majority as opposed to the lucid opinion recorded by Judge Fernandez, the lone dissenter. In responding to the arguments of the majority, Judge Fernandez did not see fit to hold that the phrase ''under God'' violates the Constitution of the United States.

How silly, how lucidly silly.

If the schoolchildren of America were to be required to commemorate to memory, as they used to be required to commit many things to memory, the Declaration of Independence, would that ninth circuit judge render such an absurd decision concerning the constitutionality of the Declaration of Independence?

Let's just select three or four phrases from the Declaration of Independence.

The Declaration refers to ''Nature's God.'' The Declaration also refers to ''the Supreme Judge of the world,'' meaning God. The Declaration refers to ''a firm reliance on the protection of divine Providence.'' This is the Declaration of Independence. It was not written by Congress in 1954, as the words ''under God'' were inserted into the pledge. This Constitution was not written then. This Declaration of Independence was not written then. And who wrote it? In the main, it was written by Thomas Jefferson, along with John Adams, Benjamin Franklin, Philip Livingston, and one other. But there are at least four or five references to ''Providence,'' to ''the Divinity,'' to

''God,'' to ''the Supreme Judge of the world'' in the Declaration of Independence.

Now, would the same judge render such a misguided, absurd decision concerning the Declaration of Independence?

Let's see who signed that Declaration of Independence. John Hancock—there are several signers. I will just select a few: John Hancock; George Wythe; Richard Henry Lee; Thomas Jefferson; Benjamin Harrison, who later would become President; Robert Morris, the financier of the American Revolution; Benjamin Rush; Benjamin Franklin; George Clymer; James Wilson of Pennsylvania; Samuel Adams; John Adams; Elbridge Gerry and Roger Sherman. What would they think? What would these signers of the Declaration think?

What would the signers of the Constitution say if they could speak today? What would they say about this pernicious decision we have just read about?

What would Roger Sherman think? What would William Livingston think? I am wondering, if they could speak today, what would they think? What would Benjamin Franklin say? What would Robert Morris think, George Clymer? These are also signers of the Constitution. What would James Wilson think? How about George Read? How about John Dickinson, what would he say—John Dickinson of Delaware, who signed this Constitution?

What would George Washington think? He presided over the Constitutional Convention. What would he say? What would John Rutledge say? What would Charles Cotesworth Pinckney say? What would Charles Pinckney say? What would Pierce Butler say? If they could speak to this—I will use a word that is pretty widely used—godawful decision, what would they say?

Well, Judge Fernandez said we should recognize ''that the religious clauses in the Constitution were not designed to drive religious expression out of public thought; they were simply written to avoid discrimination.''

Judge Fernandez acknowledged further, that, ''we can run through the litany of tests and concepts which have floated to the surface from time to time.'' But, he said, ''when all is said and done, the danger that the words 'under God' in our Pledge of Allegiance will tend to bring about a theocracy or suppress somebody's beliefs is so minuscule as to be de minimis.'' He concluded his dissent by finding that there is nothing unconstitutional about the Pledge of Allegiance, because any danger presented to first amendment freedoms by the phrase 'one nation under God' is, in his words, ''picayune.''

Well, to that, I would say, ''Amen.''

Mr. President, over my many years in office, I have known other critics, like the majority of this court, who have attacked the words ''under God'' as they exist in the Pledge of Allegiance. They have implied that the Founding Fathers were essentially ''areligious'' or ''neutral'' about religion. Some of these critics even claim the Founding Fathers were antireligious, that they were bent on establishing a completely secular state in which God has no place. These individuals assert that America's fundamental origins are basically devoid of religious meaning, and that this was the intent of the Founding Fathers.

Well, nothing could be further from the truth.

If we read the Federalist essays, if we read other documents, we know that the intent of the Framers was to keep the new government from endorsing or favoring one religion over another. It was never meant to prohibit any voluntary expression of religious faith. I believe that this court's decision is wrongheaded, destructive, and completely contrary to the intent of the Founders of this great Nation. Instead of ensuring freedom of religion in a nation founded in part to guarantee that basic liberty, a literal suffocation of that freedom has been the result. The rights of those who do not believe in a Supreme being are being zealously guarded, to the denigration, I repeat, the denigration, of the rights of the millions of people in this country who do believe.

The American doctrine of separation of church and state forbids the establishment of any particular religion by the state, but it does not forbid the influence of religious values in the life of our Nation. Religious faith has always been a basic tenet of American life. This is evident throughout the history of America.

The history of the first amendment in particular is one of the great legacies of faith bequeathed by the Founding Fathers, but it is one that is little understood and sometimes distorted—as it was in the recent court decision. In 1791, Congress passed the first 10 amendments to the Constitution. We refer to these 10 amendments as the Bill of Rights. The very first amendment recognized the importance of religion in American life, stating that, Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof, which the second phrase is just as important and has equal weight with the preceding clause. The purpose of this tenet was to allow religious faith to flourish, not to suppress it, not to hobble it.

In fact, even earlier—before the passage of the First Amendment—Congress had clarified its attitude toward religion when, on August 7, 1789, it officially reenacted the Northwest Ordinance of 1787, which included an explicit endorsement of religion. Article III of the Northwest Ordinance of 1787 stated, ''Religion, morality, and knowledge being necessary to good government and the happiness of mankind, schools and the means of learning shall forever be encouraged.''

At that juncture, most schools were church enterprises. Congress recognized this, and expected—and I want to emphasize this—expected that the schools would teach religion and morality.

Against this backdrop, the First Amendment is especially enlightening. James Madison, the principal sponsor of the Bill of Rights and later himself President, was a lifelong Episcopalian who had studied theology at Princeton with apparent plans to enter the ministry. However, on his return to Virginia after college, he changed his mind and went into politics primarily because he was deeply disturbed by the persecution of Baptists and other nonconformists in the Old Dominion. He therefore entered politics to become an ardent advocate of religious tolerance.

Madison declared that, ''the religion of every man must be left to the conviction and conscience of every man.'' Thus, in consultation with John Leland, the leading Baptist clergyman in Virginia, Madison hammered out the church/state principles that were eventually embodied in the first amendment.

As a result, the institutions of Church and State were officially separated, but the exercise of religion and its influence on society were encouraged—not discouraged.

One of the most perceptive observers of the early American scene was the celebrated Alexis de Tocqueville. De Tocqueville, in summarizing the condition of religion in the United States in the 1830s, wrote:

> On my arrival in the United States the religious aspect of the country was the first thing that struck my attention . . . In France I had almost always seen the spirit of religion and the spirit of freedom marching in opposite directions.

That is what this court would have us do in this country. But, continued de Tocqueville:

> But in America, I found they were intimately united and that they reigned in common over the same country . . . Religion . . . must be regarded as the foremost of the political institutions of the country—

Meaning this country—

> for if it does not impart a taste for freedom—

We hear the word ''freedom'' kicked around everywhere today——

> it facilitates the use of free institutions.

De Tocqueville grasped what millions of Americans have known, past and present. God has been and continues to be an intimate and profound participant in the ongoing history of these United States. Keep that in mind. God has been and continues to be an intimate and profound participant in the ongoing history of America.

Remember the Scriptures: ''Except the Lord build the house, they labor in vain that build it.'' The American people believe that.

Through the decades, most Americans have come to discover the truth of de Tocqueville's conclusion when he asserted that, ''Unbelief is an accident.'' Hear that, ye atheists: ''Unbelief is an accident, and faith is the only permanent state of mankind.''

In the context of this heritage, then, it is not surprising that the United

States—a nation that evolved out of the American Revolution—should be, at root, a religious nation, from the beginning, from the Mayflower Compact, which in at least four instances refers to God.

Indeed, most of the men who have been President of the United States have been men of exceptional faith. Two Presidents other than James Madison John Adams and Benjamin Harrison had considered entering the ministry. James Garfield was a lay preacher in the Disciples church. And Theodore Roosevelt, Benjamin Harrison, William McKinley, and James Earl Carter were all Sunday School teachers at various points during their lives.

Of all of the Presidents, Abraham Lincoln was among the most theologically astute and Biblically influenced. Paradoxically, he never formally joined any particular church. Nonetheless, he said the Bible—this is what Lincoln was talking about, the Holy Bible—was ''the greatest gift God has given to man.'' Hear me, Judge Goodwin of the Ninth Circuit. This is Lincoln speaking, not Robert C. Byrd. Lincoln said the Bible was ''the greatest gift God has given to man.'' And he was an avid reader of the Bible. He kept a battered old family Bible with him in the White House, and his speeches were laced with Biblical quotations. Reporters of his day stated that his delivery reflected the cadences and rhythms of the King James Version of the English Bible. The first Bible was the Coverdale Bible, written in 1535, the same year Thomas Moore was executed.

But Lincoln was not alone among the Presidents who bore public witness to their personal faith. Every President, from George Washington through George W. Bush, has included some reference to God in his inaugural address. I have gone through all the inaugural addresses. I think there might have been one President who was pretty weak in his references to the Supreme Judge of the world. But in most cases they didn't have any hesitancy about referring to providence, to God.

In his First Inaugural address, Washington declared, ''No people can be bound to acknowledge and adore the Invisible Hand which conducts the affairs of men more than those of the United States. Every step by which they have advanced to the character of an independent nation seems to have been distinguished by some token of providential agency.'' George Washington also instituted another custom that has been followed by every President since, by proclaiming a national day of Thanksgiving in late November of 1789.

Jefferson, specifically included in his plans for the University of Virginia the proposal that ''proof of the being of God, the Creator, Preserver, and Supreme Being of the Universe, and Author of all morality, and the laws and obligations these infer, will be the province of the Professor of ethics.''

However, nowhere, perhaps, did Jefferson's religious faith have a greater influence than in the words of the Declaration of Independence. At one point, Jefferson wrote, ''Religion is the alpha and omega of our moral law.'' He also pledged that he had ''sworn upon the altar of God eternal hostility against every form of tyranny over the mind of man.'' In the Declaration, which he wrote, Jefferson made it clear that religion is not only the root of our moral law but of our political rights. The Declaration of Independence contains five synonyms for the word ''God,'' and maintains that freedom itself is a gift from God as an element of man's being.

As, hopefully, we all recall, the Declaration of Independence states, with respect to God:

> We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain inalienable Rights, that among these are Life, Liberty, and the pursuit of Happiness. . . .
>
> We, therefore, the Representatives of the United States of America, in General Congress, Assembled, appealing to the Supreme Judge of the world for the rectitude of our intentions. . . .
>
> And for the support of this Declaration, with a firm reliance on the protection of divine Providence, we mutually pledge to each other our Lives, our Fortunes, and our sacred Honor. . . .

These are various and sundry excerpts from the Declaration of Independence.

Based on this foundation established by Jefferson and the other Founding Fathers, archaeologists in future millennia will have little difficulty reading the evidence of the religious faith and traditions that have been part and parcel of American history. Every nook and cranny of this Capitol—and I might add, of this Capital City—provides such evidence. In fact, wherever one may go in this great national city, he or she is constantly reminded of the strong spiritual awareness of our forefathers who wrote the Constitution, who built the schools, who built the churches, who hewed the forests, who dredged the rivers and harbors, and who created this Republic.

Here in the Senate, for example, the services of an ordained clergyman have been employed since 1789. The Senate Chaplain is the embodiment of a corporate faith in God and the symbol of the eternal judgment that we Senators recognize exists over our legislative and personal actions. Moreover, the institution of the Senate Chaplaincy is itself the result of a historical process that reveals much about the long development of American values.

For example, the first prayers offered in Congress were uttered on September 7, 1774. At the initial meeting of the First Continental Congress, Samuel Adams requested that the convention begin with prayer. As the Revolutionary War continued, the Continental Congress issued calls for periodic national days of prayer and fasting, asking the populace ''to reverence the Providence of God, and look up to Him as the Supreme Disposer of all events and the arbiter of the fate of nations.''

These religious expressions were not just pretense, they were not just ceremonial verbiage. Heavens no. Prayer and worship were held in high regard by the remarkable men who led the American Revolution, and the Chaplaincy of today's Senate is derived directly from the guidance provided by those great men. During the rocky sessions of the Constitutional Convention of 1787, the various representatives of the several States were locked in heated disagreement over petty prerogatives with little concern, apparently at that moment, for the national well-being. The weather had been very hot—probably as humid as it gets here in Washington at times—and the delegates to the Convention were tired and they were edgy. The debates were stymied and a melancholy cloud seemed to hang over the Convention.

Suddenly, old Dr. Franklin stood to his feet and faced the chair in which sat GEN George Washington. His famous double-spectacles were low on his nose, and he broke the silence when he addressed George Washington. Franklin reminded the Convention how, at the beginning of the war with England, the Continental Congress had prayed for Divine protection in that very room. ''Our prayers, sir, were heard,'' he declared. ''They were graciously answered. . . .'' He then asked, ''And have we now forgotten that powerful Friend? Or do we imagine that we no longer need His assistance?''

He continued on saying:

> I have lived, sir, a long time, and the longer I live, the more convincing proofs I see of this truth—that God governs in the affairs of men. And if a sparrow cannot fall to the ground without His notice, is it probable that an empire can rise without his aid?
>
> We have been assured, sir, in the sacred writings, that ''except the Lord build the house, they labor in vain that build it.''

He selected the same portion of Scripture that I picked today, didn't he? This is Benjamin Franklin talking. He went on to say:

> I firmly believe this: and I also believe that without His concurring aid we shall succeed in this political building no better than the builders of Babel. . . .

Well, today, we follow the Senate tradition of morning prayer. The Chaplain was among the first officers elected in the Senate upon adoption of the Constitution. In my volumes, ''The Senate 1789–1989,'' Senators will find a chapter on the Senate Chaplain. I hope they will read it again. To this very day, the first daily order of the business in the Senate is a prayer for Divine Guidance by the Chaplain.

This, of course, was not perceived by the Framers as an attack on the first amendment requiring separation between church and state, for the simple reason that no single church has anything to do with it.

It is not simply prayer in the Senate that reaffirms the religious history of the American people. Let us speak

briefly of some of the other reminders in Washington that reaffirm the proposition that our country is founded on religious principles.

On the Washington Monument, one may read three Biblical quotations on the 24th landing. One was donated by the Sunday school children of the Methodist Church of Philadelphia who contributed a stone bearing an inscription from the Book of Proverbs which states:

Train up a child in the way he should go, and when he is old, he will not depart from it.

Another inscription on the Washington Monument, which was contributed by the Methodist Church of New York, is also taken from Proverbs and reads:

The memory of the just is blessed.

That comes from chapter 22 of Proverbs, verse 6.

And the third stone bears these words of Christ from the Book of Luke:

Suffer the little children to come unto me, and forbid them not, for of such is the kingdom of heaven.

Near the Washington Monument, of course, is the Lincoln Memorial. This massive shrine pays homage to the greatness of this simple and heroic man whose very life was offered on the altar of liberty. We know of his knowledge of the Bible and his gentleness, his power, his determination, and we know that determination of Lincoln came to us clearly through his features chiseled in granite by the sculptor.

We can almost hear Lincoln speak the words which are cut into the wall by his side. Mr. President, we need to get some stonemasons to go down to the Lincoln Memorial. If this judge with his pernicious ruling and if the atheists are successful in having these words stricken from this Chamber—''In God We Trust''—and from the Nation's currency, we will have to have a lot of new dollar bills printed and a lot of new coins. We have to strike those words ''In God We Trust'' now from the bills if these pernicious suits by atheists are upheld by some misguided judges, like the one who rendered this decision. We had better hire some stonemasons. That might be a pretty good job, come to think of it. Maybe I should just retire at the end of this term—I would be about 89 then—and then I can perhaps get myself a job as a stonemason. I could go down here to the Lincoln Monument—I would not do it—at least I could think in terms of being a stonemason and take these words off that Lincoln Memorial.

Listen to what Lincoln says, according to the inscription on the Lincoln Memorial. Can you just witness those stonemasons going down there and chipping with chisel and hammer, chipping out these words? Listen, these are words that are cut into the wall by the side of Lincoln on the Lincoln Memorial:

That this Nation under God—

Praise God, hallelujah, there they are. That is Lincoln, that is what he said.

That this Nation under God, shall have a new birth of freedom. . . .

Hear that, judges of the Ninth Circuit. Hear that, Judge Goodwin of the Ninth Circuit. I have a great judge in West Virginia named Goodwin. He is a Federal judge. He is Judge Goodwin. But I daresay he would not have rendered that kind of a foolish decision. Here are the words that are cut into the wall by the side of Lincoln:

That this Nation under God, shall have a new birth of freedom, and that government of the people, by the people, and for the people shall not perish from the earth.

In his second inaugural address, this great President—a Republican, by the way. See, I do not hold that against him—in his great second inaugural address, great President Lincoln made use of the words ''God,'' ''Bible,'' ''prayer,'' ''providence,'' ''Almighty,'' and ''divine attributes,'' and then his address continues:

As was said 3,000 years ago so it still must be said, [that] ''the judgements of the Lord are true and righteous altogether.''

That was Abraham Lincoln.

With malice toward none, with charity for all, with firmness in the right as God—

This is Lincoln talking, Abraham Lincoln talking—

With malice toward none, with charity for all, with firmness in the right as God gives us to see the right, let us strive on to finish the work we are in, to bind up the Nation's wounds, to care for him who shall have borne the brunt of the battle and for his widow and his orphan—to do all which may achieve and cherish a just and lasting peace among ourselves and all nations.

Before leaving Washington, a visitor might make a final stop at the National Cemetery in Arlington, VA. Here are the peaceful ranks of crosses, stars of David, other religious symbols reminding us that our Government has given its fallen men back to the God who gave them life. The Tomb of the Unknown Soldier stands for all those who have fallen in battle who could not be identified—members of all sects, faiths, and religions. And here, once more, we find the acknowledgment of God's divine power in the eloquent words:

Here lies in honored glory, an American soldier known but to God.

Can you imagine, we may have to someday get stonemasons to go over there and take hammers and chisels and take those words off that monument.

Thus, the connection between God and the United States of America is long established in the minds of most Americans. If we begin now to erase the connection between God and schoolchildren under the pretense of protecting the so-called constitutional rights of nonbelievers or atheists, as the Ninth Circuit did, will it not be necessary to go a little further, or perhaps a great deal further, in the future?

Will we next be forced to remove the name of God from all official documents, historic edifices, and patriotic events for fear of possibly offending what is a nonbelieving minority?

Must we do so when even the possibility of offending such a minority is, in the words of Judge Fernandez, picayune?

What will the court crier say—''God save this honorable court''? He will have to stop there, will he not? He will have to say something else. Would he say, ''President Bush save this honorable court?'' Would he say, ''President Clinton, save this honorable court?'' One can see how silly such a decision was and how foolish it is to pursue that line in this country with all of its history.

Obviously, in establishing and maintaining a secular government, the American people never intended to foster an atheistic or a faithless society. In this light, in closing, I recite perhaps more sincerely than ever the prayer that climaxes one of our greatest national hymns:

Our fathers' God to Thee,
Author of liberty,
To Thee we sing;
Long may our land be bright
With freedom's holy light;
Protect us by Thy might,
Great God our King.

INDEPENDENCE DAY

Mr. BYRD. Mr. President, the Nation will honor its birthday on the forthcoming July 4. That was the day on which, in 1826, both Thomas Jefferson and John Adams died. They both died on the same day, 50 years exactly from the date on which Thomas Jefferson wrote that Declaration of Independence and the Congress approved it. What a coincidence. God works in miraculous ways, his wonders to perform, does not he?

As I look forward to that Fourth of July, I know the Senate will not be in session. But before we depart, I want to talk about the event that Senators and Members of the other body will be celebrating next week back in their home States and districts: Independence Day.

As I think of Independence Day, I think of Henry Van Dyke's poem, ''America For Me.''

'Tis fine to see the Old World, and travel up and down
Among the famous palaces and cities of renown,
To admire the crumbly castles and the statues of the kings,—
But now I think I've had enough of antiquated things.

So it's home again, and home again, America for me!
My heart is turning home again, and there I long to be,
In the land of youth and freedom beyond the ocean bars,
Where the air is full of sunlight and the flag is full of stars.

Oh, London is a man's town, there's power in the air;
And Paris is a woman's town, with flowers in her hair;
And it's sweet to dream in Venice, and it's great to study in Rome;

But when it comes to living there is no place like home.
I like the German fir-woods, in green battalions drilled;
I like the gardens of Versailles with flashing fountains filled;
But, oh, to take your hand, my dear, and ramble for a day;
In the friendly western woodland where nature has her way!
I know that Europe's wonderful, yet something seems to lack:
The Past is too much with her, and the people looking back.
But the glory of the Present it is to make the Future free,—
We love our land for what she is and what she is to be.
Oh, it's home again, and home again, America for me!
I want a ship that's westward bound to plough the rolling sea,
To the blessed Land of Room Enough beyond the ocean bars,
Where the air is full of sunlight and the flag is full of stars.

I will think of America in the context of Henry Van Dyke's beautiful poem, ''America For Me.'' I am not referring to the movie of several years ago. No one will be battling any alien invasions. Rather, we will participate in that most American of all holidays, all birthdays certainly, celebrating the founding of this Nation on July 4, 1776. That was 226 years ago.

Our Nation's birthday party is a time for picnics, ice cream, parades, and fireworks. It is a time for family and friends to gather under the shade of the biggest and the oldest tree around, camped out in lawn chairs and on blankets with sweating glasses of cold drinks in hand, watching, laughing, as children run through the lawn sprinklers—ha, ha. What a joy that was, to run through those lawn sprinklers. These pages have enjoyed those things. We did not have lawn sprinklers when I was a boy, but I knew the joy of the summer rain.

So while these children are running through the lawn and enjoying the lawn sprinklers, our minds will shift to hotdogs. When the evening shadows gather and the fireflies begin their display, it is time to pull out the sparklers and watch the fireworks. Small children then, like my granddaughters, like my great granddaughter, will nestle against parents or grandparents or great grandparents. They are made timid by the loud booms and shrill shrieks of the big rockets, but their shyness is soon forgotten as the enormous chrysanthemum bursts of red, gold, green, and blue burst forth against the dark sky.

I can see it from McLean. I can look toward Washington and see these enormous chrysanthemums of fireworks, these bursts of gold, red, yellow, and blue as they burst against the dark sky. Only when the show is over do small heads and sticky hands hang limp against a parent's shoulder for a long, sleepy walk back to the car and then home.

Many holidays touch deep wellsprings of feeling in Americans. Memorial Day and Veterans Day play upon our heartstrings like the melancholy sigh of a violin, calling up visions of heroism and sacrifice, of the tears and loss and suffering that are sadly necessary parts of defending our nation, our people, and our freedom. Columbus Day sounds a bright note of discovery and optimism, the shining promise of new worlds. Flag Day foreshadows the patriotism of Independence Day, but no other holiday brings out such affection and pride in our nation and the ideals upon which it is based. It is as if the July sun heats the deep strong current that flows through this nation and brings it to the surface, each year as strong and fresh as ever, as powerful as it was in 1776.

July 4, 1776 was probably much like July 4, 2002 will be: hot, sunny, sticky with humidity in the South and East, dry in the West, but in 1776, the air would have been thick with tension. The colonies' ties with England were tearing apart. The previous year, on July 6, 1775, the Congress had issued a ''Declaration of the Causes and Necessity of Taking Up Arms,'' which detailed American grievances while explicitly denying any intention of separating from Great Britain. King George responded by proclaiming a state of rebellion in the colonies, and Parliament passed an act that cut off colonial trade.

Since January of 1776, everyone had been reading and talking about the then-anonymous pamphlet, ''Common Sense,'' that so eloquently argued for independence. Rebel forces were fighting, and winning, battles against British forces at Lexington, Concord, Fort Ticonderoga, Breed's Hill, and around Boston. A lot of things going on around Boston. Unable to conscript sufficient forces, King George had resorted to hiring mercenary soldiers from Germany the ''Hessians.'' In May, King Louis XVI of France secretly authorized arms and munitions shipments to the Americans. In June 1776 the Continental Congress appointed a committee to compose a declaration of independence.

On June 28, 1776, American forces in Charleston, South Carolina, fought off a British attack, but on July 2, British General Sir William Howe landed an army that would reach 32,000 troops, including 9,000 Hessian mercenaries, at Staten Island, New York. The same day, Congress voted for independence. Two days later in Philadelphia, on the evening of July 4, the Declaration of Independence was adopted when John Hancock, president of the Congress, signed the final draft copy.

Composed primarily by one man, Thomas Jefferson, with changes made by after debate among the Congress, parts of the Declaration of Independence are well known to many Americans. Many people can recite the opening words—''When, in the course of human events * * *''—and more can recite the first line of the second paragraph: ''We hold these truths to be self-evident, that all men are created equal; that they are endowed by their Creator with certain inalienable rights; that among these, are life, liberty, and the pursuit of happiness.'' After that, sadly, Americans' knowledge of the substance of the Declaration drops off sharply. I hope that perhaps some parents will read the Declaration of Independence to their children this July fourth. Or some children will read the Declaration of Independence to their parent, on this 4th. The litany of wrongs inflicted upon the colonists by the British crown, designed to incite rebellion, still retains the power to inflame our passions. The actual declaration that follows, in the last paragraph of the document, is by contrast, firm and solemn, a straightforward and almost lawyerly assertion of separation from the Crown.

At the signing of the Declaration, which occurred on August 2, 1776, John Hancock was reported to have urged unanimity, saying ''There must be no pulling different ways. We must hang together.'' To which Benjamin Franklin, with his usual wit, is said to have retorted, ''Yes, we must indeed all hang together, or most assuredly we shall all hang separately.'' Gallows humor aside, Franklin's words were true. Failure on the part of the signatories to make the Declaration of Independence a reality would, for these men, mean losing not just a war, but their homes, their possessions, and, in all likelihood, their lives. These men were committing treason. Think about that. These men were committing treason. They were putting their lives, their honor, their sacred honor, on the altar.

They were putting everything they had on the line. The final words of the Declaration could not have been lightly written: ''And, for the support of this declaration, with a firm reliance on the protection of Divine Providence, we mutually pledge to each other our lives, our fortunes, and our sacred honor.'' In the months ahead, American defeats at the battles of Long Island, White Plains, and Fort Lee may have made a few signers wish that they had not been swayed by Hancock's plea. Indeed, by September of 1777, the British under Howe had driven Washington's army toward Philadelphia, forcing Congress to flee the city. On September 26, 1777, Howe's forces occupied the city where the Declaration of Independence was signed.

The Revolutionary War continued for six more difficult years, until a preliminary peace treaty was signed in Paris. Congress would not declare a formal end to the war until April 11, 1783. The Treaty of Paris formally ending the war was signed on September 3, 1783 and ratified by Congress in January 1784.

Mr. President, I think it is good to remind ourselves of these things from time to time. And remember those men who were willing to sign their names on the line, committing to the cause their lives—their lives, their fortunes,

and their sacred honor. What would you have given for their lives had they not won that war? They were putting their lives on the line. They were committing treason. What a chance they took—for us. For us!

It is difficult today, accustomed as we are to automobiles, air conditioning, electricity, mobile phones and instant communications, to imagine what those years of war must have been like. Weeks might pass before you heard or read, by candlelight on a hot summer's night, about a decisive battle in a spot that might take you weeks to reach on horseback. Imagine life as a Revolutionary soldier: a wool uniform if you were lucky, and some French powder and ammunition hanging at your waist while you walk in the middle of long, dust-covered column between battles, carrying your three-foot-long, very heavy musket over your shoulder. I can see those boys from Vermont, can't you? In the hills of New Hampshire, Boston—can't you see them, plodding along from Lexington on to Concord?

In the winter you might have a tent to protect you from the winter, not nearly enough to eat. You might get paid only sporadically. Most of us could not do that for a weekend, let alone for six years.

This Independence Day, America is at the beginning of what promises to be another kind war—a war against terrorism. It, too, will be fought on our territory as well as at points far distant from us. It will require the same kind of resolve and commitment, and the same reliance on the protection of Divine Providence, that our Founding Fathers showed. But next week, as we celebrate 226 years spent enjoying the inalienable rights of life, liberty, and the pursuit of happiness, of freedom from tyranny, I am confident that Americans will demonstrate the same fortitude and bravery that our Founding Fathers displayed. Our ideals are too deeply ingrained in us to be lightly given up.

I close with the words from Longfellow's poem, ''The Building Of the Ship'':

Thou, too, sail on, O Ship of State!
Sail on, O Union, strong and great!
Humanity with all its fears,
With all the hopes of future years,
Is hanging breathless on thy fate!
We know what Master laid thy keel,
What Workmen wrought thy ribs of steel,
Who made each mast, and sail, and rope,
What anvils rang, what hammers beat,
In what a forge and what a heat
Where shaped the anchors of thy hope!
Fear not each sudden sound and shock,
'T is of the wave and not the rock;
'T is but the flapping of the sail,
And not a rent made by the gale!
In spite of rock and tempest's roar,
In spite of false lights on the shore,
Sail on, nor fear to breast the sea!
Our hearts, our hopes, are all with thee,
Our hearts, our hopes, our prayers, our tears,
Our faith triumphant o'er our fears,
Are all with thee,—are all with thee!

THE PLEDGE OF ALLEGIANCE DECISION

Mr. THURMOND. Mr. President, I rise today to express my outrage at the decision reached by the Ninth Circuit Court of Appeals in Newdow v. U.S. Congress, in which a three-judge panel held that schoolchildren's recitation of the phrase ''under God'' in the Pledge of Allegiance violates the Establishment Clause of the Constitution. This case is the result of yet another attempt by the radical left to wipe away public references to God, and is an unconscionable act of judicial activism. I hope that the Ninth Circuit's decision will ultimately be reversed on appeal, allowing reason and common sense to prevail.

Simply put, there is no support in the law for this ruling, even in the Ninth Circuit's own jurisprudence. The phrase ''under God'' in the Pledge of Allegiance is very similar to the use of ''In God We Trust'' on currency and as the national motto, which has been repeatedly upheld by the courts. In Aronow v. United States, the Ninth Circuit Court of Appeals ruled that the phrase does not violate the Establishment Clause of the Constitution. The court said, ''Its use is of a patriotic or ceremonial character and bears no true resemblance to a governmental sponsorship of a religious exercise.'' It also said that ''it is quite obvious'' that the phrase ''has nothing whatsoever to do with the establishment of religion.''

While the Ninth Circuit is the most relevant here because of Wednesday's ruling, other circuit courts have reached the same conclusion. The Tenth Circuit explained in Gaylor v. United States that the national motto ''through historical usage and ubiquity cannot be reasonably understood to convey government approval of religious belief.'' In cases such as Lynch v. Donnelly, the Supreme Court has indicated its approval of these rulings. Even Justice William Brennan, one of the most liberal Supreme Court justices of the modern era and one of the most strident advocates for the separation of church and state, indicated his support for this view, saying that Americans have ''simply interwoven the motto so deeply into the fabric of our civil polity'' as to eliminate constitutional problems.

The same reasoning applies to the phrase ''under God'' in the Pledge of Allegiance. The use of this phrase simply indicates the important role that religion plays in America, but it does not establish a religion or endorse a religious belief.

It is also significant that even when the Supreme Court ruled in Engel v. Vitale that organized prayer is unconstitutional in public schools, the Court made it clear that the case did not apply to patriotic slogans or ceremonial anthems that refer to God. While I have always viewed this case as misguided, and have for years introduced a constitutional amendment to reverse it, even this case supports the use of phrases, such as ''under God'' and ''God Bless America,'' as part of our civic vocabulary.

The fact is that religion is central to our culture and our patriotic identity as a nation. As the Supreme Court said in Lynch v. Donnelly, there is ''an unbroken history of official acknowledgment by all three branches of government of the role of religion in American life.''

I am pleased my colleagues have denounced this ruling. Throughout the history of this great Nation, we have invoked the blessings of God without establishing religion. From prayers before legislative assembly meetings and invocations before college football games to the national motto on our currency, our Constitution has allowed references to God.

I would also like to say a few words about the Ninth Circuit. Several years ago, it was suggested that the Ninth Circuit be broken up. I think that it is time to reconsider that proposal. The Supreme Court reverses the Ninth Circuit at a much higher rate than other circuits, indicating the activist propensities of this circuit. Simply put, the Ninth Circuit is out of the mainstream, and the decision in Newdow underscores that fact. It is unhealthy for our democracy when one circuit routinely refuses to follow the law. During the last six years, the Supreme Court has reversed 80–90% of Ninth Circuit cases reviewed. While the Supreme Court corrects the Ninth Circuit often, it cannot do so on every questionable ruling, and this allows the establishment of dangerous precedents.

I am particularly concerned about Wednesday's ruling because one of the judges who joined in the majority opinion was Judge Stephen Reinhardt, whose own confirmation process was marked by controversy in 1980. I served as Ranking Member of the Judiciary Committee at the time, and I expressed serious concern over Judge Reinhardt's fitness to serve as a Federal judge. He was extremely active in politics and known for his very liberal views. Judge Reinhardt's major area of practice was labor law, and there was a question as to whether he had sufficient experience. His record, in my view, called into question his ability to serve as an impartial judge. During his tenure of the Ninth Circuit, Judge Reinhardt has been reversed an alarming number of times. He was reversed 11 times during the 1996–97 term, and he holds the record for unanimous reversals in one term.

I mention the matter of Judge Reinhardt's controversial past only to address his fitness as a Federal judge. This question is legitimate because circuit judges make important decisions that affect a lot of people. In the Ninth Circuit case, Judge Reinhardt helped create law that is dangerous in its precedent and unsound in its reasoning.

Mr. President, once again I want to state unequivocally that the Ninth Circuit made a poor decision in the Newdo

case. I hope that this decision will alert all Americans to the dangerous judicial activism that plagues the Ninth Circuit. Furthermore, I hope that this case is reversed on appeal, so that many more generations of schoolchildren will proudly learn the Pledge of Allegiance.

HIGH FRUCTOSE CORN SYRUP ANTITRUST DECISION

Mr. LEVIN. Mr. President, I wish to bring to the Senate's attention a recent decision of the U.S. Court of Appeals for the Seventh Circuit, written by Judge Richard Posner, in the case of In Re High Fructose Corn Syrup Antitrust Litigation, found at 2002 U.S. App. LEXIS 11940. Judge Posner's unanimous opinion, joined by Circuit Judges William Bauer and Michael Kanne, articulates in clear, cogent, and unequivocal language the standard for the Federal courts in the Seventh Circuit to follow in deciding whether circumstantial evidence of price-fixing or tacit collusion should be presented to a jury in antitrust cases. This is a much needed improvement in the state of the law, and I hope that it will soon be followed in other circuits as well.

Last month, the Permanent Subcommittee on Investigations, which I chair, completed a 10-month investigation into the reasons why gasoline prices fluctuate so dramatically and why retail gasoline prices seem to go up and down together at so many gas stations. The majority staff issued a comprehensive 400-page report explaining our findings, and we then held 2 days of hearings on the report.

I will not summarize the entire report here, but I would urge anyone interested in how gasoline prices are set to visit the subcommittee's Web site, where the report can be downloaded.

I would like to highlight, however, several of the issues the subcommittee examined that are directly relevant to the Seventh Circuit's decision. First, the subcommittee found that in several of our domestic gasoline markets where there is little competition a few oil companies have sufficient market power to raise the price of gasoline through their decisions on how much gasoline to produce.

The subcommittee examined retail prices in several geographic markets. The subcommittee found at various times in these markets the prices of the major brands of gasoline followed a ''ribbon-like'' pattern. The prices of these brands moved up and down together, usually by about the same amount each day, and they maintained a constant difference in price with respect to each other.

The documents reviewed by the subcommittee indicate that the marketing practices of the various gasoline wholesalers and retailers in the market contribute to this pricing pattern. First, the major brands usually seek to maintain a constant price difference with respect to one or more other brands that are considered the major competition or the price leader in that market. Second, the market strategy of the major brands generally is to maintain market share, and avoid costly price wars which do not result in greater market shares, but often lead to lower margins for all of the firms competing in the market. Thus, most of the major brands establish their retail price simply by following the price movements of one or more other brands. They do not attempt to undercut their rivals; rather they seek to maintain their relative competitive position with respect to their rivals.

Another strategy supporting the ribbon-like retail price pattern is the influence the refiners maintain over the retail price. Major brand refiners usually set the wholesale price paid by their dealers on the basis of surveys of the retail prices of competitors; the refiner then subtracts an amount considered to be an adequate margin for the retailer, and charges the retailer for the remainder. In this manner, the dealers receive a fixed margin for their gasoline, and the benefits and costs of retail price changes accrue to the refiner rather than the dealer. In reality, therefore, a few refiners rather than many individual dealers set the retail price of gasoline for the major brands.

The resulting retail pricing pattern—the ribbon-like pattern—is exactly the same pattern one would expect to see in a market where there is some type of collusion between the firms in the market. In a collusive marketplace, each firm has an agreed-upon market share, and the relative prices of the different brands are fixed.

By itself, parallel pricing does not indicate collusion. Parallel pricing can develop in a competitive market, as each firm strives independently to obtain some advantage from a movement in price, only to be matched by its competitors who seek to deny that firm any such advantage.

Hence, to establish that firms in a market are colluding with one another, it is necessary to demonstrate more than just the existence of parallel or interdependent pricing. A plaintiff, or the government, as the case may be, must establish either an explicit agreement on pricing, or present sufficient circumstantial evidence indicating a tacit agreement on pricing.

It is rare to find in the modern age, with many corporations well-schooled in the antitrust laws, and legions of lawyers eager to educate those who are not, to find an express agreement to fix prices or restrict supply. Moreover, in markets most susceptible to price-fixing those with few firms, a high degree of concentration, homogeneous products, and high barriers to entry, such as the gasoline market—express collusion is totally unnecessary to carry out the purposes of any such conspiracy. In highly concentrated markets, the few firms can observe each other's behavior, determine how they react to various strategies, and react accordingly. After a while, the firms in these markets can develop patterns of behavior that are as non competitive as if an actual agreement had been reached.

The problem, therefore, is how to determine whether certain market activity is the natural result of the structure of the market and purely independent decisionmaking, or is the result of some tacit agreement or understanding or agreed-upon practices that restrict competition.

Again, rarely will there be a ''smoking gun'' document pointing out the existence of tacit collusion. The best way—and in reality the only way to determine whether in fact such collusion exists is to look at all of the evidence regarding the marketplace and the behavior of the firms in the market. For example, are the companies acting independently? To what extent and how do they communicate with each other? To what extent do they have agreements between themselves on terms of sale, supply, storage, or transportation? To what extent do they share information? To what extent do they pursue innovation independently?

At the subcommittee's hearings we heard testimony from several attorneys general, knowledgeable in the antitrust laws, including Attorney General Jennifer Granholm from my home State of Michigan, that the standards used by the courts in recent years have become unduly stringent for plaintiffs seeking to present evidence of tacit collusion to a jury in an antitrust case. Many courts have been requiring plaintiffs in price-fixing cases to present evidence that it was more likely than not that the conduct complained of was the result of collusion before the evidence would be presented to the jury. In effect, this standard relegates to the judge on a motion for summary judgment the determination of the basic factual issues that are normally the province of a jury. Furthermore, it essentially requires the plaintiff to present evidence amounting to a ''smoking gun'' demonstrating collusion in order to survive a motion for summary judgment by the defendants. This standard thus prevents many cases that should be presented to a jury from ever getting to the jury.

Judge Posner's opinion in the High Fructose Corn Syrup case clarifies the law of the Seventh Circuit that economic evidence and other evidence indicating firms in a market have an agreement—either tacit or explicit—not to compete should be presented to a jury. The opinion clearly states that in a price-fixing case the question of ''whether, when the evidence was considered as a whole, it was more likely that the defendants had conspired to fix prices than that they had not conspired to fix prices'' should be presented to a jury, and that the antitrust laws do not establish a higher threshhold for surviving motions for summary judgment than other types of cases. The plaintiff need not present one single item that demonstrates an

agreement; rather the plaintiff need only demonstrate that the evidence as a whole more likely than not shows an agreement.

Several weeks ago, following the subcommittee's hearing, I wrote a letter to the Federal Trade Commission informing them of the subcommittee's findings, and urging the FTC to take a number of actions to improve the competitiveness of the gasoline refining and marketing industry.

One of the points I stressed to the FTC was that ''In concentrated markets juries should be permitted to consider circumstantial evidence in determining whether or not the firms in the market are acting in collusion. In highly concentrated markets, outright conspiracies and collusion between the market participants are totally unnecessary to develop concerted action. When there are few firms in a market, these firms can easily track and follow each other's behavior. In reality, the only way to demonstrate collusion in a concentrated market is through circumstantial evidence.''

The Seventh Circuit has now established this principle as law. I commend the Seventh Circuit for this clarification and hope that other circuits will follow.

I ask unanimous consent that my letter to the FTC be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

UNITED STATES SENATE,
COMMITTEE ON GOVERNMENTAL AFFAIRS,
Washington, DC, June 6, 2002.

Hon. TIMOTHY J. MURIS,
Chairman, Federal Trade Commission, Pennsylvania Avenue, Washington, DC.

DEAR CHAIRMAN MURIS: I am writing to follow-up on several issues raised in the recent report of the Permanent Subcommittee on Investigations, ''Gas Prices: How Are They Really Set?,'' and the Subcommittee's hearings on this subject.

One of our central findings is that the increasing concentration in the petroleum refining industry has exacerbated the factors that cause price spikes. This has led to sharp increases in prices and an unprecedented level of volatility in a number of gasoline markets in the past several years. Because of the importance of petroleum in America today, gasoline price spikes can significantly harm the national economy.

During our investigation and at the hearing we examined a variety of proposals for reducing this volatility. I am pleased that the Federal Trade Commission (FTC) has been proceeding with its own study of the reasons for the volatility in gasoline prices and, as you stated in your remarks at the second public conference on this subject, will closely study our report and hearing record during your review. I nonetheless would like to take this opportunity to highlight some of the areas we examined that I believe deserve serious attention during your overall review and as the FTC reviews proposed mergers in the oil industry.

VERTICALLY INTEGRATED MARKETS

The Majority Staff report and testimony at the Subcommittee's hearings addressed a number of problems that arise when there is a high degree of vertical integration in highly concentrated markets. In such markets, refiners have little incentive to lower wholesale prices, and retailers have limited ability to shop around for lower wholesale prices. The current situation on the West Coast also demonstrates that a high degree of vertical integration in a highly concentrated market poses substantial barriers to entry for other firms seeking to enter either the wholesale or retail market, including very high barriers to imports.

Professors Preston McAfee and Justine Hastings, both of whom testified at our hearings, have extensively studied the effects of vertical integration in concentrated markets. Their work indicates that mergers between two vertically integrated firms in highly concentrated wholesale and retail markets may be more detrimental to competition, through interdependent interactions between the integrated markets, than a straightforward analysis of the increase in concentration in each of those separate markets might indicate. For example, in looking at the California market, Professors Hastings and Richard Gilbert found ''evidence in a broad panel that vertical integration matters for upstream retail prices and that wholesale prices tend to be higher in markets with large vertically integrated firms.'' I urge you to seriously examine and consider these findings and the work of Professor McAfee in this same area.

INVENTORIES

The increasingly tight balance between supply and demand in gasoline markets—including the reduced levels of crude oil and gasoline in inventories—is one of the prime factors underlying the recent volatility. In a tightly balanced market, even the slightest disruption in supply, such as a pipeline break or an unplanned refinery outage, will lead to a sharp increase in price due to the inelasticity in the demand for gasoline.

Most oil companies today have adopted just-in-time inventory practices. Although from each company's perspective these practices may minimize day-to-day operational costs, in the aggregate this has eliminated the refining industry's cushion or ''insurance'' against price spikes resulting from minor disruptions in the refining, distribution, and marketing system. It also has created a perverse incentive for refiners. The Subcommittee found documents indicating that a number of refiners prefer a market that is vulnerable to disruptions so they could take advantage of the higher prices that follow any disruption.

In reviewing proposed mergers, the FTC should carefully examine the potential effects upon the aggregate inventories that would be created as a result of the merger. The FTC should consider requiring companies seeking to merge to ensure that the aggregate inventories that would be maintained after the merger would not be less than, and perhaps even greater than, the aggregate inventories prior to the merger. This would ensure that increasing concentration would not further exacerbate one of the factors leading to price spikes.

PIPELINE AND TERMINAL CAPACITY

The history of the Wolverine Pipeline in Michigan, as recounted in the Subcommittee's report, demonstrates how control of critical transportation and storage facilities are a less visible but very effective way to influence cost, supplies, and market prices. The Wolverine case demonstrated that parties who control the transportation and storage facilities can take advantage of the complexity of the laws and regulations to circumvent the requirements of the law and limit competition in the market.

According to the Federal Energy Regulatory Commission (FERC), the Wolverine Pipeline violated the Interstate Commerce Act for approximately twenty years in the manner in which it allowed access and established tariffs for shipments over the pipeline. With the intervention of the Michigan Attorney General, one small, independent company, Quality Oil, successfully challenged Wolverine's practices and obtained its rightful access to the pipeline. Quality Oil's access to the Wolverine Pipeline at non-discriminatory tariffs will benefit consumers in Michigan by increasing the supply of gasoline to independent dealers at competitive prices.

The Quality Oil/Wolverine Pipeline case demonstrates the importance of the mission of agencies such as the FERC and the FTC in ensuring there is fair competition in the marketplace. In markets in which a dominant player controls the transportation and storage of a product such as gasoline, I urge the FTC to use its available authorities to ensure that this market power is not abused. Similarly, in reviewing proposed mergers, the FTC should ensure that the proposed merger does not create any new barriers to entry into a market through a lack of access to pipelines and terminals.

REFINING CAPACITY

As you are aware, approximately half of the refineries in the United States have closed over the past twenty years. This has resulted in a decline in the aggregate amount of refining capacity, as well as increasing concentration in the refining industry. There are a variety of reasons for this increase in concentration, including the phase-out of federal subsidies that benefitted smaller refiners, increasing capital costs for refinery operation due to more stringent environmental regulations, economies of scale, and mergers within the oil industry. One of the Subcommittee's central findings is that in a number of markets this increase in concentration has exacerbated the factors that lead to price spikes.

In several recent mergers the FTC has required the divestiture of refining assets to preserve competition in the wholesale market. The Subcommittee received testimony that the divestiture of refining assets to firms that were much less capitalized than the divesting firm has contributed to the decline in inventories, as these less capitalized firms are less able to carry inventories. I urge you to review whether the divestitures the FTC has required have had the intended effect of preserving competition, or whether, in view of experience to date, additional conditions upon mergers or divestitures of assets are necessary to fully preserve competition in the refining industry.

MORATORIUM ON MERGERS

At the Subcommittee's hearing, the Attorneys General from the States of Connecticut and Michigan recommended that a one-year moratorium be placed on all major mergers within highly concentrated markets in the oil industry. The purpose of the moratorium would be to enable the Congress to consider more effective remedies to the problems arising from increasing concentration and allow the FTC to consider this problem as well. I am enclosing for your consideration a copy of the statement of Attorney General Blumenthal in support of this moratorium.

PARALLEL PRICING

The Subcommittee also received testimony on what the appropriate burden of proof should be in order to establish illegal collusion under the antitrust laws. The Attorneys General testified that the standard currently used by many courts presents too high a hurdle for plaintiffs in antitrust cases to present their evidence to a jury.

In concentrated markets juries should be permitted to consider circumstantial evidence in determining whether or not the

firms in the market are acting in collusion. In highly concentrated markets, outright conspiracies and collusion between the market participants are totally unnecessary to develop concerted action. When there are few firms in a market, these firms can easily track and follow each other's behavior. In reality, the only way to demonstrate collusion in a concentrated market is through circumstantial evidence.

We found numerous instances of parallel pricing within the gasoline industry. At certain times in certain markets, all of the major brands went up and down together, and stayed at a constant differential with respect to each other. Although parallel pricing in and of itself does not necessarily indicate collusion, I believe that additional circumstantial evidence should be considered by a jury in determining whether in fact such collusion exists in concentrated markets.

I therefore support the standard set forth in In re Coordinated Pretrial Proceedings in Petroleum Products Antitrust Litigation, 906 F.2d 432 (9th Cir. 1990), cert denied, 500 U.S. 959 (1991), in determining whether the plaintiff's circumstantial evidence of collusion can be presented to the jury.

IMPORTANCE OF INDEPENDENTS IN GASOLINE MARKETS

Numerous studies have demonstrated the importance of independent gasoline refiners and dealers in preserving competition in the gasoline wholesale and retail markets. For example, in one of the most rigorous studies to date, which is cited in the Subcommittee's report, Professor Hastings documented how the loss of one independent retail chain in Southern California led to across-the-board price increases at the pump in the areas previously served by the chain. In addition, the Subcommittee's investigation found a number of industry analyses indicating that the greater the presence of nonmajors in a specific market, the lower the retail price.

The continuing decline of independents nationwide and in a number of markets presents a significant concern that prices in the affected markets will rise above purely competitive levels. In your reviews of proposed mergers I urge you to carefully examine the effect of the proposed merger upon the presence of independents in the market. Not only are large retail chains necessary to present effective competition for other large retail chains, but a healthy independent sector is necessary to maintain true price competition.

In this context, I urge you or the FTC staff to meet with the Association of Merger Dealers and seriously consider their proposal for the purchase of up to 17 Mobil-branded retail sites currently owned by Phillips/Tosco, which were acquired by Tosco under the consent decree in the Exxon-Mobil merger. In my opinion, it would be worthwhile for the FTC to consider this proposal as a test case to see whether the divestiture of gasoline stations owned by major brands to the dealers rather than to other major brands can be an effective way to inject competition into markets where a proposed merger would be detrimental to competition.

In closing, I would like to thank you and the FTC staff for the support provided to the Subcommittee during this investigation. Our extensive requests for documents were responded to in a timely manner, and the FTC personnel were readily available to answer the Subcommittee's questions. I look forward to continuing our productive working relationship in this and other issues.

Should you have comments regarding this letter, please feel free to contact me or have your staff contact Dan Berkovitz or Laura Stuber, Counsels to the Subcommittee, at 224–9505. Again, thank you for your time and consideration.

Sincerely,

CARL LEVIN,
Chairman, Permanent Subcommittee on Investigations.

ADDITIONAL STATEMENTS

HONORING MELISSA BYERS OF LEAWOOD, KS

• Mr. ROBERTS. Mr. President, today I am pleased to honor Melissa Byers of Leawood, KS, for her impressive essay, ''Determining the Role of Peacekeeping in a Global Age.'' This essay won first place in a State-level competition in the 15th Annual National Peace Essay Contest sponsored by the United States Institute of Peace. She received a $1,000 college scholarship, and is competing for national awards of up to $10,000. Melissa is a high school student at Blue Valley North High School in Overland Park, KS.

Melissa sets an incredible example for all students in our country. Melissa came into my office and I met with her to extend my congratulations on her accomplishments. I would like to submit her essay into the RECORD and recognize her fine work.

The United States Institute of Peace is an organization created and funded by Congress to promote research, education, and training on the resolution of international conflicts. This National Peace Essay Contest is one of the Institute's oldest activities to promote civic education on international peace for students across the United States. I would like to commend the Institute of Peace and Melissa Byers for their participation.

Mr. President, I ask that Melissa's essay be printed in the RECORD.

The essay follows:

DETERMINING THE ROLE OF PEACEKEEPING IN A GLOBAL AGE

(By Melissa Byers)

Throughout the history of the United States, we have adapted foreign policy to meet the unique challenges of the times. Past US foreign policies of imperialism, expansionism, and isolationism were adapted in ways representing a narrow national interest. But global conflicts such as those moderated by the current United Nations missions to the Central Africa Republic, Sierra Leone, and Kosovo, not withstanding the huge ramifications of September 11, require a new foreign policy perspective. The collapse of the Soviet Union effectively ended the Cold War, bringing with it the possibility and the necessity of recognizing that the old order is past and a new order is required. By examining the traditional roles of the military and exploring several case studies, the issues surrounding national policy come more clearly into focus, and we can better begin to formulate and redefine a new way of thinking about the peacekeeping role of the United States military and our national interest.

Much has been written about the traditional role of the military, and protecting the homeland is a foundational context in defining the role of the military. Erwin A. Schmidl, a historian for the Austrian Ministry of Defense defines five types of peacetime military operations (1) frontier operations, (2) colonial interventions and counterinsurgency, (3) occupational duties, (4) peacekeeping military operations, and (5) multinational operations (Sismanidis 1). This theory can certainly be applied to U.S. history. In frontier operations, the presence of US military was a stabilizing influence in fulfillment of Manifest Destiny. The US military in putting down the Filipino insurrection of 1901 was an example of colonial interventions and counterinsurgency operations, and the US post-WW II occupation of Germany and Japan in deterring the rise of militant forces was an example of occupational duties. The presence of forces in Haiti in trying to maintain political and economic stability is an example of peacekeeping military operations, and the recent NATO interventions in the old Yugoslavia in preventing ethnic cleansing and genocide is an example of multinational operations. The common thread of national protectionism underpins all five roles, formulating the traditional groundwork for the post-WW II definition of peacekeeping.

The timeliness of this essay is evident in the ashes and aftermath of September 11. With the physical destruction of the two World Trade Towers also came down the ideological pillars of an inviolable and invincible United States. Traditionally, wars have been fought between known enemies and specific military targets. The profile of the enemy was defined. But with the fall of the United Soviet Socialist Republic came a new set of variables that changed foreign policy. The profile of the ''enemy'' is not obscured. In many modern conflicts, violence often occurs between subtle ideological or ethnic enemies. The role of modern peacekeepers is evolving around these global human and economic conflicts. On the evening of September 11th, President George W. Bush's address to the nation articulated a shift in peacekeeping policy as it relates to national security and foreign relations, ''America and our friends and allies join with all those who want peace and security in the world and we stand together to win the war against terrorism'' (Bush Sept 11). In the evolving new foreign policy, definitions are broadened, national security is equated with international security, and American interests are linked with global interests.

The current evolution of the U.S. military's peacekeeping role stems from United Nations mandates that peacekeepers should maintain international peace and security. As published on the United Nations Website, the role of the peacekeeper is divided into three categories. (1) Cease-fire peacekeeping, in which conflicting countries can pull back, creating a more conducive environment for negotiations. (2) Multi-dimensional peacekeeping, in which experts inspire major political, social and economic change, strengthening national institutions. (3) Humanitarian peacekeeping, in which massive human suffering is relieved, delivering needed support and supplies (What is Peacekeeping?).

In the last six months, the role of U.S. peacekeepers has been drastically redefined to include these roles. In response to the threat of global terrorism, the U.S. has broadened homeland defense to include global interests. In a speech, marking the 100-day anniversary of September 11, Bush declared, ''American power will be used against all terrorists of global reach'' (Bush Dec. 20). The U.S. has now begun to build coalitions, attack terrorist networks, employ economic sanctions against those supporting and harboring terrorism, and condemn terrorist attacks wherever they occur. More funds have

been made available the military's role, from not only eliminating terrorist targets, but also to providing 2.5 million humanitarian rations inside Afghanistan (Bush Dec. 20).

One positive example of U.S. military involvement in peacekeeping happened during the 1999 Kosovo campaign to stop the ethnic cleaning entire of the Albanian community (U.S. White House 41–42). The presence of NATO peacekeepers provided for surrender of Slobodan Milosevic, repatriation of Albanian refugees, and withdrawal of Serbian forces from contested soils (U.S. White House 41–52). The success of the peacekeepers' involvement in Kosovo in promoting democratic principles also increased the security and stability of Europe. In October 2000, the world watched as Kosovo held its first free and open municipal election, and its positive result increased public confidence that peacekeeping efforts could be successful.

Negative examples of U.S. military involvement in peacepeekping occurred during operations in Lebanon and Somalia, failing due to a lack of US focus and resolve. During the Lebanese civil turmoil in the eighties, several thousand American, French, British, and Italian peacekeepers intervened to stop bloodshed, yet terrorism and flagging public support forced the peacemakers to withdraw without finding a peaceful solution (Magnuson 54). During the Somalian Conflict in 1992, 30,000 U.S. military troops attempted to open supply routes and disarm local militias, but horrific images of the bodies of U.S. soldiers being drug through the streets of Mogadisu helped to break U.S. national resolve (Carpender). Both missions were designed to decrease localized violence and civilian suffering, with limited international involvement, but in each, American uniforms because the target of heavily armed local militias. While these failed attempts at peacekeeping diminished U.S. international prestige, the most negative result was public disillusionment. Unsuccessful interventions in the civil matters of others countries, compounded by costs of American lives and resources, drastically limits the public resolve to intervene.

The tragedy of Rwanda is an example of the negative implications of restricting U.S. military involvement abroad. When the UN Security Council withdrew most of its peacekeepers from Rwanda, it created a deathly vacuum, resulting in the slaughter of 800,000 Tutsis in three months (Kuperman 105). Four months later the UN reversed its decision (Carnegie 4). In part, due to the Somalia experience, the U.S. continued to be reluctant to intervene (Nye 32). Experts project that the timely intervention of 6,000 U.S. troops could have prevented 275,000 Tutsi deaths (Kuperman 100). Lack of U.S. military action partially resulted in the human tragedy of Rwandan genocide, while the guilt of the nations grew and the national consciences appeared to numb.

Vietnam is an example of the positive implications of restricting U.S. military involvement abroad. For decades, France and Vietnam had been embroiled in military conflict. When France withdrew, the Americans entered in a peacekeeping role, fearing the domino effect. By 1955, American peacekeepers began advising military and political leaders against the communist forces lead by Ho Chi Minh (Bailey 916–917). Eventually, peacekeeping forces became military troops, escalating U.S. involvement, distracting the U.S. from its goal of peace, and entangling the U.S. in a long protracted war. Thus, public support decreased. What started out as a peacekeeping effort resulted in 47,355 American casualties, over one million Vietnamese casualties, and at a cost of 352 billion dollars (Bailey A34). The extent of such losses makes for a strong argument in limiting U.S. military engagement abroad.

Over the next decade, there is no doubt that the American military must play a leading part in insuring international peace and security. The old order, including the narrow traditional role of the military, is obsolete, and a new order, including a broadened innovative role of military, is required. Experiences in Kosovo, Lebanon and Somalia, Rwanda, and Vietnam testify that it is in our national interest to formulate and redefine broader peacekeeping roles for the United States military. As in the case of Kosovo, the U.S. needs to be bold enough to commit the forces needed to resolve the situation. As seen in Lebanon and Somalia, military objectives need to be well defined in order to avoid escalating entanglement and unnecessary loss of life. To prevent another Rwanda, the U.S. military policy needs to defend human rights violations wherever they occur, yet, move with enough caution and insight to prevent another Vietnam imbroglio. The lessons of September 11 call us to the openness and flexibility of preventative peacekeeping. The United States must realize that it has a vested interest in what goes on outside its borders, and that the best way to protect our national interests is to defend personal and economic rights worldwide.

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ALCOA'S MASSENA OPERATIONS

● Mrs. CLINTON. Mr. President, I would like to acknowledge the contribution to this nation provided by the workers and management of Alcoa's Massena, New York Operations. The Massena Operations make aluminum ingot—which is the raw material that is used in a variety of applications—and fabricated aluminum products.

I hope many of my colleagues will have the chance to visit the town of Massena, NY, because it is a wonderful community. Massena is located on the St. Lawrence River in St. Lawrence County, serving as a gateway to America's Fourth Coast, including the St. Lawrence Seaway, the Thousand Islands and the Great Lakes.

This year, Massena is celebrating its 200th birthday, and along with it a century of Alcoa involvement in the community. Alcoa is celebrating an incredible 100 years of aluminum production at its Massena location. As part of its celebration, Alcoa will establish the Massena Operations Memorial Park. Earlier this year, Alcoa-Massena officials also announced their contribution of $100,000 to the Massena Bicentennial.

The history of Alcoa's Massena Operations is a true American success story. A century ago, the Pittsburgh Reduction Company, a predecessor of Alcoa, built a smelting plant at Massena. The products manufactured at Massena have included wire and electric transmission cable. Consumer products with aluminum components made in Massena have harnessed the power of electricity for the home. The Massena Operations have also made significant contributions to our Nation's military and aerospace efforts.

For a century, Alcoa's Massena Operations has upheld the proud American tradition of quality manufacturing. I wish to thank you for the opportunity to highlight their fine work and the important role that Alcoa's Massena Operations plays in their community in New York.●

LOCAL LAW ENFORCEMENT ACT OF 2001

● Mr. SMITH of Oregon. Mr. President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of last year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred September 12, 2001, in Boston, MA. Three teenagers, claiming they wanted to ''get back at Arabs,'' threw three Molotov cocktails onto a convenience store the day after the September 11 terrorist attacks. The teenagers thought that the store was owned by an Arab. The owner of the store, Aswin Patel, an Indian man, escaped unharmed. The three perpetrators face Federal hate crimes charges and have been charged with assault with intent to murder and arson.

I believe that government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.●

CONGRATULATING INDIANAPOLIS ON BECOMING DIGITAL TELEVISION ZONE

● Mr. BAYH. Mr. President, I rise today to congratulate the city of Indianapolis on its recent designation as a ''Digital Television Zone.'' Viewers in Indianapolis are fortunate to be served by local television broadcast stations that have been and continue to be leaders in the digital television transition. These stations are: WTHR, a dispatch broadcast-owned NBC affiliate; WISH-TV, a LIN television-owned CBS affiliate; WRTV, a dispatch broadcast-owned ABC affiliate; and WXIN, a tribune broadcast-owned FOX affiliate.

As the broadcast industry undertakes its transition to digital television, I am proud to say that our local Indianapolis affiliates are already fully on the air in digital.

For those not familiar with digital television, it is the next step in the evolution of television. Those of us old enough, remember the move from black and white to color. Now, the next exciting step in the process is digital. Just as the other communications mediums are moving from an analog to a digital world, so too is television.

This past spring, Indianapolis' local CBS station, WISH-TV, granted the wish of many of my constituents. Through digital television, the station was able to simultaneously broadcast four NCAA basketball tournament games. Our local ABC affiliate, WRTV, has expanded its primetime digital line up. Today, Indianapolis viewers can watch popular programs such as ''Drew Carey,'' ''Alias,'' and ''NYPD Blue''—all in high definition. The local NBC affiliate, WTHR, airs ''Crossing Jordan'' and ''The Tonight Show'' in high-definition nightly. This year, they broadcast the Olympics' opening ceremonies in digital. It is compelling programming like this that will propel the transition forward and encourage consumers to invest in digital technology—like their local broadcasters have done already.

In January, Indianapolis earned the distinction of being named a ''Digital TV Zone.'' As Mayor Bart Peterson said at the ribbon cutting ceremony, ''Our designation as a Digital TV Zone—being one of only a handful of cites to have all local network affiliates broadcasting in digital—is evidence that Indianapolis is where it needs to be to compete in the digital world.''

Through the Digital TV Zone Program, Indianapolis broadcasters pooled their resources over the past year to educate Indianapolis consumers—my constituents—about digital TV technology and its benefits.

The local stations cooperated with electronics manufacturers and retailers to post digital sets in high traffic areas throughout the city. If you walked through Indianapolis International Airport, or if you went to Conseco field house, or the NCAA Hall of Champions over the last 5 months, you would have seen the local Indianapolis stations in digital being displayed on high-definition digital television sets.

Clearly, Indianapolis broadcasters are doing their part to launch the digital television future. All of these different activities are designed to educate my constituents about the promise of this new technology.

There will, of course, be many challenges before all consumers can fully benefit from digital television. Despite any outstanding issues, I am proud to say that Indianapolis broadcasters are leading the charge into the digital television future and giving local viewers the opportunity to experience digital television now.●

LETTER TO HARVEY PITT, CHAIRMAN, SECURITIES AND EXCHANGE COMMISSION

● Mr. SMITH of Oregon. Mr. President, I ask that a letter, sent today, to the Chairman of the Securities and Exchange Commission, Harvey Pitt, from Senator BREAUX and myself be printed in the RECORD.

The letter follows:

U.S. SENATE,
Washington, DC, June 28, 2002.

HON. HARVEY L. PITT,
Chairman, Securities and Exchange Commission, Washington, DC.

DEAR CHAIRMAN PITT: We are writing out of deep concern regarding recent reports about a variety of abuses in corporate accounting scandals by companies and corporate executives. In particular, the accounting practices at WorldCom that led to an error of more than $3.5 billion is unforgivable and inexcusable.

We are pleased to have taken steps to investigate several recent disturbing disclosures and encourage you to pursue initiatives to improve corporate responsibility and shareholder protections. We fear that these reports of corporate fraud may just be the tip of the iceberg, and the need to improve accountability in America's public companies is imminent.

American business is built upon an integrity and trust in business relationships that bolster our currency and provide a shining face of transparency that supports western values and spreads capitalism and corporate

responsibility across the globe. We can't emphasize how important it is for you to continue to work to improve corporate disclosure, make corporate officers more accountable and develop a stronger, more independent audit system. American businesses must be trustworthy, transparent and able to withstand the light of any audit.

We look forward to working with you and the Securities and Exchange Commission as you fully investigate the companies and individuals who abuse the system and prosecute them to the full extent of the law. Your role is crucial as we work to restore confidence in American business and restore integrity and trust in our stock market.

Sincerely,

GORDON H. SMITH,
JOHN BREAUX,
U.S. Senate.●

COMMUNITY HERO

● Mr. SMITH of Oregon. Mr. President, I rise to salute a community leader in my home State of Oregon. Today, I want to recognize the efforts of Susan Abravanel, Education Coordinator at SOLV, a non-profit organization in Oregon, in advocating for service-learning, one of the most exciting educational initiatives taking hold in our Nation today.

Service-learning gives students the opportunity to learn through community service, but it is important to note that it is much more than just community service. It is a method of classroom instruction that engages a student's intellect through hands-on work outside the classroom that benefits the community at large. Research shows that students participating in service-learning make gains on achievement tests, complete their homework more often, and increase their grade point averages.

In addition to producing academic gains, service-learning is also associated with both increased attendance and reduced dropout rates. It is clear to educators across the country that service-learning helps students feel more connected to their own education while strengthening their connection to their community as well. It is for all of these reasons that Susan Abravanel is working so hard to advocate for service-learning in classrooms in Oregon and across the nation.

Ms. Abravanel is working closely with my office and with education leaders in Oregon to ensure that my home State remains a national leader in service-learning. Just 2 months ago, I introduced a bill with my colleague, Senator EDWARDS, to strengthen our Nation's commitment to service-learning. I feel confident that this bill will soon become law and that with Ms. Abravanel's continued efforts both here in Washington, DC, and at home in Oregon, students will continue to benefit from an education tied to civic engagement.

Ms. Abravanel exemplifies the type of engaged citizen our schools must endeavor to produce, and her persistence will ensure that future generations of Americans will give back to their communities just as she has. I would also like to note that Susan isn't just concerned about education, her interests and efforts in Portland's Jewish community are well known and highly appreciated, she is the new President of the Oregon chapter of the American Jewish Committee. I look forward to working with Susan in her new role at the AJC and thank her for her continuing devotion to service-learning.●

COMMUNITY HEROES

● Mr. SMITH of Oregon. Mr. President I rise today to recognize some community heroes in my home State of Oregon. The Agape House, which has been serving needy families in the Hermiston area for 15 years, is one of those rare organizations that dedicates its efforts entirely to the service of others.

Founded in 1987, Agape House began as a small group of volunteers providing food and clothing to approximately 100 families a month. Over the years, Agape House has been able to expand its reach, and last month was able to help 644 families in need. Food and clothing still constitute the majority of the assistance provided by Agape House's volunteers, but they are often able to help local residents with energy bills, prescription drug bills, emergency shelter, and any number of other unmet daily needs.

Perhaps the most encouraging aspect of Agape House's work is that it is done by a large number of area volunteers who take turns staffing the Agape House. On any given day, six to eight volunteers work at Agape House, but they are seldom the same six to eight people who were there the day before. Not only do its many volunteers come from the community, but Agape House relies primarily on food, clothing, and financial donations from local citizens. Agape House is truly a community effort, and, for that reason, has been uniquely successful in providing assistance to the needy families of western Umatilla County.

One recent and extraordinary example of Agape House's effectiveness involves a young single mother in the Hermiston area. As a young single mother with three mouths to feed, this jobless Hermiston woman relied on Agape House for many of her family's daily needs. When she was finally able to find work, she struggled to get to and from her job because she could not afford a car, and was at risk of finding herself jobless once again. Seeing her problems, Agape House stepped in and gave her a car. A car is not a typical charitable gift to a young woman in need. With her new car, this young woman flourished at her job, and Agape House, which once served this woman nearly every day, has not had a visit from her since the day she received her car. This is just one example of how Agape House goes the extra mile to help people truly become self-sufficient, which takes much more dedication than simply providing temporary relief.

I think it is important to recognize organizations like Agape House here on the Senate floor. The staff and volunteers associated with Agape House are heroes to their community, and are shining examples of what can be accomplished by a generous group of civic-minded citizens. I appreciate the important work they do each and every day, and want them to know that their efforts do not go unnoticed by those outside Umatilla County.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting a withdrawal and sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 9:34 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 2578. An act to amend title 31 of the United States Code to increase the public debt limit.

The message also announced that the House has agreed to the following concurrent resolution, without amendment:

S. Con. Res. 125. Concurrent resolution providing for a conditional adjournment or recess of the Senate and a conditional adjournment of the House of Representatives.

At 11:31 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 2594. An act to authorize the Secretary of the Treasury to purchase silver on the open market when the silver stockpile is depleted, to be used to mint coins.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 3034. An act to redesignate the facility of the United States Postal Service located at 89 River Street in Hoboken, New Jersey, as the ''Frank Sinatra Post Office Building.''

H.R. 5010. An act making appropriations for the Department of Defense for the fiscal year ending September 30, 2003, and for other purposes.

H.R. 5011. An act making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 2003, and for other purposes.

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

H. Con. Res. 424. Concurrent Resolution commending the patriotic contributions of the roofing professionals who replaced, at no cost to the Federal Government, the section of the Pentagon's slate roof that was destroyed as a result of the terrorist attacks against the United States that occurred on September 11, 2001.

ENROLLED BILL SIGNED

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

S. 2578. An act to amend title 31 of the United States Code to increase the public debt limit.

The enrolled bill was signed subsequently by the President pro tempore (Mr. BYRD).

MEASURES REFERRED

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

H.R. 3034. An act to redesignate the facility of the United States Postal Service located at 89 River Street in Hoboken, New Jersey, as the ''Frank Sinatra Post Office Building''; to the Committee on Governmental Affairs.

H.R. 5010. An act making appropriations for the Department of Defense for the fiscal year ending September 30, 2003, and for other purposes; to the Committee on Appropriations.

H.R. 5018. An act to direct the Capitol Police Board to take steps to promote the retention of current officers and members of the Capitol Police and the recruitment of new officers and members of the Capitol Police, and for other purposes; to the Committee on Rules and Administration.

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 424. Concurrent resolution commending the patriotic contributions of the roofing professionals who replaced, at no cost to the Federal Government, the section of the Pentagon's slate roof that was destroyed as a result of the terrorist attacks against the United States that occurred on September 11, 2001; to the Committee on Armed Services.

MEASURES READ THE FIRST TIME

The following bill was read the first time:

H.R. 4231. An act to improve small business advocacy, and for other purposes.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, June 28, 2002, she had presented to the President of the United States the following enrolled bill:

S. 2578. An act to amend title 31 of the United States Code to increase the public debt limit.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BAUCUS, from the Committee on Finance, with an amendment in the nature of a substitute:

S. 2119: A bill to amend the Internal Revenue Code of 1986 to provide for the tax treatment of inverted corporate entities and of transactions with such entities, and for other purposes. (Rept. No. 107–188).

S. 2498: A bill to amend the Internal Revenue Code of 1986 to require adequate disclosure of transactions which have a potential for tax avoidance or evasion, and for other purposes. (Rept. No. 107–189).

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, without amendment:

S. 454: A bill to provide permanent funding for the Bureau of Land Management Payment in Lieu of Taxes program and for other purposes. (Rept. No. 107–190).

S. 691: A bill to direct the Secretary of Agriculture to convey certain land in the Lake Tahoe Basin Management Unit, Nevada, to the Secretary of the Interior, in trust for the Washoe Indian Tribe of Nevada and California. (Rept. No. 107–191).

S. 1010: A bill to extend the deadline for commencement of construction of a hydroelectric project in the State of North Carolina. (Rept. No. 107–192).

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, with amendments:

S. 1649: A bill to amend the Omnibus Parks and Public Lands Management Act of 1996 to increase the authorization of appropriations for the Vancouver National Historic Reserve and for the preservation of Vancouver Barracks. (Rept. No. 107–193).

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, without amendment:

S. 1843: A bill to extend hydro-electric licenses in the State of Alaska. (Rept. No. 107–194).

S. 1852: A bill to extend the deadline for commencement of construction of a hydroelectric project in the State of Wyoming. (Rept. No. 107–195).

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, with an amendment:

S. 1894: A bill to direct the Secretary of the Interior to conduct a special resource study to determine the national significance of the Miami Circle site in the State of Florida as well as the suitability and feasibility of its inclusion in the National Park System as part of Biscayne National Park, and for other purposes. (Rept. No. 107–196).

S. 1907: A bill to direct the Secretary of the Interior to convey certain land to the city of Haines, Oregon. (Rept. No. 107–197).

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, without amendment:

H.R. 223: A bill to amend the Clear Creek County, Colorado, Public Lands Transfer Act of 1993 to provide additional time for Clear Creek County to dispose of certain lands transferred to the county under the Act. (Rept. No. 107–198).

H.R. 1456: A bill to expand the boundary of the Booker T. Washington National Monument, and for other purposes. (Rept. No. 107–199).

H.R. 1576: A bill to designate the James Peak Wilderness and Protection Area in the Arapaho and Roosevelt National Forests in the State of Colorado, and for other purposes. (Rept. No. 107–200).

By Mr. BYRD, from the Committee on Appropriations, without amendment:

S. 2708: An original bill making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2003, and for other purposes. (Rept. No. 107–201).

NOMINATIONS DISCHARGED

The following nomination was discharged from the Committee on Environment and Public Works and placed on the Executive Calendar pursuant to the order of June 28, 2002:

NUCLEAR REGULATORY COMMISSION

Jeffrey S. Merrifield, of New Hampshire, to be a Member of the Nuclear Regulatory Commission for the term of five years expiring June 30, 2007.

The following nominations were discharged from the Committee on Agriculture, Nutrition, and Forestry and placed on the Executive Calendar pursuant to the order of June 28, 2002:

FARM CREDIT ADMINISTRATION

Fred L. Dailey, of Ohio, to be a Member of the Board of Directors of the Federal Agricultural Mortgage Corporation.

Grace Trujillo Daniel, of California, to be a Member of the Board of Directors of the Federal Agricultural Mortgage Corporation.

Douglas L. Flory, of Virginia, to be a Member of the Farm Credit Administration Board, Farm Credit Administration, for term expiring October 13, 2006.

COMMODITY FUTURES TRADING COMMISSION

Sharon Brown-Hruska, of Virginia, to be a Commissioner of the Commodity Futures Trading Commission for the remainder of the term expiring April 13, 2004.

Walter Lukken, of Indiana, to be a Commissioner of the Commodity Futures Trading Commission for a term expiring April 13, 2005.

The following nomination was discharged from the Committee on Agriculture, Nutrition, and Forestry and referred to the Committee on Governmental Affairs for a period not to exceed 20 days pursuant to the order of June 28, 2002:

DEPARTMENT OF AGRICULTURE

Phyllis K. Fong, of Maryland, to be Inspector General, Department of Agriculture.

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 Mrs. LINCOLN:

S. 2700. A bill to amend titles II and XVI of the Social Security Act to limit the amount of attorney assessments for representation of claimants and to extend the attorney fee payment system to claims under title XVI of that Act; to the Committee on Finance.

By Mrs. CLINTON (for herself and Mr. SCHUMER):

S. 2701. A bill to suspend temporarily the duty on certain closures for low expansion laboratory glass; to the Committee on Finance.

By Mrs. CLINTON (for herself and Mr. SCHUMER):

S. 2702. A bill to suspend temporarily the duty on low expansion laboratory glass; to the Committee on Finance.

By Mrs. CLINTON (for herself and Mr. SCHUMER):

S. 2703. To suspend temporarily the duty on certain blanks and components for low expansion laboratory glass; to the Committee on Finance.

By Mr. NELSON of Florida (for himself and Mr. CLELAND):

S. 2704. A bill to provide for the disclosure of information on projects of the Department

of Defense, such as Project 112 and the Shipboard Hazard and Defense Project (Project SHAD), that included testing of biological or chemical agents involving potential exposure of members of the Armed Forces to toxic agents, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. CRAIG:

S. 2705. A bill for the relief of Robert Bancroft of Hayden Lake, Idaho, to permit the payment of backpay for overtime incurred in missions flown with the Drug Enforcement Agency; to the Committee on Governmental Affairs.

By Mr. CLELAND:

S. 2706. A bill to improve economic opportunity and development in communities that are dependent on tobacco production, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. KENNEDY (for himself and Ms. SNOWE):

S. 2707. A bill to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to provide comprehensive pension protection for women; to the Committee on Finance.

By Mr. BYRD:

S. 2708. An original bill making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2003, and for other purposes; from the Committee on Appropriations; placed on the calendar.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. HAGEL (for himself, Mr. BIDEN, Ms. MIKULSKI, Mr. MURKOWSKI, and Mr. FITZGERALD):

S. Res. 296. A resolution recognizing the accomplishment of Ignacy Jan Paderewski as a musician, composer, statesman, and philanthropist and recognizing the 10th Anniversary of the return of his remains to Poland; to the Committee on Foreign Relations.

By Mr. SMITH of New Hampshire:

S. Res. 297. A resolution expressing the sense of the Senate that pet owners should regularly visit their veterinarians for their pets to receive check-ups, and for advice on issues like flea and tick control, especially during the spring and summer months; to the Committee on Agriculture, Nutrition, and Forestry.

By Ms. LANDRIEU (for herself and Mr. BREAUX):

S. Res. 298. A resolution honoring the Louisiana State University Tigers Men's Outdoor Track and Field Team; to the Committee on the Judiciary.

By Mr. FITZGERALD (for himself, Mr. TORRICELLI, Mr. SMITH of New Hampshire, Mr. LIEBERMAN, and Mr. SARBANES):

S. Con. Res. 127. A concurrent resolution expressing the sense of the Congress that the Parthenon Marbles should be returned to Greece; to the Committee on Foreign Relations.

ADDITIONAL COSPONSORS

S. 414

At the request of Mr. CLELAND, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 414, a bill to amend the National Telecommunications and Information Administration Organization Act to establish a digital network technology program, and for other purposes.

S. 885

At the request of Mr. HUTCHINSON, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 885, a bill to amend title XVIII of the Social Security Act to provide for national standardized payment amounts for inpatient hospital services furnished under the medicare program.

S. 987

At the request of Mr. TORRICELLI, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 987, a bill to amend title XIX of the Social Security Act to permit States the option to provide medicaid coverage for low-income individuals infected with HIV.

S. 999

At the request of Mr. BINGAMAN, the name of the Senator from Illinois (Mr. FITZGERALD) was added as a cosponsor of S. 999, a bill to amend title 10, United States Code, to provide for a Korea Defense Service Medal to be issued to members of the Armed Forces who participated in operations in Korea after the end of the Korean War.

S. 1002

At the request of Ms. SNOWE, the name of the Senator from Alabama (Mr. SHELBY) was added as a cosponsor of S. 1002, a bill to amend the Internal Revenue Code of 1986 to modify certain provisions relating to the treatment of forestry activities.

S. 1339

At the request of Mr. CAMPBELL, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 1339, a bill to amend the Bring Them Home Alive Act of 2000 to provide an asylum program with regard to American Persian Gulf War POW/MIAs, and for other purposes.

S. 1350

At the request of Mr. DAYTON, the name of the Senator from Arkansas (Mr. HUTCHINSON) was added as a cosponsor of S. 1350, a bill to amend the title XVIII of the Social Security Act to provide payment to medicare ambulance suppliers of the full costs of providing such services, and for other purposes.

S. 2067

At the request of Mr. BINGAMAN, the names of the Senator from South Dakota (Mr. JOHNSON) and the Senator from Massachusetts (Mr. KENNEDY) were added as cosponsors of S. 2067, a bill to amend title XVIII of the Social Security Act to enhance the access of medicare beneficiaries who live in medically underserved areas to critical primary and preventive health care benefits, to improve the Medicare+Choice program, and for other purposes.

S. 2078

At the request of Mr. LIEBERMAN, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 2078, a bill to amend section 527 of the Internal Revenue Code of 1986 to eliminate notification and return requirements for State and local political committees and candidate committees and avoid duplicate reporting by certain State and local political committees of information required to be reported and made publicly available under State law, and for other purposes.

S. 2218

At the request of Mrs. LINCOLN, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 2218, a bill to amend title XVIII of the Social Security Act to provide coverage for kidney disease education services under the medicare program, and for other purposes.

S. 2480

At the request of Mr. LEAHY, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 2480, a bill to amend title 18, United States Code, to exempt qualified current and former law enforcement officers from state laws prohibiting the carrying of concealed handguns.

S. 2544

At the request of Mr. LEVIN, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 2544, a bill to amend the Federal Water Pollution Control Act to authorize the Administrator of the Environmental Protection Agency to make grants for remediation of sediment contamination in areas of concern, to authorize assistance for research and development of innovative technologies for such remediation, and for other purposes.

S. 2554

At the request of Mr. SMITH of New Hampshire, the name of the Senator from North Carolina (Mr. HELMS) was added as a cosponsor of S. 2554, a bill to amend title 49, United States Code, to establish a program for Federal flight deck officers, and for other purposes.

S. 2558

At the request of Mr. REED, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 2558, a bill to amend the Public Health Service Act to provide for the collection of data on benign brain-related tumors through the national program of cancer registries.

S. 2562

At the request of Mr. REID, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 2562, a bill to expand research regarding inflammatory bowel disease, and for other purposes.

S. 2622

At the request of Mr. HOLLINGS, the names of the Senator from Wisconsin (Mr. KOHL) and the Senator from Massachusetts (Mr. KERRY) were added as cosponsors of S. 2622, a bill to authorize the President to posthumously award a gold medal on behalf of Congress to Joseph A. De Laine in recognition of his contributions to the Nation.

S. 2697

At the request of Mr. REID, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 2697, a bill to require the Secretary of the Interior to implement the final rule to phase out snowmobile use in Yellowstone National Park, John D. Rockefeller Jr. Memorial Parkway, and Grand Teton National Park, and snowplane use in Grand Teton National Park.

S. RES. 264

At the request of Mr. KERRY, the names of the Senator from Maryland (Mr. SARBANES), the Senator from South Carolina (Mr. HOLLINGS), and the Senator from Utah (Mr. BENNETT) were added as cosponsors of S. Res. 264, a resolution expressing the sense of the Senate that small business participation is vital to the defense of our Nation, and that Federal, State, and local governments should aggressively seek out and purchase innovative technologies and services from American small businesses to help in homeland defense and the fight against terrorism.

AMENDMENT NO. 3928

At the request of Mrs. HUTCHISON, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of amendment No. 3928 proposed to S. 2514, an original bill to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

STATEMENTS OF INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mrs. LINCOLN:

S. 2700. A bill to amend titles II and XVI of the Social Security Act to limit the amount of attorney assessments for representation of claimants and to extend the attorney fee payment system to claims under title XVI of that Act; to the Committee on Finance.

Mrs. LINCOLN. Mr. President, I rise today to introduce the Social Security Attorney Fee Payment System Improvement Act of 2002. This bill will help ensure that all Social Security claimants have equal access to representation.

Unfortunately, the Social Security Administration's disability determination system has become far too complex for most claimants and their families to successfully navigate on their own. Claimants are confronted by a confusing, time-consuming and multilevel process, which, more often than not, results in a denial of their claim. Appealing a disability claim is a daunting task for anyone without the necessary legal experience, but for individuals who are in poor health or disabled, the procedural hurdles that must be cleared in order to obtain disability benefits can seem insurmountable. As a result, many of the hard working men and women applying for Social Security Disability Insurance, SSDI, benefits or Supplemental Security Insurance, SSI, benefits choose to retain an attorney to help them with their appeal. The bill I am introducing today will help both SSDI and SSI claimants get the benefits to which they are entitled by extending the attorney fee direct payment system to both programs, a change that is long overdue and that enjoys the support of both claimants' representatives and disability advocates.

Additionally, this bill corrects a serious and unintended consequence of the Ticket to Work Act of the 106th Congress. Although this plainly was a landmark piece of legislation, the disproportionately onerous nature of the attorney fee assessment provisions contained therein have caused a dramatic decline in the number of legal professionals who can afford to represent individuals seeking Social Security disability benefits. As a result of such a decrease in the number of attorneys skilled in this area of the law, the most vulnerable claimants, those with serious physical or mental impairments, those with financial challenges, and those who do not or cannot understand the disability claims process, are often left to find their own way through SSA's labyrinthine bureaucracy. This bill seeks to reverse this disturbing trend and to encourage attorneys to continue providing this extremely important service by enacting rational and equitable modifications to the fee assessment system.

I want to say that my long-term goal is to reform the Social Security disability claims process so that it is not so difficult and frustrating for claimants. However, I recognize that this will not happen overnight and, in the near term, it is essential that we enable citizens to cope with this onerous process.

I hope my colleagues will join me in ensuring that the hard working men and women of America obtain adequate legal representation as they pursue their Social Security disability claims. As my colleagues know, individuals with disabilities rely on Social Security disability and/or Supplemental Security Income benefits for life-sustaining income. We must do all we can to support their efforts to obtain benefits they need and deserve. This bill does just that.

By Mr. KENNEDY (for himself and Ms. SNOWE):

S. 2707. A bill to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to provide comprehensive pension protection for women; to the Committee on Finance.

Mr. KENNEDY. Mr. President, it's a pleasure to join Senator SNOWE in introducing the Women's Pension Protection Act of 2002. In this new millennium, women still work in a world of ''less'' and ''fewer.'' Less pay and fewer benefits, especially retirement benefits. Less job security and fewer opportunities for advancement. Less respect for their work and fewer rewards for their contributions.

A major challenge of our time is to protect women's retirement security. The legislation we introduce today meets this important goal by giving women greater say in the management of 401(k) funds, giving widows more generous survivor benefits, and granting divorced spouses expanded opportunities to receive a share of their former spouses' pension after a divorce.

The challenge of retirement security is overwhelmingly a women's issue. The Older Women's League's annual Mother's Day Report concludes that women's pension problems are rooted in the realities that shape their lives: the reality of the wage gap, the reality of caregiving responsibilities, and the reality of jobs that offer few benefits, especially pensions.

Almost 40 years after the Equal Pay Act was passed, women still earn only 73 percent of what men earn. You can't save what you don't earn. And the impact of the wage gap extends far beyond the years that women participate in the workforce. Over a lifetime, the wage gap adds up to an average of $250,000 less in earnings for a woman to invest in her retirement. The result is that one in four older women are living in poverty.

Women represent less than half of the paid workforce, but comprise almost two-thirds of those working in minimum wage jobs. This should not come as a surprise to anyone, but women are 96 percent of all childcare workers, 97 percent of receptionists, and 90 percent of secretaries. Because so many of these jobs are non-union, part-time, and low wage, women are much less likely to be covered by a pension plan than men.

At the same time, women are much more likely to spend time out of the workforce to tend to family caregiving responsibilities. In fact, the average woman now spends 12 years out of the workforce over her work life. That is time that she is not earning a pension, vesting in a pension or contributing to Social Security. This absence from the paid workforce translates into inadequate retirement income and an increased financial dependency on their spouses at retirement. A woman who drops out of the labor market for as few as five years, can end up with as much as 30 percent less in her defined contribution plan.

Although the pension laws are gender neutral, pension policy unintentionally discriminates against women. Women continue to be less likely to be covered by a pension plan and less likely to receive pension benefits. And even when women earn pensions, their benefits tend to be only a fraction of what men receive because of pension formulas that penalize them for moving in and

out of the workforce. Only 13 percent of women age 65 and over receive a pension, and among that small group the median annual pension is only $3,000. These challenges are made even more acute by the fact that women live longer than men and have a greater need for retirement income than men.

We need to make our pension system fairer, especially for women. Married women often count on their husband's retirement benefits to support them in old age, then outlive their husbands and frequently their husbands' retirement income.

Over the last twenty years, reform of the Federal pension law has seen some improvement with changes that allow a widow to continue receiving defined benefit pension payments. The Retirement Equity Act of 1984 requires defined benefit pension plans to pay survivor benefits unless a spouse waives this protection. But this protection does not extend to 401(k) and other defined contribution plans.

The Women's Pension Protection Act offers simple, common sense improvements in our private pension system to ensure that retirement savings programs better respond to the realities of women's working lives. This bill will help women like Joan Mackey of Salem, New Jersey, who testified recently about the difficulties she has faced in trying to collect survivor benefits from her former husband's pension plan. Ms. Mackey's ex-husband wanted her to collect survivor benefits after his death, but because Ms. Mackey didn't know to ask for a widow's benefit at the time of their divorce, the plan now refuses to pay.

Sadly, Joan Mackey is not alone. Congress must do all it can to protect women's retirement security and address inequities in our pension laws that primarily affect women. I urge my colleagues to support the Women's Pension Protection Act.

Ms. SNOWE. Mr. President, I rise to join with Senator KENNEDY in introducing The Women's Pension Protection Act of 2002 to improve the retirement security of women.

As Americans live longer, achieving financial security can be a particular challenge for women. Women live, on average, seven years longer than men but earn less money over their lifetime, and as women continue to be society's primary caregivers, they continue to lose time from the workplace during their prime earning years. The result? Just 40 percent of women have pensions, compared with 47 percent of men. Of those with pensions, women retirees receive only about half the pension benefits that men receive—on average, $4,200 annually compared to $7,800 for men.

With less time to invest in their retirement, women are frequently unable to establish a solid nest egg for future years. Women sometimes rely on their spouse's pension for essential savings in later years. If a marriage dissolves, as roughly half of marriages in America have, this can deal a terrible blow to a women's retirement plans.

For elderly women the situation worsens, as they are three times as likely than men to outlive their spouses. Lower pensions can make it difficult for women to make ends meet in their later years. Tragically, almost one in five nonmarried elderly women, 17 percent, live in poverty today. These facts help explain why our pension laws should reflect the reality and needs of our workforce.

The bill we are introducing today is aimed at meeting the unique financial needs of women. It recognizes the economic partnership of marriage, ensuring that women are included in financial decisions that effect their future. Under this bill, spousal consent would be required before participants can withdraw lump sum payments of pension benefits 401(k) plans. Similar requirements already exist for spouses of workers covered by traditional pension plans. This bill also encourages more investment into annuities, which pay a guaranteed stream of lifelong income and help to prevent poverty. Spouses will have the option of selecting a 75-percent survivor benefit, in addition to the current 50-percent survivor benefit.

This legislation also enhances the financial security of women by requiring plans to offer the option of increasing survivor benefits from 50 percent to at least 75 percent of her husband's retirement. It ensures that a widow can receive her husband's pension regardless of when the husband dies or whether he applied for the pension to begin. And it closes a glaring loophole by ensuring that pension plan administrators will abide by the division of pension benefits ordered by the courts in a divorce proceeding, regardless of when the order is given.

Ultimately, this legislation will strengthen our country's future by giving the tools women, and men, need to secure their retirement future. We have an opportunity to improve the benefits to our workforce and enhance opportunities for women in a way that makes sense. I urge my colleagues to join in supporting this legislation.

STATEMENTS ON SUBMITTED RESOLUTIONS

SENATE RESOLUTION 296—RECOGNIZING THE ACCOMPLISHMENT OF IGNACY JAN PADEREWSKI AS A MUSICIAN, COMPOSER, STATESMAN, AND PHILANTHROPIST AND RECOGNIZING THE 10TH ANNIVERSARY OF THE RETURN OF HIS REMAINS TO POLAND.

Mr. HAGEL (for himself, Mr. BIDEN, Ms. MIKULSKI, Mr. MURKOWSKI, and Mr. FITZGERALD) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 296

Whereas Ignacy Jan Paderewski, born in Poland in 1860, was a brilliant and popular pianist who performed hundreds of concerts in Europe and the United States during the late 19th and early 20th centuries;

Whereas Paderewski often donated the proceeds of his concerts to charitable causes;

Whereas, during World War I, Paderewski worked for the independence of Poland and served as the first Premier of Poland;

Whereas in December 1919, Paderewski resigned as Premier of Poland, and in 1921 he left politics to return to his music;

Whereas, the German invasion of Poland in 1939 spurred Paderewski to return to political life;

Whereas Paderewski fought against the Nazi dictatorship in World War II by joining the exiled Polish Government to mobilize the Polish forces and to urge the United States to join the Allied Forces;

Whereas Paderewski died in exile in America on June 29, 1941, while war and occupation imperiled all of Europe;

Whereas by the direction of United States President Franklin D. Roosevelt, Paderewski's remains were placed along side America's honored dead in Arlington National Cemetery, where President Roosevelt said, ''He may lie there until Poland is free.'';

Whereas in 1963, United States President John F. Kennedy honored Paderewski by placing a plaque marking Paderewski's remains at the Mast of the Maine at Arlington National Cemetery;

Whereas in 1992, United States President George H.W. Bush, at the request of Lech Walesa, the first democratically elected President of Poland following World War II, ordered Paderewski's remains returned to his native Poland;

Whereas June 26, 1992, the remains of Paderewski were removed from the Mast of the Maine at Arlington National Cemetery, and were returned to Poland on June 29, 1992;

Whereas on July 5, 1992, Paderewski's remains were interned in a crypt at the St. John Cathedral in Warsaw, Poland; and

Whereas Paderewski wished his heart to be forever enshrined in America, where his lifelong struggle for democracy and freedom had its roots and was cultivated, and now his heart remains at the Shrine of the Czestochowa in Doylestown, Pennsylvania: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the accomplishments of Ignacy Jan Paderewski as a musician, composer, statesman, and philanthropist; and

(2) acknowledges the invaluable efforts of Ignacy Jan Paderewski in forging close Polish-American ties, on the 10th Anniversary of the return of Paderewski's remains to Poland.

Mr. HAGEL. Mr. President, today I rise to submit a resolution recognizing the accomplishments of Ignacy Jan Paderewski as a musician, composer, statesman, and philanthropist and to commemorate the 10th anniversary of the return of his remains to Poland.

Born in Poland in 1860, Paderewski is remembered for his contributions to the arts and humanities and as one of the great men of our times. Paderewski was a brilliant and popular pianist who performed hundreds of concerts in Europe and the United States during the late 19th and early 20th centuries, donating the proceeds to numerous charitable causes. During WWI, Paderewski played a central role in achieving Poland's independence, becoming the first Premier of Poland in 1919 until 1922 when he left politics and returned to music.

The German invasion of Poland in 1939 spurred Paderewski to return to politics where he fought against the Nazi dictatorship in World War II. By joining the exiled Polish Government he helped to mobilize the Polish forces and to urge the United States to join the Allied Forces.

Paderewski died in 1941. At the direction of President Franklin D. Roosevelt, Paderewski's remains were placed alongside America's honored dead in Arlington National Cemetery, where President Roosevelt said he may lie until Poland is free.

For over a half century, the remains of Paderewski were interred at Arlington National Cemetery. He did not live to see the U.S. and Allied Forces liberate Europe from the tyranny of Nazi control. Nor did he witness the subjugation of Poland during the Soviet era. It was, however, the legacy of Paderewski that inspired movements throughout Europe, including Solidarity in Poland, which led to the liberation of Europe.

In 1992, Solidarity Leader Lech Walesa, the first democratically elected President of Poland following WWII, asked U.S. President George H.W. Bush to return Paderewski's remains to his native homeland.

On July 5, 1992, Paderewski's remains were interred in a crypt at the St. John Cathedral in Warsaw Poland.

So, as we near the 10th anniversary of this historic event, I submit this resolution and asked that it be properly referred.

SENATE RESOLUTION 297—EXPRESSING THE SENSE OF THE SENATE THAT PET OWNERS SHOULD REGULARLY VISIT THEIR VETERINARIANS FOR THEIR PETS TO RECEIVE CHECKUPS, AND FOR ADVICE ON ISSUES LIKE FLEA AND TICK CONTROL, ESPECIALLY DURING THE SPRING AND SUMMER MONTHS

Mr. SMITH of New Hampshire submitted the following resolution; which was referred to the Committee on Agriculture, Nutrition, and Forestry:

S. RES. 297

Whereas approximately 60 percent of American households are pet-owning households;

Whereas there are approximately 68,000,000 dogs in American households;

Whereas there are approximately 73,000,000 cats in American households;

Whereas pet owners typically have strong relationships with their pets;

Whereas pet owners love their pets as members of their families and should consider veterinarians as partners in helping to keep family pets healthy and happy;

Whereas strong relationships between pets and veterinarians are important for the diagnosis of major and minor pet health issues;

Whereas the spring and summer months are prime seasons for infestation by ticks, mosquitoes, and fleas;

Whereas ticks, as carriers of diseases like Lyme Disease, mosquitoes, as carriers of parasites like heartworm, and fleas all pose potential threats to the health of pets;

Whereas many spring and summer threats to pet health are silent and potentially fatal, but can be prevented with regular visits to veterinarians;

Whereas veterinarians know the best methods and best products to provide for the healthy lives of pets; and

Whereas 100 percent of dogs not on a preventive treatment will contract heartworm when exposed to the parasite: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) pets should not face unnecessary health threats, which frequently arise during the spring and summer months;

(2) the spring and summer months are an important time to provide dogs and cats with control products to protect against illnesses caused or carried by ticks, mosquitoes, and fleas;

(3) pet owners should seek expert advice from their veterinarians to learn how to protect dogs and cats against potential spring and summertime diseases and illnesses caused by ticks, mosquitoes, and fleas; and

(4) pet owners should regularly visit their veterinarians for their pets to receive checkups, for prevention of disease, and for advice on issues like flea and tick control.

SENATE RESOLUTION 298—HONORING THE LOUISIANA STATE UNIVERSITY TIGERS MEN'S OUTDOOR TRACK AND FIELD TEAM

Ms. LANDRIEU (for herself and Mr. BREAUX) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 298

Whereas Louisiana State University Men's Outdoor Track and Field Team won the 2002 NCAA Division I Championship;

Whereas head coach Pat Henry was awarded the MONDO NCAA Division I Coach of the Year, and led the team to victory over top seeded Tennessee;

Whereas 9 time all-American and 6 time national champion senior Walter Davis was awarded the MONDO Athlete of the Year and won the long jump event and the triple jump event in the 2002 NCAA Division I Championship hosted by Louisiana State University, as well as running the beginning leg of the 4x100 meter relay;

Whereas Tiger athletes Robert Parham, Pete Coley, and Bennie Brazell also competed in the 4x100 meter relay with a time of 38.32 seconds, the fourth fastest time in NCAA history;

Whereas Robert Parham also won his heat in the 200 meter dash with a time of 20.45 seconds and Bennie Brazell and Lueroy Colquhoun advanced to the finals in the 400 meter hurdles by winning their preliminaries with respective times of 49.57 and 49.99;

Whereas Javier Nieto finished eighth in the hammer throw to become the first Louisiana State University Tiger to be honored as an all-American in that event since 1993;

Whereas due to the efforts and abilities of the student athletes and head coach Pat Henry, the Louisiana State University Men's Outdoor Track and Field team won the 2002 NCAA Division I Championship; and

Whereas the team's victory exemplifies the hard work ethic and high goals set by Louisiana State University and the State of Louisiana: Now, therefore, be it

Resolved, That the Senate congratulates the Tigers of the Louisiana State University Men's Outdoor Track and Field team on winning the 2002 NCAA Division I Championship.

SENATE CONCURRENT RESOLUTION 127—EXPRESSING THE SENSE OF THE CONGRESS THAT THE PARTHENON MARBLES SHOULD BE RETURNED TO GREECE

Mr. FITZGERALD (for himself, Mr. TORRICELLI, Mr. SMITH of New Hampshire, Mr. LIEBERMAN, and Mr. SARBANES) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 127

Whereas the Parthenon was built on the hill of the Acropolis in Athens, Greece in the mid-fifth century B.C. under the direction of the Athenian statesman Pericles and the design of the sculptor Phidias.

Whereas the Parthenon is the ultimate expression of the artistic genius of Greece, the preeminent symbol of the Greek cultural heritage—its art, architecture, and democracy—and of the contributions that modern Greeks and their forefathers have made to civilization;

Whereas the Parthenon has served as a place of worship for ancient Greeks, Orthodox Christians, Roman Catholics, and Muslims;

Whereas the Parthenon has been adopted by imitation by the United States in many preeminent public buildings, including the Lincoln Memorial;

Whereas over 100 pieces of the Parthenon's sculptures—now known as the Parthenon Marbles—were removed from the Parthenon under questionable circumstances between 1801 and 1816 by Thomas Bruce, seventh Earl of Elgin, while Greece was still under Ottoman rule;

Whereas the removal of the Parthenon Marbles, including their perilous voyage to Great Britain and their careless storage there for many years, greatly endangered the Marbles;

Whereas the Parthenon Marbles were removed to grace the private home of Lord Elgin, who transferred the Marbles to the British Museum only after severe personal economic misfortunes;

Whereas the sculptures of the Parthenon were designed as an integral part of the structure of the Parthenon temple; the carvings of the friezes, pediments, and metopes are not merely statuary, movable decorative art, but are integral parts of the Parthenon, which can best be appreciated if all the Parthenon marbles are reunified;

Whereas the Parthenon is a universal symbol of culture, democracy, and freedom, making the Parthenon Marbles of concern not only to Greece but to all the world;

Whereas, the since obtaining independence in 1830, Greece has sought the return of the Parthenon Marbles;

Whereas the return of the Parthenon Marbles would be a profound demonstration by the United Kingdom of its appreciation and respect for the Parthenon and classical art;

Whereas returning the Parthenon Marbles to Greece would be a gesture of good will on the part of the British Parliament, and would set no legal precedent, nor in any other way affect the ownership or disposition of other objects in museums in the United States or around the world;

Whereas the United Kingdom should return the Parthenon Marbles in recognition that the Parthenon is part of the cultural heritage of the entire world and, as such, should be made whole;

Whereas Greece would provide care for the Parthenon Marbles equal or superior to the care provided by the British Museum, especially considering the irreparable harm

caused by attempts by the museum to remove the original color and patina of the Marbles with abrasive cleaners;

Whereas Greece is constructing a new, permanent museum in full view of the Acropolis to house all the Marbles, protected from the elements in a safe, climate-controlled environment;

Whereas Greece has pledged to work with the British government to negotiate mutually agreeable conditions for the return of the Parthenon Marbles;

Whereas the people of Greece have a greater, ancient bond to the Parthenon Marbles, which were in Greece for over 2,200 years of the over 2,430 year history of the Parthenon;

Whereas the British people support the return of the Parthenon Marbles, as reflected in several recent polls;

Whereas a resolution signed by a majority of members of the European Parliament urged the British government to return the Parthenon Marbles to their natural setting in Greece;

Whereas the British House of Commons Select Committee on Culture, Media and Sport is to be commended for examining the issue of the disposition of the Parthenon Marbles in hearings held in 2000; and

Whereas in 2004 the Olympic Games will take place in Athens, Greece—birthplace of the Olympics—and the Parthenon Marbles should be returned to their home in Athens by that time: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that the Government of the United Kingdom should enter into negotiations with the Government of Greece as soon as possible to facilitate the return of the Parthenon Marbles to Greece before the Olympics in 2004.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Friday, June 28, 2002, at 9:30 a.m. for the purpose of holding a hearing to ''Examine How a Department of Homeland Security Should Address Weapons of Mass Destruction and Relevant Science and Technology, and Public Health Issues.''

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

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet for a hearing on S. 2246, the Instructional Materials Accessibility Act: Making Instructional Materials Available to All Students, during the session of the Senate on Friday, June 28, 2002, at 10 a.m. in SD–430.

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

ALLOCATION TO SUBCOMMITTEES FOR FISCAL YEAR 2003

Mr. BYRD. Mr. President, for the information of the Senate, I want to appear in the RECORD the allocations to subcommittees for fiscal year 2003 by the Committee on Appropriations in the Senate.

On Thursday, June 27, 2002, the Committee on Appropriations, by a unanimous rollcall vote of 29 to 0, approved the allocation to subcommittees for fiscal year 2003.

These allocations were prepared in consultation with my esteemed colleagues, Senator TED STEVENS, distinguished ranking member of the committee, who stands with me committed to presenting bills to the Senate consistent with these allocations.

Furthermore, Senator STEVENS and I stand committed to opposing any amendments that would breach the allocations. We are committed to doing what we can to enforce discipline in the processing of thirteen, individual bipartisan and responsible appropriations bills for fiscal year 2003.

I ask unanimous consent that a table setting forth the allocation to subcommittees be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SENATE COMMITTEE ON APPROPRIATIONS—FY 2003 SUBCOMMITTEE ALLOCATIONS

[Discretionary spending in millions of dollars]

Subcommittee	Budget authority	Outlays
Agriculture	17,980	18,318
Commerce	43,475	44,416
Defense	355,139	346,843
District of Columbia	517	581
Energy & Water	26,300	25,823
Foreign Operations	16,350	16,076
Interior	18,926	18,804
Labor-HHS-Education	133,988	127,131
Legislative Branch	3,413	3,467
Military Construction	10,622	10,122
Transportation	21,100	60,169
Treasury, General Gov't	18,501	18,237
VA, HUD	91,434	96,325
Deficiencies	10,344	6,780
Total	768,089	793,092

Approved by the Committee on a unanimous vote of 29 to 0 on June 27, 2002.

APPOINTMENTS

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore, pursuant to Public Law 94–201, as amended by Public Law 105–275, appoints the following individuals as members of the Board of Trustees of the American Folklife Center of the Library of Congress: Susan Barksdale Howorth of Mississippi, for a term of six years; and Marlene Meyerson of Texas, for a term of six years.

MEASURE READ THE FIRST TIME—H.R. 4231

Mr. BYRD. Mr. President, I understand that H.R. 4231 is at the desk. I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the title of the bill for the information of the Senate.

The senior assistant bill clerk read as follows:

A bill (H.R. 4231) to improve small business advocacy and for other purposes.

Mr. BYRD. Mr. President, I now ask for the second reading and I object to my own request.

The PRESIDING OFFICER. Objection having been heard, the bill will receive its second reading on the next legislative day.

NOMINATIONS DISCHARGED

Mr. BYRD. Mr. President, as in executive session, I ask unanimous consent that the Environment and Public Works Committee be discharged from further consideration of the nomination of Jeffrey Merrifield to be a member of the Nuclear Regulatory Commission and that his nomination be placed on the Executive Calendar.

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

Mr. BYRD. As in executive session, I ask unanimous consent that the Agriculture Committee be discharged from further consideration of the following nominations and that they be placed on the calendar:

Fred L. Dailey to be a member of the board of directors of the Federal Agricultural Mortgage Corporation;

Grace Daniel to be a member of the board of directors of the Federal Agricultural Mortgage Corporation;

Sharon Brown-Hruska to be a Commissioner of the Commodity Futures Trading Commission;

Walter Lukken to be a Commissioner of the Commodity Futures Trading Commission;

Douglas Flory to be a member of the Farm Credit Administration board.

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

Mr. BYRD. As in executive session I ask unanimous consent that the Agriculture Committee be discharged from further consideration of the nomination of Phyllis Fong to be Inspector General at the Department of Agriculture and that her nomination be referred to the Government Affairs Committee for its consideration under the statutory time limitation.

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

ORDER FOR RECORD TO REMAIN OPEN

Mr. BYRD. Mr. President, I ask unanimous consent that the RECORD remain open today until 2:30 p.m. for the introduction of legislation and submission of statements.

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

THANKS TO MEMBERS AND STAFF

Mr. BYRD. Mr. President, on behalf of the majority and minority leaders, I wish to thank all Members of the Senate on both sides of the aisle, and the fine members of the staff of Senators and of the Senate on both sides of the aisle. I thank them for the good work they have done. I wish for them a very peaceful and enjoyable Independence Day holiday. And, of course, I wish for them safety for themselves and their families. I want them all to remember this birthday as a nation and how it

came about; the sacrifices that were made to make this a great nation; and to remember, first and finally, in all times that the nation that believes in God is blessed, and: Except the Lord build the house, they labour in vain that build it: except the Lord keep the city, the watchman waketh but in vain.

ORDERS FOR MONDAY, JULY 8, 2002

Mr. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn under the provisions of S. Con. Res. 125 until 2 p.m. on Monday, July 8; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day; and that the Senate begin consideration of the accounting reform bill under the previous order.

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

PROGRAM

Mr. BYRD. Mr. President, no rollcall votes will occur on Monday, July 8. The next rollcall vote will occur on Tuesday morning, July 9, in this year of our Lord, 2002.

ADJOURNMENT UNTIL MONDAY, JULY 8, 2002, AT 2 P.M.

Mr. BYRD. 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 and in accordance with the provisions of S. Con. Res. 125.

There being no objection, the Senate, at 1:49 p.m., adjourned until Monday, July 8, 2002, at 2 p.m.

NOMINATIONS

Executive nominations received by the Senate June 28, 2002:

DEPARTMENT OF STATE

RICHARD ALLAN ROTH, OF MICHIGAN, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF SENEGAL, AND TO SERVE CONCURRENTLY AND WITHOUT ADDITIONAL COMPENSATION AS AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF GUINEA-BISSAU.

FEDERAL LABOR RELATIONS AUTHORITY

PETER EIDE, OF MARYLAND, TO BE GENERAL COUNSEL OF THE FEDERAL LABOR RELATIONS AUTHORITY FOR A TERM OF FIVE YEARS, VICE JOSEPH SWERDZEWSKI, RESIGNED.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE AND FOR REGULAR APPOINTMENT (IDENTIFIED BY AN ASTERISK (*)) UNDER TITLE 10, U.S.C., SECTIONS 624 AND 531:

To be major

SHELLEY R. ATKINSON, 0000
ROBERT J. COOK, 0000
SUSAN L. DICKSON, 0000
SHAWN T. DONAHEY, 0000
ELIZABETH A. EKSTROM, 0000
ANDREW J. ELBERT, 0000
PHILLIP L. FIELDS JR., 0000
TERRY R. GOSTOMSKI, 0000
STEPHEN J. HARMON, 0000
DENNIS G. HUEY, 0000
CURTIS W. * JOHNSON, 0000
DAVID L. KERN, 0000
TERRENCE L. * KOUDELKA JR., 0000
RICHARD A. MACLEOD, 0000
JEFFREY S. MARKS, 0000
TIMOTHY R. MCWILLIAMS, 0000
WILLIAM H. * MELTON JR., 0000
MICHAEL J. REMUALDO, 0000
BRADLEY G. ROSS, 0000
MARK H. SLOCUM, 0000
SEAN K. SORENSON, 0000
HAROLD G. * WILLIAMS, 0000
SHAWN A. * WILSON, 0000
RANDY K. YOUNG, 0000

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR PERMANENT APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 5589:

To be lieutenant

ROGER E. MORRIS, 0000

THE FOLLOWING NAMED OFFICER FOR PERMANENT APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 5589:

To be lieutenant

JANE E. MCNEELY, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be commander

GENARO T. BELTRAN JR., 0000
ROBYN D. EASTMAN, 0000
MILTON W. FRAZIER, 0000
MICHAEL S. PINETTE, 0000
THEODORE T. POSUNIAK, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be commander

SEVAK ADAMIAN, 0000
EDWIN ALVAREZ, 0000
WALLIS E ANDELIN, 0000
CAROL E BARONE SMITH, 0000
JOHN D BLOOM, 0000
JEFFREY H BRAIN, 0000
KURT J BROCKMAN, 0000
GERARD S CHRABOT, 0000
CATHERINE L CUMMINGS, 0000
WILLIAM R K DAVIDSON, 0000
GRACE F DORANGRICCHIA, 0000
K K ERICKSON, 0000
RICK FREEDMAN, 0000
DAVID H HARTZELL, 0000
HOLLY D HATT, 0000
KIMBROUGH M HORNSBY, 0000
KURT HUMMELDORF, 0000
MARIA I KORSNES, 0000
MARISA LEANDRO, 0000
DAVID A LOWREY, 0000
STEVEN D NYTKO, 0000
PAUL G OLOUGHLIN, 0000
FRANK F OMERZA, 0000
CHARLES W I PADDOCK, 0000
MARK L PLEDGER, 0000
IVAN ROMAN, 0000
MICHAEL T RONCONE, 0000
LUIS F ROSARIO, 0000
PETER A RUOCCO, 0000
GARRY SCHULTE, 0000
GAYLE D SHAFFER, 0000
MARTHA P VILLALOBOS, 0000
RANDALL J WALKER, 0000
THEODORE C WEESNER, 0000
CURTIS M WERKING, 0000
DONNA M WILLIAMS, 0000
CLIFFORD ZDANOWICZ, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be commander

PIUS A AIYELAWO, 0000
JEFFREY M ANDREWS, 0000
IRIS J ASHMEADE, 0000
DECIMA C BAXTER, 0000
FREDERICK C BEAL, 0000
DAWN A BLACKMON, 0000
THEODORE P BRISKI JR., 0000
GLENDA D CARTER, 0000
DERRIK R CLAY, 0000
ROBERT A EDGAR, 0000
ROBERT E FULLER, 0000
DAVID P GRAY, 0000
RACHEL D HALTNER, 0000
DEXTER A HARDY, 0000
DWIGHT D HART, 0000
MICHAEL N HENDEE, 0000
ANNE B HONE, 0000
SCOTT R JONSON, 0000
KEVIN R KENNEDY, 0000
DAIZO KOBAYASHI, 0000
MARY R LACROIX, 0000
JOHN D LARNERD JR., 0000
MICHELE F LOSCOCCO, 0000
PATRICK S MALONE, 0000
DAVID L MCNAMARA, 0000
JONATHAN P NELSON, 0000
BUHARI A OYOFO, 0000
EDGARDO PEREZLUGO, 0000
ALANA M PIERCE, 0000
JOSE A RAMOS, 0000
STEVEN E RANKIN, 0000
MICHAEL D REDDIX, 0000
MICHAEL S SCHAFFER, 0000
CHARLES H SHAW, 0000
ELIZABETH A M SMITH, 0000
MARK K SOLBERG, 0000
DAVID R STREET JR., 0000
MICHAEL L VINEYARD, 0000
PENNY E WALTER, 0000
DAVID F WALTON, 0000
MICHELE L WEINSTEIN, 0000
CYNTHIA E WILKERSON, 0000
GEORGE S WOLOWICZ, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be commander

SALVADOR AGUILERA, 0000
KEVIN J BEDFORD, 0000
MANUEL A BIADOG, 0000
DAVILA B F BRADLEY, 0000
ARTHUR M BROWN, 0000
ROOSEVELT H BROWN, 0000
HAROLD H CASERTA, 0000
RANDAL B CRAFT, 0000
CHIN DANG, 0000
WALTER E EAST, 0000
TED M FANNING, 0000
AARON JEFFERSON JR., 0000
WILLIAM M KENNEDY, 0000
JOHN W MAURICE JR., 0000
DAVID M MCELWAIN, 0000
CRAIG G MUEHLER, 0000
JOEL D NEWMAN, 0000
STEPHEN P PIKE, 0000
DOUGLAS E ROSANDER, 0000
MARK W SMITH, 0000
DONALD P TROAST, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be commander

DANIEL L ALLEN, 0000
JOHN C ANDERSON, 0000
CHRISTOPHER BOWER, 0000
KENNETH J BROOMER, 0000
PATRICK W BROWN, 0000
MICHELE M BURK, 0000
JACK C CAIN, 0000
RONALD K CARR, 0000
KEVIN J CARRIER, 0000
ROBERT R COX, 0000
RAYMOND B J DAUGHERTY, 0000
KENNETH DIXON, 0000
WENDY C FEWSTER, 0000
LEONARD T GAINES, 0000
BRIAN M GOODWIN, 0000
KELVIN J GOODWINE, 0000
JIMMIE S GRIFFEA, 0000
JOHN C GROESCHEL, 0000
JOHN V HARMON, 0000
WILLIAM P HAYES, 0000
CHARLES K HEAD, 0000
JAMES F HILES III, 0000
KEVIN W HINSON, 0000
FRANK J HRUSKA, 0000
DONALD S HUGHES, 0000
JOSEPH J ILLAR, 0000
CURTIS M IRBY, 0000
ROBERT M JENNINGS, 0000
THOMAS J KEANE, 0000
TRACY A KEENAN, 0000
RONALD J KOCHER, 0000
JAMES R LIBERKO, 0000
GLENN J LINTZ, 0000
ROGER D LORD, 0000
RICHARD N MAENHARDT, 0000
ROBERT R MAIN, 0000
MARSHALL L MASON III, 0000
JOHN M MCVEIGH, 0000
CHRISTOPHER S MOSHER, 0000
ANDREW B MUECK, 0000
MARK S MURPHY, 0000
MICHAEL B MURPHY, 0000
DONN D MURRAY, 0000
WILLIAM C NASH, 0000
KENNETH T NATIONS, 0000
ROBERT B OAKELEY, 0000
THEODORE C OLSON, 0000
JOHN T PALMER, 0000
RICHARD M PANKO, 0000
MARK A POLCA, 0000
MARILOU POTENZA, 0000
FRANCIS M PURDY, 0000
WILLIAM F REICH IV, 0000
JOSEPH F RUSSELL IV, 0000
JOHN T SANTOSALVO, 0000
FRANKLIN R SARRA JR., 0000
MICHAEL A SAVANNAH JR., 0000
JOSEPH W SCHAUBLE, 0000
CLIFFORD G SCOTT, 0000
WILLIAM T SKINNER, 0000
PETER G STAMATOPOULOS, 0000
AARON K STANLEY, 0000
DICK E STEARNS III, 0000

DAVID J TRETTEL, 0000
DAVID C WARUNEK, 0000
DAVID L WASBERG, 0000
MARK W WERNER, 0000
ANDREW F WICKARD, 0000
PAMELA Y WILLSBORGSTEDE, 0000
MICHAEL J WILSON, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be commander

DANIEL J ACKERSON, 0000
STANLEY D ADAMS, 0000
KARIE F ANDERSEN, 0000
DEBRA A ARSENAULT, 0000
KEVIN K BACH, 0000
KEVIN P BARRETT, 0000
TANIS M BATSEL, 0000
MICHAEL J BATTAGLIA II, 0000
ELISEO A BAUTISTA, 0000
BRUCE BENNETT, 0000
ABHIK K BISWAS, 0000
PAUL J BRUHA, 0000
MICHAEL L BURLESON, 0000
GREGORY S CAMPBELL, 0000
DAVID CANNON, 0000
MARK E CHISAM, 0000
CHRISTOPHER D CLAGETT, 0000
JOSEPH A COSTA, 0000
WILLIAM T CULVINER, 0000
MICHAEL H DANENBERG, 0000
DARYL K DANIELS, 0000
DAVID M DELONGA, 0000
DAMIAN P DERIENZO, 0000
AMALIA B DIGAN, 0000
ROBERT M DOUGLAS, 0000
ALAN B DOUGLASS, 0000
WALTER M DOWNS JR., 0000
TIMOTHY D DUNCAN, 0000
MICHAEL J ELLIOTT, 0000
JAY B ERICKSON, 0000
ROBERT J FLECK JR., 0000
LYNN K FLOWERS, 0000
QUENTIN J FRANKLIN, 0000
EMORY A FRY, 0000
ROBERT B GHERMAN, 0000
GEORGIA L GILL, 0000
PATRICK B GREGORY, 0000
MICHAEL J HARRISON, 0000
KURT A HENRY, 0000
STANLEY C HEWLETT, 0000
HANSJOACHIM A HILDEBRANDT, 0000
SARA M KASS, 0000
CHRISTOPHER J KLINKO, 0000
RICHARD KNITTIG, 0000
KENNETH C KUBIS, 0000
GREGORY J KUNZ, 0000
MICHAEL J LANE, 0000
MICHAEL J LANGWORTHY, 0000
KENNETH M LANKIN, 0000
JOEL W LARCOMBE, 0000
ROBERT P LARYS, 0000
CALVIN S LEDFORD, 0000
WILLIAM M LEININGER, 0000
ALAN A LIM, 0000
JOHN S LOCKE, 0000
JEFFREY L LORD, 0000
JEFFREY R LUKISH, 0000
RICHARD E MANOS, 0000
ROBERT P MARTIN, 0000
ROBERT O MARTSCHINSKE, 0000
BRIAN J MCKINNON, 0000
KIMBERLY M MCNEIL, 0000
JOSEPH G MCQUADE, 0000
RONALD J MCVICAR, 0000
WILLIAM R MEEKER, 0000
BARTH E MERRILL, 0000
MILES M MERWIN, 0000
SHARON M MILLER, 0000
RICHARD M MONDRAGON, 0000
FERNANDO MORENO, 0000
JOHN W NELSON, 0000
GARY W NOBLE, 0000
ROBERT J NORDNESS, 0000
JOHN D OBOYLE, 0000
MAUREEN O PADDEN, 0000
EDWIN Y PARK, 0000
BHARAT S PATEL, 0000
PATRICIA V PEPPER, 0000
VISWANADHAM POTHULA, 0000
ANDREW POTTS, 0000
CURTIS R POWELL, 0000
MARK D PRESSLEY, 0000
JOHN G RAHEB, 0000
TIMOTHY H RAYNER, 0000
JONATHAN W RICHARDSON, 0000
KEVIN J RONAN, 0000
CRAIG E ROSS, 0000
CRAIG J SALT, 0000
THEODORE W SCHAFER, 0000
JUDY R SCHAUER, 0000
JAY SCHEINER, 0000
RICHARD P SHARPE, 0000
MICHAEL J SINGLETON, 0000
JOEL A SMITHWICK, 0000
MARTIN P SORENSEN, 0000
WILLIAM A SRAY, 0000
ROBERT E STAMBAUGH, 0000
MARK B STEPHENS, 0000
ERIC B STUART, 0000
KEVIN F SUMPTION, 0000
DALE F SZPISJAK, 0000
CINDY L TAMMINGA, 0000
DAVID A TANEN, 0000
WILLIAM J TANNER, 0000
JOHN T TAYLOR, 0000
JOSEPH G THOMAS, 0000
KEITH M ULNICK, 0000
JASON L VANBENNEKOM, 0000
DARIN K VIA, 0000
KEVIN C WALTERS, 0000
MICHAEL S WEINER, 0000
JOSEPH K WEISTROFFER, 0000
TODD R WILLIAMS, 0000
JOHNNY WON, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be commander

CONNIE J BULLOCK, 0000
RICHARD K GIROUX, 0000
DAVID J GRUBER, 0000
REX A GUINN, 0000
JEFFERY L HUNT, 0000
MICHAEL J JACKONIS JR., 0000
JOHN C KAUFFMAN, 0000
BRIAN T ODONNELL, 0000
CHARLES N PURNELL II, 0000
RICHARD W RIDGWAY, 0000
JAMES M RYAN, 0000
PETER D SCHMID, 0000
DENISE E STICH, 0000
MICHAEL D SUTTON, 0000
INGRID M TURNER, 0000
BRENDAN F WARD, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be commander

ANGELICA L C ALMONTE, 0000
CHRISTIE M APPLEQUIST, 0000
KATHY T BECKER, 0000
PATRICE D BIBEAU, 0000
RICHARD L BLUMLING, 0000
ROBERT E DOYLE JR., 0000
TERESA FAHLGREN, 0000
LORIE L GREER, 0000
PAMELA R HATALA, 0000
ALISA K HODGES, 0000
SALLYANNE JARVIS, 0000
LENA M JONES, 0000
JAMIE M KERSTEN, 0000
PETER A LOMBARDO, 0000
JOHN F LYONS, 0000
MATTHEW L MCCOUCHA, 0000
ELIZABETH B MYHRE, 0000
MARY S NADOLNY, 0000
MAUREEN M PENNINGTON, 0000
KEITH D ROBERTS, 0000
KATHERINE T ROWAN, 0000
SARAH L SCHULZ, 0000
CASSANDRA A SPEARS, 0000
ANDREW P SPENCER, 0000
LISA K STENSRUD, 0000
MARY A SUTHERLAND, 0000
DICK W TURNER, 0000
NANCY J WALKER, 0000
LESTER M WHITLEY JR., 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be commander

KATHRYN A ALLEN, 0000
ROBERT D BAKER, 0000
BENJAMIN J BARROW, 0000
EMMANUEL T BAUTISTA, 0000
FREDDIE L BAZEN JR., 0000
FREDERICK R BROOME, 0000
FREDERICK F BURGESS, 0000
JOSEPH A CAMPBELL, 0000
ROBERT J CORDELL, 0000
JOHN L DANGELO JR., 0000
MATTHEW L EARLY, 0000
ANTONIO M EDMONDS, 0000
JAMES S FITZGERALD, 0000
CRAIG S HAMER, 0000
GREGORY W HARSHBERGER, 0000
MARK S HOCHBERG, 0000
JEFFREY M JOHNSTON, 0000
JOSEPH M LARA, 0000
WALTER M LENOIR III, 0000
DANIEL A MCNAIR, 0000
THOMAS G MORRIS, 0000
WILLIAM C NEWTON, 0000
ROBIN Y NOYES, 0000
BRANT D PICKRELL, 0000
ERICA L SAHLER, 0000
WILLIAM M SHEEDY, 0000
DAVID J SIENICKI, 0000
DAVID M SMITH, 0000
ROBERT W TYE, 0000
MICHAEL A WEAVER, 0000
MICHAEL D WILLIAMSON, 0000
RODNEY O WORDEN, 0000
JOHN A ZULICK, 0000

WITHDRAWAL

Executive message transmitted by the President to the Senate on June 28, 2002, withdrawing from further Senate consideration the following nomination:

FRANCIS L. CRAMER, III, OF NEW HAMPSHIRE, TO BE A JUDGE OF THE UNITED STATES TAX COURT FOR A TERM EXPIRING FIFTEEN YEARS AFTER HE TAKES OFFICE, WHICH WAS SENT TO THE SENATE ON NOVEMBER 28, 2001.