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Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable JEAN CARNAHAN, a Senator from the State of Missouri.

PRAYER

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

Almighty God, at dawn one hundred and eighty-five years ago tomorrow, Francis Scott Key saw the Stars and Stripes over Fort McHenry and wrote the stirring words of our national anthem that have moved our hearts to patriotism ever since. "O say does that star spangled banner yet wave, o'er the land of the free and the home of the brave?"

Yes, Lord, thankfully, it does. As our flag flies over the Capitol this morning, we commit ourselves anew to serve You by doing the strategic work of government and by leading our Nation through the present challenges in the way that pleases You. It is good to know that You are not surprised by the needs we bring to You. Help us to see that prayer is how You call us to do what You think is best rather than just a call for You to assist us with what we already have decided. Help us to wait for You, to listen intently to You, and to gain strength to carry out Your best for us, personally and for our Nation. You are our Lord and Saviour. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JEAN CARNAHAN 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, September 13, 2002.

To the Senate:

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

ROBERT C. BYRD,
President pro tempore.

Mrs. CARNAHAN thereupon assumed the Chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

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

EXECUTIVE SESSION

NOMINATION OF JOSE E. MARTINEZ, OF FLORIDA, TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF FLORIDA

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now go into executive session and proceed to the consideration of Executive Calendar No. 961, which the clerk will report.

The legislative clerk read the nomination of Jose E. Martinez, of Florida, to be United States District Judge for the Southern District of Florida.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is confirmed.

Mr. GRAHAM. Madam President, I thank the Judiciary Committee for recognizing the needs of Florida and favorably reporting the nomination of Mr. Jose Martinez.

Jose Martinez's long and impressive legal career makes him an outstanding candidate. Beginning as counsel and now partner at Martinez & Gutierrez, Mr. Martinez has been associated with the firm since 1991. Jose Martinez has served as Assistant United States At-

torney in the Southern District of Florida, and Legal Officer for the United States Navy, Judge Advocate General Corps. He took a two-year leave from his firm to become the Regional Director for the Office for Drug Abuse Law Enforcement of the United States Department of Justice.

Mr. Martinez received his undergraduate and law degrees from the University of Miami. He was the President of the highest honorary on campus, the Iron Arrow. His involvement with Student Government ranged from working in the Student Activities Office to becoming the treasurer of the School of Business.

Currently, Mr. Martinez is the vice chairman of the Federal Court Practice Committee of the Florida Bar. He is also a member of the American Bar Association, the Federal Bar Association, the Cuban American Bar Association, and the Hispanic National Bar Association.

In summary, Mr. Martinez is a highly regarded and qualified candidate for the federal bench.

I appreciate the Senate's consideration of Judge Martinez's nomination and appreciate the Senate's recent confirmation of Kenneth Marra and Timothy Corrigan, who will serve in Florida's Southern and Middle Districts, two of the largest and busiest judicial districts in the country.

LEGISLATIVE SESSION

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now return to legislative session.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 2003

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of

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



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S8583

H.R. 5093, which the clerk will report by title.

The legislative clerk read as follows:

A bill (H.R. 5093) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2003, and for other purposes.

Pending:

Byrd amendment No. 4472, in the nature of a substitute.

Byrd amendment No. 4480 (to amendment No. 4472), to provide funds to repay accounts from which funds were borrowed for emergency wildfire suppression.

Craig/Domenici amendment No. 4518 (to amendment No. 4480), to reduce hazardous fuels on our national forests.

Dodd amendment No. 4522 (to amendment No. 4472), to prohibit the expenditure of funds to recognize Indian tribes and tribal nations until the date of implementation of certain administrative procedures.

Byrd/Stevens amendment No. 4532 (to amendment No. 4472), to provide for critical emergency supplemental appropriations.

AMENDMENT NO. 4522

The ACTING PRESIDENT pro tempore. The Senator from Connecticut.

Mr. DODD. Madam President, first of all, let me say, I know under the existing order of the unanimous consent request agreed to yesterday between the leaders—let me make a parliamentary inquiry. As I understand it, there is a vote to occur at 10:15; is that correct?

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. DODD. On or in relation to the Dodd amendment?

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. DODD. Madam President, let me say, first of all, for the benefit of my colleagues, I know our staffs, right now, are working to see if it is possible to come to some compromise on the amendment that I proposed along with my colleague from Connecticut, Senator LIEBERMAN. My hope is that we might be able to do that.

I thank Senator INOUE and Senator CAMPBELL and their staffs and my staff. They began to work last evening, talking about this matter. There was some discussion about possibly delaying this vote, but the leadership wanted to go forward with a vote this morning, and so we are going to try to work this out, if we can. That would be my fervent goal and desire.

Let me state, again, why they are talking and working here. It was not my hope or desire to have to get involved in all of this, but each of us represents our respective State. And my State has been undergoing some additional pressures. There are some nine applications pending for designation for recognition.

I have been—and still am—a strong supporter of the Native American community. I have a strong relationship with the two tribes in my State that have added tremendously to the economic well-being of my home State of Connecticut.

What provoked this response among the constituents in my State, and provoked the approach that Senator

LIEBERMAN and I are taking, is that over a year ago we submitted a piece of legislation calling for a moratorium, a delay on the designation process, so that we could bring some rationality to the recognition process of the Bureau of Indian Affairs; it seemed to be out of control.

In fact, the previous Assistant Secretary at the BIA, on his departure, cited the significant problems that existed within the Bureau of Indian Affairs in terms of its recognition process.

What happened in my State most recently was that two tribes sought recognition, and the BIA rejected both tribes and came up with a third approval that had never been sought, despite the fact that the two tribes had been in opposition to each other during the recognition process. Needless to say, my constituents believed they did not have an opportunity to be heard and don't understand how it is that when a recognition is being sought, all of a sudden a third alternative emerges that was never on the table.

There is a concern that the Bureau of Indian Affairs is sort of out of control; that if this is the way things are going to proceed, we need to put a hold on here to figure out how it will work so people have an opportunity to respond.

There are 200 designation applications pending in 37 different States. What I am talking about in my State, which is smaller than Yellowstone National Park—I said to my colleague from Montana yesterday, I think there are ranches in Montana that are probably larger than the State of Connecticut. So you can imagine, with nine applications pending in a State that is 100 miles by 40 or 50 miles, with an impact on 3½ million people, this is not insignificant.

I sat here and voted for drought relief legislation. I voted for assistance to farmers in the Midwest. When there are hurricanes and fires, even though my State is not affected, I stand up and support those efforts because I respect the needs of various States.

My State is now facing some real problems on this issue. And I am not asking to stop a process. I am not anti-Native American at all. My record is replete with indications of how strongly I feel about Native Americans. But I have an obligation to stand and speak for my constituency. And they are feeling threatened when they are not allowed to be heard. When they cannot participate in a debate that is going to have a huge impact on their lives, it seems to me something needs to be done.

If I wait much longer, then the issue is going to be over, because I would vehemently oppose—vehemently oppose—any effort to reverse a designation and a recognition. That, to me, would be outrageous and a dreadful precedent. But once that recognition occurs, it is unlikely to ever be rolled back.

So what I am trying to do is not, in any way, to suggest that those who

have been designated or recognized—that anything be done there at all but merely in the future, as we are talking about this, shouldn't the people of my communities be notified? My Governor, my attorney general, the mayors of my towns that are surrounding these areas, shouldn't they be notified?

What about in the other 37 States where this is going to occur. It may be in Connecticut today, but it may be your State next. I think being heard on these matters, being invited to participate—there are seven criteria that are listed in the regulations, and in some cases various criteria are totally disregarded. In some instances, the technical staff have made one recommendation and have been overruled by the Assistant Secretary, totally disregarding all the efforts and work done by the people at the BIA.

So I do not like doing this. This is not the way I normally proceed, but I am in a tough place. I have to stand and speak for my constituents. I am hopeful we can find some compromise in the next few minutes to avoid asking our colleagues to make choices on matters such as this. This is not how I like to proceed, but if I let this go and another year comes and goes; and these processes go forward under a system, as it did with the two applications I just described, you can imagine how my constituents and yours may react down the road.

I also am concerned that this is going to devalue the recognition process. For those who get recognition, to suggest somehow the process was not as thorough and as fair as it should be does a disservice to those who deserve recognition.

So this process needs fixing. If we do not do that, everybody gets hurt by it and we build up a level of hostility that is unnecessary.

This is a moratorium. The moratorium could end next week. It need not be a moratorium indefinitely. It just says a moratorium until you make these fixes. No new law is being requested here—nothing. It just says comply with the existing regulations and make sure the people are notified and invited to participate in a debate that can have a profound effect on their lives and their families. That is not too much to ask. It does not give them a veto power. It does not make it an adversarial proceeding. It just says we ought to invite people to participate. That is the American way. That is the way we do things.

So this amendment merely says to have a moratorium until these matters are put in place and worked out. I do not know how my colleagues may vote. I may lose today. But as I stand here, I promise you, if you are one of the 36 other States and this comes to your State, then you are going to be standing where I am, and you are going to be insisting upon the same sort of thing.

We stand and vote to support each other's needs when they occur. I am asking my colleagues to support me in

this particular case because my State is feeling it. And we are not anti-Native American at all. Quite to the contrary. We are deeply proud of the Mohegan and Pequot Tribes in my State. I strongly supported their recognition efforts. In fact, I have been highly criticized in books because I stood in support of them when they were under threat of not being recognized.

So I will not take a back seat to anyone in my determination to fight for them. But I need to fight for my constituency as well when they feel as though they are not being served well by a process that is fundamentally broken. And when the Assistant Secretary for the Bureau of Indian Affairs says the system is broken, it is not working, then we ought to pay attention. And that is what this amendment is designed to do.

My fervent hope would be, with the staff of the committee, in the remaining 15 minutes or so we have, we put on the table an offer that would make this moratorium only exist for 1 year, to clarify some language they were concerned about. We can offer that, accept it, and move on. We need not have this become a divisive debate.

I know the chairman of the committee and the ranking member are here, and they want to be heard. I have spoken my piece. I hope we can work it out in the next 15 minutes or so and then put this issue behind us. But if we cannot, I am going to ask my colleagues to support my State. Look to your own States. If you are unclear, inquire, because the issue will come to your State, I promise you, sooner or later. And this vote will be looked back upon as to where you stood on this issue when you, all of a sudden, are confronted, as we were, with two groups seeking recognition and neither one was approved, and then there is a third one. That is how bad this system is right now. That is wrong. That is unfair. My people deserve better than that.

So I urge my colleagues to support this amendment if a compromise is not reached.

I yield the floor.

I suggest the absence of a quorum and that the time be charged equally to both sides.

The ACTING PRESIDENT pro tempore. Does the Senator from Connecticut withhold his suggestion of a quorum call?

Mr. DODD. Yes.

The ACTING PRESIDENT pro tempore. The Senator from Colorado.

Mr. CAMPBELL. Madam President, I would defer to Senator INOUE, our chairman, if he wishes to speak first.

Madam President, I support a motion to table the Dodd amendment. Let me say at the outset, though, that no one questions Senator DODD's commitment to the Indian people of America. He has an exemplary voting record, and he has always been there when we needed help.

My problem with his amendment is that there has been almost no input

from tribes themselves, and in the past they have opposed any moratorium. We all know the problem that exists now with the recognition process. We all know it needs to be streamlined and needs to be changed. It is replete with problems. We have heard it over and over.

We have had a couple hearings on this already in the Indian Affairs Committee, and we intend to take it up again. Whether we have run out of time this year has yet to be determined.

But I was not aware there was going to be some discussion on a compromise amendment. And because the unanimous consent request was entered into yesterday, many of us, including me, have made reservations on planes that we can't change. So I hope I am going to be able to be here to speak to it, but knowing how these things sort of creep, I may not be able to do so.

So from my own standpoint, if I do have to leave, I am going to defer to our chairman, Senator INOUE. The Indian Affairs staff is working with Senator DODD's staff on an amendment that may be acceptable, but I will certainly defer to my chairman in his decision of whether to support that amendment.

I yield the floor.

The PRESIDING OFFICER (Ms. STABENOW). The Senator from Hawaii.

Mr. INOUE. Madam President, it is with some considerable reluctance that I rise today to speak in opposition to the amendment proposed by my good friend, the senior Senator from Connecticut, that would prohibit the expenditure of funds for the operations of the Branch of Acknowledgment until the Secretary of the Interior has certified to the Congress that certain administrative procedures have been implemented with respect to the consideration of any petition submitted to the Secretary.

The provisions of this amendment are drawn from an authorizing bill, S. 1392, that is now pending in the Committee on Indian Affairs.

At Senator DODD's request, in July of this year I agreed to schedule a hearing on S. 1392.

That hearing is to be held on Tuesday, September 17.

As chairman of the Committee on Indian Affairs, I believe that Senator DODD's request for a hearing in the authorizing committee reflects a position on which we can both agree that the appropriate venue for the consideration of reforms to the Branch of Acknowledgment process is in the authorizing committee of jurisdiction.

In an effort to responsibly address the matter of whether there is some urgency associated with effecting reform in the Branch of Acknowledgment that cannot await action by the authorizing committee, particularly as such reform may affect the State of Connecticut, I authorized my staff to contact the Department of Interior's Branch of Acknowledgment officials for information on the petitions currently pending before the Branch.

The committee is advised that there are two petitions of tribal groups located within the State of Connecticut that are currently pending in the branch.

Both petitions are the subject of court-ordered negotiated agreements, and thus both petitions are subject to the ongoing jurisdiction of the Federal district courts.

So for those members who believe that the Congress should forebear from injecting itself into pending litigation, the jurisdiction of the Federal district courts should be honored as well here and action should not be taken on an amendment which would interfere with the courts' jurisdiction. The court-ordered negotiated agreement for the Schaghticoke Tribe provides that the proposed finding whether positive or negative is due to be published on December 5, 2002.

Thereafter there is a 6-month comment period, followed by a two-month response period, both of which may be extended at the request of the parties.

If no extensions are requested or granted, then assuming a positive finding, the earliest time in which a positive finding would become effective for purposes of any appeals by the State of Connecticut or other parties, is August 5, 2003.

For the Golden Hill Paugussett Tribe—under court order, the proposed finding whether positive or negative is due to be published on January 21, 2003.

Thereafter there is a 6-month comment period, followed by a 2-month response period, both of which may be extended at the request of the parties.

If no extensions are requested or granted, then assuming a positive finding, the earliest time in which a positive finding would become effective for purposes of any appeals by the State of Connecticut or other parties, is September 21, 2003.

The other groups that will be affected by the amendment proposed by Senator DODD are two petitioning groups of the Nipmuc Tribes of Massachusetts, the Mashpee Tribe of Massachusetts, the Snohomish Tribe of Washington State and the Burt Lake Band of Michigan.

I firmly believe that Senator DODD's authorizing legislation can be addressed through the hearing process and acted upon well within the time frame that is anticipated for action on the two pending petitions from Connecticut tribal groups, and thus, that it is not necessary for the authorizing provisions of this amendment to be considered within the context of the Interior appropriations bill.

In addition, I am certain Senator DODD would agree with me that reforms of the magnitude proposed by his amendment merit the full consideration of all those now involved or who may become involved in the Federal acknowledgment process—including the administration, and equally important, the Nations of Indian country, as well as other interested parties.

There has been no hearing nor public record developed on the proposal advanced in Senator DODD's amendment, and I think it is incumbent upon us to develop such a record and to receive testimony on this proposal before any action is taken precipitously.

There are other proposals now pending in the Congress for the reform of the Federal acknowledgment process—Senator CAMPBELL, the vice chairman of the Committee on Indian Affairs, has one such proposal.

Clearly, the proponents of those measures would also wish to have their legislative initiatives given full consideration, and I believe we should afford a full and fair opportunity for all such measures to be considered rather than adopting one proposal that has not yet been the subject of hearings.

Under current law, the Branch of Acknowledgment works with petitioning tribal groups in a cooperative process which is designed to assure that a petitioning group has submitted data sufficient to address each of the seven criteria that petitioners must meet.

The regulations require the Assistant Secretary for Indian Affairs for the Department of the Interior to provide notice of the petition to the Governor and the Attorney General of the State in which the petitioning group is located.

It has been represented that the proposed amendment does nothing more than codify the existing Branch of Acknowledgment regulation, but in fact, the proposed amendment proposes to replace most of the existing procedural rules governing the acknowledgment process with a contested hearing process.

It would grant interested parties, and not petitioners, the power to control the timing of the contested case and would prevent the expenditure of any funds by the Branch of Acknowledgment if the Branch does not comply with the new procedural rules established by the amendment.

The amendment requires the Secretary to consider "all relevant evidence submitted by a petitioner or any

other interested party, including neighboring municipalities."

Upon the request of an interested party, the Secretary may conduct a formal hearing for interested parties to present evidence, call and cross examine witnesses, or rebut evidence even before a petition is complete.

A transcript of the hearing is to be made part of the administrative record upon which a decision may be based.

Nowhere in the existing administrative regulations is a contested case hearing, such as the one proposed by my colleague's amendment, authorized.

Instead, the general spirit of the regulations is to enable a cooperative relationship between the petitioning group and the Branch of Acknowledgment, as reflected by the authorization for a technical review of each petition by the Branch of Acknowledgment and the opportunity to supplement or amend a petition before it is actively considered and to have information submitted by third parties who have legal, factual, or property interests in the recognition decision to be considered.

The present administrative process allows for publication of a proposed finding, a 6-month comment period for all interested parties, and a 2-month response period for the petitioning group.

A final determination is then made and time lines are established governing requests for reconsideration and when the decision becomes final.

In contrast to the existing regulations, the proposed amendment creates a contested case process the timing of which is controlled not by the Branch of Acknowledgment in conjunction with the petitioning group, but by those municipalities, counties, State attorney generals, State Governors, and other tribes falling within the notice provisions of the amendment.

Given the fact that the amendment proposes to include State, county and municipal governments from each area that the petitioning group was histori-

cally located—and that Federal policy forced not one but many relocations of most tribal groups from their traditional areas—the amendment contemplates the involvement of scores if not hundreds of small communities that no longer are in close proximity or have any geographic relationship with the petitioning group.

With the exception of the continued application of the seven criteria in the existing regulations, almost every other aspect of the regulations would be changed under the amendment, including the burden of proof a petitioning group must satisfy to meet the criteria.

In addition, a petitioning group would be required to defend its petition whenever an interested party requests and is granted a hearing, even though that request may be made at a time where a petitioning group has not yet perfected its petition.

I am not suggesting that the proposals advanced in this amendment do not merit the consideration of the Congress.

Indeed, as I have earlier indicated, the Committee on Indian Affairs has scheduled a hearing on Tuesday, September 17 for that very purpose.

What I am suggesting, Mr. President, is that there is an appropriate venue for the consideration of substantive changes in Federal Indian law and policy, and that venue is in the authorizing committees of the Congress.

I ask unanimous consent to print the following statement in the RECORD.

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

DEPARTMENT OF THE INTERIOR—FY 2003 INTERIOR APPROPRIATIONS BILL EFFECT STATEMENT TO THE CONFERENCE MANAGERS

Bureau/Office: Bureau of Indian Affairs.
Appropriations: Operation of Indian Program.

Activity/Subactivity: Central Office Operations/Tribal Government.

Project/Budget Element: Tribal Government Services.

Item	FY 2002 enacted	FY 2003				
		Pres. request level	House level	Senate level	Compared to request	
					House	Senate
Branch of Acknowledgment and Research	1,050	1,100	1,600	1,100	500	0

House Action: House added \$500,000 to the Bureau's Central Office, Division of Tribal Government Services. Fund are specifically for the Branch of Acknowledgment and Research (BAR).

House Report Statement: None.
Reference: This amendment was reported and voted on by the full Appropriations Committee.

Effect of House Action: The House Action would enable the BAR to hire additional staff to process requests from Indian groups who are petitioning for Federal recognition.

What would the funding be used for?: Currently the BAR has three research teams. Each team is composed of a cultural anthropologist, a genealogist, and a historian. FY 2003 funding for three teams and support

staff for BAR is \$1,100,000. The additional funding would enable the BAR to staff one additional research team and hire support staff who would focus on administrative functions, such as FOIA requests, preparation of administrative files for litigation, and other time consuming responsibilities that are currently handled by the professional research teams. Consequently, this funding would allow four research teams to focus on processing documented petitions.

Feasibility/capability of the proposed funding level or language this fiscal year?: On November 2, 2001, General Accounting Office (GAO), released a report on the acknowledgment process titled "Improvements Needed in Tribal Recognition Process." The two con-

cerns raised by GAO were the need to improve the speed and transparency of the decision-making process. These additional funds will enable the Department to address these two identified concerns.

Is the program/project ranked on existing priority setting system? This program was included within the total budget priorities competing for increased funding. However, because many other priorities, funding was not included within the President's Budget Request.

Senate Action: Proposed at the President's Budget request level; however S. 2708 was introduced on the floor which amends the Department of the Interior's appropriations bill.

Senate Report Statement: None.

Reference: S. 2708.

Effect of Senate Action: S. 2708 is an amendment to the Department of the Interior's appropriations bill. The purpose of this bill is "[T]o prohibit the expenditure of funds to recognize Indian tribes and tribal nations until the date of implementation of certain administrative procedures."

The Department should oppose this bill because it will result in the Department being unable to comply with court scheduling orders for issuing acknowledgment decisions and because many of its provisions are ambiguous and appear to be unworkable.

Sections 1(c)(1)(A) and 1(c)(1)(B) require notice to each state, county and local government in the area where the petitioner is located and in the area historically occupied by the petitioning group. The acknowledgment regulations already provide for written notice to the state and local government where a petition is currently located and provide for notice of the petition in the Federal Register and in local newspapers. Written notice to governments where the petitioner was historically located within 30 days of the receipt of a letter of intent is unrealistic. There is insufficient evidence in a letter of intent to identify these locations.

Section 1(c)(1)(C) requires the Department within 30 days to notify any Indian tribe and any other petitioner that, as determined by the Secretary (i) has a relationship with the petitioner (including a historical relationship); or (ii) may otherwise be considered to have a potential interest in the acknowledgment determination.

As with the prior provision, the difficulty with the notification provision with the 30-day deadline, is that it may be that until a petition processing is begun, or at least until the preliminary technical assistance review, that the Department will not know all of the petitioners, tribes, states, and others that could be involved. Notice beyond that in the Federal Register to such entities within 30 days of the receipt of a letter of intent is not feasible.

Section 1(c)(2)(A) requires the Secretary to consider all relevant evidence submitted by a petitioner or any other interested party, including neighboring municipalities that possess information bearing on the merits of a petition. The Department already considers all evidence which is submitted within prescribed time frames by petitioners and any other interested party, including neighboring municipalities.

Under section 1(c)(2)(B), the Secretary, on request by an interested party, may conduct a formal hearing at which all interested parties may present evidence, call witnesses, cross-examine witnesses, or rebut evidence presented by other parties during the hearing.

The bill leaves unspecified who the hearing would be before, when in the acknowledgment process this hearing would take place, and the purpose of this hearing. Therefore, any advantages of a hearing are unclear.

Further under the existing regulations, The Department provides for hearings before the IBIA, an independent administrative review body. If an additional hearing is intended, it would further delay decisions on the petitions.

Under section 1(c)(3)(A), the Secretary shall ensure that the evidence presented in consideration of a petition is sufficient to demonstrate that the petitioner meets each of the 7 mandatory criteria for recognition contained in section 83.7 of title 25, Code of Federal Regulations (as in effect on the date of enactment of this Act).

This section appears to restate the existing standard used by the Department.

Under section 1(c)(3)(B), the Secretary shall consider a criterion to be met if the Secretary determines that it is more likely than not that evidence presented demonstrates the satisfaction of the criterion.

The meaning of the stated standard is unclear, particularly as to whether it changes the regulatory standard which provides that a criterion shall be considered met if the available evidence establishes a "reasonable likelihood of the validity of the facts relating to that criterion." It is unclear if this provision would change the existing standard.

Under section 1(c)(4), the Secretary shall publish in the Federal Register, and provide to each person to which notice is provided under paragraph (1), a complete and detailed explanation of the final decision of the Secretary regarding a documented petition under this Act that includes express findings of fact and law with respect to each of the criteria described in paragraph (3).

The regulations already require that notice of the final determination be published in the Federal Register. It is ambiguous if the complete final determination is to be published in the Federal Register which would be an extraordinary and unnecessary expense. Presently, the decisions are publicly available and will be posted on the Internet as soon as possible.

Recommendation: The Department does not support this amendment, and it opposes considering it as part of the Interior Appropriations Bill.

MR. INOUE. Madam President, what I would like to propose is to convert this amendment into a bill and have it referred to the Committee on Indian Affairs to give time to the respective staffs, the staff of the committee and the staff of Senator DODD, to work over this measure and come forth with a resolution of the matter. When that resolution is reached—and I gather it can be reached in 24 or 48 hours—we can once again bring up the new amendment and consider that.

If I may, I suggest the absence of a quorum.

THE PRESIDING OFFICER. Without objection, the clerk will call the roll.

The legislative clerk proceeded to call the roll.

MR. REID. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

MR. REID. Madam President, last night I worked with Senators INOUE and DODD until almost 11 o'clock. The arrangement made at that time was that we would have a vote at 10:15 on the Dodd amendment. The Senators have worked with their staffs and we are still going to have a vote at 10:15 but not on the Dodd amendment. We are going to ask unanimous consent to set that aside and to see if Senators DODD, CAMPBELL, and INOUE can work out this problem that is now facing us. They do believe by early next week they can work something out.

I know some Senators are going to be upset that we are only voting on a judge this morning, but there has been a lot of work going into having this

amendment withdrawn. I think it is in the best interest of the Senate that we not charge forward on something if it can be resolved. There will be a vote at 10:15. We will vote on Arthur Schwab, of Pennsylvania, to be a judge. We expect to announce that in a moment or two.

THE PRESIDING OFFICER. The Senator from Connecticut is recognized.

MR. DODD. Madam President, before the unanimous consent request, I thank the distinguished majority whip. I thank my colleague from Hawaii, my colleague from Colorado, and the Senator from Montana as well. I apologize to colleagues who were counting on a vote. I know the leadership wants to have a vote. This matter is very important. If we can resolve this by not having a divisive Senate on this issue, I think that exceeds the importance of whether we have a vote. We are going to try to work this out so we can deal with the underlying cause of the amendment. I thank the Senators for offering my colleague from Connecticut and I a chance to come to a solution. We will ask unanimous consent to temporarily set aside the Dodd-Lieberman amendment. Then this will pop back up again, I presume, Tuesday when we come back after Yom Kippur and deal with the matter. I am confident that at that time we will have resolved this problem and we can vote on a compromise. I apologize. We worked late last night. I thank the Senators and their staffs. Senator REID was on the phone until after 11:30. Time didn't permit us to get it done. I don't want to see the Senate vote on a matter of this importance without trying to resolve the differences. We will vote on a judgeship, but we will, at some point, vote on this matter—a compromise or the Dodd-Lieberman amendment. I hope it will be a compromise that will be satisfactory to everybody.

I thank the Senator from Nevada. He works hard to keep things on track. This is something which I think rises to the level of reaching a compromise on an important effort.

MR. REID. I simply say to my friend that I think we have far too many votes here anyway that are not necessary. I think it shows the experience and wisdom of the people who have been working on this issue, along with you and Senator CAMPBELL. There is no need to have a vote on this matter. We may never have to have one. If we do, we will vote on it. I think a lot of people say "I want a recorded vote" because it looks good—or whatever reason. We spend far too much time voting on matters that could be passed without a recorded vote. Even though there is no vote on this amendment, I think the Senators have saved us a lot of time.

The next vote will occur at 5 o'clock Tuesday.

EXECUTIVE SESSION

NOMINATION OF ARTHUR J. SCHWAB, OF PENNSYLVANIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE WESTERN DISTRICT OF PENNSYLVANIA

Mr. REID. Madam President, I ask unanimous consent that the Senate proceed to executive session to consider Calendar No. 963, Arthur Schwab to be U.S. district judge; that the Senate vote immediately on the nomination; that upon the disposition of the nomination, the motion to reconsider be laid upon the table, the President be immediately notified of the Senate's action, and statements thereon be printed in the RECORD as though read and that the Senate resume legislation session, with the preceding all occurring without any intervening action or debate.

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

The clerk will report.

The assistant legislative clerk read the nomination of Arthur J. Schwab, of Pennsylvania, to be United States District Judge for the Western District of Pennsylvania.

Mr. REID. Madam President, I ask for the yeas and nays on the nomination.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is, Will the Senate advise and consent to the nomination of Arthur J. Schwab, of Pennsylvania, to be United States District Judge for the Western District of Pennsylvania? On this question, the yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from Hawaii (Mr. AKAKA), the Senator from Georgia (Mr. MILLER) are necessarily absent.

Mr. NICKLES. I announce that the Senator from Mississippi (Mr. COCHRAN), the Senator from North Carolina (Mr. HELMS), the Senator from Alaska (Mr. MURKOWSKI), the Senator from New Hampshire (Mr. SMITH), the Senator from Oregon (Mr. SMITH), and the Senator from Kansas (Mr. ROBERTS) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 92, nays 0, as follows:

[Rollcall Vote No. 216 Ex.]

YEAS—92

Allard	Bunning	Conrad
Allen	Burns	Corzine
Baucus	Byrd	Craig
Bayh	Campbell	Crapo
Bennett	Cantwell	Daschle
Biden	Carnahan	Dayton
Bingaman	Carper	DeWine
Bond	Chafee	Dodd
Boxer	Cleland	Domenici
Breaux	Clinton	Dorgan
Brownback	Collins	Durbin

Edwards	Johnson	Reid
Ensign	Kennedy	Rockefeller
Enzi	Kerry	Santorum
Feingold	Kohl	Sarbanes
Feinstein	Kyl	Schumer
Fitzgerald	Landrieu	Sessions
Frist	Leahy	Shelby
Graham	Levin	Snowe
Gramm	Lieberman	Specter
Grassley	Lincoln	Stabenow
Gregg	Lott	Stevens
Hagel	Lugar	Thomas
Harkin	McCain	Thompson
Hatch	McConnell	Thurmond
Hollings	Mikulski	Torricelli
Hutchinson	Murray	Voinovich
Hutchison	Nelson (FL)	Warner
Inhofe	Nelson (NE)	Wellstone
Inouye	Nickles	Wyden
Jeffords	Reed	

NOT VOTING—8

Akaka	Miller	Smith (NH)
Cochran	Murkowski	Smith (OR)
Helms	Roberts	

The nomination was confirmed.

The PRESIDING OFFICER. The motion to reconsider is tabled. The President will be immediately notified of the Senate's action.

Mr. DASCHLE. Madam President, I yield such time as the Senator from Pennsylvania may require to make a brief statement.

Mr. SPECTER. Madam President, I thank the majority leader.

I have sought recognition to comment very briefly on the nomination of Arthur J. Schwab of Pittsburgh, PA. Mr. Schwab is an outstanding lawyer and will make an outstanding judge. His credentials include: Graduating cum laude from Grove City College; Order of Coif from the University of Virginia Law School; an extraordinary litigation record as a trial lawyer, appearing in some 22 States, in addition to Pennsylvania; in the Federal courts in Pennsylvania, he argued appeals in the Third, Fourth, Fifth, Sixth, Seventh, Eighth, Ninth, and Eleventh Circuit Courts. He has an extraordinary litigation background and will make an outstanding judge.

I ask unanimous consent to have printed in the RECORD the qualifications of Arthur J. Schwab.

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

Arthur J. Schwab graduated cum laude from Grove City College in 1968. He then attended the University of Virginia law school, where he graduated Order of the Coif in 1972. After law school he was an assistant district attorney with the District Attorney's Office of Allegheny County. He then became a partner in the law firm of Mansmann, Beggy, McVerry & Baxter, later named McVerry, Baxter & Cindrich, from 1970 to 1988. He has also been Of Counsel to the law firm of Tucker Arensburg, a shareholder of Grogan, Graffam, McGinley & Lucchino, P.C. Currently, Mr. Schwab serves as the chief counsel and chair of litigation at Buchanan Ingersoll, P.C., in Pittsburgh, Pennsylvania.

Over the past 20 years, Mr. Schwab has developed a practice in the areas of trade secrets, confidential information, employment agreements, software copyright infringement, trademark, unfair competition, and diversion of corporate opportunities. He has tried cases in state and federal courts in more than 22 different states, as well as in the Courts of Common Pleas of the Commonwealth of Pennsylvania and in the United

States District Court for the Western District of Pennsylvania. Mr. Schwab has also been responsible for cases involving appeals to the United States Courts of Appeals for the Third, Fourth, Fifth, Sixth, Seventh, Eighth, Ninth, and Eleventh Circuits.

Mr. Schwab is also actively involved in his local community, including serving as the co-chair of the Senator John Heinz Level of Giving Division of the United Way of Allegheny County. From 1979 to 1988, Mr. Schwab began an extensive pro bono project concerning Child Advocacy for the Allegheny County Bar Association that produced, with the assistance of 60 Reed Smith attorneys, over 3400 hours of representation of indigent children.

Once again, I believe that Arthur Schwab will be an excellent addition to the federal bench and I urge my colleagues to vote for his confirmation. Thank you.

Mr. LEAHY. Madam President, today the Senate has confirmed its 76th and 77th new judges since the change in majority last summer, with the vote on Arthur Schwab, who is nominated to the Eastern District of Pennsylvania and the vote earlier this morning on Jose Martinez, who is nominated to the Southern District of Florida. In less than 15 months we have confirmed more judges than the Republican majority confirmed in its final 30 months in the majority. We have been more than twice as productive as they were and Republicans are nonetheless complaining that we have not worked three or four times as fast as they did to fill vacancies their inaction perpetuated.

The Senate has now confirmed more judges than were confirmed in all of 1989 and 1990, the first two years of the first Bush Administration, and almost 40 percent more confirmations than in the first 15 months of the Reagan or Clinton Administration, both of which were cooperating with a Senate majority of the same political party.

Another stark comparison would be between how we have proceeded this year and how the recent Republican majority proceeded in the years they were in the Senate majority but the President was a Democrat. In the 1996 session for example, the second full year in which the Republican majority was in control of progress on President Clinton's judicial nominees, the Republican majority allowed only 17 judges to be confirmed the entire year. Not a single circuit court judge was confirmed that entire session all year—not one. By contrast, just since January, in this the second session of this Congress, this Democratic Senate has already confirmed 180 percent more judges than were confirmed in the second year of the Republican majority. We have also already confirmed seven judges to the circuit courts, which is seven more than were confirmed in the 1996 session.

LEGISLATIVE SESSION

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

DEPARTMENT OF THE INTERIOR
AND RELATED AGENCIES APPROPRIATIONS ACT, 2003—Continued

CLOTURE MOTION

Mr. DASCHLE. Madam President, I call for regular order with respect to the amendment numbered 4480, and I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on Senator BYRD's amendment No. 4480.

Joseph Lieberman, Harry Reid, Jean Carnahan, Daniel K. Inouye, Christopher Dodd, Herb Kohl, Jack Reed, Richard J. Durbin, Kent Conrad, Paul Wellstone, Patrick Leahy, Jeff Bingaman, Barbara Boxer, Byron L. Dorgan, Mark Dayton, Debbie Stabenow, Jim Jeffords, Robert Torricelli.

Mr. DASCHLE. Madam President, I am happy to yield to the Senator from Idaho.

Mr. CRAIG. I thank the majority leader for yielding. He has just filed cloture on the Byrd amendment. The underlying second degree is the Craig-Domenici amendment to try to deal with forest health. I appreciate the frustration of time here and the reality we have to get a lot of work done in the next several weeks to conclude the appropriations process.

It was never our intent to block the Byrd amendment. This is a critical and necessary amendment that deals with fire itself and replacing some of the moneys or refurbishing, replenishing some of the moneys that have been spent fighting fires, primarily in the West but across the country, in our public forests.

We are continuing to work. We had another meeting this morning. I told all of my colleagues, Democrat and Republican alike, that Monday was drop dead. I meant that only in the sense of the legislation itself. Clearly, we have worked hard. There have been some good faith efforts. There has also been a reality as to where all of the sides are on this issue. Tragically enough, no matter what we accomplish, the forests of our country are going to continue to burn at a high rate because of their diminished health because of public policy over the last good number of decades.

But on Monday, in visiting with Senator REID, I hope we will have something we can vote on—or a clear decision that we cannot arrive at an agreement. I hope at some point, Leader, I can come to you and ask you if you could vitiate the vote on cloture, that we could expedite this ourselves. But there are a good number on my side, and some on yours, who want more debate and at least more discussion on this issue, even if we can have opposing positions on which to vote.

I do believe for the American people, who have seen the western skies full of smoke now since the middle of June, it is important that this Senate express its will on this issue.

The Senator from South Dakota found an expression that fit his State. I do not criticize him for it because the Black Hills of South Dakota are in a state of forest health problems, as are other public forests. Clearly, it is important that we not walk away from this session of Congress without the public knowing where we are on this issue because, as the Senator knows, no matter what we do, even if we can have some aggressive effort on thinning and cleaning, the country must become ready to accept, tragically enough, that we are going to lose 5 million or 6 million acres a year of old growth and watershed and wildlife habitat to wildfires because of the public policy that has brought our forests to this current health environment.

But I hope we can make a step, probably not a big one but at least a small step, in the right direction of showing the public we can manage their land and we can do so in an environmentally sensitive way that will replenish the health of these magnificent forests that have now grown to a state of disrepair.

I understand where the leader is. I did want that expression out there. I hope we can come to the majority leader on Monday and say we have something, we hope you can vitiate, and we hope we can come to this floor and debate this issue and get on with the process.

Mr. DASCHLE. Let me respond to the Senator from Idaho. I would be more than happy to entertain a consent agreement to vitiate the cloture vote on Tuesday if we arrive at a consensus about this over the weekend. We laid this bill down on September 4. It is now September 13, and I am told we have not spent this much time on any appropriations bill to date. So I attempted to be as patient as I could be with regard to the ongoing discussions. We have offered procedural arrangements to deal with this. They have not been acceptable to some. We have offered as many different iterations of compromise as I think our imaginations allow. But if there is a productive and successful effort over the weekend, we will certainly revisit the question.

However, we have to move on, this is not only a fire amendment but it is a drought amendment, now, as a result of the overwhelming action taken by the Senate just last week. This is a very important piece of legislation, and we have to move along. There is too much work to be done in too short a time.

So we will look at where we are on Monday and come to some conclusion. But if we are unsuccessful, we will have to move on with the cloture vote on Tuesday.

I yield the floor and I thank my colleague.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Madam President, before the majority leader leaves the floor, I would like to comment on the discussion that just took place between the majority leader and Senator CRAIG and indicate to him I have been a daily participant in those negotiations. I have tried to act in good faith; many have. But somehow or another, we make one step forward, and literally the next time we meet, it looks as if we have gone one and a half back. It is getting more difficult.

We don't intend to delay this bill once we know the good faith efforts of the Senators—which is about 10 of them—cannot reach an agreement. We will come forward. But we will have to take a little time, as best we can, without delaying things too much, to let everybody know what has happened. It will not take too long for that to occur. There are other Senators who may feel differently. The amendment is a Craig-Domenici amendment. We put it together, gathered the Senators, but I wanted the record to reveal we are not interested in delaying the good faith effort on this bill, but we have a powerful issue, as you well known, that burns at many of our hearts. I am sorry I had to use that terrible word. We are having burns elsewhere in our States.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Madam President, I had wanted to make some comments this morning on the issue of homeland security. I understand we are currently back on the Interior appropriations bill; is that correct?

The PRESIDING OFFICER. That is correct.

Mr. DORGAN. I ask the chairman of the Appropriations Committee if he has other business to transact on that appropriation. If not, I would like to offer some comments on homeland security, which is the second track we have been working on this week.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Madam President, if I may respond to the Senator's question without his losing his right to the floor? He has asked me a question.

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

Mr. BYRD. I assume the Senate will return to homeland security this afternoon. The order is, I believe, 12 or 12:30?

Mr. REID. Yes, at 12 noon, with Senator BYRD having the floor.

Mr. BYRD. At 12 noon, at which time, under the unanimous consent order entered last evening, I will get recognized.

Now, I intend to explain my amendment clearly because my amendment is not adversarial to the Lieberman bill. My amendment improves, in my judgment—and I think people will agree once they really understand my amendment—the Lieberman amendment, the Lieberman bill. Therefore, I

will be explaining my amendment. That is in answer to the question of the distinguished Senator.

At that time, if he wishes me to yield to ask questions about homeland security, that will be fine, but I intend to take some time this afternoon. At that time, the Senator can speak. As far as I am concerned, if Senators are going to speak on the Interior bill at this time, why, the Senator could get unanimous consent to speak out of order. I do not believe the Pastore rule has run its course yet. So the Senator could get consent to speak out of order for 10 minutes, 20 minutes, whatever he wants, and nobody is around here to object.

Mr. REID. Will the Senator from North Dakota yield for a question?

Mr. DORGAN. I am pleased to yield to the Senator from Nevada for a question.

Mr. REID. We have the two managers of the Interior bill here now. We have approximately an hour until we go to the homeland security bill. I have looked to staff, and we have no amendments to clear at this time. That is my understanding. So it would probably be to everyone's benefit, because the cloture motion has been filed on the pending amendment, that we go off this bill.

Mr. DORGAN. Yes.

MORNING BUSINESS

Mr. REID. I ask unanimous consent that until 12 noon today, the Senate be in a period of morning business and at 12 noon we go to the homeland security bill and Senators be allowed to speak during morning business time for up to 10 minutes. Is that OK with the two managers?

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from North Dakota.

Mr. DORGAN. Madam President, I ask unanimous consent to speak in morning business for as much time as I consume.

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

HOMELAND SECURITY

Mr. DORGAN. Madam President, let me thank the chairman of the Appropriations Committee and the ranking member. We have a very short amount of time in which to do a great deal of business. I did not wish to interrupt their work on Interior if in fact there was an amendment that was to be acted upon. I appreciate their courtesy.

Let me make some comments about the broad question of homeland security and relate it to the discussion yesterday at the United Nations that was offered by President Bush.

Mr. BYRD. Madam President, will the distinguished Senator yield for a question?

Mr. DORGAN. I am pleased to yield for a question from the Senator from West Virginia.

Mr. BYRD. I wish I could be on the floor to hear what the Senator has to say. I have an appointment. I have to be down below this floor at 11 o'clock, which is 1 minute or 2 from now. I will read the remarks of the Senator. I know they will be good. If I can come back before he completes his remarks, I will do that.

Is it the understanding of the Senator that he will complete his remarks by 12 noon?

Mr. DORGAN. Yes.

Mr. BYRD. I thank the Senator.

Mr. DORGAN. Madam President, I have not been on the floor until now to speak about the homeland security bill and the issues surrounding that bill. I have been thinking a lot about it, as have many of my colleagues. We have had a good number of amendments, and I do not believe anyone here thinks the issue is whether we shall pass a piece of legislation dealing with homeland security. Of course we should enact a piece of legislation dealing with homeland security. We need to respond to the President's request. We will do that. The question isn't whether, the question is how.

There are many ideas about homeland security that come from all corners of this Chamber. We ought to take the best of all of those ideas and incorporate them into this legislation.

Yesterday the President spoke at the United Nations about the threat that comes from Saddam Hussein and Iraq. Because that also relates to the issue of homeland security, I wanted to make some comments of a general nature this morning.

In my desk, I have a couple of pieces of materials taken from weapons that were once targeted at the United States. I ask unanimous consent to be able to show them on the floor. I am doing this for a very important reason.

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

Mr. DORGAN. Mr. President, this piece of material is part of a wing strut from a Backfire bomber that the Soviets used to fly. This Backfire bomber doesn't exist anymore. It wasn't shot down. It wasn't part of combat with the United States. This was sawed off of an airplane. The wings were sawed off of a Backfire bomber that used to carry nuclear weapons—presumably that would threaten our country in the middle of the Cold War. It was dismantled, sawed apart, and destroyed. And in a sense, we purchased it. We paid for it under the Nunn-Lugar program, in which we decided through arms control agreements with the Soviet Union—and then with Russia—to reduce the number of nuclear warheads and reduce the delivery vehicles for nuclear warheads, because we believed that allowed us to step back from the dangers of nuclear war.

I hold in my hand part of a Soviet Backfire bomber that we didn't shoot down. We helped pay to saw the wings off this bomber.

This other material is ground up copper wire that used to be in a Soviet

submarine that carried nuclear missiles with warheads aimed at the United States of America. That submarine doesn't exist any longer. I am able to hold in my hand this ground up copper from that dismantled submarine because of an arms control agreement by which we negotiated with the Soviets to reduce the number of nuclear weapons and reduce the delivery vehicles for those nuclear weapons, and, therefore, have made this a safer world. A bomber and a submarine that used to carry nuclear weapons no longer exists. We have made progress.

But there are, of course, somewhere in the neighborhood of 30,000 nuclear weapons that continue to exist on the face of this Earth. And many in this world aspire to acquire nuclear weapons. Terrorist groups and other countries want to become part of the club that has nuclear weapons. Our children and their children are threatened by the proliferation of nuclear weapons.

It doesn't take 100 nuclear weapons or a thousand nuclear weapons to create chaos and hysteria and concern for the future of the world. It just takes one—just one nuclear weapon.

Today, if someone is notified that there is a nuclear weapon missing from the Russian arsenal and that has been stolen by terrorists and is put in the trunk of a rusty Yugo car on the dock at New York City, or in a container on a ship coming into the ports of Los Angeles—if just one nuclear weapon is thought to be entering this country's space, its ports, its docks, its cities—that is enough for the kind of nuclear blackmail that can cause chaos and hysteria and threaten a nuclear war.

The President gave a very forceful speech yesterday to the United Nations. He is—and we are—concerned about Iraq and Saddam Hussein having access to weapons of mass destruction. He is—and we are—concerned about the potential of a Saddam Hussein getting access and acquiring a nuclear weapon.

I don't diminish at all the concern about that. We ought to be concerned about that. We and the President are all concerned about that.

But let us understand that the broader issue of arms control and arms reduction ought to be front and center in this Chamber. This country needs to be a leader in the world to help reduce the number of nuclear weapons and help prevent the spread of nuclear weapons to other countries.

Regrettably, in recent years, some Members in this Chamber—and elsewhere in the Government of the United States—have expressed, if not a benign neglect, an open hostility to arms control and arms reductions.

Let me go through a few of the things that have happened. We had a vote in this Chamber on the issue of the Comprehensive Nuclear Test-Ban Treaty. We should have such a treaty. After all, we don't test anymore in this country. The first George Bush Presidency said we will no longer test nuclear weapons. But this Senate voted

against a Comprehensive Nuclear Test-Ban Treaty—despite the fact that we unilaterally decided not to test, and have not tested for a decade. This Senate turned that treaty down, sending a message to the rest of the world that this is not our priority.

There is nothing more important, in my judgment, to the children of America and to their children and their future than dealing with this question of a nuclear threat. The Soviet Union is gone. The Cold War is over.

The President's discussion about Saddam Hussein underscores the concern about one dictator in Iraq—an evil man in Iraq who is seeking to get nuclear weapons.

But I am just saying that there is much more at stake than that. The Iraq situation is at stake for us, and we need to respond to that. But there is much more at stake.

So many others want to acquire nuclear weapons. There are so many nuclear weapons around in this world. I indicated that there are somewhere between, perhaps, 25,000 and 30,000 nuclear weapons in existence. A fair number of them for a number of reasons are not very well controlled. So we need to talk in the broader context about what our responsibility is, and what our role is with respect to arms control and arms reduction in the future.

The Senate was asked to consider the nomination of a fellow named John Holum, who the President said he wanted as senior adviser for arms control. John Holum is a remarkable American, who has had incredible experience, and he was nominated for the position of Under Secretary of State for Arms Control and International Security Affairs. He is somebody who believes in his heart that we need to pursue negotiations and efforts to achieve treaties for nuclear arms reduction and to achieve progress in stopping the spread of nuclear weapons. But his nomination was blocked.

The President sent us instead John Bolton, who doesn't have experience in arms control, who has never served in an arms control position, who has expressed disdain for arms control and those who promote it, and who expressed disdain for the United Nations. He said:

... a building in New York has 38 stories. If it lost 10 it wouldn't make a bit of difference.

And his nomination was approved by the Senate.

So we have someone in this area who really isn't interested in pursuing the approach that we have used, which has been quite successful in beginning the process of reducing nuclear weapons and reducing the nuclear threat.

We also have had discussions in recent months about perhaps developing a new type of nuclear weapon. Perhaps a nuclear weapon can be developed that will be a cave buster—some nuclear-tipped bomb that will bust into caves and be more effective in dealing with the problem that we encountered in Af-

ghanistan where terrorists burrowed into caves.

The minute you start talking about designing nuclear weapons—especially a little nuclear weapon with a special nuclear tip that can be used against caves—once you start talking about the potential to use nuclear weapons, the genie is out of the bottle.

Our discussion in this country ought never to be a discussion about how to use a nuclear weapon. That is not what we ought to be discussing.

We ought to be discussing our obligation to assume a world leadership position to stop the spread of nuclear weapons and stop the proliferation of nuclear weapons. Do you want a future 10 years from now or 40 years from now in which 50, 75, or 100 countries, including terrorists and rogue nations, have nuclear weapons at their disposal? I don't think so.

We have had a 50-year effort in this country—50 years—to stigmatize nuclear weapons and brand them only as a weapon of last resort. We ought not do anything to undermine that basic approach to nuclear weapons.

We are talking about homeland security in these days. When you talk about nuclear weapons, you have to talk about homeland security against the ultimate weapon; that is, a nuclear weapon. But there are many other kinds of weapons.

We may spend \$7 to \$8 billion this year, in this Congress, on a national missile defense program, trying to build a missile that has the capability of hitting a bullet with a bullet. The purpose of that is a defensive mechanism by which if a rogue nation or terrorist or some other country were able to launch an intercontinental ballistic missile against the United States, we would be able to shoot it down and prevent a nuclear attack using an ICBM.

We will spend an enormous amount of money on that, believing that one of the threats is an intercontinental ballistic missile coming in at 14,000 miles an hour, with a nuclear warhead, sent by some rogue nation or terrorist state. It is one of the less likely threats; the Pentagon will tell you that. Rogue nations and terrorist states would have a very difficult time dealing with an ICBM, if they could acquire one in the first place.

A far more likely prospect would be a container, on a container ship, pulling up to a dock in New York City at 3 miles an hour, with a low-yield nuclear device in the middle of a container, in the middle of a container ship.

There are 5.7 million containers that come into this country every year to all of our ports and docks. These big ships pull up with containers stacked on top of their decks. Of the 5.7 million, 100,000 are inspected. So 5.6 million are not. I was at a dock in Seattle recently, and they had pulled off a ship container, and they were inspecting it at the Customs facility. I asked them: What is this? What is in the container?

They said: Frozen broccoli, from Poland.

I said: Well, do you know anything about it, the frozen broccoli from Poland?

They said: No, but we'll show you.

They opened up the container, pulled the bag out, and ripped it open, and, sure enough, there was broccoli from Poland.

I said: How do you know what's in the middle of this container? You just pulled the one bag out.

They said: Well, we don't. We just opened it to see that it was frozen broccoli from Poland.

So we have 5.6 million containers that come into this country, and they are largely uninspected. Does anyone here not believe that port security, the security of containers, is critically important?

Did you read the story about the fellow from the Middle East who decided to send himself to Canada, presumably with the thought of coming into the United States, and he put himself in a container? He had a cot, he had potable water, he had a telephone, he had a computer, he had a GPS system, he had a heater. And there he was living in a container, on a container ship, shipping himself to Toronto, Canada.

Well, they found this guy. They thought he was a terrorist. I don't know what the disposition of that was. But think of it, how easy it is, if 5.7 million containers come into this country, and we only take a look at 100,000 of them. What is in the other 5.6 million?

That is a big homeland security issue. What are we going to do about that?

We have heard discussions about the potential for a dirty bomb. The National Research Council gave a long listing the other day with respect to homeland security, about our shortcomings on preparedness to defend against nuclear and dirty bomb threats, and against biological warfare.

Here is what the report said. We have to develop vaccines for airborne pathogens—we are way behind in doing that—create better sensors and filters for dangerous chemicals; build a system to counter sabotage of the Nation's food supply; find better methods to fend off attacks on nuclear reactors, electrical power grids, and communications systems; and develop defense in depth for airport and other transportation security.

Much of what we are talking about in the current debate about homeland security is organizational. We say, let's take a look at an organizational chart and find the boxes and evaluate how we can put all these boxes together in a different way. And so you have, at the end, 170,000 people in a new agency.

Putting agencies together in a way in which they are better prepared to deal with homeland security makes good sense to me. But there is not a right or a wrong way to do it. There are a lot of different ideas on how it might or might not work, and we will not know, perhaps for a year or 2 or 3 or 4 years,

after the Congress finishes its work, and the President signs the bill, whether what we have done advances our interests or retards it.

It is reasonable to ask the question, if homeland security is going to be restructured, should we consider some change to the way we use the FBI and the CIA, and the way we gather and analyze intelligence? I know there is a portion of that in this bill, and I think this is a question we have to consider carefully.

Good intelligence is critical. I mentioned the issue of nuclear weapons. Russia, which is now the nuclear repository of the old Soviet Union, has thousands of excess nuclear weapons in storage facilities that fall far short of what we expect for decent security standards. We are told they have more than 1,000 metric tons of highly enriched uranium and at least 150 metric tons of weapons-grade plutonium, much of it in less than adequate storage facilities. That is enough for 80,000 nuclear weapons, by the way.

In addition, dangerous biological pathogens are kept at scores of poorly guarded sites around the former Soviet Union.

Tens of thousands of former Soviet Union scientists and engineers are living hand to mouth because of military downsizing and the collapse of the economy. These are people who know how to make these bombs, were involved in the development of the Soviet nuclear capability.

We know that individuals and groups have attempted to steal uranium or plutonium from sites in the former Soviet Union dozens of times in the past 10 years.

Former Senate Majority Leader James Baker and former White House Counsel Lloyd Cutler headed a panel last year that studied the threat to our country posed by nuclear weapons, materials, and know-how in the former Soviet Union. Here is what the panel said about a scenario where a terrorist would have access to some basic material and could get the engineers and scientists to put this together:

The national security benefits to the U.S. citizens from securing and/or neutralizing the equivalent of more than 80,000 nuclear weapons and potential nuclear weapons would constitute the highest return on investment in any current U.S. national security and defense program.

In a worst case scenario, a nuclear engineer graduate with a grapefruit-sized lump of highly enriched uranium or an orange-sized lump of plutonium, together with material otherwise readily available in commercial markets, could fashion a nuclear device that would fit in a van like the one terrorist Yosif parked in the World Trade Center in 1993. The explosive effects of such a device would destroy every building in [the] Wall Street financial area and would level lower Manhattan.

The Baker-Cutler panel recommends spending a substantial amount of money, \$30 billion over 10 years—three times what the administration is proposing—to secure weapons and fissile and biological material in Russia by

expanding cooperative threat reduction, which is an important part of the outgrowth of the Nunn-Lugar program, and a range of other efforts.

So Iraq is important, but there are broader issues to consider as well.

Incidentally, the President yesterday did the right thing by going to the United Nations and saying to the U.N.: Look, you have had resolution after resolution after resolution, and Iraq has defied you. They have failed to live up to their terms of surrender from the gulf war, and they simply thumb their nose at your resolutions.

What the President said to the United Nations yesterday was: You had better decide whether you are going to pass resolutions and enforce them or not. And the President said: We will take this to the National Security Council.

A lot of people were worried that he would not do that. I am glad he has. It is exactly the right step. The notion of saying we don't care what the Security Council does or what the U.N. says, that is not the way to do it. The President yesterday did the right thing. He said to the National Security Council and the United Nations: You need to begin enforcing what you are doing by resolution with respect to the country of Iraq.

I hope the United Nations will decide to do that. My hope is we can put together a coalition through the United Nations of coercive inspections that demand and achieve the inspections necessary to make sure we are not threatened by weapons of mass destruction in Iraq.

But let us agree that the problem is bigger than just Iraq, and let us decide to be a world leader in dealing with stopping the spread of nuclear weapons. Let's bring back the comprehensive nuclear test ban treaty. Let's pass it. Let's send a signal to the world that we care about the chemical weapons ban, because this country wants to lead in the right direction to stop the spread of weapons of mass destruction.

Now, let me say a few words about the proposed Department of Homeland Security. The President says to us he wants to put this agency together, and he wants to do it in a way that he has maximum flexibility with respect to all of these workers. Whatever we do, however we do it, we will give this President very substantial flexibility. But to suggest somehow that the basic protections that workers expect and have received for many years in this Government of ours should be discarded or disallowed makes no sense.

We propose to provide the same basic protections to workers in all of these agencies that you have for civilian workers at the U.S. Department of Defense. That makes good sense.

I get tired of people saying: Federal workers, they are not worth much. They are people who can't find a job elsewhere.

We have terrific people working for the Federal Government. We have

great people in public service—not just the Federal Government, but State and local government as well.

Among those people who filed out of the World Trade Center, we had firefighters and law enforcement officers climbing the stairs. Some of those firefighters were up on the 70th floor carrying 60-pound backpacks, climbing up as that fire was coursing through that building, knowing they were risking their lives. They were not asking about overtime or about how tough it might be, what the risk was. They were doing their jobs—wonderful, brave people. There are a lot of people like them all over this country in public service. This Government ought to say to them: We value your work. We honor your work.

I don't want anything in this homeland security bill to in any way denigrate the work of those public employees or pull the rug out from under them. They are going to be our first defenders, the first line of defense. They are the ones who will make this work.

We have a lot to do here. We have a government of checks and balances which requires cooperation, which requires that we work together. The President has some good ideas. I think our colleagues have good ideas. I think Senator BYRD does us a service by talking about how we put this together in the long term.

In politics, there are always a couple of sides. Each side too often wants the other to lose. We should get the best of both rather than the worst of each. That is especially true on homeland security.

It is up to us. The moment is now. The President is right to be talking about concern of weapons of mass destruction. But is it not just Iraq. This is a much bigger subject. We need those who now talk in the most aggressive ways about dealing with this issue to join us to develop new arms reduction strategies and to develop approaches by which the rest of the world joins us in stopping the spread of nuclear weapons.

I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana.

ELDER JUSTICE ACT OF 2002

Mr. BREAU. Mr. President, I take a moment to speak to legislation that has been introduced by myself along with a number of bipartisan colleagues, which is entitled the Elder Justice Act of 2002.

The legislation has been introduced by me along with Senators HATCH, BAUCUS, COLLINS, CARNAHAN, SMITH of Oregon, LINCOLN, BOND, TORRICELLI, NELSON of Florida, and also Senator STABENOW.

I will take a minute to just describe the problem we have in this and outline the features of the legislation. I think there are probably few pressing national concerns of social issues that are as important and also ignored as

much as elder abuse, elder neglect, and also the exploitation of elder Americans.

This abuse of our seniors takes many different forms. It could be physical abuse, sexual abuse, psychological abuse, and it could also be financial abuse. The perpetrator may be a stranger you have never heard of or never seen; it may be an acquaintance; it may be a paid caregiver in some institution; it may be a corporation; and, unfortunately, far too often it can be a spouse or another member of the elderly person's family.

Elder abuse happens everywhere—in poor, middle class, and upper income households; in cities, suburbs, and in rural areas. It knows no demographic or geographic boundaries.

The cost of such abuse and neglect is extremely high by any measure. The price of the abuse is paid in needless human suffering, inflated health care costs for everyone, depleted public resources, and the loss of one of our greatest national assets: Of course, the wisdom and experience of the elders in our country.

With scientific advances and the graying of millions of baby boomers, this year the number of elderly on the planet will pass the number of children on the planet for the very first time. Although we have made great strides in promoting independence, productivity, and quality of life, old age still brings inadequate health care, isolation, impoverishment, abuse, and neglect for far too many elder Americans.

Studies we have looked at in our Aging Committee, which I have the privilege of chairing, conclude that elder abuse, neglect, and exploitation are widely unreported. These abuses significantly shorten the lives of older Americans. A single episode of mistreatment can "tip over" an otherwise independent, productive life, triggering a downward spiral that can result in depression, serious illness, or even death.

Too many of our frailest citizens suffer needlessly and cannot simply move away and escape from the abuse. Frequently, they cannot express their wishes or their suffering. Even if they can, they often do not because they fear retaliation.

Congress has passed comprehensive bills to address the ugly truth of two other types of abuse—child abuse and crimes against women. These bills have placed these two issues into the national consciousness and addressed the issues at the national level.

These laws created new Federal infrastructure and funding—focusing resources, creating accountability, and changing how we think about and treat the abuse of women and children. Most jurisdictions now have established coordinated social service, public health, and law enforcement approaches to confront these abuses.

It is interesting when we look at how Federal dollars are being spent in the area of abuse and neglect. On the

chart, the area in red represents the money being spent with regard to child abuse—\$6.7 billion on various programs. On the other hand, if you look at what we are doing in the area of spousal abuse, domestic abuse, it is about \$520 million. When you look at how much we are spending on the question of elder abuse, it is only a very small amount in comparison—approximately 2 percent of the money that is spent on trying to alleviate, understand, and prevent abuse. It is focused on the fastest growing segment of our population, where in our hearings in the Aging Committee we have found it is a substantial and real problem.

I am not saying domestic abuse and child abuse should be terminated from the standpoint of spending money to prevent it. Of course not. It is a high priority. What we are saying is that we need more attention on the question of how we treat, as a society, the elderly in our country, which is the fastest growing segment of our population.

Despite dozens of congressional hearings over the past two decades on the devastating effects of elder abuse, neglect, and exploitation, interest in the subject has risen and fallen, it has waxed and waned. To date, no Federal law has been enacted to address this issue of elder abuse in a comprehensive fashion.

In these hearings we had in the Aging Committee, elder abuse was called a disgrace, a burgeoning national scandal. Indeed, we found no single Federal employee working full time on the issue of elder abuse in the entire Federal Government, in any Department, anywhere.

I think the time has come to provide seniors a set of fundamental protections. That is why, along with the colleagues I listed, we have introduced S. 2933, the first comprehensive Federal effort to address elder abuse in the United States—the Elder Justice Act of 2002.

Our bill will elevate elder abuse, neglect, and exploitation to the national stage in a lasting way. We want to ensure that there is Federal leadership to provide resources for the services, prevention, and enforcement effort to those on the front lines.

You know, a crime is a crime, no matter who the victim is, or wherever the victim happens to be, or whatever the age of the victim is. Crimes against seniors must certainly be elevated to the level of child abuse and crimes against women.

It is clear, in confronting child abuse and violence against women, that the best method of prevention has been a two-pronged approach—through both law enforcement and social services. With offices in the Department of Health and Human Services, HHS, and the Department of Justice, our legislation will ensure a combined public health-law enforcement coordination at all levels.

In addition, because elder abuse and neglect have been virtually absent

from the national research agenda, our legislation establishes research centers of excellence and funds research projects to fuel future legislation that may be necessary.

These measures lay the foundation to address, in a meaningful and lasting way, a devastating and growing problem that has been invisible for far too long. We can no longer neglect these difficult issues afflicting frail and elderly victims—American citizens.

This effort takes numerous steps to prevent and treat elder abuse. It improves prevention and intervention by funding projects to make older Americans safer in their homes, facilities, and in their neighborhoods, to enhance long-term-care staffing, and to stop financial fraud before the money goes out of the door.

It enhances detection by creating forensic centers and develops expertise to enhance detection of the problem.

It bolsters treatment by funding efforts to find better ways to mitigate the devastating consequences of elder mistreatment.

It also increases collaboration by requiring ongoing coordination at the Federal level, among Federal, State, local, private entities, law enforcement, long-term care facilities, consumer advocates, and families, to bring all of these agencies together in a coordinated fashion.

It aids prosecution by assisting law enforcement and prosecutors to ensure that those who abuse our Nation's frail elderly will be held accountable, wherever the crime occurs and whoever the victim happens to be.

It also helps consumers by creating a resource center for family caregivers and those trying to make decisions about the different types of long-term care providers.

The importance of defending our right to live free of suffering from abuse and neglect does not diminish with age.

If we can unlock the mysteries of science and live longer, what do we gain if we fail to ensure that Americans also live better lives and longer lives, lives with dignity? More and more of us will enjoy a longer life in relatively good health, and with this gift comes the responsibility to prevent the needless suffering too often borne by our frailest citizens.

I appreciate the work of the members of our Aging Committee and our cosponsors and their joint effort with me to put together this legislation. I recommend it be considered by our colleagues and that the Senate proceed ultimately to action on the bill, S. 2933, the Elder Justice Act of 2002.

Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

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

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

Mr. LIEBERMAN. I thank the Chair.

IRAQ

Mr. LIEBERMAN. Mr. President, I rise today to voice my strong support for the convincing call to action against Iraq that President Bush issued yesterday at the United Nations to discuss the unique dangers created by Saddam Hussein's regime and to argue that it is imperative that the international community, led by the United States of America, mobilize now to eliminate those dangers.

On September 11, 2001, a foreboding new chapter in American history began. On that day, our Government was reawakened in this new century to its oldest and most solemn responsibility: protecting the lives and liberty of the American people.

As we survey the landscape of threats to our security in the years ahead, the greatest are terrorists—al-Qaida and rogue regimes such as Saddam Hussein's.

Saddam hates America and Americans and is working furiously to accumulate deadly weapons of mass destruction and the missiles, planes, and unmanned aerial vehicles to use in attacking distant targets.

Every day Saddam remains in power is a day of danger for the Iraqi people, for Iraq's neighbors, for the American people, and for the world. As long as Saddam remains in power, there will be no genuine security and no lasting peace in the Middle East, among the Arab nations or among the Arabs, Israelis, and Christians who live there.

The threat Saddam poses has been articulated so often that some may have grown numb to the reality of his brutality. But after September 11, we must reacquire ourselves with him because if we do not understand and act, his next victims, like Osama bin Laden's, could be innocent Americans.

President Bush advanced that process with great effectiveness in his speech at the U.N. yesterday, albeit after a season long on the beating of drums of war and short on explaining why war may now be necessary. But the President did that yesterday in New York. Now we, in Congress, must go forward together with him as the Constitution's competing clauses require us to do. Each of us must decide what actions will best advance America's values and secure the future of the American people.

The essential facts are known. We know of the weapons in Saddam's possession—chemical, biological, and nuclear in time. We know of his unequalled willingness to use them. We know his history, his invasions of his neighbors, his dreams of achieving hegemonic control over the Arab world, his record of anti-American rage, his willingness to terrorize, to slaughter, to suppress his own people and others. And we need not stretch to imagine

nightmare scenarios in which Saddam makes common cause with the terrorists who want to kill Americans and destroy our way of life.

Indeed, 2 days ago on September 11, 2002, the state-owned newspaper in Iraq showed a picture of the World Trade Center's Twin Towers in flames with the headline "God's Punishment."

This man—Saddam Hussein—is a menace to the people and the peace of the world. It was his brutal invasion of his peaceful neighbor, Kuwait, in August 1990 that first and finally convinced America and the world that Saddam had become a tyrant, like so many before him in world history, who had to be stopped before he did terrible damage to his people, his region, and the wider world. I was privileged in January of 1991 to join with my colleague from Virginia, Senator JOHN WARNER, in sponsoring the Senate resolution that authorized the first President Bush to go to war against Saddam.

The American military fought bravely and brilliantly, in that conflict and won an extraordinary victory in rolling back Saddam's invasion of Kuwait. But we did not achieve total victory. On April 9, 1991, I came to the Senate floor and expressed my disappointment that our forces in Desert Storm had not been authorized to remove Saddam from power, while his military was in disarray.

I said then: "The United States must pursue final victory over Saddam. We must use all reasonable diplomatic, economic, and military means to achieve his removal from power. Until that end is realized, the peace and stability of the region will not have been fully accomplished."

In 1997 and 1998, I joined with Senators Bob Kerrey, TRENT LOTT, and JOHN MCCAIN to introduce the Iraq Liberation Act, which established in law for the first time that it is U.S. policy to change the regime in Baghdad, not just contain it, and authorized specific assistance, including military training and equipment, to the Iraqi opposition in furtherance of that goal. That declaration was based on Saddam's record of barbarism before, during and after the gulf war, and his repeated violations of U.N. resolutions.

On November 13, 1998, after Saddam ejected the U.N. weapons inspectors, I said, "If we let him block the inspections and the monitoring that he agreed to as a condition of the ceasefire in the gulf war, then there is no doubt that one day soon, he will use weapons of mass destruction, carried by ballistic missiles, against Americans in the Middle East or against our allies."

Since then, months and years have passed and the danger from Baghdad has only grown greater. International pressure—legal, diplomatic, economic, and political—has failed to change Saddam's behavior. Growing stockpiles of Iraqi weapons, toxins, and delivery systems have accumulated. So too has

a growing pile of U.N. resolutions which Saddam has persistently defied. They testify to the repeated opportunities the international community has given him to prove he has changed and to his determination nonetheless to remain a recidivist international outlaw.

As President Bush made clear yesterday, this must end. The hour of truth and decision has arrived. This is Saddam's last chance, and the United Nations' best chance to show that its declarations of international law stand for something more than the paper on which they are written. It is time for all nations, law abiding and peace loving, to make clear that, after September 11, the world will not hesitate or equivocate while a tyrant stocks his arsenal and builds alliances with terrorists.

I am grateful that President Bush has effectively begun the critical work of educating the American people, the Congress, and the world about why. Our cause is just. The facts are on our side.

"Making this case" is not a burden. It is the vital responsibility of a democracy's leaders when they have decided that our Nation's security may necessitate war.

It is an extraordinary opportunity, as well, to engage our allies in meeting the greatest security threat of our generation before it is too late—not just for us but for them. An opportunity to make the consequences of repeated defiance of the United Nations painfully clear to Iraq, and to any other government that might follow in its criminal path. An opportunity to show the world's law-abiding, peace-loving Muslim majority—who share the same values we do, the same aspirations we have for our families, and, I might add, the same extremist foes—that as we oppose tyranny and terror, we will actively support them in their fight for freedom and a better life.

President Bush has acted wisely and decisively in asking the United Nations to lead this noble effort, to insist that Iraq obey its resolutions, and to be prepared to enforce them militarily if Iraq does not comply. But if Saddam does not comply, and the United Nations proves itself unwilling or unable to take decisive action, then the United States surely can and must assemble and lead an international military coalition to enforce the United Nations resolutions and liberate the Iraqi people, the Middle East and the world from Saddam Hussein. If we lead, I am confident many other nations will come to our side.

For more than 11 years now, since the early spring of 1991, I have supported the use of military force to disarm Iraq and to remove Saddam Hussein from power. In fact, since the Iraq Liberation Act was passed by Congress and signed by President Clinton in 1998, that has been the law of our land. Therefore, I am fully supportive of such military action now.

I know that many of my colleagues in the Senate believe thoughtfully and

sincerely that it would be preferable to give support to the President in two stages, first to endorse yesterday's call for U.N. action, and then to return later, if the U.N. does not act, to authorize the use of America's military power against Iraq. Other Members of the Senate are understandably concerned that a debate on the question of war against Iraq may be unnecessarily politicized if it occurs in the more heated environment of this fall's congressional elections.

But the White House has made it clear it will ask for a resolution of support and authorization in the very near future. Each member of the Senate must, and I am confident will, face that reality in a spirit of non-partisanship, going where their hearts and heads take them, in deciding how best to fulfill our Constitutional responsibility to provide for the common defense in the current circumstances. For my part, I intend to work with Members of both parties in the Senate with the White House to draft a Senate resolution that will receive the broadest possible bipartisan support for the President, as Commander in Chief, as he works to protect our Nation and the world from Saddam Hussein.

On October 22, 1962, as nuclear weapons were being amassed in Cuba, President Kennedy spoke to the Nation and warned Americans of the need to act in the face of the rising threat. President Kennedy's courageous and eloquent words can guide us now. He said on that occasion.

My fellow citizens, let no one doubt that this is a difficult and dangerous effort on which we have set out. No one can see precisely what course it will take or what costs or casualties will be incurred. Many months of sacrifice and self-discipline lie ahead, months in which many threats and denunciations will keep us aware of our dangers. But the greatest danger of all would be to do nothing.

The path we have chosen for the present is full of hazards, as all paths are, but it is the one most consistent with our character and courage as a nation and our commitments around the world. The cost of freedom is always high, and Americans have always paid it but there is one path we shall never choose, and that is the path of surrender or submission.

Our goal is not the victory of might, but the vindication of right—not peace at the expense of freedom, but both peace and freedom, here . . . and, we hope, around the world. God willing, that goal will be achieved.

I yield the floor.

HOMELAND SECURITY ACT OF 2002

The PRESIDING OFFICER (Mrs. LINCOLN). Under the previous order, the hour of 12 noon having arrived, the Senate will now resume consideration of H.R. 5005, which the clerk will report by title.

The assistant legislative clerk read as follows:

A bill (H.R. 5005) to establish the Department of Homeland Security, and for other purposes.

Pending:

Lieberman amendment No. 4471, in the nature of a substitute.

Thompson/Warner amendment No. 4513 (to amendment No. 4471), to strike title II, establishing the National Office for Combating Terrorism, and title III, developing the National Strategy for Combating Terrorism and Homeland Security Response for detection, prevention, protection, response, and recover to counterterrorism threats. (By 41 yeas to 55 nays (Vote No. 214), Senate failed to table the amendment.)

Lieberman amendment No. 4534 (to amendment No. 4513), to provide for a National Office for Combating Terrorism, and a National Strategy for Combating Terrorism and the Homeland Security Response.

The PRESIDING OFFICER. Under the previous order, the Senator from West Virginia is to be recognized.

Mr. BYRD. Madam President, I do not expect to yield, except for questions. I have several thoughts with respect to the pending measure. I can speak at great length. Only the Lord can intervene and make that statement fall. But I don't expect to do that today.

House Republicans yesterday criticized the majority leader and the managers of the bill, Senator LIEBERMAN, for not moving quickly enough to pass legislation to create a new Homeland Security Department. They accuse the Senate Democratic leadership of endangering the country by not passing legislation.

We are going to hear more and more of that. There is no excuse for not giving the people of this country a homeland security bill, said the Speaker of the House yesterday.

Let me say again what the Speaker of the House yesterday said: There is no excuse for not giving the people of this country a homeland security bill.

What a flimsy argument, with all due respect, and I have great respect for the Speaker. I know the rules of the Senate and the House. I am not going to go beyond that quotation in referring to what the Speaker of the House said. I am not going to go beyond that to in any way appear, in any way, and I do not now appear, even presume; I don't want anyone to presume or to assume or to interpret what I say as any personal criticism of the Speaker of the House of Representatives. But what a flimsy argument. We are going to hear that argument; we are going to hear it from other people. It will not be long in coming, if it has not already been expressed by others. But worse than flimsy is the kind of argument we ought not be making. It is an empty argument. It is shallow. That kind of argument cannot stand up under its own weight, that there is no excuse for not giving the people of this country a homeland security bill.

Let us be clear about a few things. Neither the House bill nor the President's proposal would create any new agencies. They are proposing only to move existing agencies from one Department to another. The Immigration and Naturalization Service, the Cus-

toms Service, the Coast Guard, all of these agencies currently exist. They are operating. They are funded. And the people are out there working day and night. These agencies have been working around the clock since the terrorist attacks last year on September 11. They have been out there working. They were on the borders. They were patrolling the U.S. waterways last night, the night before, and the night before that, and in all of the nights that have occurred, beginning on September 11, and before.

Whether or not we create a new Homeland Security Department, and regardless of when we do it, these same agencies will continue to protect our homeland. The funds are there. The funds are being used. The people are there on the job. So do not have any concern about that. They are not absent their protest and they are not empty handed. They are not empty handed. They are working.

Now, we must be careful about how we create this Department. And I want to create this Department of Homeland Security; I want to create a Department of Homeland Security. But I am not one who wants to debate the bill on the Senate floor for 2 days and vote on it. That is what the House did, the other body. They have their own rules. I have been a Member, many years ago. I say "many;" many in the context of the ordinary lifetime of many years ago. They have their rules. I don't criticize that at all. They can operate fast. The House can operate quickly, they can operate fast, and so can the Senate, as we did last year when we passed an appropriations bill within 3 days of the fall of the towers, the Twin Towers. We passed an appropriations bill within 3 days, a bill appropriating \$40 billion.

The Senate can act fast, too. But thank God, the Senate has different rules from the rules of the other body. And that is no criticism of the rules of the other body. But why the hurry? Why pass a bill in 2 days? Why should the Senate not take a little time and discuss this? The people are out there. Our security people are at their posts. They have been funded. As a matter of fact, the Senate has passed bills coming out of the Appropriations Committee, chaired by me and with the ranking member, Mr. TED STEVENS, a former chairman of that committee, and all of the members acting unanimously—Republicans and Democrats alike. We have provided funds, more funds than the President has been willing to sign into law. We sought to provide \$2.5 billion in a bill. All the President needed was to sign his name. That was all he needed. Two point five billion more would have been available—for what? For homeland security. And the President had 30 days in which to sign that measure into law. He refused to sign it into law. So who is in a hurry?

The real threat to the American people is that by transferring 22 agencies and 122,000 employees to this new Department, all at once we will throw our homeland security efforts into a state of chaos and therefore make the country even more susceptible to a terrorist attack. What is more, if we are not careful about how we create this Department and the authorities that we grant to this new Department with regard to its intelligence and law enforcement powers, we could do irreparable harm to the constitutional liberties of the American people.

For this reason, 26 leaders of nationally prominent conservative organizations have urged the Senate to exercise—and I use quotes—“restraint, caution, and deeper scrutiny before hastily granting unnecessary powers to a homeland security bureaucracy.”

Let me say that again: 26 leaders of nationally prominent conservative organizations have urged the Senate to exercise “restraint, caution, and deeper scrutiny before hastily granting unnecessary powers to a homeland security bureaucracy.”

I say to those who would say there is no excuse for not giving the people of this country a homeland security bill: Don't push this Senate. Don't push it. The Senate will act in due time. Don't push this Senate. Back off. Don't push this Congress as a whole into unwise and hasty decisions that would make this country even more vulnerable to another terrorist attack.

That attack can happen right now, later today, tonight. Why should we hurry in acting on this particular measure? The people are out there. The people in the agencies, the Customs, the Coast Guard, the Naturalization and Immigration Service, at the ports of entry into this country, at the river ports, at the seaports, food inspectors, the health officials, the firemen, the policemen—they have been there. We have done our part, up to this point, by funding those agencies that provide security to the country, to the nuclear facilities, along the border. We have funded them. We have provided more funds than the President himself has been willing to sign a bill for. They have been there. He had days to sign that bill, but he didn't do it. Now the hue and cry is: Pass this bill, the homeland security bill.

The House of Representatives passed it in 2 days. That is all right; their rules will allow them to do that. But I say to the leadership in the House, and to the leadership down at the other end of this avenue: Don't push the Senate. Don't push the Congress into unwise and hasty decisions that would make this country more vulnerable to another terrorist attack. Don't push the American people. Don't push the American people, I say, as I look through those electronic eyes, the lenses there. Don't push those people into handing over their civil liberties.

Now, pay attention. Not much attention has been paid thus far to my ex-

pression of concerns about this hasty action on this legislation. But don't push the American people into handing over their civil liberties in the name of homeland security. And some debate on this bill—when I say this bill, the House bill or the Lieberman substitute—debate will surface, will open the eyes of the American people and the eyes of Senators, to the threat of eroding the liberties of the American people.

Don't risk eroding the liberties of the American people. It doesn't sound like passing a homeland security bill would do all that, does it? It has an innocent sounding name, a good name. But let's take a look at the bill. Read closely the bill. Don't push the American people into handing over their civil liberties in the name of homeland security.

Everybody understands when our Nation is put on a wartime footing, we have to put certain limits on ourselves. But take a look at this bill. Take a look at the bill. Don't risk eroding the liberties of the American people and lead the public to believe this proposal is a panacea for homeland defense. That is what the administration is pressing for. That is what those who are pressing the Senate are pressing for when they argue that the Senate is endangering the security of the American people by not quickly passing the President's proposal. I believe that the administration and others who take that position have lost sight of the real goal here, which is not a Homeland Security Department but a more secure homeland.

The President and his administration seem more concerned with scoring a political victory, maybe, than whether a Homeland Security Department will actually work and will actually protect the American people from another terrorist attack.

My interpretation of what is being done is—I have to say that I can be wrong, too. Perhaps I am putting the wrong interpretation on it. Perhaps the President is not more concerned with scoring a political victory than whether the Homeland Security Department will actually protect the American people from another terrorist attack. I don't want to read it that way. I don't want to misinterpret it. I don't want to see the President as doing that, or feeling that way about it. I don't want to even assume that is his motivation. But that is the motivation of some. That is the motivation of some.

Forty-one Senators opposed the Thompson amendment to strike titles II and III from the Lieberman substitute. Yet there is only one Senator on the floor defending those titles. I did not draft the language. Yet I am the only one fighting for it. I am the only one fighting at the moment to retain titles II and III of the bill. I will have something to say about those titles at some point.

When I say titles II and III, I am talking about the Lieberman proposal.

Let me briefly explain what my amendment does so those who are listening will understand that my amendment is not seriatim to the bill that has been introduced by Senator LIEBERMAN. My amendment only goes to title I of that bill. There are 24 titles to the bill. My amendment only goes to title I of Mr. LIEBERMAN's bill. I am not yet addressing the House bill. That is far worse. The House bill is really a poison pill.

Mr. LIEBERMAN's bill has 24 titles listed. My amendment only goes to title I.

Mr. LIEBERMAN's proposal has encompassed in the bill that was reported by the committee a Department of Homeland Security. I am for that. My amendment does not do otherwise in support of a Department of Homeland Security.

The Lieberman proposal provides for a Secretary. My amendment provides for a Secretary.

The Lieberman proposal provides for a Deputy Secretary. My amendment provides for a Deputy Secretary.

The Lieberman proposal provides for seven Under Secretaries. My proposal provides for seven Under Secretaries.

The Lieberman proposal provides for five Assistant Secretaries in title I. My amendment provides for five Assistant Secretaries in title I.

The Lieberman proposal proposes six directorates. My proposal provides for six directorates in title I.

There is another directorate provided for in title XI. I don't touch that at the moment. My amendment does not touch that. We are only talking about title I in my amendment.

Thus far, the same superstructure that is provided for by Mr. LIEBERMAN is provided by the amendment which I have introduced—the same thing; no change; nothing different about that.

The Lieberman proposal provides for a huge transaction here, which Mr. LIEBERMAN has told me involves 28 agencies and offices. We have heard the figure 22 bandied around here. I have seen those all over the press. I accepted that figure for a while, until I asked Mr. LIEBERMAN how many agencies are we really talking about. He said: I have counted them, and I count 28 agencies and offices, and 170,000 Federal workers being transferred to this Department.

I don't say anything criticizing Mr. LIEBERMAN's bill. I am comparing my amendment in certain respects with the bill which was reported by the Senate committee which Mr. LIEBERMAN chairs and of which Mr. THOMPSON is ranking member.

That bill provides for all this huge transaction—all of this movement of people, all of this shifting around of people in the agencies, or among the agencies in which they are presently working. And it provides for all this to be done—for these agencies to be shifted into the new Department.

Their letterheads will probably change. Their telephone numbers will probably change. The offices in which they serve today may or may not

change. They may be moved up Pennsylvania Avenue to a new place. They may have to move their desks and their telephones and their computer systems. Their culture will change. They may not have the same associates. They may not be located in the same location. Their telephone numbers may be changed. Their missions may be changed. Their assignments may be changed. Their objectives, overall, may be changed. We have seen the objectives of the FBI, for example, change since the September 11 attacks.

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

Mr. BYRD. Just in a moment, if I may, and then I will yield.

They are undergoing all of these changes. This will all be done within a period of 13 months following the signing by the President of the act. Thirteen months after that act becomes law, all this will be completed. My amendment does not change that calendar date as to when this massive transaction will be completed.

My amendment provides that at the end of the 13 months this is envisioned as to be done the same way, the same thing—not the same way, but the same time period over all. Thirteen months occurs with respect to the Lieberman bill and with respect to my amendment, if my amendment is adopted—the same time period, 13 months.

So what is the difference? Under the bill, the committee bill, once the Senate passes whatever it passes, and that is sent to conference, and it comes back, and it is signed into law, Congress is out of it except with respect to the appropriations that will go forward to the agency, to the new Department. When the Senate passes this bill and sends it to conference, for all purposes of amending that process in the Senate, it is over. When it goes to conference, whatever comes back from the conference between the two Houses—the Republican-controlled House and the Democratic-controlled Senate—whatever comes back from that conference is it.

We have one more—one more—chance, and that is in voting up or down on that conference report. When that conference report comes back to the Senate, it may not even look like the bill that passed the Senate. Ha, ha, ha. Now, Senators, you may have an entirely different breed of legislation on this bill when it comes back. It is there. You can vote it up or down. But, Senators, you will not be able to offer any amendments to that conference report. You can vote it down, you can vote it up, but you cannot change it.

It may be virtually an entirely new proposition. Who knows what the conferees will agree to. Senators, you are having your last chance here when we vote, eventually, on this bill, if we do.

So why, why, why should Senators just roll over and play dead, as it were; perhaps come to the floor, make a short speech—of 10 minutes, 15 minutes—in support of the bill, or a short

speech in opposition to it? Why should Senators have to do that within the next week, let's say, or 2 weeks or 3 weeks? Why should Senators have to do that before a new Congress sits in January?

Let me repeat, the Immigration and Naturalization Service, the Customs Service, the Coast Guard, other existing agencies that provide security to our country and to us—all of these agencies currently exist. The agencies have been working around the clock since the terrorist attacks last year. They were on the borders. They were patrolling U.S. waterways.

Whether or not we create a new Department of Homeland Security in September, whether or not we create a Department of Homeland Security in October, whether or not we create a Department of Homeland Security in November, whether or not we create a Department of Homeland Security in December, these same agencies will continue to protect our homeland.

Now, back to my amendment, and then, shortly, I will yield to the Senator for a question.

What is the difference between the bill, then, and my amendment? I have already said as to the superstructure, as to the overall time period of 13 months, we are in lockstep, we are in lockstep with Mr. LIEBERMAN and his committee.

Now, here is the difference. Here comes the difference: Remember, this is all to be done within 13 months. Under the Lieberman committee proposal, once this bill that is before the Senate—once whatever the Senate passes, and it is concurred in by both Houses—whatever package is sent to the President, and he signs it, these things are going to take place.

We are going to do it in the same period of time, but under the Byrd amendment, all of this chaotic happening is not going to occur at once. We are not going to pass the bill and send it to the President and say: Now, Mr. President, it's all yours. We're going to step off to the sideline. Congress is not going to have any more part in it. We have passed the bill. It sets up the new Department by legislation. It deals with 22 or 28 or 30—that many—agencies and offices. So here it is. Here is the bill. Here is our bill. It's yours. Under the Lieberman approach, it's yours. You have 13 months to do it in. Have at it. Good luck. Good luck, Mr. President. Here's the package. It's all yours.

Can Senators imagine the chaos that will occur in trying to do all of this in a way that is other than systematic and orderly?

My amendment provides an orderly process whereby on February 3—if the amendment is included in the act—on February 3, the Secretary of the new Department would send up his recommendations as to what agencies, what functions, what assignments, and so on, would need to be carried out to complete the flushing out of this skel-

eton, of putting into effect the establishment of the first directorate.

Remember, I said that there were directorates in the Lieberman bill. There are Directorates in the Byrd amendment.

The Secretary of the Department of Homeland Defense, the new Department—which will be established by this law, if it becomes law—the Secretary sends up his policies, his recommendations as to what agencies shall go into this new Directorate. That is on February 3.

The recommendations of the Secretary will be sent to the committee in the Senate and the committee in the House that have jurisdiction over this subject matter. Mr. LIEBERMAN's committee and Mr. THOMPSON's committee, their committee will still be in the mix. Their committee will still be front and center.

Under my amendment, we are not going to say: OK, Mr. President, here it is. Have a good time. Good luck to you. Enjoy what you are doing. We are just going to move off to the side.

Our committee is going to say: All right, we have a department. We are going to create this first directorate. We are going to have this new Secretary of Homeland Defense send up his policy recommendations to the House and Senate. They will be referred to the committees of jurisdiction, Mr. LIEBERMAN's committee in the Senate, and his counterpart committee in the House. And those committees will take these policy recommendations that have been sent up by the Secretary of the Department of Homeland Security, and they will treat those as recommendations for a bill.

They will look over those policies. They will debate them in the committee. They will report, ultimately, a bill which accepts the policies or which amends those policies.

There will be, in my concept, an expedited procedure where that bill does not just go through the committee and lie there. But within 120 days after the policies have been sent to the Congress by the Secretary, the Secretary then, 120 days later, or on June 3, would be required to send up his recommendations for fleshing out the next two directorates which are named in Mr. LIEBERMAN's bill also.

The second proposal, there will be the Directorate of Intelligence and the Directorate of Critical Infrastructure Protection. Those directorates are named in the Lieberman bill.

But we say, now, the first directorate that we will deal with will be the directorate of Border and Transportation Protection. All of these directorates are the same directorates as are provided for in the Lieberman bill. But we are saying that the first directorate to be decided upon and to be fleshed out will be the Directorate of Border Transportation and Protection.

That is February 3. So there is 120 days for action to be taken in moving those agencies that are involved in the

Directorate of Border and Transportation Protection into the Department. One hundred twenty days later, June 3, the Secretary will send up his recommendations for the Directorate of Intelligence and for the Directorate of Critical Infrastructure Protection; 120 days later, or October 1, the Secretary would send up his recommendations. And in each of these three phases, Mr. LIEBERMAN's committee would take the recommendations of the Secretary. And in each, the Lieberman committee will report to the Senate a bill containing the recommendations of the Secretary. They may have been amended in the committee. They may have been modified somewhat. But Mr. LIEBERMAN's committee would then report that and so would the House committee report that bill to their respective houses, and then the respective houses would take up the bill under expedited procedures, as I conceive it, expedited procedures. So there could be no filibuster.

That committee can be discharged from the bill. If the committee cannot report the bill, the committee will be discharged, and it will come to the full body, in the House or in the Senate, whichever is having a problem.

So we have three phases, each phase of 4 months. The first phase will take a look at that, the committee does, the Senate does. There you go, you have a directorate in being, one directorate, the agencies, the number of people that will be moved into that particular directorate, that will be going forward.

When it comes time, on June 3, for us to take a look at the policies, at the recommendations sent by the Secretary ensuring the next two directorates, we will have the advantage of seeing the mistakes, seeing the errors, seeing the faults, seeing the shortcomings of the way these agencies were moved into the first directorate. So we profit by staying in the mix. Congress profits, and the people represented by the Congress profit.

Perhaps I should not use the word "profit." They "benefit" from the experience in fleshing out that first directorate. Then comes along the second and third directorates, every 4 months, and the same thing happens. And then the fourth and fifth directorates come along 4 months later, and the same thing obtains. The recommendations go to the two committees. They are reported out under expedited procedures. Each House would be required to go to the measure under expedited procedures, and it is passed.

Congress stays in the mix. Why Congress? Because Congress is made up of the elected, directly elected, not sent here by any electoral college but directly elected by the people of Arkansas or the people of Minnesota or West Virginia. So Congress stays in the mix.

It is phased. There is an orderly process of doing what Mr. LIEBERMAN wants to do and over the same time period. So we come out at the end, 13 months; we have created this Department that

Mr. LIEBERMAN creates. We have created six of the seven directorates that Mr. LIEBERMAN's bill creates, and we have set up the superstructure. We have appointed the same number of directors, the same number of Secretaries, the same number of under secretaries, the same number of assistant secretaries—all of it.

We take Mr. LIEBERMAN's proposal, but we say we won't just turn it over to the administration the day after it is passed. We will go off fishing, if it is summertime, or perhaps we can go play golf. We will just quit. That is the responsibility of the administration, his bill says.

Mine says, oh, no. No. That is the responsibility of Congress and the administration—Congress working with the administration; the administration working with Congress in an orderly process. The people in 28 agencies won't have to be moving their desks all at once. It will be some now; 4 months later, some more; 4 months later, the rest.

What's wrong with that? That provides an orderly process. Madam President, I think at this point I have explained enough of what my amendment does to yield to the distinguished Senator from Minnesota for a question. We will have plenty of opportunity later to explain what my amendment does. I want people to go home this weekend to know what my amendment does. That is it in a nutshell.

I don't claim to be a medicine man. I don't claim to be a magician. I don't say watch what is in my right hand and don't watch what the left hand is doing. It is there. This is it.

Yesterday, included in the CONGRESSIONAL RECORD was a brief statement explaining the amendment. I also tried to explain it on the floor today. I have been up all night and the night before with my wife in the hospital. I sat right in her room all night, watching her and reading my Constitution again. It is a little hard to make things quite come together as one would like when one has lost sleep. I merely mention that so that everybody will know that I have tried to explain the purpose of my amendment, but not under the best conditions.

I yield now to the distinguished Senator from Minnesota for a question only, retaining my right to the floor.

The PRESIDING OFFICER (Mr. BAUCUS). The Senator from Minnesota is recognized.

Mr. DAYTON. Mr. President, I thank the Senator from West Virginia, whose explanation has been very clear—last night and also today. I trust the Senator's amendment comes from wisdom gained from many years of watching executive branch organizations, new departments brought together, and, of course, the Senator has the sweep of history both in this institution, and also I recall hearing the Senator last week quote a Roman, and I must confess a week later, whose name and statement I have forgotten, but which

the Senator has remembered for all these years. It was something to the effect that reorganizations are just another way of delaying and confusing matters.

I wonder if the Senator can share some of that experience gained and the insight into other organizations or reorganizations of Federal agencies, and how that might have suggested some of the oversight that the Senator has in his amendment.

Mr. BYRD. Mr. President, I thank the very dedicated, patriotic, able, and distinguished Senator for the diligence with which he pursues his responsibilities as a U.S. Senator. I appreciate very much what he has said with reference to me. Those remarks are very flattering. They might, if left alone, appear to be more than exactly the fact. I don't have a lot of experience, but I have seen some departments created during my tenure. I remember the new Department of Health, Education and Welfare, I believe it was called. I remember I was here and voted for that Department; the new Department of Energy, I voted for that; the new Department of Education, I voted for that; the new Department of Veterans Affairs, I voted for that.

Now, as to reorganizations, I can take a look at recent experience as to reorganizations. The administration, since the September 11 attacks, has announced at least 3 major governmental reorganizations prior to the President's proposal to create a new Homeland Security Department.

Last December, in response to numerous media reports criticizing the Nation's porous borders, the administration proposed the consolidation of the Customs Service and the Immigration and Naturalization Service within the Justice Department. Last March, following the mailing of two student visas by the INS to two of the September 11 hijackers 6 months after they crashed planes into the World Trade Center Towers, the administration announced that the INS, the Immigration and Naturalization Service, would be reorganized—split into a services bureau and a separate enforcement bureau.

Last May, following the reports about intelligence failures by the FBI, the administration announced a reorganization of the FBI. These reorganizations have either produced very little, or they have been replaced by subsequent additional reorganization proposals. It is as if we are spinning around in circles, with little left to show for all of the energy that we have expended, little left but dizziness. To avoid a similar fate of this new department, which I support—I am not opposed to creating a new Department of Homeland Security. As a matter of fact, I urged that months ago.

The story behind that, which I recounted more than once, about the efforts of Senator STEVENS and myself to have Tom Ridge, the Director of Homeland Security, which was created by

Presidential Executive order—not by statute—come up and testify before the Senate Appropriations Committee on the budget, on the homeland security agency's budget, he would not come. I have gone through that ad nauseam, time and time again. I may go through it again.

Right now, it is sufficient to say that we had an unfortunate experience there. So I suggested that we have the Homeland Security Director be a person appointed by the President, and with the consent of the Senate, requiring Senate confirmation of that position, that officer. I recommended that, and we could not get him to come by invitation, the President having put his foot down hard and in concrete, being immovable, claiming that "this is my staff person, this is my adviser. He is not required to go up there." Well, with all of the responsibilities and the authorities that were being assumed or carried out by the new Homeland Security Director, Mr. Ridge—he was going all over the country speaking to chambers of commerce, explaining his work and the things we were doing and the things we needed to do to secure our homeland—he would appear anywhere, anytime, apparently, because I read of many of his appearances around the country.

Each time I read about his being here, there, or out in Montana, or wherever, I thought: Why can't he come up before the people's branch and tell the people's representatives what he wants, what he needs, what this country needs, what the people need for their security and safety? Why doesn't he come before the elected representatives of the people? Oh, yes, he is an adviser to the President, but the President has lots of them. He is on the staff of the President, yes. But this man is carrying a much larger bag of responsibilities than the ordinary staff person, the ordinary adviser to the President.

I know the President has to have advisers to whom he can talk. They do not need to come before Congress. I told the administration: Look, we are not going to ask Mr. Ridge, your Homeland Security Director, who was appointed pursuant to a Presidential order—we are not going to ask him about his private conversations with the President. We are not interested.

We want to ask this man, who is the point man for the administration on homeland security—he is the person who is running around telling everybody what it is. He is the man running around all over the country spilling his beans to this agency, that agency, whatever agency, whatever committee or whatever group of people, fraternal order or civic order, whatever it might be—he is the man running all over the country talking to the people everywhere and going up to Canada. He is the man who has gone down to Mexico and talked about various and sundry subjects pertaining to border controls, surely, and so on.

Why can't he come to Jenkins Hill, on which this great architectural structure has been for 200 years or thereabouts? Why can't he come here and answer questions by the people's elected representatives in the Congress? After all, it is the people's money. He is being paid out of the pockets of the American people, this Mr. Ridge is. Pennies do not fall from heaven. He is being paid by the taxpayers, and the President is being paid by the taxpayers. Who pays him?

He says this man cannot come up, this man does not have to go up to Congress. That is the President talking. Who pays him? The people. The people. Who pays us? The people. So the people are entitled to know a little about this, about how their moneys are being spent.

That is why we have public hearings in the Appropriations Committee and by the subcommittees of the Appropriations Committee. The hearings are in public. The hearings are open. There can be a huge audience out there in some of those massive, handsome rooms over in the Senate office buildings. People can hear. They can see on television. They can hear over the radio. They can hear their people, their representatives, and they can hear the President's man, all of us being paid by the people, some of us being elected by the people.

But some of those who testify are not elected by the people. Tom Ridge is not elected by the people; he has not been elected by the people, except to run as Governor of Pennsylvania and run for membership in the other body, which he has done. He has been Governor of Pennsylvania. He has been a Member of the other body of the Congress. So he is a man who knows a great deal about the subject matter, and he has thrown himself into his work. He is the expert. He knows the answers to a lot of these questions. He is a very intelligent man, a very articulate person. He is the person in charge.

Why shouldn't the Congress hear him? They said: We will be happy to send him up for briefings. He can meet with Senators and House Members and have little briefings, and we can tell you all about it. That is not the point. His portfolio is much greater than the portfolio of an average staff person of the President or an "adviser" to the President.

He is dealing with a subject that is virtually brand new to the American people. Last September 11 brought to the view of the American people something we had not seen before, something we had not experienced before, and opened to all of us a new kind of world, and the world is changed forever. Our country in some ways is changed forever. Every person in this country—man, woman, boy, or girl—their life is changed forever. It is not going to be a short time. The President himself has said this war—they call it a war; it is a different kind of war—this war is going to last a long time. It is going to take us a long time.

Does anyone think we are going to get all the terrorists ever? No. We have not even gotten Bin Laden yet. We do not know where he is. He may be alive; he may not be alive. But whether he is alive or not, his agents are spread, we hear, in 60 countries or more. This is something big, and it affects our lives, it affects our work in the Senate.

Why shouldn't the person who is the top man in the United States with reference to homeland security appear before a Senate committee, the Appropriations Committee? We are not seeking to put him on the spot or to embarrass the President by some question, such as: Tell me about your private conversations with your President. We are not going to do that.

The Senate Appropriations Committee has been in business for 135 years. This committee was established in 1867. Think of that. Two years after the Civil War ended—1867. Fifty percent, or more—a very high percentage—a great majority of some of our students in the polls do not know when the Civil War ended; they do not know that it even occurred in this country.

But we know that in 1867 this Appropriations Committee in the Senate was established. Before that, the Finance Committee in the Senate, which had been established in 1816, did the appropriations work, as well as raising taxes, and so on. In 1867, the Finance Committee did that work no longer. Seven Members of the Senate were appointed to this new Appropriations Committee. I believe it was seven Members. In any event, the Appropriations Committee has been doing business ever since.

The way we have done business is the right way. We get testimony; we get people to appear before the subcommittees. There are 13 subcommittees of the Senate Appropriations Committee, and every one of those subcommittees has subpoena power in that Appropriations Committee. That committee has subpoena power—the Appropriations Committee. No wonder everyone wants on the Appropriations Committee.

That Appropriations Committee deals with the public purse, and by virtue of this Constitution, the power of the purse is vested in the legislative branch. Article I, section 9, of this Constitution, which I hold in my hand, vests the power of the purse in this body. So the right way to do it is to have public hearings.

The people need to know what questions are asked. The people need to know what answers are being given.

It is out there. Everybody can see it. Everybody can hear it. There is a record of it.

Then when the appropriations bill is put together, the testimony of these witnesses is read again. There are hearings printed. Hearings will be available to members of the Appropriations Committee of what was said during the testimony by Mr. Ridge, if he had come before the committee. And when the bill is taken up on the floor, there are

the printed hearings. They are available. There is a committee report—aha, a committee report on that bill—for the benefit of the Senators who are to vote on the bill.

That committee report is important. It is really laughable that the administration would propose that they would be willing to send up this man, who is the know-all, as far as anyone can know, about homeland security and what is being done by our Government, or what we hope to do—So the American people need to know that. The committee needs to know that. But he is going to come up in a private briefing? That is the administration's proposal: No, we will not let him come up there and get before that committee. No, no, no. He is the President's man. We are not going to let him come up. You do not call Condoleezza Rice. He is in the same position.

No, he is not. You cannot equate the one with the other in this respect.

So the committee is going to write a report. How important is a committee report? Suppose there is a court case at some point with respect to a provision in a bill. One of the things the court would need to know is what was said in the committee. In order to get the intention of the legislators, in order for the court to interpret the intention of the legislators with respect to that particular bill or that particular provision, the court may want to resort to a committee report. That has happened before in this country.

What committee report is going to be around where we have a shadow government, as it were, with the administration officials coming up to the Senate and talking in private, behind closed doors? Oh, the doors can be open, that is all right, but there is no record. The people out there do not see what is going on. What kind of government is that?

This is an open government—it is supposed to be—with respect to its appropriations, with respect to our bills. How utterly foolish the administration was to take that utterly foolish position in refusing to allow Tom Ridge to come before the Appropriations Committee of the Congress. That was utterly foolish. It poisoned the well.

The result was a provision which Senator STEVENS and I wrote into an appropriations bill providing that the Director of Homeland Security would indeed require confirmation by the Senate of the United States, and that appropriations bill came before the Senate not too long ago. Not one finger was raised against it. Not one Senator rose to strike that language from the bill.

It was in the bill. Everybody knew it. The staff of every Senator saw it. They knew it, or they should have known it. Not one effort was made to remove it. That overall appropriations bill passed the Senate, including that provision, by a vote of 71 to 22—quite a secure majority, 71 to 22. I will try to remember that. That bill was passed, including that provision.

I say to the distinguished senior Senator from Montana who presides today, that bill passed the Senate by a vote of 71 to 22, and went to conference.

Oh, wait a minute. The administration suddenly sees on the horizon, here comes this bill, here comes this provision. Oh, Mr. Director, Mr. Tom Ridge, you know the Senate has—here it is right here, this appropriations bill. They are going to make you come up there. They are going to make you come up there.

Mr. President, look at this bill here. The Senate is going to make this man come before the Senate of the United States in the Appropriations Committee. The President will not be able to say, well, he is an adviser of mine; he cannot come. The President will not be able to put his feet in concrete and say, this man is on my staff and my staff people do not have to come.

Mr. President, it is in this bill. I do not care what you say. You can veto the bill, if you want to. Do you want to veto that appropriations bill? Do you want to veto that appropriations bill because it has that provision? Then you will have to explain to the American people why you will not let this man go before the Appropriations Committee of the Senate and answer questions of interest to the American people, questions dealing with their money, the money they pay in taxes to pay your salary, Mr. President, and to pay your salary, Mr. Ridge.

Oh, you cannot hide behind that desk any longer. That part of the shadow government just will not work any longer because this legislation is going to require you to have that man of yours come up there.

And you know what happened? Then down in the subterranean caverns, in the ill-lighted recesses of the bowels of the White House, four solemn individuals met one day and there was hatched the egg to provide the homeland security proposal. There was the egg. I do not care how warm the egg is, it still takes it 3 weeks to hatch. Try it sometime—3 weeks. But it did not take 3 weeks for that egg to hatch, not in that White House.

The administration wanted to get out front on this provision that was in the appropriations bill, written in there by Senators BYRD and STEVENS and supported by every member of that Appropriations Committee and not questioned by any Member of the Senate.

It is on its way to conference, Mr. President. I tell you, we have to act quickly, and the President did act quickly. They came out and unveiled this great proposal that came to life like Minerva who sprang full grown and fully armed from the forehead of Jove. That is how it came about.

Then there was Aphrodite who sprang from the ocean foam and was carried by a seashell or a leaf to a nearby island and then went on to Mount Olympus and appeared before the gods, and the gods were overcome by the beauty

of Aphrodite. All of that happened. And the same way with this egg that hatched, it just sprang into being all of a sudden and here it was, this massive proposal by the President. He unveiled it, and they were quite successful in taking the people's eyes away from some of the other things that were demanding attention in the newspapers of the time. They took those things off the front page.

Here was a new Department. Since then, the President and all the people in his administration, the King's men and women, have been out there saying: Pass this bill, pass this bill, which was hatched by four individuals. Let me see if I can remember their names. Mr. Ridge was one. Mr. Mitch Daniels was another. He is the Director of the Office of Management and Budget. Mr. Gonzalez, I believe he is the President's counsel, and Mr. Card, I believe. I hope I am right. I am. Someone nodded in the affirmative to me and so I am. There it was in the newspapers. Those four gentlemen, very reputable persons, people of high caliber and unblemished reputations, as far as I know, and this was their idea.

Now compare that group of four, working in the shadows, the dim light. The lights may have gone out, but I expect there might have been candles there, or perhaps oil lamps. I can just see the shadows, the figures of the shadows moving back and forth in those caverns, on the walls of those caverns, as the men remonstrated, and said this: We ought to have this, we ought to have that. Whatever they say. Anyhow, that was hatched down there.

Now that was a different committee. Four individuals, from the committee that wrote the Declaration of Independence. By the way, I carry that Declaration of Independence right here in my shirt pocket. Who was on the committee that wrote that Declaration of Independence? Thomas Jefferson, John Adams, Benjamin Franklin, Roger Sherman, and Livingston. So there were five. My, my, look at those giants, five giants who wrote the Declaration of Independence. Had they been arrested by the British for treason, they could have been sent to England and they could have been hanged. And so could the others who signed that Declaration of Independence. The signers are all listed in this little book I hold in my hand.

They were doing things that challenged. They were doing things for which they were willing to give their lives. They would have given their lives, had they been tried for treason. Those men committed treason against the government under which they then lived. The far reaches of the Parliament's hand, the King's hand, from Great Britain, from England, could have snatched them, taken their fortunes, taken them to England, tried them, taken their lives. So they pledged their lives, their fortunes, their sacred vows.

How about those four in the White House? Were they pledging their lives

and fortune? Quite a different committee, I must say.

Anyhow, with all respect to the four men who are public servants, and who are doing their best, as they see it, for their President—quite a different matter.

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

Mr. BYRD. Yes, I yield to the distinguished Senator for a question, retaining my right to the floor.

Mr. JEFFORDS. I have listened carefully to your dissertation of the past and the responsibilities that all of us have to make sure we uphold the Constitution. And I also recognize that what the administration was doing in this regard, and agree with the Senator that what happened at that time, was most unfortunate.

Is the Senator aware the administration has compared the creation of the Department of Homeland Security to the reorganization of the Government set forth by the passage of the National Security Act of 1947?

Mr. BYRD. Yes, allusions to that act, the National Security Act, which was created in 1947 after a period of at least 3 or 4 years. This Senator is aware of the allusions that have been made to that act and the references that have been equated, the reorganization of the Government under the Bush Administration and how it is compared.

Mr. JEFFORDS. I have done some research on the creation of the Department of Defense that I would like to share with my friend. I found the research helpful in putting the current debate in context.

First, I agree this proposal is similar in scope to the 1947 debate, but there are also some notable differences between the 1947 debate and today's dialog.

Mr. BYRD. I would like to hear those.

Mr. JEFFORDS. The Bush administration proposal and the Lieberman substitute we are debating represent a dramatic reorganization of the Federal Government. The most obvious difference between the process in the 1940s and this summer is time. The creation of the Department of Defense was a collaborative process between the executive branch and Congress, measured not in days and weeks but years.

Proposals for combining the military services were first considered in Congress in 1944. President Harry Truman became keenly involved in the effort and sent a message to Congress at the end of 1945 proposing the creation of the Department of National Defense. Congressional hearings were held on the matter throughout the following year. In 1947, the President sent legislation to Congress that, after additional hearings and congressional input, was finally passed and signed into law in July of 1947.

Mr. BYRD. The Senator is certainly laying down a very impressive premise for the question which he will ultimately ask. Please go ahead. The Senate needs to hear this.

Mr. JEFFORDS. Additionally, Congress made significant changes in the Department of Defense in 1949. Thus, the thoughtful and deliberate process to create an effective Department of Defense did not happen in a summer, a year, or even one session of Congress.

Mr. BYRD. How about that. Right.

Mr. JEFFORDS. It took 5 years and was founded upon discussion, debate, and compromise.

Mr. BYRD. Say that again.

Mr. JEFFORDS. It was founded upon discussion, debate, and compromise.

Let me be clear that I am not advocating we take 5 years to debate the proposal before us, only that we ought to be thoughtful and deliberative. This current reorganization will affect the lives of every American for years to come. Unfortunately, the current administration has made it clear it will veto any legislation that is not almost identical to its proposal.

Mr. BYRD. Say that again, please.

Mr. JEFFORDS. It is clear it will veto any legislation that is not almost identical to its proposal.

Recently, President George Bush, speaking about this legislation, said: The Senate had better get it right.

I agree with the President that we do have a solemn responsibility to consider, debate, amend, and strengthen this legislation. I am sure the President understands that the Senate's deliberate consideration of this bill is an integral part of the process of "getting it right."

As the President's father said, a time of historic change is no time for recklessness.

Mr. BYRD. Right again. What was that?

Mr. JEFFORDS. A time of historic change is no time for recklessness.

Mr. BYRD. Yes.

Mr. JEFFORDS. As my friend from West Virginia knows, when Congress created the Department of Defense, the affected agencies had input into the process.

Here is another significant difference between the development of the Department of Defense and the current debate over homeland security.

In the 1940s, the executive branch agencies affected by the proposed reorganization were participants in the process. The Army, the Navy, and the Joint Chiefs of Staff proposed specific plans for reorganizations as early as 1945. And the Army and Navy were consulted prior to the President submitting draft legislation in 1947, 2 years later. This cooperative approach in developing a workable new Department contrasts starkly with the way the administration developed homeland security draft legislation.

A small group of advisers, which the Senator has explained well, working in secret in the White House, developed the present Bush proposal. Members of Congress and the Secretaries of the affected Cabinet agencies were reportedly not even informed about the proposal.

Mr. BYRD. How about that.

Mr. JEFFORDS. Amazing.

As I have said many times, I understand, in the wake of the horrific events of September 11, we would look for ways to strengthen our Nation's defense to prevent any further catastrophe. I fully support that goal, but we must be cautious, to make sure that we work to correct what went wrong and not interfere with what went right.

We know what went wrong, and I firmly hope we, as a nation, will develop a comprehensive plan to address the shortcomings of our intelligence gathering and communication efforts which, to me, were the core of the problem.

Mr. BYRD. Right on. Right on.

Let me hear that said again. I want to be sure I remember that.

Mr. JEFFORDS. We know what went wrong, and I firmly hope that we, as a nation, will develop comprehensive plans to address the shortcomings in our intelligence gathering and communication efforts.

Because of the similarity of the September 11 attacks and the attack on Pearl Harbor, over 60 years ago—which I am just barely old enough to remember, being 5 at that time, but I remember that day to this moment—we should remember the finding of the Joint Congressional Committee that investigated Pearl Harbor, that:

... the security of the nation can be ensured only through ... centralization of responsibility in those charged with handling intelligence.

That, to me, is the key that we have to look at for a resolution of this problem.

I hope we will learn a lesson after the tragic events that occurred on September 11. Correcting intelligence failures must be the hallmark of any new Department of Homeland Security.

I thank my colleague for yielding, and I look forward to continuing this debate and considering this important legislation.

In closing, I hope we will take our time in creating this new Department and that we will protect the role of the legislative branch throughout this process. I commend Senator LIEBERMAN for leading debate on this important topic, but I also thank my friend from Virginia. In the 200-year history of this body, there has never been a more vigilant defender—

Mr. BYRD. Would the Senator mind repeating that and addressing his remarks to the Senator from West Virginia and the Senator—

Mr. JEFFORDS. Yes, right. I also thank my friend, the Senator from West Virginia, Mr. BYRD. In the 200-year history of this body, there has never been a more vigilant defender of the legislative branch than the Senator from West Virginia.

Mr. BYRD. Mr. President, I thank the distinguished Senator. I didn't want him to repeat what he said for that part. But I wanted him just—

Mr. JEFFORDS. I wanted to repeat it for that part.

Mr. BYRD. I thank the Senator. He referred to this Senator as the Senator from Virginia. That was inadvertent and it was pretty much out of levity, in a way, that I wanted him to get the States right and recognize me as a Senator from West Virginia, which he knows. People do have that slip of the tongue. It happens many times.

But what the Senator said—putting that entirely aside—is what I have been saying. We need to take the time and not act in haste. That is what we are being pushed to do, and the press, the media has not paid enough attention, in my judgment, overall, to this bill and to the Lieberman substitute. Somebody hasn't been listening.

My colleagues, I do not believe, have been listening. That is why I said slow down a little bit here.

I am grateful to the divine hand that brought these Senators to the floor. At least this Senator from West Virginia is getting a little attention. It is not that I want attention, but this Senator from West Virginia is getting a little attention as to what he is saying, why this stubborn guy from West Virginia—I will call him a guy—this stubborn upstart from West Virginia is trying to stop the train, trying to stop our hurrying forth, acting in the least amount of time, acting almost immediately to give to the President this legislation creating a Department of Homeland Security.

At last, at last, at last two of my colleagues have asked questions today. I am sure there will be other Senators who will do the same, now that I am beginning to break through, get through the ice, get through the veil that this is a measure that is vitally important to every individual in this country today, every man, woman, boy, and girl. It goes beyond just creating a Department of Homeland Security.

That is what the distinguished Senator said. He is talking about intelligence. He is getting into the intelligence area of what is involved here. It is much more involved than just creating a Department of Homeland Security. I am for that. I have been for it. But I am glad, I am grateful to the distinguished Senator for what he has said here. He has capsuled this very large subject with respect to the National Security Act, how time passed, the steps that were taken, the pauses that occurred, the scrutiny that was given, and the fact that the heads of the military branches—the Navy and the Army and others—their thoughts were acquired, their recommendations were acquired, their advice was sought as to the creation of this new department of defense. So they had input into it.

It wasn't done overnight. It didn't grow up like the prophet's gourd, overnight. It took time and that was a wise move.

I thank the Senator for going into that particular aspect of this in depth. He has been thorough in what he has

said with respect to the creation of the department of defense. I am grateful and the American people can be grateful to the Senator for what he has said, what he has contributed here today in just the few minutes he held the floor and he zeroed right in on one of the things that I eventually wanted to get to, and there are others.

I am not going to say anything further now, if the Senator wants to ask a further question.

Mr. JEFFORDS. No. I am very pleased to have been able to have this time with the Senator, and I look forward to working with him.

Mr. BYRD. I thank the Senator. I am delighted. I am just delighted that he came to the floor and made this statement. I am delighted that he believes we should take our time. Not an exorbitant amount of time, not an inordinate amount of time, but take time, the necessary time to scrutinize this proposal and act. It is not so important that we act quickly; it is important that we do it right. That is all I have been saying. Let's do this right.

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

Mr. BYRD. I again thank the Senator from Vermont.

Mr. DAYTON. I think the Senator from Vermont is very enlightening as to the timing of that crisis—also following right in the aftermath of World War II, certainly another time where this country faced a very grave threat, leading into the beginning of the Korean war where the country again faced another enormous threat.

I wonder if the Senator can comment on how that experience should be instructive to the Senator's amendment. It seems the Senator has foreseen the kind of timetable of bringing back from these various directorates their preliminary plans that would lead to a far more insightful and, I think, constructive reorganization than the one that is contemplated by the proposal of the administration.

Mr. BYRD. Mr. President, I think I grasped the question that was asked. It was well put. I think I have a problem with the Senator's microphone and where he is standing. Would he shorten his question?

Mr. DAYTON. The Senator from West Virginia has an amendment which would seem to embody the intention of what occurred post-World War II, which was the sequential development of a department of such critical importance. I wonder if there is a parallel to be drawn there to instruct all of us that the approach being recommended by the learned Senator from West Virginia is the one that is going to likely produce the much more beneficial result to the country rather than the helter-skelter that would go forward without the Senator's direction.

Mr. BYRD. Absolutely. The Senator, by his question, has really answered his question. We saw that the country took more time in the 1940s to create a Department of Defense. It took time. It

had the input of the heads of the military branches and their advice. Mr. Truman took time. It wasn't enacted during the heat of battle. The thought was there. The suggestion was there. Committees held hearings, and buildings were proposed during that time. But it was after the war that the Department of Defense was created. It wasn't all done in a hurry. There was need to do something along those lines. Many Members of Congress introduced legislation to carry out the results, to create and reorganize the Government in that respect. The military people who were directly involved and had input put.

We may be in a situation here where we can't wait 4 years, or 3 years, or 2 years, as was the case there. But there is a direct parallel. They took their time. In taking their time, it didn't mean they were just dragging their feet. They took time. During the time that was passing, they talked about this; they got the advice of the military. They were preparing all along their action—but do it right; not do it quickly but do it right.

The same is true here in many respects. The point is that we must not do it quickly. We are being urged in the Senate: Get on with it, pass it. The President, with his backdrop as he goes around the country and appears before the military organizations and others: Do it, do it, do it now.

There was a little ad I used to hear on television not too many months ago: Do it now; do it here. Do it now; do it here. Well, that is what I am hearing: Do it now, do it now, do it now, do it here, do it quickly. I am saying no, no. The object is, do it right—not do it by this weekend or not do it by next weekend, and not to do it in a hurry, do it right.

This is a far-reaching measure. If this act is passed as the administration wants it passed, believe you me, it is going to affect the civil liberties of Americans. That is what I am saying. Just hold on a minute.

In the bill by Mr. LIEBERMAN that came out of his committee—I will refer to that momentarily to just kind of jar the senses of Members of the Senate who have not been paying very much attention—many of them. They are busy people. They have their attentions drawn to other very important matters all the time. There is just not enough time allotted to us as Senators to do our work right in every case. There just isn't enough time.

I just want to read one provision from Mr. LIEBERMAN's bill. It is on page 186 of the bill. It is title III that sets up a national strategy for combating terrorism and the homeland security response.

Under title III of the committee bill, in section 301 designated "Strategy," under the first paragraph:

The Secretary and the Director—

That means the Director of the Department of Homeland Security, and the Secretary of Homeland Security—

shall develop the National Strategy for Combating Terrorism and Homeland Security Response—

They shall do this. I will read it—for detection, prevention, protection, response and recovery to counterterrorism threats, including threats, vulnerability and risk assessment and analysis, and the plans, policies, training exercises, evaluation, and interagency cooperation addresses each such action relating to such threats.

Responsibilities Of The Secretary.

The Secretary shall have responsibility for portions of the Strategy—

Strategy with a capital S—

addressing border security, critical infrastructure protection, emergency preparation and response, and integrating State and local efforts with activities of the Federal Government.

Next paragraph:

Responsibilities Of The Director.

The Director shall have overall responsibility for development of the Strategy—

Again, with a capital S—

and particularly for those portions of the Strategy addressing intelligence, military assets, law enforcement and diplomacy.

Next paragraph:

Contents.

The contents of the Strategy—

Strategy with a capital S—

shall include—

Get that: The contents of the Strategy which will be developed by the Secretary of the Department and the Director—

shall include:

(1) a comprehensive statement of mission, goals, objectives, desired end-state priorities and responsibilities;

(2) policies and procedures to maximize the collection, translation, analysis, exploitation, and dissemination of information relating to combating terrorism and the homeland security response throughout the Federal Government and with State and local authorities;

(3) plans for countering chemical, biological radiological, nuclear and explosives and cyber threats.

Now get this. Paragraph 4 is one of the items that will make up the contents of the Strategy with a capital S—strategy that is developed by the Secretary of the Department of Homeland Security and the Director of Homeland Security—the Director. Here is someone I want the Senate to be required to confirm—this Director. We will provide for the confirmation of the Secretary. But I want the Director confirmed, too.

Get this. This is paragraph 4 of the Strategy with a capital S. There is much more to be said about this Strategy set forth in title III. But listen to this. This is part of the plan, part of the Strategy.

(4) plans for integrating the capabilities—

My—

And assets of the United States military into all aspects of the Strategy. . . .

Now, does that get the attention of any Senator? We have something we call posse comitatus—some would say comitatus, which would be correct, too—both. But there are laws, there are statutes, that have to do with posse comitatus. And I shall have a speech to

make on posse comitatus, or comitatus, at some point, hopefully, or likely, if we continue.

But forgetting the statute for a moment, listen to this. The Secretary and the Director are going to draw up a strategy for dealing with this homeland security. And what is part of something that this bill is requiring that they include in their plans, and that they have the authority to develop and include in its strategy? Let me read that again. It says:

The contents of the Strategy shall include—

And we jump down to (4):

plans for integrating—

What does that mean?

integrating the capabilities—

My, “the capabilities.” What are they talking about, “capabilities”?

. . . include . . . integrating the capabilities and assets—

What does that mean, “assets”?

of the United States military into all aspects of the Strategy.

Now, what do we have here? What are we dragging into this legislation? Why, that should cause every Senator in this body to raise an eyebrow. What are we talking about here? What are we voting for? I will have more to say on this.

I believe that at last I am getting a little attention to what I say about this homeland security.

Let me read that again so it will be in the RECORD for the weekend, and Senators can think about it a little bit. And the media may have had their attention called to something here that is in this bill. Let me tell you something. I expect Senators would open their eyes even more as to what is in the administration's plan and what is in the House bill. But just in the Lieberman bill, which, as I say, is an improvement over these other approaches by the administration and the House, the House of Representatives—let me read that again:

“The contents of the Strategy”—this is in title III—“The contents of the Strategy shall” be developed by the Director of Homeland Security and by the Secretary of the Department of Homeland Security—yes, my attention has been called to an error I made. The correct title of the Director is the Director of the new Office for Combating Terrorism. I referred to the Director of Homeland Security. This is the exact title of the director. And this, the Lieberman bill, and these two titles here, have to do with this new office. These two titles in the Lieberman bill have to do with the establishment of this new Office for Combating Terrorism, established in title II. So I will just refer to this as the director.

The Director and the Secretary of the Department of Homeland Security will devise this strategy for securing the country. That is what we are all talking about. But this bill requires that among the responsibilities of the Director are these:

The Director shall have overall responsibility for development of the Strategy, and

particularly for those portions of the Strategy addressing intelligence, military assets, law enforcement, and diplomacy.

And among the “Contents”: “The contents of the Strategy shall include”—(1), (2), (3,) and now (4)—there are nine items to be included in “The contents of the Strategy.” The fourth one is this:

plans for integrating the capabilities and assets of the United States military into all aspects of the Strategy. . . .

Now, what are we going to have? A police state? Are we going to have the Army and the Navy, the Marines—are they going to get involved? I don't think anybody wants to do that. I don't think anybody is thinking of that.

But look at this language, what it says. We have to contemplate the unintended consequences of what we do here. Even at best, if we have both eyes and both ears, and the full attention and focus of our collective brains, and we pass an item, we give it careful attention, there may still be unintended, unforeseen consequences that will flow from that act that we passed.

How much more so might that happen if we pass an act in a hurry and don't apply the full focus of our faculties in addressing that legislative matter? The question answers itself.

Finally, let me just read, once more, item No. (4) in “The contents of the Strategy”:

(4) plans for integrating—

“Integrating,” what does that mean? integrating the capabilities and assets of the United States military. . . .

We all know what that means when we talk about the military and the capabilities of the U.S. military—

plans for integrating the capabilities and assets of the United States military into all—

Not just a few, all—

aspects of the Strategy.

Well, I just wanted to read into the RECORD that excerpt from the committee bill.

Now, perhaps by the fact that these two distinguished Senators asked me questions today about it—a relative of the Senator from Minnesota was a signer of the Constitution of the United States, signing from the State of New Jersey on that occasion. So this fine Senator is here on the floor today and has asked me questions. And the equally fine and good and able Senator from Vermont has asked some questions.

So at last—at last—hallelujah, we are getting some questions. Somebody is beginning to pay attention to what is in this measure.

Perhaps the greatest and the gravest defect of the National Security Act to reorganize the Armed Forces, continuing in this vein, was the failure of Congress to provide oversight of the CIA. When the Central Intelligence Agency was established, there was no congressional oversight. It was responsible only to the National Security Council and the President, and what a mistake that turned out to be.

As a result, the late Clark Clifford wrote: "The CIA became a government within a government."

Listen to that—became a government within a government. That is exactly what we have here. We have the makings of a government within a government. If the administration were to have its way, we would have a government within a government. We would have a government that is run out of the White House, and the Cabinet officers would be put to one side. The Secretaries of the various Departments, just put them aside. Put the Congress off limits, forget it. We will run things from this White House. That is what I am concerned about, as I see here.

As the late Clark Clifford wrote:

The CIA became a government within a government which could evade oversight of its activities by drawing the cloak of secrecy around it.

(Mr. WYDEN assumed the Chair.)

Mr. BYRD. There you have it in a nutshell. The CIA became a government within a government which could evade oversight of its activities by drawing the cloak of secrecy around it.

For years my immediate predecessor as majority leader was Senator Mike Mansfield. There has been presiding in the chair up until a moment ago the Senator from Montana, Max Baucus, but now we have another Senator in the chair. That majority leader from the State of Montana—at the time, Senator Mike Mansfield—argued for the CIA to be brought under congressional supervision. There was Mike Mansfield. There was my predecessor as majority leader of the Senate. He was majority leader many years. I was his successor.

The late Mike Mansfield said:

What I am concerned with is the CIA's position of responsibility to no one but the National Security Council.

He continued:

The CIA is free from practically every form of congressional check.

That was his caution. He said:

There is no regular methodical review of this agency.

Now hear the voice of the late Mike Mansfield coming down through the years. Listen to him. Listen to the late Mike Mansfield:

What I am concerned with is the CIA's position of responsibility to no one but the National Security Council. The CIA is free from practically every form of congressional check.

The late Senator Mike Mansfield cautioned:

The CIA is free from practically every form of congressional check. There is no regular methodical review of this agency.

Senator Mansfield pointed out:

Our form of government is based on a system of checks and balances.

Hear that. Hear the voice of Mike Mansfield, his words coming down through the years, reverberating in this Chamber. I hope they will be reverberating in the hearts and minds of the men and women who sit today in

this great body, the august 100, the special 100 who have been elected by 280 million people in phases; according to our illustrious Framers, three classes—so that there would be a staged rotation of this body, with the Senate in transition all the time, so there would never be a completely new Senate, so there would never be a new complete turnover of the Senators. Today they number 100.

The House, theoretically, can turn over in 2 years. We could have a completely new House, theoretically, in 2 years under the Constitution. But not here. One-third of the Senate only every 2 years, one-third of the Senate only; and then another third for 2 years; and then the third third for 2 years. That was the genius of the Framers.

Here we have a continuing body, and we have checks and balances written into this Constitution. And there was Senator Mansfield pointing it out:

Our form of government is based on a system of checks and balances.

They are written into this Constitution which I hold in my hand.

I saw some of the greatest of the figures in our Government last Sunday on television. There was the Secretary of State. There was the Vice President of the United States, who is the President of the Senate but who cannot address the Senate except by unanimous consent. There was Dr. Condoleezza Rice, a very able person who is not confirmed by the Senate. She was on television. And there was the Secretary of Defense, Donald Rumsfeld, on television. There were others. I listened to all of them.

I don't often listen to television, even on Sundays, when more of the people who are most often seen and heard and read about in the media are on the Sunday shows. But I listened to them all last week because I expected them to say something about this subject of the war, the subject of an attack, an attack on a sovereign state.

Mrs. CLINTON. Will the Senator from West Virginia yield for a question?

Mr. BYRD. Let me finish this thought, and I will be happy to yield.

I saw all those on television. They were talking about the President launching an attack on Iraq.

I have no brief for the Government of Iraq. I have never met Mr. Ritter. I know nothing about Mr. Ritter. I think Iraq under the current regime is a threat. But not one of those individuals who are high in the Government of this country—not one—mentioned the Constitution of the United States. Every one of them had to swear an oath to protect the Constitution, but not one mentioned this Constitution. And to hear them talk, we were ready to go to war. We were prepared to go to war. The President had the authority—I am putting that in my words—the President had the authority to go to war, to launch an unprovoked military attack on a sovereign state. He has just as-

sumed that he has that power under the Constitution. No, not under the Constitution. It is assumed that the President of the United States has that power. There are smart lawyers around and they can take either side of the case and come up with a good argument. They can win either side—most good lawyers, who can take either side. But not Senators who have sworn to support and defend this Constitution and who are here in this august, 100-Member body. And I have seen this whole body change, except for one person. I have seen the whole body—300 Members of the whole body—change three times in my 44 years in the Senate. But not one mentioned the Constitution.

I know what the Constitution says. The Constitution says that Congress shall have power to declare war. We can split hairs all we want, but there are the words. I know there are traditionalists who believe every word of that Constitution, and that was the position that was generally held in this country up until the Korean war. But there are revisionists today who want to change that. They want to give the President power; they think he should have it. So that is what we hear from those who want the Commander in Chief to have that power.

The Commander in Chief was a title to be given to the civil authority at war—not to the military—and to make sure of that we don't have a four-star general sitting as Commander in Chief; we don't have a three-star general, or a two-star general, or a one-star general. We don't have a military officer sitting in that Oval Office. No, we have a man of the people, who is a civil authority. He is the President of the United States. He is the Commander in Chief.

You fellows with the stars on your shoulders, don't get too heady here. This Constitution says, in essence, a civilian, a civil officer, a civil authority shall sit at the top.

Those revisionists ought to read the "Federalist Papers," also. What do we have here? Our constitutional government that the Framers gave us in 1787—once the States, in their conventions, had ratified that Constitution—nine of them—said, in essence, the power to declare war and the power to make war shall not be reposed in the same hands.

So that person, who is Commander in Chief, is the civil authority down there. He is Commander in Chief, but he cannot declare war, except in a circumstance where this Nation is being subjugated to a sudden attack. The President has inherent power under the Constitution. I don't think anybody disagrees with that. The President has inherent power to use the military forces at his command in order to repel a sudden attack—sudden, unforeseen, where maybe Congress is at home, Congress is out on recess, Congress has gone home for the Christmas holidays, or the Thanksgiving holidays, or the Jewish holidays, or Congress may have

recessed for a month in August and they are not here. But the President has inherent power in this Constitution to use the military to repel a sudden attack against this country or its military forces. Nobody argues with that.

What is being debated here is the President launching, through some figment of the imagination, or some resolution which has run its course, and under the term "Commander in Chief," an unprovoked attack against a sovereign state—to use a military offensive. We are not talking about a defensive situation. We are talking about an offensive situation in which the President of the United States would attack a sovereign state—in this case, Iraq.

I think Iraq poses a threat under the present regime. I don't argue with that. I don't have any argument with the fact that Saddam Hussein is an evil man. Of course, we are all evil; every man is. The Bible says no man is good. If we look at the programming that appears on our television stations, we will probably conclude that this country is not exactly a nation that is not evil. It is an evil nation in some respects. So let's be careful. I would be careful throwing that word around—"evil"—and saying that this is a war between good and evil. It may be a war against evil, but it is not necessarily between a good nation and an evil nation. But that is off on another track.

The power to declare war and the power to make war are under different hands. Those powers are reposed in different entities. Our Constitution reposes the power to declare war in Congress, the duly elected, directly elected Representatives of the American people. Of course, the Members of the Senate were not directly elected by the people back in those days, but there was a requirement that the power to declare war was in Congress. Congress is made up of two bodies. At one time it was elected by the respective State legislatures, but no more. That has been changed by constitutional amendment, as we all know.

Today, the points are still there. The basis is still there. Declaring war and making war are two different things, and the Framers saw to it that the Commander in Chief would be not a person who would declare war. That is the person who will make war. That was discussed in the Constitutional Convention and that is the way we have it today.

Now, I, therefore, say that this President is not authorized to declare war. Why? Because there has not been a sudden, unforeseen attack on the United States.

Iraq is not attacking the United States at the moment. If the President were to launch a sudden offensive on Iraq, where is his authority to do so? He is not doing it to repel a sudden attack against the United States. No, he is doing it because he knows, as I know, that Saddam Hussein is a threat to us all, to the safety of the people in this area, his own people, and the peo-

ple in the region, and a threat, if you carry it far enough, to us. It is not all that sudden, and who should declare war in that event? Congress, not the U.N.

I applaud the President for going to the U.N. and laying out his case as to why the U.N. had its chances, had failed, had not lived up to its responsibilities, and he made that case well. But the case has not been made. It will be talked about eventually; it is being talked about a great deal now. I read all about it in the newspapers, I see it on television and hear it on the radio. The case is now being made for an attack unilaterally by this country against a sovereign state when this country has not been attacked.

The purpose is not to repel a sudden invasion of the United States or a sudden attack. If the President were to do this, it would be unprovoked at this moment. Where is the President's authority? They say it is in the resolution adopted by Congress in 1991. It is not there. The authority is not there for the President today to launch an unprovoked attack against Iraq. They said it was in the resolution last year. I say the authorization is not there. It is not there. We can argue and talk all night about that, but it is not there. Show me; anyone, show me. It is not there.

They say he is the Commander in Chief. Well, so what; he is the Commander in Chief. Once war is declared or authorized by the Congress, then the Commander in Chief will make the war. We will have one head at the military and that was the right thing to do. Then an attack, if it is authorized by Congress, can go forward.

Let's don't meddle with this Constitution. There will always be defenders of this Constitution, and there are some who will remind the country of the Constitution when they are on television. So do not assume or take for granted that the President has that power. It is this Constitution, the Constitution of the United States, with 39 names attached to it.

Not one word do I hear by those who appear on television, not one word about the Constitution. I said that yesterday. I am going to say it again today. Not one word did I hear. Perhaps I missed something, but I do not think I did. Not one word. They all just assume that the President is going to do it, he has a right to do it, he has an authority to do it. If our administration has its way, we will take this fellow out, and we will take him out unilaterally; we are not going to wait on anything.

Wait a minute, there came a second thought. Some people began to ask questions. Other nations began to ask questions. Our friends began to ask questions. Our friends in the region began to ask questions, and so a decision came. And so, we will hold up a little bit here. We will go to the U.N. That is right. That is good. Go to the U.N.

The U.N. should face up to its responsibilities and should lay down the precepts as to why this regime must go. The U.N. should express a world view to get the other nations of the world to see it is in their interest that there be a regime change or that there be inspections—bona fide inspections, not like the inspections that were going on up until a few years back, in 1998, I believe.

The President has done that. I say let's don't close our eyes to the fact that this Constitution still lives.

Mr. President, I apologize to the Senator from New York. I did not really intend to talk that long. I intended to yield the floor for a question from her, and I intended to do it earlier. I am very happy, with my apologies, to yield to the distinguished Senator. She is a very distinguished Senator from the State of New York; she is a former First Lady of this Nation. I yield to her.

I am grateful that she has a question, that she has perhaps some questions. I am glad somebody is beginning to listen. So I yield to the Senator.

THE PRESIDING OFFICER. The Senator from New York.

Mr. BYRD. The Chair does not recognize the Senator from New York. The Senator from West Virginia has the floor. I yield to the Senator from New York, Mrs. CLINTON, for a question on the condition that I retain my recognition from the Chair as holding the floor.

THE PRESIDING OFFICER. The Chair acknowledges the Senator from New York to ask a question.

Mr. BYRD. This Senator has yielded. The Chair can't yield to the Senator from New York for a question. I may not have yielded. Now, Mr. President, I only yield to the Senator from New York, Mrs. CLINTON, for a question. Under the rules, I can do that, and I do that with the understanding that I do not yield the floor. So if I yield the floor, how can the Senator from New York be recognized? The Senator from New York is recognized by virtue, under the rules, of my yielding for a question.

Mrs. CLINTON. Mr. President, I thank the Senator from West Virginia. I thank him for the courtesy of yielding to me for a question, but I thank him even more for his stalwart defense of our Constitution and his constant reminder of our founding document and the principles that it contains.

I ask the Senator from West Virginia, is it not also the case that under the Constitution, this issue about congressional power was very well debated, thought through, written about by our Founders, and that among the powers that were granted to the Congress was the power of the purse, the power to make the decisions about how the people's money would be used? Is that a correct reading of the Constitution that we cherish so greatly?

Mr. BYRD. Mr. President, the distinguished Senator from New York, Mrs.

CLINTON, is preeminently correct. That authorization for power of the purse is found in section 9 of article I of the Constitution.

Tie that together with the first section of article 1 and we find where laws are made and the fact that appropriations may be withdrawn from the Treasury in consequence only of an appropriation by law. Congress has to pay and pass the laws. The Senator is preeminently correct.

Mrs. CLINTON. Is it not the case that in the Senator's capacity as the chairman of the Senate Appropriations Committee that the committee, under the Senator's leadership, has held a number of hearings about the various needs that our country faces with respect to both military and homeland security?

Mr. BYRD. Again, the Senator is correct.

Mrs. CLINTON. Is it further the case that in taking testimony and receiving evidence, the Senator has helped to create a better understanding of what the needs are that we should be meeting as we attempt to prepare our country for the unfortunate but realistic possibilities of terrorism?

Mr. BYRD. Mr. President, in response to the question, that has certainly been the intention of the Senator from West Virginia who currently is the chairman of the Appropriations Committee in the Senate. That is the intention, and I believe I am beginning to be successful in getting some ears attuned. The Senator is correct.

Mrs. CLINTON. Further to that point, I believe it is the fact, is it not, that in the course of examining the many needs which our country has, in order to deal with the vulnerabilities we currently experience, the Senator has come up with a number of items that the Appropriations Committee has determined would further our security, fulfilling the responsibility that the Congress is given under our Constitution?

Mr. BYRD. In response to the question from the distinguished Senator from New York, Mrs. CLINTON, that is absolutely correct. Senator STEVENS, as the ranking member of the Appropriations Committee, and I—and the full committee of 29 members made up of 15 Democrats and 14 Republicans—have responded in that spirit, and we have provided for the consideration of the Senate and ultimately the entire Congress our views as to the appropriations that are needed.

Mrs. CLINTON. Is it further correct that among those items the Senator has reviewed, studied, and analyzed for the validity of their claims and the importance of their priorities, was a recognition we had some additional work to do because of the terrible attacks of September 11? And as a Senator from New York, I want to pause for a moment and acknowledge with great gratitude the leadership of the Senator from West Virginia in this body and the response of this Nation. We had

some unfinished business that we learned about because of those horrific attacks on September 11, which the Senator from West Virginia is attempting to address.

Mr. BYRD. Mr. President, in response to the question from the very able Senator from New York, Mrs. CLINTON, I respond in the affirmative with a resounding "yes."

The Senator from New York has written me on two occasions about the needs of her constituents. And without losing my right to the floor, I ask unanimous consent that—I believe the Senator has sent me one or two letters. She has spoken to me a number of times off the floor and on the floor in this regard. My memory is not infallible, but she sent me one or two letters. I do not have them right now, but I ask unanimous consent to have printed in the RECORD, at the conclusion of our remarks that are taking place in this colloquy, those two letters.

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

(See exhibit No. 1)

Mrs. CLINTON. I thank the Senator from West Virginia because these are matters of grave importance to my constituents. Beyond that, they are of great importance to all Americans. I very much appreciate the Senator's attention because he has studied these issues, he understands how we have to demonstrate clearly our resolve and our preparedness.

I ask the Senator from West Virginia, as he has moved forward with his work on behalf of the Appropriations Committee, and very importantly the work of homeland security, if he has determined there is a need for additional money to be sent to our frontline responders, our frontline soldiers, our firefighters, our police officers, our emergency workers, so they may do the important job of protecting us as we expect them to do?

Mr. BYRD. Mr. President, I thank the distinguished Senator for stating so lucidly and so articulately a reference to the needs of the people of her State, in reference to the needs of the people who are on the ground, in reference to the needs of the first responders, in reference to the needs of the firefighters. She is preeminently correct in her summation of what has happened in that Mr. STEVENS and I—and again the full Appropriations Committee, Republican and Democratic—acted in a very bipartisan way, have time and again responded affirmatively and effectively to the needs of the people of New York and the people of the Nation.

New York was attacked, and within 3 days my committee, the committee of Mr. STEVENS, the Appropriations Committee, appropriated \$40 billion.

Time and again, we have responded, and time and again the distinguished Senator—both Senators from New York, the Senator who is now at her desk and the senior Senator from New York who talked with me before having

to catch an airplane today and had to leave. He could not be on the floor today because he had something else he was required to do and was expected to do. So he is not present now, but he talked with me today on the floor when the Senate returned to the homeland security bill. And while the Senate was on the Department of Interior appropriations bill, he talked with me again about the needs of his State, the State which he so ably represents. And just a few days ago, within this last week it was, the Senator from New York came to see me in my office. It was not the first time she had come to me to talk about the needs of that great city, the city of New York, and its great people. Many times, she and the senior Senator, Mr. SCHUMER, have come to my office.

Last week, she came to my office in the early evening hours of the day and expressed to me the need for three items especially. She wanted those items in the appropriations bill. We are debating an appropriations bill and it is taking a long time. It should not take this long. We ought to have had this bill passed and sent to the President.

In this Appropriations Committee which I chair and which Mr. TED STEVENS, I will say, cochairs realistically, that committee has reported all 13 appropriations bills several weeks ago which have to be passed this year. They have been reported from my committee. They have been sent to the Senate and they appear on the Senate calendar.

Those 13 appropriations bills are very slow in getting to the President. Not one has gone to the President. The House Appropriations Committee—and I do not speak with disrespect there; they have a wonderful chairman over there in Congressman YOUNG and a wonderful ranking member over there in DAVE OBEY. They speak their minds. They speak their hearts. But that chairman over there has some people, other high offices he has to deal with in that body. He cannot always do what he may wish to do. The House is a little different from the Senate. In the Senate, of course, we can talk and kind of speak our minds, and we can take independent actions here.

That Senator from New York who holds the floor over there at this moment, she is standing right by her desk. She came to my office last week and importuned me to find a way at some point that she would like to introduce an amendment or she wanted an amendment introduced or wanted to amend one of those bills, take care of those three items in particular that she addressed to me. And then, lo and behold, earlier this week I held up a letter brought to me, delivered to me, not by the U.S. Mail but by someone from the Senator's office. I believe she came by my office and did not find me in the office at that time, so she left a letter, which I have already gotten consent to have printed in the RECORD.

She wrote me a letter. She was not just saying, I want mine. She was saying, these are needed, also by the people in the other States of this Union.

So yesterday Senator STEVENS and I joined in an amendment to the Interior appropriations bill which comes out of the Appropriations subcommittee that I chair, the subcommittee on the Department of the Interior. In that amendment, Senator STEVENS and I have entered and offered, we have attempted to address the needs of the firemen, of the security of our nuclear plants, and other pressing homeland security needs among which are the three items in which the Senator expressed interest.

So, time and again we have done this. Time and again, the Republicans and Democrats on that subcommittee have joined to deal with the home security needs.

So the answer is, yes, those needs have been expressed by the Senator, those needs have been addressed by the Appropriations Committee, and even now, or when the Senate gets back on the Interior appropriations bill, there is the amendment by Senator STEVENS and myself which will address some remaining needs in the amount of over \$900 million in that amendment.

So it is national in scope, but within that national-in-scope measure is the State of New York.

Mrs. CLINTON. I thank the Senator for his understanding and compassion and his leadership.

As I yield back the floor because of a courtesy that was extended to me by the Senator to be part of this colloquy, I point out that dealing with homeland security is a very heavy responsibility.

Mr. BYRD. Mr. President, I yield for the purpose without losing my right to the floor.

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

Mrs. CLINTON. I thank the Senator because he has shouldered this heavy responsibility.

We have a process that we have had for many decades about the money we appropriate for our military, and the needs are discussed within the civilian and military leadership of the Department of Defense. It comes to the Congress, and there is a process.

But we are faced with new challenges. It is my observation and opinion that the Senator from West Virginia and his very worthy colleague, the Senator from Alaska, have taken it upon their shoulders to create a process where none was before so we could begin to address these very serious issues—not wait for a Department to get set up, not wait for it to get organized or get its first budget.

But right now, in the face of the ongoing threats, of having an orange-level threat just a few days ago, it brings home how important the work is the Senator is doing. I express my gratitude to him. I thank him for the courtesy of yielding to me for these questions.

EXHIBIT 1

U.S. SENATE,

Washington, DC, September 3, 2002.

Hon. ROBERT C. BYRD,
Chairman, Senate Committee on Appropriations,
Washington, DC.

DEAR MR. CHAIRMAN: I want to thank and commend you again for all your hard and important work to help New York recover from the terrorist attacks and on the issue of homeland security more generally. We are all greatly indebted to you.

As the FY 2003 Interior Appropriations bill comes to the floor tomorrow, I understand there may be some effort to offer an amendment to provide the emergency funding requested by the Administration to battle the wildfires in the western part of the country. As a part of this effort, I thought I would raise a couple relevant items of particular importance to me that were left short-changed by President Bush's decision to not make the emergency designation on the \$5.1 billion you included in the FY 2002 Supplemental Appropriations bill. The following emergency items are especially relevant to address the urgent needs of firefighters and emergency responders in New York and across the country:

\$90 million to HHS/CDC for clinical examinations and the monitoring of long-term health consequences for police, fire and other first responders at Ground Zero. Each day there are new reports of emergency rescue personnel who worked at the World Trade Center site suffering from respiratory and other ailments. The \$12 million appropriated last year provided sufficient funding to begin baseline screenings for approximately one-third of the workers at the site. This additional funding is necessary to continue the screenings for the remaining first responders, as well to monitor their health for the coming years.

\$150 million in firefighting grants as authorized under the FIRE Act. As you know, fire departments from New York and across the country have filed applications that exceed \$3 billion in need for \$360 million in available resources. These resources will help our fire departments meet the demands and safety needs of our communities.

\$100 million in grants to make fire and police equipment interoperable—these resources are split evenly between FEMA and DOJ's Office of Domestic Preparedness. One of the primary causes of the death of most firefighters on September 11th was their inability to communicate with each other and with the Police Department. These resources are critically needed to protect the health and lives of our bravest domestic soldiers.

As you can see, these are all emergency items and ones that you had the foresight to include in the Supplemental Appropriations bill Congress passed earlier this year. I very much appreciate all your hard work and support in making sure these important items get the funding they so critically need.

Sincerely yours,

HILLARY RODHAM CLINTON.

U.S. SENATE,

Washington, DC, September 10, 2002.

Hon. ROBERT C. BYRD,
Chairman, Committee on Appropriations,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I am writing to follow up on my letter of September 3 with some recent findings on the health of emergency response workers at the World Trade Center site.

New information on the health impacts of working at Ground Zero was released yesterday in the New England Journal of Medicine and the Centers for Disease Control and Prevention's Morbidity and Mortality Weekly

Report (attached). This new data confirms, what many of us have known for some time, that there will be continuing health consequences for the workers and volunteers who responded at the World Trade Center site. Specifically, Dr. David Prezant and colleagues presented new data showing that both a "World Trade Center cough" and permanent, asthma-like symptoms are directly correlated with intensity of exposure to the collapse of the towers. In fact, in just six months since the attacks, eight percent of those highly exposed displayed the cough, and twenty-three percent of those highly exposed showed asthma-like symptoms. Of those identified with the cough, 87 percent also had gastrointestinal reflux disease.

In addition, during the 11 months after the attacks, the number of respiratory medical leave incidents increased five-fold and the number of stress-related incidents increased seventeen-fold among FDNY workers. As of the end of August, more than 360 firefighters and EMS workers remained on medical leave or light duty assignment because of respiratory illness that occurred after WTC exposure, and 250 FDNY rescue workers remained on leave with service-connected, stress-related problems. It is estimated that 500 FDNY workers will have to retire on the basis of their injuries in the aftermath of the WTC attacks.

With this new evidence, which was also reported this morning on the front page of The New York Times, I feel more strongly that we must immediately provide the emergency funding you included in the FY 2002 Supplemental Appropriations bill earlier this year. As we have discussed, the three key pieces are:

\$90 million to HHS/CDC for clinical examinations and the monitoring of long-term health consequences for police, fire and other first responders at Ground Zero.

\$150 million in firefighting grants as authorized under the FIRE Act.

\$100 million in grants to make fire and police equipment interoperable. These resources are split evenly between FEMA and DOJ's Office of Domestic Preparedness.

I look forward to working with you on this as we proceed on the FY 2003 Interior Appropriations bill.

Sincerely yours,

HILLARY RODHAM CLINTON.

Mr. BYRD. Mr. President, I thank the distinguished Senator from New York for her questions and her comments.

Mr. President, I have been informed that the distinguished occupant of the chair, Mr. WYDEN, has to leave soon, has to depart the chair; is that correct?

The PRESIDING OFFICER. The Senator from West Virginia is correct, but given the importance of the matters of the Senator from West Virginia, I want to make sure the Senator from West Virginia gets all the time he needs to complete his remarks, and I will stay for this.

Mr. BYRD. Mr. President, I thank the Senator. I have been a Member of this body 44 years. I don't think I have ever seen a time when I was pressed to complete my statement on the premise that there were no other Senators available to preside over this body and that the occupant of the chair would have to leave soon, thus forcing me to complete my statement before I intended to complete it.

This comes down to a pretty serious juncture. I will not go any further than

to say that in this body no Senator should be required to end his statement on the basis that after a certain hour there will be no further Senators available to preside. Now, Mr. President, that is pretty serious.

I have been a Senator a long time, 44 years come next January 3. I have been a Member of the Congress for 50 years come next January 3. Never have I had it put to me that at a certain hour we will have no more Senators available to preside. Now, something is wrong with the Senate if it has come to that. Suppose I want to speak until 6 o'clock this evening. Suppose I want to deliver a speech that I consider very, very important.

I am not here addressing a Mother's Day speech, making one of my holiday speeches. I am not here talking about Mother's Day or Christmas Day or Thanksgiving or Independence Day. I am addressing what I consider to be one of the most important questions to come before this Senate in my 44 years in this Senate. I am very well aware of the fact there needs to be a Senator in the chair as I speak. As President pro tempore of this body, I should know that. The office of President pro tempore is a constitutional office, unlike the office of, say, the majority leader, minority leader, majority whip, or minority whip. These are offices and officers who are voted on by this body and elected by this body. But I am President pro tempore of the U.S. Senate. I am the 86th President pro tempore of the U.S. Senate. The President pro tempore is the President of the Senate for a time being, temporarily, while the Vice President, who is the President of the Senate, is away, is not presiding, or is assuming the responsibilities of the Presidency in the event, very unfortunate event that that should happen. The President pro tempore, he is the first constitutional officer elected by the Senate in March 1789. He is a constitutional officer. You don't find words in the Constitution about the majority leader or minority leader or majority whip or minority whip. I have been in at least three of those positions, majority leader, majority whip—at least two of them. And minority leader, so I have been three of them. But the President pro tempore is a constitutional officer.

I happen to be a Senator from West Virginia. And I happen to have on my heart, which is heavily burdened, a speech. And I want to unburden my heart.

I don't intend to take undue advantage of the person who is presiding now. Perhaps he is caught in the unfortunate circumstance that there is no other Senator available to take the chair, in which case nobody will hear me; I cannot speak.

This Senator wants to raise a concern, wants to express a concern about the situation, if we have come to that in the U.S. Senate. Senators ought to ponder that. And there ought to be some Senators at least who would be

willing—and I am sure there are Senators in town—not every one of the Senators who happen to not be on the floor today, not every one of them is absent from the city. They know what their duties are as Senators. I know what my duty is. It is my duty to get out of my bed and come here and preside, if no other Senators can be found and if it is important that the Senate stand in—I get out of my bed if that happens. I know what my responsibilities are, and it kind of offends me that we seem to have come to a situation this afternoon when no other Senators “are available to take the chair,” and the Senator in the chair has to leave shortly.

I am very thankful to the Senator in the chair. I asked him a question and he, I am sure, needs to go soon. But he has expressed the viewpoint and the willingness to stay here as long as I want to speak.

I am not going to take advantage of him and pretty soon I will yield the floor. But I would put it in these words: It is a dreadful thought to me, when I am told that there are no other Senators available. I don't say this critically of the individual who carried this message to me. It is not the making of that individual, that person who is carrying out the duties of that person in doing that. I am sure there must be difficulty in finding Senators.

But what is wrong? What has become of the Senate and its place in the Constitution? What has become of the Senate? It has been here, now, for 215 years. What has become of the Senate? What has become of the Senate, the greatest deliberative body, we hear so often, a body in which a Senator can stand on his or her feet and speak as long as those feet can carry that Senator?

The floor cannot be taken from a Senator unless he has offended the Senate and a point of order is made that the Senator take his seat and he is required to take his seat. If he speaks in terms that are offensive to another Senator, that person's character, he might be asked to take his seat. Or if he speaks offensively concerning a State of this Union, he might be required to take his seat.

But now I am going to be required to take my seat because there is no other Senator available, I understand, to take the duties of the chair.

Mr. President, we ought not in this Senate to have that situation arise again, and I am sorry it arose because it kind of takes away from the theme that I was trying to say here. But it is worth bringing out. Certainly, I think it is worth surfacing because, if that is going to be the situation, then we are in bad shape.

The distinguished Democratic whip earlier today told me that he had an engagement. He had an appointment, I believe, back in his home State. He had to leave at around 3 today and I understood that. That is fine. He told me in plenty of time. He told me this prob-

ably before noon today that if I was going to make a lengthy speech, he would have to leave. So I understand that. But there should be some other Senator willing to take the chair, and I have a feeling there are other Senators in town who would come and preside if need be.

All that aside, now, let me close my remarks. In closing I want to thank the officers of the Senate, the staff members of the Senate who have to remain here. They are here in front of us—the Parliamentarian, the journal clerk, the reading clerk and counting clerk and the pages and the people at the desk. They are here. I want to thank them and apologize for my taking the time this afternoon, but we all know what the responsibilities are of officers of the Senate. We know what the responsibilities of clerks and employees of the Senate are when we sign on, and we know what the responsibilities of Senators are when we sign on.

Having said that, I offer my apologies to everyone if I imposed on their time. I offer my apologies, most appropriately and more precisely, to the Senator from Oregon, Mr. WYDEN, who is presiding at this moment and who has very graciously indicated his willingness to sit in that chair until I close.

The whip asked me to close the Senate. So if the whip or the majority leader had any special requests or any Senator had any special request to make before I close the Senate, I will be very happy if someone would present me with those requests.

In the meantime, let me close my printed remarks. It is only a page and a half, and they will go very fast.

Our form of government—

Senator Mansfield pointed out—

is based on a system of checks and balances. If this system becomes seriously out of balance at any point, the whole system is jeopardized.

Senator Mansfield noted:

There is a profound difference between an essential degree of secrecy to achieve a specific purpose and secrecy for the mere sake of secrecy. Once secrecy becomes sacrosanct, it invites abuse.

Senator Mansfield recognized, as I do, that the CIA is by nature and necessity a secretive organization, but it is not an organization that should operate outside our constitutional system, not outside our system of government.

With the Senate select committee to study government operations with respect to intelligence agencies—in other words, the Church Committee, named after the chairman of that committee, the late chairman, Frank Church, the Church Committee—we embarrassingly and tragically learned just how “seriously out of balance” that agency was.

The Senate committee discovered that the CIA had been involved in illegal, improper, and unethical activities, including the overthrow of democratically elected governments, attempted assassinations of foreign leaders, and in violation of foreign countries.

In testimony before the Church Committee, the late Clark Clifford acknowledged:

The lack of proper controls has resulted in a free-wheeling course of conduct on the part of operations within the intelligence community that has led to spectacular failures and much unfortunate publicity.

That was one of the architects of the National Security Act of 1947 speaking.

Three decades after its enactment, Mr. Clifford was complaining about continuing imperfections and the damage that had been done to our country.

I am very concerned that 30 years from now Congress will be struggling to rectify the problems we will be creating with the hastily considered enactment of this legislation as it is written, creating the Department of Homeland Security, according to the legislation that is written and before the Senate.

How much harm could be done in the meantime cannot be imagined. I am referring to damage to the rights and the liberties that we hold most dear: civil rights, labor rights, labor protections, civil liberties of all Americans.

I will go into those further. I intended to get into some of them this afternoon. I will not do so. I am talking about damage to our constitutional process.

I see one other Senator, the distinguished Senator on the Republican side of the aisle. I assume he would like to take the floor, if I give it up. I didn't intend to give it up until we adjourned. But if the distinguished Senator wishes me to yield to him 5 minutes before I adjourn the Senate, I will adjourn in the absence of the majority whip and the majority leader. But I will do so by their request.

Does the Senator wish me to yield for a question?

Mr. SESSIONS. Mr. President, I thank the Senator from West Virginia.

Mr. BYRD. Does he wish me to yield for a statement?

Mr. SESSIONS. I would like to make a statement. I had hoped to speak for 10 or 15 minutes. I understand we have a problem. I have been here since before noon. I know the Senator had his time reserved, as he has every right to do. I was hoping I would have a few moments to talk about the important developments with regard to the President's position on the United Nations and Iraq. I believe it is important to make some remarks today.

The PRESIDING OFFICER (Mr. DAYTON). The Chair is here for the duration, as long as it may take to complete his remarks.

Mr. BYRD. Mr. President, this is the Senator to whom the Senator from Alabama is addressing his remarks. This Senator will answer the Senator.

Mr. President, since there is another Presiding Officer at the moment, the distinguished Senator from Minnesota, who has been in his individual chair in the Chamber—he sits over here to my left—all afternoon during all of the time that this Senator has been talk-

ing about the homeland security matter. He is still here. I thank him. He has taken the chair to relieve Senator WYDEN. I am glad of that. I am still not going to impose on the Senate. But I am going to hold the floor until the Senator from Alabama gets through with his statement.

I ask unanimous consent, Mr. President, that I may yield to the distinguished Senator from Alabama, Mr. SESSIONS, for not to exceed 15 minutes.

I ask unanimous consent that the Senator may proceed on the statement only, that I may retain my rights to the floor, and that he may proceed for not to exceed 15 minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Alabama.

Mr. SESSIONS. Mr. President, I thank the Senator from West Virginia. I appreciate his leadership in the Senate, his concern for our constitutional order, and his serious historical understanding of the separation of powers. We might not always agree on where those separations are, but I certainly respect his dedication to preserving those separations.

PRESIDENT BUSH'S ADDRESS TO THE UNITED NATIONS

Mr. SESSIONS. Mr. President, I believe it is important today to talk about the remarks President Bush made at the United Nations. I believe he has made a courageous call on the United Nations to defend its credibility in its dealings with Iraq by ensuring that Iraq does not continue to update its weapons of mass destruction and does not continue to violate with impunity the 16 U.N. resolutions of which he is in violation. I think those remarks were a true example of world leadership.

President Bush spoke as one who knows right from wrong, who has honest convictions, and he has the courage to express and to act on them. In direct words, he detailed the incontrovertible case that Saddam Hussein deliberately used his promises at the time of his defeat in the Gulf War as a considered strategy to cause the allies to stop their hostilities before removing him from power, which has proven to be a trick. Since then, his actions have clearly confirmed his deception and have shown his insincerity, his duplicity, and his complete rejection of the U.N. resolutions—his rejections, indeed, of the United Nations itself and of the United States and the nations that joined together to defeat him in 1991. He rejects them. He does not respect them and his promises made to them.

Those agreements, he has said he will follow, but he has never intended to follow them because he doesn't give them respect or credibility.

The "Economist" magazine of London said it is well and good to talk about multilateralism, but it asked,

"what happens when people agree to things and do not do them?" That brings up a problem, particularly when their failure to do so deals with matters that threaten the peace of the world.

I don't think anyone can deny that Saddam Hussein's consistent policy has been to defeat, obstruct, and get around the agreements he has made.

Some tell us that the world—the international community—is all against us. They say we are acting unilaterally. Some leaders around the world have indeed said that. But the truth is that President Bush is consulting regularly with world leaders. His speech to the U.N. struck the right balance. And progress is being made in obtaining support around the world—with not enough help, I am afraid, from this Congress.

But who would ever deny that Saddam Hussein is a unilateralist? With whom did he consult before he invaded Kuwait in 1991? With whom did he consult before he utilized poison gas to kill thousands of his own citizens, the Kurds, in the 1990s?

Who did he consult with, what other nation did he consult with, when he plotted to assassinate the former President of the United States of America? Who has he consulted with, as he deals to construct, develop, and produce weapons of mass destruction?

So I would like, Mr. President, to just make a few comments here to bring us some perspective that I think is very important at this time on the kind of support we have around the world.

First of all, I think one of the clearest-headed nations—a nation that consistently gets it right around the world on matters of foreign policy—the United Kingdom, is in total support of the United States. Indeed, it was reported in the paper today that they were moving troops into the Middle East, and prepared to use them, if necessary, with us.

So the Foreign Minister of the U.K., commenting on President Bush's speech to the U.N. said it was "tough and effective", and the speech received quite good remarks from the British leadership.

The Belgian Foreign Minister, heretofore a critic of the United States action, Louis Michel, said, after the speech: "Now we have to press Iraq." He added, if the U.N. "doesn't deliver, it will be uncomfortable for some European countries not to support the United States." That was in today's Washington Times.

Kofi Annan, the Secretary General of the U.N., who has criticized the United States recently, also "urged Council members yesterday to take action or lose legitimacy."

Even France, which has been pretty outspoken against the United States actions, accusing the United States of unilateral activities, has said: "We

don't have sympathy for the Iraq regime." And their Foreign Minister further added that "he defies the authority of the Security Council, raises the threat of proliferation of weapons of mass destruction and, therefore, jeopardize the stability of the region."

The Danish Prime Minister's views were remarkable. A few days ago, on September 11, in an op-ed piece here in the Washington Times, Anders Fogh Rasmussen, the Danish Prime Minister, said, in a strong statement of affection and support for the United States wrote:

Our common values, shared destiny and visions have been further fortified by the horrors of September 11.

On the first anniversary of that somber date, Danes will think back with sympathy and sorrow on the victims of the terrorist attacks against the United States and their bereaved families. One year later, our solidarity with America is undiminished.

September 11 was a defining moment calling for determined action in defense of humanity and fundamental freedoms. Acting can entail dangers but the dangers of inaction are far, far greater. In the face of today's new threat, the only way to pursue peace is to pursue those who threaten it.

He goes on to add:

America and Denmark see eye-to-eye on the real challenges facing us today. In the fight against terrorism, Denmark was, is and will be fully behind the United States. Our best soldiers have been in Afghanistan on the ground and in the mountains, fighting alongside U.S. special operations forces. The danger is far from over and the international community must not waver now.

So said the Prime Minister of Denmark.

Representatives of the Romanian Government have been in town recently, and they have expressed strong support for the United States position in Iraq.

Norway, the Norwegian Foreign Minister, after the speech by President Bush, made these comments: "We are challenged to live up to our responsibilities." And then he said something that I think is true for most of the world leaders: "I guess we'll have to choose among a lot of bad options, really."

Nobody wants to choose. Nobody wants to have a war. We wish it were not so. But we have bad options here. And the President is confronting us with the truth, the history of violations by Saddam Hussein. He is forcing world leaders. He is forcing the U.S. Congress. And, frankly, as I have gone back and studied the history of Saddam Hussein, and the violations are more explicit, more repeated, more deliberate than I had remembered actually.

So I think that is where we are today. And one reason it is appropriate for the United States to be most aggressive in leading this effort is that we are the ones—the United States military—that is overwhelmingly enforcing, as best we can, the resolutions of the United Nations in Iraq today.

Many people do not realize that our planes are enforcing a no-fly zone over

Iraq today. They fly every day. They are attacked on a regular basis. And we respond and retaliate on a regular basis, attacking Iraq. And they have surface-to-air missiles that they utilize against our aircraft. So far they have not been able to knock down one of our aircraft.

I say to the Presiding Officer, I know that is a matter of concern to you as a member of the Armed Services Committee. But it is a real matter of significance that we are carrying this burden. How long do they want us to carry it?

The Economist magazine, in an article on this entire matter, voting in their editorial for war, said that the "box is leaking," our ability to contain him cannot continue. And who did they suggest are suffering most? The people of Iraq, the children of Iraq, because of this diabolical leader that they have.

So, yes, we have to take action. We cannot continue to delay. We have troops there in the region that are specifically there to make sure he does not expand again as he did when he attacked Iran. And that war cost 1 million lives in Saddam's failed attempt to defeat Iran and take that territory from Iran; in addition to the gulf war.

He moved, after the gulf war, 80,000 troops down on the Kuwait border, causing us to have to respond out of fear he might once again attack Kuwait.

We have Patriot batteries in Saudi Arabia designed to shoot down Saddam's Scud missiles. I visited a Patriot battery with my legislative assistant, LTC Archie Galloway. And we visited the Alabama National Guard unit that mans a Patriot battery on duty to shoot down Iraqi Scud missiles, if need be at our expense, this very day.

So that is not a problem that has been on the front burner of most of the nations of the world. They are not deeply involved in these matters. They are not paying that cost every day, as we are. They are not confronting the reality of Saddam Hussein's duplicity.

But the President is leading us to understand. So I think it is now important for this Congress to speak. Are we with the President or are we against him? We don't need to be rushed, but we need to get busy in discussing this issue. It is not a new issue.

Most of the evidence is there for the world to see, and has been there for many, many years. So we need to make clear whether we will support the President or not. And if we do not, what are we saying? Are we undermining Secretary of State Colin Powell's ability to negotiate with foreign nations? Are we encouraging the Socialist left in Europe to believe that if they object and fight and complain that they can ultimately prevail, and the United States will fail to act? Are we encouraging radical groups in moderate Arab nations to put more and more pressure on the Arab leaders of those countries who might at least privately be sympathetic to our efforts,

by failing to support clearly the President of the United States?

I believe we will act to support the President. I believe this Congress will move. We need to do it before we recess. If we do not, it will be unhealthy for our country. Am I confident we will vote in support of the President and his proposals and give him authority to take the action necessary to preserve and protect our security interests? Yes, I am. Let me tell you why.

There are several important factors. In 1998, this Senate detailed, as I indicated on the floor of the Senate earlier in the week, a list of direct violations of United Nations resolutions by Saddam Hussein. On August 14, 1998, the President of the United States, President Clinton, signed Public Law 105-235 which declared that:

The Government of Iraq is in material and unacceptable breach of its international obligations.

It urged the President to "take appropriate action in accordance with the Constitution and relevant laws of the United States to bring Iraq into compliance with its international obligations."

The PRESIDING OFFICER. The Senator's 15 minutes have expired.

Mr. SESSIONS. I ask unanimous consent for 1 more minute.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I still have the floor, do I not?

The PRESIDING OFFICER. The Senator has the floor.

Mr. BYRD. Mr. President, inasmuch as I still have the floor and the distinguished Democratic whip has asked me to adjourn the Senate in his absence, I will yield to the Senator 1 additional minute. I have a few brief comments with regard to what the Senator has said. I will be glad to yield, if there is no other objection, to the Senator for an additional minute without losing my right to the floor.

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

The Senator from Alabama.

Mr. SESSIONS. I thank the Senator from West Virginia for his courtesy.

It is time for this Congress to relook at our record of involvement with Iraq and study it, to take new testimony, have new hearings, and to stand up, and put up or shut up. We need to be with the President or not with the President. I am convinced this Congress will be with the President. We do not need to undermine his ability to be effective in policies that we support by delaying our support for them.

I urge this Senate to move expeditiously, to not wait on the U.N., which is not elected by the people of the United States to decide this issue but to decide ourselves that we support the President's policies; make that clear, give him the authority he needs to be effective in protecting the United States and this world from a savage and dangerous criminal, Saddam Hussein.

I thank the Senator from West Virginia and yield the floor.

HOMELAND SECURITY ACT OF 2002—Continued

Mr. BYRD. I thank the distinguished Senator from Alabama. I have long had as my friends Senators from Alabama. When I came to the Senate, there were Senators Sparkman and Lister Hill. There have been a succession of Senators from Alabama. Especially, I want to mention the late Senator James Allen from Alabama. I have had very good relations with the Senators from Alabama.

I consider myself as being on the same footing, same level of good relations with the distinguished Senator from Alabama who has just addressed the Senate.

I do want to comment briefly on two or three things that he said.

He first indicated, when I yielded to him, that he and I had often agreed on matters and that there were times when we might disagree as to our interpretations of the Constitution. That can be very true.

Today, I have been talking about a phrase which, when joined with the preceding language, amounts to a sentence, a clause: The Congress shall have power to declare war.

There is no reason for anybody to misinterpret that. I hope the Senator from Alabama wouldn't misinterpret what is in plain view, written in plain English, and has been in that Constitution now for over 200 years. I hope there is no matter of misinterpreting that plainly spoken clause in the United States Constitution: The Congress shall have power to declare war.

I hope we don't have to argue about how to interpret those plainly written, well-understood words from the English language that Congress shall have the power to declare war. That is what I have been talking about.

The distinguished Senator went on to say, we need to be with the President of the United States; we need to support the President of the United States.

I like to be with the President of the United States on most matters. And in the final analysis, I may be with the President on this one. But it is not a matter of being with the President or supporting the President. I maintain that we need to be with the Constitution of the United States. We need to support the Constitution of the United States. It is not damn the torpedoes, full speed ahead; it is not damn the Constitution, full speed ahead.

I want to be with the Constitution. Count me on the side of the Constitution. I want to support the Constitution first, last, and all the time, I say to the Senator. And maybe I will be with the President in due time. But I am not one who says this is a matter that has to be hurried before the election. What is this? Is this the October surprise in August or in September? This is a matter of great moment. And hinging on the decisions of this Senate may be the lives of many citizens.

In the second book of Samuel, I remember the story there which is told of a rich man and a poor man who lived in the same city. The rich man had huge herds of sheep, cattle, and lambs. The poor man had one little lamb. The poor man had one little ewe lamb. Everywhere that poor man went, that little lamb went. That little lamb was the sole possession the poor man had. When he ate, he fed that little lamb from his bowl, from his pot, or whatever it might have been. The poor man cared for that little lamb and it loved him. He shared his food and he shared his shelter with that little lamb.

Presently, a traveler visited the rich man, and the rich man wanted to present a feast to the traveler. He wanted to show courtesy and all of the niceties of being a man of hospitable nature. He wanted to spread food before the stranger. Did he take from his lambs, his herds? He had huge herds. He had vast possessions. He had barns in which he stored the product of the fields. He had vast lands. He had servants. He was well off. He had many, many lambs.

Did he take one of the lambs from his own herd? No. He took the one little lamb that the poor man had and served it up, may I say to the distinguished Senator from Alabama. He served that little lamb, the only lamb that the poor man had. He didn't ask for it. He just took it. He took that little lamb from the poor man and served it up to his guest.

Now, why do I say this? Why do I refer to second Samuel today? There are many mothers in this land who won't get to vote on this matter. There are many mothers in this land who have but one little lamb. I know we have a volunteer military now, and those who volunteer understand what their responsibilities are. They know they may have to sacrifice their lives, and they volunteered to do it. Nevertheless, there are those in the service who are the little lambs of mothers who are at home at night thinking about their little lambs and praying for their little lambs.

Now, here we are about to be faced with a proposition in which these representatives—these mothers of the sons and daughters who are in the services—will not be asked for their vote. There are those who apparently are under the impression that the Congress doesn't need to be asked for its vote—the Congress, the elected Representatives under this Constitution.

Yet some have suggested that the President has the authority. He can go. Some say he is right and he should attack unilaterally. That is what we have been talking about in the last few weeks. People were under the impression that this might be a unilateral attack by the United States against a sovereign state that was not attacking the United States. Of course, we all agree about this imp who is head of that government. But that is a sovereign state. That state is not attacking us.

I am not arguing that Iraq it is not a threat, but is it such a threat, is it so

impending, is it so immediate that the Commander in Chief, who is the civil authority over the military in our system of government, can send men and women in the military to war, send them to give their lives, to shed their blood, without asking the Congress? Is he the alpha and the omega, the beginning and the end, of this decision?

The President is the Commander in Chief. He is not a four-star general. Under our system, it is meant to be that way. He is not a four-star general. This is a republic, a constitutional republic, and we have a legislative branch and a judicial branch. These are separate branches. Are we, the Congress, going to stand by and say I am with my President, right or wrong?

No, I don't subscribe to that. Every Senator in this body knows I have spoken out in opposition to Democratic Presidents—President Clinton being one. I am not speaking from the standpoint of a Democrat. I am speaking from the standpoint of a duly elected Representative of the American people who have sent me here to this body under a constitutional system that observes a separation of power. No, don't tell me you are either with the President or against the President. That is what I have just heard.

I am with the Constitution. Mark me down for the Constitution.

Now, I will have both ears open and hear the arguments that are made. I have already applauded the President for going to the United Nations. I think the U.N. has been derelict in its duty. It has stood by supinely while 16 of its resolutions have been ignored. I don't disagree with that; the President did the right thing in doing that. There should not have been all this talk in the newspaper, on the television, and on the radio, and through the media—the many men and women of the Government taking the attitude, apparently, that the President has the authority to go to war if he wants to; he has the authority. That is not so.

We are not talking about a mere skirmish. We are not talking about a situation in which another country has attacked our country or launched an attack on our military forces. This is not a skirmish that we have looming out here. This is war. The weapons that may be unleashed in this war will not have been unleashed, perhaps, in previous wars. But we still have a Constitution. I don't care how many, or how loud they may talk or speak. I am going to be at least a single voice saying that we live, we work, we act by the Constitution of the United States when it comes to declaring war and making war. You can have a thousand voices, but they will not drown out mine.

I am going to be heard, if God gives me the privilege of standing on this floor and speaking. I don't know how long God may give me that privilege. But as long as I can speak, I will. I am not the greatest defender of the Constitution that ever lived. I know a lot

about American history, and I know a lot about the Daniel Websters who spoke in support of the Union that was created by this Constitution, which I hold in my hand.

This is no Johnny-come-lately to this Senate. I have seen 300 Senators come and go except for one Senator. There have been others in this body who have defended this Constitution as valiantly as any could defend it.

Don't say to me you are either with the President or you are not with the President. That is not the case. I am with the Constitution of the United States, and I am with the Commander in Chief of the United States when Congress declares war.

I know there have only been five declarations of war. I know there have been seven other wars that have been carried on, not by declaration but by congressional statute. Congress authorized them. There have been many smaller wars, conflicts, military skirmishes, and so on. But this is a major question facing this country. It will not be a military skirmish if it happens, and many a mother will cry on her pillow because her lamb, perhaps her only lamb, will have his life taken.

Mr. President, I say let's hear what the ordinary people—I want to use the word “ordinary” because that fits me exactly. I came from the other side of the tracks. I did not grow up in the boardrooms of this country. I was never on any corporate board. The only business I ever had was a small grocery store. My wife did most of the work in that little grocery store. She put me through college. So I am from the other side of the tracks.

I have known times when I did not know what my next job would be. I had a family early. My wife and I have been married 65 years, 3 months and 15 days today. We were poor. When I was married I was making \$70 a month, working 6 days a week, long hours a day, and for a while in that period walking 4 miles to work and 4 miles from work if I could not catch a ride on a milk truck or bread truck.

I am from the other side of the street. I am not a pampered brat who never knew the need for a nickel, never knew the need for anything, had everything given to me. I do not find any fault with people who are born lucky. What I am saying is there are many more people like this man from the other side of the tracks in this country, and there are many more mothers from that side of the tracks than there are those who never knew what it was to have to wipe the sweat from their brow for their daily bread; never had to get their fingernails dirty; never had to wear tennis shoes in the snow. Those are the people who fight in wars. They are the people whose sons and daughters die in wars, but they are not the people who are at the high echelons of Government who do the voting.

In this instance, yes, we are going to have a vote. You can bet on that. We will have one. I said all along we ought

to vote. That is what I am saying today. Congress should vote. But I am not for an “October surprise” in August, and I am not for voting on this matter before the election.

Look behind that drapery. Draw aside that veil. What do you see? It has to be voted on before the election? Forget it. If circumstances develop that truly can convince, can be persuasive beyond a semblance of doubt that Congress ought to act tomorrow or the day after tomorrow or next week, yes, but that convincing case has not been made.

A convincing case was made to the United Nations yesterday with respect to the failures of the United Nations, the fact that that body has been recalcitrant in carrying out their responsibilities, a very convincing case made by the President of the United States. But no convincing case has been made in the press or in this body that we must act to give the President authority to invade a sovereign nation now or before the election. That case has not been made.

Make the case and make it here. And believe me, there will be plenty said on both sides. If our Nation is at war with another country, I will do everything I can to support that war.

I helped to build the liberty ships and the victory ships in the shipyards of Baltimore and the shipyards of Tampa, FL during World War II. I was a first-class welder who helped to build ships to carry the food and commerce for the engine of war in World War II. I helped to build the ships to convey to the military in Europe, in northern Africa, in the Pacific. These ships carried the munitions of war. We helped to keep the food lines and the blood lines open with those ships. So there are many ways to serve. But believe you me, this Senator is not now or ever going to be stampeded into voting for or against this subject just to be with or without the President. I am with the Constitution. If that is the argument we are going to hear, it is not going to be a very persuasive argument. You are either going to be with this President or not with him.

Who made this President? He is a very respectable individual who comes from a fine family. I served here with his father who became President. Who made him? How did he become President? Somebody had to cast votes to elect him President. How long will he be President?

The Constitution made this President. The Constitution was here before this President or any other President. Who made the President? Who is going to be with the President? I will first be with the Constitution. I may be with the President later, but first is the Constitution.

Don't come here saying we are either with or without the President. That is not the question. The question is: Are we with the Constitution? Are the people's representatives going to make a decision? When that time comes, then

there might be some good arguments to go to war with Iraq, even to stand alone and go to war. Maybe arguments can be presented. There may be evidence by then. Who knows? I do not know, but we have to see it. The evidence is not there yet that we have to act so hastily, that we have to act before the election.

What does the election have to do with it? What does the election have within itself to do with it? The election will go forward. What is to keep Congress from voting on this matter after the election? Why does it have to be before the election? Is that the “October surprise” in September or October, before November? Let's not be too hasty. That is what I have been saying about this legislation with reference to homeland security. Let's don't be too hasty. Let's do it right. Remember that mother's lamb.

The distinguished Senator asked: With whom did Hussein talk? With whom did he consult? He may not have consulted anybody; that is too bad. Hussein should have had a free and independent Senate. Hussein should have had a Senate where voices could be heard, voices in opposition to Hussein, voices of caution, openly and freely where all the public could hear. Yes, Hussein should have had that. There was no Senate like this Senate in Hussein's government. I am talking about a free, separate branch, that is independent, where there is free, unlimited speech—except for unanimous consent or cloture—where there is a Senate that controls the purse strings. Yes, I say Hussein should have had that. He should have had a Senate like this Senate. It is not led around by any President's chain. No President chains this Senate.

There are no chains on this Senate. It is a free and independent Senate. Yes, Hussein should have had a Senate such as this one, where debate would have been heard. But he does not have that. With whom did he consult? Certainly not an Iraqi Senate, like this one.

The same could be said of Emperor Justinian who ruled in Constantinople, on the great golden horn. Justinian sent thousands of people to their deaths in the Nika rebellion. Justinian did not have a Senate.

What about Ivan the Terrible, who had tens of thousands massacred? Ivan the Terrible did not have a Senate. There was no Senate in Muscovy.

Peter the Great sent thousands of men to labor and to die in the swamps to build the city of Petrograd, Lenin-grad. But Peter the Great had no Senate to caution him, no Senate that controlled the purse strings.

Yes, with whom did Hussein consult? That is a good question. But we know that Hussein had no Senate.

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

Mr. BYRD. No, not yet. I will yield maybe later. I will be glad to yield—does the Senator have to leave the

floor? I will yield right now. He is about to leave the floor in a huff, I believe. I hope he is not. Maybe I am misinterpreting him.

Mr. President, I ask unanimous consent that I may yield to the distinguished Senator from Alabama for a question without losing my right to the floor.

The PRESIDING OFFICER. The Senator has that right.

Mr. SESSIONS. Mr. President, I thank the Senator from West Virginia. The Senator is so eloquent in defending the prerogatives of this Senate, and I thank him for that.

We do not need to rush into this. I am of the belief—and I ask the Senator if he would consider the possibility that he would be willing to support the commencement of debate and a vote, if we could do so, before we recess because we may be into January before we return, and I think it could complicate matters.

If I was inarticulate, I apologize, but my request would be that we consider the policies, not the President. It is not a personal thing; the Senator from West Virginia is correct. Let us consider those policies so the world would know whether we are going to support that or not. I know the former Vice Presidential nominee for the Democratic Party, Senator LIEBERMAN, is supporting these policies, and I think there is a majority here. I think the Senator from West Virginia may well agree at some point, after he has had full time to digest and consider it, but I do believe and hope that the Senator would consider allowing us to have a vigorous debate and a vote as soon as we possibly could.

Mr. BYRD. Mr. President, I will respond to the question that has been addressed to me, and it is a good question, a thoughtful question. May I just say I hope the Senator will join me in insisting that this Senate debate the homeland security legislation and not rush that legislation. That is a part of national defense as much as anything. It is the defense of our homeland. So I hope the Senator will be one of those who will join me in taking our time to thoughtfully debate a very serious matter, namely, the creation of the Department of Homeland Security.

Now, more to the question as it was addressed to me, the answer is I support debate on the question as to whether or not the Congress should authorize the Commander in Chief to make war. I have asked my staff to consider language for such a question to be presented to the Senate. My staff has been working on such a matter. I hear that Mr. LEVIN is going to hold hearings in the Armed Services Committee, on which the distinguished Senator from Alabama serves so well.

It is good that Senator LEVIN is going to do that. It is good that the distinguished Senator from Delaware, Mr. BIDEN, chairman of the Foreign Relations Committee, will hold hearings. The chairman of the Intelligence Com-

mittee, Senator GRAHAM, may hold hearings. So all these things are well and good. They are all necessary under the circumstances. We should understand what the witnesses say in those hearings.

Our three chairmen should not just invite administration witnesses. Apparently they already have their minds made up. Invite them, but don't just not stop at that. Apparently they have their minds made up. I heard three or four of them on Sunday talk shows last Sunday. I already mentioned that. They are all from the same viewpoint, and not one mentioned the Constitution of the United States. Yes, I favor that the Congress vote, up or down. I have said that before today. I have said that many days. I think the Congress should vote up or down on the question.

This is the question as to whether or not Congress will authorize and declare war, if it comes to that. This will be no minor skirmish. This will not be a little group out on a party and they happened to run into some other people, they got mixed up and got to fighting, and two or three were killed. This is not a minor skirmish. I said, yes, this is a solemn question because it does involve a dictator such as Saddam Hussein, one who has killed his own people, gassed his own people, one who has shown no compunction about using biological or chemical weapons. We know he has done that. We know he can do that.

But the question is, what is it that makes it so urgent that all of a sudden here comes something like a cloud over the western hills and blows into the Capital City, here is a looming storm that just came up. Lord, this may be a torrent. It may flood ourselves. It may kill people. We have to do something about it right now. What can we do as mere mortals? It is not quite like that.

I have already said the President has inherent power without asking anybody. If Congress is out of town, he does not have to ask Congress. If this country is attacked, he has the inherent power to repel the attacker. I don't argue about that. But that is not the situation. What is so new? We have known these things now for months or years.

May I say to the distinguished Senator from Alabama, would the Senator show me the courtesy of just finishing? I know there may be some who think I am long winded.

Mr. SESSIONS. I had something I had to take care of, and I thank the Senator, but I will be glad to stay a few more minutes.

Mr. BYRD. Cicero was asked what speech by Demosthenes he liked best; and he said, the longest.

So it is all right. One can be long winded if he has something to say. And he may have to say it over and over and over in this situation.

I say, yes, yes, in answer to the Senator, I am for a vote. But I have to see evidence that requires us to vote now

or tomorrow. We have had this evidence all this while, at least a long while, 3 months or 4 months or 3 years. So why the sudden rush that we have to vote before the election? I think we should vote after the election so Senators will not be persuaded or moved one way or the other, because of an election, as to how they vote. They are voting to send that little lamb to the slaughter. Should we do that in a hurry? No. I say let's delay.

I have said all I will say in answer to the distinguished Senator, unless he has another question.

Mr. SESSIONS. Mr. President, I thank the Senator from West Virginia for his courtesy and his thoughtfulness. I just ask that he consider, in evaluating his decision, the difficulties it provides for the United States if we cannot get a vote of support. If we are not for it, let's say so. If we do not believe and we are not going to fund—which is our ultimate power, to cut off funds—let's say so, and we get on with something else.

I strongly believe we should proceed. Senator WARNER, who was chairman of the Armed Services Committee or ranking member on the Armed Services Committee, said there were nine hearings last time before the gulf war, with a period of intense debate. The Senator is correct, we ought to have hearings and we ought to have debate. It is just a question of, as soon as we get that and people feel ready, the sooner we get started and the sooner we complete it, I think the Nation will be better off.

I respect the views of the Senator and the concerns. As the Senator knows, under our Constitution we have elections all the time, one following the other. There is never a time that someone does not have an election in mind, unfortunately.

Mr. BYRD. The Senator avoids the question he put to me. He is talking about an election that will come upon us in November—this coming November. I understand what he is saying. He is saying we ought to take action before the election. Then he says we ought to hear what the U.N. says. And I say, let's not be in all the hurry. We ought to hear what the U.N. says. Let's see what world opinion is. We ought not go into this alone.

If this man is a threat to world peace, the United States should not have to go it alone. Perhaps he will have to be removed. But we have a little bit of time, surely.

I say to the Senator, let's take the time. Let's debate the question. Let's debate it and reach a decision on the basis of what the Constitution tells us.

Let me just continue. I didn't want the Senator to leave. I thought he was about to leave.

Let me continue. He said, with whom does he consult? That is a good question. I have already responded. I also talked about Justinian. I talked about Ivan the Terrible. I talked about Peter the Great. Now, let's go to Stalin. With

whom did he consult? With whom did Adolph Hitler talk? With whom did he consult?

It was not a free and independent Senate. If they had a free and independent Senate that had control of the power and control of the purse strings, history might have been different. Hundreds of thousands of lives might have been saved.

Mr. President, let us not act in haste. Let us forget about our politics. Let us not be for or against a resolution on the question of war or peace on the basis of what party we belong to. Let us put that question in a way that we will be with and in support of the Constitution.

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate now go into a period for the transaction of routine morning business and that Senators may speak therein for not to exceed 3 minutes each.

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

IN REMEMBRANCE OF SEPTEMBER 11, 2001

Mr. NICKLES. Mr. President. I ask unanimous consent to have printed in the RECORD an article from the Wall Street Journal dated September 11, 2002.

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

[From the Wall Street Journal, Sept. 11, 2002]

WE WILL PREVAIL

(By Theodore Olson)

From a speech by Solicitor General Theodore Olson to the Federalist Society on Nov. 16, 2001, Mr. Olson's wife, Barbara, was one of the airplane passengers murdered on Sept. 11, 2001.

September 11, 2001 was unprecedented in our nation's history. Our country has been attacked before. Our soldiers and innocent citizens have been the victims of terrorism before. But never before in our history have so many civilian citizens, engaged in the routines of their daily lives, who neither individually nor collectively had done anything to provoke the savage attack that they were to experience that day, been brutally murdered for the simple reason that they were Americans, and because they stood, in their countless individual lives, for all the things that America symbolizes.

As President Bush immediately recognized, Sept. 11 was an act of war. But it was much more than that. It was also a crime, an act of pure hatred and unmitigated evil.

The victims were of all races, backgrounds, religions, ages and qualities. They had one thing in common. They were nearly all Americans. Their lives were extinguished because they were the embodiment of the aspirations of most of the world's peoples. The people who killed them hate the beacon that America holds out to people who are impoverished, enslaved, persecuted and subjugated everywhere in the world.

The men who planned the savage acts of Sept. 11 cannot prevail as long as American ideals continue to inspire the people they hope to tyrannize and enslave.

It is a cynical lie that the animals that killed our loved ones were motivated by Islam, or because this nation of ours is anti-Islamic. Enshrined in the First Amendment to our Constitution is freedom of expression and the free exercise of religion. This continent was populated by people who crossed a terrifying ocean to reach a rugged and inhospitable frontier to escape religious persecution.

From its birth, this nation and the American people have offered sanctuary and shelter to all faiths. Our Constitution—always with the support of our people—has extended its embrace to the unpopular, the unusual, the unconventional and the unorthodox. We protect not only those who will not salute our flag, but those who would spit upon it or burn it. We pledge our allegiance to a Constitution that shelters those who refuse to pledge their allegiance to it.

It is true, I suppose, that there are many in the Middle East who hate this country for its support of Israel. But how tragic and misguided to despise us for extending comfort and defense to a people who have so long, and so recently, been the victims of indescribable ethnic persecution. Nor has America's support for Israel ever been rooted in or manifested by hostility to the Muslim faith or those who practice it. The terrorists and their apologists have lied about these things, but what is another lie when their goals and tactics are so vastly more evil?

The terrorists can succeed only through corruption and brutality. Thus they must tear down America and its system of laws which shields its people from those malevolent acts. They can enslave the people they wish to subjugate only by keeping them poor and destitute, so they must undermine and discredit the one place in all the world that stands the most for the rule of law and allows its people the opportunity to rise above all those conditions.

Abraham Lincoln was paraphrasing our Declaration of Independence when he characterized our nation as having been "conceived in liberty and dedicated to the proposition that all men are created equal." That revolutionary document set down our collective belief in inalienable human rights, the proposition that governments derive their powers from the consent of the governed, the principle that tyrants who would oppress their people are unfit to be rulers of a free people, and the right to the pursuit of happiness.

The terrorists of Sept. 11 cannot prevail in a world occupied by the Declaration of Independence, the Constitution and its Bill of Rights, the Emancipation Proclamation, the Gettysburg Address, the Statue of Liberty, the World Trade Center, the Pentagon, the Capitol, the Supreme Court and the White House. They cannot co-exist with these ideals, these principles, these institutions and these symbols. So they cannot survive, much less prevail, in the same world as America.

America is not today, or ever, without imperfections and shortcomings. Implementation of our lofty ideals has never been without error, and some of our mistakes have been shameful. But the course of our history has been constant, if occasionally erratic, progress from the articulation of those lofty ideals to the extension of their reality to all our people—those who were born here and those, from hundreds of diverse cultures, who flock here.

There is no segment or class of the world's peoples who have exclusive claim on the term "American," and no segment of the world's population to whom that claim has been denied. We welcome 100,000 refugees per year into this country. Over 650,000 people immigrated legally to America in the most recent year for which we have reliable statis-

tics. Over five million people are in this country today who were so desperate to come here that they did so illegally.

There are more Jews in New York City than in Israel. More Poles in Chicago than any city in the world except Warsaw. America is home to 39 million Irish-Americans, 58 million German-Americans, 39 million Hispanic-Americans and nearly a million Japanese-Americans. And there are seven million Muslims in America, nearly the population of New York City.

How tragic it is that the agents of the Sept. 11 terrorist acts were people whom we welcome to this country, and to whom we extended all of our freedoms, the protections of all of our laws, and the opportunities this country affords to everyone to travel, work and live. But we welcome immigrants because nearly all of us are immigrants or descendants of immigrants who came here to enjoy freedoms, rights, liberties, and the opportunity, denied elsewhere, to pursue happiness and prosperity.

Ronald Reagan often said that "every once in a while, each of us native-born Americans should make it a point to have a conversation with someone who is an American by choice." Mr. Reagan was fond of quoting from a letter he received from a man who wrote, "you can go to live in Turkey, but you can't become a Turk. You can't go to live in Japan and become Japanese, [and so on for Germany, France, etc.]. But . . . anyone from any corner of the world can come to America and be an American."

So it is particularly sad and a bitter irony that the 19 savages who took the lives of thousands of Americans were able to come here because we welcomed them, and trusted them, and allowed them to learn to fly our airplanes and gave them the freedom to travel. They took these precious gifts and turned them into instruments of hatred and death.

It has, I suppose, always caused some resentment that we believe so passionately and unquestioningly that the freedoms we value should belong to all people. But we know that these are enduring values. We can debate nearly everything else, but we don't need to debate that. We know that these principles lift everyone up.

We have now been reminded, in the most horrible way, that there are those who not only hate our principles, but who would dedicate their lives—and surrender their lives—to banish those ideals and the incentives they provide for tyrannized and impoverished people everywhere to do what Americans did in 1776. We have tragically learned again, in the most unthinkable fashion, that our values and our principles are neither self-executing nor self-sustaining, and that we must sacrifice and fight to maintain what our forebears sacrificed and fought to bequeath to us.

And now the rest of the world is learning again that Americans will not flinch from that fight or tire of it. Americans will fight, they will sacrifice, and they will not give up or leave the job unfinished. This war is for all living Americans. It is for the parents, grandparents and great-grandparents that fought and sacrificed to come here. And it is for our children and generations to come. And it is for those who choose to become Americans in the future.

America will not lose this war because we cannot even consider that we will lose what centuries of Americans fought to create, improve and maintain. We cannot, and we will not, betray the people who gave us this glorious heritage. We cannot and will not, dishonor or wash away the memories of those who somehow clawed their way out of poverty, tyranny and persecution to come to this country because it was America, and because they were willing to risk death to become Americans, and to give their children

and grandchildren the opportunity and freedom and inspiration that makes this place America. Americans could no longer call themselves Americans if they could walk away from that legacy.

People who write for newspapers and who offer opinions on television, or who send advice to us from other parts of the world, sometimes say that America is too rich, lazy, complacent, frightened, soft and enervated to fight this fight. That we have no stamina, strength, will, patience, or steel. That we will collapse.

They are so wrong. We will prevail for the very reason that we have been attacked. Because we are Americans. Because the values that made us free, make us strong; because the principles that made us prosperous, make us creative, resourceful, innovative, determined and fiercely protective of our freedoms, our liberties and our rights to be individuals and to aspire to whatever we choose to be. Those values and those characteristics will lift us and will defeat the black forces who have assaulted our ideals, our country and our people.

The very qualities that bring immigrants and refugees to this country in the thousands every day, made us vulnerable to the attack of Sept. 11, but those are also the qualities that will make us victorious and unvanquished in the end.

FOOD FOR GUNS PROGRAM

Mr. LEVIN. Mr. President, this Saturday the Detroit Police Department will begin a new gun buyback program offering a \$25 gift certificate for gas and a \$25 gift certificate for food to anyone who brings in an unloaded gun. Last year, a very successful similar effort took more than 600 guns off the streets of Detroit.

During the past week, volunteers from the Youth Initiative Project, an organization dedicated to drug prevention and stopping youth violence, have gone door-to-door informing people throughout the community of the program. In addition, the Youth Initiative Project is planning a Family Safety Fun Day to coincide with the gun buyback program that will distribute trigger locks and information on gun safety.

There have been 14 young people killed by guns this year in metro Detroit. In response to these tragic shootings, the Youth Initiative Project held a town hall meeting at the Redford Branch of the Detroit Public Library on how to prevent gun violence. Some of the organizers were trained this summer at the Youth Action Institute, a three day convention in Washington, D.C. sponsored by the Alliance for Justice. These same volunteers are planning three more town hall meetings in Detroit and then will move their program into local schools.

I hope my colleagues will join me in commending the Detroit Police Department for this positive approach to getting guns off the streets and the Youth Initiative Project for their efforts to make the day a success and their commitment to educating their peers on gun safety.

NEEDED: REGIME CHANGES IN BURMA AND CAMBODIA

Mr. MCCONNELL. Mr. President, on August 1, 2002 the United States and the Association for Southeast Asian Nations, ASEAN, signed a "Joint Declaration for Cooperation To Combat International Terrorism."

Through this Declaration, both Burma and Cambodia affirmed commitments "to counter, prevent, and suppress all forms of terrorist acts . . ." and pledged to view "acts of terrorism in all its forms and manifestations, committed wherever, whenever, and by whomsoever, as a profound threat to international peace and security. . . ."

Lest the irony of these commitments be lost on my colleagues, let me say a word or two about each country.

For over a decade, the people of Burma have been under the repressive misrule of military thugs who have systematically ruined the economy, while profiting from illicit activities, imprisoned political opponents, (including those legitimately elected by the people of Burma), raped ethnic girls and women, forced into labor children and villagers, and squandered scarce financial resources on military weapons and nuclear technology, at the expense of the welfare of their compatriots.

Just last week, two members of the youth wing of the National League for Democracy—the legitimately elected representatives of the people of Burma—were arrested and sentenced to three years in prison for possessing a journal published by exiled dissidents. By any definition, the State Peace and Development Council's rule in Burma has been a reign of terror.

In neighboring Cambodia, the ruling party is led by a former Khmer Rouge guerilla whose penchant for violence is well known, and documented, throughout the region. In July 1997, Prime Minister Hun Sen staged a bloody coup d'etat to oust his royalist rivals, and he is the prime suspect in a brutal assassination attempt on the country's sole opposition leader, Sam Rainsy.

That attempt, which occurred during a political rally on Easter Sunday in 1997, failed, but killed and injured scores of Cambodians. American democracy worker Ron Abney was injured in the terrorist attack, and has long suspected that Hun Sen was the devious mastermind. To this day, Ron and all victims of Hun Sen's terror are awaiting justice.

I am also troubled by news reports that Heng Sean, an opposition activist, was murdered in Kampong Cham over the weekend. It appears that Mr. Heng's only crime was to support Sam Rainsy and his agenda for reform.

For my colleagues less familiar with Cambodian affairs, I recommend reading "The Cambodian Conundrum" by veteran journalist Nate Thayer, Foreign Service Journal, March 2002, which provides keen insights into the previous Administration's "blind eye" foreign policy in Cambodia.

Given the actions of Southeast Asian hardliners in Rangoon and Phnom Penh, last month's pledges to combat terrorism ring hollow. It would serve American interests in the war on terrorism—as well as benefit the welfare of the people of Burma and Cambodia—for regime changes to occur in those countries.

UNITED STATES POLICY ON SUDAN

Mr. FEINGOLD. Mr. President, I rise today to comment on the situation in Sudan, a country characterized by brutal fighting and tremendous suffering, a country in which an estimated two million people have died in just the past decade from war-related causes, and where millions more have been displaced.

In July, I held a hearing on U.S. Policy in Sudan in my capacity as chairman of the African Affairs Subcommittee of the Senate Foreign Relations Committee. At that time, I praised the administration for devoting high-level attention to the plight of the Sudanese people. As I noted then, the President and the Secretary of State have spoken out about Sudan. The President appointed Senator John Danforth to be his Special Envoy for Peace in Sudan. USAID Administrator Andrew Natsios was named Special Humanitarian Coordinator for Sudan. As a result of Senator Danforth's efforts, the International Eminent Persons Group has investigated means for preventing abductions and slavery and has reported on its findings. And in July, negotiations between the Government of Sudan and the Sudan People's Liberation Army, or SPLA, in Machakos, Kenya produced a broad framework for ending the civil war and providing the people of the south with the means to exercise their right to self-determination. All of this deserves praise.

But currently, the negotiations are troubled. The Government of Sudan pulled its negotiators out of Machakos in response to the SPLA's capturing the strategic garrison town of Torit on September 1. Many observers, including key American officials, believe that the process is not permanently derailed but merely disrupted. Still, this disruption calls the world's attention to a rather telling point. There is no ceasefire on the ground in Sudan, and not only do military engagements continue, so too do attacks on civilians and the manipulation of humanitarian assistance. The situation of the Sudanese people has not improved despite the developments at the negotiating table.

I continue to support the administration's efforts to work with Inter-governmental Authority on Development, IGAD, to facilitate the peace process. But given this disconnect between reality on the ground and rhetoric in negotiations, given the troubled recent history of United States-Sudanese relations, given the scale and scope of the

abuses committed against civilians regularly in that troubled country, this effort requires something of a leap of faith. I do not criticize the administration for taking the leap, I believe that it was a correct and courageous decision to work with the Government in Khartoum and with the SPLA to try to find a path to peace in Sudan. But I do criticize the administration for not taking the confidence-building measures, including those identified by Senator Danforth, seriously enough, leaving us with little in the way of concrete reassurances that our leap was a wise one.

Specifically, I am referring to issue of the civilian bombing monitoring team. In the July hearing, I asked Assistant Secretary of State for African Affairs Walter Kansteiner about the bombing of civilian targets. Senator Danforth succeeded in getting both the Government of Sudan and the Sudanese People's Liberation Army to agree to allow a monitoring team to verify their stated commitment not to intentionally attack civilian targets. That happened in spring. But at the time of the hearing, we still had no monitors on the ground. Meanwhile, reports of attacks on civilians persist. What are we waiting for, I asked. When will the team be functioning on the ground?

I was told that this effort was taking shape, and that the team would be functioning by the end of August. But today, the team is still not in place, still not functioning. We cannot even move to the very important work of trying to link documented incidents of attacks on civilians to clear consequences, because we remain, apparently, incapable of deploying a qualified and appropriately equipped team of people with experience in Sudan and in human rights monitoring.

I spend a great deal of time trying to call the administration's attention to very serious issues in sub-Saharan Africa that are deserving of more American time and interest. I do not have to do that when it comes to Sudan. Bringing peace to Sudan appears to me to be this administration's most significant policy initiative in the region, and I commend the administration for its efforts. That said, this element of the effort, following up on the commitments obtained by Senator Danforth relating to the bombing of civilian targets, this element of the effort is quite plainly falling short.

If the administration needs additional resources, personnel, or logistical capacity to make this happen efficiently and effectively, I know that many in Congress stand ready to help. Many of my colleagues have long history of working to address the crisis in Sudan, notably my partner in on the African Affairs Subcommittee, Senator FRIST, and I admire their commitment and their work. In calling attention to this issue, and in criticizing the administration for its failure to move forward on the civilian bombing monitoring issue, I do not seek to inject

partisanship into the Sudan policy debate. But I do want to make it clear that this is not a small thing and not a secondary priority. The administration's capacity to help bring peace to Sudan is strongest when the diverse community of Sudan advocates and the entire Congress is united in support for that effort. We need to sustain our faith in this endeavor with concrete steps even as our country continues to facilitate big-picture negotiations. And so I encourage the administration to make deploying a qualified and well-organized monitoring team at the earliest possible date a real priority.

ADDITIONAL STATEMENTS

IN RECOGNITION OF BISHOP WILLIAM T. CAHOON

• Mr. TORRICELLI. Mr. President, I rise today to recognize the work of Bishop William T. Cahoon on the recent Holy Convocation in New Jersey.

For more than a quarter century, Bishop Cahoon has dedicated himself to bringing together the ministry and local communities. He currently serves as the Jurisdictional Prelate for the Garden State Jurisdiction, Church of God in Christ, and in 1984 was elected and served as Secretary of the National Board of Trustees. During this time, he has championed issues which empower the family, church and community, and is the founder of the Community Development Corporation, known as the New Garden State Caring Families and Neighborhoods, Inc. In 1997, he was recognized as one of the 100 Most Influential Persons in the State of New Jersey and was given the Man of Distinction Award of his Jurisdictional efforts in 1998.

Bishop Cahoon has always believed that "We must minister to the realities of our unique communities through whatever social, economic, political and spiritual means necessary." It is this openness to new ideas of ministering to the people of New Jersey that inspired the recent Holy Convocation, the goal of which was to the paradigm shift to ministering in the 21st century.

It was an honor to see Bishop Cahoon at work during the recent Holy Convocation and I wish him the best in his mission.●

THE 100TH ANNIVERSARY OF THE JEWISH NATIONAL FUND

• Mr. CORZINE. Mr. President, I rise to congratulate the Jewish National Fund as the group celebrates its 100th anniversary on October 6, 2002. Without the efforts of the Jewish National Fund, the nation of Israel might very well not exist. Today, through the efforts of the JNF, Israel not only exists as a Jewish State, but flourishes despite numerous geographic and political changes.

The Jewish National Fund was established at the Fifth Zionist Congress in

1901 with the express purpose of allowing Jews from around the world to join together and make the Zionist dream a reality. Jewish communities from around the world participated by collecting donations in signature "Blue Boxes." These donations were used to purchase the land that would one day become the state of Israel. Jews disunited could not achieve their nationalist dream and create a Jewish state in the land of Israel, but together, through the work of the Jewish National Fund, they began to build a nation. JNF purchased the land, developed and built the infrastructure, and planted the forests that made the country green. I am confident that through the dedication and hard work of the Jewish National Fund, Israel will continue to thrive for the next 100 years and beyond.

Since 1901, the Jewish National Fund has planted over 220 million trees, built over 120 dams and reservoirs, developed over 250,000 acres of land, created more than 400 parks throughout Israel and educated students around the world about Israel and the environment. The Jewish National Fund is also active in funding arid land research and has partnered with the USDA Forest Service and the Arizona-based International Arid Lands Consortium.

This past year marked a great milestone for the Jewish National Fund. The group celebrated a great century and witnessed the birth of their dream: a thriving Jewish homeland. I wish the Jewish National Fund the best of luck as they embark on their second century of service.●

TRIBUTE TO ALBERT GREENE CLAY

• Mr. MCCONNELL. Mr. President, I wish to pay tribute to the late Albert Greene Clay, a man whose contributions were instrumental to the tobacco and horse industries, and whose presence was well-known at the University of Kentucky.

A native of Mount Sterling, KY, Albert received a bachelor's degree from Duke University in 1938, and attended Harvard Business School in 1939. On October 26, 1939, Albert married his college sweetheart, Lorraine Case Newlin. I would like to take this opportunity to express my sincerest condolences to his family, especially his wife Lorraine, his sons Robert and John, his daughter Charlotte Clay Buxton, and seven grandchildren.

Albert left behind a legacy as an individual whose contributions to the tobacco industry are far-reaching and long-lasting. He played a key role in the establishment of the Burley Auction Warehouse Association in the 1940s, and continued his involvement by serving as chairman and president of the organization's board for 25 years.

Albert's leadership extended to the national level, where he served as director of the National Tobacco Tax Council, Burley and Dark Leaf Tobacco

Export Association and Tobacco Growers Information Committee. In 1977, he was appointed by the Carter administration to serve on the Agriculture Policy Advisory Committee for Trade Negotiations.

Not only did Albert's accomplishments encompass the tobacco industry, but they also extended into another important facet of his native State—the horse industry. Albert helped found the American Horse Council in 1969, and continued to serve as secretary of the organization for many years. His passion for horses benefited students at the University of Kentucky, where Albert played a vital role in the creation of the institution's Equine Research Foundation. He served as chairman there from 1988 to 1998 and was also instrumental in the formation of UK's Maxwell Gluck Equine Research Center. Albert maintained his involvement in the university, serving on the UK board of trustees, and as chairman of the board for several years.

I would like to express my appreciation for Albert Greene Clay's outstanding contributions to both the Commonwealth of Kentucky, and the entire United States.●

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 July 20, 2001, in Cullman, AL. Two black men were attacked inside their car after arriving at a party. The assailants, three white men, smashed the car with baseball bats and cut a racial slur into the side of the car. Authorities investigated the incident as a possible hate crime.

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.●

100TH ANNIVERSARY OF BIG BASIN REDWOODS STATE PARK

● Mrs. FEINSTEIN. Mr. President, I rise today to congratulate the Big Basin Redwoods State Park of Santa Cruz County in California on their 100th anniversary.

Established in 1902, Big Basin Redwoods State Park is California's oldest State park. Big Basin Redwoods is the birthplace of the original coastal redwood conservation movement. Today the results of the conservation movement can be seen in the 18,000-plus acres of California redwood forest.

The park has the largest continuous stand of Ancient Coast Redwoods south of San Francisco. Additionally, Big Basin Redwoods State Park is considered by many to be the birthplace of both the park and environmental movement in California.

At the turn of the 20th century, the remaining redwood forests were disappearing at rate that threatened massive destruction of the ancient trees. The only redwood forests left in America ranged from Oregon to Big Sur. Concerned citizens and organizations such as the Sempervirens Club, persuaded then-Governor Henry T. Gage to sign legislation that would set aside land for a redwood park.

Today, the ensuing generations of those environmentally concerned citizens are celebrating the 100th anniversary of the preservation of the California redwood lands. The perseverance and dedication to protecting primeval forest places that the founders of the Big Basin Redwoods State Park exemplified are recognized and celebrated today. Without such dedication to the environmental movement hundreds of forests across the country would have been destroyed.

The Big Basin Redwoods State Park contains both cultural and historical sites of national importance, wildlife habitats, natural ecological preserves, and recreational opportunities for the public. The Big Basin Redwoods State Park is a unique and uncommon place of historical and primeval environmental importance. Therefore, special recognition is deserved on September 13, 2002, the 100th anniversary of its founding.●

HONORING WALTER J. SCHRAMM THE OUTSTANDING OLDER WORKER OF SOUTH DAKOTA FOR 2001

● Mr. JOHNSON. Mr. President, I wish to publicly commend Walter Schramm, a resident of Winner, SD, on his selection as last year's Outstanding Older Worker of South Dakota.

The Outstanding Older Worker award is sponsored by Experience Works a national, nonprofit organization that provides training and employment services for mature workers. Walter will be honored in Washington, D.C., September 17-21, at the annual Experience Works Prime Time Awards Program. He will join 51 other outstanding older workers representing each State, the District of Columbia, and Puerto Rico. Due to the tragic incidents of September 11, 2001, and the subsequent cancellation of the Experience Works Prime Time Awards Program, Walter will be recognized at this year's event.

After serving in the Pacific theater in World War II as a Marine Air Corps pilot, Walter returned to the United States to complete his military service and start a career. With little money, and no retail experience, he opened the Schramm Furniture store in Winner. His lack of business knowledge and ex-

perience was overcome by his tremendous work ethic and strong sense of community. Walter's hard work and dedication over the years have helped him succeed and grow as a small business owner, and today, his two sons, Jeff and Tom, share the business with their father.

For the past 56 years Walter has been the owner/president of Schramm Furniture, Inc. At age 85, he continues to work six days a week, nine hours a day. Walter opened his business with the motto: "Provide good service to the customer and they will come back." Though times have changed, Walter's motto has remained the same, and today, just as 56 years ago, customers continue to return to Schramm Furniture for its reliable customer service.

Walter's tremendous contributions to the community, and civic/business leadership have set him apart from other outstanding senior workers. He is a member of the Chamber of Commerce and Rotary International, Trinity Lutheran Church, the SD Retailers Association, the Winner Athletic Association, and a lifetime member of the American Legion and VFW.

This prestigious honor is a reflection of his extraordinary service and commitment to the Winner community. Through his outstanding community involvement and dedication to service, the lives of countless South Dakotans have been enormously enhanced. His wonderful example serves as a model for other hard working and dedicated individuals throughout South Dakota to emulate.

Walter Schramm is an extraordinary person who richly deserves this distinguished recognition. I strongly commend his years of hard work and dedication, and I am very pleased that his substantial efforts are being publicly honored and celebrated. It is with great honor that I share his impressive accomplishments with my colleagues.●

HONORING RUSSELL WYATT THE OUTSTANDING OLDER WORKER OF SOUTH DAKOTA FOR 2002

● Mr. JOHNSON. Mr. President, I wish to publicly commend Russell Wyatt, a resident of Hot Springs, on his selection as this year's Outstanding Older Worker of South Dakota.

The Outstanding Older Worker award is sponsored by Experience Works, a national, nonprofit organization that provides training and employment services for mature workers. Russell will be honored in Washington, D.C., September 17-21, at the annual Experience Works Prime Time Awards Program. He will join 51 other outstanding older workers representing each State, the District of Columbia, and Puerto Rico.

At age 76, Russell Wyatt continues to own and operate Wyatt's Real Estate and Appraisal Service in Hot Springs. Russell's hard work and dedication over the years has helped him succeed and grow as a small business owner.

His entrepreneurial spirit has led to many tremendous accomplishments, and helped him adapt to a rapidly changing workplace.

However, it is Russell's tremendous contributions to the community, civic leadership, and volunteer work that set him apart from other outstanding senior workers. He helped organize the Oral Volunteer Fire Department and Southern Hill's Real Estate Board, promote the Miss South Dakota Pageant, and bring a Pamida Store and Civic Center to Hot Springs. Hot Springs residents have come to count on his hard work and dependability.

This prestigious honor is a reflection of his extraordinary service and commitment to the Hot Springs community. Through his outstanding community involvement and dedication to service, the lives of countless South Dakotans have been enormously enhanced. His wonderful example serves as a model for other hard working and dedicated individuals throughout South Dakota to emulate.

Russell Wyatt is an extraordinary person who richly deserves this distinguished recognition. I strongly commend his years of hard work and dedication, and I am very pleased that his substantial efforts are being publicly honored and celebrated. It is with great honor that I share his impressive accomplishments with my colleagues.●

IRA YELLIN: IN MEMORIAM

● Mrs. FEINSTEIN. Mr. President, I wish to pay tribute to Ira Yellin, who passed away on September 10. He was only 62 years old.

My heart goes out to his wife, Adele, to his daughter Jessica and his son Seth, to his mother Dorothy and his two brothers, Marc and Albert.

Ira was a true visionary, a man who championed the restoration of downtown Los Angeles long before it was popular.

His own restoration of the Grand Central Market, an enduring emblem of the ethnic diversity that is Los Angeles, is perhaps the greatest of his many accomplishments as a real estate developer.

Yet Ira was involved in so much more than real estate. He was a civic and community leader, and served as a past president of the American Jewish Committee and a member of the board of the Skirball Cultural Center and the J. Paul Getty Trust.

The son of a Talmudic scholar, an ex-Marine, an urban pioneer, a political and social activist, Ira was an optimistic man of boundless energy. Not even the lung cancer that he battled so bravely over the last year could slow him down.

Up until the very end of his life he maintained his commitment to his work, to his community and, above all, to his loving family, in a way which has earned my highest admiration and my deepest affection.

Ira Yellin was a wonderful man who will be sorely missed, yet both his no-

table achievements and his engaging personality have made a lasting impact on all of us. He will not be soon forgotten.●

EXECUTIVE AND OTHER COMMUNICATIONS

The following communication was laid before the Senate, together with accompanying papers, reports, and documents, which was referred as indicated:

EC-9007. A communication from the Deputy Congressional Liaison, Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the report of a rule entitled "Amendment to Regulation H (Membership of State Banking Institutions in the Federal Reserve System)—Reporting and Disclosure Requirement for State Member Banks with Securities Registered under the Securities Exchange Act of 1934" (Doc. No. R-1129) received on September 10, 2002; to the Committee on Banking, Housing, and Urban Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 1865: A bill to authorize the Secretary of the Interior to study the suitability and feasibility of establishing the Lower Los Angeles River and San Gabriel River watersheds in the State of California as a unit of the National Park System, and for other purposes. (Rept. No. 107-279).

S. 2222: A bill to resolve certain conveyances and provide for alternative land selections under the Alaska Native Claims Settlement Act related to Cape Fox Corporation and Sealaska Corporation, and for other purposes. (Rept. No. 107-280).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

By Mr. JOHNSON:

S. 2934. A bill to amend title 36, United States Code, to clarify the requirements for eligibility in the American Legion; to the Committee on the Judiciary.

By Ms. LANDRIEU:

S. 2935. A bill to amend the Public Health Service Act to provide grants for the operation of mosquito control programs to prevent and control mosquito-borne diseases; to the Committee on Health, Education, Labor, and Pensions.

By Mr. ALLEN:

S. 2936. A bill to amend chapter 84 of title 5, United States Code, to provide that certain Federal annuity computations are adjusted by 1 percent relating to periods of receiving disability payments, and for other purposes; to the Committee on Governmental Affairs.

By Mr. EDWARDS:

S. 2937. A bill to establish the Blue Ridge National Heritage Area in the State of North Carolina, and for other purposes; to the Committee on Energy and Natural Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Ms. STABENOW (for herself and Mr. LEVIN):

S. Res. 327. A resolution honoring Ernie Harwell; considered and agreed to.

ADDITIONAL COSPONSORS

S. 987

At the request of Mr. TORRICELLI, the name of the Senator from Washington (Ms. CANTWELL) 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. 1103

At the request of Mr. ROCKEFELLER, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 1103, a bill to amend title 49, United States Code, to enhance competition among and between rail carriers in order to ensure efficient rail service and reasonable rail rates in any case in which there is an absence of effective competition, and for other purposes.

S. 1678

At the request of Mr. MCCAIN, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 1678, a bill to amend the Internal Revenue Code of 1986 to provide that a member of the uniformed services or the Foreign Service shall be treated as using a principal residence while away from home on qualified official extended duty in determining the exclusion of gain from the sale of such residence.

S. 1785

At the request of Mr. CLELAND, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 1785, a bill to urge the President to establish the White House Commission on National Military Appreciation Month, and for other purposes.

S. 1990

At the request of Mrs. MURRAY, the name of the Senator from Delaware (Mr. CARPER) was added as a cosponsor of S. 1990, a bill to establish a public education awareness program relating to emergency contraception.

S. 2026

At the request of Mr. LUGAR, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 2026, a bill to authorize the use of Cooperative Threat Reduction funds for projects and activities to address proliferation threats outside the states of the former Soviet Union, and for other purposes.

S. 2122

At the request of Mrs. CARNAHAN, the names of the Senator from Washington (Mrs. MURRAY) and the Senator from New Jersey (Mr. TORRICELLI) were

added as cosponsors of S. 2122, a bill to provide for an increase in funding for research on uterine fibroids through the National Institutes of Health, and to provide for a program to provide information and education to the public on such fibroids.

S. 2184

At the request of Mr. BREAUX, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 2184, a bill to provide for the reissuance of a rule relating to ergonomics.

S. 2633

At the request of Mr. LEAHY, his name was withdrawn as a cosponsor of S. 2633, a bill to prohibit an individual from knowingly opening, maintaining, managing, controlling, renting, leasing, making available for use, or profiting from any place for the purpose of manufacturing, distributing, or using any controlled substance, and for other purpose.

S. 2734

At the request of Mr. KERRY, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 2734, a bill to provide emergency assistance to non-farm small business concerns that have suffered economic harm from the devastating effects of drought.

S. 2816

At the request of Mr. BAUCUS, the names of the Senator from Arkansas (Mr. HUTCHINSON) and the Senator from Washington (Ms. CANTWELL) were added as cosponsors of S. 2816, a bill to amend the Internal Revenue Code of 1986 to improve tax equity for military personnel, and for other purposes.

S. 2869

At the request of Mr. JOHNSON, his name was added as a cosponsor of S. 2869, a bill to facilitate the ability of certain spectrum auction winners to pursue alternative measures required in the public interest to meet the needs of wireless telecommunications consumers.

S. 2869

At the request of Mr. KERRY, the names of the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. BREAUX), the Senator from Wisconsin (Mr. KOHL) and the Senator from Oregon (Mr. WYDEN) were added as cosponsors of S. 2869, *supra*.

S.J. RES. 35

At the request of Mrs. FEINSTEIN, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S.J. Res. 35, A joint resolution proposing an amendment to the Constitution of the United States to protect the rights of crime victims.

S. RES. 326

At the request of Mr. BIDEN, the names of the Senator from Mississippi (Mr. COCHRAN) and the Senator from New York (Mr. SCHUMER) were added as cosponsors of S. Res. 326, A resolution designating October 18, 2002, as "National Mammography Day".

S. CON. RES. 11

At the request of Mrs. FEINSTEIN, the names of the Senator from Vermont (Mr. LEAHY) and the Senator from Utah (Mr. BENNETT) were added as cosponsors of S. Con. Res. 11, A concurrent resolution expressing the sense of Congress to fully use the powers of the Federal Government to enhance the science base required to more fully develop the field of health promotion and disease prevention, and to explore how strategies can be developed to integrate lifestyle improvement programs into national policy, our health care system, schools, workplaces, families and communities.

S. CON. RES. 107

At the request of Mr. CRAIG, the name of the Senator from Nevada (Mr. ENSIGN) was added as a cosponsor of S. Con. Res. 107, A concurrent resolution expressing the sense of Congress that Federal land management agencies should fully support the Western Governors Association "Collaborative 10-year Strategy for Reducing Wildland Fire Risks to Communities and the Environment", as signed August 2001, to reduce the overabundance of forest fuels that place national resources at high risk of catastrophic wildfire, and prepare a National prescribed Fire Strategy that minimizes risks of escape.

S. CON. RES. 129

At the request of Mr. CRAPO, the names of the Senator from South Dakota (Mr. DASCHLE) and the Senator from Nevada (Mr. REID) were added as cosponsors of S. Con. Res. 129, A concurrent resolution expressing the sense of Congress regarding the establishment of the month of November each year as "Chronic Obstructive Pulmonary Disease Awareness Month".

S. CON. RES. 136

At the request of Mr. BAUCUS, the names of the Senator from Maine (Ms. COLLINS) and the Senator from Georgia (Mr. MILLER) were added as cosponsors of S. Con. Res. 136, A concurrent resolution requesting the President to issue a proclamation in observance of the 100th Anniversary of the founding of the International Association of Fish and Wildlife Agencies.

AMENDMENT NO. 4510

At the request of Mr. BAYH, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of amendment No. 4510 intended to be proposed to H.R. 5005, a bill to establish the Department of Homeland Security, and for other purposes.

AMENDMENT NO. 4518

At the request of Mr. CRAIG, the names of the Senator from Idaho (Mr. CRAPO), the Senator from Nebraska (Mr. HAGEL), the Senator from Colorado (Mr. CAMPBELL), the Senator from Utah (Mr. HATCH), the Senator from Utah (Mr. BENNETT), the Senator from Oregon (Mr. SMITH) and the Senator from Nevada (Mr. ENSIGN) were added as cosponsors of amendment No. 4518 proposed to H.R. 5093, a bill making ap-

propriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2003, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. JOHNSON:

S. 2934. A bill to amend title 36, United States Code, to clarify the requirements for eligibility in the American Legion; to the Committee on the Judiciary.

Mr. JOHNSON. Mr. President, I rise today to introduce the American Legion Amendment Act to make technical changes to the membership qualifications in the Federal charter of the American Legion.

Under the American Legion's current charter, a veteran who leaves the Armed Services may become a member of the American Legion if he or she served since "August 2, 1990 through the date of cessation of hostilities, as decided by the United States Government" and "was honorably discharged or separated from that service or continues to serve honorably after that period." At this point, the United States Government has not issued a cessation of hostilities decision for U.S. military operations during this period. For those military men and women who are no longer serving, they have discharge papers stating they served honorably during that period which makes them qualified for American Legion membership. Yet, servicemembers who served since August 2, 1990, and are still on active duty, have no discharge papers for the period, and are not officially serving after the cessation of hostilities. Therefore, they are not eligible for membership in the American Legion despite their dedicated service in our nation's Armed Forces.

The bill that I am introducing today would change the standard for a veteran to qualify for membership in the American Legion to "continues to serve during or after that period." This change would make it clear that membership is open to the thousands of active duty personnel who served during operations Desert Shield and Desert Storm, in addition to the operations that followed in Iraq, Bosnia, Kosovo, and Afghanistan.

As my colleagues in the Senate know, the American Legion continues to be one of our Nation's most effective advocates on behalf of America's veterans, as well as a pre-eminent service organization. The American Legion has grown to nearly 3 million members whose efforts are truly making a difference in communities throughout our country. As the father of a son who served in Bosnia, Kosovo, and Afghanistan, I am pleased to offer the American Legion Amendment Act that will offer him and his military colleagues the opportunity and the honor to join the American Legion.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2934

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

SECTION 1. CLARIFICATION OF REQUIREMENTS FOR ELIGIBILITY IN THE AMERICAN LEGION.

Section 21703(2) of title 36, United States Code, is amended by inserting "during or" after "continues to serve honorably".

By Ms. LANDRIEU:

S. 2935. A bill to amend the Public Health Service Act to provide grants for the operation of mosquito control programs to prevent and control mosquito-borne diseases; to the Committee on Health, Education, Labor, and Pensions.

Ms. LANDRIEU. Mr. President, as you know, the State of Louisiana, along with many other States, has for the past several months been under siege. The enemy is small, but powerful, and great in number. Hard to detect, they sneak up on you and with one attack, they can change your life forever. To date, 10 Louisianans have lost their lives in our war against mosquitos and the West Nile virus that they carry and 222 more have been injured. In Baton Rouge, our State capital, 42 people have been reported to have been infected with the disease and three have died. Only Illinois, with 292 human cases and 11 deaths, has experienced more casualties from the virus than Louisiana.

I am here this morning to introduce legislation that asks for Federal assistance for States to "M.A.S.H." out this predator and stop the spread of this disease. Throughout the history of Louisiana, spraying for mosquitos and dredging the water they breed in has been a common occurrence. Until now, however, it was done because mosquitos were pests and they could carry deadly germs. Now, our State and local officials are spraying around the clock in a desperate race to control the worst outbreak of West Nile the Western hemisphere has ever seen. There is no specific treatment for West Nile, nor a vaccine. The most effective way to protect our citizens against this deadly virus is to stop it before it happens.

I think that is clear that there is an urgent need for this bill to become law. If passed, it can have an immediate effect in saving on the lives of people in my State and throughout the nation. I want to be clear, however, that this is not an effort to supplant state's responsibility in this area, but to supplement it. Our State has and will continue to dedicate a great deal of State and local resources toward "Fighting the Bite." On September 5, 2002, the State of Louisiana began distributing \$3.4 million in state funds to support the local governments in their efforts to combat West Nile. The Department of Health and Hospitals is spending over \$200,000 on a public education campaign asking people to do their

share to avoid leaving standing water and other mosquito havens. Two-thirds of Louisiana's population is covered by an active mosquito control program and those without mosquito control programs are using spray trucks provided by the Louisiana Department of Agriculture and Forestry.

One might think that given the national public health threat imposed by the spread of West Nile that there would already be Federal funding of this type available. Natural disasters such as this require the Federal, State and local governments to work together in a coordinated fashion to bring immediate relief to affected citizens, to educate the public, and to prevent the disease from inflicting further harm. Our Nation's first experience with the West Nile Virus taught us that effective treatment and prevention of this deadly disease also requires coordination among the many Federal agencies with expertise and jurisdiction. The formation of a West Nile Virus Coordinating Committee, chaired by CDC and composed of representatives from USDA, the United States Geological Survey's National Wildlife Health Center, the Environmental Protection Agency, and the Defense Department was the first step in this direction.

Louisiana's experience, thus far, has proven the necessity of this coordinated approach. However, Federal leadership must continue to be strengthened, and coordination must continue to be improved between Federal agencies involved in West Nile. One of the shortfalls, and perhaps the easiest to address, is the lack of an effective funding source for mosquito control. In August of this year, the CDC endowed the state of Louisiana with \$3.4 million to use in the fight against West Nile. The CDC money, though, cannot be spent on chemicals or spraying, rather it must be spent on surveillance, education and testing. It is for this reason that our Governor, and the Governor of Mississippi appealed to FEMA for their help in increasing much needed abatement activities. This request was denied.

West Nile is one of many vector borne diseases spread from birds to humans by mosquitos. If our Nation's public health system is to respond accordingly, then they must have the aid of effective mosquito abatement programs. This bill puts that system in place. I am pleased to be joined by my senior Senator from Louisiana, as well as Senators GREGG and HUTCHISON. I am hopeful that before long this bill will be supported by the majority of the Senate. I ask the majority leader for his help in seeing to it that this bill is passed as soon as possible.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2935

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Mosquito Abatement for Safety and Health Act".

SEC. 2. GRANTS REGARDING PREVENTION OF MOSQUITO-BORNE DISEASES.

Part B of title III of the Public Health Service Act (42 U.S.C. 243 et seq.), as amended by section 4 of Public Law 107-84 and section 312 of Public Law 107-188, is amended—

(1) by transferring section 317R so as to appear after section 317Q; and

(2) by inserting after section 317R (as so transferred) the following:

"SEC. 317S. MOSQUITO-BORNE DISEASES; ASSESSMENT AND CONTROL GRANTS TO POLITICAL SUBDIVISIONS; COORDINATION GRANTS TO STATES.

"(a) PREVENTION AND CONTROL GRANTS TO POLITICAL SUBDIVISIONS.—

"(1) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, may make grants to political subdivisions of States for the operation of mosquito control programs to prevent and control mosquito-borne diseases (referred to in this section as 'control programs').

"(2) PREFERENCE IN MAKING GRANTS.—In making grants under paragraph (1), the Secretary shall give preference to political subdivisions that—

"(A) have an incidence or prevalence of mosquito-borne disease, or a population of infected mosquitoes, that is substantial relative to other political subdivisions;

"(B) demonstrate to the Secretary that the political subdivisions will, if appropriate to the mosquito circumstances involved, effectively coordinate the activities of the control programs with contiguous political subdivisions; and

"(C) demonstrate to the Secretary (directly or through State officials) that the State in which the political subdivision is located has identified or will identify geographic areas in the State that have a significant need for control programs and will effectively coordinate such programs in such areas.

"(3) REQUIREMENT OF ASSESSMENT AND PLAN.—A grant may be made under paragraph (1) only if the political subdivision involved—

"(A) has conducted an assessment to determine the immediate needs in such subdivision for a control program, including an entomological survey of potential mosquito breeding areas; and

"(B) has, on the basis of such assessment, developed a plan for carrying out such a program.

"(4) REQUIREMENT OF MATCHING FUNDS.—

"(A) IN GENERAL.—With respect to the costs of a control program to be carried out under paragraph (1) by a political subdivision, a grant under such paragraph may be made only if the subdivision agrees to make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount that is not less than 1/3 of such costs (\$1 for each \$2 of Federal funds provided in the grant).

"(B) DETERMINATION OF AMOUNT CONTRIBUTED.—Non-Federal contributions required in subparagraph (A) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

“(C) WAIVER.—The Secretary may waive the requirement established in subparagraph (A) if the Secretary determines that extraordinary economic conditions in the political subdivision involved justify the waiver.

“(5) REPORTS TO SECRETARY.—A grant may be made under paragraph (1) only if the political subdivision involved agrees that, promptly after the end of the fiscal year for which the grant is made, the subdivision will submit to the Secretary, and to the State within which the subdivision is located, a report that describes the control program and contains an evaluation of whether the program was effective.

“(6) AMOUNT OF GRANT; NUMBER OF GRANTS.—A grant under paragraph (1) for a fiscal year may not exceed \$100,000. A political subdivision may not receive more than one grant under such paragraph.

“(b) ASSESSMENT GRANTS TO POLITICAL SUBDIVISIONS.—

“(1) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, may make grants to political subdivisions of States to conduct the assessments and to develop the plans that are required in paragraph (3) of subsection (a) as a condition of receiving a grant under paragraph (1) of such subsection.

“(2) AMOUNT OF GRANT; NUMBER OF GRANTS.—A grant under paragraph (1) for a fiscal year may not exceed \$10,000. A political subdivision may not receive more than one grant under such paragraph.

“(c) COORDINATION GRANTS TO STATES.—

“(1) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, may make grants to States for the purpose of coordinating control programs in the State.

“(2) PREFERENCE IN MAKING GRANTS.—In making grants under paragraph (1), the Secretary shall give preference to States that have one or more political subdivisions with an incidence or prevalence of mosquito-borne disease, or a population of infected mosquitoes, that is substantial relative to political subdivisions in other States.

“(3) CERTAIN REQUIREMENTS.—A grant may be made under paragraph (1) only if—

“(A) the State involved has developed, or agrees to develop, a plan for coordinating control programs in the State, and the plan takes into account any assessments or plans described in subsection (a)(3) that have been conducted or developed, respectively, by political subdivisions in the State;

“(B) in developing such plan, the State consulted or will consult (as the case may be under subparagraph (A)) with political subdivisions in the State that are carrying out or planning to carry out control programs; and

“(C) the State agrees to monitor control programs in the State in order to ensure that the programs are carried out in accordance with such plan, with priority given to coordination of control programs in political subdivisions described in paragraph (2) that are contiguous.

“(4) REPORTS TO SECRETARY.—A grant may be made under paragraph (1) only if the State involved agrees that, promptly after the end of the fiscal year for which the grant is made, the State will submit to the Secretary a report that—

“(A) describes the activities of the State under the grant; and

“(B) contains an evaluation of whether the control programs of political subdivisions in the State were effectively coordinated with each other, which evaluation takes into account any reports that the State received under subsection (a)(5) from such subdivisions.

“(5) AMOUNT OF GRANT; NUMBER OF GRANTS.—A grant under paragraph (1) for a

fiscal year may not exceed \$10,000. A State may not receive more than one grant under such paragraph.

“(d) APPLICATIONS FOR GRANTS.—A grant may be made under subsection (a), (b), or (c) only if an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

“(e) TECHNICAL ASSISTANCE.—The Secretary may provide training and technical assistance with respect to the planning, development, and operation of control programs under subsection (a) and assessments and plans under subsection (b). The Secretary may provide such technical assistance directly or through awards of grants or contracts to public and private entities.

“(f) DEFINITIONS.—For purposes of this section:

“(1) CONTROL PROGRAM.—The term ‘control program’ has the meaning indicated for such term in subsection (a)(1).

“(2) POLITICAL SUBDIVISION.—The term ‘political subdivision’ means the local political jurisdiction immediately below the level of State government, including counties, parishes, and boroughs. If State law recognizes an entity of general government that functions in lieu of, and is not within, a county, parish, or borough, the Secretary may recognize an area under the jurisdiction of such other entities of general government as a political subdivision for purposes of this Act.

“(g) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated \$100,000,000 for fiscal year 2003, and such sums as may be necessary for each of the fiscal years 2004 through 2007. In the case of control programs carried out in response to a mosquito-borne disease that constitutes a public health emergency, the authorization of appropriations under the preceding sentence is in addition to applicable authorizations of appropriations under the Public Health Security and Bioterrorism Preparedness and Response Act of 2002.”

SEC. 3. RESEARCH PROGRAM OF NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH SCIENCES.

Subpart 12 of part C of title IV of the Public Health Service Act (42 U.S.C. 285 et seq.) is amended by adding at the end the following:

“SEC. 463B. METHODS OF CONTROLLING CERTAIN INSECT POPULATIONS.

“The Director of the Institute shall conduct or support research to identify or develop methods of controlling the population of insects that transmit to humans diseases that have significant adverse health consequences.”

SEC. 4. SENSE OF THE SENATE CONCERNING THE WEST NILE VIRUS.

It is the sense of the Senate that—

(1) the West Nile virus raises concerns about the safety of the nation's blood supply and every effort should be made to protect blood and blood products recipients from infection with the virus;

(2) the Food and Drug Administration should comprehensively review its protocols and regulations for screening of blood and platelet donors and their donated specimens, and report to Congress on the ability of these protocols to protect the blood supply from West Nile virus;

(3) on the basis of a review conducted as provided for in paragraph (2), the Commissioner of Food and Drugs should revise protocols and regulations to protect the blood supply and blood products supply from West Nile virus to the maximum extent possible;

(4) the Commissioner of Food and Drugs should make recommendations on additional

authorities that are needed to protect the blood supply and blood product supply from the West Nile virus; and

(5) the Commissioner of Food and Drugs, keeping with procedures to maximize the protection of the public health, should expedite review of appropriate blood screening tests for the West Nile virus.

Mr. BREAU. Mr. President, the West Nile virus has reached epidemic proportions. My home State of Louisiana has seen cases of the disease skyrocket in recent months, with 222 cases and 9 deaths reported to date. But this is not a problem isolated in one State or one region. The Centers for Disease Control, CDC, have reported cases of this mosquito-borne illness in humans in 30 States and the District of Columbia. It is clear, as we have seen in Louisiana, that State governments are overtaxed in money and man-power and simply cannot continue to fight the spread of this disease on their own. The Federal Government needs to work hard and fast to combat this potential public health crisis and assist the hardest hit areas in preventing the loss of even more lives.

Earlier this year, my colleagues in the House of Representatives, Congressmen BILLY TAUZIN and CHRIS JOHN, introduced legislation that would make grants available through the CDC to help States in establishing and maintaining mosquito control programs and prevent mosquito-borne illnesses. Today Senator LANDRIEU and I have introduced companion legislation to the House bill, The Mosquito Abatement for Health and Safety Act, H.R. 4793, of the same title in an effort to quickly make resources available to local governments in Louisiana and across the country that have been on the front lines fighting the spread of the West Nile outbreak.

Both bills would provide money to improve assessment tools, including surveys of potential mosquito breeding areas, and support research initiatives to develop methods of controlling insect populations that spread disease and pose a health threat to humans. In disbursing grant monies, the CDC would give priority to those areas with reported instances of mosquito-borne illnesses in humans or animals.

The country is experiencing an outbreak that is both unfortunate and alarming. Only through improved coordination of state and federal agencies can we begin to address this problem and spare further cases of this deadly disease.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 327— HONORING ERNIE HARWELL

Ms. STABENOW (for herself and Mr. LEVIN) submitted the following resolution; which was considered and agreed to:

S. RES. 327

Whereas Ernie Harwell worked as a Major League Baseball broadcaster for 55 years and

as the signature voice of the Detroit Tigers for 42 of those years;

Whereas Ernie Harwell's voice brought the game of baseball to life for Tiger fans, and he was voted Michigan SportsCaster of the year 17 times;

Whereas Ernie Harwell had such a love of baseball that, upon meeting Babe Ruth as a child, he had "The Babe" autograph his shoe because he did not have paper;

Whereas Ernie Harwell called the 1968 and 1984 World Series that crowned the Tigers world champions;

Whereas in 1948, Ernie Harwell became the only broadcaster to be traded for a player when Branch Rickey, general manager of the Brooklyn Dodgers, traded Cliff Dapper to the Atlanta Crackers for Harwell;

Whereas Ernie Harwell's memorable moments include broadcasting the debut of Willie Mays in 1951, Bobby Thomson's "shot heard 'round the world" that same year, and Hoyt Wilhelm's no-hitter against the New York Yankees in 1958;

Whereas on August 2, 1981, Ernie Harwell became the fifth broadcaster to be inducted into the Baseball Hall of Fame;

Whereas Ernie Harwell brought to life, through the medium of radio, the performances of some of baseball's greats, such as Sparky Anderson, Kirk Gibson, Al Kaline, Denny McLain, Alan Trammell, and many others;

Whereas the Cleveland Indians renamed the visiting radio booth in the Jacobs Field press box the "Ernie Harwell Visiting Radio Booth" in commemoration of his career;

Whereas Sunday, September 15, 2002, is "Ernie Harwell Day" at Comerica Park in Detroit, Michigan; and

Whereas Detroit Tiger fans all over the country have fond memories of Ernie Harwell, summer, and Tiger victories: Now, therefore, be it

Resolved, That the Senate—

(1) honors and celebrates the achievements of Ernie Harwell;

(2) wishes Ernie Harwell good health and happiness in his retirement; and

(3) directs the Secretary of the Senate to transmit a copy of this resolution to Ernie Harwell.

AMENDMENTS SUBMITTED AND PROPOSED

SA 4536. Mr. INHOFE (for himself and Mr. NICKLES) submitted an amendment intended to be proposed to amendment SA 4472 proposed by Mr. BYRD to the bill H.R. 5093, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2003, and for other purposes; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 4536. Mr. INHOFE (for himself and Mr. NICKLES) submitted an amendment intended to be proposed to amendment SA 4472 proposed by Mr. BYRD to the bill H.R. 5093, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 127, between lines 2 and 3, insert the following:

SEC. 1. RECONSTRUCTION OF INTERSTATE 40.

(a) IN GENERAL.—Subject to the condition described in subsection (b), notwithstanding any other provision of this Act, in addition to amounts that are otherwise available,

\$12,000,000 shall be made available, and shall remain available until expended, for reconstruction of the portion of Interstate Route 40 spanning the Arkansas River in the State of Oklahoma that was destroyed as a result of a barge collision that occurred on May 26, 2002.

(b) CONDITION.—The condition described in this subsection is that the State of Oklahoma agree that the Federal Government shall—

(1) be subrogated to all claims of the State of Oklahoma for amounts necessary to reconstruct the destroyed portion of Interstate Route 40 against each entity determined to be responsible for the collision, not to exceed \$12,000,000 in the aggregate; and

(2) have authority to pursue such claims as are necessary to recover any amounts up to \$12,000,000 that are not paid to the State by those entities.

(c) REIMBURSEMENT AND REOBLIGATION OF FUNDS.—Federal funds obligated before the date of enactment of this Act for the reconstruction described in subsection (a)—

(1) may be reimbursed from funds available under this section; and

(2) if reimbursed under paragraph (1), shall be immediately available to the State of Oklahoma for reobligation.

(d) EMERGENCY REQUIREMENT.—The entire amount made available under this section is designated by Congress as an emergency requirement under sections 251(b)(2)(A) and 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)(2)(A), 902(e)).

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet on Friday, September 13, 2002, at 9:30 a.m., to conduct an oversight hearing to receive testimony on the implementation of the Comprehensive Everglades Restoration Plan. The hearing will be held in SD-406.

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

HONORING ERNIE HARWELL

Mr. BYRD. Mr. President, on behalf of the majority leader, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 327, submitted earlier today by Senators STABENOW and LEVIN.

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

The legislative clerk read as follows:

A resolution (S. Res. 327) honoring Ernie Harwell.

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

Mr. LEVIN. Mr. President, I am pleased and honored to join my colleague from Michigan, Senator STABENOW, in offering a resolution commemorating the achievements and retirement of Ernie Harwell. Ernie, a Hall of Fame broadcaster, will conclude his remarkable 55-year career upon calling his last game for the Detroit Tigers this season. For most of

the last 42 years, Ernie has served as the voice of the Tigers, and I know that Detroit fans, as well as baseball fans everywhere, will miss Ernie's distinctive voice and irreplaceable baseball wit. In a city rich with baseball tradition, Ernie is as much of a part of Tiger baseball as the Olde English D and Tiger Stadium.

For four decades, Ernie Harwell's unwaveringly calm voice has provided Tigers fans with an incomparable mixture of play-by-play description, baseball history, and sensible statistics. Much of Ernie's appeal grew out of the fact that he almost never lets emotion overtake him. He lets his words, his description of the game, paint a vivid picture of the events for the listeners at home.

Ernie Harwell was born on January 25, 1918, in Washington, GA. As a boy, he delivered newspapers on a route that included the famed author Margaret Mitchell's home. Before launching his sports career, Ernie served as a Marine in World War II. He also acted in several movies including "One Flew Over the Cuckoo's Nest." He began his baseball career as a sportswriter and copy editor for the Atlanta Constitution. Luckily for us, he did not stay in that position long; in 1943 he left to become an announcer for the Southern Association's Atlanta Crackers.

Ernie's skills were quickly recognized in Atlanta, and in 1948 he became the only announcer ever traded for a player! Branch Rickey, the General Manager of the Brooklyn Dodgers, traded catcher Cliff Dapper to the Crackers to allow Ernie to break his contract. His tenure in Brooklyn was highlighted by calling Jackie Robinson's best season, 1949, when Robinson was awarded the Most Valuable Player award for the National League while leading the Dodgers to the pennant.

The next year, Ernie left Brooklyn to go across town and call New York Giants games on the burgeoning medium of television. While there, he called Willie Mays's debut game in 1951 and Bobby Thomson's "Shot Heard 'Round the World" at the end of that season when the Giants won the pennant. Unlike Russ Hodges' who shouted "The Giants win the pennant!", Ernie stuck to his style and simply said "it's gone" when the ball shot off Thomson's bat. That was all baseball fans needed.

After a short stint as the first broadcaster of the Baltimore Orioles, he was hired as the voice of the Detroit Tigers, where he has stayed for 42 of the last 43 years. Ernie quickly became a part of the Tigers family. "If you do this job for a while in one city and you're pretty good, you become part of the family," he once said. "They take you to the beaches and the mountains and the cottages, the workplace and the kitchen. That's gratifying, but it's sort of humbling, too, that people are that interested and they listen."

Ernie called the 1968 and 1984 World Series that crowned the Tigers world champions. He was in Detroit for the

careers of many baseball's greats, including the soon-to-retire Travis Fryman, now with the Cleveland Indians. Fryman, one of Ernie's favorite players in Detroit, presented him with an Indians hat and jersey during the Tigers' last trip to Cleveland. During that series, Indians officials named the visiting radio booth in the Jacobs Field press box the "Ernie Harwell Visiting Radio Booth."

The true devotion of Tigers fans to Ernie Harwell was made loud and clear when the Tigers' then-new management informed Ernie that 1991 would be his last season as the Tigers' broadcaster. They said they wanted to go with a younger and newer voice. Following a public outcry, the Motor City brought home its familiar voice in time for the 1993 season. He has been with Detroit ever since.

Ernie's achievements have been recognized on both the local and national stage. He has been voted Michigan SportsCaster of the Year 17 times and is a member of the Michigan Sports Hall of Fame. In 1981 he was just the fifth broadcaster to be elected to Baseball's Hall of Fame. In 1988 he became a member of the Radio Hall of Fame and the following year he was elected to the National SportsScasters Hall of Fame.

Ernie's talents extend beyond the microphone. He is an accomplished author and songwriter. He has authored such books as *Tuned to Baseball*, *Diamond Gems* and *The Babe Signed My Shoe*, and coauthored or contributed to several other books about the game of baseball. In addition to his literary works, Ernie has also had more than 50 of his songs professionally recorded.

Considering that he has announced games over an unprecedented seven decades, Ernie will always be remembered best as a broadcaster; however, his personality and earnestness have endeared him to generations of listeners as a friend. To say that Ernie Harwell is beloved by the citizens of Michigan would be an understatement, which is why it comes with great regret that we are marking his retirement.

Ernie Harwell once said that a successful play-by-play man "should have the enthusiasm of a fan, the background knowledge of a writer, the reflexes of a ballplayer, and the impartiality of an umpire." I think he has exemplified these qualities, and he brought so much more to the game. Ernie Harwell is a Detroit hero and a baseball legend. While some of the Tigers' recent years have been forgettable, Ernie Harwell will never be.

As much as we will miss Ernie, we wish him well as he begins his life away from the microphone. I join the citizens of Michigan in thanking Ernie Harwell for his decades of outstanding service to the Detroit Tigers and the broadcasting community. I know my colleagues in the Senate will join me in supporting this resolution in his honor.

Ms. STABENOW. Mr. President, I rise to submit a resolution, along with

Senator LEVIN, to honor Ernie Harwell, the voice of the Detroit Tigers. As Tiger fans across the country know, Ernie Harwell is retiring this year after broadcasting major league baseball for 55 years, the last 42 of which were in Detroit.

Ernie Harwell has broadcast some of the great moments in baseball, including the debut of Willie Mays, Bobby Thompson's "shot heard round the world" and Hoyt Wilhelm's famous no-hitter against the Yankees in 1958.

In addition, he also called the Tigers' last two World Series victories in 1968 and 1984. He also brought to life the performances of some of baseball's greats, like Sparky Anderson, Kirk Gibson, Al Kaline, Denny McLain, Alan Trammell and many others.

Tigers fans have such fond memories of Ernie Harwell, it is hard to believe that he will not be in the broadcast booth next year. Since Sunday, September 15 is Ernie Harwell Day at Comerica Park in Detroit, Senator LEVIN and I wanted to take up and pass this resolution congratulating Ernie on his great career and wishing him the best of luck in retirement.

I hope my colleagues will support this resolution.

Mr. BYRD. Mr. President, I ask unanimous consent that the resolution and the preamble be agreed to en bloc, that the motion to reconsider be laid upon the table, and that any statements relating thereto be printed in the RECORD.

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

The resolution (S. Res. 327) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 327

Whereas Ernie Harwell worked as a Major League Baseball broadcaster for 55 years and as the signature voice of the Detroit Tigers for 42 of those years;

Whereas Ernie Harwell's voice brought the game of baseball to life for Tiger fans, and he was voted Michigan SportsCaster of the year 17 times;

Whereas Ernie Harwell had such a love of baseball that, upon meeting Babe Ruth as a child, he had "The Babe" autograph his shoe because he did not have paper;

Whereas Ernie Harwell called the 1968 and 1984 World Series that crowned the Tigers world champions;

Whereas in 1948, Ernie Harwell became the only broadcaster to be traded for a player when Branch Rickey, general manager of the Brooklyn Dodgers, traded Cliff Dapper to the Atlanta Crackers for Harwell;

Whereas Ernie Harwell's memorable moments include broadcasting the debut of Willie Mays in 1951, Bobby Thomson's "shot heard 'round the world" that same year, and Hoyt Wilhelm's no-hitter against the New York Yankees in 1958;

Whereas on August 2, 1981, Ernie Harwell became the fifth broadcaster to be inducted into the Baseball Hall of Fame;

Whereas Ernie Harwell brought to life, through the medium of radio, the performances of some of baseball's greats, such as Sparky Anderson, Kirk Gibson, Al Kaline, Denny McLain, Alan Trammell, and many others;

Whereas the Cleveland Indians renamed the visiting radio booth in the Jacobs Field press box the "Ernie Harwell Visiting Radio Booth" in commemoration of his career;

Whereas Sunday, September 15, 2002, is "Ernie Harwell Day" at Comerica Park in Detroit, Michigan; and

Whereas Detroit Tiger fans all over the country have fond memories of Ernie Harwell, summer, and Tiger victories: Now, therefore, be it

Resolved, That the Senate—

(1) honors and celebrates the achievements of Ernie Harwell;

(2) wishes Ernie Harwell good health and happiness in his retirement; and

(3) directs the Secretary of the Senate to transmit a copy of this resolution to Ernie Harwell.

AMENDING SECTION 5307 OF TITLE 49, UNITED STATES CODE

Mr. BYRD. Mr. President, by the authority of the majority leader, I ask unanimous consent that the Senate now proceed to the consideration of H.R. 5157 just received from the House and at the desk.

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

The legislative clerk read as follows:

A bill (H.R. 5157) to amend section 5307 of title 49, United States Code, to allow transit systems in urbanized areas that, for the first time, exceeded 200,000 in population according to the 2000 census to retain flexibility in the use of Federal transit formula grants in fiscal year 2003, and for other purposes.

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

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

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

The bill (H.R. 5157) was read the third time and passed.

INTERNATIONAL DISABILITY AND VICTIMS OF LANDMINES, CIVIL STRIFE AND WARFARE ASSISTANCE ACT OF 2001

Mr. BYRD. Mr. President, at the request of the distinguished majority leader and the assistant leader, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 528, S. 1777.

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

The legislative clerk read as follows:

A bill (S. 1777) to authorize assistance for individuals with disabilities in foreign countries, including victims of landmines and other victims of civil strife and warfare, and for other purposes.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Foreign Relations with amendments as follows:

[Strike the parts shown in black brackets and insert the parts shown in italic]

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “International Disability and Victims of Landmines, Civil Strife and Warfare Assistance Act of [2001] 2002”.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress makes the following finding:

(1)(A) According to the International Committee of the Red Cross, there are tens of millions of landmines in over 60 countries around the world, and it has estimated that as many as 24,000 people are maimed or killed each year by landmines, mostly civilians, resulting in amputations and disabilities of various kinds.

(B) While the United States Government invests more than \$100,000,000 in mine action programs annually, including funding for mine awareness and demining training programs, only about ten percent of these funds go to directly aid landmine victims.

(C) The Patrick Leahy War Victims Fund, administered by the United States Agency for International Development, has provided essential prosthetics and rehabilitation for landmine and other war victims in developing countries who are disabled and has provided long-term sustainable improvements in quality of life for victims of civil strife and warfare, addressing such issues as barrier-free accessibility, reduction of social stigmatization, and increasing economic opportunities.

(D) Enhanced coordination is needed among Federal agencies that carry out assistance programs in foreign countries for victims of landmines and other victims of civil strife and warfare to make better use of interagency expertise and resources.

(2) According to a review of Poverty and Disability commissioned by the World Bank, “disabled people have lower education and income levels than the rest of the population. They are more likely to have incomes below poverty level than the non-disabled population, and they are less likely to have savings and other assets . . . [t]he links between poverty and disability go two ways—not only does disability add to the risk of poverty, but conditions of poverty add to the risk of disability.”

(3) Numerous international human rights conventions and declarations recognize the need to protect the rights of individuals regardless of their status, including those individuals with disabilities, through the principles of equality and non-discrimination.

(b) PURPOSE.—The purpose of this Act is to authorize assistance for individuals with disabilities, including victims of landmines and other victims of civil strife and warfare.

SEC. 3. INTERNATIONAL DISABILITIES AND WAR VICTIMS ASSISTANCE.

The Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) is amended by inserting after section 134 the following:

“SEC. 135. INTERNATIONAL DISABILITIES AND WAR VICTIMS ASSISTANCE.

“(a) AUTHORIZATION.—The President, [acting through the Administrator of the United States Agency for International Development,] is authorized to furnish assistance to individuals with disabilities, including victims of civil strife and warfare, in foreign countries.

“(b) ACTIVITIES.—The programs established pursuant to subsection (a) may include programs, projects, and activities such as the following:

“(1) Development of local capacity to provide medical and rehabilitation services for individuals with disabilities, including victims of civil strife and warfare, in foreign countries, such as—

“(A) support for and training of medical professionals, including surgeons, nurses, and physical therapists, to provide effective emergency and other medical care and for the development of training manuals relating to first aid and other medical treatment;

“(B) support for sustainable prosthetic and orthotic services; and

“(C) psychological and social rehabilitation of such individuals, together with their families as appropriate, for the reintegration of such individuals into local communities.

“(2) Support for policy reform and [advocacy] educational efforts related to the needs and abilities of individuals with disabilities, including victims of civil strife and warfare.

“(3) Coordination of programs established pursuant to subsection (a) with existing programs for individuals with disabilities, including victims of civil strife and warfare, in foreign countries.

“(4) Support for establishment of appropriate entities in foreign countries to coordinate programs, projects, and activities related to assistance for individuals with disabilities, including victims of civil strife and warfare.

“(5) Support for primary, secondary, and vocational education, public awareness and training programs and other activities that help prevent war-related injuries and assist individuals with disabilities, including victims of civil strife and warfare, with their reintegration into society and their ability to make sustained social and economic contributions to society.

“(c) PRIORITY.—To the maximum extent feasible, assistance under this section shall be provided through nongovernmental organizations, and, as appropriate, through governments to establish appropriate norms, standards, and policies related to rehabilitation and issues affecting individuals with disabilities, including victims of civil strife and warfare.

“(d) FUNDING.—Amounts made available [for a fiscal year] to carry out the other provisions of this part (including chapter 4 of part II of this Act) and the *Support for East European Democracy (SEED) Act of 1989* are authorized to be made available [for such fiscal year] to carry out this section and are authorized to be provided notwithstanding any other provision of law.”

SEC. 4. RESEARCH, PREVENTION, AND ASSISTANCE RELATED TO INTERNATIONAL DISABILITIES AND LANDMINE AND OTHER WAR VICTIMS.

(a) AUTHORIZATION.—

(1) IN GENERAL.—The Secretary of Health and Human Services, acting through the Director of the Centers for Disease Control and Prevention, is authorized—

(A) to conduct programs in foreign countries related to individuals with disabilities, including victims of landmines and other victims of civil strife and warfare;

(B) to provide grants to nongovernmental organizations for the purpose of carrying out research, prevention, public awareness and assistance programs in foreign countries related to individuals with disabilities, including victims of landmines and other victims of civil strife and warfare.

(2) APPROVAL OF SECRETARY OF STATE.—Activities under programs established pursuant to paragraph (1) may be carried out in foreign countries only [after consultation] in coordination with the Administrator of the United States Agency for International Development, and upon approval for such activities in such countries by the Secretary of State.

(b) ACTIVITIES.—Programs established pursuant to subsection (a) may include the following activities:

(1) Research on trauma, physical, psychological, and social rehabilitation, and con-

tinuing medical care related to individuals with disabilities, including victims of landmines and other victims of civil strife and warfare, including—

(A) conducting research on psychological and social factors that lead to successful recovery;

(B) developing, testing, and evaluating model interventions that reduce post-traumatic stress and promote health and well-being;

(C) developing basic instruction tools for initial medical response to traumatic injuries; and

(D) developing basic instruction manuals for patients and healthcare providers, including for emergency and follow-up care, proper amputation procedures, and reconstructive surgery.

(2) Facilitation of peer support networks for individuals with disabilities, including victims of landmines and other victims of civil strife and warfare, in foreign countries, including—

(A) establishment of organizations at the local level, administered by such individuals, to assess and address the physical, psychological, economic and social rehabilitation and other needs of such individuals, together with their families as appropriate, for the purpose of economic and social reintegration into local communities; and

(B) training related to the implementation of such peer support networks, including training of outreach workers to assist in the establishment of organizations such as those described in subparagraph (A) and assistance to facilitate the use of the networks by such individuals.

(3) Sharing of expertise from limb-loss and disability research centers in the United States with similar centers and facilities in war-affected countries, including promoting increased health for individuals with limb loss and limb deficiency and epidemiological research on secondary medical conditions related to limb loss and limb deficiency.

(4) Developing a database of best practices to address the needs of the war-related disabled through comprehensive examination of support activities related to such disability and access to medical care and supplies.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Health and Human Services to carry out this section such sums as may be necessary for each of fiscal years [2002] 2003 through 2004.

SEC. 5. EXPERTISE OF THE DEPARTMENT OF VETERANS AFFAIRS.

The Secretary of Veterans Affairs is authorized—

(1) to provide advice and expertise on prosthetics, orthotics, physical and psychological rehabilitation and treatment, and disability assistance to other Federal departments and agencies, including providing for temporary assignment on a non-reimbursable basis of appropriate Department of Veterans Affairs personnel, with respect to the implementation of programs to provide assistance to victims of landmines and other victims of civil strife and warfare in foreign countries and landmine research and health-related programs, including programs established pursuant to section 135 of the Foreign Assistance Act of 1961 (as added by section 3 of this Act) and programs established pursuant to section 4 of this Act; and

(2) to provide technical assistance to private voluntary organizations on a reimbursable basis with respect to the planning, development, operation, and evaluation of such landmine assistance, research, and prevention programs.

[SEC. 6. INTERAGENCY GROUP.]

[(a) ESTABLISHMENT.—The Secretary of State shall establish and chair an interagency group to ensure coordination of all Federal programs that furnish assistance to victims of landmines and other victims of civil strife and warfare, and conduct landmine research, demining and prevention programs.]

[(b) OTHER MEMBERS.—Members of the interagency group shall include, but not be limited to, representatives from—

[(1) the United States Agency for International Development;

[(2) the Department of Health and Human Services;

[(3) the Department of Education;

[(4) the Department of Defense; and

[(5) the Department of Veterans Affairs.]

[(c) PUBLIC MEETINGS.—At least once each calendar year, the interagency group should hold a public meeting in order to afford an opportunity for any person to present views regarding the activities of the United States Government with respect to assistance to victims of landmines and other victims of civil strife and warfare and related programs. The Secretary of State shall maintain a record of each meeting and shall make the record available to the public.]

Mr. BYRD. Mr. President, I ask unanimous consent the committee amendments be agreed to, the motion to reconsider be laid on the table, the bill, as amended, be read the third time and passed, the motion to reconsider be laid upon the table, and any statements relating thereto be printed in the RECORD, without intervening action or debate.

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

The committee amendments were agreed to.

The bill (S. 1777), as amended, was read the third time and passed, as follows:

THANKING SENATE PERSONNEL

Mr. BYRD. Mr. President, let me thank again our very dedicated staff and the officers of the Senate, the security personnel, the committee staff people, and in particular those Senators who have presided this afternoon.

And I should not forget the pages. I thank them too.

Let me also thank the people who work here at these desks. Many times they have to come to Senators to tell them what the situation is. It may not be a situation that the Senator likes. That is not because of the person who carries the message to the Senator. People who convey the message are told to carry the message.

If I have said anything today that would offend any person in the Senate family, I certainly want to apologize.

I don't see any other Senators seeking recognition.

I again thank the Senator from Minnesota for presiding at this hour, at 4:15 p.m.

**ORDERS FOR TUESDAY
SEPTEMBER 17, 2002**

Mr. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m., Tuesday, September 17.

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

Mr. BYRD. Mr. President, by the way, that was the day in 1787 that the Constitutional Convention completed its work—September 17, 1787. What a day. What a great day for free peoples, for people who have the liberty and freedom to speak. It devised a system of government, a government of the people, by the people, and for the people—a government of separation of powers and checks and balances.

I thank those Framers for what they did on July 16, 1787, when they decided under a great compromise which provided for a Senate—a Senate where Members would represent the States with two Senators from each State so that a small State, or a large State, or medium-size State would have an equal voice in this Senate. Let us remember that as we go along.

Again, I say that day on September 17, 1787, there were 39 signers who put their names on this Constitution, including John Milton Niles, a Senator from Connecticut. And his relative sits in the chair today, Senator DAYTON from Minnesota.

Let me begin again so that the RECORD will show it as read in its completeness and without interruption.

I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m., Tuesday, September 17; that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate be in a period of morning business until 10:30 a.m., with Senators permitted to speak for up to 10 minutes each, with the first half of the time under the control of the majority leader, or his designee, and the second half of the time under the control of the Republican leader, or his designee; that at 10:30 a.m. the Senator resume consideration of H.R. 5093, the Interior

Appropriations Act; that the Senate recess from 12:30 p.m. until 2:15 p.m. for the weekly conferences; that at 2:15 p.m. the Senate resume consideration of H.R. 5005, homeland security; that at 4:15 p.m. the Senate resume consideration of the Interior Appropriations Act with 60 minutes of debate, equally divided between the chairman and the ranking member of the subcommittee, or their designees, prior to the vote on cloture on the Byrd amendment; further, that the live quorum with respect to the cloture motion filed today be waived; and that the cloture vote occur at 5:15 p.m., Tuesday, September 17, without further intervening action or debate.

Before the Chair puts the question, let me consider what I just said.

Mr. President, I add this request, which is my own request: That when the Senate resumes consideration of H.R. 5005, the homeland security bill, I be recognized at that point.

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

Mr. BYRD. Mr. President, I overlooked a request of the lady. I thank the fine lady who serves the Senate so well for calling this to my attention. And, for the Record, her name is Lula.

Mr. President, I also ask unanimous consent that Members have until 1 p.m., Tuesday, September 17, to file first-degree amendments, notwithstanding a recess of the Senate during that time, and that second-degree amendments be filed until 4:15 p.m.

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

**ADJOURNMENT UNTIL 9:30 A.M.,
TUESDAY, SEPTEMBER 17, 2002**

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.

There being no objection, the Senate, at 4:20 p.m., adjourned until Tuesday, September 17, 2002, at 9:30 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate September 13, 2002:

THE JUDICIARY

JOSE E. MARTINEZ, OF FLORIDA, TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF FLORIDA.

ARTHUR J. SCHWAB, OF PENNSYLVANIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE WESTERN DISTRICT OF PENNSYLVANIA.