

the right thing for all concerned. This is an important nomination. I believe Merrick Garland will go on to distinction. Nobody will be more disappointed than I if he turns out to be an activist judge in the end. If he does, I think he will be one of the principal underminers in the Federal judiciary in the history of this country. But he told me he will not do that, and I trust that he will not. That doesn't mean we have to agree on every case that comes before any of these courts; we are going to have disagreements. And just because you disagree with one judge doesn't mean that judge should be impeached either. To throw around the issue of impeachment because you disagree with a judge here and there is wrong.

There are some lame-brained decisions out there, we all know that. Some of them are occurring primarily in California. Frankly, we have to get rid of the politics with regard to judges and start doing what's right. With every fiber of my body, I am going to try to do right with respect to judges because I respect that branch so much. To me, our freedoms would not have been preserved without that branch. But the way some of these judges are acting, our freedoms are being eroded by some in that branch. It is time for them to wake up and realize that that has to end.

I yield the floor.

SETTING THE RECORD STRAIGHT ON JUDICIAL NOMINATIONS

Mr. BIDEN. Madam President, I have not spoken on judges this year, but having worked on it for so many years with my friend from Utah, having either been the ranking member or chairman of that committee. But let me make one point.

It is one thing to say that we are going to disagree on judges. We did that when we were in control. We did that. And we said that all the judges that have been nominated here by two successive Republican Presidents—we picked seven out of a total of over 500—we said we disagree with these judges. The most celebrated case was Judge Bork, and less celebrated cases were people who have gone beyond being judges. Some are Senators. But the bottom line was that we understand that.

But what I do not understand is this notion and all of the talk about activist judges without any identification of who the activist judges are. It is one thing for the Republicans to say that we are not going to vote for or allow activist judges. We understand that. We are big folks. We understand baseball, hardball. We got that part. No problem.

But what I do not understand is saying we are not going to allow activist judges and then not identifying who those activist judges are. This is kind of what is going on here, and no one wants to say it. But since I have the reputation of saying what no one wants to say, I am going to say it.

Part of what is going on here is, and in the Republican caucus there are some who say, No. We want to change the rules. We want to make sure, of all the people nominated for the Federal bench, that the Republican Senators should be able to nominate half of them, or 40 percent of them, or 30 percent of them. That is malarkey. That is flat-out malarkey. That is blackmail. That has nothing to do with activist judges.

I do not doubt the sincerity of my friend from Utah. We have worked together for 22 years. But here is my challenge. Any judge nominated by the President of the United States, if you have a problem with his or her activism, name it. Tell us what it is. Define it like we did. You disagreed. You disagreed with the definition. But we said straight up, "Bang. I do not want Bork for the following reasons." People understand that. But do not try to change 200 years of precedent and tell us that we are not letting judges up because we want the Republican Senator to be able to name the judge. Don't do that, or else do it and do it in the open. Let's have a little bit of legislating in the sunshine here. Do it flat in the open.

I see my colleagues nodding and smiling. I am sort of breaching the unspoken rule here not to talk about what is really happening. But that is what is really happening. I will not name certain Senators. But I have had Senators come up to me and say, JOE, here is the deal. We will let the following judges through in my State if you agree to get the President to say that I get to name three of them. Now folks, that is a change of a deal. That is changing precedent. That isn't how it works. The President nominates. We dispose one way or another of that nomination. And the historical practice has been—and while I was chairman we never once did that—that never once that I am aware of did we ever say, "By the way, we are not letting Judge A through unless you give me Judges B and C."

Now, let me set the record totally straight here. There are States where precedents were set years ago. The Republican and Democratic Senator, when it was a split delegation, have made a deal up front in the open. In New York, Senator Javits and Senator MOYNIHAN said: Look. In the State of New York, the way we are going to do this is that whomever is the Senator representing the party of the President—I believe they broke it down to 60—for every two people that Senator gets to name, the Senator in the party other than the President gets to name one. OK, fine. Jacob Javits did not go to PAT MOYNIHAN and demand that he was going to do that. MOYNIHAN made the offer, as I understand it, to Jacob Javits. That is not a bad way to proceed.

But now to come along and say, "By the way, in the name of activist judges, we are not going to move judges" is not what this is about.

I might point out that all the talk last election that started off—it all fizzled because it did not go anywhere—about how there is going to be an issue about activism on the courts, we pointed out that of all the judges that came up in Clinton's first term, almost all of them were voted unanimously out of this body by Democrats and Republicans, including the former majority leader. He only voted against three of all the nominees, then he argued, by the way, that Clinton nominated too many activist judges. And then it kind of fizzled when I held a little press conference, and said, "By the way. You voted for all of them." It kind of made it hard to make this case that they were so activist.

So look. Let me say that I will not take any more time, but I will come back to the floor with all of the numbers and the details. But here is the deal.

If the Republican majority in the Senate says, "Look, the following 2, 5, 10, 12, 20 judges are activist for the following reasons, and we are against them," we understand that. We will fight it. If we disagree, we will fight it. But if they come along and say, "We are just not letting these judges come up because really what is happening is they are coming to guys like me and saying, 'Hey, I will make you a deal. You give me 50 percent of judges, and I will let these other judges go through.'" Then that isn't part of the deal.

Look, I have a message to the Court. I know the Court never reads the CONGRESSIONAL RECORD, and Justice Scalia said that we should not consider the RECORD for legislative history because everybody knows that all the CONGRESSIONAL RECORD is is what Senators' staff say and not what Senators know. He is wrong. But that is what he said. Maybe they don't read it. But I want to send a message.

Madam President, when I was chairman of the committee and there was a Republican President named Reagan and a Republican President named Bush, the Judicial Conference on a monthly basis would write to me and say, "Why aren't you passing more judges?" They have been strangely silent about the vacancies that exist. Now, I agree that the administration has been slow in pulling the trigger here. They have not sent enough nominees up in a timely fashion. And I have been critical of them for the last 2 years, Madam President. But that is not the case now. All I am saying to you is, as they say in parts of my State, "I smell a rat here." What I think is happening—and I hope I am wrong—is that this is not about activism.

This is about trying to keep the President of the United States of America from being able to appoint judges, particularly as it relates to the courts of appeals.

Now, what is happening is what happened today. Merrick Garland was

around for years. Now, what is going to happen is they are going to say we reported out a circuit court of appeals judge. Aren't we doing something. The truth of the matter is the proof will be in the pudding several months from now when we find out whether or not we are really going to move on these judges.

Let me point out one other thing. And I see my friend from Maryland in the Chamber, and I will yield particularly since I had not intended speaking at this moment.

Mr. SARBANES. I want to ask the Senator a couple questions when he finishes his statement.

Mr. BIDEN. The point I wish to make is this. When I was chairman of the committee and a Republican was President, we held, on average, a hearing for judges once every 2 weeks and had usually five judges, circuit court and district court, who we heard.

Last year we essentially had one hearing every other month and we had to fight to get three to four on the agenda to be heard.

Mr. SARBANES. Will the Senator yield for a question.

Mr. BIDEN. I will be happy to.

Mr. SARBANES. This is a chart that Senator LEAHY, now the ranking member on the Judiciary Committee, used today in the course of the Merrick Garland debate which I think is enormously instructive. It is the number of judges confirmed during second Senate sessions in Presidential election years.

Mr. BIDEN. I got it.

Mr. SARBANES. Now, in 1996, with a Democratic President, President Clinton, and a Republican Senate, the Senate confirmed no judges for the court of appeals, none whatsoever, and 17 judges for the district court. Now, in 1992, the previous election year—that was when Mr. Bush was President—

Mr. BIDEN. And I was chairman.

Mr. SARBANES. And if I am not mistaken, the distinguished Senator from Delaware was the very able chairman of the Judiciary Committee.

Mr. BIDEN. I did not say "able." I was chairman.

Mr. SARBANES. I am suggesting the Senator is able. I am prepared to make that statement. We confirmed 11 court of appeals judges and 55—I repeat, 55—district judges in an election year. Now, that gives you some sense of how the Democratic majority in the Senate, led at the time by the able Judiciary Committee chairman, was dealing with this matter, essentially in a non-political way.

In 1988, when I think, again, the Senator from Delaware was still the chairman of the Committee—

Mr. BIDEN. That is correct.

Mr. SARBANES. With President Reagan, a Republican President—again, in an election year—we confirmed 7 court of appeals judges and 35 district court judges. Actually, the 35 that we confirmed in that election year was better than the Republican Senate did for President Reagan in 1984 when

they only confirmed 33 judges. In any event, clearly this performance in these years is in marked contrast to what happened in 1996 and what apparently is continuing now in 1997. Merrick Garland was the first judge approved this year.

Mr. BIDEN. If I may respond to the Senator, obviously the facts are correct, but I think it worth elaborating a little bit more on the facts. I saw my very able colleague, the present chairman of the Judiciary Committee, on television the other day, and he was talking about the number of judges that were "left hanging," who were not confirmed and sent back to the administration at the end of 1992, the Bush administration. And he cited an accurate number. But as my very distinguished friend, who is, as well, a scholar, knows, there is an old expression attributed to Benjamin Disraeli, who said there are three kinds of lies: lies, damn lies, and statistics.

What my able friend from Utah did not mention is that just like President Carter—Carter's judges is a separate charge we can go back to, but just like President Clinton, President Bush did not get his nominees up here until the end of the process.

In other words, they were late getting here. Notwithstanding the fact that he was late in getting his nominees up, the Senator may remember in the caucus over the objection of some Democrats who said the Republicans would never do this, I insisted we confirm judges up to the day we adjourned the Senate. During the last week the Senate was in that year, we confirmed seven judges. I could have easily just sneezed and they would not have been confirmed. And the fact is the reason why we did not confirm more is because we did not have time to hold the hearings and we were holding hearings on 20 or more a month.

Mr. SARBANES. If the Senator will yield, I can recall the Senator was holding hearings right up into the fall of the election year and judges were being brought to the floor of the Senate and being confirmed. And he is absolutely correct; there were some—

Mr. BIDEN. Republican judges.

Mr. SARBANES. Yes, Republican judges. And there were some Members on the Democratic side who said, why are you doing this? We are about to have an election and the result may give us control of the White House. And the Senator from Delaware said, look, we ought not to have politics play a heavy hand in the judicial confirmation process.

One of the worst things that is happening in the Senate is what amounts to a heavy politicizing of the judicial confirmation process that is taking place in this body, and that was reflected in the performance in 1996 as compared with the performance in 1992 when the Senator from Delaware did his very best to keep politics out of the process, to fill judicial posts and to let the judiciary function as an inde-

pendent branch of our Government. What is happening here is extremely serious. And of course, the Senator, with his candor, came to the floor and sort of stripped away the veneer and laid out what is going on behind the scenes, which is a complete departure from past practices. When there were Republican Presidents, I did not play a role in whom the Presidents sent up to the Senate to be nominated and confirmed in the job—

Mr. BIDEN. If the Senator will yield, I was chairman or ranking member of that committee for 14 years. My distinguished colleague from Delaware is Senator ROTH, who is my close friend. Every single Federal judge in the last 24 years who has been appointed in the district of Delaware or the third circuit has been appointed by Senator ROTH. I did not expect, did not ask, and not once was ever consulted about who he would appoint, and I supported every one that he sent up. Not one single time was I made aware of anything other than after the fact, which is OK. I am not complaining about that.

Mr. SARBANES. That was the system.

Mr. BIDEN. That was the system. Not one single time. And I was chairman of the committee.

Now, I would point out one other thing to my friend. I want to have complete candor. If one considers taking judges based on their ideology and call that political, yes, we Democrats were political, as well. I am not complaining about that. I am not complaining about anybody who stands up and says I do not want Judge Smith, the President's nominee, because I think he will be bad on the court for the following reasons and comes to the floor and makes the case. I do not quarrel with that because I think that is the prerogative of the Senate and any Senator. What I am quarreling with is a different kind of politicizing, and that is drawing the conclusion that because I now control the Senate, I am not going to let the President of the United States have nominees whether or not I have an ideological problem with them.

Mr. SARBANES. Will the Senator yield. It is worse than that. It is not whether you let the President have his nominees confirmed. You will not even let them be considered by the Senate for an up-or-down vote. That is the problem today. In other words, the other side will not let the process work so these nominees can come before the Senate for judgment. Some may come before the Senate for judgment and be rejected by the Senate. That is OK.

Mr. BIDEN. Fair enough.

Mr. SARBANES. But at least let the process work so the nominees have an opportunity and the judiciary has an opportunity to have these vacant positions filled so the court system does not begin to break down because of the failure to confirm new judges.

Mr. BIDEN. If the Senator will yield, let me give an example of what you just said. I know you know, but it is important for the RECORD.

I meet every year—I will not now because I am not the top Democrat on the committee. But every year for, I don't know, 14 or 15 years, I meet with what is called the Judicial Conference—a legislatively organized body where the Congress says the court can have such a function, where we look for recommendations.

I might add, by the way, you may remember when there was a Republican President named Reagan, the Senator from Delaware introduced a bill to increase the number of Federal judgeships by 84. Why did I do that? I did that because the Federal court came to us, the Judicial Conference, and said, "Here is our problem. We don't have enough judges to administer justice in a timely fashion in this country. And there is a backlog on all these criminal cases."

I must admit to the Senator, when they came to me with that request, I knew the problem I was going to have. I was going to go into a Democratic caucus and say, by the way, a Republican President, who is a fine man but the most ideological guy we had in a long time, who announced he was going to appoint only very conservative judges, I was now going to give him 84 more than he had.

I realized that was not a politically wise thing for me to do. But, listening to the court, I did just that. My recollection is the Senator from Maryland stood with me and said, "I don't like it. I admit, I am not crazy about 84 more judges being appointed by Ronald Reagan. But the court needs to be filled."

Now we have the strange happening, the courts come back to us and say—and they do this in a very scientific way—we not only need the vacancies filled, we need more judges than we have. They cite, as the Senator is very familiar with, they cite the backlog, they give the rationale that cases are being backed up. Guess what? The idea that we will even get a chance to discuss a judgeship bill, I predict to my friend from Maryland, on this floor is zero—zero. Not only that, to further make the point, this is the first time in the 24 years that I have been a Senator, in 24 years, the first time I have ever heard anybody come to the floor and say: You know, we should basically de-commission judgeships.

The ninth circuit is the busiest circuit in America, out in California. One of our colleagues, a very wonderful guy, a nice guy, says, "I am not going to let any other judge be in the ninth circuit"—notwithstanding they have five vacancies, if I am not mistaken, and they are up to their ears in work. This started last year when I was in charge of the Democratic side. He said, "I am not going to let anybody go through until the ninth circuit splits into two circuits."

I said, "Why do you want it to split?"

He said, "The reason I want it to split is I don't like the fact that California judges are making decisions that affect my State."

The distinguished Senator from Idaho is shaking his head. He agrees. He is in that circuit. It is painful to point this out, but the reason why there is a Federal court is so there is not Illinois, Indiana, Idaho, California justice. There is one uniform interpretation of the Constitution. That is the reason we have a Federal circuit court of appeals.

Now, this is quite unusual. We have—and I was not referring to the distinguished Senator from Idaho, who is on the floor, when I said, "there was a Senator." That is not to whom I am referring. But another one of our colleagues said he is not going to let anybody go through until there is a split, because he does not like the idea that decisions relating to his State are being made by judges who are not from his State or are not from States of similar size. That is, interestingly, an effectively rewrite of the Constitution of the United States of America. I do not think the Senator thought it in those terms, but that is literally what it is.

Now I am being told, OK, unless we, in fact, split the circuit—and by the way, I am not opposed to splitting the circuit. We split the fifth circuit because when we got to the point where Florida grew so big—Florida and Mississippi and Alabama and Louisiana, they are all in the same circuit—but they got so big, because of population growth, we said—the court recommended, we agreed—that it should be split into two circuits. We understand that. I am not opposed to that. I am not arguing about that. But the idea that someone says, "Until you do it my way, until you can assure me I am not going to be associated with that State of California, I am not going to let any vacancies be filled"—

Mr. SARBANES. If the Senator will yield, in effect what is happening is the court system is being held hostage, so it is not able to function properly as a court system should. I submit that is an irresponsible tactic to use. As Members of the Congress, the first branch of Government, we have a responsibility to see that the court system can function in a proper fashion.

The Senator from Delaware, when he was chairman of the committee, always measured up to that responsibility, I think often taking a lot of political heat for doing it. But he was out to make sure the system could function. He had Republican Presidents nominating judges. He processed their nominations. He brought them to the floor of the Senate. He gave the Senate a chance to vote on them up or down for those people to get confirmed. That process is breaking down.

Mr. BIDEN. I voted for all of them but seven, I might add. There were only seven times that I voted against any of those nominees.

Mr. SARBANES. That process, I repeat, is now breaking down.

The other thing that is happening, as he says, instead of disagreeing with the

qualifications of a nominee, the other side says, "We don't really need the position."

Mr. BIDEN. That is right.

Mr. SARBANES. And that is what we heard on Merrick Garland. In fact, when he first came up here, he was nominated for the 12th position on the D.C. circuit. They said, "We don't need that position. We have nothing against Merrick. He is a wonderful fellow, of course. We just don't think we need that 12th position." Of course, that does a lot for Merrick Garland. He's sitting, waiting to join the court. Then someone already on the court took senior status, and then they had two vacant positions, the 11th and 12th. Merrick Garland is nominated. He's now up for the 11th position; not the 12th position, the 11th position. The majority is right back here on the floor and it says, "We don't need this position." This is the 11th position. They never made that argument last year when he was going for the 12th position. Then they said we need the 11th, we don't need the 12th. Now they are back, some, today—fortunately, they did not prevail—saying we do not need either the 11th or the 12th position.

Mr. BIDEN. If the Senator will yield on that point, it is probably going to get him in trouble, but I want to compliment the chairman of the committee. The chairman of the committee did not buy into that argument. The chairman of the committee took the position on this that we should act, and he had been pushing this for some time.

Again, I see my distinguished friend, who now I work with in another capacity, as the minority—the euphemism we use is ranking member—of the Foreign Relations Committee. We have much less disagreement than we have on some issues relating to judges. But, with him here, I can remember that during the last days when the Senator from Delaware was trying to push through judges—on October 8, 1992, the last day of the session, with President Bush as President of the United States, the Senator from Delaware pushed through seven Republican judges—the last day.

I will bet you that has not happened very often in this place with Democrats or Republicans: The last day, seven.

The reason I mention that is one of my distinguished colleagues—we have very different views, but I like him a lot—walked up to me and he was from a State where there were two Republican Senators, and two of those judges were his. He walked up and shook my hand. This will not go in the RECORD—it will go in the RECORD, but his name won't, but my colleagues will know who he is. He shook my hand and said, "Joe, you're a nice guy. I really appreciated it." He says, "Of course, you know I would never do this for you."

I like him because he is straightforward and honest. He meant it, and that's why we get along so well. I am

not referring to the Senator from North Carolina. He said, "I'd never do this for you." The point being, not that BIDEN is a good guy or BIDEN is a stupid guy, the point being that the court is in desperate trouble in a number of jurisdictions. In southern California and south Florida, and in a number of places where there are drug cases that are backed up, a number of places where there are significant civil case backlogs, a number of places where population growth is straining the court, they need these vacancies filled.

I respectfully suggest that it is a rare—it is a rare—district court nominee by a Republican President or a Democratic President who, if you first believe they are honest and have integrity, have any reason to vote against them. I voted for Judge Bork, for example, on the circuit court, because Judge Bork I believed to be an honest and decent man, a brilliant constitutional scholar with whom I disagreed, but who stood there and had to, as a circuit court judge, swear to uphold the law of the land, which also meant follow Supreme Court decisions. A circuit court cannot overrule the Supreme Court.

So any member who is nominated for the district or circuit court who, in fact, any Senator believes will be a person of their word and follow stare decisis, it does not matter to me what their ideology is, as long as they are in a position where they are in the general mainstream of American political life and they have not committed crimes of moral turpitude, and have not, in fact, acted in a way that would shed a negative light on the court.

So what I want to say, and I will yield because I see my friend from South Carolina—North Carolina, I beg your pardon. I am used to dealing with our close friend in the Judiciary Committee who is from South Carolina. I seem to have the luck of getting Carolinians to deal with, and I enjoy them. I will yield the floor by saying, I will come back to the floor at an appropriate time in the near term, immediately when we get back from the recess, and I will, as they say, Madam President, fill in the blanks in terms of what the absolute detail and each of the numbers are, because I have tried to recall some of them off the top of my head, not having intended to speak to this issue when I walked across the floor earlier.

Let it suffice to say at the moment, at least for me, that it is totally appropriate for any U.S. Senator to voice his or her opposition to any nominee for the Court, and they have a full right to do that. In my study of and teaching of constitutional law and separation of powers issues, there is nothing in the Constitution that sets the standard any Senator has to apply, whether they vote for or against a judge.

But I also respectfully suggest that everyone who is nominated is entitled to have a shot, to have a hearing and to have a shot to be heard on the floor and have a vote on the floor.

We had a tie vote in the committee, Madam President, on one of the Supreme Court nominees. I was urged by those who opposed him—and I opposed this particular nominee—to not report it to the floor. My reading of the Constitution, though, is the Judiciary Committee is not mentioned in the Constitution. The Judiciary Committee is not mentioned. The Senate is. We only in the Judiciary Committee have the right to give advice to the Senate, but it is the Senate that gives its advice and consent on judicial nominations.

I sincerely hope, and I have urged the administration to confer with Republican Senators before they nominate anyone from that Senator's State. I think that is totally appropriate. I think it is appropriate, as well, that Republican Senators, with a Democratic President, have some input, which Democrats never had with the last two Republican Presidents. I think that is appropriate.

But I do not think it is appropriate, if this is the case—and I do not know for certain, it just appears to be—if the real hangup here is wanting to reach an informal agreement that for every one person the President of the United States gets to nominate, the Republican Party will get to nominate someone, the Republican Party in the Senate. Or for every two persons that the President nominates, the Republicans get to nominate one.

It is totally appropriate for Republicans to reject every single nominee if they want to. That is within their right. But it is not, I will respectfully request, Madam President, appropriate not to have hearings on them, not to bring them to the floor and not to allow a vote, and it is not appropriate to insist that we, the Senators—we, the Senators—get to tell the President who he must nominate if it is not in line with the last 200 years of tradition.

Again, I did not intend speaking at all on this, other than the fact I walked through and it was brought up, and since I was in that other capacity for so long, I felt obliged to speak up.

I see my friend from North Carolina is here. I do not know if he wishes to speak on judges or foreign policy matters, but whichever he wishes to speak on, I am sure it will be informative. I yield the floor.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER (Mr. BROWNBACK). The Senator from North Carolina is recognized.

Mr. HELMS. Mr. President, let me say that I always enjoy my friend, Senator BIDEN—all of it. You have to wait awhile sometimes, but the enjoyment is nonetheless sincere.

CHEMICAL WEAPONS CONVENTION

Mr. HELMS. Mr. President, the remarks I am about to make will probably be the best kept secret in Washington, DC, tomorrow morning in the Washington Post or whatever. Instead,

I am sure there will be ample coverage given to the various statements made by several Senators earlier in the day about how they are having trouble getting a treaty through the U.S. Senate. And certain comments were made that just had no basis in fact whatsoever.

So this is a speech that I am going to make to set the record straight so that it will be in the CONGRESSIONAL RECORD tomorrow morning in the hopes that some soul somewhere may decide to look to see what the facts really are.

In any case, I listened with great interest to the—what do we call it—the colloquy this morning regarding the Chemical Weapons Convention, and I think it is important to remind the Senate of some facts about the debate surrounding this controversy and, I believe, this dangerous treaty, which is perilously flawed.

First of all, I am puzzled at the insistence of some of my Democratic colleagues on a date certain for a vote on this treaty. It appears that the supporters of the treaty want only a date certain when it suits their needs, their desires. I remember last year, they wanted a date certain for hearings on this very same subject, the Chemical Weapons Convention Treaty. They wanted a date certain for committee action on the treaty; they insisted on it.

The committee took action on the treaty. Then they wanted a date certain for floor debate and consideration of the treaty—this was last year—and we obliged them in every instance. But hours before the vote on the Chemical Weapons Convention, on their date certain, that was supposed to happen, it was announced by the majority leader the night before, but what happened? The White House called up and said, "Please withdraw the treaty."

Now, it was not this Senator from North Carolina or any other Senator who asked it be withdrawn. It was not TRENT LOTT, the majority leader. It was the Clinton administration who asked the Senate not to vote on the Chemical Weapons Convention. Do you know why? Because they didn't have enough votes to ratify the treaty. And why did they not have the votes to ratify the treaty? Because in their zeal to force this treaty down the throats of Senators, they refused flat out to address any of the serious concerns that I had and a growing number of other Senators had about this treaty.

I remember thinking last year, and I am thinking now, about what Sam Ervin said so many times. He said, "The United States had never lost a war or won a treaty." And you think about the treaties that we have gotten into, and Sam Ervin—I think he got that from Will Rogers—but wherever it came from, it is true, and particularly in a document such as the Chemical Weapons Convention.

So the suggestion, whether stated or implied, that we are somehow holding this treaty hostage is not only fraudulent, it is simply untrue. You will not