

and House of Representatives according to the Rules and Limitations prescribed in the Case of a Bill."—U.S. Const. art I, § 7, cl. 3.

<sup>11</sup>Defendants cite no analog, as a species of impoundment or anything else, however, to the power to "cancel" limited tax benefits found in the Act.

<sup>12</sup>See, e.g., *Skinner v. Mid-America Pipeline Co.*, 490 U.S. 212, 219 (1989) (upholding delegation of authority to establish and collect pipeline safety fees); *Lichter v. United States*, 334 U.S. 742, 778 (1948) (upholding grant of power of recover excessive wartime profits), and *Yakus v. United States*, 321 U.S. 414, 424 (1944) (upholding broad delegation of price-fixing authority).

<sup>13</sup>As noted *supra*, p.4, §691e(4) of the Act defines the verb "cancel" as meaning "to rescind." *Webster's Third New International Dictionary* 1924 (G.&C. Merriam Co. 1981) defines the verb "repeal" as meaning "1: to rescind or revoke (as a sentence or law) from operation or effect."

<sup>14</sup>Defendants suggest that, in canceling future appropriations, the President will, in fact, be faithfully executing the Line Item Veto Act to reduce the deficit. But the Act contains no mandate to the President to reduce the deficit. It merely conditions cancellations for whatever reason upon, *inter alia*, their having a deficit-reducing effect.

<sup>15</sup>As the Supreme Court further explained in *J.W. Hampton, Jr. & Co. v. United States*, 276 U.S. 394, 407 (1928), 30 years later: "Congress may feel itself unable conveniently to determine exactly when its exercise of the legislative power should become effective, because dependent on future conditions, and it may leave the determination of such time to the decision of an executive, or, as often happens in matters of state legislation, it may be left to a popular vote of the residents of a district to be affected by the legislation. While in a sense one may say that such residents are exercising legislative power, it is not an exact statement, because the power has already been exercised legislatively by the body vested with that power under the Constitution, the condition of its legislation going into effect being made dependent by the legislature on the expression of the voters of a certain district."

<sup>16</sup>See also *Metropolitan Washington Airports Auth. v. Citizens for the Abatement of Aircraft Noise*, 501 U.S. 252 (1991); *Bowsher v. Synar*, 478 U.S. 714 (1986); *cf. U.S. Term Limits v. Thornton*, 115 S. Ct. 1842 (1995).

Mr. BYRD. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. MOYNIHAN. Mr. President, I rise to state that this is a fine moment in the history of the Senate. It has come about through the leadership of Senator ROBERT C. BYRD and his devotion to the Constitution of the United States. The court today ruled in the most explicit terms. It said, " \* \* \* the Act effectively permits the President to repeal duly enacted provisions of Federal law. This he cannot do."

Then with a grace note that I hope the Senate will appreciate, and I know our distinguished occupant of the chair will, with Senator BYRD's great attachment to the history of democratic government and theory and its glorious origins in Greece, the court referred to the sword-of-Damocles effect: Not that the President would exercise this power, but that he might do it. There is a sword still suspended in this Chamber, but soon, I cannot doubt, to be taken down as a consequence of the judgment of the Supreme Court. I might add, sir, that there are some in Congress who are concerned that the courts interfere too much with our procedures. This is a court defending the Constitution and the U.S. Congress in its responsibilities.

Finally, sir, may I state a moment of gratitude to the attorneys, our learned counselors, who, on a pro bono basis, argued this case so effectively. I ask unanimous consent that their names be printed in the RECORD at this time.

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

#### COUNSEL FOR PLAINTIFFS

Charles J. Cooper, Michael A. Carvin, David Thompson, Cooper & Carvin, 2000 K Street, N.W., Suite 401, Washington, DC 20006, (202) 822-8950.

Michael Davidson, 3753 McKinley Street, N.W., Washington, DC 20015 (202) 362-4885.

Lloyd N. Cutler, Louis R. Cohen, Lawrence A. Kasten, Wilmer, Cutler & Pickering, 2445 M Street, N.W., Washington, DC 20037 (202) 663-6000.

Alan B. Morrison, Colette G. Matzzie, Public Citizen Litigation Group, 1600 20th Street, N.W., Washington, DC 20009 (202) 588-1000.

The PRESIDING OFFICER. Under the previous order, the Senator from Michigan is recognized for 3 minutes.

Mr. LOTT. Mr. President, I want to announce officially that there will be no further votes today.

Mr. LEVIN. Mr. President, I thank my friend from West Virginia. The Senator from West Virginia is the plaintiff in a historic lawsuit. This lawsuit has now taken the first step. Senator MOYNIHAN and I, Senator Hatfield, and a number of House Members are co-plaintiffs, and proudly so, with Senator BYRD. We are kind of the "et al." Robert BYRD, et al. It is a position that we are proud to be in.

This lawsuit, we should be clear, tests a particular version of the line-item veto that is in that bill. What the court held, and what our lawyers argued, and what we feel passionately is that once the President of the United States affixes his signature to a bill, that is the law of the land. Four magic words: "Law of the land." When that becomes the law of the land, it cannot be repealed unilaterally by the President or by us. It must be repealed according to the Constitution. That is the fundamental, bedrock, black letter constitutional law, which the court affirmed today. It is pleasing to us that the court did so.

I want to thank our colleagues for making it possible for us to have an expedited process in the courts. Whichever side of this dispute we were on, we agreed that we ought to resolve it promptly. The bill provided that there be an early resolution in court. I think all of our colleagues are to be thanked for making that possible.

The sword of Damocles is there, as the Senator from New York mentioned. It still hangs here until there is a final resolution, if there is going to be an appeal to the Supreme Court. We hope now that the Constitution will prevail. We think it is clear that the courts are the right people to give the final interpretation of that Constitution. Justice Marshall's vision and holding prevails today, in that a court has now ruled on the constitutionality of a law. Presumably, that will go to the Supreme Court. We hope for a prompt resolution.

We are very gratified that what we believe is so fundamental in this country has now been reaffirmed by the district court that took the first look at

this law. That principle, again, is that once that moment comes when a Presidential pen is affixed to a bill, that bill binds all of us, every one of us, be it the President or any other citizen of this land, and that bill cannot be changed. The law cannot be changed by the unilateral act of either the President or the Congress, but must be repealed as laws are adopted, with the involvement of both the President and the Congress, as required by the Constitution.

Again, my thanks to Senator BYRD for the leadership he has shown in protecting the Constitution of the United States. I know Senator MOYNIHAN expressed this, and Senator Hatfield, if he were here, would say the same, that we are very, very gratified to be on the same side of a very critical lawsuit with our good friend from West Virginia.

Mr. BYRD. If the Senator will yield, I wish to thank my dear friends, Senator MOYNIHAN and Senator LEVIN, for their gracious remarks this afternoon. I also wish to thank the majority leader for his cooperation in this matter. I went to him about having a piece of legislation passed that would help to expedite this action. Although he did not agree with me in the matter itself, he was very cooperative in allowing that action by the Senate to take place. I thank him for that.

Mr. President, I join Mr. MOYNIHAN, also, in thanking counsel for their excellent services in this important matter.

#### EXECUTIVE SESSION

Mr. LOTT. Mr. President, in executive session, I ask unanimous consent that the majority leader, after consultation with the Democratic leader, may proceed to the consideration of Executive Calendar No. 34, the nomination of Pete Peterson to be Ambassador to Vietnam. I further ask that the nomination be considered under the following time limitation: 30 minutes equally divided between the majority leader and Democratic leader or their designees. I further ask unanimous consent that immediately following the expiration or yielding back of the time, the Senate proceed to a vote on the nomination and that, immediately following the vote, the President be notified of the Senate's action and the Senate then return to legislative session.

Mr. DASCHLE. Mr. President, reserving the right to object, is it the understanding of Senators on both sides of the aisle that this would not require a rollcall vote?

Mr. LOTT. That is my understanding at this time, Mr. President.

Mr. DASCHLE. Mr. President, I ask unanimous consent that in the unlikely event that a rollcall vote is necessary, that it would take place following the final vote on the nuclear waste bill next Tuesday.

Mr. LOTT. I hope that, after all that we have done, we can get this concluded tonight. I know that would be your preference. That is my understanding as to the parties that have been interested. I think we can get it done tonight.

Mr. DASCHLE. I make that unanimous-consent request, but I don't think it will be necessary.

Mr. LOTT. I have no objection.

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

Mr. LOTT. For clarification, there was no objection to the unanimous consent request that I made, as amended by Senator DASCHLE.

Mr. DASCHLE. I had no objection.

Mr. LOTT. Mr. President, with regard to Calendar No. 34, the nomination of Pete Peterson to be the Ambassador to Vietnam, I would like to specifically thank the Senator from New Hampshire for his cooperation and for the very serious questions that he has raised, which needed to have proper attention. I believe that we have gotten some progress made in that regard. We do have now a letter that has been sent to me, in response to our questions, from the National Security Council, Mr. Berger. Senator SMITH has had a chance to review that. I personally have had very serious concerns all along about the normalization of relations with Vietnam. I think the certification has been flawed in the way it has been handled, and I think that those points needed to be made. But I also felt that Pete Peterson was an excellent choice for this assignment. And I appreciate the cooperation of Senator SMITH in the way he handled this matter, and Senator MCCAIN for his cooperation. I know he has a personal involvement and interest in the nominee. I just wanted to thank them both for their efforts.

I would like to yield the remainder of my time to the Senator from New Hampshire.

Mr. SMITH of New Hampshire. Thank you, Mr. President. I yield 3 minutes to the Senator from Arizona.

The PRESIDING OFFICER. The nomination will be stated.

NOMINATION OF PETE PETERSON, OF FLORIDA, TO BE AMBASSADOR TO THE SOCIALIST REPUBLIC OF VIETNAM

The assistant legislative clerk read the nomination of Pete Peterson, of Florida, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Socialist Republic of Vietnam.

The Senate proceeded to consider the nomination.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. MCCAIN. Mr. President, I thank the majority leader for all of his efforts in making this possible.

I also would like to especially thank my friend from New Hampshire who is a dogged, a determined, a zealous, and a committed advocate of attaining a complete and full accounting of those

who are still missing in action in Vietnam.

The Senator from New Hampshire and I have had differences of view on this issue from time to time. But no one has ever questioned the absolute dedication of the Senator from New Hampshire to the commitment to those fellow Americans for whom we still have not been able to obtain an accounting.

Mr. President, I thank him because if it had not been for him this very important letter from the White House would not have come over to our leader signed by Sandy Berger, Assistant to the President for National Security Affairs. It lays out a very important set of priorities for further actions that need to be taken by the United States and by the Vietnamese so that we can finally put this very difficult chapter behind us.

I thank the Senator from New Hampshire for his efforts in that direction.

Finally, Mr. President, I would like to wish, since I am confident that Pete Peterson will be confirmed by the Senate, a dear friend, Godspeed. He is traveling back to a place that he found quite uncomfortable the last time he resided there, and I am very grateful that we have an American like Pete Peterson who is willing to go back and serve his country in a very vital and important manner. And perhaps one could argue that only Pete Peterson could do this job in the way that it needs to be done in this very difficult and very critical time in our relations with Vietnam and Asia.

So we all wish Pete Peterson every success, and we are grateful that we have someone like him who is willing to continue to serve his Nation.

Thank you, Mr. President. I yield the remainder of my time to Senator SMITH.

Mr. SMITH of New Hampshire. Mr. President, I thank the Senator from Arizona for his kind words, and also for his cooperation in working with me on this issue.

Mr. President, there were some concerns which I had raised, and they have been addressed thanks to the cooperation of Senator LOTT, Senator DASCHLE, Senator SHELBY, Senator BOB KERREY, and certainly Sandy Berger with the National Security Council of the President of the United States.

I think because of the willingness to address the concerns that I have raised we were able to resolve this matter tonight.

Let me first of all say clearly and for all the world to see and know that this issue has never been about the qualifications of Pete Peterson to be the Ambassador to Vietnam. It has been about the accounting process and how best to go about getting a fullest possible accounting for our missing.

In regard to former Congressman Pete Peterson, he was a POW in Vietnam for a number of years, suffered greatly at the hands of the Vietnamese, as did my colleague Senator

MCCAIN. I am sure the accommodations as Ambassador will be a little better than he had on his last trip over there as a POW. But I have worked with him on the United States-Russian Commission. I like him. I respect him. He is an honorable and decent man, and he will be I believe a good ambassador.

My concerns have been addressed in the past on this floor in terms of the problems that I believe we have with the Vietnamese. I am hopeful now, with this clarification that we have been able to receive from the White House, and with the support of Senator MCCAIN, Senator SHELBY, and others, that Ambassador Pete Peterson will be able to seek this information and finally get this information from the Vietnamese.

It has always been my concern that rather than to say that the Vietnamese are fully cooperating and then we will send an Ambassador over there, I think it is more honest to say we don't have all of the information, the Vietnamese can provide more information, and let's send the Ambassador over there to get it. I think that is more honest. I believe that is what we have resolved here tonight.

Mr. Berger was kind enough to indicate by letter that the President commits to continue to press the Government of Vietnam to cooperate on full accounting, and that they have established the mechanisms to do it with the Vietnamese to provide information that the Vietnamese have only available to them. I interpret that to mean that there is a lot of information that the Vietnamese can unilaterally provide, as the League of Families has so often said under its leader, Andrew Griffiths, that we want the information whatever that may be that the Vietnamese can unilaterally provide. We all know, and I think this compromise indicates, that there is information still that the Vietnamese can unilaterally provide. I hope that the Ambassador will be able to encourage the Vietnamese, and finally hopefully persuade the Vietnamese to provide it.

I want to be specific in four areas that I believe are the major areas of information.

One, the Politburo records concerning U.S. POW's: These records are important. Vietnamese officials have not provided them. And we believe they can provide many of them. They may have lost some. But we think there are some they can provide. DOD analysts have testified under oath that access to these records has not been provided.

So I hope that Ambassador Peterson will pursue that venue very directly with the Vietnamese. I have ever assured that he will.

Second, North Vietnamese military records on U.S. POW's and MIA's from the country of Laos: As you know, North Vietnam occupied Laos during the war. We lost a lot of American fliers in Laos during the war, and the Vietnamese have not been forthcoming about a lot of the shutdown records pertaining to U.S. losses in Laos.

The so-called Group 559 shutdown record turned over in September 1993 contains only summary information, and the DOD analysts—not Senator SMITH—have concluded that “It is clear that this record was compiled after the fact from original records.” So we need those original records. I hope that along the lines that the analysts have testified in their testimony last year that we would be able to get that information from the Vietnamese.

It is clear that the Vietnamese did have direct knowledge of these losses. We know that. Hopefully now they will provide it. We deserve to know the fate of these United States POW’s who were shot down in Laos and captured by the Vietnamese, and in some cases killed by the Vietnamese in this instance. But in the province in Northern Laos which I personally visited, none of them really in that area have been accounted for at all from the Communist side. We know that they have information because some of these people were captured and filmed.

Third, the unilateral action by Vietnam in 461 cases unaccounted for: These are records that we believe based on our best information the Vietnamese could provide more data, and we have had testimony from again the intelligence community saying that they believe based on our information that they could get that information.

Finally, Mr. President, the prison camp records pertaining to U.S. POW’s: I think we are not interested in what somebody did as a POW or didn’t do as a POW in getting those documents. They can be screened and carefully taken care of by the intelligence community, should we get them. What we are interested in is what happened to some of these people who were in the prison system who were not returned, who were seen on film and on tape—sometimes used for propaganda—and have never been accounted for. So we believe that the Vietnamese would know something about those people, and certainly what happened to them. We would hope that they would provide that information.

So those are the four areas that I have focused on and on which I hope the Ambassador will focus on. I think that is what is referred to in the letter here from Mr. Berger.

I think also when the Intelligence Committee—I thank Senator SHELBY for his cooperation in this regard because basically he looked into this matter for me and we have now come to a conclusion that there is further information that the intelligence community really didn’t have input into the certification process, and, therefore, they need to have that information.

If you read the testimony on the House side and some other testimony where analysts have spoken, they have talked about the fact that this access is important, and there are two documents—the so-called 735 and 1205—that come out of the Russian archives which

are very controversial. And we are now pursuing those in the United States-Russian Commission where Senator JOHN KERRY of Massachusetts, myself, and others were members, and Pete Peterson was a member. We are still pursuing that information.

So I want to again conclude on a couple of points and then yield to anyone else who may wish to speak on this matter.

Pete Peterson is an outstanding public servant. He served his country well. He went through hell in Vietnam, and the fact that he now is willing to go back and pursue information on POW’s, on his fellow colleagues, POW’s and MIA’s, fellow comrades in arms, I think is a tribute to him and the type of person that he is.

I want to say again what has been distorted, as usual in the media so many times, specifically the Boston Globe, and other places where apparently untruths were hyped by the papers, they had it all wrong. I was never opposed to Pete Peterson in any way, shape, or form being the Ambassador. My concern is with what I just addressed, which is we need to try to get the fullest possible accounting. We have not gotten the fullest possible accounting, and with the Ambassador going to Vietnam he will do that. I am all for it.

Let me just also say in regard to Mr. Hoang, who I talked with who is now out of the country and is not here, I hope and believe that should Mr. Hoang come back into the country that he ought to come before the Governmental Affairs Committee and answer any and all questions put to him regarding not only Vietnam but anything else regarding these matters in terms of how policy was developed. But at this point he is not in the country to do that.

So let me again thank everyone involved in working this decision out. One of the nicest things about the Senate, even though it is frustrating if you are on the other side of something, is that you get the opportunity to work together.

I remember the first day I was on the floor in 1991. Senator Mitchell, then the majority leader, came over to me and introduced himself. He said, “Hello,” and said, “Bob, welcome. It is nice to have you. I wish we could have gotten a Democrat, but we got you. But let me just say this. We will work with you over here. It is not like the House, not because we want to but because we have to.” That is OK. I mean that is the way the process works here. When you have a concern, people on the other side work with you to get it resolved. You do the best you can, and sometimes it works out. And more often than not it does work out even though you take some flak.

So I am very pleased with those on all sides of this issue who worked with me to address my concerns. Especially I am grateful to Sandy Berger who I called this morning and asked to pre-

pare a letter. I gave him the concerns that I had. He responded before the end of the day to Senator LOTT with the concerns that I raised. I can’t thank him enough.

I think the fact that the nomination will go through tonight is to a large extent due to the willingness of the administration, specifically Mr. Berger to address my concerns. I am very grateful to them for that.

I wish Ambassador Peterson the best of luck. I look forward to working with him as Ambassador to Vietnam to get more information on our missing men and a few women in Vietnam.

Mr. President, I ask unanimous consent to have relevant material printed in the RECORD.

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

AREAS WHERE VIETNAM IS NOT “COOPERATING IN FULL FAITH” OR PROVIDING FULL DISCLOSURE ON UNACCOUNTED FOR AMERICANS

(1) Politburo records concerning U.S. POWs.—Vietnamese officials have not provided wartime politburo documents in which the total number of captured U.S. POWs were discussed. This is critical because of the information passed to the U.S. Government in 1993 by Russian intelligence which contained reported transcripts of two secret North Vietnamese wartime speeches in which the number of captured U.S. POWs referenced was substantially higher than those who were returned by Hanoi in 1973. U.S. Deputy Assistant Secretary of Defense for POW/MIA Affairs, James Wold, confirmed in a meeting with Senator Smith and Congressman Johnson on February 4, 1997, that he has not succeeded in convincing Hanoi to cooperate on this matter—and DoD analysts have testified under oath that access to such records has not been provided.

(2) North Vietnamese military records on U.S. POWMIAs from Laos.—Since September, 1993, Vietnam has not provided additional documentation on a North Vietnamese shutdown record pertaining to U.S. losses in Laos. (The so-called “Group 559 Shutdown Record” turned over in September, 1993, contains only summary information, and DoD analysts have concluded that “it is clear that this Record was compiled after the fact from original records” and that “it is very difficult to believe that additional Group 559 documents could not be turned over forthwith” and that “analysis of this document makes clear that the Vietnamese have additional Group 559 records that may contain information useful to POW/MIA case resolution.” DoD analysts testified under oath to Congress last year that with regard to about 253 Americans captured or lost in Laos, it was not clear that the Vietnamese had direct knowledge of these losses, and “they should have known exactly what happened to the person.” U.S. intelligence also indicates that Vietnamese officials should have direct knowledge of the fate of U.S. POWs known to have been held by the Pathet Lao during the war in Sam Neua province in northern Laos—none of whom have ever been accounted for by the Communist side.

(3) Unilateral Action by Vietnam on 461 cases of unaccounted for men.—In January, 1996, the State Department indicated that Assistant Secretary Winston Lord had “expressed disappointment to Vietnamese officials in the level and quality of unilateral work they perform on cases.” Last summer, General Wold passed to Vietnam 461 “unilateral cases” of unaccounted for men—cases

where General Wold stated that "critical Vietnamese assistance" was needed. Such assistance has not been forthcoming in these cases, according to the comprehensive review of all cases conducted by DoD in response to Congressional legislation in 1995. It is not clear that this situation has dramatically improved over the last six months since General Campbell assumed command of Joint Task Force (Full Accounting.)

(4) Prison Camp Records Pertaining to U.S. POWs.—The U.S. has reportedly not received access to prison camp records detailing the fate of many POWs, including so-called "died-in-captivity" cases, and the prospects for final accountability for these men (ie: information on the location or disposition of remains). These records would also help resolve eyewitness accounts of reported American POWs in captivity which U.S. intelligence agencies have collected over the years.

U.S. SENATE,  
Washington, DC, March 24, 1997.

Hon. RICHARD C. SHELBY,  
U.S. Senate, Hart Senate Office Building,  
Washington, DC.

DEAR DICK: I am writing to request an inquiry by the staff of the Select Committee on Intelligence into certain documents pertaining to American POW/MIAs from the conflict in Southeast Asia.

As you know, Senator Bob Smith has raised questions about intelligence information on which President Clinton based his 1996 certifications required by law as a condition for the expansion of relations with Vietnam. He has specifically raised concerns relating to two documents acquired from the archives of the former Soviet Union. These documents came to light after the Senate Select Committee on POW/MIA Affairs was disbanded in 1993.

I would appreciate your directing a staff inquiry examining the intelligence basis for the President's certifications—specifically addressing the two documents—in as expeditious a fashion as possible. Because I hope that full Senate can consider the pending nomination of former Congressman Peterson to be Ambassador to Vietnam the week of April 7th, I would appreciate receiving the results of the inquiry prior to that time.

Thank you for your consideration of my request. With best wishes, I am

Sincerely yours,

TRENT LOTT.

U.S. SENATE,  
SELECT COMMITTEE ON INTELLIGENCE,  
Washington, DC, April 8, 1997.

Hon. TRENT LOTT,  
Majority Leader, U.S. Senate,  
Washington, DC.

DEAR MR. LEADER: In response to your March 24, 1997 letter, we are attaching the findings of a preliminary staff inquiry into the U.S. Intelligence Community input that formed the basis of the 1996 Presidential determinations regarding Vietnam's accounting for American POW/MIAs, including accelerating efforts to provide POW/MIA-related documents.

The President determined last year that, based upon information available to the U.S. Government at that time, the Socialist Republic of Vietnam was cooperating in full faith on the POW/MIA issue. These determinations were made by the President in response to Public Law conditioning the release of funds for U.S. diplomatic or consular post in the Socialist Republic of Vietnam on Presidential certification.

The staff inquiry has found:

1. That the Intelligence Community appears to have played no formal role in the determinations.

2. That regarding the so-called "735" and "1205" documents from the Russian archives:

They have not been the subject of a coordinated community-wide analysis. Elements of the Intelligence Community did contribute to a 1994 Department of Defense assessment and the State Department's Office of Intelligence and Research (INR) prepared several memoranda analyzing the documents;

The 1994 DoD assessment and the 1993 INR analysis identified numerous errors in the documents and raised questions about their accuracy, but could not dismiss them as fabrications; and,

Time constraints have not allowed the Committee staff to completely investigate all activities taken since 1994, but attempts by the Intelligence Community to gain additional information on the documents appear to have been limited.

We want to emphasize that this is not a comprehensive Committee review. We will explore whether the Committee should conduct further inquiry after consultation with all of the Committee Members.

Sincerely,

RICHARD C. SHELBY,  
Chairman.  
J. ROBERT KERREY,  
Vice Chairman.

Attachment.

STAFF INQUIRY  
Background.

A primary role of U.S. intelligence is to help American foreign policy makers make informed decisions. In general, U.S. Government's certification on foreign affairs matters is assumed to be based on a number of factors including input from the Intelligence Community. The process of collecting and analyzing sensitive and open-source information is complicated and subjective, but is the essence of the work done by the Intelligence Community. In most instances, the quality and source of information is such that it can be interpreted in more than one way and isolated reports of information may easily be misinterpreted. It is critical to take all information—including information derived from sensitive intelligence sources and methods, and information related to policy implementation—into account when judging the validity of information on which to base a certification or determination.

#### Findings.

1. The Intelligence Community appears to have played no formal analytical role in the determinations.<sup>1</sup>

a. Prior to the 1996 Presidential certifications, or in this case "determinations,"<sup>2</sup> the National Security Council did not request an Intelligence Community assessment on whether the Socialist Republic of Vietnam was cooperating in full faith on POW/MIA issues specified in Public Law 104-134 and Public Law 104-208, which included "accelerating efforts to provide documents that will help lead to the fullest possible accounting of POW/MIAs."

b. The U.S. Intelligence Community did not on its own provide an assessment on whether Vietnam was cooperating in full faith on the key POW/MIA issues.

c. The Defense POW/MIA Office (DPMO) and State East Asian & Pacific Affairs Office (EAP), two policy directorates (outside the oversight of the Intelligence Community) within the Offices of the Secretaries of Defense and State, were asked to provide input for a Presidential "Memorandum of Justification for Determination." DPMO and EAP officials indicated to Committee staff that their input did not include any Intelligence Community product but they did rely

on in-country reporting from the State Department Embassy officers and the DoD personnel with the Joint Task Force—Full Accounting.<sup>3</sup> Apparently, collection requirements pertaining to the POW/MIA issue were in place during the 1980s and early 1990s, but were removed from the President's Decision Directive on the Intelligence Community's priority requirement list on the recommendation of the National Security Council in 1995.

d. The only formal POW/MIA issue assessments identified by the U.S. Intelligence Community was a 1987 Special National Intelligence Estimate (SNIE) and a 1996 critique paper. The SNIE was titled, *Hanoi and the POW/MIA Issue*.<sup>4</sup> Its term-of-reference and key judgment were:

"Resolution of the fate of the 2,413 American servicemen still unaccounted for in Indochina remains a priority humanitarian issue for the U.S. Government, which believes that it should be treated separately from other political and economic concerns. While Vietnam also publicly characterizes such an accounting as a humanitarian issue, Hanoi has used the POW/MIA issue as a means to influence public opinion in the United States and to achieve broader political objectives."

"There is a considerable body of evidence that the Vietnamese have detailed information on the fates of several hundred personnel. We estimate that the Vietnamese have already recovered and are warehousing between 400 and 600 remains. Thus, Hanoi could account quickly for several hundred U.S. personnel by returning warehoused remains and by providing material evidence that could aid in determining the fate of other personnel."

e. In response to Congressional requests in 1996 for declassification of the 1987 SNIE, Richard Bush, the National Intelligence Officer for East Asia, initiated an Intelligence Community Assessment challenging the SNIE. It concluded that "[s]ubsequent evidence does not support the Estimate's hypothesis that Hanoi held 400 to 600 sets of remains" since it was based on "limited direct evidence whose reliability was open to question."

2. That regarding the so-called "735" and "1205" documents from the Russian archives:

- they have not been the subject of a coordinated community-wide analysis. Elements of the Intelligence Community did contribute to a 1994 Department of Defense assessment and the State Department's Office of Intelligence and Research (INR) prepared several memorandum analyzing the documents;

- the 1994 DoD assessment and the 1993 INR analysis identified numerous errors in the documents and raised questions about their accuracy, but could not dismiss them as fabrications; and,

- time constraints have not allowed the Committee staff to completely investigate all activities taken since 1994, but attempts by the Intelligence Community to gain additional information on the documents appear to have been limited.

a. In the view of at least one senior Soviet official, the information contained in the "735" and "1205" documents was highly significant. They purport to be transcripts of secret wartime reports by North Vietnamese officials in which the number of American POWs captured and held in North Vietnam during the war was referenced. In the first document, dated 1971, a North Vietnam official states that "735" American POWs are being held. In the second document, dated 1972, another North Vietnamese official states that 1,205 American POWs are being held. Both numbers are significantly higher than the 591 American POWs who were actually released by Vietnam in 1973.

Footnotes follow at end of article.

b. In 1993, the State Department, INR produced four memoranda analyzing the "735" and "1205" documents. These analyses were provided to State Department policymakers and distributed to other agencies interested in the POW-MIA issue. The State Department has provided these classified memoranda for Committee review. Because they are still classified, the Committee is unable to cite specific findings in the memoranda, but the conclusions were similar to those in the subsequent 1994 DOD assessment.

c. On January 24, 1994, the Department of Defense released a coordinated, interagency intelligence analysis titled, "Recent Reports on American POWs in Indochina: An Assessment." The analysis assessed the "1205" and the "735" and cast doubt on the accuracy of the numbers.<sup>5</sup> It also included an assessment of the so-called "Dang Tan" reports, first surfaced to the public by the U.S. Government in 1971, which were based on a North Vietnamese defector who claimed Hanoi was holding approximately 800 Americans in the late 1960s. The assessment concludes in the case of:

The "735" document, that it "is too fragmentary to permit detailed analysis, but the numbers cited are inconsistent with our own accounting."

The "1205" document, that it "is not what the Russian GRU claims it to be and the information suggesting that more than 600 additional POWs existed is not accurate. . . . we need more information to understand its origin and meaning."

The "Dang Tan" documents, that "the number was so much higher than the United States Government believed had been captured that it detracted from Tan's credibility on other points."

The concluding paragraph of the analysis stated, "[w]e believe there is more information in Russian, and particularly GRU, archives on this issue. There probably is also more information in Vietnamese party and military archives that could shed light on these documents. We continue to pursue information on these issues in both locations."

The Russians have persistently claimed that the "1205" and "735" documents were genuine Russian intelligence reports. The Vietnamese have dismissed the "735" and "1205" documents as fabrications.

Recently reviewed classified information in the hands of the U.S. Government provides additional germane information that was not factored into the above assessment. While this new data will contribute to a better understanding of the overall issue, to date it has not provided any definitive resolution to the outstanding questions of total numbers of American POW/MIAs known to the North Vietnamese in the early 1970s.

d. On June 19, 1996, during a House National Security Subcommittee hearing, Deputy Assistant Secretary of Defense for POW/MIA Affairs General James Wold was asked by Chairman Dornan, "General Wold, have you ever raised these Russian documents, '1205' and '735', with the Vietnamese . . . ?" General Wold responded, "I have, probably 18 months ago, with the Minister of Foreign Affairs. The response was a lot of excited rebuttal. . . . We have raised it. It's still a matter of interest. I still consider it [1205] a document to pursue." With a time constraint of two weeks the staff inquiry was not able to ascertain what steps, if any, have been taken by the U.S. Government since General Wold's testimony, and the 1994 analysis which concluded that Vietnam needed to be pressed for more information from its party archives to shed light on the "735" and "1205" documents. We note that personnel from the Defense POW/Missing Personnel Office have testified that Vietnam has not provided any such access to its wartime party

archives. We also note that Vietnam has apparently not yet facilitated access to the "735" report's alleged author, Hoang Anh, who is reported to be living in retirement in Vietnam.

e. Although the 1994 analysis and General Wold's 1996 testimony emphasize the need to press for more information in order to better understand these documents, the analysis appears to have been used in at least one instance to justify dismissing further investigation. On March 21, 1997, Assistant Secretary of State for Legislative Affairs Barbara Larkin signed a letter in response to a Congressional request stating that the "1205" and "735" documents had not been raised with Vietnamese officials (specifically alleged "1205" author General Tran Van Quang) by the U.S. Charge d'Affaires in Vietnam because of "the interagency intelligence analysis released by the Department of Defense on January 24, 1994, in which the U.S. Government concluded that these documents were not a reliable source of information."

<sup>1</sup>In response to a staff request for DCI's "input" on the President's certifications, an April 3, 1997 CIA letter to Committee staff states "[b]ecause the Defense Department's Defense POW/MIA Office (DPMO) is responsible for intelligence bearing on the POW/MIA issue, other elements of the Community were not formally involved in the certification process."

<sup>2</sup>In Presidential Determinations #96-28 and #97-10, the President noted his Administration's position that the related sections of Public Laws 104-134 and 104-208 are unconstitutional because they "purport to condition the execution of responsibilities—the authority to recognize, and to maintain diplomatic relations with, a foreign government—that the Constitutional commits exclusively to the President."

<sup>3</sup>On July 16, 1993, the Secretary of Defense consolidated four DoD offices located within the Washington, D.C. area. Each was charged with different functions of the prisoner of war/missing in action (POW/MIA) issue, but each dealt with the same mission: to obtain the fullest possible accounting for Americans missing from the nation's wars. The Intelligence Community's only POW/MIA analytical element, the Defense Intelligence Agency's Office of POW/MIAs Affairs, was transferred out of the National Foreign Intelligence Program.

<sup>4</sup>The 1993 Final Report of the U.S. Senate Select Committee on POW/MIA Affairs noted that the 1987 SNIIE was the "only national intelligence estimate produced on this issue since the end of the war."

<sup>5</sup>This analysis effort and contributions from elements within the Intelligence Community, predominantly from INR/State and the Defense Intelligence Agency. However, in July 1993, this 48-person Defense Intelligence Agency element was transferred in-total to the Defense POW/Missing persons Office, a policy office within the Office of the Secretary of Defense.

THE WHITE HOUSE,  
Washington, April 10, 1997.

Hon. TRENT LOTT,

Majority Leader, U.S. Senate, Washington, DC.  
DEAR MR. LEADER: You have requested clarification from me regarding Administration policy on POW/MIA issues with Vietnam, in view of a report recently provided to you by the Chairman and Vice-Chairman of the Senate Select Committee on Intelligence. I am happy to respond, and I realize that some Members of the Senate have linked these matters to a confirmation vote on Douglas "Pete" Peterson to be our first Ambassador to the Socialist Republic of Vietnam.

First, the President commits to continue to press the Government of Vietnam to cooperate on full accounting. We have established mechanisms through which the Vietnamese can respond to requests for information available only to them.

As you know, the President has determined that Vietnam is providing full-faith cooperation with U.S. efforts to obtain this information. We believe the President's determination is backed up by tangible assistance provided by Vietnam to the Department

of Defense Joint Task Force (Full Accounting). I will direct the Intelligence Community to prepare a special National Intelligence Estimate on this matter, something that was last done in 1987. We will consult with the Chairman and Vice-Chairman of the Intelligence Committee concerning the terms of reference for this new study.

Second, we will take immediate steps to ensure that collection requirements pertaining to the POW/MIA issue remain as a high priority for the U.S. Intelligence Community, and we will stay in close contact with the Intelligence Committee on this matter.

Third, I will ask for an updated assessment from the Intelligence Community on the so-called "735" and "1205" documents from Russian archives. We will continue efforts already underway to acquire additional information on these documents from the Vietnamese Government, including access to the alleged "735" author Hoang Anh, as well as other relevant party and government archival materials.

Fourth, the President asserted when we agreed to establish diplomatic relations with Vietnam that our principal goal was to enhance the full accounting process. This issue will be Mr. Peterson's highest priority as Ambassador. This task will include pressing for additional unilateral efforts by the Government of Vietnam to provide records and remains. We, therefore, hope the full Senate will confirm Mr. Peterson at the earliest possible date.

I trust this is responsive to your concerns.

Sincerely,

SAMUEL R. BERGER,  
Assistant to the President  
for National Security Affairs.

Mr. SMITH of New Hampshire. At this point, Mr. President, I yield the floor to anyone else who may wish to speak on the issue.

Mr. HAGEL. Mr. President, I would like to add my thoughts regarding the nomination.

The PRESIDING OFFICER. The Chair would observe that the majority has 1 minute and 20 seconds remaining, and the minority manager, the distinguished Senator from Massachusetts, has 15 minutes.

Mr. SMITH of New Hampshire. I yield whatever time I have remaining to the Senator from Nebraska, and perhaps the Senator from Massachusetts might give him another minute.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. HAGEL. Thank you, Mr. President. I will be very mindful of my distinguished colleagues' time. I too want to add my thoughts and thanks to my distinguished colleague from New Hampshire and fellow Vietnam veterans.

Mr. President, I join my colleagues tonight in confirming former Congressman Pete Peterson to be our Nation's Ambassador to the socialist Republic of Vietnam. Through his integrity, hard work, and bipartisan temperament, he has earned the highest possible regard of his former colleagues in Congress on both sides of the aisle, and I think that is evident tonight.

I can think of no other American better suited to be the first United States Ambassador to Vietnam, and I know, as do my colleagues, that Congressman Peterson will bring his integrity and

unique personal experiences to this extraordinarily challenging job which we all wish him well with and we all will help him with.

As a Vietnam veteran, as my colleagues here in the Chamber, I know well how the issue of Vietnam has for so long divided this country, but all the Senate Vietnam veterans agree that not only is it time for the United States to have an Ambassador to Vietnam, we also agree that Congressman Peterson, soon to be Ambassador Peterson, is an outstanding choice for this difficult assignment.

A small minority of Americans continue to question whether this is appropriate, whether it is an appropriate time in United States-Vietnam relations to have a United States Ambassador in Hanoi, and certainly those views deserve respect. Personally, however, I believe that the time for healing has, indeed, arrived, and Congressman Peterson is the one to lead us in that direction.

Congressman Peterson will bring not only his own experience to the POW Vietnam combat veteran, but he also has been a successful businessman and respected Member of Congress, the recipient of 18 military medals including the Legion of Merit, two Purple Hearts. He is a man of great personal strength and mind with something missing for too long in this business, a quiet dignity, a quiet confidence, a respect for others.

Clearly, President Clinton has chosen well with his nomination, and I am pleased to join with my colleagues in confirming Pete Peterson to be the first United States Ambassador to a united Vietnam.

On a personal note, Mr. President, I might add I bring him greetings from his family and his friends in Nebraska. The Congressman was off to a good start early on in life; he was born in Omaha, NE, and still has many relatives and friends there. And so that gives him probably an unfair advantage to be a most unusual and a most effective Ambassador for this country, and we wish him well.

Mr. President, I thank the Chair and I thank my distinguished colleague from Massachusetts and fellow Vietnam veteran for allowing me a little of his time.

I yield the floor.

Mr. KERRY. Mr. President, if I could just clarify one thing, I am not sure we did allow any of our time.

The PRESIDING OFFICER. The Senator from Massachusetts is correct. The Senator from Nebraska ended up precisely on the time that was allowed to him by the previous order. The Senator from Massachusetts is recognized and has 15 minutes.

Mr. KERRY. I thank the Chair. I ask for the similar interpretation of time on our side. I am glad to recognize the Senator from Illinois for 5 minutes.

Mr. DURBIN. I thank my colleague from Massachusetts for yielding.

What extraordinary symmetry, what exceptional justice this evening that

we consider the nomination of Pete Peterson to be our first Ambassador to Vietnam.

Thirty-one years ago as an Air Force pilot, Pete Peterson was flying his 67th combat mission over Vietnam when his plane was shot down. He told me the story when we were colleagues in the House of Representatives. I will not forget that as long as I live, what he went through as that plane came crashing down and he was parachuting out, with broken bones and beaten up, run through the streets by the crowds and pushed into a prison cell, and then to spend 6½ years—6½ years—of his life as a prisoner of war, to come home finally in 1973 with all of the deserved tribute for his service to his country, to return to his home State of Florida and his family finally and then decide once again to make a commitment to this Nation and to run and serve in the House of Representatives and after three terms to be designated by the President of the United States, President Clinton, to be America's first Ambassador to Vietnam, the same country where his plane had crashed and where he had been a prisoner of war for so many years.

I say to my colleague, the Senator from Nebraska, who really said it so well, the quiet dignity of Pete Peterson will bring a lot to this job, the kind of stature which we need in those who speak for the United States.

He served this country well for 27 years in the Air Force, 6 years in the House of Representatives, and now once again we have called Pete Peterson into service for his country. To think that he will be returning to Vietnam to speak for this great Nation, to meet some of the people who may have rescued his body and thrown him in prison and today will be greeting him is an amazing turn in history. But it is appropriate.

I know what his agenda will be—not only to service this country well with honor, as he always has, but also to work diligently for a full accounting of the POWs/MIAs who were not accounted for from that conflict and also to bring some new level of understanding between our countries.

I think Pete Peterson is clearly the person for this task. We are fortunate tonight to have this bipartisan feeling about Pete Peterson and his confirmation as Ambassador to Vietnam.

I thank Senator LOTT as the majority leader, Senator DASCHLE on the minority side, Senator SMITH, particularly Senator JOHN MCCAIN of Arizona, a man who has lived this same experience, who carries those scars, and will for the rest of his life, as a prisoner of war in Vietnam, who worked diligently to bring Pete Peterson's nomination to the floor this evening. My hat is off to JOHN MCCAIN for his extraordinary efforts.

My colleagues, Senator KERRY and Senator REED, will speak as veterans of that war. I am not a veteran of that war, but I feel I am paying tribute to

one of the best veterans of that war in Pete Peterson. This is his night and I want to tell him that it is time for the speeches to come to a close and for Pete Peterson's service to his country on a full-time basis to resume as our first Ambassador to Vietnam.

I yield back the remainder of my time.

Mr. DASCHLE. Mr. President, I am very pleased to speak today in support of the nomination of Congressman Pete Peterson to be our Ambassador to Vietnam. This day has been a long time coming, and I want to thank Congressman Peterson for his patience.

Mr. President, I traveled to Vietnam in 1991 as a member of the Select Committee on POW/MIA Affairs and then again in November 1996 as part of a congressional delegation. The change that has taken place in Vietnam in those 5 years is staggering. Vietnam is a dynamic country with great potential. The United States needs a full diplomatic presence in Hanoi to represent our interests in Vietnam adequately, and I am very pleased that this is about to happen.

Congressman Peterson is an excellent choice for a wide variety of reasons, not the least of which is his deep and personal understanding of our troubled history with Vietnam. He understands firsthand the toll of the war, and, while much good work has been done on the relationship between our two countries, much more remains to be done. Representative Peterson is among the best qualified to continue that work.

He is also eminently qualified to continue the work on one of our most important national priorities—achieving a full accounting of those Americans missing in action. In each of our meetings with Vietnamese Government officials during our recent trip, our congressional delegation stressed the high priority the United States places on resolving these remaining cases. The Vietnamese pledged ongoing cooperation, and I feel fully confident that Pete Peterson will see that we get it. As he pointed out in testimony before the Foreign Relations Committee, he has a personal stake in achieving the fullest possible accounting of those still missing, since many are personal friends of his.

In addition to the POW/MIA issue, I am happy that Congressman Peterson will be in Hanoi to help shepherd our developing economic and trade relations with Vietnam. Vietnam's interest in achieving full economic relations with the United States is clear. The most recent evidence was the agreement it reached last month with the United States to repay millions of dollars of debt incurred by South Vietnam for roads, power stations, and grain shipments during the Vietnam war.

Although the United States does not yet have full economic ties with Vietnam, its dynamic economy offers great trade opportunities for United States businesses. During my recent trip to Vietnam, we met with the United

States Chamber of Commerce in Ho Chi Minh City. The size of that contingent was a graphic evidence of United States businesses' interest in United States economic ties with Vietnam.

There are many issues that need to be resolved in fashioning a comprehensive bilateral trade agreement with Vietnam that is a prerequisite to full economic relations. In particular, Vietnam remains committed to a system of central planning, which conflicts with the free market economic principles it espouses. Work has begun on an agreement to resolve these issues, but much remains to be done. This is an important priority for the United States, as Congressman Peterson is well aware.

Another important issue that merits Congressman Peterson's attention is conveying to the Vietnamese the important priority the United States attaches to Vietnam's human rights practices. Despite its economic progress, Vietnam continues to impose restrictions on political and religious freedom. We must work with the Vietnamese to address these practices.

There is another issue to which I attach great importance, a fact that I stressed to each of the Vietnamese leaders I met with during my visit last November. For more than a decade, scientists in the United States and Vietnam had been working together to attempt to understand the health effects resulting from our use of agent orange during the Vietnam war. However, nearly 2 years ago, Vietnam executed a major change in policy with regard to their support of collaborative research between United States and Vietnamese scientists.

In June 1995, Vietnamese customs officers seized without warning documents and specimens from a team of American scientists who had been on the first official scientific mission from the United States. All papers, even the most innocuous, such as curriculum vitae, were confiscated. Newly collected specimens were also taken.

Though I find the seizure and subsequent refusal to return the materials or address the issue quite disturbing, I am even more concerned that this may be Vietnam's way of telling us that they no longer want to collaborate on this vitally important issue. To do so would be a shame, not only for our veterans and their families, but also for the Vietnamese. Just last February, the Wall Street Journal published an article that outlined the myriad of health problems and birth defects occurring among the Vietnamese who live in areas that were heavily sprayed. Here in the United States, many dioxin experts are now looking to research in Vietnam as the next step in fulfilling our commitment to conduct a comprehensive evaluation of the health effects of exposure to agent orange. Yet, without cooperation from Vietnam, our efforts to further understand these issues will fall short. We must press to obtain agreements for future cooperation on scientific issues of mutual im-

portance, or we must have clear, rational explanations for why additional research is not warranted. The stonewalling is puzzling at best, and injurious at worst.

I received some positive signs from the Vietnamese during my trip, and corresponded with Do Muoi, General Secretary of the Communist Party, upon my return to secure an agreement to release the seized documents and specimens. Unfortunately, I have still not received a response to my inquiry. I have communicated to Congressman Peterson my concerns and interest in working with him in his new role to expeditiously resolve this issue. We owe it to American veterans and their families.

In conclusion, let me stress my belief that Congressman Peterson will be an important and valuable advocate of United States interests in Vietnam. I congratulate him and look forward to working with him in the coming years.

Mr. GRAHAM. Mr. President, I rise today in support of the nomination of my good friend Pete Peterson, and I urge his swift confirmation as our Ambassador to Vietnam. There is no better person for this job.

Just over 3 years ago I joined the majority of my Senate colleagues in encouraging President Clinton to lift the trade embargo against Vietnam. I did do because I was convinced that it would strengthen and expand joint United States-Vietnamese efforts to determine the fate of those POW's-MIA's still unaccounted for in Vietnam.

I was less certain about the establishment of full diplomatic relations with Vietnam. I feared that such a step would remove an important incentive to completing our efforts to determine the fate of every POW-MIA. But people like Pete Peterson and JOHN MCCAIN convinced me that reestablishing diplomatic relations was the best way to achieve our objectives in Vietnam—a full accounting of all POW's-MIA's; the implementation of democratic reforms and economic modernization; and respect of basic human rights and fundamental freedoms.

There is no person more qualified to achieve these noble objectives than Pete Peterson. After spending 6½ years as a prisoner of war in Vietnam—and having left so many of his friends behind—we all can take comfort in knowing that Pete will not rest until every single American POW and MIA is fully and honestly accounted for. This fact was recognized by the Veterans of Foreign Wars, who last year endorsed Pete's nomination.

Pete's qualifications as an advocate for economic freedom and U.S. business are also quite remarkable. He has served as a member of the House Small Business Committee, fighting for average Americans who are seeking the American dream by building their own businesses. Pete has demonstrated that he will be a fantastic advocate for American business in Vietnam.

Pete's experience as a prisoner of war gives him unique qualifications to speak frankly and honestly about human rights. As someone who lost every human right, every freedom, and nearly his life in Vietnamese prisons, Pete can speak from the heart on the importance of these basic human values in a way that few of us can. And I know that he will do a superb job.

And who could be more qualified to heal the wounds of the war, and to build bridges between the peoples of our two nations. Pete has often said that he "left the bitterness at the gate" when he left his prison in Vietnam. His leadership is a major reason that the United States and Vietnam are poised to begin a new era of friendly relations.

I have had the honor of working with Pete for the past 6 years. Pete represents everything that is great about our country. He is selfless—having served bravely in the Air Force, flying 67 combat missions over Vietnam, and 6½ years as a POW—Pete came home and went to work to make our country a better place. He has faced personal tragedy—losing his wife Carlotta to cancer—and moved on to make good come out of his suffering. And after 26 years in the U.S. Air Force, Pete felt compelled to continue a life of public service. Now having served for 6 years in the House of Representatives, Pete will return to Vietnam under very different circumstances than those under which he left. But he will continue his lifelong commitment to the American people, and I am honored to speak on behalf of this great American.

There is another quality that Pete possesses that I think will serve him well in his position as our Ambassador to Vietnam. That quality is patience. Pete has waited patiently for over a year for his nomination to come to the floor of the Senate. I am very pleased that Pete's long wait is about to come to an end, and I urge my colleagues to join me in voting to confirm Pete Peterson as the United States Ambassador to Vietnam.

Mr. KERRY. Mr. President, I yield 5 minutes to the Senator from Rhode Island.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. REED. I thank the Chair.

I rise with a great deal of pride to speak to the confirmation of Pete Peterson as our Ambassador to the Republic of Vietnam.

Simply stated, Pete Peterson is a great man. He was a great man before he ever put on the uniform of the U.S. Air Force because he is a man of outstanding character and a deep devotion to his family and country. As my friend and colleague, the Senator from Nebraska, pointed out, he has that rare quality of dignity and purpose, not flamboyant, but quiet and determinative.

Pete is a remarkable person. One of the great privileges I had in my life was to serve with him in the House of

Representatives for 6 years. He brought all of this talent, this energy and this fierce patriotism to his work in every capacity. We all know the story. He was a young man, hailed from Nebraska, joined the U.S. Air Force, was in 1966 sent to Thailand, flew 66 missions in Vietnam and on his 67th mission he was shot down. He was captured. He spent 6½ grueling, arduous years in captivity in three different prison camps.

In all that time, not only did they not break his spirit but they could in no way touch that core of deep respect, regard for all people that he still maintains. He emerged from an experience, which would have seared and destroyed so many other people, unbroken, unbowed and without bitterness, a remarkable testimony to his character.

Pete could have returned in 1973 and said, I have done my duty as an Air Force officer, as a patriot. He returned, in fact, in 1973 to greet his wife, his beloved wife, who sadly passed away and will not see this triumph today but I am sure understands from where she is what a great day it is for Pete. He, in fact, saw for the first time a son he had never met.

Yet, despite all that, he still heard the call of his country, and he served with distinction the second district of Florida for 6 years.

There has been some controversy about this nomination, but it has not been about Pete Peterson because there is no one in this Chamber or in this country that I think ever doubted his capacity or commitment to serve as Ambassador to Vietnam. The controversy is about the issue of POW's and MIA's, which was articulated by the Senator from New Hampshire. Those are serious, important issues which cannot be neglected. Indeed, I believe Pete Peterson is the best person to address those issues.

He will go to Vietnam, a place where he has already spent one-tenth of his life, with the credibility of one who has served and with the vision of one who understands what went on there during the war and what we must do to bring our country and that country closer together. And he will not neglect the search for the unanswered questions of his comrades who are still missing and unaccounted for.

Pete has long been involved in this issue. He has, along with my distinguished colleague from Massachusetts, Senator KERRY, and the distinguished Senator from New Hampshire, been involved with the Vietnam working group. He has been involved with the U.S.-Russian joint commission on POW-MIA affairs. These gentlemen have committed themselves to search for the answers, and that type of commitment I know will resolve the question.

We have a great responsibility to develop a relationship, a mutually supportive relationship between the United States and the Republic of Vietnam. Pete Peterson can do that. He is not

only a warrior but he is also a businessman. He understands that one of our challenges is to bring economic prosperity to both our countries, and he will be a leader in that regard also.

I believe the President has made the wisest choice possible with this nomination. We will vindicate and recognize that choice this evening, and we will send a strong message, a message of reconciliation and of progress, a message that wars will end and peace will be begun, and a message also that a life of service to your country, selfless service to your country, will be rewarded by further responsibilities commensurate with that service.

I, too, thank the majority leader and the Democratic leader, the Senator from New Hampshire, and particularly the Senator from Arizona for all his efforts to bring this nomination to the floor and, like Pete Peterson, also a heroic veteran of the war in Vietnam. As someone who served in the military for 12 years at that time but not in Vietnam, I recognize all of the tremendous contributions of the veterans of that war in this Chamber, in the other body and throughout our society. Pete Peterson will make us all proud but particularly those brave men and women who served in Vietnam.

I thank the Senator. I yield back the remainder of my time.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KERRY. Mr. President, I yield myself such of the remaining time as I may use.

I thank the majority leader for his efforts to bring this nomination to the floor this week so that the Senate may act on it rapidly. It is a nomination that has been overdue, and it is important that we proceed.

I think it is safe to say that with this nomination and with the approval of the Senate, which I expect, we really begin the process in earnest of ceasing to treat Vietnam as a war and beginning in earnest to treat it like a country. That is an enormous transition for this country, and we have traveled a difficult journey through these years.

As a friend and one who has worked closely with Pete Peterson on the POW-MIA issue, I really cannot think of a better person to be our Ambassador to Vietnam. Pete Peterson, Senator MCCAIN, Senator SMITH, myself, and others have spent an enormous amount of time, energy, and a great deal of the taxpayers' money of this country trying to ensure that the families of American servicemen missing from the war in Vietnam get answers.

There is absolutely no doubt, Mr. President, that many families have gotten those answers in the last years as a result of the accounting process that we now have in place. But I recognize that for some whose loved ones were lost in that wrenching war questions remain. I am convinced personally that having an ambassador in the country, having an American flag

again flying in Hanoi and elsewhere in the country will provide us with the opportunity to be able to leverage those answers. Having a man who himself served, as both of my colleagues so eloquently stated, 6½ years of his life as a prisoner of war in Vietnam will enhance our credibility and greatly facilitate our ability to be able to find those answers.

As a fighter pilot, as a POW, Pete Peterson has served this Nation with enormous distinction and courage. When he returned from the war, as we know, he became a successful businessman and served in Congress. During that period he served as chairman of the Vietnam working group of the United States-Russia Joint Commission On POWs. He returned to Vietnam twice already in order to meet with Vietnamese officials and travel throughout the countryside, both to find answers as well as to understand what Vietnam is like today. It is entirely appropriate that Congressman Peterson should therefore return to Vietnam as our first ambassador since the war and literally help to bridge the gap that remains between our two countries. He went once in war, and as our ambassador he would now go in peace. I cannot think of greater poetic symmetry.

I know he has the ability as well as, if not better than, anyone to understand and explain to the Vietnamese, and to others, the full breadth of the emotions that the Vietnam war has generated among us in this country for 30 years or more. His experience as a prisoner gives him the extraordinary standing and importance to represent our country in all of the ramifications of the war. No one in Vietnam could doubt his word or his intentions, because he has gone through his own personal process of resolution, and he has emerged from that process prepared to return to Vietnam and build a normal relationship between that country and the United States. No one in this country could or should doubt his desire and determination to complete the process of POW-MIA accounting or his commitment to the principles of our country, which he fought for, which are still at issue with respect to our relationship with Vietnam.

So, as Ambassador, Congressman Peterson will confront those issues that are personal, and he will confront a set of issues that are critically important to the regional and bilateral interests of the United States: Vietnam's relationships with its neighbors, particularly China; legal and political reform within Vietnam; human rights; trade. I have every confidence in his ability to deal with these issues effectively. He has publicly expressed his willingness and enthusiasm to take on the job, and he comes in with a deep belief in our ability to build a viable and important relationship with Vietnam.

I had the privilege of traveling in Vietnam on one of those trips with Pete Peterson. I have witnessed myself his personal journey of rediscovery and

his determination to keep faith with his fellow veterans. I know he will represent us extraordinarily well as the first ambassador since the war. And I say to all those who have legitimately expressed concerns—Senator SMITH has been as dogged and as determined as any person in the U.S. Senate to get these answers, and I admire that. I would say to him and to anyone else who might fear that sending an ambassador to Vietnam would lessen our ability to get answers, I say look at the record of the last few years and look at Pete Peterson. He and that record show that by having him there, I think families can rest assured that they will have the greatest connection to their past, to his past, and to our past, and to our future. That future will be a future that will sustain this POW-MIA accounting effort and also sustain the principles for which their loved ones, and Pete Peterson, fought.

So I look forward to the Senate finally accepting this moment. I thank the Senator from New Hampshire and others who have helped to bring us to this important point.

Mr. SMITH of New Hampshire. I ask unanimous consent to have three letters printed in the RECORD.

Mr. President, I ask unanimous consent that a letter to Senator LOTT from the executive director of the National League of Families, Ann Mills Griffiths, a letter from the Disabled American Veterans to Senator LOTT, and a letter from The American Legion to Senator LOTT be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

NATIONAL LEAGUE OF FAMILIES OF  
AMERICAN PRISONERS AND MISSING  
IN SOUTHEAST ASIA,

*Washington, DC, April 9, 1997.*

Hon. TRENT LOTT,  
*Senate Majority Leader, Russell Senate Office  
Building, Washington, DC.*

DEAR SENATOR LOTT: It is our understanding that an interim report on intelligence regarding the issue of our missing relatives will soon be forwarded from the Senate Select Committee on Intelligence. We further understand that this report is linked to the confirmation vote on Congressman Pete Peterson as our new US Ambassador to Vietnam.

For many years, the National League of Families has supported a policy of reciprocity; that is still our policy. Unfortunately, the Clinton Administration has not provided incentives in advance, but inaccurately justified each step on the basis of POW/MIA cooperation to include the President's certification to Congress that Vietnam is "cooperating in full faith." Official information on which we have always relied does not support this certification. We are confident that an objective oversight effort will confirm what we know.

On May 7th, a League Delegation will again travel to Laos, Vietnam and Cambodia to hold discussions with the leadership of each country. Our last such trip was in 1994. It is our sincere hope that whatever the outcome of current Senate deliberations, a clear signal will be sent to Vietnam and the Clinton Administration that further unilateral actions on the POW/MIA issue by the government of Vietnam are expected and will be a

continuous subject of Senate oversight. This signal is overdue and will help not only our delegation, but reinforce Congressman Peterson when he undertakes his difficult mission.

We are grateful for the concern shown by the Senate and look forward to providing you the results of our upcoming trip.

Respectfully,

ANN MILLS GRIFFITHS,  
*Executive Director.*

DISABLED AMERICAN VETERANS, NA-  
TIONAL SERVICE AND LEGISLATIVE  
HEADQUARTERS,

*Washington, DC, April 7, 1997.*

Hon. TRENT LOTT,  
*Senate Majority Leader, U.S. Senate, Russell  
Senate Office Building, Washington, DC.*

DEAR SENATOR LOTT: The Disabled American Veterans is deeply concerned for the thousands of American servicemen still unaccounted for in the aftermath of the Vietnam War. Since the end of that war, numerous efforts by high level American delegations, including members of Congress, have visited Southeast Asia in continuing efforts to resolve the fate of these brave men without success.

Although the Socialist Republic of Vietnam has committed to renew and increase their unilateral, as well as joint efforts, to account for America's POW/MIAs, we have seen no meaningful efforts taken by Vietnam to account for our missing service personnel.

This is particularly true with regards to the unilateral actions which Vietnam should be able to undertake to account for a large number of our POW/MIAs based on the case assessments prepared by our government last year. These case assessments showed that the Vietnamese should be able to provide information on at least 400 POW/MIAs. To date, the Vietnamese have failed to come forth with information on these individuals to any significant extent.

As a result of Vietnam's failure to provide the fullest possible accounting of our POW/MIAs, the delegates at our last National Convention in New Orleans, Louisiana, July 28–August 1, 1996, passed a resolution expressing our opposition to further economic and political relations between the United States and the Socialist Republic of Vietnam. Accordingly, it is our firm belief that the confirmation of a U.S. Ambassador to Vietnam should be postponed until there is tangible evidence of Vietnam's commitment to provide the fullest possible accounting of our POW/MIAs. Our position does not mean that the DAV is opposed in any way to the individual nominated by President Clinton.

I would appreciate learning of your views on this matter.

Sincerely,

DAVID W. GORMAN,  
*Executive Director, Washington Headquarters.*

THE AMERICAN LEGION,  
WASHINGTON OFFICE,  
*Washington, DC, April 3, 1997.*

Hon. TRENT LOTT,  
*Senate Majority Leader, U.S. Senate,  
Russell Senate Office Bldg., Washington, DC.*

DEAR SENATOR LOTT: The American Legion urges you in the strongest possible terms not to proceed with Senate confirmation of a United States Ambassador to Vietnam. While the Legion does not question the personal fitness of the nominee himself, we believe it is premature to approve any nomination for an Ambassador to Vietnam at this time.

We know that many others share The American Legion's concern that Vietnam has failed to take the necessary actions to achieve the fullest possible accounting of missing Americans from the war in Southeast Asia.

This is particularly true with regard to the unilateral actions Vietnam should be able to immediately undertake to repatriate remains, which would dramatically increase accountability. In fact, the purpose of last year's Presidential Delegation to Vietnam, Laos and Cambodia, on which The American Legion was represented, was to gain commitments from the Vietnamese government to take just such unilateral actions.

However, despite the pledges by Vietnamese officials with whom the Delegation met, Vietnam has not been forthcoming to any appreciable extent. Enclosed is a copy of a letter to President Clinton expressing The American Legion's concerns about the trip report from last year's Presidential Delegation to Vietnam. This report was a basis for the President's decision to certify Vietnam's cooperation on the POW/MIA issue.

Vietnam also promised to turn over military archival and documentary evidence as well as other records which would lead to additional accountability. However, such disclosures have not been forthcoming to any significant extent.

Finally, recent reports of illegal campaign financing by Indonesian businessman Mr. Mochtar Riady of the Lippo Group (who advocated normalizing U.S. relations with Vietnam) have raised serious concerns about possible improper influence of official U.S. policy. These are disturbing reports which The American Legion takes very seriously. We firmly believe that Senate action on the confirmation of a U.S. Ambassador to Vietnam should be delayed until Congressional Hearings into these matters have concluded.

The American Legion does not support or oppose any nomination put forth by the President for any office of government. However, with respect to the process, we are adamantly opposed to moving forward with the confirmation of an Ambassador to the Socialist Republic of Vietnam until such time that Hanoi is fully forthcoming in an effort to honestly resolve the remaining cases of our missing American servicemen.

Sincerely,

JOSEPH J. FRANK,  
*National Commander.*

Mr. BIDEN. Mr. President, I am pleased to support the nomination of former Congressman Pete Peterson for the Post of Ambassador to Vietnam. At this critical juncture in our relations with Vietnam and Southeast Asia there are many important United States interests that can be advanced only with the presence of an able Ambassador in Hanoi.

The most important of these interests is the continued accounting for our POW/MIA's. A Vietnam veteran and former prisoner of war, Pete Peterson has both a professional and profoundly personal stake in ensuring the fullest possible accounting of his comrades-in-arms. As ambassador, he has pledged to make achieving that goal his highest priority.

In addition to enhancing cooperation on the POW/MIA issue, Peterson will be charged more broadly with encouraging and facilitating Hanoi's entry as a peaceful, cooperative member of the community of nations. Vietnam has begun working with us in the important area of counternarcotics, and this cooperation should be expanded to curtail the flow of heroin and other deadly drugs from Southeast Asia to our shores. We have also begun a dialogue

on human rights which must be buttressed by expanded cultural ties and educational opportunities.

The advocacy of a strong United States Ambassador coupled with the collective efforts of the American people and numerous nongovernmental organizations can do much to foster greater Vietnamese respect for international norms in the areas of human rights, democracy, and religious freedom.

Finally, approving the nomination of Congressman Peterson as Ambassador to Hanoi will greatly assist efforts already underway to advance United States economic interests in Vietnam and throughout Southeast Asia. Vietnam has made significant progress toward transforming its inefficient centrally planned economy to a market-based economy, and it is actively seeking foreign participation in its economic development. Vietnam's efforts to rebuild its infrastructure and modernize its economy present great opportunities for United States businesses in the areas of energy, telecommunications, health, education, tourism, and environmental protection. But for United States firms to compete successfully with the numerous foreign companies already doing business in Vietnam, the administration must negotiate and Congress must approve a comprehensive bilateral trade agreement. As Ambassador, Peterson will play a central role in expediting negotiations on an agreement which will safeguard U.S. commercial interests in the fastest growing region of the world.

There are some who have speculated about the administration's motives for normalizing relations with Vietnam at this time, questioning whether officials from the Lippo Group or other United States businesses with prospective commercial interests in east Asia sought to influence the decision in exchange for their campaign contributions to the Democratic National Committee.

As our colleague, Senator MCCAIN—like Congressman Peterson a former POW—noted at Congressman Peterson's confirmation hearing, "This rumor is entirely unsubstantiated by fact." President Bush and Secretary Baker put the United States firmly on the path toward normalization in 1989 when they drafted a "road map" whose goal was the establishment of full diplomatic relations.

The pace of normalization has actually slowed during the Clinton administration. As Senator MCCAIN stated during the Foreign Relations Committee hearing, the Clinton administration was worried about the political ramifications for the President in making a decision to normalize—with the veterans organizations and others—and was not possessed with concern about helping business interests, whether domestic or foreign.

In short, we have reached the point of preparing to exchange ambassadors because of the bipartisan conviction

that normalizing relations is in our best interests. It had nothing to do with foreign lobbyists or contributions to any Presidential campaign.

Peterson traveled first to Vietnam 30 years ago as an Air force fighter pilot. He served his country nobly, receiving two Silver Stars, several Bronze Stars, and two Purple Hearts. He flew 66 combat missions over Vietnam before his aircraft was downed near Hanoi on September 10, 1966. He then endured almost 7 years of unimaginable hardship as a prisoner of war, before finally returning home in March 1973.

Now he seeks to return to Vietnam, not as a warrior, but as an ambassador of peace, helping to heal old wounds and bring Vietnam into the world community after 30 years of isolation. It is a testament to Congressman Peterson's commitment to public service that he is willing to take on this difficult mission. I wish him God's speed.

The PRESIDING OFFICER. The question is on the confirmation of the nomination.

Without objection, the nomination is confirmed.

The nomination was confirmed.

The PRESIDING OFFICER. The President will be notified.

#### LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will return to legislative session.

#### MORNING BUSINESS

Mr. SMITH of New Hampshire. Mr. President, I ask unanimous consent the Senate now go to a period for morning business.

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

The Senator from Kentucky is recognized.

#### MESSAGES FROM THE HOUSE

At 12 noon, a message from the House of Representatives, delivered by Ms. Geotz, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 240. An act to amend title 5, United States Code, to provide that consideration may not be denied to preference eligibles applying for certain positions in the competitive service, and for other purposes.

#### ENROLLED BILL SIGNED

At 12:11 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 412. An act to approve a settlement agreement between the Bureau of Reclamation and the Oroville-Tonasket Irrigation District.

The enrolled bill was signed subsequently by the President pro tempore [Mr. THURMOND].

At 2:05 p.m., a message from the House of Representatives, delivered by

Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 1003. An act to clarify Federal law with respect to restricting the use of Federal funds in support of assisted suicide.

#### MEASURES REFERRED

The following bill was read the first and second times by unanimous consent and referred as indicated:

H.R. 240. An act to amend title 5, United States Code, to provide that consideration may not be denied to preference eligibles applying for certain positions in the competitive service, and for other purposes; to the Committee on Veterans' Affairs.

#### MEASURE PLACED ON THE CALENDAR

The following measure was read the second time and placed on the calendar:

S. 543. A bill to provide certain protections to volunteers, nonprofit organizations, and governmental entities in lawsuits based on the activities of volunteers.

#### EXECUTIVE AND OTHER COMMUNICATIONS

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

EC-1490. A communication from the Secretary of Defense, transmitting, pursuant to law, a report on the military capabilities of the People's Republic of China; to the Committee on Armed Services.

EC-1491. A communication from the Under Secretary of Defense, transmitting, pursuant to law, the report of a violation of the Antideficiency Act, case number 95-12; to the Committee on Appropriations.

EC-1492. A communication from the Assistant Secretary of the Interior for Indian Affairs, transmitting, pursuant to law, a rule entitled "Indian Country Law Enforcement" (RIN1076-AD56) received on April 4, 1997; to the Committee on Indian Affairs.

EC-1493. A communication from the Acting Director of the Office of Surface Mining (Reclamation and Enforcement), Department of the Interior, transmitting, pursuant to law, three rules including a rule entitled "The Iowa Regulatory Program" (IA-009-FOR, HO-004-FOR, AK-005-FOR); to the Committee on Energy and Natural Resources.

EC-1494. A communication from the Assistant Secretary of the Interior for Policy, Management and Budget, transmitting, pursuant to law, an acquisition regulation (RIN1090-AA60) received on April 8, 1997; to the Committee on Energy and Natural Resources.

EC-1495. A communication from the Deputy Associate Director for Compliance, Royalty Management Program, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, notice of the intention to make refunds of offshore lease revenues and where a refund or recoupment is appropriate; to the Committee on Energy and Natural Resources.

EC-1496. A communication from the Assistant Attorney General, transmitting, a draft of proposed legislation to include American