

Wynn will be the first African-American to serve on the Fourth Circuit and will fill a judicial emergency vacancy. Fifty years has passed since the confirmation of Judge Hastie to the Third Circuit and still there has never been an African-American on the Fourth Circuit. The nomination of Judge James A. Beaty, Jr., was previously sent to us by President Clinton in 1995. That nomination was never considered by the Senate Judiciary Committee or the Senate and was returned to President Clinton without action at the end of 1998. It is time for the Senate to act on a qualified African-American nominee to the Fourth Circuit.

In addition, early next year the Senate should act favorably on the nominations of Kathleen McCree Lewis to the Sixth Circuit and Enrique Moreno to the Fifth Circuit. Mr. Moreno succeeded to the nomination of Jorge Rangel on which the Senate refused to act last Congress. These are both well qualified nominees who will add to the capabilities and diversity of those courts. In fact, the Chief Judge of the Fifth Circuit has this month declared that a judicial emergency exists on that court, caused by the number of judicial vacancies, lack of Senate action on pending nominations, and overwhelming workload.

I have noted the unfortunate pattern that the Republican Senate has established by delaying consideration of too many women and minority nominees. The recent Republican caucus vote against Justice Ronnie White is the most egregious example, but the treatment of Judge Richard Paez and Marsha Berzon show that it is, unfortunately, not an isolated example.

Filling these vacancies with qualified nominees is the concern of all Americans. The Senate should treat minority and women nominees fairly and proceed to consider them with the same speed and deference that it shows other nominees. Let us start the healing process. Let us vote to confirm Judge Richard Paez and Marsha Berzon before this month ends; Judge Julio Fuentes before the Senate adjourns in November; and Judge Ann Williams, Judge James Wynn, Kathleen McCree Lewis, and Enrique Moreno in the first weeks of next year.

MOTHERS AND NEWBORNS HEALTH INSURANCE ACT

Mr. BAUCUS. Mr. President, I rise today in support of the Mothers and Newborns Health Insurance Act, a bill that I have introduced along with my colleagues Senators BOND, BREAUX, LINCOLN, and MCCAIN.

As you know, Mr. President, in 1997 Congress passed the Children's Health Insurance Program, or CHIP. CHIP is a joint Federal-State program, designed to ensure that children of low-income working families have access to health insurance. I'm proud to have worked on the Senate Finance Committee to establish CHIP, and I remain committed

to its guiding principle: that all children should have access to the medical care they need to stay healthy and strong.

In fact, just 13 days ago, the Montana CHIP program went into effect. So as I speak, children in my state are already benefitting from this program.

But while CHIP is important, it is not without imperfections. Most notably, States are not allowed to extend CHIP funds to low-income, pregnant adult women. This just doesn't make sense. If pregnant women go uninsured, they are far less likely to receive prenatal care. And if they don't receive prenatal care, their babies face a much higher risk of having health problems, from premature birth to birth defects. We should make sure that these babies are healthy and strong from the very start, by allowing states to offer health insurance to low-income pregnant women under CHIP.

A second problem with CHIP is that, just like the Medicaid program, we've had a hard time getting the word out about it. Right now, there are 358,000 pregnant women and fully 3 million children who are eligible for Medicaid, but are not enrolled in the program. The same holds true with CHIP: across the United States, low-income, uninsured kids cannot benefit from the program, because they aren't enrolled.

Mr. President, our bill is aimed at solving these problems, and making CHIP an even stronger, more effective program. First, it would give States the freedom to extend CHIP funds to low-income, pregnant mothers above the age of 19. This is a critical step toward empowering our States to provide health care to those who need it most, when they need it most. As many as 45,000 pregnant women could benefit from this change every year—and bare in mind, that means that 45,000 babies could benefit as well.

And let me add, Mr. President, that this does not create a new Federal mandate. To the contrary, this provision would only increase the freedom of the States to direct these Federal health care resources as they see fit.

Second, our bill would assist States in reaching out to their uninsured citizens. When Congress passed the welfare reform bill in 1996, we also created a \$500 million fund that States could use to let uninsured folks know if they were eligible for Medicaid. The problem is, most of this money has gone unused. And in just a short while, most states will lose their 3-year window of opportunity to use these funds. Our bill will eliminate this 3-year deadline, to allow continued access to these funds. It will also allow states to use the funds to reach out to both Medicaid and CHIP-eligible women and children. By making this change, we can help ensure that CHIP and Medicaid function as they are supposed to—and that the mothers and children who need health insurance coverage will get it.

Mr. President, most of my colleagues, liberal and conservative alike,

agree that CHIP is a step in the right direction toward solving the growing problem of the uninsured. Let's act now to make CHIP even stronger.

CTBT VOTE

Mr. KYL. Mr. President, I want to take a few minutes today to correct some misconceptions about the reasons why the Senate voted to reject the Comprehensive Test Ban Treaty Wednesday, and the impact its rejection will have on efforts to control the spread of nuclear weapons.

Some have asserted that the Senate acted to reject the treaty for partisan political reasons. At the same time, they threatened grave political consequences for those who opposed the treaty. Obviously, there is a lot more politics in the aftermath of the treaty's rejection (by supporters) than in its not popular, but principled rejection. Simply put, Senators voted to defeat the treaty because it jeopardized our nation's security by undermining the U.S. nuclear deterrent that has served our country so well for the past 50 years.

Nor was this evidence that Republicans are isolationist, as the President charged. It is Republicans who support free trade agreements (rather than the President's party, which is dominated by labor union isolationism). And Republicans strongly supported NATO expansion.

Our distinguished colleague, Senator LUGAR, summed up the case against the CTBT quite well stating,

I do not believe that the CTBT is of the same caliber as the arms control treaties that have come before the Senate in recent decades. Its usefulness to the goal of non-proliferation is highly questionable. Its likely ineffectuality will risk undermining support and confidence in the concept of multilateral arms control. Even as a symbolic statement of our desire for a safer world, it is problematic because it would exacerbate risks and uncertainties related to the safety of our nuclear stockpile.

The majority leader and other opponents of this treaty never asked Members to vote against it for reasons of party loyalty. Rather, Senators were persuaded to reject the treaty by the facts about its effect on our security. In fact, Republican Senators were on both sides of this issue, while Democrats paradoxically, voted lockstep, except for Senator BYRD, who voted present.

Unfortunately, the President and the Democratic leader have asserted that the process for consideration of the treaty was unfair, and have implied they were forced to vote on the treaty. With all due respect, these assertions strike me as nothing more than sour grapes. Let's review the history that brought us to the vote yesterday.

For 2 years, the President and other supporters of the CTBT called on the Senate to take up the treaty.

In his State of the Union Address in 1998, President Clinton called for it to be taken up "this year."

In June 1998, President Clinton said it was "important that the Senate debate and vote on the Comprehensive Test Ban Treaty without delay."

On August 9 of this year, the President asked "the full Senate to vote for ratification as soon as possible."

On April 1 of this year, Secretary of State Albright gave a speech calling for action on the CTBT, "this year, this session, now."

And some of our colleagues on the other side of the aisle were quite outspoken in calling for a vote on the treaty. In 1998, the Democratic leader, Senator DASCHLE said on the Senate floor that "We believe that it's important for us to move this very important treaty this year." And just over 2 weeks ago, he stood on the Senate floor and said, "I still think, one way or the other, we ought to get to this treaty, get it on the floor, debate it, and vote on it."

And as we all know, it was the threat to bring the business of the Senate to a halt that led the majority leader to offer a unanimous consent agreement on the CTBT. On September 8—with 22 days remaining in the fiscal year to dispose of the remaining appropriations bills—Senator DORGAN said the following:

When [the majority leader] comes to the floor, I intend to come to the floor and ask him when he intends to bring this treaty to the floor. If he and others decide it will not come to the floor, I intend to plant myself on the floor like a potted plant and object. I intend to object to other routine business of the Senate until this country decides to accept the moral leadership that is its obligation and bring this treaty to the floor for a debate and a vote.

Supporters of the CTBT clearly wanted a vote on the treaty; it now turns out they actually only wanted a vote if they could win. Well, that's not the way it works.

I have also been surprised that some Senators have complained that the time for consideration of the treaty was too short. Let's remember that the time-frame for consideration of the treaty was established by unanimous consent. In fact, the majority leader first offered a unanimous-consent agreement on September 30. The Democratic leader objected to that first request, asking for it to be modified to add more time—4 more hours of general debate, and up to 8 hours for amendments (in addition to the 10 hours already allocated). The majority leader accommodated the Democratic request, and on October 1, a modified version of the unanimous-consent request was again offered, and not a single Senator objected either to the time or to the date. The latter is also important, because setting the date for the vote on October 12 or 13 (it occurred on the 13th) meant there were almost 2 weeks for "education" of Senators who had not already become educated on the treaty. (Presumably those who were fomenting consideration of the treaty had taken the time to familiarize themselves with it. They can

hardly argue they needed more time in view of their insistence.)

In any event, we all agreed on a timetable to take up the treaty. This is why I am disappointed that some have charged that the majority leader scheduled the vote out of some sense of partisanship. If Members had a concern about the time frame for the treaty's consideration, any single Senator could have objected—but none did. And the week after the agreement, three Senate committees held hours of hearings. Responsible Senators had plenty of time to learn enough to make an informed decision, witness the early expression of support by those who said others needed more time (i.e., those who didn't agree with them).

I am also disappointed by assertions that, by rejecting the CTBT, the United States Senate has diminished America's moral authority in the fight against nuclear proliferation. I deeply regret that this sentiment has been echoed, and to some degree instigated, by Members of this body and the administration who find themselves on the losing side of the debate.

Nothing could be further from the truth. By rejecting this deeply flawed accord, the Senate has anchored the United States firmly on the moral high ground.

My vote against this treaty rested on three premises:

First, we must be able to test if we are to maintain safe and reliable nuclear weapons because they help to secure peace for American citizens and for the rest of the world.

Second, this unenforceable, unverifiable treaty would have little if any impact on the problem of proliferation. In fact, it might actually cause more nations to seek nuclear weapons if they became unsure of the reliability of the U.S. nuclear umbrella.

It is vitally important that our Nation pursue efforts to combat nuclear proliferation. But we should pursue meaningful efforts with real effects. Unfortunately, while criticizing treaty opponents of not being serious about proliferation, it is the Clinton administration that has not been willing to take serious actions to combat proliferation. For example, in 1997, when reports began to surface about Russian missile assistance to Iran, I led a group of 99 Members of the House and Senate, in writing to the President to urge him to invoke sanctions to halt this trade. The President refused. In November 1997, the Senate unanimously passed a concurrent resolution that I sponsored, expressing the sense of the Congress that the President should sanction the Russian organizations involved in selling missile technology to Iran. The House also passed this resolution overwhelmingly by a vote of 414 to 8. Again the President refused to impose sanctions.

The Congress tried again to spur the administration to action 6 months later, when we passed the Iran Missile Proliferation Sanctions Act mandating

sanctions on any organization involved in assisting Iran's missile program. This bill passed the Senate by a vote of 90 to 4. Yet when it reached the President's desk, he vetoed the bill. As these examples show, this administration is simply not willing to take the tough actions necessary to prevent proliferation. It is these meaningful measures that will reduce proliferation, not an unenforceable, unverifiable treaty.

The third and final reason I voted against the CTBT is that the Constitution establishes the Senate as co-equal with the President in committing this country to treaties. I take this responsibility seriously, and will not simply rubber-stamp any arms control agreement that does not meet at least minimum standards—and this one does not. Rejection will help future negotiators insist on meaningful provisions that are verifiable and enforceable.

Each of these premises is morally sound; in my view they are morally superior than a vote for this flawed pact, no matter how well-intentioned.

Because this treaty would have harmed our security, its ratification would have been an abdication of our moral responsibility to maintain peace through strength. In 1780, President George Washington said, "There is nothing so likely to produce peace as to be well prepared to meet an enemy." Two hundred years later, President Ronald Reagan called this doctrine "Peace Through Strength." History has redeemed the judgment of Ronald Reagan in first adopting this stance with the Soviet Union; I believe that history will redeem the rejection of the CTBT as well.

CTBT COMMISSION

Mr. WARNER. Mr. President, on Wednesday evening, the Senate cast a historic vote on the Comprehensive Test Ban Treaty.

In the aftermath of this vote, I am reminded of the old saying, "The past is prologue."

At some point we have to lift this issue from the cauldron of politics.

Now, is it not time to build bridges and find common ground on the issue of a possible treaty covering nuclear testing? Let the issues be worked on, for a while, by people of the caliber, of the experience, of those who wrote to the Senate, who testified, and called or sent statements during the Senate's debate. Their wisdom can then be returned to our next President and the 107th Congress.

That is why, today, I propose the creation of a bipartisan, blue ribbon commission of experts, representing differing viewpoints on the basic issues, to study this issue and make recommendations—including possible changes to the treaty. Colleagues, I ask for your "advice and consent" as I pursue this goal of a commission.

During the course of the debate in the Senate, it was clear that a number of Members could have supported some