

readers in the weeks since he was named the No. 1 suspect in the Sept. 11 suicide bombings in New York and Washington. The book, "Bin Laden, Al-Jazeera—and I" by Jamal Abdul Latif Ismail, includes a 54-page transcript of the complete 1998 interview that was broadcast in abbreviated form on Al-Jazeera, a popular television program. Al-Jazeera has rebroadcast its version of the interview, conducted by Ismail, since the attacks. Those hungry for more often found copies sold out in book stores across the Mideast. Readers have been borrowing and photocopying the book from friends.

Bin Laden spoke to Ismail in a tent in mountainous southern Afghanistan four months after the August 1998 bombings of two U.S. embassies in Africa—attacks in which he's also a suspect.

Bin Laden began the interview with personal notes, saying he was born 45 years ago, in the Muslim year of 1377, in the Saudi capital of Riyadh. The family later moved between the two holy cities of Mecca and Medina and the port city of Jiddah.

Bin Laden's father, Muhammad, who was born in the Yemeni region of Hadramawt, was a prominent construction magnate who built the major mosques in Mecca and Medina and undertook repairs on Jerusalem's Dome of the Rock. He died when bin Laden was 10.

After getting a degree in economics at a university in Jiddah, bin Laden joined his father's company before beginning his road to jihad.

Even before President Bush mentioned the word "crusade" in describing the anti-terror campaign, bin Laden was using that term to describe alleged U.S. intentions against Muslims.

"There's a campaign that's part of the ongoing Crusader-Jewish wars against Islam," bin Laden told Ismail.

Asked about his 1998 fatwa, or edict, urging Muslims to target not only the U.S. military, but also American civilians, bin Laden said only American men were the target. "Every American man is an enemy whether he is among the fighters who fight us directly or among those who pay taxes," bin Laden said.

Bin Laden claimed Western attacks on Arabs, such as the British-U.S. bombings of Iraq, were directed by Israelis and Jews who have infiltrated the White House, the Defense Department, the State Department and the CIA.

His views on other issues:

—On reports he was trying to acquire chemical, biological and nuclear weapons, bin Laden said:

"At a time when Israel stores hundreds of nuclear warheads and bombs and the Western crusaders control a large percentage of these weapons, this should not be considered an accusation but a right. . . . It's like asking a man, 'Why are you such a courageous fighter?' Only an unbalanced person would ask such a question.

"It's the duty of Muslims to own (the weapons), and America knows that, today, Muslims have acquired such a weapon."

—On whether he's ready to stand trial in an Islamic court: "We are ready at any time for a legitimate court. . . . If the plaintiff is the United States of America, we at the same time will sue it for many things. . . . it committed in the land of Muslims."

—Bin Laden denied he was behind the 1998 embassy bombings, but acknowledged he "has incited (Muslims) to wage jihad."

—Asked about the freezing of his assets, bin Laden said even though the United States has pressured several countries to "rob us of our rights," he and his followers have survived. "We feel that the whole universe is with us and money is like a passing

shadow. We urge Muslims to spend their money on jihad and especially on the movements that have devoted themselves to the killing of Jews and the crusaders."

—On the U.S.-backed fight against the Soviet presence in Afghanistan: "Those who waged jihad in Afghanistan. . . knew they could, with a few RPGs (rocket-propelled grenades), a few anti-tank mines and a few Kalashnikovs, destroy the biggest military myth humanity has even known. The biggest military machines was smashed and with it vanished from our minds what's called the superpower."

—Asked about the money the United States put on his head, bin Laden said: "Because America worships money, it believes that people think that way too. By Allah, I haven't changed a single man (guard) after these reports."

—Bin Laden claimed the United States has carried out the "biggest theft in history" by buying oil from Persian Gulf countries at low prices. According to bin Laden, a barrel of oil today should cost \$144. Based on that calculation, he said, the Americans have stolen \$36 trillion from Muslims and they owe each member of the faith \$30,000.

"Do you want (Muslims) to remain silent in the face of such a huge theft?" bin Laden said.

—His message to the world: "Regimes and the media want to strip us of our manhood. We believe we are men, Muslim men. We should be the ones defending the greatest house in the world, the blessed Kaaba. . . and not the female, both Jewish and Christian, American soldiers." Bin Laden was referring to the U.S. troops that have deployed in Saudi Arabia since 1990 following Iraq's invasion on Kuwait.

"The rulers in the region said the Americans would stay a few months, but they lied from the start. . . . Months passed, and the first and second years passed and now we're in the ninth year and the Americans lie to everyone. . . . The enemy robs the owner, you tell him you're stealing and he tells you, 'It's in my interest.'"

"Our goal is to liberate the land of Islam from the infidels and establish the law of Allah."

Mr. MURKOWSKI. I will just refer to two very short paragraphs.

All American men are the enemy, Osama bin Laden says. And the United States owes Muslims \$36 trillion, payback for "the biggest theft" in history—the purchase of cheap oil from the Persian Gulf.

It further goes on to say:

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If there is any motivation in the connection of oil, I remind you of that.

Control of Arab oil is the core of bin Laden's philosophy and at the heart of Saddam Hussein's politics. There is no question about it; oil is the key, not only to bin Laden but Saddam Hussein. Our Achilles' heel in this war is our dependence on foreign oil. Bin Laden knows it. Saddam Hussein knows it. That the Senate does not yet seem to know it is to our immense discredit. I hope I have helped enlighten us a little bit today. That we do not recognize it and did not recognize it on September 11 is to our immense discredit. If we do not recognize it soon, God help us all.

I thank the Chair.

The PRESIDENT pro tempore. The Senator from Oregon, Mr. WYDEN.

PROHIBITING UNDERCOVER INVESTIGATIONS

Mr. WYDEN. Mr. President, today I rise to say the national antiterrorism legislation passed by this body is in grave danger of being rendered useless. The bill passed by this body corrected an immediate and severe impediment to the undercover investigations that must be employed to shut down terrorism in our Nation. The antiterrorism bill passed by this body included legislation introduced by Senator LEAHY, Senator HATCH, and myself that would untie the hands of Federal prosecutors in my home State of Oregon and remove the roadblocks that currently all but prohibit undercover investigations there.

Unfortunately, the antiterrorism legislation passed by the House strips that provision and rips back open the enormous loophole that potentially makes Oregon a safe haven for dangerous criminals and terrorists everywhere.

For more than a year now, State and Federal prosecuting attorneys in Oregon have been legally prohibited from advising or participating in law enforcement undercover investigations. Without advice of counsel, law enforcement operatives cannot conduct wiretaps, sting operations, or infiltrate dangerous criminal operations. Covert investigations in my State have been shut down for more than a year. If the Senate does not insist on antiterrorism language to restart these investigations in Oregon, the national antiterrorism legislation will not be national at all; it will cover 49 States and it will give dangerous criminals, including terrorists, not just a license but practically an engraved invitation to set up shop in Oregon with little fear of detection or apprehension through undercover or covert methods. It would endanger, not just the people of my State but all Americans.

I wish to explain briefly how this situation came about. It started here in Washington in 1998. An amendment to the omnibus appropriations bill started the ball rolling in Washington, DC. A McDade-Murtha amendment required Federal prosecutors to abide by the State ethics laws and rules in the State in which they work. In Oregon, the State bar association enacted a disciplinary rule making it unethical for attorneys to take part in any practice involving "deceit or misrepresentation of any kind."

When an Oregon attorney misrepresented his identity to investigate a claim, the State supreme court found him guilty of an ethics violation. The McDade-Murtha amendment backed that up. It became very clear no matter how vital the investigation, no matter how great the need, no matter how dangerous the criminals, attorneys—including Federal, State, and

local prosecutors—are simply absolutely not allowed to take a single step, not even to give advice, to help in an undercover investigation. If an undercover investigator cannot get advice from a Federal, State, or local prosecutor, that undercover investigator cannot go forward. It is that simple: no wiretaps, no sting operations, no infiltrating or gathering information on any criminal group no matter how dangerous their bent or how dastardly their plans.

I have been working on a bipartisan basis for more than a year now with Senator LEAHY and Senator HATCH. They have been very helpful, but the stakes are getting higher and the solution is more important than ever.

Federal officials have informed me that criminals have admitted that they set up shop in Oregon because the McDade situation makes it easier for them to remain undetected and unpunished—even more particularly sophisticated criminals. But garden-variety criminals have recognized the opportunities the loophole allows, and certainly more sophisticated criminal elements and terrorists can as well.

Criminals operating in my State involved in serious crimes such as child pornography, drug sales, and eco-terrorism have been breathing easier, safe in the knowledge that law enforcement will have a much tougher time catching them without the best weapon in the war against these criminals. Several important investigations have in fact been terminated or impeded.

For example, the Portland Innocent Images Undercover Program, which targeted child pornography and exploitation, was shut down when the U.S. attorney's office informed the FBI field office it would not concur or participate in the use of long-used and highly productive techniques such as undercover operations and conventional monitoring of phone calls that could be deemed excessive.

If unsophisticated criminals were aware of enough to be attracted to Oregon because of this situation, I am extremely concerned that more sophisticated criminals and terrorists are equally aware that they can exploit this loophole.

The House-passed version of the antiterrorism bill undoes the important work that Senator LEAHY, Senator HATCH, and I did on the bipartisan basis, because the House bill specifically excludes the language that would fix the McDade problem.

I say today that that must not be acceptable to the Senate. This body must act, and act now, to find the solution. Senators HATCH and LEAHY and I worked on a bipartisan basis with the FBI and the Department of Justice to introduce the language that would allow prosecutors in Oregon to once again advise, consult, and participate in legal undercover investigations with law enforcement agencies. But if it doesn't get done in this conference on antiterrorist legislation, my concern is it will not get done at all.

When the differences between the Senate and House antiterrorism bills are taken up in conference, Senate conferees must insist that the McDade fix is in the bill that goes to the President's desk. Anything less would make this antiterrorism legislation a toothless tiger, seemingly strong but incapable of defending or protecting any Americans, including the language that could possibly allow Oregon to be an easy basing State for future terrorist attacks that would be devastating to our Nation.

The terrorists made their homes in Florida and New Jersey before striking Americans in New York and Virginia. I don't want to find 6 months from now that the terrorists made their homes in Oregon because this body failed in its resolve to shut them down in every State in our country. Leaving one State vulnerable makes each State in this country vulnerable.

I implore the conferees, and indeed the Congress, to act swiftly and judicially to guarantee that our Federal prosecutors and investigators have these essential tools that they have asked us to support on a bipartisan basis so they can conduct covert operations that are necessary to prevent and prosecute criminals in terrorist acts.

I conclude by asking unanimous consent that several news articles that highlight the concerns Senators LEAHY and HATCH and I have on a bipartisan basis be printed in the RECORD.

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

[From the Chicago Tribune, Aug. 4, 2001]

OREGON ETHICS RULING CHIDED FOR
HANDCUFFING POLICE WORK
(By V. Dion Haynes)

For the last year, police and law-enforcement officials say they have been handcuffed by a state Supreme Court ruling that all but prohibits undercover work, a staple of crime investigations.

Nationwide, sting operations—those involving paid informants, surveillance and undercover officers—have become the preferred weapon in the investigative arsenals of law-enforcement agencies battling crime. Typically, prosecutors direct the operations to ensure that law-enforcement agencies do not entrap suspects and do not break rules in gathering evidence.

But prosecutors reluctantly severed their ties to some undercover investigations and disbanded others after the Oregon's highest court ruled a year ago that prosecutors are not exempt from state bar ethics codes prohibiting lawyers from engaging in "dishonesty, fraud, deceit or misrepresentation."

While the ethics codes of most state bars forbid dishonesty, Oregon is the only state to apply that rule to prosecutors involved in undercover investigations in which informants or detectives must misrepresent themselves.

Undercover operations in Oregon have continued since the ruling, but without legal advice from prosecutors.

ABA TO ADDRESS ISSUE

The American Bar Association, now meeting in Chicago, plans to address a related controversy over a federal law requiring Justice Department prosecutors to submit to state ethics guidelines.

Some criminal defense lawyers praise the Oregon Supreme Court ruling, saying all lawyers should be subject to the same standards. The ruling is helping rein in prosecutors and investigators who often rely too heavily on undercover work, they say.

"As a matter of public policy in a democratic system, government lawyers should not be allowed to engage in deceit while other lawyers are precluded from doing so by bar disciplinary rules," said Steven Wax, a federal public defender in Portland.

But the FBI, U.S. attorney's office, Drug Enforcement Administration, state attorney general, Oregon State Police, county district attorneys and local police departments say the ruling has curtailed their investigative work, hindering their ability to fight narcotics, child-sex abuse, prostitution, organized crime, housing discrimination and consumer fraud.

"I think it's generally true that the worst criminals are smart enough to hide their crimes and can only be found through undercover operations," said Oregon U.S. Atty. Mike Mosman.

Oregon's court decision, in part, illustrates a long-standing, bitter dispute over whether Justice Department prosecutors should be subject to local bar association ethics codes in the states where they serve.

The debate started during the first Bush administration and continued in the Clinton administration, when the attorneys general issued policies exempting federal lawyers from state ethics codes.

MCDADE AMENDMENT

Last year, Congress reversed a Justice Department policy with the so-called McDade Amendment, which requires lawyers and federal prosecutors in all states to comply with local ethics and court rules.

The law stemmed from concerns about "how far should government go in preventing crime," said John Henry Hingson, a defense attorney in Oregon City, Ore., and a former president of the National Association of Criminal Defense Lawyers.

"Many Americans believe that undercover operations go into entrapment," he added.

The question of whether an ethical double standard exists for government lawyers and defense lawyers arose in Oregon with the case that prompted the August 2000 state Supreme Court ruling banning misleading practices by prosecutors.

Using the tactics of government undercover operations, personal injury lawyer Daniel Gatti allegedly posed as a doctor in phone calls to an insurance company he was planning to sue, according to the Oregon State Bar.

Citing the ethics code prohibiting lawyers from using fraud and deceit, the state high court publicly reprimanded Gatti.

The U.S. Justice Department asked that state Supreme Court to exempt prosecutors from the code, but the court ruled that the ethics code does not allow exceptions. The opinion further forbade lawyers from encouraging anyone else to participate in the misconduct.

"I have not authorized certain investigations or I have shut down other investigations because I did not have a prosecutor or U.S. attorney involved," said Capt. Jim Ferraris of the Portland Police Bureau's drug and vice division.

DRAFTING AN EXEMPTION

A state bar committee is drafting a rule change that would exempt all prosecutors from the ethics code prohibition on deception, thereby allowing them to again supervise undercover operations. If it passes the bar's House of Delegates next month, the proposed rule would go to the Supreme Court for final approval. The high court early this year rejected a similar proposal.

The Justice Department is pressing Congress to repeal the law requiring federal prosecutors to follow state ethics rules and it is suing the Oregon State Bar over its disciplinary code.

Meanwhile, the American Bar Association is proposing a change in state ethics codes that would preserve the federal law's requirement that government prosecutors submit to state disciplinary rules but would give the Justice Department latitude in its investigations—with a court order.

[From the Associated Press, Oct. 12, 2001]
HOUSE FAILS TO INCLUDE OREGON INVESTIGATION MEASURE IN ANTI-TERRORISM PACKAGE
(By Katherine Pfleger)

WASHINGTON.—The House anti-terrorism package passed Friday failed to include a measure designed to remove barriers faced by federal attorneys conducting covert investigations in Oregon, including those into suspected terrorists.

The measure, which the Senate approved Thursday, would have lifted restrictions in Oregon that hinder federal prosecutors from approving undercover operations to catch suspected criminals.

But Reps. Henry Hyde, R-Ill., and at least one other congressman had the language removed from the House anti-terrorism package. "I believe U.S. attorneys ought to obey ethical requirements of the state," Hyde said Friday.

As a result, Sen. Ron Wyden, D-Ore., said he worries that Oregon could remain "a safe haven" for terrorists and other criminals. He sponsored the measure with Sen. Patrick Leahy, D-Vt.

Wyden's Chief of Staff Josh Kardon said the senator won't discuss classified security issues.

But "I find it difficult to believe that he would be putting this many hours into this legislation, with all that is going on right now, if he don't believe that there is a current threat to the nation's security," Kardon said.

Kardon said withdrawal of White House support contributed to the measure's downfall.

The restrictions stem from an Oregon Supreme Court decision that said all attorneys—including federal prosecutors—must abide by Oregon State Bar ethics rules that prohibit deceit.

A former senior Justice Department official, speaking on condition of anonymity, said investigators have found information about the court decision during searches of suspects, unrelated to the terrorist investigation.

"If the ordinary garden variety of crooks know this, it paints a bull's eye on the state," the official said. "Looking at what these guys did on Sept. 11, you can see they paid attention to some pretty sophisticated things."

Four men with Oregon addresses are on an international list compiled by anti-terrorism agencies that are trying to lock down assets of those with suspected ties to the Sept. 11 terrorist attacks. It was inadvertently posted on a Web site earlier this month by Finland's financial regulator.

None of the men still live in the state.

U.S. Attorney Michael Mosman, Oregon's top law enforcement officer, wouldn't comment on whether the state court's ruling was hampering any investigations involving the Sept. 11 terrorist attacks.

However, Mosman said, more broadly the ruling ties the hands of federal prosecutors working in Oregon, both in state-specific cases or more sweeping national ones.

"Federal prosecutors are in a box with our sworn oath to uphold the law, which doesn't

allow us currently to do undercover work, and our sworn duty to protect the public," he said.

For instance, Mosman said, in some cases investigators may need to get approval from the U.S. attorney before using more serious undercover techniques, such as wiretaps, but Mosman is barred from participating.

Charles Williamson, a member of the Oregon State Bar board of governors, said he personally has concerns on his initial read of Wyden's legislation.

"It may give federal prosecutors too much latitude," Williamson said. "Could they lie to a judge? Could they lie to defense counsel in a case?"

Wyden's legislation would have altered the "McDade amendment," pushed by Hyde and Joe McDade, a former congressman whose reputation was clouded by an eight-year racketeering case before he won acquittal in 1996.

The amendment prevented federal prosecutors from using investigative techniques such as wiretaps, undercover stings and contacting company whistleblowers that are not barred by federal law but are disallowed by some ethics rules enforced by state and local bar associations.

Passed this week, the House and Senate anti-terrorism packages expanded the FBI's wiretapping authority, imposed stronger penalties on those who harbor or finance terrorists and increased punishment for terrorists, among other measures.

The two versions could go to a conference committee to iron out the differences, or the Senate could decide to simply vote on the House legislation.

Kardon said Wyden is outraged his measure isn't included in the House bill.

"He has put the Senate leadership on notice that he plans to fight to retain his legislation in the anti-terrorism bill," Kardon said.

Rep. Greg Walden, R-Ore., is considering a few options, including efforts to get the legislation passed as a stand-alone bill, if necessary, said Dallas Boyd, Walden's legislative assistance for defense.

Meanwhile, Rep. Peter DeFazio, D-Ore., complained the House bill was cobbled together overnight.

"A lot of people don't know what else was in there, including me," he said. "It was rushed though the House. The process broke down."

[From the Portland Oregonian, Oct. 13, 2001]
HOUSE BILL LOSES OREGON PROVISION

(By Ashbel S. Green—The Oregonian Staff writer Jim Barnett contributed to this report)

The U.S. House of Representatives on Friday stripped a sweeping anti-terrorism bill of a provision designed to allow suspended federal undercover investigations in Oregon to resume.

The bill, which included the "Oregon provision" in the version the U.S. Senate passed Thursday night, will head to a conference committee, where representatives of the two chambers will try to work out the differences next week.

The Oregon provision would allow federal prosecutors to supervise undercover operations, even if they required using deceit.

Sen. Ron Wyden, who proposed the Oregon provision after the Sept. 11 attacks, and more recently inserted it in the anti-terrorism bill requested by President Bush, will fight to put it back into the bill, according to his staff.

Without the provision, "in essence, the bill will be an anti-terrorism bill for 49 states," said Josh Kardon, Wyden's chief of staff. "A bill that addresses only 49 states leaves the entire nation in jeopardy."

The provision would amend a controversial 1998 law that requires federal prosecutors to comply with the laws and state bar rules of every state in which they conduct enforcement activities.

That law, passed at the behest of Rep. Joseph M. McDade, R-Pa., and Rep. John P. Murtha, D-Pa., was designed to curtail prosecutorial excessiveness. McDade was once indicted on federal corruption charges but later was acquitted.

Murtha and Rep. Henry Hyde, R-Ill., who are big supporters of the 1998 law, demanded that the Oregon provision be stripped out of the anti-terrorism bill, Kardon said.

Molly Rowley, a spokeswoman for Senate Majority Leader Tom Daschle, D-S.D., said the Senate would conduct a legislative conference on the bill with the House early next week.

Last year, federal law enforcement officials suspended many undercover operations in response to an Oregon Supreme Court ruling that prosecutors were excepted from state bar rules against lawyers' lying.

In 2000, the Oregon Supreme Court upheld a disciplinary action against Daniel J. Gatti, a Salem attorney who misrepresented himself as a chiropractor while investigating whether to file a lawsuit.

The Oregon State Bar responded in January by passing a rule that allowed all lawyers to supervise undercover operations, but the Supreme Court rejected the change.

Last month, the bar passed a more limited rule that allowed only government lawyers and legal aid groups to supervise undercover operations. The Supreme Court has yet to decide on that change.

In the meantime, earlier this year the U.S. Department of Justice sued the state bar over the rule, seeking to block it from being enforced against federal prosecutors.

A hearing in that case is scheduled for next month.

[From the Statesman Journal, Oct. 13, 2001]
HOUSE MEASURE IGNORES OREGON

COVERT CRIMINAL INVESTIGATIONS ARE HAMPERED HERE BY RESTRICTIVE LAWS

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But "I find it difficult to believe that he would be putting this many hours into this legislation, with all that is going on right now, if he didn't believe that there is a current threat to the nation's security," Kardon said.

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abide by Oregon State Bar ethics rules that prohibit deceit.

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"If the ordinary garden variety of crooks know this, it paints a bull's eye on the state," the official said. "Looking at what these guys did on Sept. 11, you can see they paid attention to some pretty sophisticated things."

Mr. WYDEN. Thank you, Mr. President. I yield the floor.

The PRESIDENT pro tempore. The Senator from Arizona, Mr. KYL, is recognized.

Mr. KYL. Mr. President, I believe that among staff there is an informal agreement we would extend the morning business time for a period up to 5 o'clock, which would take us beyond the 4:30 time. When someone is ready to propound that unanimous consent request, I will be prepared to stop since my time will go beyond 4:30, which I understand is the current time. I thought I would note that. I will be particularly speaking after 4:30 based upon that understanding.

The PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

The Senator is recognized.

Mr. KYL. I thank the Chair.

JUDICIAL VACANCIES

Mr. KYL. Mr. President, I could not help thinking, particularly as I listened to the distinguished majority leader discuss the activity in his office today and the concern about his staff and their current terrorist threat that reaches the U.S. Capitol staff now, about how many ways this threat of terrorism affects all of us. I certainly hope all of the majority leader's staff is well and suffers no ill effects from what may well have been another reach of terrorist attack here in the United States.

It reminds us how this kind of unlawful extralegal activity can affect a society which has always been so free and so open, precisely because we are a nation of laws and precisely because we believe in the rule of law.

Of course, in our society that rule of law ultimately rests upon the judge and our courts for its administration. Of course, it is the judges who are the ultimate arbiters of the law. We could not function long as a free society without our judges. Yet today we are speaking about the fact that an unacceptable number of vacancies exist in our courts, vacancies that must be filled if we are to be able to properly administer that law we revere so much.

Currently, there are 108 empty seats in the Federal judiciary. We are speaking of the Federal courts alone. That represents a 12.6-percent vacancy in the total number of judgeships.

I note, as others I believe have perhaps also noted, that of those, there

are 41 judicial emergencies. In other words, more than a third of these vacancies, according to the Administrative Office of the Courts, represents judicial emergencies—meaning that they are in districts and in courts in which there is an overwhelming burden of cases in which, without having a judge to fill the court position, essential justice will not be done. It certainly raises the question about why we as a Senate are not able to act on the judges or the candidates for judge whom the President has nominated.

It is in this regard that I feel my responsibility most strongly because not only am I a Member of this body but I am also a member of the Judiciary Committee. Until the Judiciary Committee acts, we as a body are not able to give our final advice and consent. In fact, I am especially keen on the issue because three of these vacancies represent nominations for a district court for my own State of Arizona. All three of them are also designated by the administrative office as judicial emergencies.

This is not a hypothetical or a theoretical matter; it is a very real matter for us today, which should touch all of us, but it certainly touches some of us very strongly. It is, therefore, with some sadness that I hear my colleagues talk about the potential of holding up action on appropriations bills in order to take up the matter of judicial nominations.

Historically, the Senate has been able to do many things at the same time. We have considered legislative matters on the floor when we have had other calendars from which we took up matters. Indeed, many of the nominations, including judicial nominations, are considered as a relatively routine matter, sometimes at the end of the legislative day when the majority leader will simply ask for unanimous consent to consider a number of nominees. It is mostly the case that judicial nominees as well as others are considered in that fashion without even having a rollcall vote.

It has been the custom of the current chairman of the Judiciary Committee this year to call for, I believe in most all cases, rollcall votes, which is fine. I would actually prefer to do it that way. But it has not been deemed necessary in the past because most of these nominations are not controversial—my point being that we can consider and act upon frequently large numbers of nominations without having to take a lot of the Senate's time for debate. It has always been that way. The Senate can do many things at once. We hold committee hearings when we have actions pending on the floor. It is simply not true that we can only do one thing at a time.

Part of the reason we don't have the number of judges confirmed we should is that some have made the arguments that we are too busy doing other things and we have to be on the floor doing the antiterrorist legislation, or some

other business before the Senate, and therefore we can't take up the nominations. That, I submit, is not an accurate statement of the way the Senate operates.

But for those who say we can't do more than one thing at a time, I have said: Fine; then given the fact that we have time and time again asked for action on judicial nominations that has not been forthcoming by and large, perhaps it is time to give those nominations the proper priority they deserve and to get them on the calendar so we can consider them. As a result of that, I, on a couple of other occasions, suggested that rather than taking up a particular appropriations bill, we should get on with nominations. No. Some colleagues argued: We need to get on with these appropriations bills. We will take up those nominations in due course.

As a matter of fact, there have been two explicit agreements reached between the majority leader, minority leader, and others about how to follow this process, with the specific commitment made to take action on those nominees, at least those who were nominated prior to the August recess. Still, we do not see action occurring at a pace fast enough to be able to conclude that by the end of our session this year we will have, indeed, taken action on the nominations pending prior to the August recess.

That is why I have decided that if, in fact, it is the case that we cannot do more than one thing at a time, then we will simply call a timeout on the appropriations process, go to these nominations, see how many of them we can get done as appropriate, and then return to the appropriations process.

No one suggests we will not complete that process this year. We have to do it. We will do it. I will be supportive of it, as well. That is essentially the reason why I have suggested we call a timeout on that process, so we can get those nominations done.

I will continue my statement, but I know the distinguished majority whip wishes to speak.

Mr. REID. I apologize for the interruption, but I want to make clear I thought there was going to be a request for morning business. We have no one on our side wishing more morning business.

I want to make sure that everyone understands the next hour is that time set aside for Senator LEAHY and Senator MCCONNELL. So any time that is going to be used would have to be, under the previous agreement, given to them by the managers of the legislation or whoever decides to dole out the time for each side.

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

Mr. REID. Yes.

Mr. THOMAS. Would it be appropriate to ask unanimous consent that we have morning business until 5 p.m.?

Mr. REID. I have spoken to Senator LEAHY. He would agree to give up 15 minutes of his time.