

plan to work hard in school and in everything I do so she can be proud of me like I was of her."

None of us is untouched by the terror of September 11, and many Californians were part of each tragic moment of that tragic day. Some were trapped in the World Trade Center Towers. Some were at work in the Pentagon. And the fates of some were sealed as they boarded planes bound for San Francisco or Los Angeles.

I offer today this tribute to one of the 51 Californians who perished on that awful morning. I want to assure the family of Deora Bodley, and the families of all the victims, that their fathers and mothers, sons and daughters, aunts, uncles, brothers and sisters will not be forgotten.

#### ELECTIONS IN MACEDONIA AND MONTENEGRO

Mr. McCONNELL. Mr. President, the people of Macedonia and Montenegro will participate in parliamentary elections on September 15 and October 6, respectively. Given recent history in that region, the successful conduct of these polls is in the security interests of both the United States and all of southeastern Europe.

Free and fair elections in Macedonia could serve as the beginnings of a new chapter for that country. It was only last year that ethnic grievances in Macedonia turned violent, resulting in deaths, casualties, and thousands of internally displaced persons and refugees. While on the mend, successful elections could prove to be a critical milestone for both the people of Macedonia and the international community.

A major challenge for the Government of Macedonia and all political parties is to earn the trust and confidence of the electorate before the first ballots are cast. Let me be clear: there is no room for election chicanery and violence.

The Government of Macedonia should be aware that the Foreign Operations Subcommittee, on which I serve as ranking member, increased fiscal year 2003 funding provided to the Assistance for Eastern Europe and Baltic States, SEED, account. The subcommittee has suggested that additional funds be provided to Macedonia—over and above the administration's request, but our continued support will be gauged by the successful conduct of the September polls.

In Montenegro, I am troubled by Parliament's recent amendments to the election and public information laws, and the method by which these changes were made. In the past, Parliament utilized a process of consensus and agreement when deliberating election-related issues, which helped create a democratic and stable framework for contentious polls. Last month, the majority coalition in Parliament disregarded past practices and the technical advice of the international com-

munity and muscled through changes to the laws. Such heavy-handedness undoubtedly sours the preelection environment, and raise suspicions and political tensions.

The amendments to the laws are equally troubling, particularly for the ethnic-Albanian community whose reserved seats in Parliament were reduced from five to four. The majority coalition in Parliament empowered themselves to appoint members to national and local election commissions, permitting total and partisan control over the electoral process. Further, changes to the laws prohibit pollwatchers to question or challenge officials on the conduct of the poll on election day, and private media is banned from accepting paid advertising from political parties.

Let me close by strongly encouraging the State Department, along with the OSCE, to take appropriate actions to ensure free and fair elections in Montenegro. I will continue to closely follow developments in that region, as well as the reports and updates issued by the International Republican Institute and the National Democratic Institute.

#### IN MEMORIAM: NICOLE CAROL MILLER

Mrs. BOXER. Mr. President, I take this opportunity to share with the Senate the memory of one of my young constituents, Nicole Carol Miller, who lost her life on September 11, 2001. Ms. Miller was a lovely 21-year-old college student when the flight she was on, United Airlines Flight 93, was hijacked by terrorists. As we all know, that plane crashed in a Pennsylvania field, killing everyone on board.

Nicole's memory lives on in the hearts of those she loved. She took great joy in life and exemplified this with her wonderful outlook and tenacious personality. Nicole's radiant smile could light up a room and she energized those around her. She knew how to be an outstanding friend.

Nicole was blessed with two families. Her father and stepmother, David and Catherine Miller of Chico, California and her mother and stepfather, Cathy and Wayne Stefani, Sr., of San Jose, California.

In her father's words, "She had that sweet baby quality. She could make you smile and forget your troubles for a little bit." Friend Heidi Barnes describes Nicole as "very friendly and welcoming. She had a big heart and it was open to everyone."

She lived in San Jose, CA, with her mother and stepfather, Cathy and Wayne Stefani, Sr. She attended local schools and graduated from Pioneer High School in 1998. A talented softball player during all four years of high school, Nicole won a college softball scholarship during her senior year. Even though she had never been a competitive swimmer, she tried out for the Pioneer High swim team as a freshman and made the team.

At the time of her tragic death, she was a dean's list student at West Valley College in Saratoga, working part-time and weighing whether to transfer to California State University at Chico or San Jose State University.

Nicole is survived by her mother, Cathy M. Stefani; stepfather, Wayne Stefani, Sr.; father, David J. Miller; stepmother, Catherine M. Miller; and her siblings, Tiffney M. Miller, David S. Miller, Danielle L. Miller, Wayne Stefani Jr., Joshua R.D. Tenorio, and Anthony D. Tenorio.

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Thank you. I yield the floor.

#### IN MEMORIAM: ROBERT B. PENNINGER

Mrs. BOXER. Mr. President, I would like to take this opportunity to share with the Senate the memory of one of my constituents, Robert Penninger, who lost his life on September 11, 2001. Mr. Penninger was 63 years old when the plane he was on, American Airlines Flight 77, was hijacked by terrorists. As we all know, that plane crashed into the Pentagon, killing everyone on board.

Robert "Bob" Penninger grew up in Chicago, IL. He earned a Bachelor of Science degree in Electrical Engineering at Purdue University and received a Masters Degree in Business Administration from Northeastern University. After graduating from college, he married his wife Janet and they raised their daughter, Karen, in Massachusetts. At the time of his tragic death, Bob was working as an electrical engineer for the defense contractor BAE Systems in Rancho Bernardo, CA, and was returning home from a business trip on September 11.

Mr. Penninger lived life to the fullest and is greatly missed by all who knew him. His wife, Janet, recalls, "Bob was always willing to help everyone he met. He was a great storyteller and he always had a smile on his face and a cheery hello for all." Mr. Penninger enjoyed motorcycle trips with his wife and friends. He also loved taking his 1999 Electric Green Cobra Mustang convertible to car shows, where he won many trophies.

Kit Young lived next door to Penninger for eight years and remarked, "Bob brought a lot of joy to this neighborhood. He developed a special relationship with my 11-year-old

grandson, Sean. He took my grandson to a car show in Los Angeles and they were planning another outing. A lot of people wouldn't care anything about an 11-year-old kid, but Bob did."

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#### ITALIAN BREAST CANCER SEMI-POSTAL STAMP

Mrs. FEINSTEIN. Mr. President, just over four years ago, the U.S. Postal Service began issuing semipostal stamps to raise money for breast cancer research. The breast cancer research stamp is the first postal stamp in our Nation's history to raise funds for a special cause. Since its inception in the summer of 1998, the program has raised over \$27.2 million for research.

The stamp is just as strong today as it was 4 years ago when Congress passed legislation I introduced based on a creative idea of my constituent, Dr. Ernie Bodai, and the hard efforts of others, including Betsy Mullen of the Women's Information Network Against Breast Cancer and the Susan G. Komen Foundation.

The price of a breast cancer research stamp recently increased to keep pace with the cost of first class mail, ensuring that breast cancer research will continue to reap the benefits of the stamp's success.

It has also focused public awareness on a devastating disease and provided a symbol of hope and strength to breast cancer survivors, their loved ones, and others who care about eradicating breast cancer as a life-threatening disease.

I am pleased to announce today that the concept of a semipostal breast cancer research stamp has now spread across international borders. The country of Italy recently has followed the United States lead and is issuing a semipostal stamp for breast cancer research.

Breast cancer is not just an American problem, but it is also a global problem. Approximately 250,000 new cases of breast cancer are diagnosed annually in the European Union. Each year, in Italy alone, more than 30,000 women are diagnosed with breast cancer and 11,000 die of this disease.

Modeled after the U.S. version, the Italian stamp is priced above the value of a first class letter with proceeds dedicated to the battle against breast

cancer. Converted into U.S. dollars, approximately 20 cents for each letter sent with the new semipostal will be used to fight breast cancer. In total, Italy expects to raise approximately \$2.5 million dollars for breast cancer research, education, screening and treatment programs throughout the country.

Italy's new semipostal stamp, which will be available through 2003, commemorates the 50th anniversary of the death of Queen Elena di Savoia, whose philanthropic efforts included funding the first cancer center in Italy. Approximately 12.5 million stamps will be produced.

I am pleased that lessons we have learned from the launch of the U.S. breast cancer stamp are being applied in Italy. I would especially like to commend the Susan G. Komen Breast Cancer Foundation for its efforts to make the Italian stamp the success that it is here in the United States. In the words of Nancy Macgregor, the Komen Foundation's International Director: "Breast cancer knows no boundaries, and Italy is no exception."

I wish Italy the same success with its semipostal that we continue to enjoy here in the United States. Working together and building on each other's successes, we increase our strength in the battle against breast cancer.

#### NOMINATION OF D. BROOKS SMITH

Mr. LEAHY. Mr. President, I ask unanimous consent that following my statement on July 30, 2002, on the nomination of D. Brooks Smith, located on pages S7553-S7558, that three letters be printed in the RECORD. The letters are: resolution from the City Council of Philadelphia; Monroe Freedman, Professor of Legal Ethics, Hofstra University and; Stephen Gillers, Vice Dean and Professor of Law, New York University.

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

##### RESOLUTION

Whereas, The nomination of Pennsylvania district court Judge D. Brooks Smith to the Third Circuit Court of Appeals in Philadelphia was voted out of the U.S. Senate Judiciary Committee on May 23, 2002 by a 12-7; and

Whereas, Judge Smith's nomination is opposed by a wide range of public interest organizations. Among the organizations that have formally expressed opposition to Smith's appeals court nomination are People For the American Way, Leadership Conference on Civil Rights, NAACP, Alliance for Justice, National Organization for Women, Community Rights Council, National Women's Law Center, NARAL, Earthjustice, ADA Watch Action Fund, National Partnership for Women & Families, Planned Parenthood, Defenders of Wildlife, National Employment Law Association, Committee for Judicial Independence, NOW Legal Defense and Education Fund, Disability Rights and Education Defense Fund, Feminist Majority, Friends of the Earth, Bazelon Center for Mental Health Law, National Disabled Students Union, and the National Council of Jewish Women; and

Whereas, Judge Smith's membership in a discriminatory club, his failure for ten years—in violation of governing ethical standards—to resign from the club despite his commitment to do so during his district court confirmation hearing, and the contradictory explanations he has offered for his actions all raise serious issues about Smith's judgment, willingness to follow rules, and candor; and

Whereas, Ethical questions have been raised regarding a highly publicized bank fraud case involving millions of dollars of public school money. Judge Smith continued to preside over and issue orders in the case, even though the fraud claims implicated a bank at which his wife was an employee and in which he had substantial financial interests. Several years later, he took on a related case, recusing himself only after he was requested to do so by one of the attorneys in the case, revealing only his wife's involvement and not his own financial interest. On March 14, 2002, after reviewing the facts and the arguments by Smith and his defenders, noted legal ethics professor Monroe Freedman wrote to the Senate Judiciary Committee that Smith committed "repeated and egregious violations of judicial ethics" and that Smith had been "disingenuous before this Committee in defending his unethical conduct." Professor Freedman concluded that as a result, Smith is "not fit to serve as a Federal Circuit Judge"; and

Whereas, Since his appointment in 1989, Judge Smith has been reversed by the court of appeals to which he has been nominated 51 times. This is a larger number of reversals than any of the judges approved and rejected by the Senate Judiciary Committee during this Congress for appellate court posts, including Judge Charles Pickering. More important than the number of these reversals, however, is their nature. Many of these reversals concern civil and individual rights, and reflect a disturbing lack of sensitivity towards such rights and a failure to follow clearly established rules of law and appellate court decisions; and

Whereas, A number of Smith's reversals have concerned discrimination or other claims by employees. For example, in *Wicker v. Consolidated Rail Corp.*, 142 F.3d 690 (3rd Cir.), cert. denied, 525 U.S. 1012 (1998), the court of appeals unanimously reversed Smith's decision to dismiss a suit by Conrail employees who claimed that years of on-the-job exposure to toxic chemicals was making them sick. Smith had concluded that their lawsuit was barred because they had signed a waiver as part of a settlement of unrelated injury claims against the railroad. The appellate court ruled that Smith's ruling was contrary to the Supreme Court's interpretation of federal law; and

Whereas, The Third Circuit unanimously reversed Smith's decision in *Ackerman v. Warnaco*, 55 F.3d 117 (3rd Cir. 1995), in which he upheld a company's unilateral denial of severance benefits to more than 150 employees after they were laid off; and

Whereas, In *Colgan v. Fisher Scientific Co.*, 935 F.2d 1407 (3rd Cir.), cert. denied, 502 U.S. 941 (1991), the appellate court unanimously reversed Smith for granting summary judgment against an age discrimination claim as untimely by ruling that the statute of limitations began to run not when the employee was terminated, but instead when he simply received a negative performance review; and

Whereas, In *Schafer v. Board of Public Educ. of the School Dist. of Pittsburgh, Pa.*, 903 F.2d 243, 250 (3rd Cir. 1990), the Third Circuit unanimously reversed Smith for dismissing a claim that a school district's family leave policy improperly allowed only women, not men, to take unpaid leave for "childbearing" as well as childbirth. Based