

the 1998 Better Business Bureau of North Alabama's Torch Award for market ethics. This award was presented in recognition of Madison Research's commitment to ethics in business. Mr. Stallworth also received the 1997 Region IV Minority Small Business Person of the Year Award, presented by the Small Business Administration.

Mr. Stallworth's dedication did not end with football or business. He has given of himself to the city of Huntsville and the people of Alabama and they recently recognized his accomplishments with "John Stallworth Day in Huntsville". At the celebration Mel Blount, himself a Hall of Famer, spoke of Stallworth:

John Stallworth exemplifies what a true professional is all about, not just in football but in the business world and in life.

Mr. Stallworth has served on a number of boards including the United Way, the Museum of Aviation, the Madison County Chamber of Commerce, the U.S. Space Camp, Harris Home for Underprivileged Children, and Alabama A&M University. He has been active with the Huntsville Boys and Girls Club, the United Negro College Fund, the Children's Advocacy Center, the Rotary Club of Huntsville, the Alzheimer's Association of Greater Huntsville, and Big Brothers/Big Sisters of North Alabama to name a few. He is also chairman of the Board of Directors of the John L. Stallworth Scholarship Foundation which helps to promote the education of our youth.

I have had the opportunity to get to know John Stallworth over the years and I can say that I am proud to call him my friend. He has served on my technology advisory committee and has been an asset to my work here in the Senate. He has never hesitated to provide me with expert counsel on important issues that have come before the Senate. It is very satisfying for me to see how he has overcome adversity in his life to achieve greatness as a professional and as a human being. His accomplishments on and off the field have inspired thousands of our young people to strive for excellence and I applaud his efforts. The People of the State of Alabama are proud to call him our native son.

I am proud to recognize the accomplishments of a great American and Alabamian, John Stallworth.●

TREATY TRIBES LOCATED IN THE STATE OF SOUTH DAKOTA

● Mr. JOHNSON. Mr. President, I am honored to represent a State that has nine treaty tribes. It has become increasingly clear that nothing is more important to the tribes of South Dakota than the recognition of the obli-

gations this Nation has to the Indian people of South Dakota as spelled out by the treaties entered into by the United States Government and the tribes of South Dakota. Especially at the urging of President John Steele of the Oglala Sioux Tribe and Chairman Andrew Grey of the Sisseton-Wahpeton Sioux Tribe, I offer this statement pertaining to this issue of critical importance to the tribes located within my home State of South Dakota. As you know, the South Dakota tribes have a proud history of providing leadership to Indian issues. I thank President Steele and Chairman Grey for helping me understand this issue. It is with the utmost respect that I share with you some of our tribes' perspective on what treaties mean to them, as follows:

It is important to note that each of the Tribes located in the State of South Dakota have entered into treaties with the Federal Government. All federally recognized Indian tribes and villages are often categorized into the same class. However, important rights were guaranteed to the South Dakota tribes by treaty, and many of these rights continue to be enforceable today. From the first treaty with the Delawares in 1787 until the end of treaty-making in 1871, hundreds of agreements were entered between the Federal Government and various bands and tribes of Indians. Provisions of the treaties differ widely, but it was common to include a guarantee of peace, a delineation of boundaries, often with a cession of specific lands from the tribe to the Federal Government, a guarantee of Indian hunting and fishing rights, often applying to the ceded land, a statement that the tribe recognized the authority or placed itself under the protection of the United States, and an agreement regarding the regulation of trade and travel of persons in the Indian territory. Treaties also commonly included agreements by each side to punish and compensate for acts of depredation by "bad men" among their own number, a clause that still can support a claim against the United States. See *Tsosie v. United States*, 825 F.2d 393 (Fed.Cir. 1987).

Indian treaties stand on essentially the same footing as treaties with foreign nations. Because they are made pursuant to the Constitution, they take precedence over any conflicting State laws by reason of the Supremacy Clause. U.S. Const., Art. VI, Sec. 2; *Worcester v. Georgia*, 31 U.S. (6 Pet.) 515 (1832). They are also the exclusive prerogative of the Federal Government. The First Trade and Intercourse Act, 1 Stat. 137 (1790), forbade the transfer of Indian lands to individuals or States except by treaty "under the authority of the United States." This provision, repeated in later Trade and Intercourse Acts, has become of tremendous importance in recent years, for several eastern States negotiated large land cessions from Indian tribes near the end of the eighteenth century. In *County of Oneida v. Oneida Indian Nation*, 470 U.S. 226, (1985), the Court held invalid a treaty entered in 1795 between the Oneidas and the State of New York. The treaty, which had been concluded without the participation of the Federal Government, transferred 100,000 acres of Indian lands to the state. The Court held that the tribe still had a viable claim for damages. Similar

claims exist in other eastern states; in Maine, the likely invalidity of a 1795 state-tribal treaty clouded land titles covering about sixty percent of the State until legislation settled the issue. See *Joint Tribal Council of Passamaquoddy Tribe v. Morton*, 528 F.2d 370, 1st Cir.1975; Maine Indian Claims Settlement Act, P.L. 96-420, 94 Stat. 1785, 1980.

Not only is the treaty-making power exclusively federal, it is almost entirely presidential. While it is true that two-thirds of the Senate must concur in any treaty, the initiation of the process and the terms of negotiation are inevitably controlled by the executive branch. Indeed, there were many instances, especially in California, where executive officials negotiated treaties and acted upon them despite the failure of the Senate to ratify them. In the middle of the eighteenth century, Congress and particularly the House of Representatives grew increasingly resentful of being excluded from the direction of Indian affairs. The ultimate result was the passage in 1871 of a rider to an Indian appropriations act providing that "No Indian nation or tribe . . . shall be acknowledged or recognized as an independent nation, tribe, or power with whom the United States may contract by treaty." 25 U.S.C.A. Sec. 71. The rider also specified that existing treaty obligations were not impaired. As an attempt to limit by statute the President's constitutional treaty-making power, the rider may well be invalid, but it accomplished its purpose nonetheless by making it clear that no further treaties would be ratified. Indian treaty-making consequently ended in 1871. Thereafter formal agreements made with the tribes were either approved by both houses of Congress or were simply embodied in statutes.

Congress, in declaring that Indian tribes should no longer be acknowledged as independent political entities with whom the United States might contract by treaty, did not end the tribal organization of Indian communities. The solution to the 1871 Act was the use of "treaty substitutes that consisted of agreements that were directed and authorized by Congress. Yet, other agreements were negotiated by the Indian Office to solve particular needs or resulted from Indian initiative. Most concerned cessation of land or other modification of boundaries whereby the need to declare peace between two sovereign nations was no longer an essential goal. Although such agreements were similar to treaties, Tribal consent was no longer a prerequisite to establish a binding agreement.

Many reservations were established by Executive Order issued by the President of the United States. Although no general law existed authorizing set asides for Indian use, Congress and the public acquiesced and the Courts upheld the action. Executive orders differed from treaties wherefore they could be easily changed and a new one substituted as occasion demanded. They were neither uniform in terminology nor scope. In addition, a reservation could be established by administrative action prior to the issuance of an executive order and later sanctioned by the official action taken by the President. A 1952 Report by the Commissioner of Indian Affairs found that of the total of 42,785,935 acres of Tribal trust land only 9,471,081 acres had been established by Treaty

and the remaining 23,043,439 acres of trust land were established by executive order.

Federally-recognized Indian tribes in South Dakota signed the Treaty of Fort Laramie with the desire to declare peace and thereby perpetuate a Nation-to-Nation relationship with the Federal Government. The common misperception that most Tribes have entered into treaties with the United States serves as a great injustice to Tribes who have entered into such formal and solemn agreements. In 1890 there were 162 established Tribes; 56 of those were established by executive order, 6 by executive order under the authority of Congress, 28 by acts of Congress, 15 by treaty and executive order, 5 by treaty or agreement and an act of Congress, 1 by unratified treaty and 51 by treaty or agreement. The treaty establishing the South Dakota Tribes is a contract negotiated between sovereign nations, relating to peace and alliance formally acknowledged by the signatories of the nations. The United States entered into such agreement because they desired peace and cessions of land from the Sioux Tribes, and in return they made promises that must be upheld. In conclusion, it is appropriate to recognize the special status of the treaty tribes located in South Dakota.●

GUADALUPE MOUNTAINS NATIONAL PARK

● Mr. BINGAMAN. Mr. President I rise today to congratulate the staff and supporters of Guadalupe Mountains National Park as we mark the 30th anniversary of this great natural treasure. Thirty years ago, the National Park Service established the Guadalupe Mountains National Park along the southeastern border of New Mexico and west Texas.

Guadalupe Mountains National Park treasures and protects desert lowlands, canyons, and a relic forest of pines and firs. It also includes one of the world's greatest examples of a non-coral fossil reef. In addition, the rich cultural history and economic opportunities it provides to the region is part of the park's significance.

Throughout my time in the Senate I have worked to protect our natural, cultural, and historical resources. The Guadalupe Mountains National Park is a prime example of the natural beauty of the Southwest. I hope this refuge will provide enjoyment for many future generations.●

LOCAL LAW ENFORCEMENT ACT OF 2001

● Mr. SMITH of Oregon. Mr. President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of last year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred June 20, 2001 in Albany, NY. A gay man was beaten while sitting on a bench next to a bike path. The assailants, three teens, approached the victim, used anti-gay slurs, and repeatedly punched him in the head with

their fists. Investigators believe the victim was targeted because of his sexual orientation.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.●

WELCOMING TAIWAN'S FIRST LADY, WU SUE-JEN

● Mr. ALLEN. Mr. President, I want to welcome Madame Chen Wu Sue-jen, First Lady of Taiwan, to the United States.

Madame Chen is a great champion of democracy, both at home and abroad. I applaud her efforts to learn from America's experiences so that she can take those lessons back to Taiwan and its evolving democracy.

During her stay in the United States, Madame Chen has met with many of our nation's finest scholars and statesmen. She has brought with her a wonderful example of leadership, charity and devotion to the American people and continues to strive for human rights and justice at home.

I congratulate Madame Chen on her accomplishments and welcome her to the United States. We look forward to continued friendship with Madame Chen and the Taiwanese people.●

PEACEFUL END TO A TENSE BASEBALL SEASON

● Mr. LEAHY. Mr. President, yesterday marked the end of the Major League Baseball regular season. Fans everywhere have enjoyed a season with Barry Bonds leading the league in hitting, Alex Rodriguez hitting 57 home runs, and Randy Johnson and Curt Schilling combining as perhaps the greatest pitching duo ever. It has been a tremendous season of achievement for many teams. The Minnesota Twins, a team Commissioner Selig wanted to disband last off-season, won the American League Central Division. The Oakland A's set an American League record with a 20-game winning streak and won the American League's Western Division.

Eight teams, and fans from across the country and around the world, are now gearing up for an exciting playoff season. The Twins and the A's, as well as the Anaheim Angels, the St. Louis Cardinals and the San Francisco Giants, have earned the opportunity to continue into the playoffs, to compete for a pennant and even the World Series championship along with last year's champion Arizona Diamondbacks, the New York Yankees and the Atlanta Braves. They are not the eight teams with the highest payrolls or biggest markets. They do share a few things in common: talented players having outstanding seasons, great

team play and exceptional management both on and off the field.

We are fortunate that this baseball season is being played to its rightful conclusion and that crisis was avoided on August 30, when negotiators for team owners and the Major League Baseball Players Union reached a new collective bargaining agreement. Announced just two hours before another work stoppage, this agreement saved professional baseball from a disastrous screeching halt to yet another baseball season.

With this agreement baseball can now go about the business of assessing the future of the sport in Montreal. It is unfortunate that this fine city, its team with a number of outstanding players, and its fans have been left in limbo for the past year over the future of the franchise. For a large number of Vermonters, Montreal provides the closest major league venue. This franchise is the major league affiliate for our own minor league Vermont Expos. There are many dedicated Expos fans in my State. Several local towns are doing their best to show their support for keeping the Expos in Montreal. I ask that a letter recently sent by the St. Albans Town Selectboard to the Mayor of Montreal be printed in the RECORD.

The letter follows:

AUGUST 12, 2002.

MAYOR GERALD TREMBLAY,
Montreal, Quebec.

MAYOR TREMBLAY, the St. Albans Town Selectboard wishes to express our utmost hope that the city of Montreal tries everything possible to help retain the Montreal Expos.

Montreal is a beautiful international city with much diversity and many different types of cultures. We believe the Expos are a large part of the city and it serves to bring many people from Northern Vermont to your city every year.

With a downtown stadium, we believe the Expos can flourish once again and help attract many more tourists to your wonderful city. We hope that you and your government are trying everything possible to work with new-interested buyers.

If the Town of St. Albans can be of assistance please feel free to contact us.

Cordially Yours,

TAYT R. BROOKS,
Vice-Chair.

Mr. President, through repeated hearings in the Judiciary Committee, Congress has tried to help the major league baseball owners and players find common ground. After the last work stoppage, we culminated almost a decade of hearings examining labor strife and other problems in major league baseball, when we enacted the Curt Flood Act in 1998. Senator HATCH was the lead sponsor of that measure, and I was his principal cosponsor. It was a bipartisan effort to clarify the law. By that effort we hoped to promote labor peace in Major League Baseball.

The principle purpose of the law was to make clear that federal antitrust laws apply to the relationships