

Class of Minister-Counselor, to be Ambassador to the Federal Republic of Nigeria.

George H. Walker, of Missouri, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Hungary.

NOMINATION OF KAREN TANDY

Mr. DURBIN. Mr. President, I rise in opposition to the nomination of Karen Tandy to be Administrator of the Drug Enforcement Administration.

According to the DEA website, the top two DEA responsibilities are the following:

Investigation and preparation for the prosecution of major violators of controlled substance laws operating at interstate and international levels; and investigation and preparation for prosecution of criminals and drug gangs who perpetrate violence in our communities and terrorize citizens through fear and intimidation.

Why, then, does the DEA continue to focus its limited resources on the question of medical marijuana?

Over the past seven years, ten States have passed referendums or enacted laws authorizing medical marijuana in those States. The ten States are Alaska, Arizona, California, Colorado, Hawaii, Maine, Maryland, Nevada, Oregon, and Washington.

The first of these states was California. In 1996, voters in California passed the California Compassionate Use Act, also known as Proposition 215, to allow seriously ill people who have a doctor's recommendation to cultivate and use marijuana as a form of treatment.

However, in 2001, the Drug Enforcement Administration began aggressively targeting medical marijuana providers in California—regardless of the fact that these individuals were complying with state law.

I understand that the Supreme Court has ruled that federal law does not provide for a "medical necessity" exception to the prohibition on the distribution of marijuana, and that the DEA therefore has the right to enforce federal laws regarding marijuana.

However, especially given the DEA's own stated priorities and limited resources, is it appropriate for the DEA to focus on medical marijuana?

This is the question I asked Ms. Tandy, and she did not back off an inch. She simply did not give us any room to work in terms of this issue.

For example, I asked if she would be willing to support a moratorium on the raids of medical marijuana providers until Congress could hold hearings on this matter.

She replied, "If I am confirmed as Administrator of the DEA, it will be my duty to see to the uniform enforcement of federal law. I do not believe it would be consistent with that duty for me to support a moratorium on enforcement of this law, or any law, in selected areas of the country."

Let me be clear. I was not asking for a moratorium on the enforcement of all marijuana laws—only on the raids of these medical marijuana providers who are complying with State law.

I also was not asking for an endless moratorium—just the opportunity for Congress to exercise its oversight role of the Drug Enforcement Administration.

Yet she was unwilling to budge.

Who are these so-called criminals that the DEA is targeting and arresting?

Suzanne Pfeil is 42 years old and suffers from post-polio syndrome. She experiences extreme pain and muscle spasticity. She is allergic to opiates and does not tolerate many pharmaceutical drugs, so her physician recommended medical marijuana, in accordance with California state law. Here, in her own words, is what happened to her last September:

At dawn on September 5, 2002, I awoke to five federal agents pointing assault rifles at my head. I did not hear them come in because my respirator is rather loud.

They yelled at me to put my hands in the air and to stand up "NOW." I tried to explain to them that I needed to put my hands down on the bed in order to sit up because I am paralyzed. They again shouted at me to stand up. I pointed to my crutches and braces beside the bed and said, "I'm sorry, I can't stand up without my crutches and braces and I normally use a wheelchair."

At that point they ripped the covers off the bed and finally realized what I was trying to explain amid their shouts and guns. They handcuffed me behind my back and left me on the bed.

The DEA then proceeded to confiscate medication recommended to me by my physician under California State Law Proposition 215. My crime? I am a member of WAMM, The Women's Alliance for Medical Marijuana, a nonprofit collective of patients and their caregivers working together to provide free medication and hospice services to approximately 250 seriously ill and dying members.

The DEA then destroyed our collective garden and arrested our Director Valerie Corral, who is an epileptic, and her caregiver and husband Michael Corral."

Eighty-five percent of the patients in this organization are terminally ill with cancer or AIDS. Is this how the DEA should spend its precious resources?

In another case, the City of Oakland enacted a medicinal marijuana ordinance, as permitted by California law. Under the auspices of this ordinance, Ed Rosenthal grew marijuana to be sold for medicinal uses.

Even though Mr. Rosenthal was acting as an officer of the city, in February 2002, DEA agents raided his facility and arrested him for marijuana cultivation and conspiracy.

Since the federal law does not recognize "medical necessity" as a defense, Mr. Rosenthal was not allowed to tell the jury that he was growing the marijuana for medicinal purposes.

The prosecutors took this opportunity to present Mr. Rosenthal as a big-time drug dealer, and the jury had no choice but to convict Mr. Rosenthal.

After the trial, the jurors learned that Mr. Rosenthal was growing medical marijuana and complained that they had been misled by the court. Five jurors immediately issued a pub-

lic apology to him and demanded a new trial.

Their statement said, "In this trial, the prosecution was allowed to put all of the evidence and testimony on one of the scales, while the defense was not allowed to put its evidence and testimony on the other side. Therefore we were not allowed as a jury to properly weigh the case."

During the sentencing phase of the trial, nine of the twelve jurors asked that Mr. Rosenthal not be imprisoned because they had convicted him "without having all the evidence."

Due to these unique circumstances, the judge sentenced Mr. Rosenthal to one day in prison and a \$1,000 fine, the most lenient sentence allowed under law.

Yet, the prosecutor, who had asked for a six-and-a-half-year sentence, has appealed this sentence.

The San Francisco Examiner has called this a "mean-spirited attempt to revive a losing case [and] is only throwing good money after bad."

I think that accurately describes not only the prosecution's latest appeal, but the DEA's campaign against medical marijuana as a whole.

These raids of medical marijuana facilities also are creating tension between the DEA and local law enforcement agencies.

In California, several cities are pushing their local police to stop cooperating with the DEA.

Most notably, in October 2002, San Jose Police Chief William Lansdowne pulled his five officers from a DEA High Intensity Drug Trafficking Area task force.

In doing so, Chief Lansdowne said, "I think the priorities are out of sync at the federal level The problem in California right now is methamphetamines, not medical marijuana."

In order for the DEA to be successful in its efforts to target major drug traffickers and drug gangs, it must have the cooperation of local law enforcement.

This is yet another reason why the raids of medical marijuana providers must end.

Finally, I would like to address the debate regarding the potential medicinal benefit of marijuana.

I am not a doctor or a medical professional. However, the following organizations have endorsed supervised access to medical marijuana: The AIDS Action Council, the American Academy of Family Physicians, the American Nurses Association, the American Preventative Medical Association, the American Public Health Association, Kaiser Permanente, and the New England Journal of Medicine.

In 1999, the Institute of Medicine issued a report entitled "Marijuana and Medicine: Assessing the Science Base." This report, authorized by the White House Office of National Drug Control Policy, stated, "Nausea, appetite loss, pain, and anxiety are all afflictions of wasting, and all can be mitigated by marijuana."

Furthermore, the following international agencies have recommended the use of medical marijuana: the Canadian government, the British Medical Association, the French Ministry of Health, the Israel Health Ministry, and the Australian National Task Force on Cannabis.

Even the DEA has registered eight researchers to further examine the possible medicinal benefits of smoking marijuana.

This obviously is an ongoing debate. The citizens and legislatures of ten states have spoken. I believe the DEA should suspend its raids of medical marijuana providers in these states and place such efforts at the bottom of its list of priorities.

Since Ms. Tandy is unwilling to yield at all on this point, I respectfully oppose her nomination.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

STATE CHILDREN'S HEALTH INSURANCE PROGRAM

Mr. SUNUNU. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 2854.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 2854) to amend title XXI of the Social Security Act to extend the availability of allotments for fiscal years 1998 through 2001 under the State Children's Health Insurance Program, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. SUNUNU. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements regarding this matter be printed in the RECORD.

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

The bill (H.R. 2854) was read the third time and passed.

SOCIAL SECURITY ACT AMENDMENT

Mr. SUNUNU. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 1547 introduced earlier today by Senators BINGAMAN and DOMENICI.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1547) to amend title XXI of the Social Security Act to make a technical correction with respect to the definition of qualifying State.

There being no objection, the Senate proceeded to consider the bill.

Mr. SUNUNU. Mr. President, I ask unanimous consent that the bill be

read three times and passed, the motion to reconsider be laid upon the table, and that any statements relating thereto be printed in the RECORD, without intervening action or debate.

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

The bill (S. 1547) was read the third time and passed as follows:

S. 1547

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TECHNICAL CORRECTION RELATING TO THE DEFINITION OF QUALIFYING STATE UNDER TITLE XXI OF THE SOCIAL SECURITY ACT.

Effective as if included in the enactment of H.R. 2854, 108th Congress, section 2105(g)(2) of the Social Security Act, as added by section 1(b) of H.R. 2854, 108th Congress, as passed by the House of Representatives on July 25, 2003, is amended by striking "185" the first place it appears and inserting "184".

FAMILY FARMER BANKRUPTCY RELIEF ACT OF 2003

Mr. SUNUNU. Mr. President, I ask unanimous consent that the Senate immediately proceed to the consideration of H.R. 2465.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 2465) to extend for six months the period for which chapter 12 of title 11 the United States Code is reenacted.

There being no objection, the Senate proceeded to consider the bill.

Mr. SUNUNU. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating thereto be printed in the RECORD.

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

The bill (H.R. 2465) was read the third time and passed.

INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 2004

Mr. SUNUNU. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 172, S. 1025.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 1025) to authorize appropriations for fiscal year 2004 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Select Committee on Intelligence, with amendments, as follows:

[Strike the parts shown in black brackets and insert the part shown in italic.]

S. 1025

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Intelligence Authorization Act for Fiscal Year 2004".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—INTELLIGENCE ACTIVITIES

Sec. 101. Authorization of appropriations.

Sec. 102. Classified schedule of authorizations.

Sec. 103. Personnel ceiling adjustments.

Sec. 104. Intelligence Community Management Account.

Sec. 105. Incorporation of reporting requirements.

Sec. 106. Preparation and submittal of reports, reviews, studies, and plans relating to intelligence activities of Department of Defense or Department of Energy.

TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

Sec. 201. Authorization of appropriations.

TITLE III—GENERAL PROVISIONS

Subtitle A—Recurring General Provisions

Sec. 301. Increase in employee compensation and benefits authorized by law.

Sec. 302. Restriction on conduct of intelligence activities.

Subtitle B—Intelligence

Sec. 311. Modification of authority to obligate and expend certain funds for intelligence activities.

Sec. 312. Modification of notice and wait requirements on projects to construct or improve intelligence community facilities.

Sec. 313. Use of funds for counterdrug and counterterrorism activities for Colombia.

Sec. 314. Pilot program on analysis of signals and other intelligence by intelligence analysts of various elements of the intelligence community.

Sec. 315. Pilot program on training for intelligence analysts.

Sec. 316. Extension of National Commission for the Review of the Research and Development Programs of the United States Intelligence Community.

Subtitle C—Surveillance

Sec. 321. Clarification and modification of sunset of surveillance-related amendments made by USA PATRIOT ACT of 2001.

Subtitle D—Reports

Sec. 331. Report on cleared insider threat to classified computer networks.

Sec. 332. Report on security background investigations and security clearance procedures of the Federal Government.

Sec. 333. Report on detail of civilian intelligence personnel among elements of the intelligence community and the Department of Defense.

Sec. 334. Report on modifications of policy and law on classified information to facilitate sharing of information for national security purposes.

Sec. 335. Report of Secretary of Defense and Director of Central Intelligence on strategic planning.

Sec. 336. Report on United States dependence on computer hardware and software manufactured overseas.

Sec. 337. Report on lessons learned from military operations in Iraq.