reflect back on the role of this man who was an example for each of us and who deserves the world's attention, the world's prayers, and the world's acclaim.

EIGHT-DAY BIPARTISAN CONGRESSIONAL DELEGATION

Mr. ALEXANDER. Mr. President, I have remarks that I would like to make on two different subjects. One has to do with a visit by a delegation of Senators led by the Democratic leader, the Senator from Nevada, Mr. REID, and then a brief remark about the proposal that we use the supplemental appropriations bill to turn State driver's licenses into national identification cards.

First I will comment on the 8-day congressional delegation that I was a part of over the last recess. It was led, as I said, by the Democratic leader. Let me say first how much I appreciate the style of his leadership. He is the Democratic leader, and occasionally there is a partisan word in this place, but this was a bipartisan delegation. We visited eight countries in 8 days, including Jerusalem, Israel, the Palestinian territories—visited leaders of the Palestinian Authority—we visited Kuwait, Iraq, Georgia, and the Ukraine. In France, we received a NATO briefing from our ranking general.

I think it is important for this body to know that in all of his public and private comments, the Democratic leader spoke for the administration of the U.S. Government. In other words, whatever his private views of policy difference might have been, he did not express those outside of this country. I was not surprised by that—I think that is the way it ought to be—but I was impressed by that. I was impressed by that part of his attitude, by the bipartisan quality of the delegation, and by the hard work he expected of those on the delegation. I appreciated the chance to be included, and I appreciated his leadership.

As I am sure the Senator from North Carolina, who occupies the chair, knows, and the Senator from Texas feels the same way, there are so many thousands of people—in my case, Tennesseans—serving in Iraq and Kuwait that I almost felt at home visiting there last week. My wife Honey and I were greeted at the Kuwait Airport by an Army reservist who is publisher of the Dyersburg News and copublisher of the State Gazette. We had dinner with the 844th Engineer Combat Battalion, which is based in Knoxville, which includes more than 500 Tennesseans. One of those reservists is SGT Amanda Bunch, a nursing assistant at Asbury Acres in Maryville, my hometown where my mother and grandfather lived for a few years. The school superintendent from Athens, just down the road from my hometown; the president of the Lexington Rotary Club in west Tennessee, a physician; three Blount County deputies, from my home county—all among those serving in the Tennessee National Guard.

I may have felt at home, but as LTC Don Dinello, who commands the 844th, reminded me, no place there is entirely safe. A few days earlier, a patrol had discovered explosives on a bridge over which the colonel's soldiers might have traveled. Thankfully, the explosive device was disarmed before anyone was hurt.

In Baghdad, I ate lunch with three marines who were recent high school graduates from Savannah, Manchester, and Tullahoma, TN. Their mission is to guard the U.S. Embassy. I asked one of these young men what a U.S. Senator should know about their work. Andrew Pottier of Savannah told me:

Not much to know, sir. They shoot at us and we just shoot them back.

Not even in the Green Zone, where several thousand Americans work every day, was it entirely safe. The protocol officer greeted us wearing a nice green dress covered by a flack jacket. When one of the members of our delegation, a female Senator, went to the ladies restroom, a female soldier with an AK–47 went first, inspecting every stall.

I was reminded just a couple of days ago how dangerous it can be when I went to the funeral in Sevier County of SGT Paul W. Thomason, III, the first member of our National Guard unit, the 278th, to be killed.

It is very difficult to grasp the reality of the security situation in Iraq. It is hard to grasp it from television. On the one hand, there is the danger I just described. On the other hand, our casualties are significantly down. Twelve of the 17 Iraqi provinces, we were told by our commanders there, are relatively without incident. An average of 800 supply trucks convoy each day from Kuwait to the edge of Baghdad. Since August, there have been 166 attacks on these trucks, killing 2 soldiers.

Forty percent of those serving in Iraq and Kuwait are reservists or guardsmen. Several thousand of them are from Tennessee. Most left behind families, jobs, and mortgages for up to 18 months. Far from home, they are dealing with child custody, insurance, births, and deaths. Thirty percent of the members of the 844th unit, with whom I visited, are continuing their education online. I brought home information so I could help seven reservists who are having trouble with their citizenship applications.

Here are three other thoughts from that visit:

One, armored vehicles. Commanders in Kuwait assured me that no humvee or truck is now going into a combat zone without Level I or Level II armor.

Second, in the training of Iraq forces, we met with GEN David Patraeus, the former commander of Fort Campbell's 101st Airborne Division and one of our most accomplished military leaders. He persuaded me and I think most other members of our delegation that training is proceeding in an impressive way. It is not complete, but we are making progress.

Finally, infant democracies. We have sacrificed many lives and paid a heavy price in dollars to invade Iraq and remove Saddam Hussein, but without that decision there would be no infant democracies in Iraq and Afghanistan. Georgia, Ukraine, and Kuwait would be less democratic, and Syria would not be pulling troops out of Lebanon. We in the world are safer without Saddam Hussein, who the new Prime Minister designate of Iraq, if he is elected, told us, in his words, that Saddam had buried alive 300,000 people.

When will our troops come home? I do not know. I believe we must have a success strategy, not just an exit strategy. This strategy should be based on whether Iraqis can reasonably defend themselves and whether they have some sort of constitutional government. Having liberated Iraq, it is now not our job to stay there until there is a perfect democracy.

We Americans are very impatient. We also sometimes have short memories. We are expecting the Iraqis to come up with a constitution by August. It took America 12 years to write a constitution after declaring our independence, another 130 years to give women the right to vote in this country, and nearly 200 years before African Americans were allowed to vote in every part of America.

I hope after the two Iraqi elections scheduled for the end of 2005 that we will begin to see large numbers of Tennesseans coming home; for our average stay in other instances where the United States has helped build nations, as in Germany and Japan, has been about 5 years.

The Presbyterian Chaplain of the 844th—which I visited—Rev. Tim Fary from Rhea County, I discovered I had met before. He was then 8 years old and I was Governor of Tennessee. I was playing a piano concert with the Chattanooga Symphony at a July concert at Chickamauga near Chattanooga. Tim Fary, 8 years old, was lost.

He told me:

When I found my parents 2 hours later, I had a handwritten note that read, ''Dear Tim: Thank you for your advice. Governor Lamar Alexander.'' That note kept me out of trouble. I still have it.

We hope Tim's prayers, as well as our own, will keep our brave Tennesseans safe so they can accomplish their mission and come home soon.

DRIVER'S LICENSES

Mr. ALEXANDER. Mr. President, I would now like to speak for 4 or 5 minutes on another subject. I again thank the Senator from Texas. This is a subject that I recently wrote an op-ed about, which was published last week in the Washington Post. Fearing that many of my colleagues might have been in places such as Texas or Tennessee or Iraq and might have missed

it, I will make virtually the same remarks here.

Specifically, I am concerned about the so-called ''Real ID Act,'' a bill recently passed by the House of Representatives that would require States to turn 190 million driver's licenses into national identification cards, with State taxpayers, I am afraid, paying most of the costs.

The first thing wrong here is that some House Members want to stick that identification card proposal on the appropriations bill that supports troops in Iraq. We should not slow down money for our troops while we debate identification cards.

The second problem is that States not only get to create these identification cards, States will likely end up paying the bill. This is one more of the unfunded Federal mandates that we Republicans especially promised to stop.

Supporters argue this is no mandate because States have a choice. Well, true. States may refuse to conform to the proposed Federal standards and issue licenses to whomever they choose, including illegal immigrants. But, if they do, States' licenses will not be accepted for ''Federal purposes,'' such as boarding an airplane. That is some choice. What Governor will deny his or her citizens the identification they need to travel by air or to cash Social Security checks or for ''other Federal purposes?''

Of course, this identification card idea might backfire on us, the Members of Congress. Some feisty Governor might ask: Who are these people in Washington telling us what to do with our driver's licenses and making us pay for them, too?

A Governor, let us say from California, might say: California will use its licenses for certifying drivers, and Congress can create its own identification cards for people who want to fly and do other federally regulated things. And, if they do not, I will put on the Internet the home telephone numbers of all the Congressmen.

That is what some feisty Governor might say.

If just one State refuses to do the Federal Government identification work, Congress would be forced to create what it claims to oppose, a Federal identification card for citizens of that State.

Finally, if we must have a better identification card for some Federal purposes, there may be better ideas than turning State driver's license examiners into CIA agents. For example, Congress might create an airline traveler's card, or there could be an expanded-use U.S. passport. Since a motive here is to discourage illegal immigration, probably the most logical idea is to upgrade the Social Security card, which directly relates to the reason most immigrants come to the United States, to work.

I have fought government identification cards as long and as hard as anyone in this Chamber. In 1983, when I was Governor of Tennessee, our Tennessee Legislature voted to put photographs on driver's licenses. Merchants and policemen wanted a State identification card to discourage check fraud and teenage drinking. I vetoed this photo driver's license bill twice because I believed driver's licenses should be about driving and that State identification cards infringed on civil liberties.

That same year, 1983, I visited the White House on the annual visit that Governors have with the President of the United States. As I got to the gate, a White House guard asked for my photo identification.

I said to the guard: We don't have photo driver's licenses in Tennessee. I vetoed them.

The guard said: Well, you can't get in without one.

Fortunately, the Governor of Georgia, the late George Busbee, was standing there next to me. He had his Georgia photo driver's license. He vouched for me. I was admitted to the White House.

The legislature at home overrode my veto, and I gave up my fight against the State identification card. For years, the State driver's licenses have served as a de facto national identification card. But they have been unreliable. All but one of the 9/11 terrorists had valid driver's licenses.

Even today, when I board an airplane, as I did this morning, security officials look at the front of my driver's license, which expired in 2000, and rarely turn it over to verify that it has been extended until 2005.

My point is, we already have a national identification card. They are called driver's licenses. They are just ineffective.

I still detest the idea of a government identification card. South Africa's experience is a grim reminder of how such documents can be abused.

But I am afraid this is one of the ways 9/11 has changed our lives. Instead of pretending that we are not creating national identification cards, when we obviously are, I believe Congress should carefully create an effective Federal document that helps prevent terrorism with as much respect for privacy as possible.

I thank the Senator from Texas for his courtesy. I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Texas.

FEDERAL COURTS

Mr. CORNYN. Mr. President, I wanted to talk a little bit about our courts, and specifically our Federal courts, and even more specifically the United States Supreme Court.

Before I start, let me just say I have the greatest respect for our judiciary, the men and women who wear black robes—whether it is on a municipal court or a county court or a district court like I served on in San Antonio, Bexar County, TX, for 6 years, or those who work on appellate courts, whether State or Federal, like I did on the Texas Supreme Court for 7 years.

For 13 years of my professional life, I have worn a black robe, judging cases, first presiding over the jury trials, and coming to have a great deal of respect not just for those judges but for men and women who serve on juries and decide hard cases, cases which, perhaps, they would prefer not have to sit in judgment of, some involving even the death penalty.

I don't want anyone to misunderstood what I say as being a blanket criticism of either the judiciary or the U.S. Supreme Court, in particular. From my own experience, judges, although they have important jobs to do, are no different than you and I. They are mere mortals, subject to the same flashes of mediocrity, sometimes making mistakes, and sometimes displaying flights of brilliance. These are not, as some people have suggested, high priests able to discern great truths that you and I are unable to figure out. They are generally very intelligent, with outstanding educational pedigrees, but no one has agreed that judges, particularly Federal judges, can be or should be a law unto themselves.

Federal judges are appointed subject to advice and consent provisions of the Constitution for a lifetime. They do not run for election. They do not have to raise money as do other politicians. I know those who do envy them that. But the idea is they are supposed to use that independence in order to be impartial umpires of the law—it is called balls and strikes—and they should use that independence that has been given to them in order to resist politics, in order to resist those who would suggest that in order to be popular you must subscribe to a particular way of thinking or a particular social or political or ideological agenda.

Given that framework the Founding Fathers agreed was so important and that I know we all agree is important today to preserve that independence so as to preserve that judicial function, it causes a lot of people, including me, great distress to see judges use the authority they have been given to make raw political or ideological decisions. No one, including those judges, including the judges on the U.S. Supreme Court, should be surprised if one of us stands up and objects.

I make clear I object to some of the decisionmaking process occurring at the U.S. Supreme Court today and now. So far as the Supreme Court has taken on this role as a policymaker rather than an enforcer of political decisions made by elected representatives of the people, it has led to increasing divisiveness and bitterness of our confirmation fights that is a very current problem this body faces. It has generated a lack of respect for judges generally. Why should people respect a judge for making a policy decision born out of an ideological conviction any more than they would respect or deny

themselves the opportunity to disagree if that decision were made by an elected representative? The difference is they can throw the rascal out and we are sometimes perceived as the rascal if they do not like the decisions made, but they cannot vote against a judge, because judges are not elected. They serve for a lifetime on the Federal bench.

The increasing politicization of the judicial decisionmaking process at the highest levels of our judiciary has bred a lack of respect for some of the people who wear the robe. That is a national tragedy.

Finally, I don't know if there is a cause-and-effect connection, but we have seen some recent episodes of courthouse violence in this country—certainly nothing new; we seem to have run through a spate of courthouse violence recently that has been on the news. I wonder whether there may be some connection between the perception in some quarters on some occasions where judges are making political decisions yet are unaccountable to the public, that it builds and builds to the point where some people engage in violence, certainly without any justification, but that is a concern I have that I wanted to share.

We all are students of history in this Senate, we all have been elected to other bodies and other offices, and we are all familiar with the founding documents, the Declaration of Independence, the Constitution itself. We are familiar with the Federalist Papers that were written in an effort to get the Constitution ratified in New York State. Alexander Hamilton, apropos of what I will talk about, authored a series of essays in the Federalist Papers that opine that the judicial branch would be what he called the ''least dangerous branch of government.'' He pointed out that the judiciary lacked the power of the executive branch, the White House, for example, in the Federal Government and the political passions of the legislature. In other words, the Congress. Its sole purpose—that is, the Federal judiciary's sole purpose—was to objectively interpret and apply the laws of the land and in such a role its job would be limited.

Let me explain perhaps in greater detail why I take my colleagues' time to criticize some of the decisionmaking being made by some Federal courts in some cases. This is not a blanket condemnation. I hope I have made it clear I respect the men and women who wear the robe, but having been a judge myself I can state that part of the job of a judge is to criticize the reasoning and the justification for a particular judgment. I certainly did that daily as a state supreme court justice. And I might add that people felt free to criticize my decisions, my reasoning and justification for the judgments I would render. That is part of the give and take that goes into this. I make clear my respect generally for the Federal judiciary, including the U.S. Supreme Court.

I am troubled when I read decisions such as Roper v. Simmons. This is a recent decision from March 1, 2005. Let me state what that case was about. This was a case involving Christopher Simmons. Christopher Simmons was seven months shy of his 18th birthday when he murdered Shirley Crook. This is a murder he planned to commit. Before committing the crime, this 17-year-old who was 7 months shy of his 18th birthday, encouraged his friends to join him, assuring them that they could ''get away with it,'' because they were minors. Christopher Simmons and his cohorts broke into the home of an innocent woman, bound her with duct tape and electrical wire, and then threw her off a bridge, alive and conscious, resulting in her subsequent death.

Those facts led a jury in Missouri, using the law in Missouri that the people of Missouri had chosen for themselves through their elected representatives, to convict him of capital murder and to sentence him to death.

Well, this 17-year-old boy, or young man I guess is what I would call him, Christopher Simmons, challenged that jury verdict and that conviction all the way through the State courts of Missouri and all the way to the U.S. Supreme Court. And the United States Supreme Court, on March 1, 2005, held that Christopher Simmons or any other person in the United States of America who is under the age of 18 who commits such a heinous and premeditated and calculated murder cannot be given the death penalty because it violates the U.S. Constitution.

In so holding, the U.S. Supreme Court said: We are no longer going to leave this in the hands of jurors. We do not trust jurors. We are no longer going to leave this up to the elected representatives of the people of the respective States, even though 20 States, including Missouri, have the possibility at least of the death penalty being assessed in the most aggravated types of cases, involving the most heinous crimes, against someone who is not yet 18.

This is how the Court decided to do that. First, it might be of interest to my colleagues that 15 years earlier the same U.S. Supreme Court, sitting in Washington, across the street from this Capitol where we are standing today, held just the opposite. Fifteen years ago, the U.S. Supreme Court held that under appropriate circumstances, given the proper safeguards, in the worst cases involving the most depraved and premeditated conduct, a jury could constitutionally convict someone of capital murder and sentence them to the death penalty. But 15 years later, on March 1, they said what was constitutional the day before was no longer constitutional, wiping 20 States' laws off the books and reversing this death penalty conviction for Christopher Simmons.

What I want to focus on now is the reasoning that Justice Anthony Kennedy, writing for the U.S. Supreme Court, in a 5-to-4 decision, used to reach that conclusion.

First, Justice Kennedy adopted a test for determining whether this death penalty conviction was constitutional. This ought to give you some indication of the problems we have with the Supreme Court as a policymaker with no fixed standards or objective standards by which to determine its decisions to make its judgments. The Court embraced a test that it had adopted earlier referring to the ''evolving standards of decency that mark the progress of a maturing society.'' Let me repeat that. The test they used was the ''evolving standards of decency that mark the progress of a maturing society.''

I would think any person of reasonable intelligence, listening to what I am saying, would say: What was that? How do you determine those ''evolving standards''? And if they are one way on one day, how do they evolve to be something different the next day? And what is a ''maturing society''? How do we determine whether society has matured? I think people would be justified in asking: Isn't that fancy window dressing for a preordained conclusion? I will let them decide.

Well, it does not get much better because then the Court, in order to determine whether the facts met that standard, such as that this death penalty could not stand, or these laws in 20 States cannot stand, looked to what they called an ''emerging consensus.'' Well, any student of high school civics knows we have a Federal system, and the national Government does not dictate to the State governments all aspects of criminal law. In fact, most criminal law is decided in State courts in the first place.

Nevertheless, the Supreme Court of the United States, in a 5-to-4 decision, looked for an ''emerging consensus'' and in the process wiped 20 States' laws off the books. I will not go into the details of how they found a consensus, but suffice it to say it ought to be that in a nation comprised of 50 separate sovereign State governments, where 20 States disagree with the Court on its decision that wipes those 20 States' courts laws off the books, it can hardly be called a consensus, if language is to have any meaning.

Secondly, the Court said: We will also look to our own decisions, our own judgment over the propriety of this law. In other words, they are going to decide because they can, because basically their decisions are not appealable, and there is nowhere else to go if they decide this law is unconstitutional. The American people, the people of Missouri, the people who support, under limited circumstances, under appropriate checks and balances, the death penalty for people who commit heinous crimes under the age of 18 are simply out of luck; this is the end of the line.

Well, finally—and this is the part I want to conclude on and speak on for a

few minutes—the Court demonstrated a disconcerting tendency to rely on the laws of foreign governments and even treaties in the application and enforcement of U.S. law. This is a trend that did not start with the Roper case, but I did want to mention it in that connection.

But if the U.S. Supreme Court is not going to look to the laws of the United States, including the fundamental law of the United States, which is the Constitution, but interpreting what is and is not constitutional under the U.S. Constitution by looking at what foreign governments and foreign laws have to say about that same issue, I fear that bit by bit and case by case the American people are slowly losing control over the meaning of our laws and the Constitution itself. If this trend continues, foreign governments may have a say in what our laws and our Constitution mean and what our policies in America should be.

Let me digress a second to say this is as current as the daily news. As a matter of fact, I saw in the New York Times on April 2 an article concerning Justice Ginsburg, a member of that five-member majority in the Roper case. The headline is: ''Justice Ginsburg Backs Value of Foreign Law.'' Reading from this story, written by Anne Kornblut, it says:

In her speech, Justice Ginsburg criticized the resolutions in Congress and the spirit in which they were written.

She is referring to a resolution I have filed, and I sent out a ''dear colleague'' today expressing concerns about this issue. But she said:

Although I doubt the resolutions will pass this Congress—

I don't know where she gets her information. I think there is a lot of positive sentiment in favor of what the resolution says, and I will talk about that in a minute.

Although I doubt the resolutions will pass this Congress, it is disquieting that they have attracted sizable support.

I am a little surprised that a sitting U.S. Supreme Court Justice would engage in a debate about a current matter, which has yet to be decided by the Senate, which is a resolution expressing concern about the use of foreign laws and treaties to interpret what the U.S. Constitution should mean. I am a little surprised by it.

In a series of cases over the past few years our courts have begun to tell us that our criminal laws and our criminal policies are informed not just by our Constitution and by the policy preferences and legislative enactments of the American people through their elected representatives, but also by the rulings of foreign courts. I understand it is hard to believe, and most people listening to what I am saying are asking themselves: Could this be true? Is it possible? I know it is hard to believe, but in a series of recent cases, including the Roper case, the U.S. Supreme Court has actually rejected its own prior decisions in part because a foreign government or court has expressed disagreement with the conclusion they had reached.

Until recently the U.S. Supreme Court had long held that under appropriate safeguards and procedures, the death penalty may be imposed by the States regardless of the IQ of the perpetrator. The Court had traditionally left this issue untouched as a matter for the American people and each of their States to decide, as the Court said in a case called Penry V. Lynaugh in 1989. Yet because some foreign governments had frowned upon that ruling, the U.S. has now seen fit to take that issue away from the American people entirely. In 2002, in a case called Atkins v. Virginia, the U.S. Supreme Court held that the Commonwealth of Virginia could no longer apply its criminal justice system and its death penalty to an individual who had been duly convicted of abduction, armed robbery, and capital murder because of the testimony that the defendant was mildly mentally retarded. The reason given for this reversal of the Court's position that it had taken in 1989 to 2002? In part it was because the Court was concerned about ''the world community'' and the views of the European Union.

Take another example. The U.S. Supreme Court had long held that the American people in each of the States have the discretion to decide what kinds of conduct that have long been considered immoral under longstanding legal traditions should or should not remain illegal. In Bowers v. Hardwick in 1986, the Court held that it is up to the American people to decide whether criminal laws against sodomy should be continued or abandoned. Yet once again because foreign governments have frowned upon that ruling, the U.S. Supreme Court saw fit in 2003, in Lawrence v. Texas, to hold that no State's criminal justice system or its criminal justice laws could be written in a way to reflect the moral convictions and judgments of their people.

The reason given for this reversal from 1986 to 2002? This time the Court explained that it was concerned about the European Court of Human Rights and the European Convention on Human Rights.

I have already mentioned the case of Roper v. Simmons. But most recently, on March 28, the U.S. Supreme Court heard oral arguments in a case that will consider whether foreign nationals duly convicted of the most heinous crimes will nevertheless be entitled to a new trial for reasons that those individuals did not even bother to bring up during their trial. As in the previous examples, the Supreme Court has already answered this issue but decided to revisit it once again. In 1998, in Breard v. Green, the Court made clear that criminal defendants, like all parties in lawsuits, may not sit on their rights and must bring them up at the time the case is going on or be prohibited from raising those issues later on, perhaps even years later. That is a basic principle of our legal system. In this case, the Court has decided to revisit whether an accused who happens to be a foreign national, subject to the Vienna Convention on Consular Relations, should be treated differently from any other litigant in our civil litigation systems and in State and Federal courts or in the Federal system reviewing State criminal justice provisions.

Even this basic principle of American law may soon be reversed. Many legal experts predict that in the upcoming case of Medilline v. Dretke, the Court may overturn itself again for no other reason than that the International Court of Justice happens to disagree with our longstanding laws and legal principles. This particular case involves the State of Texas. I have filed an amicus brief, a friend of the court brief, in that decision, asking the Court to allow the people of Texas to determine their own criminal laws and policies consistent with the U.S. States Constitution and not subject to the veto of the Vienna Convention on Consular Rights or the decision of some international court.

There is a serious risk, however, that the Court will ignore Texas law, will ignore U.S. law, will reverse itself, and decide in effect that the decisions of the U.S. Supreme Court can be overruled by the International Court of Justice.

I won't dwell on this any longer, but suffice it to say there are other examples and other decisions where we see Supreme Court Justices citing legal opinions from foreign courts across the globe as part of the justification for their decisions interpreting the U.S. Constitution. These decisions, these legal opinions from foreign courts range from countries such as India, Jamaica, Zimbabwe, and the list goes on and on.

I am concerned about this trend. Step by step, with each case where this occurs, the American people may be losing their ability to determine what their laws should be, losing control in part due to the opinions of foreign courts and foreign governments. If this happens to criminal law, it can also spread to other areas of our Government and our sovereignty. How about our economic policy, foreign policy? How about our decisions about our own security?

Most Americans would be disturbed if we gave foreign governments the power to tell us what our Constitution means. Our Founding Fathers fought the Revolutionary War precisely to stop foreign governments—in this case, Great Britain—from telling us what our laws should be or what the rules should be by which we would be governed. In fact, ending foreign control over American law was one of the very reasons given for our War of Independence.

The Declaration of Independence itself specifically complains that the American Revolution was justified in

part because King George ''has combined with others to subject us to a jurisdiction foreign to our Constitution and unacknowledged by our laws.''

After a long and bloody revolution, we earned the right at last to be free of such foreign control. Rather, it was we the people of the United States who then ordained and established a Constitution of the United States and our predecessors, our forefathers, specifically included a mechanism by which we the people of the United States could change it by amendment, if necessary.

Of course, every judge who serves on a Federal court swears to an oath to ''faithfully and impartially discharge and perform all the duties incumbent upon me . . . under the Constitution and laws of the United States, so help me God.''

As you can tell, I am concerned about this trend. I am concerned that this trend may reflect a growing distrust amongst legal elites—not only a distrust of our constitutional democracy, but a distrust of the American people and America itself.

As every high school civics student knows, the job of a judge is pretty straightforward. Judges are supposed to follow the law, not rewrite it. Judges are supposed to enforce and apply political decisions that are made in Congress and that are signed into law by the President of the United States. Judges are not supposed to make those decisions or substitute their own judgments or those political judgments hashed out in the legislative process in this body and this Capitol. The job of a judge is to read and obey the words contained in our laws and in our judicial precedents—not the laws and precedents of foreign governments, which have no authority over our Nation or the American people.

I am concerned that some judges who simply don't like our laws—and they don't like the decisions made by Americans through their elected representatives here about what those laws should be—are using this as another way to justify their decision to overreach. So it appears they would rather rewrite the law from the bench. What is especially disconcerting is that some judges today may be departing so far from American law, from American principles, and from American traditions that the only way they can justify their rulings is to cite the law of foreign countries, foreign governments, and foreign cultures, because there is nothing left for them to cite for support in this country.

Citing foreign law in order to overrule U.S. policy offends our democracy because foreign lawmaking is obviously in no way accountable to the American people. Here again—and I started out by saying I am not condemning all Federal judges; I have great respect for the Federal judiciary—I am not condemning international law. Obviously, there is a way by which international law can apply to the United States, and that is through the treaty process, which is, of course, subject to ratification by the U.S. Congress.

There is an important role for international law in our system, but it is a role that belongs to the American people through the political branches—the Congress and the President—to decide what that role should be and indeed what that law should be; it is not a role given to our courts. Article I of the U.S. Constitution gives the Congress, not the courts, the authority to enact laws punishing ''Offenses against the Law of Nations,'' and article II of the Constitution gives the President the power to ratify treaties, subject to the advice and consent and the approval of two-thirds of the Senate. Yet our courts appear to be, in some instances, overruling U.S. law by citing foreign law decisions in which the U.S. Congress had no role and citing treaties that the President and the U.S. Senate have refused to approve.

To those who might say there is nothing wrong with simply trying to bring U.S. laws into consistency with other nations, I say this: This is not a good faith attempt to bring U.S. law into global harmony. I fear that, in some instances, it is simply an effort to further a political or ideological agenda, because the record suggests that this sudden interest in foreign law is more ideological than legal; it seems selective, not principled.

U.S. courts are following foreign law, it seems, inconsistently—only when needed to achieve a particular outcome that a judge or justice happens to desire but that is flatly inconsistent with U.S. law and precedent. Many countries, for example, have no exclusionary rule to suppress evidence that is otherwise useful and necessary in a criminal case. Yet our courts have not abandoned the exclusionary rule in the United States, relying upon the greater wisdom and insight of foreign courts and foreign nations. I might add that very few countries provide abortion on demand. Yet our courts have not abandoned our Nation's constitutional jurisprudence on that subject. Four Justices of the Supreme Court believe that school choice programs that benefit poor urban communities are unconstitutional if parochial schools are eligible, even though other countries directly fund religious schools.

Even more disconcerting than the distrust of our constitutional democracy is the distrust of America itself. I would hope that no American—and certainly no judge—would ever believe that the citizens of foreign countries are always right and that America is always wrong. Yet I worry that some judges become more and more interested in impressing their peers in foreign judiciaries and foreign governments and less interested in simply following the U.S. Constitution and American laws. At least one U.S. Supreme Court Justice mentioned publicly—and Justice Ginsburg's comments were reported on April 2 in the New York Times. A Justice has stated that following foreign rulings rather than U.S. rulings ''may create that all important good impression,'' and therefore, ''over time, we will rely increasingly . . . on international and foreign courts in examining domestic issues.''

Well, let me conclude by saying I find disturbing this attitude and these expressions of support for foreign laws and treaties that we have not ratified, particularly when they are used to interpret what the U.S. Constitution means. The brave men and women of our Armed Forces are putting their lives on the line in order to champion freedom and democracy, not just for the American people but for people all around the world. America today is the world's leading champion of freedom and democracy. I raise this issue, and I have filed a resolution for the consideration of my colleagues on this issue. I speak about it today at some length because I believe this is an important matter for the American people to know about and to have a chance to speak out on.

I believe the American people—certainly the people in Texas—do not want their courts to make political decisions. They want their courts to follow and apply the law as written. I believe the American people do not want their courts to follow the precedents of foreign courts. They want their courts to follow U.S. laws and U.S. precedents. The American people do not want their laws controlled by foreign governments. They want their laws controlled by the American Government, which serves the American people. The American people do not want to see American law and American policy outsourced to foreign governments and foreign courts.

So I have submitted a resolution to give this body the opportunity to state for the record that this trend in our courts is wrong and that American law should never be reversed or rejected simply because a foreign government or a foreign court may disagree with it. This resolution is nearly identical to one that has been introduced by my colleague in the House, Congressman TOM FEENEY. I applaud his leadership and efforts in this area, and I hope both the House and Senate will come together and follow the footsteps of our Founding Fathers, to once again defend our rights as Americans to dictate the policies of our Government—informed but never dictated by the preferences of any foreign government or tribunal.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Minnesota.

HONORING POPE JOHN PAUL II

Mr. COLEMAN. Mr. President, I appreciate the opportunity to pay my respects to a simple, humble man who achieved historic greatness—Pope John Paul II. The Archbishop of Minneapolis-St. Paul, Harry Flynn, had a