

we catch, and far too many escape detection, and then, unfortunately, because of a catch-and-release program which is not working to the degree it should, as the President mentioned last night, they are then released into the country.

We need to beef up the electronic surveillance and physical barriers where appropriate. Bottom line, we need to stop the hemorrhaging, and the President laid out a five-point plan very specifically last night, as to how we might do that. The reality of his remarks last night is that we are debating that very issue on the floor and this body must act, and will act, over the next 9 or 10 days to secure those borders and further the comprehensive immigration reform plan that addresses the issue of security and enforcement at the workplace, a strong temporary worker program, and addressing—a lot of the amendments will focus on this—the situation of 12 million people who are here illegally.

Our supplemental appropriations bill we passed a few weeks ago included almost \$2 billion to repair fences in high-traffic areas, to replace broken Border Patrol aircraft for lower traffic areas, and for supporting training of additional customs and Border Protection agents. We paid for this additional spending by cuts in other areas. The Senate—and we will hear this debated over the next several days—is near consensus on putting nearly 15,000 new border security agents in the field over the next 6 years.

We are taking action. We are taking control. But these changes are going to take time. It is not a matter of just money, it is a matter of training and support and applying that technology. That is why I strongly support the President's proposal last night of sending a contingent of National Guardsmen now as an interim measure.

But that is an interim measure, and securing our border is only one part—a very important part and many argue it is the most important part—of a comprehensive immigration reform plan that has to be tough, it has to be fair, and that does have to be comprehensive.

We started the debate once again yesterday, and we will continue today and throughout the course of this week. I am confident that by staying focused under the leadership of our tremendous managers, Chairman SPECTER and Ranking Member LEAHY, we will be able to pass a bipartisan comprehensive plan before Memorial Day.

I, also, thank Senators HAGEL and MARTINEZ for their determined efforts to bring consensus to the issue at hand. Under their leadership, we have developed, building on the work of others—namely, Senator MCCAIN and Senator KENNEDY—a fair, workable plan to help deal with each of the four components of the comprehensive immigration proposal, but most specifically to address the 12 million people who currently live in the United States illegally.

The overall approach deals with the diversity of this population. We know that 40 percent of these 12 million people have been here longer than 10 years. Many are fully assimilated into our society today. We know we can't give people who have broken the law a leg up in applying for American citizenship, but they must be treated fairly, must be treated compassionately, and that is what this bill intends to do. And it may be modified in making it even a little better over the next several days.

Law breakers should not be able to cut in line, as the President mentioned last night. People in this category need to be put at the end of the line.

I am confident that as we proceed with the debate, as long as we consider these amendments in a fair and open way, and we have that well underway today, we will have a comprehensive bill. Immigration is not a Republican issue, it is not a Democratic issue, it is a sensitive issue that touches on our values as a nation. We should not have to choose between respect for history as a country of immigrants with the respect for our laws. I am confident we will be able to pass this comprehensive plan in the days to come.

#### RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER (Mr. DEMINT). The minority leader is recognized.

#### IMMIGRATION REFORM

Mr. REID. Mr. President, yesterday morning I talked about this being the summer season, new movies—there is a blockbuster out, starting this Friday it is, "The Da Vinci Code," with Tom Hanks. I suggested yesterday that in the third week of May, on the Senate floor, we have our own blockbuster that is part 2 of immigration.

We had part 1. It didn't go very well. I suggested yesterday that in the President's speech he was going to give, he should become a player, an actor in this part 2 of the Senate blockbuster.

Last night the President, I thought, did a commendable job in laying out what he felt was a path to solving this immigration situation.

I acknowledge the President's statement, and I support the direction the President has taken. I want the President to continue to be a player in all of this. I remind everyone, however, that much of what the President talked about we should already have done. For example, the President talked—and rightfully so—about the fact that we don't have enough beds. We have the so-called catch-and-release program where we find people who are here illegally and we let them go because we have no place to put them.

Following the 9/11 Commission, there was a recommendation that we provide additional beds for the illegals, and we did. We authorized 18,000. But even

though we have tried, the President and the majority have not supported our position in this regard. We only have 1,800 beds. We have to move forward and do all of that. I certainly hope that can be done.

It is important that we have additional Border Patrol agents. We have already called for them. In fact, our request has only been filled to 75 percent capacity. The President has said we need more beds. Let's move on that now. The President said we need more Border Patrol agents. Let's move on that now.

The National Guard: Yesterday, I asked the President to give us a timetable. He said within the next year. I hope we can take care of that situation so that we don't need to have National Guardsmen there. But in this interim period, I support the National Guard being on our border.

It is important that we move forward as quickly as possible with this very important legislation. I hope in the days to come that the President will also acknowledge how wrong the Republican House approach is to this. They are still talking the same way. They haven't backed down. They think their approach is the best, from what I have seen by a couple of speeches the chairman of the Judiciary Committee gave last week.

The President needs to stay engaged. He needs to recognize how bad the House bill really is and speak to the American public about how bad it is.

Yesterday, there were some remarks on both sides on this issue which I thought were good. Here is an opportunity. We always talk about bipartisanship.

Interestingly, I was just talking to a member of the Republican staff coming into the building today. We exchanged greetings. He said on the Republican side they are just going to vote their conscience. I said that is an interesting way to legislate. That is what we all need to do. We should have been doing it more in the past. This is the week in which we need to vote our conscience. We don't need to vote the Democratic way or the Republican way. We need to vote the American way and move this most important legislation down the road. I hope we can do that.

#### STEM CELLS

Mr. REID. Mr. President, let me also talk about one other important issue; that is, the American people are not only counting on us to finish the immigration bill—which we need to do—but they are also counting on us to finish the stem cells bill.

Today, in the New York Times there is a letter from Nancy Reagan to Senator HATCH in which she writes:

For those who are waiting every day for scientific progress to help their loved ones, the wait for the U.S. Senate action has been very difficult and very hard to comprehend.

Yes, it really has.

Last Thursday, the Republican leadership concluded the only week they

intend to devote to health care in this Congress. I was disappointed that—despite his repeated promises to allow the Senate to consider the House-passed stem cells bill—Senator FRIST didn't consider this issue important enough to bring to the floor and that parliamentary tactics were used to deny our efforts to bring this forward.

On May 10, prior to the conclusion of Health Week, my friend, the distinguished majority leader, Dr. Frist, stated:

The issue of stem cells is a very important issue. . . . I am very committed to addressing that particular issue. . . . The interest in stem cells will be debated in the future, at a time that is mutually set by the Democratic leadership working with the Republican leadership.

The one-year anniversary of the date the House of Representatives passed H.R. 810, the Stem Cell Research Enhancement Act, is May 24, exactly 1 week from tomorrow.

The bill would offer hope to millions of Americans and their families. Why are we waiting so long to simply vote?

If the distinguished majority leader agreed that this is "a very important issue," then I hope he will keep this issue moving forward and vote on it immediately and schedule a vote on the House-passed bill.

#### EXECUTIVE CALENDAR

Mr. REID. Mr. President, finally, we are going to momentarily take up the issue of the circuit court judge, and proceed to the consideration of the nomination of Milan D. Smith, Jr., of California to be a U.S. circuit judge for the Ninth Circuit. That is a circuit which Nevada is in and a big, powerful circuit. This is an exemplary judge-to-be.

Just to mention a few names, such as Wallace, Wallace is the first person who has gotten the "nonqualified" rating, but yet he is going to be brought forward, I am told. Boyle, a man who is steeped in controversy, has been reversed 165 times, has ethical problems.

Let's go to the Milan Smiths. There are many qualified Republicans who I hope meet the standard following the Constitution and who are not controversial but are good people. Some are lawyers and some are judges elevated to a higher position. Let us move to those kinds of people. And there is no better example of that than the judge we are going to vote on in just a few minutes, Milan Smith.

I compliment the President for sending him to us.

The PRESIDING OFFICER. The majority leader is recognized.

#### ORDER OF PROCEDURE

Mr. FRIST. Mr. President, I ask unanimous consent that at noon today the Senate proceed to a vote in relation to the Isakson amendment, No. 3961, to be followed immediately by a vote in relation to the Salazar trigger

amendment, which is at the desk; provided further that no second degrees be in order to either amendment prior to the votes and that all time after the judicial nomination vote and noon be equally divided in the usual form.

Mrs. BOXER. Mr. President, reserving the right to object—I shall not—Senator FEINSTEIN and I are in favor of the distinguished nominee of the Ninth Circuit. We ask to have an additional 5 minutes for debate so that the result would be 10 minutes on either side.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

#### RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, leadership time is reserved.

#### EXECUTIVE SESSION

#### NOMINATION OF MILAN D. SMITH, JR. TO BE UNITED STATES CIRCUIT JUDGE FOR THE NINTH CIRCUIT

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session for consideration of Executive Calendar No. 625, which the clerk will report.

The legislative clerk read the nomination of Milan D. Smith, Jr., of California, to be U.S. Circuit Judge for the Ninth Circuit.

Mr. SPECTER. Mr. President, I have sought recognition to urge my colleagues to vote in support of the nomination of Milan D. Smith, Jr., for the U.S. Court of Appeals for the Ninth Circuit.

The Judiciary Committee has held a hearing on Mr. Smith, and we recommend him to our colleagues.

He was a graduate of Brigham Young University, cum laude, in 1966, and he has a law degree from the University of Chicago Law School in 1969.

He has had a distinguished career in the practice of law. After law school, he joined the international law firm of O'Melveny & Myers.

In 1972, Mr. Smith formed his own firm, Smith Crane Robinson & Parker, one of Southern California's premier law firms specializing in complex transactions.

Mr. Smith has served in public services. In 1988, he served as Commissioner of the California Fair Employment and Housing Commission where he remained until 1991.

The American Bar Association gave Mr. Smith a "substantial majority well qualified" and a "minority qualified" rating.

Beyond these excellent credentials, he comes with a strong recommendation from somebody who knows him very well, and that is our distinguished colleague, Senator GORDON SMITH from Oregon.

I am pleased at this time to yield the floor either to Senator SMITH or to the senior Senator from California.

The PRESIDING OFFICER. Under the previous order, there will be 5 minutes each to the Senators from California and 5 minutes to the Senator from Oregon, and 5 minutes to the Senator from Pennsylvania.

The Senator from California is recognized.

Mrs. FEINSTEIN. Thank you very much.

Mr. President, I am very pleased to be here as a member of the Judiciary Committee and as a Californian to indicate my support for the confirmation of Milan Smith to the Ninth Circuit Court of Appeals. It is a fine occasion to be able to come here and represent that we have a very competent man to become an appellate court judge.

Mr. Smith has a long and distinguished legal career in our State. The chairman of the committee pointed out some of this. After graduating from the University of Chicago Law School in 1969, Milan Smith moved to Los Angeles where he has been an important part of the legal community ever since.

Mr. Smith founded the law firm known as Smith Crane Robinson & Parker in 1972, and over the last 34 years with Smith Crane Robinson & Parker he has engaged in a wide-ranging legal practice in business and real estate law.

After reviewing his extensive record, a majority of the American Bar Association rated him "well qualified" to serve as a judge of the Ninth Circuit Court of Appeals.

He has demonstrated an impressive and enduring commitment to serving the public, from presiding over the Governing Board of the Los Angeles State Building Authority to acting as vice chairman of Ettie Lee Homes for Youth.

As many of you know, Milan Smith is the older brother of our esteemed colleague, Senator GORDON SMITH. I know the Senator from Idaho was just talking to Senator SMITH and saying: Isn't it nice that California is getting a Californian.

We are having a little tussle over another judge which the Senator from Idaho believes should be an Idaho judge, and the Senators from California believe should be a California judge. So that issue has not yet to be joined, but it certainly will.

Mr. CRAIG. Mr. President, will the Senator yield only for a moment?

Mrs. FEINSTEIN. Certainly.

Mr. CRAIG. It is important to recognize that we are getting the Smith from California, and we are asking that we get a Smith from Idaho.

Mrs. FEINSTEIN. California would prefer having two Smiths. But we will talk about that another day.

The Smiths' maternal grandfather, Jesse Udall, was the chief justice of the Arizona Supreme Court. So Milan Smith stands poised to follow family precedent in serving on one of our Nation's highest courts.

I congratulate him on this nomination. I urge all of my colleagues to vote