shows no signs of diminishing and out-of-control organized crime. It is hard to say we have made any real progress toward the larger objective of bringing democracy to Iraq and the Middle East.

It is time we face this grim reality. Our soldiers' lives are in the balance. America's reputation is in the balance. America's ability to set an example for the rest of the world is in the balance.

I made a brief statement on Tuesday about a column in last Sunday's Washington Post by retired LTG William Odom. I know General Odom. I worked with him on some of the most significant intelligence matters in this country. He has one of the most distinguished military intelligence careers. He continues to provide powerful insights on national security. In his piece entitled ''Victory Is Not An Option,'' he outlines how this administration's entire policy in Iraq, including the so-called surge strategy, is based on a self-defeating inability to face reality.

The reality, according to the general, is that we are not going to make Iraq a democracy. The longer we stay, the more likely Iraq will be anti-American at the end of our intervention. Think of that, after $1 trillion.

Our invasion made civil war and increased Iranian influence inevitable. No amount of military force will prevent those outcomes. Meanwhile, our presence is only stoking al-Qaida's involvement in Iraq.

The reality is that supporting our troops does not mean keeping them there to carry out a failed strategy. It means pursuing a course that protects the country's interests and prevents more Americans from dying in pursuit of an ill-defined, open-ended strategy that cannot succeed.

General Odom knows we need to begin an orderly withdrawal from Iraq. He argues we should join with other countries in the region, those whose input this administration has often ignored, and seek to stabilize the region through sustained, high-level diplomacy. These views are in line with those of some of our senior military officers, national security experts and many in Congress, and I might say a majority of the American people. The people we are here to represent.

Look at what the administration and defenders of the Republican Party offer instead: We get filibusters when it is time to debate the President's Iraq policy, we get the same old rhetoric about not supporting the troops, and we get a bill from the President for another $100 billion to send 20,000 more troops and continue the war. If the President cannot face the reality that even some Members of his own party increasingly have come to accept, then it is our responsibility—I would also say our patriotic duty and our moral duty—to act.

A nonbinding resolution that sends a clear message in opposition to an escalation of troops is far better than the years of silence of a rubberstamp Congress. But we know the President will ignore it. He has already said so. We know it is only a first step.

I will support binding legislation by Senators OBAMA and FEINGOLD to begin a phased redeployment of our troops out of Iraq. It is not our role to choose sides in this civil war, and it is a prescription for disaster. It is not our troops' role to die trying to force these warring factions to settle their age-old differences.

We need to continue to fight the Taliban and al-Qaida in Afghanistan. We need to deploy sufficient forces and intelligence assets to track down international terrorists around the world. We need to do a lot better job of policing our borders, without denying entry to innocent people who are fleeing persecution.

General Odom is right, keeping our troops in Iraq is not making us safer. We should be bringing our troops home. We should be bringing them home with the thanks of a nation for doing their duty. Congress has the power to force the President to change course. That is what the American people want. That is what we should be debating.

UNANIMOUS-CONSENT REQUEST—S. 214

Mr. LEAHY. Mr. President, I am about to propound a unanimous consent request. I saw the distinguished Senator from Arizona on the floor a moment ago, and I told him I would notify him because I know he is going to object. I also see the distinguished Senator from Idaho, who will. But, Mr. President, what I am going to do is the following: I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 24, S. 214, a bill to preserve the independence of U.S. attorneys, that the committee-reported amendment be agreed to, the bill, as amended, be read three times, passed, and the motion to reconsider be laid upon the table, without any intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. SCHUMER. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. And I will not object, but I wish to say a word before we proceed further. I just want to urge my colleagues to accept this unanimous consent request by Senator LEAHY to move forward legislation on restoring the longtime procedure for appointing interim U.S. attorneys.

I ask unanimous consent that after objection is heard, if it is heard, Senator LEAHY be permitted to yield 5 minutes to me and then he immediately regain the floor.

The PRESIDING OFFICER. There is one unanimous consent request pending at this time, and that needs to be resolved before we move forward.

Mr. LEAHY. Mr. President, parliamentary inquiry: How much time is remaining of the hour the Senator from Vermont has?

The PRESIDING OFFICER. Twenty-eight minutes.

Mr. LEAHY. Mr. President, I know people are about to object. I can assure the Senator from New York—so he will not have to repeat his request—that he is going to be getting time after the objection is made. I am going to make a statement, a very short statement, but I will yield at the appropriate time.

Mr. SCHUMER. Mr. President, I thank my colleague.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Vermont?

The Senator from Idaho.

Mr. CRAPO. Mr. President, it is my understanding the Senator from Arizona does desire to object to this unanimous consent proposal and could not be here on the floor, so on his behalf, I do object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Vermont.

Mr. LEAHY. Mr. President, last week, the Judiciary Committee reached a bipartisan consensus to reverse recent changes to the law governing appointments of interim U.S. attorneys. These changes were made, with little transparency, during final negotiations of the reauthorization of the USA Patriot Act. Through my staff, I had objected at the time, but to no avail. These changes invited and abetted an apparent abuse of power by this administration that threatens to undermine the effectiveness and professionalism of U.S. attorneys offices around the country.

I continue to support Senator FEINSTEIN's efforts to combat these abuses. I thank Senator SCHUMER for chairing our hearing into this matter last week and Senator SPECTER for his active involvement, which helped lead to a bipartisan solution. I urge the Senate to follow the committee's lead and approve the Specter, Feinstein, Leahy substitute to S. 214, the Preserving United States Attorney Independence Act of 2007.

During the Patriot Act reauthorization last year, checks on the authority of the Attorney General to appoint interim U.S. attorneys to fill a vacancy temporarily were removed. The change to the law removed the 120-day limit for such appointments and removed the district court's role in making any subsequent interim appoints. This change in law, accomplished over my objection, allowed the Attorney General for the first time to make so-called interim appointments that could last indefinitely.

Regrettably, we do not have to imagine the effects of this unfettered authority. We learned recently that the Department of Justice has asked several outstanding U.S. attorneys from around the country to resign their positions. Some are engaged in difficult and complex public corruption cases. Yesterday, one of the U.S. attorneys who has been told to resign, Carol Lam of the Southern District of California,

announced two indictments stemming from her office's investigation of now-convicted former Congressman Randall ''Duke'' Cunningham. A Federal grand jury handed up indictments of San Diego defense contractor Brent R. Wilkes for bribery and of Wilkes and the former No. 3 official at the CIA, Kyle ''Dusty'' Foggo, for conspiring to defraud the United States. Apparently, Ms. Lam's reward for her efforts at rooting out serious public corruption is a pink slip.

We also understand the Attorney General has or is planning to appoint interim replacements for the U.S. attorneys he is removing, raising a potential of avoiding the Senate confirmation process altogether. This is an end-run around our system of checks and balances.

Many Senators have raised concerns about this practice, and several have asked the Attorney General about the reasons for the interim appointments. The situation in Arkansas highlights the troubling nature of this new authority and its abuse. The Attorney General removed respected U.S. attorney Bud Cummins and replaced him with the interim appointment of Tim Griffin, a former political operative for Karl Rove. This appointment was not made pursuant to an agreement with the two home State Senators.

In our hearing last week, Paul McNulty, the second in command at the Department of Justice, testified that Mr. Cummins' dismissal was not related to how well he did his job. In fact, Mr. MCNULTY said he had no ''performance problems,'' but was removed merely to give an opportunity to Mr. Griffin, a person whom he admitted was not the ''best person possible'' for the job and who is reported to have been involved in an effort during the 2004 election to challenge voting by primarily African-American voters serving in the Armed Forces overseas. This was not a vacancy created by necessity or emergency. This was a vacancy created by choice to advance a political crony.

Since this administration has been creating these vacancies by removing U.S. attorneys as it chooses for whatever reason—or no good reason—on a timeline it dictates, how can it now claim not to have had time to fill spots with Senate-confirmed nominees? Why were agreed upon replacements not lined up before creating these vacancies? Why were home State Senators not consulted in advance? I would note that every one of the U.S. attorneys who was asked to resign was someone chosen by this administration, while the Attorney General served as White House counsel, nominated by this President, approved by the home State Senators and confirmed by the Senate. This is a problem of the administration's imagination and choosing, like so many others.

With respect to the law that has governed for the last few decades, the authority given to the Attorney General to make a time-limited interim appointment has not proven to be a problem. For example, last Congress, the time from nomination to confirmation of U.S. attorney nominations took an average of 71 days, with only three taking longer than 120 days and two of those only a few days longer.

The Department opposes the district court's role in the law that existed prior to the changes enacted in a Patriot Act reauthorization conference. This was a conference in which Democratic Members were excluded. The Department claims the district court's role in filling vacancies beyond 120 days to be inconsistent with sound separation of powers principles. That is contrary to the Constitution, our history and our practices. In fact, the practice of judicial officers appointing officers of the court is well established in our history and from the earliest days. Morrison v. Olson should have laid to rest the so-called separation of powers concern now being trumpeted to justify these political maneuvers within the Justice Department. It is not just a red hearing but a bright red herring. Certainly no Republicans now defending this administration voiced concern when a panel of judges appointed Ken Starr to spend millions in taxpayer dollars going after President Clinton as a court-appointed prosecutor.

I have heard not a word from the apologists who seek to use the Constitution as a shield for these activities about what the Constitution says. The Constitution provides congressional power to direct the appointment power. In article II, the part of the Constitution that this administration reads as if it says that all power resides with the President, the President's appointment power is limited by the power of Congress. Indeed, between its provisions calling for appointments with the advice and consent of the Senate and for the President's limited power to make recess appointments, the Constitution provides:

> But the Congress may by law vest the appointment of such inferior officers, as they think proper, in the President alone, in the courts of law, or in the Heads of Departments.

Thus, the Constitution contemplates exactly what our statutes and practices have always provided. Congress is well within its authority when it vests in the courts a share of the appointment power for those who appear before them.

Regrettably, this latest abuse of power follows this administration's politicization of U.S. attorneys offices. A recent study of Federal investigations of elected officials and candidates shows that the Bush Justice Department has pursued Democrats far more than Republicans. The study by Dr. Donald C. Shields, professor emeritus from the Department of Communication, University of Missouri-St. Louis, and Dr. John F. Cragan, professor emeritus from the Department of Communication, Illinois State University, found that between 2001 and 2006, 79 percent of the elected officials and candidates who have faced a Federal investigation were Democrats and only 18 percent Republicans. The administration's track record is not good and it again appears caught with its hand in the cookie jar.

Before 1986, 28 U.S.C. 546, the law governing the appointment of U.S. attorneys, authorized the district court where a vacancy exists to appoint a person to serve until the President appointed a person to fill that vacancy with the advice and consent of the Senate. When Congress changed the law in 1986 to allow the Attorney General to appoint an interim U.S. attorney, it carefully circumscribed that authority by limiting it to 120 days, after which the district court would make any further interim appointment needed. I was pleased that Senator FEINSTEIN worked so hard with Senator SPECTER to craft a worthwhile consensus measure to reinstate these vital limits on the Attorney General's authority and bring back incentives for the administration to fill vacancies with Senate-confirmable nominees. This measure has bipartisan support on the committee. We reported it out 13–6 after debating and voting down several amendments.

U.S. attorneys around the country are the chief Federal law enforcement officers in their States, and they have an enormous responsibility for implementing antiterrorism efforts, bringing important and often difficult cases, and taking the lead to fight public corruption. It is vital that those holding these vital positions be free from any inappropriate influence and subject to the check and balance of the confirmation process. The Specter, Feinstein, Leahy substitute to S. 214 is a measure that passed our committee with bipartisan support and I urge the Senate to take it up and pass it today so that we can curb the abuses we have seen.

Mr. President, how much time is remaining?

The PRESIDING OFFICER. Twenty-one minutes.

Mr. LEAHY. Mr. President, I ask unanimous consent that 7 minutes of my time be yielded to the Senator from New York—does the Senator want more than that?

Mr. SCHUMER. I will take 5.

Mr. LEAHY. That 5 minutes of my time be yielded to the Senator from New York and the remainder of my time be yielded to the Senator from California.

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

The Senator from New York.

Mr. SCHUMER. Mr. President, first, I thank our leader on the Judiciary Committee, the Senator from Vermont, for his leadership on this issue, as well as for yielding time. It is unfortunate that the unanimous consent request of the Senator from Vermont was objected to.

Now, I would like to report to my colleagues on both the hearing we had,

which is public record, and, more to the point, the private meeting we had yesterday with the Deputy Attorney General, Mr. McNulty, who was gracious and who is a very fine person. But neither the hearing nor the private meeting we had allayed our fears. In fact, they increased them in a variety of ways.

As we know, at least seven U.S. attorneys were summarily fired in recent weeks. The Attorney General has flatly denied that politics has played a part. But the bottom line is, even at the hearing it was admitted that one U.S. attorney was fired without cause and replaced by somebody who had worked for Karl Rove and the Republican National Committee and did not have much of a record being a prosecutor. Even more troubling was the firing of the U.S. attorney from San Diego, of the Southern District of California, who was in the midst of a very high-level investigation that led to the conviction of Congressman Cunningham and, yesterday, the indictment of two more in that. So it is hardly a concluded investigation.

The bottom line at yesterday's briefing by the Deputy Attorney General did little to alleviate our concerns that politics was involved in several of these firings and, in fact, raised those concerns.

It seems, when you have a preliminary look—we did not get a look—but a preliminary description of the EER reports, the evaluations, that most of the U.S. attorneys, not all but most of the U.S. attorneys who were fired had very fine recommendations.

There were a few policy disputes, but particularly in the area of the U.S. attorney from the Southern District of California, in the midst of an ongoing investigation, there was some policy disagreement about how to deal with those crossing the border. She was told to change it. And there is no knowledge or observation whether she changed it or not, and yet she was fired in the midst of a much more serious, much more high-profile political investigation.

So the idea that people were fired for no cause, the idea that some may have been—and this is not proven, but certainly the hearing and the private meeting increased rather than decreased my concerns—fired for political reasons because they may have either, in some cases, not done what the Justice Department wanted them to do—particularly, remember, this was right before election time—or may have been going forward with a very serious investigation into local political officials remains a real possibility.

We asked to see the EER reports at the hearing. At the private meeting yesterday, Paul McNulty, Deputy U.S. Attorney General, said some of the information was taken under confidence. These are evaluations, and they ask lawyers, judges, fellow U.S. attorneys how the office is doing and how the U.S. attorney is doing. And if they were to reveal their names, it might jeopardize the confidentiality of future EER reports. That is a reasonable assertion. So we asked, could we get the reports and redact the names of those who were saying this is a good or bad U.S. attorney? Mr. McNulty said he would get back to us on the issue. We await.

But make no mistake about it: We will get those EER reports. Either they will be given to us with the necessary redaction—and I have spoken to my colleague from California, Senator FEINSTEIN—or we will ask Senator LEAHY, our leader on this issue, through the Judiciary Committee to subpoena them. We will see them. If they show that the U.S. attorneys were doing a good job, if they show that they were people who should be there, there will be real trouble.

It means two things. First, we will get to the bottom of this. There are still too many troubling questions out there. If we have to have another hearing, we will. Second, it means whatever the investigation finds, there is enough troubling evidence out there now that the legislation Senator FEINSTEIN has authored, and Senator LEAHY and myself have cosponsored, should be passed immediately. Therefore, it is regrettable there was objection that we don't move to rectify the situation and do it right now.

I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I thank the Senator from New York for holding the hearing in his subcommittee, for his leadership, for understanding what is at stake, and for being willing to be out in front on doing something about it.

What I want to do for the American public is lay out the history of this particular issue and place it in context.

Unbeknownst to any of us, in March 2006, in the PATRIOT Act reauthorization, a provision was included that allows the Attorney General to appoint an interim U.S. attorney for an indefinite period of time. You might ask, what is wrong with that? What is wrong is that it avoids Senate confirmation. Prior to this change, the law stated that the Attorney General could appoint interim U.S. attorneys but only for 120 days. After that time, the authority to appoint an interim U.S. attorney would fall to the district court. Why? Because that provided an incentive to the administration to present a U.S. attorney nominee to the Senate for hearing, for questions, for review, and for a vote on confirmation.

This structure created in 2006 was relatively new. It was enacted during the Reagan administration in a broader bill by Strom Thurmond that was described as a technical corrections bill on criminal procedures. Before that, from 1898 until the Thurmond bill was enacted, district courts held the sole authority to appoint interim U.S. attorneys. That existed for almost 100 years. It was critical then, as it is now, that all U.S. attorneys receive Senate confirmation. By having the district courts make that interim appointment, it assured that the confirmation would take place.

No one expected the rash of firings from the Department of Justice. I first learned about the Department's actions early in January. At that time I learned that main Justice in Washington had placed calls to at least seven, possibly more, U.S. attorneys and asked them to resign by a date specific in January. I was also told that the intention was to bring in outside lawyers from main Justice or from elsewhere to take over these posts and to serve without confirmation for the remainder of the Bush presidency.

The Department of Justice has now acknowledged in public and at a hearing that such calls were made to ''less than 10'' U.S. attorneys asking them to step aside. We also know that prior to this action, there were already 13 U.S. attorney vacancies pending, with only two nominations presented by the administration to the Judiciary Committee. This means that if you add the 7 to 10 U.S. attorneys who were asked to resign to the current 11 vacancies without nominees, there could be between 18 and 21 U.S. attorney positions throughout the country that the Attorney General could fill without securing Senate confirmation. That is over 20 percent of U.S. attorneys nationally that could be filled for the remaining 2 years of the Bush presidency without going through Senate confirmation.

This new provision slipped into the PATRIOT Act would also allow the next President to put in place all 93 U.S. attorneys and let them serve the entire 4-year term without the benefit of confirmation. This change was a mistake. I suspect the amendment to the PATRIOT Act came from the Justice Department, was quietly put in the bill, and none of us at the time were the wiser. And then suddenly, at a certain point, the Justice Department said: OK, let's begin to remove some of these people and give some of our own bright young people an opportunity to step up and become a U.S. attorney. This is wrong, and the Justice Department has backed away from it.

Let me talk about a few of the U.S. attorneys involved. According to press reports, at least three were given glowing reviews from their performance audits in the recent past. According to the Las Vegas Review-Journal, Daniel Bogden, the U.S. Attorney for Nevada, said Wednesday that he was stunned to hear the Department of Justice requested that he step down from his post because of performance reasons. He went on to say:

> To this date, no one from the department has previously identified any issues with my performance or the performance of my office.

A similar story has surfaced about Washington U.S. Attorney John McKay. The Seattle Times reported last week:

Seven months before he was forced to resign as U.S. attorney for the western district of Washington, John McKay received a glowing performance review from Justice Department evaluators.

The article went on to quote the report which stated:

''McKay is an effective, well-regarded and capable leader of the [U.S. attorney's office]'' . . . according to the team of 27 Justice Department officials.

Yet on December 7th, Michael Battle, director of the Justice Department's executive office for U.S. attorneys, called McKay and asked him to step down.

''I was told to resign by the end of January,'' McKay confirmed . . . ''I asked what the reason was, and they told me there was none.''

Then, of course, there is former-Arkansas U.S. Attorney Bud Cummins. In a story that ran last month, Mr. Cummins stated that the Director of the Executive Office of U.S. Attorneys, Michael Battle, made it clear that although he was being asked to leave, ''it was not about me but about their desire to give someone else the opportunity to have the appointment.''

Mr. Cummins said he specifically asked if his job performance was a problem when he got the call:

[Mr. Battle] assured me it was exactly to the contrary.

These are three cases that have been documented where U.S. attorneys did not have any performance-related concerns as alleged by the Department. In addition, I have heard similar reports about other U.S. attorneys. I want to speak in specific about one. That is the U.S. Attorney from San Diego, CA. Today is U.S. Attorney Carol Lam's last day in office. I want to commend her. I thank her for the work she has done in that office. She was sworn in as U.S. attorney in September of 2002 and was appointed by the President in November 2002. Prior to serving as U.S. attorney, she was a judge of the Superior Court of San Diego, and she served as an assistant U.S. attorney in the southern district of California for 11 years. So she was no newcomer. She has been successful in bringing many of the country's most important corruption cases. I want to go through a few of them.

In March of 2004, Steven Mark Lash, the former chief financial officer of FPA Medical Management, was sentenced for his role in defrauding shareholders and lenders of FPA. The collapse of the company left more than 1,600 doctors being owed more than $60 million and patients reported being unable to obtain medical care because FPA had ceased paying providers. Thank you, Carol Lam.

In January 2005, Mark Anthony Kolowich, owner of World Express Rx, pled guilty to conspiracy to selling counterfeit pharmaceuticals, conspiracy to commit mail fraud and smuggle pharmaceuticals, and conspiracy to launder money. Mr. Kolowich had run an Internet pharmacy Web site where customers could order prescription drugs without a valid prescription. The judge called him the kingpin and architect of an elicit pharmaceutical ring that recruited many others to smuggle drugs across the United States-Mexico border at San Ysidro. Ms. Lam also announced that charges had been filed against five other individuals in a related case involving MyRxForLess.com. Thank you, Carol Lam.

In July 2005, Ms. Lam brought a case against San Diego councilman Ralph Inzunza, along with Las Vegas lobbyist Lance Malone, were convicted on multiple counts of extortion, wire fraud conspiracy, and wire fraud. They were accused of trading money for efforts to repeal a law.

In November 2005, Ms. Lam secured a guilty plea from former Representative Randy ''Duke'' Cunningham for taking more than $2 million in bribes in a criminal conspiracy case involving at least three defense contractors, after he accepted cash and gifts and then tried to influence the Defense Department on behalf of donors. He also pled guilty to a separate tax evasion violation for failing to disclose income in 2004. Thank you, Carol Lam.

In addition, earlier this week, Carol Lam announced two more indictments of Kyl ''Dusty'' Foggo, former top officer at the CIA, and Brent Wilkes, a defense contractor accused of bribing Duke Cunningham and the prime benefactor of the secret CIA contracts. Thank you, Carol Lam.

This woman was called and told to resign by a date specific, after she has done all of this good work. Ms. Lam and the San Diego U.S. Attorney's office have also pursued and successfully prosecuted other important cases, including:

In September 2005, the president of the San Diego chapter of Hell's Angels pled guilty to conspiracy to commit racketeering. Guy Russell Castiglione admitted that he conspired to kill members of a rival motorcycle gang, the Mongols, and to sell methamphetamine. Thank you, Carol Lam.

Then in December 2005, Daymond Buchanan, member of Hells Angels, was sentenced to 92 months in Federal prison for participating in a pattern of racketeering. He admitted in his guilty plea that he and other Hell's Angels also inflicted serious bodily injury upon one victim and that another Hell's Angel brandished a firearm during the offense.

At that time, Ms. Lam announced:

With the president, sergeant at arms, secretary, treasurer, and six other members of the Hell's Angels convicted of racketeering charges and facing long prison sentences, the San Diego chapter of the Hell's Angels has been effectively shut down for the foreseeable future.

Thank you, Carol Lam. And what does she get? Fired without cause.

In September, 2006, Jose Ernesto Beltran-Quinonez, a Mexican national, pleaded guilty to making false statements about weapons of mass destruction. Mr. Quinonez was sentenced to 3 years in Federal prison for making up a story about Chinese terrorists sneaking into the United States with a nuclear warhead. That hoax prompted a massive investigation, Federal warnings, discussions at one of President Bush's security briefings, and a nationwide hunt for the group of Chinese supposedly plotting the attack.

Thank you, Carol Lam.

In December 2006, Mel Kay, of Golden State Fence Company, and Michael McLaughlin, pleaded guilty to felony charges of hiring illegal immigrants and agreed to pay fines of $200,000 and $100,000, respectively. The company, which built more than a mile of the 15-foot-high fence near the Otay Mesa border crossing in San Diego, agreed separately to pay $5 million on a misdemeanor count, one of the largest fines ever imposed on a company for an immigration violation.

Thank you, Carol Lam.

These are just some of the important cases Carol Lam has pursued during her tenure. She does not deserve this kind of treatment.

In addition, during her previous time in the office, Ms. Lam prosecuted and convicted several high-ranking members of La Cosa Nostra, a Chicago-based organized crime family. She also secured a guilty plea and settlement of $110 million against National Health Laboratories, Inc., in a Medicare fraud case.

Ms. Lam has had a distinguished career and she served the Southern District of San Diego well, and everyone in that district knows that. I regret that main Justice does not. I am quite disappointed that main Justice chose to remove her, especially given the ongoing work in which the office is involved.

Now, like Senator SCHUMER, I was present yesterday when the Justice Department briefed us and several other Senators as to why they asked these U.S. attorneys to leave. With the record I just pointed out, nothing that was said yesterday justifies asking this U.S. attorney to leave without cause—nothing. That is why this is an issue. I believe their intent was to bring in people from the outside to give some of their bright young people an opportunity. This might not be wrong, if they weren't also attempting to avoid confirmation. Without confirmation, the Department of Justice could bring in political operatives or anybody else. That is wrong.

If I had not been given this information, we never would have known about these events because the likelihood is that these U.S. attorneys would have just quietly resigned and retired to another job or retired into society somewhere else. This is not the way we should function. That is why this is a major issue. That is why the Majority Leader of the Senate wishes to bring this bill to the floor—to put it back to where it was prior to that provision being put into the Patriot Act without our knowledge and without debate.

I hope the U.S. attorney bill will come to the floor of the Senate, and I hope we can change it back. I hope we can go out and say to the American people that this will never happen again and every U.S. attorney will have confirmation before the Senate of the United States.

Mrs. LINCOLN. Mr. President, I rise today to state my support for the legislation put forward by Senator FEINSTEIN on the interim appointment of U.S. attorneys. This legislation represents a compromise between Senator SPECTER and Senator FEINSTEIN and I commend them for the bipartisan example they have set in addressing this issue.

Senator PRYOR and I came to this debate because of the interim appointment of a U.S. attorney in Arkansas, but the importance of this issue goes beyond the qualifications of Tim Griffin for that position. The Founding Fathers created this Government around a system of checks and balances, with three coequal branches. As we all know, one of those branches is filled with officials who are not elected, such as Mr. Griffin. The Founding Fathers knew that if the executive branch was allowed to appoint all of the members of the judiciary without any consultation with the legislative branch, it would make the judiciary branch simply an extension of the executive.

What we are talking about today is another in a long line of attempts by this administration to undermine the system of checks and balances by expanding the authority of the executive branch. These abuses of power have almost always related to provisions that are necessary for the smooth operation of government. Of course we need the ability to appoint a U.S. attorney in a time of crisis when Congress is not in session, but do we need that authority extended to a point where a sitting President can make a judicial appointment with no set termination? Absolutely not. The law the administration changed in the PATRIOT Act was well structured to provide the ability to appoint in times of emergency, while respecting the Senate's role in the process. The compromise put forward by Senators FEINSTEIN and SPECTER seeks to restore that.

The Senate's role in the confirmation process is vital as it provides a second review of the qualifications of a nominee and allows constituents a better opportunity to evaluate a nominee and state their support or opposition. I fear that this effort to diminish the Senate's role in the confirmation process is indicative of this administration's general attitude toward a vital provision of our Constitution and to the system of checks and balances in general. If given the choice, it would appear that this administration clearly favors less transparency in government, not more. If allowed to continue, I feel certain that it would result in the average constituent having much greater difficulty getting their voice heard on the appointment of nonelected officials. The power of our democracy rests with the people, and that is something we must never forget. It is for that reason that I support Senator FEINSTEIN and Senator SPECTER and urge my colleagues to join with them in order to pass this legislation

Mr. REID. Mr. President, I regret that we have not been allowed to move forward at this time on S. 214, a bill to preserve the independence of U.S. attorneys.

This legislation is ready for floor action. It was the subject of a lengthy hearing in the Judiciary Committee and was favorably reported by that committee with bipartisan support.

The bill would protect U.S. attorneys from being used as political pawns. It would limit the power of the Justice Department to appoint long-term replacements for departing U.S. Attorneys and instead authorize the chief Federal judge in a district to appoint a temporary replacement while the permanent nominee undergoes Senate confirmation. This is the process that was followed for decades until it was changed in the Patriot Act reauthorization.

Last month, we learned that at least seven U.S. attorneys had been directed by the Department of Justice to resign. One of these was the U.S. attorney in my State of Nevada, Daniel Bogden.

Let me take just a moment to thank Dan Bogden for his service. He has been the chief Federal prosecutor in Nevada since his appointment in 2001. He is a former Washoe County deputy district attorney and had served as an assistant U.S. attorney for 10 years before being appointed as chief Federal prosecutor. He made it a priority to prosecute violent criminals and drug traffickers and his efforts have made Nevada safer. I appreciate all the remarkable work he has done for our State.

The Deputy Attorney General testified that the U.S. attorneys who were forced out had ''performance issues.'' As far as I am concerned that is nonsense. Dan Bogden's last job evaluation described him as being a ''capable'' leader who was highly regarded by the Federal judges and investigators in our State.

What is really going on here? According to news reports, the decision to remove U.S. attorneys was part of a plan to ''build up the back bench of Republicans by giving them high-profile jobs.'' In fact, at least one of the fired U.S. attorneys was replaced by a GOP opposition researcher who is known as a protégé of Karl Rove.

So what has happened might well be called ''Crony-gate.'' It may not be as far reaching a scandal as Watergate, but it is a scandal nonetheless. It represents a breach of the long tradition of independence that allowed these powerful Federal prosecutors to do their jobs without fear of political retribution. Now every U.S. attorney will be looking over his or her shoulder to see if Karl Rove or other White House aides approve of their decisions.

The administration is in a position to ignore the Senate and place its own loyalists in these key jobs because of a little known change included in the Patriot Act last year at the insistence of the Justice Department. This provision lets the Attorney General make interim U.S. attorney appointments with no time limits, no residency requirements, and no need for Senate confirmation.

I applaud Senators FEINSTEIN, PRYOR, LEAHY, and others for addressing this problem swiftly. Their bill will help ensure that the people of Nevada have a say in who will be their next U.S. attorney. The Senate confirmation process for U.S. attorneys ensures transparency and accountability. We need to keep politics out of the justice system.

I thank the Chair, and I yield the floor.

The PRESIDING OFFICER (Mrs. MCCASKILL). The Senator from Idaho is recognized.

NOMINATION OF NORMAN RANDY SMITH

Mr. CRAIG. Madam President, I am proud to rise in support of the confirmation of Norman Randy Smith to the Court of Appeals for the Ninth Circuit.

There is no question about Randy Smith's credentials or competence for this position. He has been a State district judge in Idaho's Sixth Judicial District for a decade. He has served as a felony drug court judge and a pro tem justice on the Idaho Supreme Court and the Idaho Court of Appeals. He has a wealth of experience in both the practice and teaching of law, and he has been an active member of the bar association and other professional associations.

There is also no question about Judge Smith's character and fitness for this office. Randy Smith is deeply involved in his community and State, and he has held positions of leadership and responsibility in a wide variety of organizations. He is respected and well-liked by Republicans and Democrats alike throughout the State of Idaho.

He is a fine man—the kind of person you would want to have as a scout leader for your kids. He is a principled and knowledgeable community citizen—the kind of person you would want to have on your team or your board. He is a thoughtful, objective judge—the kind of judge you would trust to render an impartial and well-reasoned decision.

Men and women come to the bench by many different roads, including academia or elected public office. Randy Smith's real-world experience gives him a perspective and skill-set that will be extremely valuable on the appellate court. His character and competence fit him to advance to this important position, and Idahoans are confident that he would be a tremendous asset to our region, and the Nation, as a judge on the Ninth Circuit Court of Appeals.