

From the day of his commissioning to his last formal day in the service, General Cody made an indelible mark as an aviator, not just as an officer who could wield an Apache or Blackhawk with impressive precision and skill, but as a leader who inspired other aviators and maintainers to do their best. He competently led such prestigious and capable aviation units as the 160th Special Operations Regiment and the 101st Airborne Division. In the early stages of the first gulf war, he headed up one of the earliest and strategically critical aerial attacks, paving the way for subsequent air and ground forces. He amassed an impressive 5,000 hours of flight time.

It was that quality to inspire and to lead through example that elevated General Cody to the higher ranks of the U.S. Army. His service as the Vice Chief of Staff has coincided with ongoing wars in Iraq and Afghanistan, and he has helped the Army restructure and reequip itself for that challenging undertaking. He has always been open about the Army's needs, clearly informing the service's civilian leaders, the media, and Congress about the tools necessary to carry out its missions. He has been involved in some vigorous debates in the Pentagon, out of which emerged sensible approaches to activation and equipping of the Reserves, including the National Guard. He always has in mind his view—built through that experience and knowledge—of what is best for the Army and the country. He is an articulate spokesperson and fierce advocate.

General Cody has always kept one foot in Vermont where his family has such strong roots, particularly around Montpelier where he was born and raised. Few in the State have not purchased a car at Cody Chevrolet, which is owned and operated by the General's family. He and his lovely wife Vicki have two proud sons, Capt. Clint Cody and Capt. Tyler Cody, both Apache pilots in the Army. His immediate family has had the chance to spend considerable time in the State, experiencing the deep patriotism that runs through the Green Mountains and the Champlain Valley. It was only fitting that Norwich University, the Nation's oldest military academy, recently honored General Cody.

General Cody has been open about the challenges that the Army faces. His forthright manner is matched only by the quiet energy he brings to tackling problems aggressively. He is the model Army officer, a doer as much as a thinker, a loyalist as much as someone speaking straight. As he retires, I know there are many in the Army, officers and enlisted, who will continue to strive to replicate the path that he blazed with such dynamic energy. I know he will continue to be engaged with the Army, and, for that—and, above all, that incredible 36 years of service—Vermont and the whole United States are grateful.

#### MEDICAL DEVICE SAFETY ACT

Mr. LEAHY. Mr. President, I am proud to join Senator KENNEDY and other Senators in the introduction of this legislation. The bill that we introduced yesterday will correct a decision of the Supreme Court that misconstrued the intent of Congress and cut off access to our Nation's courts for citizens injured or killed by defective medical devices.

The Senate Judiciary Committee held a hearing on June 11 to examine the way in which the Supreme Court's decisions in the areas of retirement benefits and consumer product safety have consistently trended against the rights of consumers and in favor of big business. In many cases that have profound effects on the lives of ordinary Americans, the Court has either ignored the intent of Congress, or sided with a Federal agency's flawed interpretation of a congressional statute's preemptive force to disadvantage consumers.

It is regrettable that an anonymous Republican Senator objected on procedural grounds to the committee completing that hearing. And it is disappointing that the same party that engages in so much partisan rhetoric complaining about activist judges refuses to hear about the judicial activism when it comes from the judges whose activism they embrace as sound judicial philosophy. The impact of the decisions that were the focus of that hearing are being felt by Americans today, whether they are prohibited from seeking redress in the courts for an injury caused by a defective product, or left without remedies to enforce rights granted by Congress relating to nondiscrimination, or retirement and health care benefits.

The bill we introduce today is an important step to correcting the Supreme Court's erroneous reading of Congress' intent in enacting the medical device amendments of 1976. Where the Court reaches to the extent it did in the Riegel decision to find Federal preemption contrary to what Congress intended, Congress is compelled to act. This legislation will make explicit that the preemption clause in the medical device amendments that the Court relied upon does not, and never was intended to preempt the common law claims of consumers injured by a federally approved medical device.

As I noted in the Judiciary Committee's recent hearing, many of the Court's decisions that have the most far reaching impact on Americans' wallets, retirement and health benefits, or access to justice, are the least publicized. But Americans should be deeply concerned when decisions of the Supreme Court override the policy judgments made by their elected representatives in Congress and negatively affect their day-to-day lives in significant ways. The extraordinary power to preempt State law and regulation lies with Congress alone. And as the Supreme Court has said on many occa-

sions, the fundamental inquiry into whether a Federal statute preempts State law is the intent of Congress. I hope the introduction of this legislation sends the strong signal that some Senators intend to hold the Court to its own often-repeated pronouncements about this important principle.

#### THE FEDERAL AVIATION ADMINISTRATION EMPLOYEE RETENTION ACT

Mr. INHOFE. Mr. President, I was pleased to join Senator LAUTENBERG yesterday in introducing S. 3416, The Federal Aviation Administration Employee Retention Act. I am supporting Senator LAUTENBERG in his efforts to correct what I believe is a very unfair process imposed upon employees of the Federal Aviation Administration, FAA, by Congress.

Essentially, S. 3416 will correct the collective bargaining process Congress established for FAA employees in the FAA Reauthorization Act of 1996—Public Law 104-264—in which we inserted ourselves as arbitrators in labor disputes. Under the 1996 act, if the FAA and the union with whom they are in negotiation can not reach an agreement, then Congress has 60 days to intervene and if we do not, the FAA is able to impose its terms on the employees. Mr. President, this is not fair, it has not worked and it is time that we correct it.

In addition to the widely published dispute between the FAA and the National Air Traffic Controllers Association, NATCA, the Professional Aviation Safety Specialists, PASS, also have been unable to negotiate a new contract with the FAA. Furthermore, in my State of Oklahoma, there has been an 8-year disagreement between the FAA and the FAA Academy Instructors represented by the Professional Association of Aeronautical Center Employees, PAACE. It is my understanding from PAACE that FAA has basically refused to come to the bargaining table, which has resulted in year to year extensions of an 8-year-old contract. This is not right.

The very reasonable procedure established by S. 3416 will provide both sides in a labor dispute with a means to resolve disagreements by allowing FAA employees the same collective bargaining protections that employees covered under the National Labor Relations Board currently have. The bill provides the option of resolving disputes through the Federal Mediation and Conciliation Service or through mutual agreement on an alternative procedure. If no agreement is reached, then matters of disagreements will be presented to the Federal Services Impasses Panel for binding arbitration.

Finally, the bill would require both sides go back to the negotiating table for any "personnel management system implemented" by the FAA Administrator on or after July 10, 2005. In

other words, contract negotiations between FAA, NATCA and PASS are restarted with a 45-day deadline. If no agreement is reached, then there is an additional 90 days for binding arbitration.

As a pilot I am well acquainted with the exceptional work done by the employees of the FAA and I know firsthand that our aviation system is only as good as these employees. They deserve the right to bargain in good faith on their employment contracts. This bill will give them that opportunity.

Thank you, Senator LAUTENBERG, for introducing this bill, and I hope we get an opportunity to debate it very soon.

#### REMEMBERING SENATOR JESSE HELMS

Mr. ENZI. Mr. President, I join with my colleagues in the Senate and the House, and with the people whose lives he touched all across the Nation, in saying how sorry I was to learn of the passing of Jesse Helms on July 4. He was a remarkable man, and he has left his mark on the United States that he loved so very much and the State of North Carolina that he served with great pride. He will not be forgotten.

Jesse Helms was an American in every sense of the word—one who was firmly and staunchly dedicated to the principles upon which our country was founded. Those principles guided him through his life and helped him to make every difficult decision that confronted him in his 86 years of life.

Jesse Helms was an established force in the Senate by the time I arrived. As a freshman Senator I knew I had a lot to learn and I was able to learn a lot from him as we served together and worked on several issues that meant a great deal to us both. We didn't always agree, but I always found him to be a man of his word who said what he meant and meant what he said. You always knew where you stood with him and when he said "Yes" you knew that you could count on him to do what he said he would.

Many of us come to Washington hoping to change Washington. Then, with the passage of time, we find that instead of changing Washington, Washington has changed us. How we are changed says a lot about us and our commitment to the principles and values that motivated us to run for the Senate in the first place.

That kind of change is only natural and, for many of us, the changes that occur help us to see other viewpoints and perspectives and make it possible for us to work with Members on both sides of the aisle so we can achieve common goals and work for the best interests of the United States and the American people.

Like so many of us, Jesse Helms was changed by his experience in the Senate. One of the most notable examples was the President's foreign AIDS relief package we worked on together.

For years Jesse was opposed to providing any assistance to countries

fighting the AIDS epidemic. Some thought he would always oppose any kind of relief. Then, Bono, who is a powerful advocate for the cause, made an appointment to see Jesse Helms so he could share the human side of the problem with him.

I guess no one had been able to put a human face on the AIDS epidemic for him before. However Bono was able to do it, he was able to touch Jesse's heart and convince him that the need was real—and the right thing to do. In response, Jesse was big enough to admit that he had been wrong. After Bono's presentation, Jesse decided to work on a proposal that would provide the needed funds to fight AIDS in Africa. The proposal was passed and signed into law, and thanks in part to his support, countless lives were saved. It is no coincidence that the reauthorization of this legislation that he worked so hard to pass was recently enacted into law by President Bush. It is a part of his legacy that will continue on after him and make a difference all over the world for many years to come.

That is but one facet of his character, and one we are all familiar with. And, now that he has been taken from us, we will all take with us many more memories that come from our service with Jesse Helms in the Senate.

A lot of what we remember about Jesse Helms and his service in the Senate would surprise those who only knew him by reputation because people thought he was a tough guy. But when you met him, you quickly came to see that he was a friendly person. He enjoyed greeting the tourists he met in the Halls and he made them all feel welcome because he always had a kind word for everyone he met. Those who worked here in the Capitol liked him because he treated them all with kindness and respect.

At the top of Jesse's list were those who work with us to help the House and Senate function as it should—especially the pages. I don't think Jesse Helms ever missed a chance to say "Thank you!" to the pages for their service to the Congress. That was just one of the ways that Jesse honored the Senate's traditions and respected the office he was elected to hold.

I remember a story he told me about his first Senate race. The campaign was in full swing, but Jesse's numbers didn't look too good. Then one day he ran into a fellow Mason who handed him a Masonic lapel pin. "Here," he said. "Wear this during your campaign and I guarantee you that you will win."

He took his friend's advice and wore the pin every day. Then, when the votes were counted, Jesse was the newly elected Senator from North Carolina.

He told me that story while we were in the cloakroom and I was watching him put a new back on the pin that now showed a lot of use. I told him that I was a Mason, too. As he put the pin back on his lapel, he told me that he

had worn that pin every day since his friend gave it to him during that first Senate campaign.

As I came to know him, I saw that Jesse and I shared a great fondness and appreciation for the youth organizations that are recognized by the Congress. He knew that they were teaching our kids things they weren't going to be getting any other way. He knew that these groups were helping our kids learn how to be good citizens and good students and to stand up for the things they believed in. He knew that they were helping to prepare our young people for the challenges they would face in school and later, in life.

One organization we both worked to support was the Boy Scouts. He was a strong supporter of Scouting and he stood up for them whenever they were unfairly criticized or attacked. His response to each attack was to craft a bill that protected the promotion of volunteerism, values and faith to ensure those valuable lessons would continue to be taught to the Scouts.

That is just one example of Jesse's commitment to the values that meant so very much to him. That is why he was able to get a lot of things done over the years. His success was based on his strong foundation of values and beliefs that he would stand fast on and that was enough for him to win on most occasions. Watching him in action on the floor or in committee taught me that conviction counts, especially when you are firm and comfortable in what you believe.

Jesse was a kind, soft spoken, effective, persistent and successful individual. He paid attention to people and they responded to him—in North Carolina and across the country. Another of his great political secrets was his understanding that a problem always appears bigger if it is your own. That's why the people of his State sent him back to the Senate for five terms. He listened to the people of North Carolina, he understood them, and he made their problems his own.

Now that the last chapter of his life has been written, Jesse Helms' record speaks for itself. It reflects the fact that he was never concerned with being popular or taking positions because they mirrored the results of the latest poll. His focus was always on doing what was right—because it was the right thing to do. I think he owes his perspective on life to some advice his father gave him that helped to shape his character and point him toward his destiny. Jesse would often share his father's words with others, "The Lord does not require you to win, but he does require you to try."

Jesse never forgot what his father told him. In fact, he lived those words by putting them into practice every day. No matter the odds or how impossible the situation was, Jesse stayed true to the life lesson his father taught him many years ago.

Now that he has been taken from us, it will be for others to judge his place