

about these six criminal cases to be candid, honest, and forthright. Judging by the overwhelming bipartisan support for his approval in the Judiciary Committee, so did many of my colleagues, on both sides of the aisle. Judge Davis has told us that in every case that has ever come before him, and there have been over 5,300 of them, he has done his best to determine the facts and to apply the law to the facts impartially and fairly.

Indeed, among the 5,300 cases that Judge Davis has presided over, he has a clear record of using a moderate and fair approach to criminal cases. He has presided over numerous important criminal trials that have resulted in convictions affirmed by the Fourth Circuit, and he has also granted motions to suppress evidence obtained in violation of the rights of the accused. So let's look at his record more broadly to get a clearer picture of his many years on the bench.

For example, in *US v. Ulrich*, Judge Davis handed down convictions for four defendants for mail fraud in connection with a real estate flipping scheme, a ruling that was affirmed by the Fourth Circuit in June 2007. In 2001, in *US v. Montgomery*, the Fourth Circuit affirmed his convictions related to a 10-week, multidefendant trial in a narcotics conspiracy prosecution. In 1998, the Fourth Circuit affirmed his conviction handed down in a murder prosecution in *US v. Gray*.

As a Fourth Circuit Judge, Judge Davis has expressed that he will follow the precedents of the Supreme Court and the circuit, and will continue to apply the law to the facts of each case impartially and fairly. His record as a district judge clearly bears out this commitment.

I thank my colleagues for supporting this nomination.

RECOGNIZING NEBRASKA'S ARMY NATIONAL GUARD

Mr. JOHANNIS. Madam President, I rise today to salute the 313th Medical Company of Nebraska Army National Guard on its upcoming and second deployment to Iraq. The 313th Medical Company is about to embark on an important mission, and I want its members to know how thankful I am for their service and how proud I am of their professionalism and dedication.

Thanks to the sacrifices made by the 313th during previous deployments and those of so many other servicemen and women, 29 million Iraqis are free, Iraq is the most democratic country in the Arab world, and Iraq has become an ally in the war on terror. As conditions continue to improve in Iraq, with Iraqi armed forces and police taking the lead on security, the need for our presence in Iraq is diminishing. However, we must be vigilant in successfully completing the transition. Medical support from the 313th will be vital to ensuring our achievements in Iraq are lasting.

Members of the 313th are some of the best-trained and prepared soldiers in

our Nation's history. Some of them have already been deployed one or more times and their experience will undoubtedly be invaluable to mission success. The equipment they use is the best in world. But, ultimately, their individual patriotism and dedication has made and continues to make the difference in Iraq.

I also thank the families of the 313th. They will also endure hardships in the name of freedom and security. Their support will undoubtedly enable the unit to focus on the mission. The Department of Defense and many private organizations have established programs to assist families while their loved ones are fighting overseas. My staff and I stand ready to assist them if they need help accessing these resources.

The thoughts and prayers of all Nebraskans and of grateful citizens across this great Nation go with the 313th. I could not be more proud of them, and look forward to seeing them all back in a year. May God bless the 313th, and protect them and their families as they answer the country's call to duty.

TRIBUTE TO LAURENCE CAROLIN

Mr. LEVIN. Madam President, today I would like to tell the story of a young Michigan man who gives us all great reason to be proud.

Laurence Carolin from Dexter, MI, was only 13 years old when doctors discovered an inoperable tumor in his brain. After intensive radiation and chemotherapy regimens, the tumor still grew. Today Laurence is 15. He has fought the cancer valiantly, but it is the larger fight he has waged for the impoverished around the world that moves me to speak today.

Laurence was born in South Korea, just south of the demilitarized zone. When he was 5 months old he was adopted by Lisa and Patrick Carolin, who brought him to their home a world away in Michigan. There, with access to education and health care, he experienced what he described as "the kind of start that I wish everyone could have."

Warning signs emerged in 2007 when Laurence started to get headaches and began to fatigue easily. Two days after Christmas he and his family received the diagnosis of the glioblastoma multiforme.

Many of us would react to this diagnosis with despair and self-pity. But not Laurence. When he was offered the opportunity to fulfill a dream by the Make-A-Wish Foundation, Laurence did what many 13-year-old boys might do: asked to meet his favorite rock star, U2's lead singer Bono. When told that might not be possible, Laurence asked instead that a donation be made to the United Nations Foundation to combat AIDS, tuberculosis and malaria in Africa. Characteristically, he said, "I should have thought of my next wish as my first wish. It's a much better wish. I have everything I need."

That selfless act was only the start of the great work Laurence has performed in his efforts to help fight poverty in his community and around the world. When a class at Mill Creek Middle School in his hometown wanted to raise donations for him, Laurence instead asked the class to run a food drive for the needy in Michigan. Today Laurence is organizing efforts in his community to support Nothing But Nets, a U.N. Foundation campaign designed to stop the spread of malaria across Africa.

Laurence says that though the cancer has weakened him, it has given him perspective on suffering that is felt around the world. His efforts to fight his cancer make him admirable. His actions to help the world's poor make him nothing less than heroic. His example calls us all to action, reminding us in his words that "it's our ethical and moral obligation to help others who are in need."

An avid guitar player, I am happy to report that Laurence did get that meeting with Bono and the rest of U2 after all, at a concert earlier this fall. Laurence's inspirational work gives new meaning to the band's music, which helped open his eyes to the problems in this world.

Laurence does not want to leave his work left unfinished. In his words, "Death isn't a big deal to me. It's just another part of life. Some people die earlier than others. . . . I can accept dying, but I don't want to die before there's an end to extreme poverty in Africa."

I thank Laurence for the example he sets, I commend him for his courage in confronting his disease, and I share his hope that someday soon the twin plagues of disease and poverty will be lifted.

NOMINATION OF DAVID GOMPURT

Mr. FEINGOLD. Madam President, I voted to confirm David Gompert to be Deputy DNI during the Senate Select Committee on Intelligence's, SSCI, consideration of his nomination. He is highly qualified, and the responses he provided to questions from members of this committee have generally demonstrated a strong grasp of many of the issues he will face. However, one issue—the statutory obligations to notify the full committee of intelligence activities—requires further comment. I voted against the confirmation of Robert Litt to be the ODNI's general counsel and that of Stephen Preston to be CIA's general counsel because of their misinterpretation of the National Security Act. Specifically, they misread the "Gang of Eight" provision, which is included only in section 503 of the act covering covert action, to apply to section 502, which covers all other intelligence activities. When I asked Mr. Gompert about this, he acknowledged that the provision is not in section 502 but nonetheless cited the views of the general counsel.

I have no reason to believe that, as a matter of policy, Mr. Gompert won't elect to notify the full SSCI, regardless of the statutory interpretations of the general counsel. Nonetheless, this confirmation process should serve to remind Mr. Gompert and other leaders of the intelligence community that those clear statutory obligations apply to them, regardless of the general counsels' misinterpretation of the law and regardless of the practices of the previous administration. These obligations are consistent with basic notions of statutory interpretation. They are also consistent with recent testimony before the House Permanent Select Committee on Intelligence by two experts on congressional notifications, both of whom worked on the Church Committee. Frederick "Fritz" Schwarz testified that the "Gang of Eight" provision "should be read as limited to covert action" and noted CIA Director Panetta's testimony at his confirmation hearing supporting this view. Britt Snider's testimony traced the entire history of the provision, describing amendments passed in 1991 and noting that he was general counsel of the Senate Select Committee on Intelligence at the time of the amendments and was "heavily involved in their development."

Another important change brought about by the 1991 amendments limited the "gang of 8" option to covert actions, rather than making it available to notify the committees of any intelligence activity that was particularly sensitive. This was done for several reasons. First, the gang of 8 option had, to that point, only been used for covert action. Sensitive collection programs had been briefed to the committees as a whole. The view on the two intelligence committees was that if an agency was instituting a new, ongoing program to collect intelligence, they all needed to know about it, regardless of its sensitivity. This was what the committees were set up to do. They had to authorize the funding for these programs. How could they not know of them? Again, the [George H.W.] Bush Administration did not resist the change . . . There have been no major changes to the congressional notification requirements since the 1991 Amendments. But I think it is fair to say that practice under the law has changed over time. It changed, for example, in the late 1990s when the CIA began to disclose more information to the committees about its collection operations, especially those that were experiencing problems. (Emphasis added.)

Both the plain language of the statute and its history are thus clear. Moreover, the practice of violating the statute in this manner is not longstanding; it was limited to the George W. Bush administration. It is therefore particularly dangerous for the current administration and any current leaders of the intelligence community to associate themselves with this misinterpretation of the law.

TRIBUTE TO CHAIRMAN SCHAPIRO AND COMMISSIONER AGUILAR

Mr. KAUFMAN. Madam President, I rise today primarily to note for the RECORD two recent speeches: one by Chairman Mary Schapiro and the second by SEC Commissioner Luis Aguilar.

Last year, rapid changes in the markets, opaque practices, and a lack of effective regulation caused a devastating financial debacle from which our Nation is still struggling to recover.

The lesson was simple: when our regulators fail to keep pace with market developments and are taken off the field, the consequences can be disastrous.

With this lesson in mind, I wrote to Chairman Mary Schapiro on August 21 urging the Securities and Exchange Commission to undergo a comprehensive "ground up" review of a broad range of market structure issues in order to ensure our regulatory capacity is up to speed with changes in the market.

I am pleased that the SEC is in the process of conducting such a review and has already acted to address flash orders and dark pools, two sources of potential unfairness that are opaque and insufficiently regulated. But a few narrowly tailored rule proposals are not enough to restore investor confidence and avert a future disaster. We need regulators, lawmakers, and investors to embrace a new approach to regulation—one that values fairness and transparency over liquidity and nips systemic risks in the bud.

Accordingly, I applaud Chairman Schapiro's speech, entitled "The Road to Investor Confidence," which she delivered at the Securities Industry and Financial Markets Association annual conference on October 27.

Chairman Schapiro outlined the road towards a lasting regulatory framework and a fairer market, asserting:

To me, we don't get there by assuming all is well now, and reverting to the practices that got us to where we are. We don't get there by letting newly engineered financial instruments escape the umbrella of regulation and the natural disinfectant of meaningful market transparency. And, we certainly don't get there by permitting, or even advocating, for gaps in our regulatory landscape. I believe those are the directions that send us back to another financial crisis. And, we cannot afford to let that happen.

Chairman Schapiro also discussed the importance of adopting a forward-looking approach to regulation, particularly with respect to rapid technological developments like high frequency trading.

She said:

I believe we need a deeper understanding of the strategies and activities of high frequency traders and the potential impact on our markets and investors of so many transactions occurring so quickly.

Following the chairman's lead, Commissioner Aguilar also struck a thoughtful chord with respect to upcoming regulatory reform in an impressive speech delivered at George Washington University Law School last Friday.

Commissioner Aguilar underscored the need for meaningful reform, stating:

[T]here is a growing concern that we might miss the opportunity to make the transformational changes required to address the realities of today's financial markets—and to prepare for the unforeseen challenges of tomorrow. Moreover, I fear that we may go

down the path of piecemeal changes that give the illusion of regulatory reform but leave us in danger of repeating our recent history. This "false comfort" would be a recipe for disaster.

Commissioner Aguilar also highlighted specific recommendations that should guide financial reform efforts. He asserted the focus of systemic risk regulation should be on investor protection and, should ensure "the continuation of systemically important market functions, not institutions. . . . To that end, systemic risk regulation should facilitate an environment where no institution is indispensable and where other firms can step in to meet the needs of the market."

Commissioner Aguilar went on to endorse the creation of a council of regulators which would better "identify accumulation of risks . . . [provide] for a diversity of perspectives that could make it more likely that a risk will be identified . . . facilitate the free flow of information among regulators . . . [and] avoid the inherent tensions and conflicts that arise when one regulator has combined responsibilities over monetary policy, a vested interest in the safety and soundness of particular institutions, and plenary powers to address systemic risk."

In addition to laying the foundation for systemic risk regulation, Commissioner Aguilar also maintained that regulators must be empowered to address a broad range of market practices, like hedge funds and asset-backed securities, for example, in order to "not only close today's gaps but to look ahead and [use] flexible powers that can be deployed as an unknown future unfolds."

Undoubtedly, reform is long overdue, and so I am pleased this body appears set to undertake financial regulatory reform legislation in the coming months. I look forward to working with my colleagues to enact meaningful reforms.

With Chairman Schapiro and Commissioner Aguilar's words as a guide, Congress should grant regulators the authority to ensure our markets are fair, stable and transparent in order to prevent another disaster. Mr. President, failure to do so is simply not an option.

Madam President, Chairman Schapiro and Commissioner Aguilar's speeches may be found at: <http://www.sec.gov/news/speech/2009/spch102709m1s.htm> (Schapiro) <http://www.sec.gov/news/speech/2009/spch1106091aa.htm> (Aguilar).

TRIBUTE TO TIM JOHNSON

Mr. LEAHY. Madam President, a voice familiar to thousands of Vermonters was singled out for special recognition this past weekend.

Tim Johnson, a broadcaster who has long made Brattleboro's WTSA Radio