

having the peace talks proceed. But it is a very different world today in the era of rockets than it was in 1967 when Israel captured the Golan Heights. Syria, obviously, wants the Golan back as a matter of national pride.

Former Secretary of State Kissinger told me that he found President Hafez al-Asad to keep his word on the negotiations for the disengagement in 1974, so that, obviously, any arrangements would have to be very carefully negotiated under President Reagan's famous dictum of "trust but verify."

It seems to me now is a good time to promote that dialog. The advantages would be if Lebanon could be stabilized. It is an ongoing question to the extent Syria is destabilizing Lebanon. The Syrian officials deny it. There is no doubt that Syria supports Hezbollah and Hamas, so that Israel could gain considerably if the weapons from Hamas were cut off and attacks from the south and Hezbollah were not a threat from the north.

The sending of an Ambassador is a very positive sign, a positive sign that Envoy former-Senator George Mitchell was visiting. I think this bodes well. The article I wrote in the Washington Quarterly some time ago sets forth in some greater detail my views on the issue of dialog.

I note my colleague has come to the floor, so I will conclude my statement and yield the floor.

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#### CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

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#### EXECUTIVE SESSION

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#### NOMINATION OF HAROLD HONGJU KOH TO BE LEGAL ADVISER TO THE DEPARTMENT OF STATE

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to executive session to resume consideration of the following nomination, which the clerk will report.

The assistant legislative clerk read the nomination of Harold Hongju Koh, of Connecticut, to be Legal Adviser of the Department of State.

The Senator from Missouri.

Mr. BOND. Madam President, I rise today to express my strong opposition to the nomination of Mr. Harold Koh to be the Legal Adviser to the Department of State. My concerns with Mr. Koh arise primarily from his own statements, writings, and testimony before Congress. In my opinion, he seems more comfortable basing his legal conclusions on partisan political opinions and trendy arguments rather than the facts and the law. We do not need more legal theorists in government. We need more legal realists in government, someone who pays attention to the hard work we do in this

body to pass laws. The Department of State and the country deserve better than that kind of advice.

Let me provide a few quick examples. On September 16, 2008, Mr. Koh testified before the Senate Judiciary Subcommittee on the Constitution. His written testimony included the following statement:

A compliant Congress repeatedly blessed unsound executive policies by enacting nominal, loophole-ridden "bans" on torture and cruel treatment and rubberstamping without serious hearings presidentially introduced legislation ranging from the PATRIOT Act to the Military Commissions Act to the most recent amendment of the Foreign Intelligence Surveillance Act.

In the same testimony, he argued that Congress should revisit the hastily enacted FISA Amendments Act with less emphasis on the issue of immunity for telephone and Internet service providers. He obviously was not paying attention.

Besides his condescending and inappropriate tone, I think his statements reflect a poor understanding of some of the most important pieces of national security legislation that have been passed since the September 11 terrorist attacks and passed on a bipartisan basis in both Houses.

As my colleagues may know, I was heavily involved in the legislative process surrounding the passage of the FISA Amendments Act. I can assure you that certainly was not the result of a congressional rubberstamp that was enacted hastily. We began working on the first one, the Protect America Act, debated it, and passed it in the summer of 2007. When we came back in the fall, the Senate Intelligence Committee went to work on a bipartisan basis, and we worked for months to get a truly bipartisan bill that came out of the committee. In that bill, we added many additional protections to American citizens to assure their rights would be protected from warrantless surveillance, even if they were overseas. We added that. And we added further protections. That bill passed the Senate. It went to the House, and it was stalled for months.

In the spring of 2007, I sat down with the Republican whip and the Democratic whip in the House of Representatives—STENY HOYER of Maryland and Mr. ROY BLUNT of Missouri. We went through and took account of all of the concerns they had on both sides in the House of Representatives. We worked with lawyers from the Department of Justice, from the intelligence community, and lawyers for the majority staff in the House of Representatives. It took us several months. What we finally came up with was a piece of legislation that overwhelmingly passed the House on a bipartisan basis and came back and passed the Senate on a bipartisan basis.

Another key aspect of the FISA Amendments Act was to ensure the intelligence community could continue to collect timely intelligence that could be used to prevent future ter-

rorist attacks. Another key aspect of the legislation was the carrier liability provisions that were designed to end frivolous litigation against companies alleged to have responded to requests for assistance from the highest levels of government. I don't know what planet Mr. Koh is living on, but if he thinks we can accept electronic communications without being able to give legitimate orders to the carriers of those communications, he doesn't understand the real world. That is where we find out what the terrorists' plans are, who the terrorists are, and where they are likely to strike. If we cannot say we are not going to have frivolous lawsuits against those who respond to lawful orders from the Federal Government, then we are not going to be able to have access to that information.

I am happy to report that earlier this month, the U.S. District Court for the Northern District of California, which had raised questions and entertained legislation, rejected the constitutional challenges to the carrier liability provisions and dismissed all but a few of the lawsuits involved in the multidistrict litigation. They found that, contrary to Mr. Koh, they were constitutional, and a well-reasoned opinion said they were right. A bipartisan majority in both Houses of Congress said they were right.

Let me be clear, the FISA Amendments Act was a necessary and important piece of national security legislation that is keeping us all safe. But despite the overwhelming bipartisan approval, apparently Mr. Koh does not see it that way. I urge my colleagues, even those who voted for cloture, to go back and think again, to see if legislation worked on for a year in this body on a bipartisan basis and passed by this and the other body should be dismissed as hastily approved.

In his book, he condemns the Democratic leaders in the Senate who played a leading role in making the improvements to the FISA Act. And to the Republicans, he condemned everybody who worked on it. Apparently, decisions need to be made in the Department of Justice, not through the elected will of those of us who represent the people of America. I think his charges and his disregard of Congress warrant a hard look at him.

Another example of Mr. Koh's partisan legal scholarship can be found in his May 2006 article in the *Indiana Law Journal*, where he wrote:

We should resist the claim that a War on Terror permits the commander in chief's power to be expanded into a wanton power to act as torturer in chief.

While that might appear to be a nice media sound bite in winning partisan plaudits, I think it is a bit premature to conclude that the United States illegally tortured detainees. We know the Department of Justice's Office of Legal Counsel reviewed the proposed interrogation procedures on several occasions and found them to be lawful. We in the Senate Intelligence Committee are

conducting a review of those practices to make sure what was done complied with the law. Where American soldiers violated all standards—not only of law but of decency—and performed unspeakable acts on detainees at Abu Ghraib prison, they were rightfully punished and sent to prison, as they should have been. That is what we do even with our brave soldiers who step out of bounds.

Here is another clever sound bite from Mr. Koh. In an article for the Berkeley Journal of International Law back in 2004, he wrote:

What role can transnational legal process play in affecting the behavior of several nations whose disobedience with international law has attracted global attention after September 11—most prominently, North Korea, Iraq, and our own country, the United States of America? For shorthand purposes, I will call these countries the ‘axis of disobedience.’

To my fellow colleagues, I ask: Do you accept the fact that the United States is part of an ‘axis of disobedience’? Do you really think fighting back against the terrorists who struck us on 9/11 was disobedience? Do you think we should have a Legal Adviser in the State Department who believes international law—ill-defined, not applicable—should be applied to affect his political judgments on America?

The Legal Adviser for the State Department should be an advocate for the Nation not a detractor. If I remember correctly, after September 11, by a vote of 77 Members in the Senate, plus a majority in the House, we made the determination to go to war in Iraq to make sure we didn’t suffer further attacks. It was in compliance with a U.N. resolution. Oh, I say, by the way, that was a legal international resolution.

A lot of people will say Mr. Koh had a distinguished career in government service and legal academia. I am concerned he spent a little too much time in the Ivory tower, and I wish he would return to that jurisdiction.

Given my previously stated concerns, I cannot and will not in good conscience vote in favor of his nomination. I recognize that Mr. Koh may be headed for confirmation, but I would ask those who may have previously voted for cloture to go to this nomination and think about what he said about Congress, about the work we have done, and about what he has said about America. Are you comfortable having him as a Legal Adviser to the State Department after what he said about America being part of the ‘axis of disobedience’? Are you comfortable with what he said about those of us who voted for the war resolution, about those of us who voted for the FISA Amendments Act? I certainly am not.

If he is confirmed, I would hope for his and our country’s sake, if he returns to the State Department, his legal advice will be based on facts rather than political rhetoric.

I yield the floor, and I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KAUFMAN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. KAUFMAN. Madam President, I ask unanimous consent to speak as in morning business for up to 10 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### HONORING DENISE JOHNSON

Mr. KAUFMAN. Madam President, once again I rise to honor a Federal employee whose service to our Nation is exemplary. Before I do, I want to thank my distinguished colleague from Mississippi, Senator COCHRAN, for his June 11 statement about Federal employees. It is my great pleasure to join with him and other Senators to recognize the enormous contributions to the security and prosperity of our country by those who work in the Federal Government.

Madam President, last week, I shared the story of a Federal employee who spent his career working at the Redstone Arsenal in Alabama. He helped design and test the advanced missile systems used by our military to defend our ideals overseas. This week, I wish to share the story of a Federal employee who also works to advance our interests overseas—that of humanitarian good works. Both are vital to our global leadership.

I have spoken before about the groundbreaking medical research performed by Federal employees at the National Institutes of Health. The advances in medicine and biotechnology pioneered by those working at NIH keep America’s health care the most innovative in the world. Yet making breakthroughs and developing treatments are only a part of how the Federal Government is helping to promote global health. One of our foreign policy and humanitarian priorities is to expand access to new medications and health technologies among those who live in the developing world.

The hard-working men and women of the Centers for Disease Control and Prevention are at the forefront of initiatives to bring lifesaving medicines to those in greatest need. Foremost, the CDC monitors, prevents, and, if necessary, contains the outbreak of deadly diseases in the United States, such as West Nile and Swine Flu. Part of this effort is a push to eradicate some of the most dangerous viruses throughout the world.

With the lens of Congress now focused on our health care system, so much has been said about its shortcomings. Yet for all the problems we face on this front, Americans are blessed with freedom from fear of diseases that afflicted previous generations.

When I was young, tens of thousands of children each year were stricken

with polio. In the early part of the 20th century, polio outbreaks occurred in the United States with deadly frequency. Parents used to keep their children home and away from their peers. Many became paralyzed or had to make use of the iron lung. We have all seen those famous images of President Franklin Roosevelt seated behind his desk in the Oval Office signing New Deal programs into law and overseeing a World War against the enemies of liberty. But at the same time, few Americans knew that behind that desk our President sat in a wheelchair, his legs paralyzed from his own battle with polio.

Today, in parts of Africa and South Asia, hundreds of children each year still develop polio. While children in developing nations routinely receive the Salk or Sabin vaccines, this is a luxury for rural villagers in places such as India, Nigeria, Afghanistan, and Somalia. The CDC has set a goal of vaccinating every child on Earth. Leading this charge over the past decade, Denise Johnson serves as the Acting Chief of the CDC’s Polio Eradication Branch.

Before she was recruited to direct this project, Denise served for 6 years as the manager of the CDC’s Family and Intimate Partner Violence Prevention Program. In this role, she oversaw the promotion of nonviolent, respectful relationships through community and social change initiatives. This was around the time that Congress passed the Violence Against Women Act, which was one of the proudest achievements of my friend and predecessor, Vice President JOSEPH BIDEN, during his career in the Senate.

When asked why Denise was highly sought after to work on the polio project, one of her supervisors at the CDC said:

If you do a good job keeping women and children from being beaten, you can eradicate polio.

With Denise at the helm, the Polio Eradication Branch has been working in close concert with the World Health Organization and UNICEF to promote immunization. In her first few years alone, Denise and her team helped immunize over a half billion—let me repeat that, a half billion—children in 93 countries.

From her office in Atlanta, Denise oversees a staff of over 40 professionals working overseas. Her effective leadership has proven to be a key factor in the program’s success. Denise administers the purchase and distribution of over 200 million doses of the oral polio vaccine—bought for a mere 63 cents per dose—and routinely serves as a field consultant in polio hotspots around the world. In fact, Denise is in Kenya right now, taking the fight against polio straight to the front lines.

Twenty years ago, there were over 350,000 cases of polio in 125 countries, but today there are fewer than 2,000 cases. That is 350,000 cases down to 2,000 cases because of the diligent work

performed by Denise and the rest of her team at the CDC's Polio Eradication Branch. It is only a matter of time before this disease no longer threatens our world's children.

Madam President, Denise is just one of so many Federal employees who have dedicated their lives to serving the greater good. She and her team are truly engaged in what President Obama has called "repairing the world." Their work saves lives and helps demonstrate our Nation's commitment to humanitarian leadership in the global community.

I hope my colleagues will join me in honoring Denise Johnson and her team for their outstanding work, as well as the important contributions made by all of our excellent public servants.

I yield the floor and suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CARPER. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mrs. HAGAN). Without objection, it is so ordered.

#### GROVES NOMINATION

Mr. CARPER. Madam President, in the Constitution, we see laid out before us a framework of how our government is supposed to work, with three branches—legislative, executive, judicial. We also find in the Constitution what our relative responsibilities are, not with great detail but with some definitiveness.

Ironically, one of the requirements the Constitution provides for us in this country is that every 10 years we try to count everybody. We have a census. Most nations do that. We have been doing that really for over 200 years. It does not get any easier. In fact, every 10 years it gets harder, and it also gets to be more expensive.

The Director of the Census does not serve a finite period of time. The Director of the Census really serves at the pleasure of the President, and we have had Census Directors who have served as little as 1 year and some Directors who have served maybe 4 or even 5 years.

This is particularly appropriate to speak about today because we do not have a Director of the Census. We had a Dr. Murdock, from down in Texas, who served for about the last year of the Bush administration as our Census Director. He did a very nice job. But at the beginning of this year, Dr. Murdock resigned. We do not have a Census Director. What we do have coming down the railroad tracks is the requirement to do the census.

Next April 1—I call it a little bit like D-day. At Normandy, we sent all of our troops ashore, and they scrambled off of those landing vessels. They stormed the beaches. That took place after literally months of planning, months of preparation, and finally the day of execution came.

In a way, the census is like preparing for the Normandy invasion. The efforts are underway now. They have been underway for months and will continue up to April 1 and beyond that day, as we try to count everybody. Yet, at this critical time, as we approach the need to conduct our census, to do it in an accurate, cost-effective way, we do not have a leader there. We have some good people, but they lack a Director.

Last month, I held a hearing of our Homeland Security and Governmental Affairs Subcommittee, and we invited people who had been high-level officials in, I think, every census since 1970—the 1970 census, the 1980 census, the 1990 census, and the 2000 census. We asked them to come in and talk to us about how they thought we were doing in terms of the preparation for the 2010 census. At the end of their testimony, I asked each of them to give to us on our committee two names of people who they thought would be excellent Census Directors, and they were good enough to do that. I think every one of them included in their recommendations the name of a fellow from Michigan—I am an Ohio State guy, but they recommended a fellow from Ann Arbor whose name is Dr. Robert Groves.

Dr. Groves is an expert in survey methodology. He has spent decades working to strengthen the Federal statistical system, to improve its staffing through training programs, and to keep the system committed to the highest scientific principles of accuracy and efficiency. Having once served as Associate Director of the Census Bureau a number of years ago, Dr. Groves knows how the agency operates and what its employees need to successfully implement the decennial census and other programs. He knows because he has been there. He is not just an academician—one of the most respected people in his field in the country—he actually helped run the Census Bureau at an earlier time. The combination of those experiences has prepared him well to lead the Bureau at a time when rapid developments and changes are occurring.

As a manager, he elevated the University of Michigan's Institute for Social Research to a premier survey research organization, respected throughout the country—actually, respected around the globe. Numerous Federal and State agencies and policymakers have sought his expertise in survey design and response. His work has received professional recognition through awards from various professional associations, including the 2001 American Association for Public Opinion Research Innovator Award and more recently the 2008 American Statistical Association Julius Shiskin Award for original and important contributions in the development of economic statistics. Ultimately, his deep expertise in survey response will help the Census Bureau focus on the most important goal of the 2010 census, which is to encourage all people to respond to the census.

Dr. Groves will undoubtedly face a host of operational and management challenges as we move closer to the 2010 census. However, I remain confident he is well equipped—remarkably well equipped—to understand the agency's inner workings, to lead his staff—he has led a large organization already; he served at a senior level at the Census Bureau before—and to also be a national spokesperson for the 2010 census and the agency's other equally important ongoing survey programs. It is for these reasons that I hope the full Senate will support his nomination and move it quickly.

Let me just reiterate, we are now about 8 months away from when the first forms go out as part of the start of the 2010 census. The Bureau has already completed something we call address canvassing—an operation in which 140,000 people on the ground nationwide were making sure the address lists we have to do the census are accurate.

Since the 2000 count, the population in this country is estimated to have increased by over 40 million people, with increased numbers of minorities and an increase in the number of languages spoken. Further complicating the 2010 decennial operations is the mismanagement and lack of preparation that occurred in past years, most notably in the failure of the field data collection automation contract, resulting in a last-minute decision to return to paper-based questionnaires, ultimately adding billions of dollars to the census budget. And it is only going to get harder the longer the Senate delays the confirmation process.

The reason we do not have a Census Bureau Director is not because we do not have a qualified candidate. It is not because our Subcommittee on Homeland Security and Governmental Affairs has not endorsed his candidacy. We have done so unanimously, and actually we have endorsed him with acclaim. We are just lucky, very fortunate in this country to have—at a time when we are about to try to meet our constitutional responsibility to count everybody accurately and in a cost-effective way—to actually have somebody with his gifts and his talents to bring to the job. What we do not have is the permission to bring his name up for a vote in the Senate. If we leave here today without having had the opportunity to vote up or down on the nomination of Dr. Groves, we will have made a very grave mistake.

I understand our Republican friends are uncomfortable, unhappy with the pace for the confirmation process for Judge Sotomayor, who has been nominated, as we know, to be an Associate Justice on the U.S. Supreme Court. I voted for Chief Justice John Roberts a couple of years ago. The timetable for approving his confirmation was almost the very same from the day he was nominated by former President Bush to the day we voted for him here, it was almost the same number of days we are