

I would ask my Senate colleagues to join me in commemorating his commitment to service and in extending sympathies to the Ardery family. The Commonwealth of Kentucky will be proud to remember the life and deeds of Mr. Philip Pendleton Ardery.

#### REMEMBERING JANIE CATRON

Mr. McCONNELL. Mr. President, today I rise in memory of Janie Catron of Corbin, KY. Elaine and I mourn the passing of our dear friend Janie, who served as my field representative in eastern Kentucky for many years when I was first elected to the Senate. She was a great friend and she will be missed. Elaine and I send our condolences to Janie's family and to all those who knew her.

Born on July 2, 1940, in Eubank, KY, to Jesse and Pauline Griffin, Janie was a registered nurse by trade. She was ordained in the Sacred Order of Deacons with the Episcopal Diocese of Lexington and began serving as Chaplain of St. Agnes House. She also was my eastern Kentucky field representative for 10 years.

Always interested in politics, Janie was active her whole life in civic service to the Commonwealth of Kentucky. In 1977, she was named the Fifth District governor of the Kentucky Federation of Empowered Women. She, besides aiding me in eastern Kentucky, was active in the State central committee and even became secretary of the committee. In recognition of her dedication to Kentucky and the Republican Party, in 1995, she was inducted into the Fifth District Lincoln Hall of Fame, which honors Kentuckians who have committed to promoting the values of the Republican Party.

Yet, Janie's legacy is greater than her career and political recognitions. As a pastor, she will be remembered as a woman who aided those around her and helped improve their lives. As a mother, she will be remembered as a selfless woman who always loved her children. As a friend, I will forever admire how hard she worked for the people she loved and the causes in which she believed.

Today, I ask my colleagues in the Senate to join me in extending condolences to Janie Catron's children, family, and friends. The Times Tribune, a publication from Whitley County, KY, published an obituary that highlighted Janie's life achievements. Mr. President, I ask unanimous consent that said article appear in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Times Tribune, July 10, 2012]

#### JANIE CATRON

Reverend Janie G. Catron, 72, of Lexington, passed away Sunday, July 8, 2012, at

the University of Kentucky Chandler Medical Center in Lexington.

Janie was born on July 2, 1940, in Eubank, daughter of the late Jesse and Pauline Griffin. She was a member of the Episcopal Church of the Good Shepherd in Lexington. Janie was ordained in the Sacred Order of Deacons with The Episcopal Diocese of Lexington, where she served as a chaplain of St. Agnes House. She was very devout to her calling and held a particular interest in pastoral care. She was selfless and giving in her actions, words, and deeds, and genuinely enjoyed helping to improve the lives of those around her. A registered nurse by profession, she also enjoyed Kentucky politics and worked for 10 years as the eastern Kentucky field representative for U.S. Sen. Mitch McConnell. She will be fondly missed by all who knew her.

Janie is survived by her children, Frances Catron Cadle (Ron), Lexington; Reba Catron Beirise (Tim), Lexington; Dr. Charles Paul Catron (Nicky), Vidalia, Ga.; and James Catron (Lillian), London; a sister, Kay Denham (Jackson), Somerset; a brother, Jeff Griffin (Sue), Eubank; one daughter-in-law, Sharon Wagers, Rome, Ga.; grandchildren, Matthew Alexander, Caneyville; Laura Catron, Lexington; Frank Thomas, Frankfort; Frank H. "Hank" Catron III, Rome, Ga.; Takoda and Emily Hacker, London; Mary Lauren and Julia Catron, Vidalia, Ga.; and one great-grandchild, Collin Alexander, Southshore; along with a host of family and friends.

She was preceded in death by her son Frank H. "Casey" Catron Jr.

Visitation will be held today (Tuesday, July 10, 2012) at Kerr Brothers Funeral Home, 3421 Harrodsburg Rd., Lexington, Ky. from 5 to 8 p.m.

A celebration of Janie's life will be held on Wednesday, July 11, 2012, at 10 a.m. at The Church of the Good Shepherd, 533 E. Main St., Lexington, Ky.

A visitation will be held on Thursday, July 12, 2012, in her longtime home of Corbin at O'Neil Funeral Home, 201 N. Kentucky St., Corbin, Ky., from 10 a.m. to 1 p.m. with a second celebration of life following at 1 p.m.

In lieu of flowers, memorial gifts may be sent to the St. Agnes House, 635 Maxwellton Court, Lexington, Ky. 40508, or to the ALS Association, Development Department, 27001 Agoura Rd., Suite 250, Calabasas Hills, Calif. 91301.

#### TRIBUTE TO MORGAN FRENCH

Mr. McCONNELL. Mr. President, I rise today to honor the life of Mr. Morgan French, of Radcliff, KY, who passed away in February 2012 at the age of 92. The U.S. Army's Warrior Transition Battalion at Fort Knox will soon be honoring Morgan by naming its barracks after him. Today, I would like to pay tribute to this American hero.

Originally from Perryville, KY, Morgan was a military veteran who personified the "greatest generation." He served in the U.S. Army with the renowned "Harrodsburg Tankers," Company D of the 192nd Tank Battalion. The Harrodsburg Tankers—including Morgan and his brother, Edward—were in the Philippines' Bataan Peninsula in the spring of 1942 and came under

heavy attack by Japanese forces. Morgan's brother, Edward, was killed and Morgan was taken as a prisoner of war, POW, by Japanese troops. He spent nearly three-and-a-half years of his life as a POW, enduring extreme conditions and harsh treatment. This brave Kentuckian maintained hope and courage throughout these hardships and was finally liberated by Allied Forces in September 1945. Morgan's military service did not end with World War II, however. Following his nearly three-and-a-half years as a POW, he returned to active duty, served two tours in the Korean War, and became a member of the Kentucky National Guard. Morgan retired from the military in 1962 after 23 years of service. He continued to work selflessly as a civilian, teaching at the U.S. Army Armor School at Fort Knox until 1984.

Morgan and his wife, Maxine—who preceded him in death—made Radcliff their home for almost half a century. I can't think of a more fitting tribute than for the U.S. Army to name the Warrior Transition Battalion barracks at Fort Knox after Morgan French, an American hero.

#### STOCK ACT

Mr. McCONNELL. Mr. President, S. 3510 addresses the concerns raised by 14 of the most highly respected folks in the national security field, from Michael Chertoff to Mike McConnell to Michael Mukasey, all of whom wrote with serious concerns about the application of one provision of the STOCK Act requiring online posting of financial data which would potentially impact the national security and the personal safety of national security and law enforcement professionals and their families. These are very serious concerns they have raised, and given that we are on the eve of the August district work period, we do not have time to adequately address those concerns. Thus, this very short bill adopts their joint recommendation to delay implementation until the national security and personal safety implications can be fully evaluated. Not one change has been made to what is required to be reported, and there is no change to the longstanding requirement that all these reports are already available in person. It is for the safety and security of our brave men and women that we need to ensure they are protected which is exactly what this bill does.

Mr. President, I ask unanimous consent to have a letter dated July 19, 2012, addressed to congressional leaders printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

JULY 19, 2012.

Re Application of Section 11 of the STOCK Act to National Security Officials.

Hon. HARRY REID,  
Majority Leader,  
United States Senate,  
Hon. ERIC CANTOR,  
Majority Leader  
House of Representatives,  
Hon. MITCH MCCONNELL,  
Minority Leader,  
United States Senate,  
Hon. NANCY PELOSI,  
Minority Leader,  
House of Representatives,  
Hon. CARL LEVIN,  
Chairman of the Senate Committee on Armed  
Services, United States Senate,  
Hon. BUCK McKEON,  
Chairman of the House Committee on Armed  
Services, House of Representatives,  
Hon. JOHN MCCAIN,  
Ranking Member of the Senate Committee on  
Armed Services, United States Senate,  
Hon. ADAM SMITH,  
Ranking Member of the House Committee on  
Armed Services, House of Representatives,  
Hon. JOHN KERRY,  
Chairman of the Senate Committee on Foreign  
Relations, United States Senate,  
Hon. ILEANA ROS-LEHTINEN,  
Chairman of the House Committee on Foreign  
Affairs, House of Representatives,  
Hon. RICHARD LUGAR,  
Ranking Member of the Senate Committee on  
Foreign Relations, United States Senate,  
Hon. HOWARD BERMAN,  
Ranking Member of the House Committee on  
Foreign Affairs, House of Representatives,  
Hon. JOE LIEBERMAN,  
Chairman of the Senate Committee on Homeland  
Security and Governmental Affairs, United  
States Senate,  
Hon. PETER KING,  
Chairman of the House Committee on Homeland  
Security, House of Representatives,  
Hon. SUSAN COLLINS,  
Ranking Member of the Senate Committee on  
Homeland Security and Governmental Af-  
fairs, United States Senate,  
Hon. BENNIE THOMPSON,  
Ranking Member of the House Committee on  
Homeland Security, House of Representa-  
tives,  
Hon. DIANNE FEINSTEIN,  
Chairman of the Senate Select Committee on In-  
telligence, United States Senate,  
Hon. MIKE ROGERS,  
Chairman of the House Permanent Select Com-  
mittee on Intelligence, House of Representa-  
tives,  
Hon. SAXBY CHAMBLISS,  
Ranking Member of the Senate Select Committee  
on Intelligence, United States Senate,  
Hon. DUTCH RUPPERSBERGER,  
Ranking Member of the House Permanent Select  
Committee on Intelligence, House of Rep-  
resentatives,  
Hon. PATRICK LEAHY,  
Chairman of the Senate Committee on the Judi-  
ciary, United States Senate,  
Hon. LAMAR SMITH,  
Chairman of the House Committee on the Judi-  
ciary, House of Representatives,  
Hon. CHUCK GRASSLEY,  
Ranking Member of the Senate Committee on  
the Judiciary, United States Senate,  
Hon. JOHN CONYERS, JR.,  
Ranking Member of the House Committee on the  
Judiciary, House of Representatives.

DEAR CONGRESSIONAL LEADERS: We are writing to express concern about section 11 of the Stop Trading in Congressional Knowledge Act (the STOCK Act), which requires that the financial disclosure forms of senior executive branch officials be posted on the Internet by August 31. While we agree that

the government should have access to the financial information of its senior officials to ensure the integrity of government decision making, we strongly urge that Congress immediately pass legislation allowing an exception from the Internet posting requirement for certain executive branch officials, in order to protect the national security and the personal safety of these officials and their families.

The STOCK Act was intended to stop insider trading by Members of Congress. However, section 11 of the Act, which was added without any public hearings or consideration of national security or personnel safety implications, requires that financial data of over 28,000 executive branch officials throughout the U.S. government, including members of the U.S. military and career diplomats, law enforcement officials, and officials in sensitive national security jobs in the Defense Department, State Department and other agencies, be posted on their agency websites.

It is not clear what public purpose is served by inclusion of Section 11. We are not aware that any transparency concerns have been raised about the adequacy of the existing review process for executive branch officials, most of whom have devoted their careers to public service. For several decades, executive branch officials have prepared and submitted SF-278 financial disclosure forms to their employing agencies. The completed forms and the extensive financial data they contain are carefully reviewed by agency ethics officers in light of the specific responsibilities of the officials submitting them in order to identify and eliminate potential conflicts of interest. Although the forms may be requested by members of the public, they are not published in hard-copy or on the Internet. Moreover, individuals requesting copies of the forms must provide their names, occupation, and contact information. Agencies generally notify the filing officials about who has requested their personal financial information.

In contrast, Section 11 of the STOCK Act would require that the financial disclosure forms of executive branch officials be posted on each agency's website and that a government-wide database be created containing the SF-278s that would be searchable and sortable without the use of a login or any other screening process to control or monitor access to this personal information.

We believe that this new uncontrolled disclosure scheme for executive branch officials will create significant threats to the national security and to the personal safety and financial security of executive branch officials and their families, especially career employees. Placing complete personal financial information of all senior officials on the Internet would be a jackpot for enemies of the United States intent on finding security vulnerabilities they can exploit. SF-278 forms include a treasure trove of personal financial information: the location and value of employees' savings and checking accounts and certificates of deposit; a full valuation and listing of their investment portfolio; a listing of real estate assets and their value; a listing of debts, debt amounts, and creditors; and the signatures of the filers. SF-278s include financial information not only about the filing employee, but also about the employee's spouse and dependent children.

Posting this detailed financial information on the Internet will jeopardize the safety of executive branch officials—including military, diplomatic, law enforcement, and potentially intelligence officials—and their families who are posted or travel in dangerous areas, especially in certain countries in Asia, Africa, and Latin America. Embassy and military security officers already advise

these officials to post no personal identifying information on the Internet. Publishing the financial assets of these officials will allow foreign governments, and terrorist or criminal groups to specifically target these officials or their families for kidnapping, harassment, manipulation of financial assets, and other abuse.

Equally important, the detailed personal financial information—particularly detailed information about debts and creditors—contained in the SF-278s of senior officials is precisely the information that foreign intelligence services and other adversaries spend billions of dollars every year to uncover as they look for information that can be used to harass, intimidate and blackmail those in the government with access to classified information. Yet under the STOCK Act, these SF-278s will be placed on the Internet for any foreign government or group to access without disclosing their identity or purpose and with no notice to the employees or their agencies. We should not hand on a silver platter to foreign intelligence services information that could be used to compromise or harass career public servants who have access to the most sensitive information held by the U.S. government.

Section 11 could also jeopardize the safety and security of other executive branch officials, such as federal prosecutors and others who are tracking down and bringing to justice domestic organized crime gangs and foreign terrorists. Crime gangs could easily target the families of prosecutors with substantial assets or debts for physical attacks or threats.

Finally, publishing detailed banking and brokerage information of executive branch officials, especially with their signatures, is likely to invite hacking, financial attacks, and identity theft of these officials and their families, particularly by groups or individuals who may be affected by their governmental work.

Given these inevitable adverse national security consequences, we urge you to amend the STOCK Act to protect U.S. national security interests and the safety of executive branch officials by creating an exception from the requirements of Section 11 for senior executive branch officials with security clearances. The exception should also apply to other officials based on a determination by an agency head that an exception is necessary to protect the safety of the official or the official's family. At the very minimum, Congress should act to delay implementation of Section 11 until the national security and personal safety implications can be fully evaluated.

If the financial disclosure forms of senior executive officials are actually posted on the Internet in August, there will be irreparable damage to U.S. national security interests, and many senior executives and their families may be placed in danger. This issue is too important to be trapped in partisan politics. We urge Congress to act swiftly, before the Congress goes on its summer recess on August 6.

Sincerely,

Richard Armitage, Deputy Secretary of State, 2001–2005; John B. Bellinger III, Partner, Arnold & Porter LLP; Legal Adviser, U.S. Department of State, 2005–2009; Legal Adviser, National Security Council, The White House, 2001–2005; Joel Brenner, National Counterintelligence Executive, 2006–2009; Inspector General, National Security Agency, 2002–2006; Michael Chertoff, Secretary of Homeland Security, 2005–2009; Jamie Gorelick, Deputy Attorney General, 1994–1997; General Counsel, Department of Defense, 1993–1994; John Hamre, Deputy Secretary of Defense, 1997–2000; Michael Hayden, General USAF (RET); Director of the Central

Intelligence Agency 2006–2009; Director of the National Security Agency 1999–2006; Mike McConnell, Vice Admiral USN (RET); Director of National Intelligence, 2007–2009; Director of the National Security Agency, 1992–1996; Michael B. Mukasey, Partner, Debevoise & Plimpton; Attorney General, 2007–2009; U.S. District Judge, Southern District of New York, 1988–2006; John Negroponte, Deputy Secretary of State, 2007–2009; Director of National Intelligence, 2005–2007; Thomas Pickering, Under Secretary of State for Political Affairs, 1997–2000; Former U.S. Ambassador; Frances Townsend, Assistant to the President for Homeland Security and Counterterrorism, 2004–2008; Kenneth L. Wainstein, Assistant to the President for Homeland Security and Counterterrorism, 2008–2009; Assistant Attorney General for National Security, Department of Justice, 2006–2008; Juan Zarate, Deputy National Security Advisor, Combating Terrorism, 2005–2009; Assistant Secretary of the Treasury, Terrorist Financing and Financial Crimes, 2004–2005.

#### PRO FORMA SESSION APPOINTMENTS

Mr. MCCONNELL. Mr. President, in January of this year the President of the United States made several appointments without obtaining the Senate's advice and consent. He asserted that the Recess Appointments Clause of the Constitution authorized these appointments, even though the Senate was conducting a series of pro forma sessions at the time of the appointments. According to the administration, these pro forma sessions had no legal effect on the President's authority under this Clause because pro forma sessions do not allow the Senate to perform its constitutional functions or conduct business. The Congressional Research Service has found, however, that pro forma sessions, such as the ones occurring during the time of these so-called recess appointments, have satisfied—and continue to satisfy—numerous Constitutional, statutory, and legislative requirements, and that the Senate, in fact, has conducted business during such sessions. The Congressional Research Service also has found that the administration has repeatedly recognized the legal validity of pro forma sessions for purposes of satisfying these various requirements. I ask unanimous consent that the analysis of the Congressional Research Service from March 8, 2012 entitled "Certain Questions Related to Pro Forma Sessions of the Senate" be printed in the RECORD following this statement.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CONGRESSIONAL RESEARCH SERVICE,  
March 8, 2012.

#### MEMORANDUM

To: Senate Minority Leader

From: Christopher M. Davis, Analyst on Congress and the Legislative Process, 7-0656

Subject: Certain Questions Related to Pro Forma Sessions of the Senate

This memorandum responds to your request for information about certain pro forma sessions of the Senate. Specifically, you asked CRS to identify instances in which a pro forma session of the Senate might be interpreted as accomplishing some further end in addition to meeting the constitutional requirement that neither cham-

ber recess or adjourn for extended periods without the permission of the other.

#### PRO FORMA SESSIONS OF CONGRESS GENERALLY

Under Article I, Section 5, Clause 4 of the Constitution, neither chamber of Congress may adjourn or recess for more than three days without the consent of the other. In calculating such a three day period, either the day of adjourning or the day of convening must be included. Sundays are excluded from the calculation, being considered a dies non under longstanding parliamentary law.

A chamber can adjourn within the three day limit, for example, from Thursday to Monday, or from Friday to Tuesday, by simply adopting a motion. Should a chamber wish to leave for a longer period, however, the other chamber must consent to the absence. Historically, for such purposes, the two houses have most often adopted a concurrent resolution through which each consents to the absence of the other for a specified period.

In the normal course of business, party leaders in one or both chambers may wish to schedule periods of absence that exceed the three day constitutional limit by only a short period, perhaps by as little as one day. It is not uncommon, for example, for the House or Senate to adjourn from Thursday to Tuesday, or from Friday to Wednesday. In instances of this type, the chambers have evolved a practice of holding a short session sometime during the absence to comply with the constitutional limit described above. Such "pro forma" sessions, or sessions held for the sake of formality, allow a chamber to comply with the Constitution but not expend the time or trouble of acting on an adjournment resolution. In most cases, little or no business is conducted during such sessions because it is generally understood that few Members are present, and that the primary purpose of the meeting is to obviate the need to agree to an adjournment resolution. The Senate often adopts an order by unanimous consent which specifies that such a meeting or series of meetings is to be pro forma and that no legislative business is to be conducted on such days.

It is important to note that the term pro forma describes the reason for holding the session, it does not distinguish the nature of the session itself. In common congressional usage, Members and staff often use the term pro forma as being synonymous with a session at which no business will be conducted. While the primary purpose of a pro forma session of the Senate may be to comply with the constitutional strictures on adjournment, a pro forma session is not materially different from other Senate sessions. While, as noted above, the Senate has customarily agreed not to conduct business during pro forma sessions, no rule or constitutional provision imposes this restriction. Should the Senate choose to conduct legislative or executive business at a pro forma session, it could, providing it could assemble the necessary quorum or gain the consent of all Senators to act. The House of Representatives, which is bound by the same constitutional requirements as the Senate, regularly permits business on pro forma days, including the introduction and referral of legislation, the filing of committee reports and co-sponsorship forms, and the receipt and referral of executive communications and Presidential messages. Even in cases in which the Senate has agreed not to conduct business at a pro forma session, it could subsequently adopt a second consent agreement which would permit them to do so.

#### OTHER MOTIVATIONS OR PURPOSES FOR PRO FORMA SESSIONS OF THE SENATE

While the primary purpose of a pro forma session of the Senate has been to comply with the constitutional limits on adjournments and recesses, it is possible that such

meetings, being sessions of the Senate, may have additional purposes as well. At your request, CRS examined pro forma sessions of the Senate which occurred between the 109th Congress (2005–2006) and the present as well as the opening day of each Senate session between 1934 and the present, in order to identify sessions which may have satisfied some other purpose in addition to compliance with Article I, Section 5, Clause 4 of the Constitution. On the basis of these data, CRS identified two pro forma sessions at which legislative business was conducted, three periods of pro forma sessions that allowed the Senate to avoid returning nominations to the President, and six pro forma days that satisfied the constitutional or statutory requirement that the Senate convene a new session. In addition, both the Senate and the Executive Branch take pro forma sessions into account in calculating various required time periods pursuant to expedited procedure statutes. The following sections discuss each of these categories in turn.

The instances cited in this memorandum cannot be said to be exhaustive, but are intended to underscore the idea that pro forma Senate sessions may be motivated by factors other than complying with the constitutional limit on adjournments, and may satisfy the requirements of other procedural authorities, including other provisions of the Constitution, Senate rules, and statutes.

#### PRO FORMA SESSIONS AT WHICH LEGISLATIVE BUSINESS WAS CONDUCTED

Using information from the Legislative Information System of the U.S. Congress (LIS) and relevant issues of the daily Congressional Record and Senate Calendar of Business, CRS identified 114 pro forma sessions of the Senate which occurred between January 4, 2005 and March 8, 2012. These pro forma sessions are identified in Table 1.

Of these 114 pro forma meetings of the Senate, CRS identified two at which legislative business appears to have been conducted. On both of these occasions, the two houses had agreed to no adjournment resolution, so that the Senate was required to meet in order to avoid violating the constitutional prohibition on absences of more than three days length. The days in question are:

December 23, 2011: On this day, the Senate adopted an order by unanimous consent which provided for Senate passage of a H.R. 3765, a House measure extending the, "payroll tax, unemployment insurance, TANF, and the Medicare payment fix." The consent order further provided that upon receiving a message from the House of Representatives requesting a conference with the Senate on H.R. 3630, the Middle Class Tax Relief and Job Creation Act of 2012, the Senate agree to the request, and the Senate presiding officer be authorized to appoint Senate conferees with a party ratio of 4-3. An enrolled measure was also signed on this day by Sen. Reid, serving as Acting President Pro Tempore.

August 5, 2011: On this day, the Senate, by unanimous consent, passed H.R. 2553, a measure to amend the Internal Revenue Code of 1986 to extend the funding and expenditure authority of the Airport and Airway Trust Fund and to amend title 49, United States Code, to extend the airport improvement program.

In the first instance cited above, the previous meeting of the Senate had occurred on Tuesday, December 20, 2011. In the second instance, the Senate had most recently met on Tuesday, August 2, 2011. At both of these pro forma sessions, pursuant to unanimous consent orders adopted by the Senate, no legislative or executive business was to be conducted. The Senate subsequently, however,