

new taxes, without new spending, and without borrowing from the Social Security Trust Fund.

That is the responsible thing to do. That is the honest thing to do. And, Mr. President, that is the right thing to do.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I have two different items that I want to visit with my colleagues about. No. 1 is on international trade, and the second one will be on the Massiah-Jackson nomination that is before the Senate.

(The remarks of Mr. GRASSLEY pertaining to the submission of S. Con. Res. 74 are located in today's RECORD under "Submission of Concurrent and Senate Resolutions.")

#### EXECUTIVE SESSION

#### NOMINATION OF FREDERICA A. MASSIAH-JACKSON, OF PENNSYLVANIA, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF PENNSYLVANIA

The Senate continued with the consideration of the nomination.

Mr. GRASSLEY. Mr. President, I want to make a few comments on the nomination of Judge Frederica Massiah-Jackson to the Federal District Court for the Eastern District of Pennsylvania.

Recent resistance to her nomination has moved beyond individual opponents to wide-spread, bipartisan opposition. We've heard about opposition from the Pennsylvania District Attorneys Association.

Additional opposition comes from a Philadelphia lodge of the Fraternal Order of Police, as well as the Fraternal Order of Police, National Legislative Program. The F.O.P. has written letters to the Senate and the President voicing their concerns over the safety and welfare of the Philadelphia police force if Judge Massiah-Jackson is confirmed. They fear her established record of being extremely lenient on criminals and her insensitivity to victims of crime will "pose a direct threat" against police. Also, the National Association of Police Organizations, which represents more than 4,000 police unions and associations and over 220,000 sworn law enforcement officers, opposes the confirmation of Judge Massiah-Jackson.

If this isn't a strong indication of the problems this nominee's confirmation would cause, I don't know what is.

The Northampton County District Attorney has also written a letter to the Senate detailing twelve separate instances illustrating the improper conduct of Judge Massiah-Jackson. The facts on which the letter is based were compiled from internal memorandums, court transcripts and other documents from the office of the Philadelphia District Attorney's Office. The most egregious example disclosed by

the letter was a 1988 acquittal of a man charged with possession of two and a half pounds of cocaine. The acquittal was the second by Judge Massiah-Jackson of alleged drug dealers arrested by the same police officers. In open court she told these arresting officers, who were working undercover, to turn around and told the drug dealers and other spectators to "take a good look at the undercover officers and watch yourselves." The incident was reported in a Philadelphia newspaper and, as has been mentioned, the Judiciary Committee has also received the signed statements of Detective Sergeant Daniel Rodriguez and Detective Terrance Jones, the officers involved. This conduct not only significantly reduced the crime fighting effectiveness of the officers, but more importantly, they believed it put their lives in serious peril. This is not the type of conduct expected from a Judge, nor can it be tolerated.

In addition to this letter, the members of the Judiciary Committee also received a letter from Philadelphia District Attorney Lynne Abraham, who stands in opposition to this nomination. The opinion of Mrs. Abraham, who by the way is a Democrat, is particularly relevant since she campaigned with and served on the bench at the same time as Judge Massiah-Jackson. Mrs. Abraham concludes that, "the nominee's record presents multiple instances of a deeply ingrained and pervasive bias against prosecutors and law enforcement officers and, by extension, an insensitivity to victims of crime. Moreover, the nominee's judicial demeanor and courtroom conduct, in my judgment, undermines respect for the rule of law and, instead, tends to bring the law into disrepute." She further notes that, "this nominee's judicial service is replete with instances of demonstrated leniency towards criminals, an adversarial attitude towards police, and disrespect and a hostile attitude towards prosecutors unmatched by any other present or former jurist with whom I am familiar."

These are not the biased opinions of racist or sexist opponents, as some have irresponsibly charged. They are the informed opinions of respected district attorneys and law enforcement officers with personal knowledge of the nominee. In fact, District Attorney Abraham has publicly said she "firmly believes the next appointee to the U.S. District Court here should be an African-American woman. But that appointee should be one of the many eminently well-qualified African-American women lawyers in the area, and not Massiah-Jackson."

Despite these fact-based opinions, supporters of the nominee have repeatedly insisted that she should not be judged on a few cases, and that her overall record can be characterized as fair to law enforcement and crime victims. They also point out that sentencing statistics show she is right in

line with other judges. I must say these arguments are misleading, as demonstrated by the statistics provided to the Senate Judiciary Committee.

In reality, Judge Massiah-Jackson deviated from state sentencing guidelines, in favor of criminals, more than twice as often as other judges according to statistics compiled by the Pennsylvania Commission on Sentencing. From 1985 till 1991, Judge Massiah-Jackson sentenced below the Pennsylvania guidelines 27.5 percent of the time. Other Pennsylvania judges sentenced below the guidelines in only 12.2 percent of the cases. This record cannot be characterized as fair to victims or law enforcement, and is not in line with other judges. We've also heard the argument that district attorneys regularly disagree with judges. Well, Mr. President, in the seventeen years I've been voting on judicial nominees, I don't ever recall such local, public opposition as we've seen in this case. This is truly unprecedented.

We in the Senate can no longer overlook and excuse a record that is clearly against the interests of law enforcement personnel and victims of crime, or professional conduct which is below the dignity of a judge. No person, of any race or any gender, should be able to serve on the federal bench if she or he demonstrates a bias against police and prosecutors, is soft on crime and shows a lack of proper judicial temperament. For these reasons, I will oppose the confirmation of this nominee and urge my colleagues to do the same.

The PRESIDING OFFICER (Mr. COATS). The Chair recognizes the Senator from North Dakota.

#### ISTEA

Mr. DORGAN. Mr. President, I want to visit for just a minute the issue about the highway bill and roads.

I would say to the Senator from Indiana, the Presiding Officer, that when I was in high school in a small town in North Dakota, I was agitating pretty hard to get a car. The way my dad warned me off from this desire to purchase a car was he said I'll let you buy a car because I have one spotted for you. But he insisted that I would have to restore it.

Sure enough, my father, who delivered gasoline to rural users, family farmers, with his rural delivery gasoline truck, had been out on a farm and he saw a 1924 Ford Model T in a granary. It had been sitting in that granary for many, many years. He said, you know the fellow who used to own that farm and put that Model T in there, he lives out of State. You should write him a note and see if he would want to sell you that Model T. So I did, and the fellow wrote back and said he would be glad to sell me his 1924 Model T Ford. He sold it to me for \$25 and sent me the original key and original owner's manual.

I went out to look at this car I just bought and the rats had eaten out all the seat cushions and all the wiring

and all there was was a metal shell with the engine, and no tires, of course. And so I was the proud owner of a 1924 Model T Ford. That's the car my dad got me for my social life. It wasn't much of a social life for long while, because it takes a long time to restore a Model T Ford. As a matter of fact, I didn't know much about it. I was told, by the way, the reason the owner drove it to the granary and put it in that granary for a long, long time was the Model T's are like the old red wagon you used to pull when you were a kid. If you turn the wheel in front too far, they would tip over. It's called jackknife. A lot of people don't remember that. But the Model T would jackknife if you turned the wheel too sharp. I was told, the fellow who owned it had been in town drinking and driving home from the bar he thought he saw some chickens in the road so he thought he'd take a sharp left turn and he jackknifed the Model T and it pinned him beneath the Model T and hurt him a little bit. He survived, but he parked the Model T in the granary and never drove it again. He was pretty upset, I guess.

Then I bought it. Then I had a 1924 Model T Ford to restore and drive on modern roads, which was really quite an interesting thing to do. It didn't improve my social life, but nonetheless I had a car, an old car on new roads.

One of the interesting things about automobiles in our society is that we have not only seen dramatic changes in our automobiles from the first Model T I purchased as a young kid, but the infrastructure that we use and that we need for those automobiles and for transportation has also changed dramatically.

I am told that a new automobile in this country, manufactured here today, has more computer power in the automobile than existed in the lunar lander that put the first American on the Moon. There were breathtaking changes in manufacturing techniques and the production of consumer products, especially in automobiles. But we also have to understand that, as a society, that no matter how much we change these consumer products in ways that are really wonderful, we also must invest in infrastructure. So we have, over the years, consistently, Republicans and Democrats, everyone, worked together, from county commissioners to U.S. Senators and mayors and Governors, to decide we need a first-class road system. We have, in part, become a world-class economy because we have a first-class infrastructure and a first-class transportation system.

We have before us in the U.S. Congress the need to pass a new highway bill. It is not a partisan issue. I don't come to the floor to blame anybody for anything. I come to the floor, as have some Republicans and some Democrats, and say it is time now to put the highway bill on the floor and let people who want to offer amendments offer

the amendments and pass a highway bill so that those people out there who are running the highway programs in the State governments, and those people in the county commission offices and in the townships and the cities, will understand how much money is available to build and to repair roads and bridges. This plan must be passed by the Congress to allow all of those folks to understand what they can and cannot do; how much is available.

This morning I stopped to put some gas in my car on the way to work. I not only paid for the gasoline, I also paid a tax. That tax is going to go from that station that I stopped at to the Government coffers and will be put in a trust fund, and it is going to be used in one way or another, I expect, to build a road or repair a bridge. That's the purpose of the gas tax that we have imposed, in order to provide for this infrastructure investment.

We have a responsibility now to do last year's work. Some say, "Gee, we didn't get it done last year. That is somebody else's fault." Or they point a number of different ways. "But now we must wait for next year's budget in order to bring the highway bill to the floor."

We don't need to delay last year's work to deal with next year's budget. It doesn't make any sense to me. Those people who have come to the floor of the Senate on a bipartisan basis and said this Congress is moving at a Model T speed here—this is really glacial speed, at least as we have taken off from the blocks. Let us bring something to the floor that we must do and must do soon. Let all those who have amendments to it offer those amendments, have a debate on the amendments, and vote so we can do our business.

Some say if we do it the other body will not do it anyway. The other body has signaled that it does not intend to take up a highway bill until the budget is complete this spring.

I was on a television program with the chairman of the committee in the other body that deals with this issue. He said that the Speaker has indicated he doesn't want this to come up until after the budget process. I respectfully say to the Speaker, "That may be your desire, but I don't think that's what the American people desire." It's certainly not what I desire. I hope at least those of us in the Senate could pass the bill and send it over to the House and then say to them the American people want this done. Let's put some pressure on them. The best way to apply pressure to get something done is to do our work. Our job at this point is to bring the bill to the floor and begin to deal with this bill.

I have traveled in various parts of the world at various times. One of the interesting things that distinguishes a Third World country or a developing country from a developed country or an industrialized country is its infrastructure. I have been in hotels, the

best hotel in a town, and turned on the tap and have gotten rust and water together because their infrastructure was terrible. And I have driven from that town in a Jeep, going only 25 or 30 miles an hour because the roads, the main roads, the best roads, are full of holes and ruts that will tear up a car's underside if you go faster than that. We all understand that many of those countries have not had the opportunity or the resources to develop their infrastructure.

In some ways, the inability to develop the infrastructure predicts that they will not become a developed country; that they will remain a country that is a Third World country. We distinguish ourselves and have become an enormously successful country over a couple of hundred years by our desire to build in this country, to build and create. Part of that building and creating is to invest in infrastructure. And part of that is to invest in the best road and highway system anywhere.

We face some daunting tasks now with respect to bridges and some of our roads in this country. They are in desperate need of repair. We have been putting money in a trust fund with which to do that. Yet, in many cases the trust fund hasn't been used because they want to build up that money to use it as an offset to make the deficit look different than it should have looked. Or others have other ideas on what to do with the money. The point is, we have a responsibility, all of us serving now, to deal with the infrastructure needs of our country now. I implore the majority leader and others to consider, as they develop the agenda for this Senate, that, beginning tomorrow or the day after tomorrow or next Monday, decide that high on the agenda, at the top of the list, will be for us to do what we must and should do: Pass a highway program that invests in this country's infrastructure.

Mr. President, I indicated that this is not an issue of partisanship. It is, interestingly enough, every time you get a highway bill to the floor, it is a debate between a group of States that think the formula by which we divide the highway moneys is a terrible formula and others who think the formula is a wonderful formula. It depends on who gets and who gives. My State, I just would say with respect to the formula, as you might think, gets more back than it sends in for the highway program. So some States would look at my State and say: "Well, your State is a receiving State or a recipient State or a beneficiary" and my State, somebody else's State, they would say, "is a donor State. We are upset about that."

Without getting into a debate about the formula, I would just say this. We are a State that is 10 times the size of Massachusetts, in North Dakota. You can put 10 States the size of Massachusetts inside the borders of North Dakota. Yet we have only 640,000 citizens. Those 640,000 citizens cannot by themselves pay sufficient gas taxes locally

to maintain the roads and bridges necessary in our State, in order to make it a national road system. We cannot do it.

In fact, if you measure the burden another way, we in North Dakota rank among the highest in the country in per-person payments of Federal gas tax. Our burden ranks among the highest in the country. But others want to segregate it out and say, "Well, you are a recipient State and that is not right."

I say, but we in North Dakota pay for the Coast Guard.

We don't mind doing that. I am a taxpayer. My constituents are taxpayers. We pay for the Coast Guard. We don't really have any coast to guard. North Dakota is landlocked. We don't mind really doing that. That is the way these things should be done on a national basis.

When it comes to investing in highway programs, we feel also that there ought to be a national program to make sure that our country is a country that is not divided by those areas that have good roads and those that don't, because some can afford it and some can't.

Roads and infrastructure represent a national need and a national priority, and the satisfaction of that need and priority makes this a better and a stronger country. I hope that the discussions on the floor of the Senate by Senator BYRD, Senator GRAMM and Senator BAUCUS and so many others who are urging that we be allowed on this agenda to consider very, very soon the highway reauthorization bill, I hope those urgings will be heard and that we will very soon be on that particular business.

Mr. President, with that, I see a colleague is on the floor. I yield the floor.

Mr. HUTCHINSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. HUTCHINSON. Mr. President, I ask unanimous consent to proceed as in morning business for a period not to exceed 10 minutes.

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

Mr. HUTCHINSON. I thank the Chair.

(The remarks of Mr. HUTCHINSON pertaining to the introduction of S. 1631 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. THOMAS. Mr. President, I ask unanimous consent to speak for 5 minutes as in morning business.

The PRESIDING OFFICER. The Senator is recognized for that purpose.

Mr. THOMAS. Thank you very much.

#### JACKSON HOLE AIRPORT

Mr. THOMAS. Mr. President, I rise today to talk a little bit about a parochial issue that is peculiar to Wyoming, but it is one that is troublesome. It has to do with the Jackson Hole Airport. I am rising to express my frustration regarding the Federal Aviation Administration (FAA) and its lack of action with respect to an environmental assessment (EA) regarding safety issues at the Jackson Hole Airport.

Let me explain why the issue is so important to us in Wyoming. Jackson Hole is the busiest airport in Wyoming. It is the only commercial service airport in the country that is located within a national park, Grand Teton National Park. As a consequence, of course, the FAA and the Park Service are very careful about making safety or other improvements at this facility. And they should be. As chairman of the Senate subcommittee on national parks, I agree that all of the proposals for changes at the Jackson Hole Airport ought to be carefully examined. You won't find a bigger advocate for our national parks in the U.S. Senate than me. However, there are some significant safety issues that must be addressed quickly.

Between 1984 and 1992, the airport had more "runway excursions," which is a nice way of saying they ran off the end of the runway, than any other airport in the country. This includes a broad range of aircraft, from general aviation and small commuters, to large aircraft such as 757s.

Since 1992, there have been seven additional runway "incidents" that have occurred.

In response to these problems, the Jackson Hole Airport board began an environmental assessment in 1992. All the interested parties, including the Park Service and the FAA were at the table. In fact, in 1993, I wrote Transportation Secretary Pena asking for inter-agency cooperation on this important issue, including the National Park Service, the Interior Department, the FAA, and the Department of Transportation. I wrote that letter in order to avoid the kind of situation that we have now.

In April of 1997, the airport board finally completed the assessment, after 5 years, and submitted it to the FAA. The results of the environmental assessment appeared to be very reasonable.

It would bring the runways into compliance with current FAA runway standards. That makes sense.

It would improve safety without increasing the length of the runways, which is very important. There is opposition by some to making the runways longer because they are in the park. And there is some opposition to making them longer because that could ac-

commodate bigger airplanes, and some people are not anxious to see that happen.

It would not result in any significant noise increase. In fact, I am told that the newer airplanes are less intrusive with noise perhaps than the older ones.

If, in fact, these statements are correct—and they appear to be—then why is the proposal being delayed? The FAA has been unresponsive and uncooperative with my office on this matter.

In December of 1997, 8 months after the completion of the study, the FAA still had not acted on the environment assessment. I wrote the agency asking it to expedite its consideration of this matter and I ask unanimous consent to have it printed in the RECORD.

There being no objection, the letter is ordered to be printed in the RECORD, as follows:

DECEMBER 4, 1997.

JANE F. GARVEY,  
Administrator, Federal Aviation Administration,  
Washington, DC.

DEAR ADMINISTRATOR GARVEY: We write to request that you expedite action on the Final Environmental Assessment (EA) submitted by the Jackson Hole Airport Board in April of this year. Prompt action by the Federal Aviation Administration (FAA) is vital to maintaining safe air travel to and from Jackson Hole Airport.

As you may know, the Jackson Hole Airport enplanes more passengers than any other in our State and provides an essential transportation link to the northwest area of Wyoming. In addition, between 1984 and 1992, the Jackson Hole Airport had more "runway excursions" than any other air carrier airport in the United States. Both you and Secretary of Transportation Slater have emphatically stated that safety is the top priority of this administration. We agree that the traveling public's safety is vital and consequently ask that you expedite the consideration of this plan.

In the fall of 1993, the Wyoming Congressional Delegation requested inter-agency cooperation in the preparation of an Environmental Assessment of Master Plan Alternatives to enhance the safety and efficiency of the Jackson Hole Airport. The Delegation was assured by then Secretary of Transportation Federico Peña that the FAA would work toward the development of a responsible and "timely" airport plan. We are asking you to keep that commitment, particularly because seven months have passed since the Final EA was sent to the FAA for review.

The EA describes a preferred alternative designed to contain these runway excursions on pavement without actually extending the runway or expanding Airport boundaries. Unless action is taken quickly, runway safety improvements in the preferred alternative will be delayed until 1999. In fact, since the environmental assessment process began in 1992, seven additional runway accidents have occurred.

The concern the delegation expressed over four years ago remains: that timely action to be taken so that runway safety improvements at the Jackson Hole Airport will not be unduly delayed. If the FAA's record of decision on the Final EA will not be issued by January 1, 1998, we request that you inform us as to the reasons for the delay and when a decision should be expected.

Sincerely,

CRAIG THOMAS,  
U.S. Senator.  
MICHAEL ENZI,