

order to protect Senators' ability to undertake their legislative responsibilities free from interference and questioning, the Speech or Debate Clause of the Constitution privileges from compelled production in court proceedings materials from Senators' files relating to the legislative sphere.

Nevertheless, Senators BYRD and ROCKEFELLER are willing to provide to the parties in this case copies of documents reflecting their offices' role, to the extent that they may properly do so without impairing the important interests underlying the Senate's constitutional privileges. In view of the subcontractor's lack of objection, the Senators also have no objection to furnishing copies of their correspondence with the subcontractor. In addition, both Senators would like to provide the records of their communications with the Labor Department regarding this matter. Consistent with the overriding importance that the Constitution recognizes in fostering unimpeded communications between Senators and their staffs concerning matters of potential legislative action, the Senators will not waive their legislative privileges for their offices' internal records and work product.

Accordingly, this resolution would authorize Senator BYRD's and Senator ROCKEFELLER's offices to produce documents in this case, except where a privilege or objection should be asserted. The resolution also would authorize the Senate Legal Counsel to represent employees in Senator BYRD's and Senator ROCKEFELLER's offices, should such representation become necessary to protect the Senate's privileges in connection with this matter.

Mr. COVERDELL. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the resolution appear at this point in the RECORD.

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

The resolution (S. Res. 178) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 178

Whereas, in the case of *United States f.u.b.o. Kimberly Industries v. Trafalgar House Construction*, Civil Case No. 97-0462, pending in the United States District Court for the Southern District of West Virginia, documents have been requested from the offices of Senator Robert C. Byrd and Senator John D. Rockefeller IV;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§ 288b(a) and 288c(a)(2), the Senate may direct its counsel to represent employees of the Senate with respect to any subpoena, order, or request for evidence relating to their official responsibilities;

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistently with the privileges of the Senate: Now, therefore, be it

Resolved That the offices of Senator Byrd and Senator Rockefeller are authorized to produce documents in the case of *United States f.u.b.o. Kimberly Industries v. Trafalgar House Construction* except concerning matters for which a privilege or objection should be asserted.

SEC. 2. That the Senate Legal Counsel is authorized to represent employees of the Senator Byrd and Senator Rockefeller in connection with any subpoena or request for documents or testimony in *United States f.u.b.o. Kimberly Industries v. Trafalgar House Construction*.

ORDERS FOR FRIDAY, FEBRUARY 13, 1998

Mr. COVERDELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 10 a.m. on Friday, February 13, for a pro forma session only and immediately the Senate stand in adjournment until Monday, February 23, as under the provisions of H. Con. Res 201, the adjournment resolution.

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

ORDERS FOR MONDAY, FEBRUARY 23, 1998

Mr. COVERDELL. Mr. President, I ask unanimous consent that on Monday, immediately following the prayer, the routine requests through the morning hour be granted, and the Senate then proceed to the reading of President Washington's Farewell Address by Senator LANDRIEU.

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

Mr. COVERDELL. Mr. President, I ask unanimous consent that, following the reading, the Senate proceed to a period for the transaction of morning business until 3 p.m., with Senators permitted to speak therein for up to 10 minutes each.

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

PROGRAM

Mr. COVERDELL. Mr. President, in conjunction with the previous unanimous consent agreements, tomorrow the Senate will be in a pro forma session only. Upon the return from the President's Day recess on February 23, the Senate will reconvene at 12 noon, and following Senator LANDRIEU's reading of George Washington's Address, the Senate will be in a period for morning business until 3 p.m. No rollcall votes will occur during the Monday, February 23, session of the Senate. Members can anticipate rollcall votes after 2:15 p.m. on Tuesday, February 24.

UNANIMOUS CONSENT AGREEMENT—CAMPAIGN FINANCE REFORM

Mr. COVERDELL. At 3 p.m. on Monday, February 23, 1998, I ask unanimous consent that the Senate proceed to the campaign finance reform legislation, as outlined in the consent agreement of October 30, 1997.

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

ORDER FOR ADJOURNMENT

Mr. COVERDELL. Mr. President, if there is no further business to come before the Senate, I now ask that the Senate stand in adjournment, under the previous order, following the remarks of Senator LAUTENBERG and Senator SPECTER.

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

The Senator from New Jersey is recognized.

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

The PRESIDING OFFICER. Under the previous order, the Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, I thank the Chair.

IRAQ

Mr. SPECTER. Mr. President, I have sought recognition, and as the final speaker before we adjourn for a recess, I am going to comment about the situation in Iraq.

It had been my hope that the Congress might have addressed this issue. But it is obvious now that we will not. I think that the Congress—at least the Senate—is not addressing the issue because there is not clear-cut agreement in this body as to how to proceed.

My own view is that an air attack and a missile attack, if one is to be carried out, constitutes an act of war. And under the Constitution that requires Congressional authorization. The President is authorized as the Commander in Chief—and there is only one Commander in Chief, and it is obvious that where the 535 Members of the Congress cannot agree upon a program that we are not committed to be the executive. That is why we have an executive. But still the Constitution requires that war would be declared only by an act of Congress. And I think the international law interpretations make it plain that military action, like air attack or missile attack, does constitute an act of war.

I believe that we have not yet seen a clear definition of U.S. objectives as to what we are seeking to accomplish. My sense is that the American people are not prepared for what may occur.

I make it a practice, as I know the Chair does, of having open house town meetings. And I had three this week—

on Monday in Cumberland County, Lebanon County, and Lancaster County, PA. There is great concern among my constituents—those whom I have talked to there and other places—of not having an idea as to precisely what we are going to accomplish.

It is my hope, if action is to be taken, that before any action is taken the President of the United States will address the American people and will identify the goals as he sees them and evaluate our likelihood of attaining those goals so that the people of the United States will be prepared and understand what is going to happen. But I do not see at this date how there can be public support for an attack in the absence of informing the American people, preparing them and having a public dialog on the subject. The Congress is speaking loudly by not speaking at all on a resolution to authorize the use of force against Iraq.

In 1991, on January 10, this body authorized the use of force. I was at the forefront arguing that force should be used at that time. We had an extended debate. The Congress—the Senate specifically—was complimented for having a classic debate on what our vital national interests were and how we should respond. I do believe that we have a vital national interest in what is going on in Iraq at the present time. I do believe that there are great dangers posed by Saddam Hussein and by his weapons of mass destruction.

I had an opportunity back in January of 1990—just 8 years ago on a trip with Senator RICHARD SHELBY—to talk to Saddam Hussein. It is not an easy matter to deal with Saddam Hussein, as we have seen. There is some talk that Saddam Hussein ought to be toppled. But the air attacks, the missiles, and the planes will not accomplish that. It is plain at this juncture that there is no positioning of the kind of ground forces necessary to topple Saddam Hussein. Even as to the air attacks, it is plain that we will not destroy all of Saddam Hussein's weapons of mass destruction.

The question is: How will Saddam Hussein come out of whatever military force we use? I am very much concerned that he may come out a martyr. Certainly the lack of support for the United States raises major questions as to how the rest of the world views this issue.

On my travels—and I have traveled extensively, Mr. President, in my capacity as Chairman of the Senate Intelligence Committee in the 104th Congress, and my work on the Foreign Operations Subcommittee—I have found that there is great admiration for the United States around the world. People all over the globe admire our economic achievements. They admire our values. They admire our freedom, and the success of our free enterprise system. But there is also a touch of concern about abuse of power or excessive use of power, perhaps arrogance. And, we have to evaluate that very carefully in what we do as to Iraq.

I made a trip to the Mideast from late December to mid-January, and wherever I went I heard concerns about the projection of American power and concerns about the Iraqi civilian population, not Saddam Hussein, but concern about the Iraqi civilian population. It is an odd quirk of history that after the great success of the United States, the coalition put together by President Bush, which was a masterful job, President Bush is in Houston and Saddam is still in Baghdad running Iraq.

I have spoken with some frequency on the question of greater personal Presidential involvement in international dispute resolution, a subject that I have discussed personally with the President. It is my view that President Clinton can leave the Department of Agriculture to Secretary Glickman and the Department of the Interior to Secretary Babbitt, and so forth, but only the President of the United States can wield the enormous power that comes from the Presidency.

In 1995, Senator Brown and I spoke to Prime Minister Gowda of India, who said to us that he hoped the subcontinent could become nuclear free. The next day we passed that information on to Prime Minister Benazir Bhutto of Pakistan, who asked us if we had it in writing. We told her, of course, we did not. But we asked her when she had last talked to the Prime Minister of India. She said, "We don't talk."

That night Senator Brown and I cabled President Clinton with those views fresh in our mind, urging the President to call those Prime Ministers to the Oval Office; nobody turns down an invitation to the Oval Office. And later talking to the President, he said, well, I intend to do that after I am re-elected. I have talked to him since, and it has not yet happened.

I think the President did an outstanding job, and I compliment him on the negotiations in the Mideast in the 1995 timeframe where the President and the Secretary of State, Warren Christopher, almost brokered an agreement between Syria and Israel. When I met with the President in mid-December before my trip to the Mideast, I urged him to become active again on that track of the peace process because I think the parties are very close.

I had a chance to talk to Prime Minister Netanyahu and President Assad in August-November of 1996, and they were pretty far apart. Prime Minister Netanyahu said that he wanted to resume peace negotiations but he had a new mandate, he wanted to start fresh. President Assad of Syria said that he would want to start negotiations but would want to pick up where he, or Syria, and Prime Minister Rabin left off before Prime Minister Rabin's assassination in November of 1995. In talking to them last month the words were about the same but the music was different.

I think that Presidential involvement there might find success, espe-

cially with the explicit condition that any agreement would be subject to ratification by the Israeli electorate on the Golan Heights, something about which only Israel could make a decision for themselves considering all the security factors, and the issue with the Palestinians much more difficult, the Israel-Palestine crack. But here I think personal Presidential involvement might be very successful. I think there has been the absence of that, where we find ourselves with only Great Britain at our side now as we look to action against Iraq. I have heard what the Secretary of Defense has had to say, and I have total respect and confidence in Secretary Cohen based on the 16 years that I worked with him in the Senate. But he alone cannot carry the Executive burden in this matter.

On the information at hand, we do not have the cooperation of others in a military attack. I think that has to be weighed very carefully. I do think that there are alternatives. I do think that the issue of a blockade is something that might bring Saddam Hussein, if not to his knees, to a greater economic impasse. It would be my hope that before action is taken which constitutes an act of war, the issue would be debated by the Senate and by the House of Representatives and an appropriate resolution would be put before us to have the appropriate constitutional authorization.

I know that many of our colleagues have spoken on this matter in the course of the last several days, and as the last speaker in the Senate before we go to adjournment, I did want to make these comments for whatever consideration the President and the Executive may choose to make of them.

NOMINATION OF JUDGE MASSIAH-JACKSON

Mr. SPECTER. Mr. President, I did not have an opportunity yesterday after the Majority Leader announced the resolution of the proceedings as to the pending nomination of Judge Massiah-Jackson for the United States District Court for the Eastern District of Pennsylvania. I sought recognition to speak with unanimous consent for up to 1 minute, and there was an objection levied so I was not able to talk at that time.

I cannot limit my remarks to a single minute today because there are other things to be commented upon, but I believe that the referral of this matter to the Judiciary Committee is the appropriate course of conduct. Notwithstanding my continuing efforts to set forth the facts, my own personal activities have been grossly inaccurately reported.

First, it is President Clinton who has recommended Judge Massiah-Jackson for the Federal court. That is the President's nomination. It is not my nomination or the nomination of Senator SANTORUM. It is true that Massiah-Jackson was cleared by a non-partisan panel appointed by Senator SANTORUM and me, but that approval

does not involve any personal activity or action by either of the Senators.

Second, in my capacity as a member of the Senate Judiciary Committee and since Judge Massiah-Jackson is a constituent, I have vigorously sought to see that she received fair treatment, just as I did when the Judiciary Committee considered the nomination of Justice Clarence Thomas.

Third, I have made a public commitment to review all the matters submitted by her opponents before casting my vote on the Senate floor.

Fourth, I have been proactive in seeking all the facts against her confirmation as well as all of the facts of those who support her.

The charge has been made that I made a "deal" with the White House to appoint Judge Massiah-Jackson in exchange for the appointment of Judge Bruce Kauffman, who was sworn into the United States District Court on January 20. The facts are that I am party to an arrangement for Republicans to receive one nomination for the district courts for every three Democrats who are nominated, an arrangement identical with that now applicable to the State of New York. But I am not under any obligation to support any specific nominee, nor anybody submitted by the White House from the Democratic ranks. I am not under any obligation to support anyone, including Judge Massiah-Jackson, if I conclude the person is not qualified.

When Judge Massiah-Jackson's nomination was announced by the President on July 31, 1997, there were rumors of opposition, and in order to try to find out what the facts were in opposition, Senator SANTORUM, Senator BIDEN and I held a hearing in Philadelphia on October 3. All of the witnesses who testified favored Judge Massiah-Jackson, including five of her colleagues from the Common Pleas bench.

Mayor Rendell, who had been district attorney for 3 of her 7 years on the criminal bench, was enthusiastically in support of her nomination. Then the Judiciary Committee held its formal hearing on October 29, and again no witnesses opposed her. Senator KYL, Senator SESSIONS and I questioned her closely on her record, and on November 6 she was reported out of the Committee by a vote of 12 to 6.

Thereafter, when district attorneys from Pennsylvania raised objections, Senator SANTORUM and I took a proactive position to meet those district attorneys, and we heard them out on January 23. I then arranged to get all of their opposing cases by January 30, with an opportunity for Judge Massiah-Jackson to respond, and that is what we await at the present time. As a matter of fundamental fairness, she is entitled to that hearing.

So, I think the Senate has taken the appropriate stand to have the hearing, and those who object will hear what Judge Massiah-Jackson has to say and then I, as a juror, along with my colleagues, will take a look at all of the

facts and make a decision as to whether she is to be confirmed or whether she should be rejected. I thank the Chair for the courtesy and I yield the floor.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

The PRESIDING OFFICER. The Senate, under the previous order, will stand adjourned until 10 a.m., Friday, February 13, 1998.

Thereupon, the Senate, at 5:31 p.m., adjourned until Friday, February 13, 1998, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate February 12, 1998:

IN THE NAVY

THE FOLLOWING-NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be rear admiral

REAR ADM. (LH) KEITH W. LIPPERT, 0000
REAR ADM. (LH) PAUL O. SODERBERG, 0000

THE FOLLOWING-NAMED OFFICERS FOR APPOINTMENT IN THE NAVAL RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be rear admiral

REAR ADM. (LH) MARTIN E. JANCZAK, 0000
REAR ADM. (LH) PIERCE J. JOHNSON, 0000
REAR ADM. (LH) LARY L. POE, 0000
REAR ADM. (LH) MICHAEL R. SCOTT, 0000

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be rear admiral (lower half)

CAPT. (LH) KATHLEEN L. MARTIN, 0000

IN THE AIR FORCE

THE FOLLOWING-NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

JOHN R. ABEL, 0000
JOAN M. ABELMAN, 0000
GRANT O. ADAMS, 0000
ELIZABETH Z. ANDERSON, 0000
EDWARD L. ANGEL, 0000
ENRIQUE ARROYO, 0000
SISSAY AWOKE, 0000
GARY M. BAGLIEBTER, 0000
HILMAR H. BARTZELS, 0000
JOHN BARTUS, 0000
MARK R. BASSETT, 0000
JAMES B. BECHTEL, 0000
JAMES A. BOUSKA, 0000
MICHAEL D. BRATLIEN, 0000
DONALD C. BROWN, 0000
JEFFERY B. BRYANT, 0000
MICHAEL J. BUNDSHUH, 0000
ROBERT E. BURGY, 0000
JOHN B. BURROUGHS, JR., 0000
BENTON L. BUSBEE, 0000
SUSAN T. BUSLER, 0000
FRANK L. BUTLER III, 0000
JAMES E. CALLARD, 0000
BLANCHE A. CASEY, 0000
JOE E. CASLER, 0000
PATRICIA S. CHRISTIE, 0000
RANDALL B. CLARK, 0000
THOMAS A. CLARKE, 0000
SYLVIA L. COLEMAN, 0000
GEORGE R. COOK, 0000
GEORGE J. COYLE, JR., 0000
ERIC W. CRABTREE, 0000
EDWARD F. CROWLEY, 0000
WILLIAM R. CULVER, 0000
JAMES H. DEATLEY, 0000
JAMES D. DESHEFY, 0000
EDWARD D. DINGIVAN, 0000
DONNA K. DOUGHERTY, 0000
JAMES M. EITEL II, 0000
MARC I. EPSTEIN, 0000
MARIA ANNE G. FARRAR, 0000
DONALD E. FLETCHER, JR., 0000
JOHN C. FOBIAN, 0000
KEITH R. GABRIEL, 0000
ANITA R. GALLENTINE, 0000
DANIEL D. GAMMAGE, 0000
JAMES A. GEBHARDT, 0000
STEVEN J. GENTLING, 0000
DANIEL P. GILLEN, 0000
LARRY N. GOFF, 0000

MARIO GOICO, 0000
JAMES W. GRAVES, 0000
ROBERT S. GRAVES, 0000
ROBERT A. GUALTIERI, 0000
LYNN M. GULICK, 0000
ADELINE F. HAMMOND, 0000
REDMOND H. HANDY, 0000
JOHN S. HANSEN, 0000
ALBERT S. HARTMAN III, 0000
THOMAS W. HARTMANN, 0000
THOMAS B. HAYTHORN, 0000
ROSEMARY A. HEREDY, 0000
PATRICIA HOLDERNESS, 0000
RICHARD C. HOLLOMAN, 0000
KENNETH K. HSU, 0000
GARY C. HUCKABAY, 0000
DORIS E. HUNOLT, 0000
WILLIAM W. HURD, 0000
PHILIP D. INSOCOE, 0000
JEFFREY W. IPPOLITO, 0000
CANDACE A. JACOBS, 0000
DANIEL G. JARLENSKI, JR., 0000
ARMAS J. JASKEY, JR., 0000
DAVID E. JOHNSON, 0000
PERRY C. JOHNSON, 0000
KENNETH I. JOHNSTON, 0000
ALLAN M. JONES III, 0000
LEONARD R. KIGHT, 0000
RAYMOND F. KNAPP, 0000
ELAINE L. KNIGHT, 0000
ROBERT E. KOENEN, 0000
MARK V. KOLLEDA, 0000
CRAIG W. KUEBKER, 0000
HUGH K. LANCASTER, JR., 0000
FREDERICK K. LANGE, 0000
CAROL A. LEE, 0000
ALAN F. LEHMAN, 0000
RALPH F. LIEBHABER, 0000
JOHN L. LITZENBERGER, JR., 0000
DENNIS E. LUNDQUIST, 0000
ROBERT W. MARCOTT, 0000
DEBRA L. MATTHEW, 0000
SHERYL M. MAY, 0000
MARYJO MAZICK, 0000
NEAL F. MCBRIDE, 0000
LINDA L. MCHALE, 0000
CHRISTOPHER C. MEARS, 0000
JEFFREY S. MEINTS, 0000
KATHY S. MEISETSCHLEAGER, 0000
NELSON L. MELLITZ, 0000
GERALD F. MICHELLETTI, 0000
DONALD R. MICHELIS, 0000
JIMMY W. MILLER, 0000
WILLIAM F. MORGAN, JR., 0000
KENNETH J. MORRIS, 0000
GEOFFREY C. MORRISON, 0000
PATRICIA A. MORRISON, 0000
RAFIK D. MUAWWAD, 0000
BRIAN D. MUDD, 0000
CARLYN R. MUNN, 0000
KATHLEEN M. MURRAY, 0000
MARK D. NICKERSON, 0000
MAUREEN OMALLEY, 0000
JON M. OWINGS, 0000
LOUIS E. PAPE II, 0000
JAMES L. PARTINGTON, 0000
GREGORY B. PAVLIN, 0000
LINDA K. PEARCE, 0000
WAYNE F. PETITTO, 0000
SUSAN J. POTTER, 0000
THOMAS G. POTTS, 0000
PAMELA E. PRETTE, 0000
GARY P. PRICE, 0000
WILLIAM M. PRICE, 0000
RODOLFO C. PRUNEDA, 0000
ROCKY R. QUINTANA, 0000
SANDRA B. RAUSCH, 0000
CHARLES E. REED, JR., 0000
JOHN D. REED, 0000
HAROLD G. REPASKY, 0000
CLAIR D. REPPLE, 0000
SHIRLEY RIBAK, 0000
WILLIS T. RICHE, JR., 0000
DAVID C. RIDE, 0000
BARBARA U. RILEY-CUNNINGHAM, 0000
CRAIG M. RIRIE, 0000
BARRY K. ROBERTS, 0000
JAMES B. ROBERTS, JR., 0000
JULIO E. ROLDAN, 0000
WILLIAM F. ROLLIN, 0000
ROBERT D. ROSENBLUM, 0000
DAVID B. ROSS, 0000
ROARK M. ROSSON, 0000
KENTON E. RUDICEL, 0000
JAMES H. RUFFNER, 0000
DANE M. RUSSELL, 0000
RONALD A. RUTLAND, 0000
RICHARD S. SCHMIDT, 0000
HARRY W. SCHONAU III, 0000
KEVIN M. SCHROEDER, 0000
RONALD R. SEE, 0000
JAMES L. SELZER, 0000
KENNETH R. SETTLE, 0000
ROBERT D. SHANKS, JR., 0000
RICHARD V. SHAWLEY, 0000
JEFFREY J. SHORT, 0000
CARL M. SKINNER, 0000
GARY W. SMITH, 0000
SANDRA E. SMITHPOLING, 0000
GREGORY K. SPACKMAN, 0000
MICHAEL C. STAMPLEY, 0000
NORMAN F. STEELE, JR., 0000
EDWARD S. STOKES III, 0000
WILLIAM H. STROM, 0000
WILLIAM N. STRYKER, 0000
LAURA A. TALBOT, 0000