

commanders had been derelict in their duty and the President ordered the immediate public release of these findings.

Several facts about the Roberts Commission force us to question its conclusions. First, Kimmel and Short were denied the right to counsel and were not allowed to be present when witnesses were questioned. They were then explicitly told that the Commission was a fact-finding body and would not be passing judgment on their performance. When the findings accusing them of a serious offense were released, they immediately requested a court-martial. That request was refused. It is difficult to imagine a fair review of the evidence given the rules of procedure followed by the Commission.

I also think that it is important to note the timing here. It would be difficult to provide a fair hearing in the charged atmosphere immediately following America's entry into the war in the Pacific. In fact, Kimmel and Short were the objects of public vilification. The Commission was not immune to this pressure. One Commission member, for example, Admiral Standley, expressed strong reservations about the Commission's findings, later characterizing them as a "travesty of justice". He did sign the Report, however, because of concerns that doing otherwise might adversely affect the war effort. As you will see, the war effort played an important role in how Kimmel and Short were treated.

The Roberts Commission was the only investigative body that found these two officers derelict in their duty.

In 1944 an Army Board investigated General Short's actions at Pearl Harbor. The conclusions of that investigation placed blame on General Marshall, the Chief of Staff of the Army at the time of Pearl Harbor and in 1944. This report was sequestered and kept secret from the public on the grounds that it would be detrimental to the war effort.

That same year, a Naval Court of Inquiry investigated Admiral Kimmel's actions at Pearl Harbor. The Naval Court's conclusions were divided into two sections in order to protect information indicating that America had the ability to decode and intercept Japanese messages. The first and longer section, therefore, was classified "top secret." The second section was written to be unclassified and completely exonerated Admiral Kimmel and recognized that Admiral Stark bore some of the blame for Pearl Harbor because of his failure to provide Kimmel with critical information available in Washington. Then Secretary of the Navy James Forrestal instructed the Court that it had to classify both sections "secret" and not release any findings to the public.

I won't go any further with this discussion of history, again I urge my colleagues to read the resolution. I hope that I have made my point that these officers were not treated fairly and

that there is good reason to question where the blame for Pearl Harbor should lie.

The whole story was re-evaluated in 1995 at the request of Senator THURMOND by Under Secretary for Defense Edwin Dorn. In his report, Dorn concluded that responsibility for the disaster at Pearl Harbor should be broadly shared. I agree. Where Dorn's conclusions differ from mine and my cosponsors, is that he also found that "the official treatment of Admiral Kimmel and General Short was substantively temperate and procedurally proper." I disagree.

These officers were publicly vilified and never given a chance to clear their names. If we lived in a closed society, fearful of the truth, then there would be no need for the President to take any action today. But we don't. We live in an open society. Eventually, we are able to declassify documents and evaluate our past based on at least a good portion of the whole story. One of our greatest strengths as a nation comes from our ability to honor truth and the lessons of our past.

Like most people, I can accept that there was a good case for the need to protect our intelligence capabilities during the war. I cannot accept that there is a reason for continuing to deny the culpability of others in Washington at the expense of these two officers' reputations 57 years later. Continuing to falsely scapegoat two dedicated and competent officers dishonors the military tradition of taking responsibility for failure. The historic message sent is that the truth will be suppressed to protect some responsible parties and distorted to sacrifice others.

One point I want to make here is that we are not seeking to place blame. This is not a witch-hunt aimed at those superior officers who were advanced in rank and continued to serve, despite being implicated in the losses at Pearl Harbor. I think the historic record has become quite clear that blame should be shared.

The unfortunate reality is that Admiral Kimmel and General Short were blamed entirely and forced into early retirement.

After the war, in 1947, they were singled out as the only eligible officers from World War II not advanced to their highest held wartime ranks on the retirement lists, under the Officer Personnel Act of 1947. By failing to advance them, the government and the Departments of the Navy and Army perpetuate the myth that these two officers bear a unique and disproportionate part of the blame.

The government that denied these officers a fair hearing and suppressed findings favorable to their case while releasing hostile information owes them an official apology. That's what this resolution calls for.

The last point that I want to make deals with the military situation at Pearl Harbor. It is legitimate to ask whether Admiral Kimmel and General

Short, as commanding officers, properly deployed their forces. I think reasonable people may disagree on this point. I have been struck by the number of qualified individuals who believe the commanders properly deployed based on the intelligence available to them. I will ask to enter this partial list of flag officers into the RECORD. Among those listed is Vice Admiral Richardson, a distinguished naval commander, who wrote an entire report refuting the conclusions of the Dorn Report. My colleagues will also see the names of four Chiefs of Naval Operations and the former chairman of the Joint Chiefs of Staff Admiral Thomas Moorer. It was Admiral Moorer who observed that, "If Nelson and Napoleon had been in command at Pearl Harbor, the results would have been the same."

In conclusion, Mr. President, I believe this case is unique and demands our attention. As we honor those who served in World War II by permanently berthing the U.S.S. *Missouri* in Pearl Harbor, we must also honor the ideals for which they fought. High among those American ideals is upholding truth and justice. Those ideals give us the strength to admit and, where possible, correct our errors.

I urge my colleagues to support this resolution and move one step closer to justice for Admiral Kimmel and General Short.

Mr. President, I ask unanimous consent a partial list of flag officers be printed in the RECORD.

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

The following is a partial listing of high-ranking retired military personnel who advocate in support of the posthumous advancement on the retired lists of Rear Admiral Husband Kimmel and Major General Walter Short to Four-Star Admiral and Three-Star General respectively:

#### ADMIRALS

Thomas H. Moorer; Carlisle A.H. Trost; William J. Crowe, Jr.; Elmo R. Zumwalt; J.L. Holloway III; Ronald J. Hays; T.B. Hayward; Horatio Rivero; Worth H. Bargley; Noel A.M. Gayler; Kinnaird R. McKee; Robert L.J. Long; William N. Small; Maurice F. Weisner; U.S.G. Sharp, Jr.; H. Hardisty; Wesley McDonald; Lee Baggett, Jr.; and Donald C. Davis.

#### VICE ADMIRALS

David C. Richardson and William P. Lawrence.

#### REAR ADMIRALS

D.M. Showers and Kemp Tolley.

#### ADDITIONAL COSPONSORS

S. 89

At the request of Ms. SNOWE, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of S. 89, a bill to prohibit discrimination against individuals and their family members on the basis of genetic information, or a request for genetic services.

S. 951

At the request of Mr. TORRICELLI, the name of the Senator from California

[Mrs. BOXER] was added as a cosponsor of S. 951, a bill to reestablish the Office of Noise Abatement and Control in the Environmental Protection Agency.

S. 971

At the request of Mr. LAUTENBERG, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of S. 971, a bill to amend the Federal Water Pollution Control Act to improve the quality of coastal recreation waters, and for other purposes.

S. 977

At the request of Mr. TORRICELLI, the name of the Senator from Illinois [Mr. DURBIN] was added as a cosponsor of S. 977, a bill to amend the Forest and Rangeland Renewable Resources Planning Act of 1974 and related laws to strengthen the protection of native biodiversity and ban clearcutting on Federal lands, and to designate certain Federal lands as Ancient Forests, Roadless Areas, Watershed Protection Areas, Special Areas, and Federal Boundary Areas where logging and other intrusive activities are prohibited.

S. 1067

At the request of Mrs. MURRAY, her name was added as a cosponsor of S. 1067, a bill to prohibit United States military assistance and arms transfers to foreign governments that are undemocratic, do not adequately protect human rights, are engaged in acts of armed aggression, or are not fully participating in the United Nations Register of Conventional Arms.

S. 1097

At the request of Mr. MOYNIHAN, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of S. 1097, a bill to reduce acid deposition under the Clean Air Act, and for other purposes.

S. 1162

At the request of Mr. ALLARD, the name of the Senator from California [Mrs. BOXER] was added as a cosponsor of S. 1162, a bill to amend the Controlled Substances Act and the Controlled Substances Import and Export Act with respect to penalties for powder cocaine and crack offenses.

S. 1334

At the request of Mr. BOND, the name of the Senator from Oklahoma [Mr. NICKLES] was added as a cosponsor of S. 1334, a bill to amend title 10, United States Code, to establish a demonstration project to evaluate the feasibility of using the Federal Employees Health Benefits program to ensure the availability of adequate health care for Medicare-eligible beneficiaries under the military health care system.

S. 1529

At the request of Mr. KENNEDY, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of S. 1529, a bill to enhance Federal enforcement of hate crimes, and for other purposes.

S. 1734

At the request of Mrs. HUTCHISON, the name of the Senator from Alabama

[Mr. SESSIONS] was added as a cosponsor of S. 1734, a bill to amend the Internal Revenue Code of 1986 to waive the income inclusion on a distribution from an individual retirement account to the extent that the distribution is contributed for charitable purposes.

S. 1858

At the request of Mr. REED, his name was added as a cosponsor of S. 1858, a bill to amend the Social Security Act to provide individuals with disabilities with incentives to become economically self-sufficient.

S. 1875

At the request of Mr. DASCHLE, the name of the Senator from Illinois [Ms. MOSELEY-BRAUN] was added as a cosponsor of S. 1875, a bill to initiate a coordinated national effort to prevent, detect, and educate the public concerning Fetal Alcohol Syndrome and Fetal Alcohol Effect and to identify effective interventions for children, adolescents, and adults with Fetal Alcohol Syndrome and Fetal Alcohol Effect, and for other purposes.

S. 2283

At the request of Mr. DEWINE, the names of the Senator from Maryland [Ms. MIKULSKI], the Senator from Louisiana [Ms. LANDRIEU], the Senator from North Dakota [Mr. DORGAN], the Senator from Massachusetts [Mr. KENNEDY], the Senator from South Dakota [Mr. DASCHLE], the Senator from New Mexico [Mr. BINGAMAN], the Senator from Indiana [Mr. LUGAR], and the Senator from Massachusetts [Mr. KERRY] were added as cosponsors of S. 2283, a bill to support sustainable and broad-based agricultural and rural development in sub-Saharan Africa, and for other purposes.

S. 2295

At the request of Mr. MCCAIN, the names of the Senator from Connecticut [Mr. LIEBERMAN], the Senator from North Dakota [Mr. CONRAD], the Senator from Nebraska [Mr. KERREY], the Senator from Maine [Ms. SNOWE], the Senator from Virginia [Mr. ROBB], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Idaho [Mr. KEMPTHORNE], the Senator from Vermont [Mr. LEAHY], the Senator from Colorado [Mr. CAMPBELL], the Senator from Alaska [Mr. MURKOWSKI], and the Senator from Montana [Mr. BURNS] were added as cosponsors of S. 2295, a bill to amend the Older Americans Act of 1965 to extend the authorizations of appropriations for that Act, and for other purposes.

S. 2318

At the request of Mr. CAMPBELL, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 2318, a bill to amend the Internal Revenue Code of 1986 to phaseout the estate and gift taxes over a 10-year period.

S. 2346

At the request of Mr. ALLARD, the name of the Senator from Michigan [Mr. ABRAHAM] was added as a cosponsor of S. 2346, a bill to amend the Inter-

nal Revenue Code of 1986 to expand S corporation eligibility for banks, and for other purposes.

S. 2353

At the request of Mr. DURBIN, the name of the Senator from Oregon [Mr. SMITH] was added as a cosponsor of S. 2353, a bill to redesignate the legal public holiday of "Washington's Birthday" as "Presidents' Day" in honor of George Washington, Abraham Lincoln, and Franklin Roosevelt and in recognition of the importance of the institution of the Presidency and the contributions that Presidents have made to the development of our Nation and the principles of freedom and democracy.

S. 2354

At the request of Mr. BOND, the names of the Senator from Arkansas [Mr. HUTCHINSON], and the Senator from Kansas [Mr. BROWNBACK] were added as cosponsors of S. 2354, a bill to amend title XVIII of the Social Security Act to impose a moratorium on the implementation of the per beneficiary limits under the interim payment system for home health agencies, and to modify the standards for calculating the per visit cost limits and the rates for prospective payment systems under the medicare home health benefit to achieve fair reimbursement payment rates, and for other purposes.

S. 2357

At the request of Mr. ASHCROFT, the names of the Senator from Michigan [Mr. ABRAHAM], the Senator from Kansas [Mr. BROWNBACK], the Senator from Minnesota [Mr. GRAMS], and the Senator from Idaho [Mr. CRAIG] were added as cosponsors of S. 2357, a bill requiring the Congressional Budget Office and the Joint Committee on Taxation to use dynamic economic modeling in addition to static economic modeling in the preparation of budgetary estimates of proposed changes in Federal revenue law.

S. 2358

At the request of Mr. ROCKEFELLER, the name of the Senator from North Dakota [Mr. DORGAN] was added as a cosponsor of S. 2358, a bill to provide for the establishment of a service-connection for illnesses associated with service in the Persian Gulf War, to extend and enhance certain health care authorities relating to such service, and for other purposes.

S. 2364

At the request of Mr. CHAFEE, the names of the Senator from Texas [Mrs. HUTCHISON], the Senator from Maryland [Mr. SARBANES], the Senator from Ohio [Mr. GLENN], the Senator from North Dakota [Mr. DORGAN], the Senator from Rhode Island [Mr. REED], and the Senator from Pennsylvania [Mr. SANTORUM] were added as cosponsors of S. 2364, a bill to reauthorize and make reforms to programs authorized by the Public Works and Economic Development Act of 1965.

S. 2371

At the request of Mr. LOTT, the name of the Senator from Colorado [Mr. ALLARD] was added as a cosponsor of S. 2371, a bill to amend the Internal Revenue Code of 1986 to reduce individual capital gains tax rates and to provide tax incentives for farmers.

S. 2382

At the request of Mr. MCCAIN, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 2382, a bill to amend title XIX of the Social Security Act to allow certain community-based organizations and health care providers to determine that a child is presumptively eligible for medical assistance under a State plan under that title.

## SENATE JOINT RESOLUTION 9

At the request of Mr. KYL, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of Senate Joint Resolution 9, a joint resolution proposing an amendment to the Constitution of the United States to require two-thirds majorities for increasing taxes.

## SENATE JOINT RESOLUTION 50

At the request of Mr. BOND, the names of the Senator from West Virginia [Mr. BYRD] and the Senator from Maine [Ms. SNOWE] were added as cosponsors of Senate Joint Resolution 50, a joint resolution to disapprove the rule submitted by the Health Care Financing Administration, Department of Health and Human Services on June 1, 1998, relating to surety bond requirements for home health agencies under the medicare and medicaid programs.

## SENATE CONCURRENT RESOLUTION 108

At the request of Mr. DORGAN, the names of the Senator from Florida [Mr. GRAHAM], the Senator from Mississippi [Mr. COCHRAN], and the Senator from Oregon [Mr. WYDEN] were added as cosponsors of Senate Concurrent Resolution 108, a concurrent resolution recognizing the 50th anniversary of the National Heart, Lung, and Blood Institute, and for other purposes.

## SENATE RESOLUTION 193

At the request of Mr. REID, the names of the Senator from Texas [Mr. GRAMM] and the Senator from Michigan [Mr. ABRAHAM] were added as cosponsors of Senate Resolution 193, a resolution designating December 13, 1998, as "National Children's Memorial Day."

## SENATE RESOLUTION 259

At the request of Mr. THURMOND, the names of the Senator from New York [Mr. D'AMATO], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Virginia [Mr. ROBB], the Senator from New Jersey [Mr. TORRICELLI], and the Senator from Ohio [Mr. DEWINE] were added as cosponsors of Senate Resolution 259, a resolution designating the week beginning September 20, 1998, as "National Historically Black Colleges and Universities Week," and for other purposes.

## AMENDMENT NO. 3013

At the request of Mr. CAMPBELL the name of the Senator from Alabama

[Mr. SESSIONS] was added as a cosponsor of amendment No. 3013 intended to be proposed to S. 1112, a bill to require the Secretary of the Treasury to mint coins in commemoration of Native American history and culture.

## AMENDMENT NO. 3368

At the request of Mr. GRAHAM the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of amendment No. 3368 proposed to S. 2312, an original bill making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1999, and for other purposes.

## SENATE RESOLUTION 268—CONGRATULATING THE TOMS RIVER EAST AMERICAN LITTLE LEAGUE TEAM FOR WINNING THE LITTLE LEAGUE WORLD SERIES

Mr. LAUTENBERG (for himself and Mr. TORRICELLI) submitted the following resolution; which was considered and agreed to:

## S. RES. 268

Whereas on Saturday, August 29, 1998, the Toms River East American Little League team defeated Kashima, Japan, by 12 runs to 9 runs to win the 52d annual Little League World Series championship;

Whereas Toms River East American team is the first United States team to win the Little League World Series championship in 5 years, and the fourth New Jersey team in history to win Little League's highest honor; and

Whereas the Toms River East American team has brought pride and honor to the State of New Jersey and the entire Nation: Now, therefore, be it

*Resolved*, That the Senate—

(1) congratulates the Toms River East American Little League Team and its loyal fans on winning the 52d annual Little League World Series championship;

(2) recognizes and commends the hard work, dedication, determination, and commitment to excellence of the team's members, parents, coaches, and managers; and

(3) recognizes and commends the people of Toms River, New Jersey, and the surrounding area for their outstanding loyalty and support for the Toms River East American Little League team throughout the team's 28-game season.

## SENATE RESOLUTION 269—TO AUTHORIZE PRODUCTION OF SENATE DOCUMENTS AND REPRESENTATION BY SENATE LEGAL COUNSEL

Mr. LOTT (for himself and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

## S. RES. 269

Whereas, in the case of *Rose Larker, et al. v. Kevin A. Carias-Herrera, et al.*, Civil No. 97CA06257, pending in the Superior Court for the District of Columbia, a subpoena has been issued for the production of documents of the Sergeant-at-Arms and Doorkeeper 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 Members, officers, and employees of the Senate with respect to any subpoena, order, or request for testimony or document production relating to their official responsibilities;

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 or administrative process, be taken from such control or possession but by permission of the Senate;

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 Sergeant-at-Arms and Doorkeeper of the Senate is authorized to produce documents relevant to the case of *Rose Larker, et al. v. Kevin A. Carias-Herrera, et al.*

SEC. 2. That the Senate Legal Counsel is authorized to represent the Sergeant-at-Arms and Doorkeeper of the Senate in connection with the production of documents in this case.

## AMENDMENTS SUBMITTED

## FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT

MCCONNELL (AND OTHERS)  
AMENDMENT NO. 3491

Mr. MCCONNELL (for himself, Mr. LEAHY, and Mr. HARKIN) proposed an amendment to the bill (S. 2334) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1998, and for other purposes; as follows:

On page 3, line 6, strike the following proviso: "Provided further, That the Export Import Bank shall not disburse direct loans, loan guarantees, insurance, or tied aid grants or credits for enterprises or programs in the New Independent States which are majority owned or managed by state entities:"

MCCONNELL (AND LEAHY)  
AMENDMENTS NO. 3292-3294

Mr. MCCONNELL (for himself and Mr. LEAHY) proposed three amendments to the bill, S. 2334, supra; as follows:

## AMENDMENT No. 3292

On page 71, line 17, after the word "activities" insert: "and, subject to the regular notification procedures of the Committees on Appropriations, energy programs aimed at reducing greenhouse gas emissions".

## AMENDMENT No. 3493

On page 107, line 25, strike "and activities that reduce vulnerability to climate change."

## AMENDMENT No. 3494

On page 3, line 5 and 6, strike "1999 and 2000" and insert in lieu thereof, "1999, 2000, 2001 and 2002".

On page 8, line 23 and 24, strike "and shall remain available until September 30, 2000".