

(C) a permanent and verifiable end to the ongoing proliferation by state and non-state owned entities and individuals in the People's Republic of China of munitions, materials, and military equipment and the trade in such items involving countries, such as Burma and Sudan, whose armies have played a role in the perpetration of violations of human rights and of humanitarian law against members of ethnic and religious minorities;

(D) improvement in the administration and enforcement of export controls in the People's Republic of China; and

(E) an end to the ongoing proliferation by state and non-state owned entities and individuals in the People's Republic of China of technology related to conventional weapons, weapons of mass destruction, and ballistic missiles.

#### AUTHORIZATION TO SIGN LEGISLATION

Mr. FRIST. Mr. President, I ask unanimous consent that during this adjournment of the Senate, the majority leader, the assistant majority leader, and the senior Senator from Virginia be authorized to sign duly enrolled bills or joint resolutions.

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

#### APPOINTMENT

THE PRESIDING OFFICER. The Chair, on behalf of the President pro tempore, pursuant to Public Law 96-388, as amended by Public Law 97-84 and Public Law 106-292, appoints the following Senators to the United States Holocaust Memorial Council:

The Senator from Wisconsin, Mr. Feingold, and the Senator from New Jersey, Mr. Lautenberg.

#### TERRI SCHIAVO

Mr. FRIST. Mr. President, in closing tonight, I will take a few final moments to speak on an issue that I opened with early this morning, about 14 hours ago, an issue which Senators MARTINEZ and SANTORUM were on the floor speaking to about 45 minutes ago. It has to do with the Terri Schiavo case in Florida.

I close this evening speaking more as a physician than as a U.S. Senator and speak to my involvement as a physician and as a Senator and as leader in the Senate in what has been a fascinating course of events for us over the last 48 hours, a saga which has not ended but one which we took major steps toward tonight in seeing that this woman is not starved to death tomorrow beginning at 1 o'clock, about 13 hours from now.

When I first heard about the situation facing Terri Schiavo, I immediately wanted to know more about the case from a medical standpoint. I asked myself, just looking at the newspaper reports, is Terri clearly in this diagnosis called persistent vegetative state. I was interested in it in part because it is a very difficult diagnosis to make and I have been in a situation

such as this many, many times before as a transplant surgeon.

When we do heart transplants and lung transplants—and they are done routinely and were done routinely at the transplant center that I directed at Vanderbilt—in each and every case when you do a heart transplant or a lung transplant or a heart-lung transplant, the transplanted organs come from someone who is brain dead and death is clearly defined with a series of standardized clinical exams over a period of time, as well as diagnostic tests.

Even brain death is a difficult diagnosis to make, and short of brain death, there are stages of incapacitation that go from coma to this persistent vegetative state to a minimally conscious state. They are tough diagnoses to make. You can make brain death with certainty, but short of that it is a difficult diagnosis and one that takes a series of evaluations over a period of time because of fluctuating consciousness.

So I was a little bit surprised to hear a decision had been made to starve to death a woman based on a clinical exam that took place over a very short period of time by a neurologist who was called in to make the diagnosis rather than over a longer period of time. It is almost unheard of. So that raised the first question in my mind.

I asked myself, does Terri clearly have no hope of being rehabilitated or improved in any way? If you are in a true persistent vegetative state, that may be the case. But, again, it is a very tough diagnosis to make and only by putting forth that rehabilitative therapy and following over time do you know if somebody is going to improve. At least from the reporting, that has not been the case.

Then I asked myself, because we have living wills now and we have written directives which are very commonplace now, but 10 years ago they were not that common and, to be honest with you, a lot of 20- and 30-year-olds do not think about their own mortality and do not offer those written directives. They did not 10 years ago. Now they do with increasing frequency. I encourage people to do that.

So, I asked, did they have a written directive? And the answer was no. And did she have a clear-cut oral directive? And the answer was no.

So my curiosity piqued as I asked to see all of the court affidavits. I received those court affidavits and had the opportunity to read through those over the last 48 hours. My curiosity was piqued even further because of what seemed to be unusual about the case, and so I called one of the neurologists who did evaluate her and evaluated her more extensively than what at least was alleged other neurologists had. And he told me very directly that she is not in a persistent vegetative state. I said, well, give me a spectrum from this neurologist who examined her. To be fair, he examined her about

2 years ago and, to the best of my knowledge, no neurologist has been able to examine her. I am not positive about that, but that is what I have been told in recent times. But at that exam, clearly she was not in a persistent vegetative state, and of 100 patients this neurologist would take care of, she was not at the far end of being an extreme patient in terms of her disability. He described it as if there were 100 patients, she might have been the 70th but not the 80th or 90th or 100th.

So I was really curious that a neurologist who has spent time with her says she is not in a persistent vegetative state but they will begin starving her to death tomorrow at 1 o'clock because of what another neurologist said.

I met with her family and her son. Her son says she has a severe disability. A lot of people have severe disabilities, such as cerebral palsy and receptive aphasia, but her brother said that she responds to her parents and to him. That is not somebody in persistent vegetative state.

I then met in person with the chairman of the Judiciary Committee 2 days ago in Florida to discuss the case. He told me that they had exhausted all options in the State of Florida to reverse what was going to be inevitable tomorrow, Friday, the 18th of March; and that is, that feedings and hydration were going to stop, that everything had been exhausted.

He said the courts have been exhausted, and that all of the court decisions and the court cases had not been based on the facts because the facts were very limited and were the conclusions of one judge and two neurologists, and that was it, and that there were, in terms of the affidavits—I will get the exact number that I read—there were something like 34 affidavits from other doctors, who said that she could be improved with rehabilitation.

So then it came to, what do you do? Here is the U.S. Senate that normally does not and should not get involved in all of these private-action cases. It is not our primary responsibility here in the U.S. Senate. But with an exhaustion of a State legislature, an exhaustion of the court system in a State—yet all of this is based on what one judge had decided on what, at least initially, to me, looks like wrong data, incomplete data. But somebody is being condemned to death—somebody who is alive; there is no question she is alive—is being condemned to death.

It takes an action to pull out a feeding tube. It takes an action to stop feeding. The inaction of feeding becomes an action. And thus, as I started talking about it this morning, the question was, what do we do? Bills had been put forth broadly on the floor, and Senator MARTINEZ had very effective legislation, but it had to do with the habeas corpus, a very large issue that we have not had hearings on and debated.

So what we decided to do was to fashion a bill that was very narrow, aimed

specifically at this case that would say she is not going to be starved to death tomorrow, but let's go and collect more information, have neurologists come in and obtain a body of facts before such a decision would be made.

That is what we have done. As Senator MARTINEZ said, and Senator SANTORUM said, we are not there yet. We have three different tracks going on that will be going on over the course of tonight. In my office, right now, letters are being written and being sent out, and we will not give up, and we have not given up. We passed the bill here tonight. The House has a bill. And I am confident if we continue working, and we are going to stay in session—we are not staying in session tonight but we are going to stay in session until we complete action.

Let me just comment a little bit about the Terri Schiavo case because what I said is how we got involved. What I am about to say is a little bit more information than we have been able to talk about on the floor today because of the focus on the Budget Committee, although when we were just off the floor in the cloakroom behind us and in my office, we have been going nonstop on this all day long—all day long.

Terri Schiavo is right now in a Florida hospice. She is breathing on her own. So she does not have a ventilator keeping her lungs expanding. She is breathing on her own. She is not a terminal case. She is, as I said, disabled. Under court order, this feeding tube was to be removed tomorrow, in about 14 hours from now. When her feeding tube is removed, she does not receive food; she starves to death. She has no hydration and she becomes dehydrated, has cardiovascular collapse, her heart and lungs would work overtime, and, of course, she would die.

Her parents, Bob and Mary Schindler, have been fighting for over 10 years to prevent her death. Imagine, if you and your spouse had a daughter, and you said: Don't let her die. We will take care of her. We will financially take care of her. How in the world can you have somebody come in and remove a feeding tube? That is what they have been saying for 10 years. They love her. They say that she responds to them. They would welcome the chance—welcome the chance—to be her guardian.

As I understand it, Terri's husband will not divorce Terri and will not allow her parents to take care of her. Terri's husband, who I have not met, does have a girlfriend he lives with, and they have children of their own.

A single Florida judge ruled that Terri is in this persistent vegetative state. And this is the same judge who has denied new testing, new examinations of Terri by independent and qualified medical professionals. They have not been allowed.

As I mentioned, the attorneys for Terri's parents have submitted 33 affidavits from doctors and other medical professionals, all of whom say that

Terri should be re-evaluated. About 15—I read through the affidavits—and about 14 or 15 of these affidavits are from board certified neurologists. Some of these doctors, very specifically, say they believe, on the data they had seen, that Terri could benefit from therapy.

There have been many comments that her legal guardian, that is Terri's husband, has not—it ranges. It is either that he has not been aggressive in rehabilitation, to other reports saying that he has thwarted rehabilitation since 1992. I can only report what I have read there because I have not met him.

Persistent vegetative state, which is what the court has ruled, I say that I question it, and I question it based on a review of the video footage which I spent an hour or so looking at last night in my office here in the Capitol. And that footage, to me, depicted something very different than persistent vegetative state.

One of the classic textbooks we use in medicine today is called "Harrison's Principles of Internal Medicine." And in the 16th edition, which was published just this year, 2005, on page 1625, it reads:

... the vegetative state signifies an awake but unresponsive state. These patients have emerged from coma after a period of days or weeks to an unresponsive state in which the eyelids are open, giving the appearance of wakefulness.

This is from "Harrison's Principles of Internal Medicine."

This "unresponsive state in which the eyelids are open"—I quote that only because on the video footage, which is the actual exam by the neurologist, when the neurologist said, "Look up," there is no question in the video that she actually looks up. That would not be an "unresponsive state in which the eyelids are open."

Skipping on down to what the Harrison's textbook says about "vegetative state," I quote:

There are always accompanying signs that indicate extensive damage in both cerebral hemisphere, e.g. decerebrate or decorticate limb posturing and absent responses to visual stimuli.

And then, let me just comment, because it says: "absent responses to visual stimuli." Once again, in the video footage—which you can actually see on the Web site today—she certainly seems to respond to visual stimuli that the neurologist puts forth.

And lastly—I will stop quoting from the classic internal medicine textbook—one other sentence:

In the closely related minimally conscious state the patient may make intermittent rudimentary vocal or motor responses.

I would simply ask, maybe she is not in this vegetative state and she is in this minimally conscious state, in which case the diagnosis upon which this whole case has been based would be incorrect.

Fifteen neurologists have signed affidavits that Terri should have addi-

tional testing by unbiased, independent neurologists. I am told that Terri never had an MRI or a PET scan of her head, and that disturbs me only because it suggests she hasn't been fully evaluated by today's standards. You don't have to have an MRI or PET scan to make a diagnosis of persistent vegetative state, but if you are going to allow somebody to die, starve them to death, I would think you would want to complete a neurological exam. She has not had an MRI or a PET scan, which suggests she has not had a full neurological exam.

I should also note that the court sided with the testimony of Dr. Ronald Cranford, who is an outspoken advocate of physician-assisted suicide.

A 1996 British Medical Journal study conducted in England's Royal Hospital for Neurodisability concluded there was a 43 percent error rate in the diagnosis of PVS. It takes a lot of time, as I mentioned earlier, to make this diagnosis with a very high error rate. If you are going to be causing somebody to die with purposeful action, like withdrawal of the feeding tube, you are not going to want to make a mistake in terms of the diagnosis.

I mentioned that Terri's brother told me Terri laughs, smiles, and tries to speak. That doesn't sound like a woman in a persistent vegetative state. So the Senate has acted tonight and the House of Representatives acted last night. The approaches are different, and over the course of tonight and tomorrow, I hope we can resolve those differences. It is clear to me that Congress has a responsibility, since other aspects of government at the State level had failed to address this issue, that we do have a responsibility given the uncertainties that I have outlined over the last few minutes.

Remember, she has family members—her parents and brother—who say they love her, they will take care of her, they will be responsible for her, and they will support her. There seems to be insufficient information to conclude that Terry Schiavo is in a persistent vegetative state. Securing the facts, I believe, is the first and proper step at this juncture. Whoever spends time making the diagnosis with Terri needs to spend enough time to make an appropriate diagnosis.

At this juncture, I don't see any justification in removing hydration and nutrition. Prudence and caution and respect for the dignity of life must be the undergirding principles in this case.

I will close with an e-mail a friend sent me once they saw that we in this body were involved in this case. It reads:

I know you are dealing with so many major issues, but I believe this one threatens to send us down another shameful path we may never recover from.

I don't think I ever had an occasion to tell you that I have a severely brain damaged adult daughter that I cared for in my home for 20 years. Sasha's functioning level is far below Terri's, but she has been such a blessing in my life. Dietrich Bonhoeffer said, "Not

only do the weak need the strong, but the strong need the weak.' It's hard to explain that in a day and age where physical perfection is so highly valued, but I know it to be true.

Senator Frist, as you fight this battle today, hold fast. If ever the weak needed a champion, it is now.

on behalf of my sweet Sasha . . .

Then the e-mail is signed.

I close tonight with those powerful words.

#### ORDERS FOR MONDAY, MARCH 21, 2005

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 4 p.m. on Monday, March 21; I further ask that following the prayer and the pledge, the morning hour be deemed to have expired, the Journal of the proceedings be approved to date, the time for the two leaders be reserved, and the Senate begin a period of morning business, with Senators permitted to speak therein for up to 10 minutes each.

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

#### PROGRAM

Mr. FRIST. On Monday, the Senate will convene for a short period of morning business. There will be no rollcall votes, although we hope to finish our business with respect to the legislation relating to my comments on the Theresa Marie Shiao case.

I want to take this opportunity to thank Chairman GREGG and Senator CONRAD for the tremendous, outstanding work on the budget resolution this week. Today alone, we conducted 25 votes to complete this resolution. Although it was not a record in terms of votes in 1 day, I would guess that we broke the land speed record as to the greatest number of votes in the shortest timeframe. We started voting at 1:17 and finished our last vote just after 10 p.m. It is ironic, but last night, I believe, on the floor in the evening we predicted—and it is rare to predict—that we would finish sometime around 10 p.m. tonight, and indeed we may have missed it by a couple of minutes.

I thank all of our colleagues for their patience and endurance. I hope we finish our work on the Schiavo issue early next week and, if so, we will begin the Easter break.

#### ADJOURNMENT UNTIL MONDAY, MARCH 21, 2005 AT 4 P.M.

Mr. FRIST. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 11:48 p.m., adjourned until Monday, March 21, 2005, at 4 p.m.

#### NOMINATIONS

Executive nominations received by the Senate March 17, 2005:

#### DEPARTMENT OF TRANSPORTATION

JOSEPH H. BOARDMAN, OF NEW YORK, TO BE ADMINISTRATOR OF THE FEDERAL RAILROAD ADMINISTRATION, VICE ALLAN RUTTER, RESIGNED.

#### DEPARTMENT OF STATE

JOHN ROBERT BOLTON, OF MARYLAND, TO BE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE UNITED NATIONS, WITH THE RANK AND STATUS OF AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY, AND THE REPRESENTATIVE OF THE UNITED STATES OF AMERICA IN THE SECURITY COUNCIL OF THE UNITED NATIONS.

JOHN ROBERT BOLTON, OF MARYLAND, TO BE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE SESSIONS OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS DURING HIS TENURE OF SERVICE AS REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE UNITED NATIONS.

#### ENVIRONMENTAL PROTECTION AGENCY

STEPHEN L. JOHNSON, OF MARYLAND, TO BE ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY, VICE MICHAEL O. LEAVITT.

#### EXECUTIVE OFFICE OF THE PRESIDENT

JOHN D. NEGROPONTE, OF NEW YORK, TO BE DIRECTOR OF NATIONAL INTELLIGENCE. (NEW POSITION)

#### IN THE AIR FORCE

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

#### To be lieutenant colonel

ROBERT B. ROTTSCHAFFER, 0000

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

#### To be lieutenant colonel

CHRISTINE A. LIDDLE, 0000

#### IN THE ARMY

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

#### To be colonel

CECIL D. ALLEN, 0000  
LAWRENCE J. ASHLEY, 0000  
WAYNE E. KOWAL, 0000

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

#### To be colonel

THOMAS E. BERON, 0000  
ANDREW R. BRADBURY, 0000  
KENNETH J. VEGA, 0000

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

#### To be colonel

BRAD K. BLACKNER, 0000  
KEVIN M. CIEPLY, 0000  
WILLARD G. FINCH, 0000  
MORRIS E. NELSON, 0000  
MARVIN A. ZERR, 0000

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

#### To be colonel

MICHAEL J. BOUCHARD, 0000  
PHILIP E. DYER, 0000  
CAROL A. EGGERT, 0000  
JOHN T. GERESKI, JR., 0000  
DEBRA A. ROSE, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT AS PERMANENT PROFESSORS AT THE UNITED STATES MILITARY ACADEMY IN THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 4333(B):

#### To be lieutenant colonel

GREGORY L. DANIELS, 0000  
MICHAEL D. PHILLIPS, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY NURSE CORPS UNDER TITLE 10, U.S.C., SECTIONS 624 AND 3064:

#### To be major

CINDY W. BALTRUN, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY MEDICAL CORPS UNDER TITLE 10, U.S.C., SECTIONS 624 AND 3064:

#### To be major

RICHARD L. URSONE, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY MEDICAL CORPS APPOINTMENT UNDER TITLE 10, U.S.C., SECTIONS 624 AND 3064:

#### To be major

THANH MINH DO, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY MEDICAL CORPS AND FOR REGULAR APPOINTMENT UNDER TITLE 10, U.S.C., SECTIONS 531, 624, AND 3064:

#### To be major

LORINE LAGATTA, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY AND FOR REGULAR APPOINTMENT UNDER TITLE 10, U.S.C., SECTIONS 531 AND 624:

#### To be major

GARY ZEITZ, 0000

#### IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS RESERVE UNDER TITLE 10, U.S.C., SECTION 12203:

#### To be colonel

AMY V. DUNNING, 0000

THE FOLLOWING NAMED LIMITED DUTY OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

#### To be lieutenant colonel

DAVID J. WILSON, 0000

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

#### To be major

MICHAEL AKSELGRUD, 0000

THE FOLLOWING NAMED OFFICERS FOR ORIGINAL REGULAR APPOINTMENT AS PERMANENT LIMITED DUTY OFFICERS TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTIONS 531 AND 5589:

#### To be captain

CHARLES R. BAUGHN, 0000  
CHRISTOPHER F. BERGERON, 0000  
ROBERT BOYERO, 0000  
KEITH D. BURGESS, 0000  
RICHARD CANEDO, 0000  
CHRISTOPHER J. COX, 0000  
DOUGLAS R. CUNNINGHAM, 0000  
CHRISTOPHER A. DAVIS, 0000  
MORRIS A. DESIMONE III, 0000  
DANIEL E. DESMIT, 0000  
JOHN DIGIOVANNI, 0000  
MICHAEL D. DODSON, 0000  
JAMES S. DUCKER, 0000  
MICHAEL W. DUNCAN, 0000  
CHRISTOPHER S. EICHNER, 0000  
RICHARD D. EKBORG, 0000  
JOSE A. FALCHE, 0000  
CHRISTOPHER L. FIELDS, 0000  
PEDRO B. GOMEZ, 0000  
MICHAEL A. GRAHAM, 0000  
GERALD D. HABIGER, 0000  
KYLE B. HANNER, 0000  
JULIE C. HENDRIX, 0000  
MARK L. HOBIN, 0000  
BRANDEE G. HOLBROOK, 0000  
JOHN L. HYATT, JR., 0000  
DONALD A. JOHNSON, 0000  
TROY A. KACZMARSKI, 0000  
DANIEL C. KOCH, 0000  
THOMAS J. LIPPERT, 0000  
JUNIOR L. LOGAN, 0000  
ROBERT M. MANNING, 0000  
LUIS A. MARIN, 0000  
LARRY MIYAMOTO, 0000  
CHRISTOPHER N. NORRIS, 0000  
TERRY G. NORRIS, 0000  
RICHARD P. OWENS, 0000  
PAUL E. QUICKENTON, 0000  
DONALD E. REID, JR., 0000  
JAMES R. REUSSE, JR., 0000  
JAMES C. ROSE, 0000  
RONALD J. ROSTEK, JR., 0000  
MARK S. ROY, 0000  
SHANNON W. SIMS, 0000  
SAMUEL W. SPENCER III, 0000  
BRIAN J. SPOONER, 0000  
BRYAN S. TEET, 0000  
JAMES R. TOWNEY, 0000  
WILLIAM C. TRAQUAIR, 0000  
BRIAN L. WHITE, 0000  
TIMOTHY P. WOODRING, 0000  
PHILLIP J. WOODWARD, 0000

#### CONFIRMATIONS

Executive nominations confirmed by the Senate March 17, 2005: