letter accompanying the report she advised the members that they would separately receive Mr. Hayward's report at or about the same time. She also advised the Committee members to review all of the evaluation materials, including the documents pertaining to the Standing Committee's 1992 evaluations of Mr. Wallace, before voting on Mr. Wallace's rating. It should be noted that Ms. Askew advised Committee members that she was the person who should be called if they had any questions about her report or the accompanying materials.

''Subsequently, Mr. Tober similarly advised Committee members to review the reports by Ms. Askew and Mr. Hayward in tandem. He did not direct Committee members to ascribe more significance to one report than another; did not suggest how Committee members should vote; and did not discuss with Ms. Askew, Mr. Hayward, or any members of the Committee his own views of the professional qualifications of Mr. Wallace.''

My reply: Liebenberg concedes Tober's role.

Proposition 8: Whether in person, by telephone, by e-mail, or in some other fashion, Tober was party to the ABA committee's deliberations on Wallace.

Liebenberg's response: ''There were no 'deliberations' among Standing Committee members with respect to the rating of Mr. Wallace. Each Committee member independently reviewed the evaluation materials and voted on a rating to be given to Mr. Wallace. Mr. Tober and the rest of the Standing Committee did not have an in-person meeting, conference call, or e-mail discussion regarding Mr. Wallace's qualifications or the rating to be given to him.''

My reply: For present purposes, I assume the correctness of Liebenberg's account. (If there were no deliberations on a ''not qualified'' recommendation—and on Askew's badly flawed report—that would seem yet another damning indictment of the ABA's processes.)

Propositions 9 and 10: Tober received and tallied the votes from other committee members. Tober reported the ABA committee's rating to the Senate Judiciary Committee.

Liebenberg's response: ''The 14 voting members of the Committee conveyed their votes to Mr. Tober, who in turn reported the Committee's unanimous 'Not Qualified' rating of Mr. Wallace to the Senate Judiciary Committee.''

My reply: Liebenberg concedes Tober's role.

Proposition 11: At the Judiciary Committee hearing, Senator Sessions asked Mr. Hayward, ''Are you aware that other members of the [ABA] committee probably were aware that the chair of the committee [i.e., Mr. Tober] had had a personal run-in with the nominee, Mr. Wallace?'' Mr. Hayward replied, ''I said I was aware. If you read the record, you are aware.'' (Transcript, pp. 142–143) I understand this exchange to indicate that the confidential ABA committee report on Mr. Wallace included a discussion of Mr. Tober's experience with, and views of, Mr. Wallace.

Liebenberg's response: ''Neither the report by Ms. Askew nor the report by Mr. Hayward included a discussion of Mr. Tober's experience with, and views of, Mr. Wallace. The evaluation materials did not include a discussion of any 'run-in' between Mr. Tober and Mr. Wallace in 1987, or any other interactions between them. Mr. Tober was not interviewed by Ms. Askew or Mr. Hayward about Mr. Wallace, they did not solicit his views regarding the nominee, and he did not volunteer to them his views.''

My reply: For present purposes, I assume the correctness of Liebenberg's account.

Proposition 12: Liebenberg testified at the Judiciary Committee hearing that ''it is important to emphasize that Mr. Tober did not participate in any way in the rating'' of Wallace (Transcript, p. 126); that Tober ''did not participate in either the evaluation or the rating'' (Transcript, p. 126); that ''neither Mr. Tober, nor Mr. Greco participated in the evaluation or the rating of Mr. Wallace'' (Transcript, p. 128); that ''I would just, again, add that Mr. Tober did not participate in the evaluation'' (Transcript, p. 131); that Tober, as chair of the committee, ''does not oversee the evaluations'' (Transcript, p. 131); and that ''This is not a process where Mr. Tober had any role whatsoever in the evaluation or the vote'' (Transcript, p. 134).

Liebenberg's response (presented in the third person): ''When Ms. Liebenberg testified that Mr. Tober did not 'participate' in the evaluation or rating of Mr. Wallace, her testimony was based on the fact that Mr. Tober did not conduct any of the evaluation interviews; was not interviewed by Ms. Askew or Mr. Hayward; did not prepare the evaluation reports or make any revisions to them; did not vote on Mr. Wallace's rating; and did not express his own opinion of Mr. Wallace's professional qualifications or what Mr. Wallace's rating should be to Ms. Askew, Mr. Hayward, or anyone else on the Committee. Thus, Mr. Tober did not play a substantive role in the evaluation or rating of Mr. Wallace. Ms. Liebenberg explained to the Senate Judiciary Committee that the evaluations were the sole responsibility of Ms. Askew and Mr. Hayward, and that each of the 14 voting members of the Committee independently voted on the rating, with no influence being exercised over their votes by Mr. Tober. (transcript pp. 116, 121)''

My reply: Propositions 1–7, 9 and 10 establish that Liebenberg's testimony was false. The transcript pages cited in her response do not put a different gloss on Liebenberg's testimony. Indeed, they consist entirely of (unrelated) testimony by Askew, not Liebenberg.

THE PASSING OF JUDGE JANE BOLIN

Mr. LEAHY. Mr. President, this week we lost Judge Jane Bolin, the Nation's first African-American female judge, whose career marks a shining example of a person knocking down barriers and leaving a footprint for others to follow.

Stirred by a strong sense of justice and a forceful determination to contribute, Judge Bolin overcame the indignity of signs saying ''no women should apply'' and ''no blacks allowed,'' and rose to have a career defined by ''firsts,'' the first African-American woman to graduate from Yale Law School, the first to join the New York City Bar Association, the first to work in the office of the New York City corporation counsel, and the first to serve on the judicial bench. Her legacy will live on, not only through her accomplishments on the bench of ending the placement of children in childcare agencies on the basis of ethnic background and ending the assignment of probation officers on the basis of race but also through the example of her lifelong struggle to show ''a broad sympathy for human suffering'' which will continue to inspire generations to come.

I salute her life and hope that our Nation will continue its march towards a more representative judiciary.

MESSAGE FROM THE HOUSE

At 3:20 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 4. An act to amend part D of title XVIII of the Social Security Act to require the Secretary of Health and Human Services to negotiate lower covered part D drug prices on behalf of Medicare beneficiaries.

The message also announced that pursuant to 22 U.S.C. 3003 note, and the order of the House of January 4, 2007, the Speaker appoints the following named Member of the House of Representatives to the Commission on Security and Cooperation in Europe: Mr. HASTINGS of Florida, Chairman.

MEASURES REFERRED

The following bill was read the first and the second times by unanimous consent, and referred as indicated:

H.R. 4. An act to amend part D of title XVIII of the Social Security Act to require the Secretary of Health and Human Services to negotiate lowercovered part D drug prices on behalf of Medicare beneficiaries; to the Committee on Finance.

MEASURES PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar:

H.R. 3. An act to amend the Public Health Service Act to provide for human embryonic stem cell research.

MEASURES READ THE FIRST TIME

The following bill was read the first time:

S. 287. A bill to prohibit the use of funds for an escalation of United States military forces in Iraq above the numbers existing as of January 9, 2007.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. THOMAS (for himself and Mr. ENZI):

S. 277. A bill to modify the boundaries of Grand Teton National Park to include certain land within the GT Park Subdivision, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. THOMAS:

S. 278. A bill to establish a program and criteria for National Heritage Areas in the United States, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BINGAMAN (for himself and Mr. DOMENICI):

S. 279. A bill to repeal certain sections of the Act of May 26, 1936, pertaining to the Virgin Islands; to the Committee on Energy and Natural Resources.

By Mr. LIEBERMAN (for himself, Mr. MCCAIN, Mrs. LINCOLN, Ms. SNOWE, Mr. OBAMA, Ms. COLLINS, and Mr. DURBIN):