

U.S. Court of Claims and of funds awarded to the Papago Tribe of Arizona in dockets numbered 345 and 102 of the Indian Claims Commission, and for other purposes;

S. 2059. An act to change the coverage of officials and the standards for the appointment of a special prosecutor in the special prosecutor provisions of the Ethics in Government Act of 1978, and for other purposes;

S. 2355. An act to amend the Communications Act of 1934 to provide reasonable access to telephone service for persons with impaired hearing and to enable telephone companies to accommodate persons with other physical disabilities;

S. 2636. An act to amend and extend the Tribally Controlled Community College Assistance Act of 1978, and for other purposes;

S. 2955. An act to establish the Cheaha Wilderness in Talladega National Forest, Ala.;

S. 3103. An act to amend section 1304(e) of title 5, United States Code; and  
S.J. Res. 270. Joint resolution to designate 1983 as the "Bicentennial of Air and Space Flight."

#### INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

By Mr. PERCY (for himself, Mr. PELL, Mr. DIXON, and Mr. RANDOLPH):

S.J. Res. 272. Joint resolution to provide interim appropriation of the revenue for the support of the government; to the Committee on Appropriations.

#### SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BAKER:

S. Res. 526. Resolution appointing a committee to notify the President concerning the proposed adjournment of the session; considered and agreed to.

By Mr. ROBERT C. BYRD:

S. Res. 527. Resolution authorizing the President of the Senate and the President of the Senate pro tempore to make certain appointments after the sine die adjournment of the present session; considered and agreed to.

By Mr. BAKER:

S. Res. 528. Resolution authorizing the President of the Senate and the President pro tempore of the Senate to sign duly enrolled bills; considered and agreed to;

S. Res. 529. Resolution tendering the thanks of the Senate to the Vice President for the courteous, dignified, and impartial manner in which he has presided over the deliberations of the Senate; considered and agreed to.

By Mr. ROBERT C. BYRD:

S. Res. 530. Resolution tendering the thanks of the Senate to the President pro tempore for the courteous, dignified, and impartial manner in which he has presided over the deliberations of the Senate; considered and agreed to.

By Mr. THURMOND:

S. Res. 531. Resolution to commend the exemplary conduct of the distinguished majority leader; considered and agreed to;

S. Res. 532. Resolution to commend the extraordinary cooperative conduct of the distinguished minority leader; considered and agreed to.

#### ADDITIONAL STATEMENTS

##### SENATOR JOHN P. EAST

● Mr. DENTON. Mr. President, during the short time he has been in the Senate, Senator JOHN P. EAST of North Carolina has distinguished himself as one of its most courageous, articulate, scholarly, and effective Members.

Senator EAST has recently introduced the Judicial Reform Act of 1982. It is obviously the product of some of the most serious and painstaking background research which has ever been done in a bill of its kind. The proposal is a thorough, careful, probing analysis and prescription for facilitating a more healthy and constitutionally sound balance between the judiciary and the other coequal branches of our Government. I urge my colleagues to give it their most care consideration.

The Washington Times has discussed this legislation in three editorials in its issues of December 2, 8, and 15. Mr. President, I ask that these editorials be reprinted in the RECORD following my remarks.

The editorials follow:

[From the Washington Times, Dec. 2, 1982]

##### RESTORING THE CONSTITUTION

Sen. John East has fired the first resounding shot in what promises to be one of the most important congressional battles of the century. A few days before the election recess he introduced the Judicial Reform Act of 1982. This is no half-hearted attempt to redress this or that example of overreaching by the federal courts. The bill's 12 parts propose nothing less than to return the U.S. Constitution to its original "uninterpreted" state.

The several provisions would strip the federal judiciary of the legislative and executive authority it has usurped from Congress and the executive branch. It addresses every issue raised by the irrepressible judicial activism of the last several decades. The fight will be a glorious one.

The proper role of the federal judiciary has been one of the most intensely debated issues in this nation's history. Where, out of political cowardice, Congress has defaulted on its responsibility to resolve difficult and controversial disputes, federal judges have stepped into the vacuum. The result has been that too much of the most important "legislation" of the 20th century has been written, not be elected representatives, but by appointed judges.

Although some parts of the bill overshoot the mark, the Judicial Reform Act gives Congress the opportunity to reassert its unquestioned, if little-used, powers to shape and control the jurisdiction of the federal courts. Led by the Supreme Court, federal judges have redrawn political boundaries taken over school boards, directly interfered in prison administration, punished police by excluding completely reliable evidence, taken religion out of the schools, and even told doctors when they may—and may not—

perform abortions. It is the premise of the East bill that Congress could—and should—accept its legislative responsibility to debate and decide these issues itself.

But it is not only Congress that will benefit from once again having the constitutional power the bill would retrieve. State governments will find themselves freed of the large and onerous burden of federal judicial second-guessing which has been grafted onto the Constitution by ever-broader interpretations of the 26 amendments. The powers reserved by the Founding Fathers to the states and to the people will be theirs once more.

Sen. East's legislation also includes provisions which would greatly improve congressional oversight of the federal judiciary, which would make the Supreme Court's membership geographically representative—as it was at the beginning, and which would in other ways reduce the tremendous power of the federal courts.

The Senate Judiciary Subcommittee on Separation of Powers, chaired by Sen. East, will schedule hearings after the 98th Congress convenes in January. We'll have more to say before then.

[From the Washington Times, Dec. 8, 1982]

##### ABOLISH THE EXCLUSIONARY RULE

Sen. John East's Judicial Reform Act of 1982 proposes to abolish the so-called "exclusionary rule" of evidence. It's about time. The rule bars evidence against a defendant in a criminal trial if the police or the prosecutor violated any constitutional rule or any other law while gathering the evidence. Judges do not—because the Supreme Court has said they may not—consider the value of the evidence when they apply the rule.

As interpreted by the Supreme Court, the Constitution absolutely prohibits a judge from looking at the evidence to determine whether it would have any value for the jury. If the means used to obtain the evidence breached any constitutional rule, then the evidence must be treated as if it had never existed. Obviously guilty defendants have gone free in cases such as these:

Stopping a speeder, the trooper notices something suspicious about the driver's behavior, and demands that the trunk be opened. Inside, he finds a gun with the driver's fingerprints on it. The gun turns out to have been used to murder a bank teller. The court suppressed the gun, keeping its very existence from the jury, because the Constitution, as the Supreme Court reads it, demanded that the officer have more than a "suspicion" to justify searching the trunk.

Because they suspect a businessman in dealing in drugs, detectives get a court order authorizing them to tap his phone. One morning they overhear a telephone conversation between one of the businessman's visitors and someone else; they are discussing their plan to murder an informant. The prosecution of the two plotters for conspiracy to murder collapses when the judge prohibits the use of the tape recording because the court order authorizing the tap didn't mention either of the defendants or indicate that the tap might find evidence of murder plots.

There is nothing in the Constitution that says that improperly obtained evidence must not be used. The exclusionary rule has been developed by the courts in response to the complete failure of the government to prosecute policemen who violate the law in the course of their duties. There are and always have been laws prohibiting the