United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 108th CONGRESS, SECOND SESSION

Vol. 150 WASHINGTON, THURSDAY, JULY 22, 2004 *No. 103*

Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable SAXBY CHAMBLISS, a Senator from the State of Georgia.

The PRESIDING OFFICER. Today's prayer will be offered by our guest Chaplain, Pastor Gene Arey, New Harvest Worship Center, Waynesboro, VA.

PRAYER

The guest Chaplain offered the following prayer:

Let us pray.

Father God, I come to You today on behalf of the Senators of the United States of America and the people they are called to serve. I thank You that we are one Nation under You, the land of the free and the home of the brave.

I pray for our Senators as they seek Your favor, Your will, and Your righteous blessings for America. I pray that Your guidance, strength, and wisdom will be upon them as they make important decisions and ponder the future of this great Nation. As our Senators complete this session, bring them special favor.

Father, I pray for our President and our civic and military leaders. Grant them the wisdom to discern Your perfect will and to desire to walk in Your ways.

Finally, Lord, I pray for those loved ones who are deployed in harm's way. Please comfort them and protect the military forces stationed around the globe.

In the name of our Lord Jesus, I pray. Amen.

PLEDGE OF ALLEGIANCE

The Honorable SAXBY CHAMBLISS led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one Nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, July 22, 2004.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable SAXBY CHAMBLISS, a Senator from the State of Georgia, to perform the duties of the Chair.

TED STEVENS,
President pro tempore.

Mr. CHAMBLISS thereupon assumed the Chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

SCHEDULE

Mr. MCCONNELL. Mr. President, this morning the Senate will conduct a period of morning business for up to 60 minutes, with the first 30 minutes under the control of the majority leader and the second 30 minutes under the control of the Democratic leader.

Following morning business, the Senate will resume executive session consideration of Henry Saad to be a U.S. circuit judge for the Sixth Circuit. The order from last night provides for up to three cloture votes beginning at 11 a.m. on the Sixth Circuit nominations. First is on Henry Saad, to be followed by a vote on Richard Griffin and then David McKeague. Therefore, Senators can expect the first votes of the day around 11 o'clock this morning.

Also we will turn to consideration of the defense appropriations conference report when it arrives from the House. We will be monitoring their action on that bill so that we can determine when we may begin debate on that bill this afternoon.

I don't believe there is a need for a great deal of debate on the defense measure; however, we will confer with the Democratic leadership on a time agreement for this afternoon. There are a number of other legislative and executive items we are attempting to clear before we depart for the August adjournment. We will be processing those throughout the day as well.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will be a period for the transaction of morning business for statements only for up to 60 minutes, with the first half of the time under the control of the majority leader or his designee and the second half of the time under the control of the Democratic leader or his designee.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The minority leader is recognized.

Mr. DASCHLE. Mr. President, I will use my leader time and ask that it not be taken from the allocated time to our Democratic caucus this morning.

HONORING NATIVE AMERICAN HEROES

Mr. DASCHLE. Mr. President, Americans are united today in concern for the safety and well-being of our men

and women in uniform—especially those who are serving in Iraq and Afghanistan, risking their lives to advance human freedom.

This morning, I would like to speak about the extraordinary service of a group of soldiers from two earlier wars.

We know these men today as ''the code talkers.''

They were Native American soldiers who used the languages of their tribes to send strategic military communications during World Wars I and II. Their impenetrable codes saved the lives of countless American troops in Europe and throughout the Pacific.

The Navajo code talkers are the best-known of these men. Three years ago, they were honored, rightly, with congressional medals.

But the Navajo were not the only code talkers. Soldiers from at least 15 other Indian Nations—including the Cherokee, Choctaw, Comanche, Pawnee, Seminole, Osage, Kiowa, Hopi and other nations—also served as code talkers. And 11 code talkers came from the Lakota, Dakota, and Nakota nations, known to many as the Great Sioux Nation.

Of those 11, nine—John Bear King of the Standing Rock Sioux Tribe; Simon Broken Leg and Iver Crow Eagle, Sr., of the Rosebud Sioux Tribe; Eddie Eagle Boy and Phillip LaBlanc, of the Cheyenne River Sioux Tribe; BapTEEST Pumpkinseed of the Oglala Sioux Tribe; Edmund St. John of the Crow Creek Sioux Tribe; and Walter C. John of the Santee Sioux Tribe of Nebraska—have all passed on.

Charlie Whitepipe is one of the two surviving Lakota code talkers.

In 1941, he enlisted in the United States Army. He was already in training in California when Pearl Harbor was attacked. The following day, he shipped out to Hawaii.

From Hawaii, his unit was sent to the Pacific island nation of New Guinea.

It was in New Guinea that another soldier, from Sioux Falls, told his commanding officer that Charlie Whitepipe would make a good forward observer because—in his words—''the Sioux are stealthy, sneaky, people.''

The characterization angered Whitepipe, but it apparently impressed his commanding officer.

Charlie Whitepipe spent the next 2 years in New Guinea as a forward observer and radio man, moving ahead of his unit and communicating in Lakota with a ship-based partner to direct artillery fire at enemy troops.

In 1944, he was shipped home, suffering from malaria and jungle rot, the result of months spent in water-filled foxholes.

After an honorable discharge, he returned to Rosebud, married, and raised six children with his wife.

He spent 30 years working as a lineman with the rural electric association, helping to bring electricity to the Rosebud Reservation and other parts of rural South Dakota. In his son's words, ''He got up and went to work 6 days a week and on the 7th day, he got up and took his family to church.''

Charlie Whitepipe turned 86 this month. He suffers today from a profound hearing loss caused in part by artillery explosions.

His family remains the center of his life.

Clarence Wolf Guts is the other surviving Lakota code talker.

He enlisted in the Army 7 months after Pearl Harbor with his friend and cousin, Iver Crow Eagle, Sr.

During Ranger training in Alabama, an officer discovered that the cousins could both speak, read, and write Lakota. As Mr. Wolf Guts recalls it, that officer ''thought he'd hit the jackpot.''

Clarence Wolf Guts was assigned to travel with a general in the Pacific, and Iver Crow Eagle was assigned as a radio operator for a colonel.

For the next 3 years, the cousins jumped from one Pacific island to the next, pushing the Japanese back.

They also helped develop a phonetic alphabet based on Lakota that was later used to develop a Lakota code.

One day, as bullets and shrapnel exploded around him, Clarence Wolf Guts whispered a prayer in Lakota:

Bring me home, God, and I will praise your name always.

His prayer was answered.

Clarence Wolf Guts returned safely to Pine Ridge in 1946, married and—like Charlie Whitepipe—raised six children.

Today, at 80, he marches with veterans groups whenever he can.

The Yankton Sioux were among the first Native American soldiers to use a native language to confound enemy troops, in World War I. Through two world wars, no native language or code based on an indigenous American language was ever broken.

What makes the code talkers story even more extraordinary to some is the fact that these men chose to fight for the United States at all.

As young boys, Charlie Whitepipe and Clarence Wolf Guts spoke only Lakota. Like most of the code talkers, however, they were forced to attend schools in which they were forbidden to speak their native language.

Students who broke the English-only rules were punished harshly; many were beaten, some even to death.

It was part of a sad, brutal chapter in our Nation's history in which the United States Government and other institutions tried to strip Indian children of their tribal identities.

Despite that history, despite the failure of the United States Government to honor its treaty obligations and other commitments to tribes, Native Americans have long had a higher rate of military service than any other group in America.

Another young Lakota soldier, Sheldon Hawk Eagle, was laid to rest in the National Cemetery in the Black Hills just before Thanksgiving last year. Like so many Lakota people before him, he died serving this Nation.

This past Fourth of July, I was honored to march with other veterans at a powwow at the Sisseton-Wahpeton Sioux Reservation in South Dakota. Among the veterans who marched with us that day were two members of the tribe who were home on leave from Iraq.

That evening, at our State's annual Fourth of July fireworks celebration at Mount Rushmore, South Dakotans paid special tribute to the Lakota code talkers.

There have been other tributes as well. But there is at least one more honor the Lakota code talkers are due.

I strongly believe that Congress should pass the Code Talkers Recognition Act this year to award our Nation's highest honor, the Congressional Medal, to the Lakota code talkers and all Native American code talkers who served in both world wars.

This is a bipartisan bill. Senator INHOFE introduced it, and I am proud to be a cosponsor, along with my fellow South Dakotan, TIM JOHNSON, and others. A similar bill passed the House in 2002 but was blocked in the Senate by members of the other party.

Historians can debate which code talkers communicated in actual codes and which communicated essential military information using only their native languages. What is beyond debate, however, is the courage of veterans such as Charlie Whitepipe and Clarence Wolf Guts and the extraordinary value of their wartime service to our Nation. Let us work together to pass the Code Talkers Recognition Act this year before we lose any more of these heroes.

Let us also agree that we will honor the service of the code talkers by funding veterans health programs adequately, and ensuring that veterans in tribal communities have reasonable access to VA facilities. Let us also honor our Government's treaty obligations to fund Indian health care, so that tribal veterans and their families are not denied essential care.

Finally, we should honor the code talkers by working to preserve the rich, ancient languages they used to preserve our freedom.

Many of those languages are on the verge of extinction. Of the 300 indigenous languages once spoken in America, only 150 are still spoken today. Of those, only 20 are still spoken by several generations.

Experts warn that without immediate, dramatic action by Native Americans, tribal governments and schools, and the Federal Government to encourage their preservation and perpetuation, Lakota and all of the native languages of America will die by the year 2050.

Language is the most effective means we have to transmit our values, our beliefs, and our collective memories from one generation to the next. For that reason, Native Americans and tribal communities particularly benefit from preserving the languages of their ancestors.

But they are not alone. Imagine how World War II might have turned out had we not had the code talkers.

In 1990, with Senator INOUYE's leadership, Congress established the Native American Languages Act to ''preserve, protect and promote the rights and freedom of Native Americans to use, practice and develop Native American languages.''

Last year, Senator INOUYE introduced amendments to that law to support the creation within tribal communities of immersion schools and language survival ''nests,'' to teach these languages to the next generation.

Let's pass those amendments this year. There is no time to waste.

Let's also work together to adequately fund Indian schools and to include in all Federal education policies the flexibility tribal educators need to include native languages, history and culture in their curriculums.

Indian parents, and tribal leaders and educators, in South Dakota care deeply about this. And President Bush specifically called for such flexibility in the Executive order on Indian education he signed less than three months ago.

Soldiers go to war to give their children the chance to live better lives. What better way can we honor the code talkers than to support schools in which their descendants can learn the native languages that helped to save our Nation?

The result of such efforts will be a healthier, happier Indian population. And who knows what we will all learn in the process?

Mr. President, these remarks have been translated into Lakota by Elizabeth Little Elk, a member of the Rosebud Sioux Tribe. I ask unanimous consent that the Lakota translation of my words be printed in the CONGRESSIONAL RECORD.

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

HONORING NATIVE AMERICAN HEROES, PRESERVING NATIVE AMERICAN LANGUAGES

Tunkasila Mila Hanska Oyate ki lel un gluwitapi. Na taku le ecunkupi ke he, wiyan nahan wicasa le un okicize el un pelo. Iyotan winyan na wicasa kowakatan unpi hel Iraq nahan Afghanistan. Takuwe heciya unpi ki hena oyate ki nawicakinjin pelo.

Le hihani ki taku wan iwowablakin kte ehani wicasa eya makasitomani okicize el apa pelo.

Lena akicita ki tokeske wacinwicayau ki he ta wowiye ki un woglakapi, ho nahan he un wicakpe ota nin pelo.

Sina Gleska Oyate etan Wicasa eya makocesitomani slolwicaya pelo. Ehani waniyetu yamni he han Tunkasila wicasa ki lena wicayuonihan pelo.

Sina Gleska Oyate ki isnalapi sni, nainjeyan lena oyate ki pi Cherokee, Choctaw, Comanche, Pawnee, Seminole, Osage, Kiowa, nahan Hopi akicita he tanpi. Ho, nahan wicasa ake wanji Oceti Sakowin u pelo.

Le ake wanji ki he John Bear King of the Standing Rock Sioux Tribe; Simon Broken Leg and Iver Crow Eagle, Sr. of the Rosebud Sioux Tribe; Eddie Eagle Boy and Phillip LaBlanc of the Cheyenne River Sioux Tribe; Baptiste Pumpkinseed of the Oglala Sioux Tribe; Edmund St. John of the Crow Creek Sioux Tribe; and Walter C. John of the Santee Sioux Tribe of Nebraska—numlala ni unpi. Charlie Whitepipe hecena niun.

1941 he han akicita el ic'icu, hetan California ekta iyeyapi nahan heceya un he han Pearl Harbor tiektiyapi. He ihaniyuhehan Hawaii ekta iyeyapi, ho nahan hetan New Guinea ekta iyeya pelo.

New Guinea ekta un hehan wicasa wan Inyan oblecahan etanhan itancan ki okiyaki na Charlie Whitepipe atunwan ki waste kte cin Lakota ki lila wicasapi sni hanan waecun unspepi yelo. Le wicasa ki waeyo hehan Charlie Whitepipe iyohpi sni cin Lakota ki hececapi sni, eyas itacan ki hecetula ca Charlie Whitepipe waniyutu num atuwan wicasa heca. Ho nahan, Lakota woiye un wata wan el Lakota wan kici woglake.

1944 hehan lila kuje ca glicuyapi.

Charlie Whitepipe gli hahan taicutun na wakanyeja sakpe icahwice.

Ho hetan waniyetu wikcemna yamni Rural Electric Association hel wowasecun. Ta cinca wan atkuku ki anpetu ki oyohi wasecun, ho nahan anpetu wakan canasna tiwahe tawa ki iyuha wakekiye awinca iye.

Wana Charlie Whitepipe waniyetu saglokan ake sakpe. Lehanl wicasa ki le nunhcan natakuni nahun sni icin okicize ekta un, hehanl wanapobiyab ki nuge ki yusicapi. Wicasa ki let tiwahe tawa ki tehkila.

Clarence Wolf Guts injiyan nahahcini un, nahan injiya Lakota woiye nahan woglake un okicize ekta wacinuanpi.

Ta kola ku kici, Iver Crow Eagle, Sr., akicita el ici'cupi.

Alabama ekta eye wicayapi. Heciya itacan ki wanji ablezina Iver nahan Clarence Lakota woglaka nahan wayawa okihipi. Mr. Wolf Guts oglakina akicita itacan ki lila oiyokipi.

Clarence Wolf Guts akicita ota itacan ki omani. Ho nahan, Iver Crow Eagle, Sr., injeyan akicita itaca wan ki cin wasecun. Lena Wicasa ki tahansi kiciyapi.

Waniyetu yamni Iver nahan Clarence wita ecehcel manipi.

Lakota wowiye un wowapi wan kagapi. Le wowapi ki akicita ki unpi. Anpetu wanji Clarence wacekiya, ''Wakan Tanka tanyan waki hantas ohihanke wanjini cecicin kte.''

Clarence wacekiye ki he osi'icu.

Clarence Wolf Guts Pine Ridge ekta Tanya gli. Taicutun nainjiyan wakanyeja sakpe icahwice.

Lehanl waniyetu wikcemna saglokan. Akicita ki mani cansna el opa.

Tuwa tokiya Lakol woiye un okicize el un ki he Ihuntuwan Dakota Oyate ki epi. World War I nahan World War II Lakota woiye okicize el un ki ogahniga sni ca, lial taku ota ecun na eyab okihipi.

Lena wicasa ki toheki lila wohanke ki he lena wicasa ki okicize el unpi, nahan iyeca hena hecunpi.

Charlie Whitepipe nahan Clarence Wolf Guts wakanyeja pu hehan Lakota ecela unspepi. Ho eyas, wana wayapi hehan Lakota woglake okihip sni. Wasicu ecela woglaka okihipi. Lakota woglaka hantas awicapapi naha tehiya wicakowap. Nahan hunh t'api.

Le iwanglakap cansna lila oyohsice na waste sni. Hehan Mila Hanska ki Oceti Sakowin Oyate tehkiya wicakowapi. Lakol wicoh'an ki unkip wacinpi.

Lecel oyate ki owicakowap eyas hecana wicasa na winyan ici'cu. Mila Hanska Oyate okicize wanji el iyab canasna Lakota winyan na wicasa akita el eci'cupi.

Akicita wan Sheldon Hawk Eagle eciyapi ca He Sapa National Cemetary el eyonpap le waniyetu hehan le koskalaka ki okicize el lecala t'e.

Le 4th of July hehan akicita ki manipi ca ob wamani. Le Sisseton-Wahpeton Reservation el mawani. Hehan wicasa num Iraq ekta okicize hetan glipi.

He hanhepi hehan He Sapa ekta akicita wica uonihanpi ca el waun.

Akicita ki wica yuonihanpi ota, ho eyas, Lakota woiye akicita ki hena isnala wicayuonihan wacin.

Taku wan lila iblukcan ki he le akicita eya woiye ki hena Tunkasila wicayuonihan ki waste kte. World War I na World War II makasitomani akicita eya iwaglake ki lena woyuonihan wakantuye ic'u wacin.

Wowapi wan lel awahi, le wowapi tuweki iyuha ikipi kte. Senator Inhofe kici, nahan Tim Johnson awahi. Waniyetu nupa hehan wowapi lecel unkohipi, eyas hunk sam kahinhpeya najinpi.

Akicita eya Charlie Whitepipe na Clarence Wolf Guts oyate ecetkiya waencunpi le un wayuonihan wakantuya wicun'kup waste ke yelo. Lena wicasa ki ecani el un kte sni, ca le waniyetu ki unkigluwitap na wowapi ki le unyuwastepi ki waste ktelo.

Lankun taku ecun'kun kte ki he akicita ki lena taky ewojawab ki hena wicunkub ki waste kte. Akicita okuju tipi hena muza ska iyena yuhap ki waste kte. Lena oyate ki Wolakota wowapi waste kte. Lena oyate ki Wolakota wowapi wanji kici unkagapi. Taku wowapi ki le na eya ki unkinyejan ecunkun waste ke.

Na lena winyan na wicasa ki wicasyuonihanpi ki ta woiye ki un inipi.

Makasitomni lakol woiye ki lila oh'kankoya takuni sni ehani kohta yamni woiye waglakapi le hanl wikcemna num woiye waglapi.

Tuwiki yuha takun ecunp sni tantas lakol wichoh'an nahan lakol woye ki wanic'in kte.

Lakol wicoh'an na lakol woiye ki un wakanyeja ki tan icagapi. Lena ungluzapi ki waste kte. Lecel oyate ki niupi kte.

1990 hehan Senator Inouye wowapi wan lel ahi, ho ca iyuha walakapi, na luwastepi. He wowapi ki Lakota Oyate ki makasitomni lakol wicoh'an na woiye yuwas'ake.

Senator Inouye nakun wowapi lel ahi he owayawa tipi ki lena muza ska wicaku hecel lakol wicoh'an ki wakanyeja ki unspe okte.

Ateyapi Bush wowapi wan caje ki owa. Wowapi wan woiye ke lena tanyan wacin kte, ca wowapi yamni el caje ke owa. Le wowayepi ki waste.

Akicita ki okicize el yapi hecel ta wakanyeja ki tanyan unpi kte, na tiwahe oyunihanpi uncinpi. Le wowapi ki unyunwastepi wacin.

Le ecunkunpi ki hanta taku unkablezap seca?

Mr. DASCHLE. I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Colorado.

Mr. ALLARD. I ask the Chair to notify me after 15 minutes of my time has expired.

The ACTING PRESIDENT pro tempore. The Chair will so notify the Senator.

9/11 COMMISSION REPORT

Mr. ALLARD. Mr. President, the report from the National Commission on Terrorist Attacks upon the United States will be coming out today. There has been some dribbling out of information about what that report might contain, but we are not going to know

for sure the full content of that report until we get a briefing. I am excited that a good portion of the report is going to be released to the public. I am always of the belief that we need to have an open dialog about issues and where there are shortcomings so that we can come up with the answers and solutions that will serve us best.

I do not think any one group of people or even one individual has all the answers. So I think the more dialog we can get as a result of this report, the better. But I do think it serves us well to think about where we are today, and how it is we got to where we are.

The President came into office about 3½ years ago. He was elected in 2000. He had not even been in office a full year when all of a sudden we had 9/11. What has emerged is that we have a serious problem with terrorism.

Historically, if we look back through the 1990s, we see that there was an emerging problem, which many of us did not recognize as serious as it turned out to be, and most of us did not realize that a series of events would eventually culminate into 9/11 and eventually a finishing off of the war with Iraq. There was a pattern, in looking back.

By the way, it is always easy to look back and say we should have done this and we should have done that, but it is much more difficult to be prospective and say this is the information that is before us and this is what is going to happen in the future.

What was happening in the 1990s was a persistent pattern of boldness in the size and the number of terrorist attacks that were occurring throughout the world. They started with car bombs, and we still have car bombs today. Then they added attacks on embassies. We had an attack on the Khobar Towers. We had an attack on the USS Cole. We had planes bombed by terrorists. We had a partially successful attack from terrorists in New York, and then all of a sudden it built up to the ultimate, which was the 9/11 attack in this country which brought down the Twin Towers in New York, and there was also an attack on the Pentagon, which is the first time this country had been attacked on its own soil since Pearl Harbor.

This was very much an awakening for the Congress, as well as the American people. This President should be commended for rising to the challenges of 9/11, and I think we have the right President in office at the right time. He sent a strong message to the world that was important to send, and that message was that we are not going to tolerate terrorism, and if there are any other countries that are going to support terrorist attacks, either directly or indirectly, they are going to be considered part of the problem as we resolve these issues related to terrorism.

As a result, he had to take some very strong stances. We had to take some very strong positions.

Eventually, what evolved is that Afghanistan was the center. The President dealt first with Afghanistan. Afghanistan was pretty much the center of a lot of the terrorist activities. The Government had been taken over by the terrorists. Afghanistan as a country was being used as a training ground for terrorists who were exporting terrorism throughout the world.

Today, Afghanistan is now a democracy, moving toward more freedom for its people, and getting terrorism under control. It has some challenges with economic growth, but I think President Karzai has done a tremendous job. This all happened because of strong action by this President in moving forward.

We saw that many of these terrorist groups, al-Qaida, for example, had their origins in Saudi Arabia. We saw many terrorist groups that were raising money through Saudi Arabia. Today, Saudi Arabia has recognized the problem and taken some very strong actions. They are working with the United States to control terrorism within their own country.

We have Libya and Muammar Qadhafi, who was exporting terrorism and actually attempting to develop a nuclear weapons program in his own country. Now he has backed off and said, look, we want to work with the United States. He has come out and publicly opposed terrorism. He has given up his nuclear program. The nuclear inspectors can now go into his country and look for nuclear materials.

We have made remarkable progress in Afghanistan. I know we have remarkable progress in Saudi Arabia. We have made remarkable progress in Libya. Even in North Korea we seem to sense more willingness on their part at least to sit down with the United States and negotiate with the United States on how it is we can move toward a more peaceful environment.

Finally, that brings us to Iraq. I think that is another remarkable achievement for this administration. Even though there are some differences of opinion about how this should have been handled, the fact is a large majority of the Senate, working with the President and working with the United Nations, realized terrorism was a problem and Iraq was a part of this problem.

The President decided to invade Iraq and Saddam Hussein. It was a good decision. I need to remind Members this war started actually before then. It started under his father, the first President George Bush. The first President George Bush had to deal with an invasion by Saddam Hussein into the country of Kuwait. He soundly defeated Saddam Hussein. Saddam Hussein agreed to sign a treaty and in that treaty he agreed to allow inspectors into his country. He agreed to many provisions that were being stipulated by the United Nations. He agreed to certain no-fly zones.

We attempted to enforce those no-fly zones as he was constantly shooting at our planes. After the first conflict, Saddam Hussein ignored what he had agreed to with the first President George Bush. Then we had the United Nations inspectors going in and looking for nuclear materials, weapons of mass destruction, and they were kicked out of that country.

The Congress and the United Nations all agreed this was an unstable situation and something needed to be done with Saddam Hussein. So George Bush, who is now our President, made the right decision in saying we need to go into Iraq and we need to deal with this unstable situation because it is a persistent threat to world peace. If we do not deal with the problem now, it is only going to get worse with time. I have to say this President has done a great job. He has the support of the American people.

Now this national commission on terrorist attacks upon the United States is going to reveal some shortcomings and we are going to need to address those. Our Nation has a leader who has made it clear that winning the war on terror is the defining moment for the civilized world.

Since September 11, 2001, President Bush has taken some bold steps to ensure the safety and security of the United States, specifically against terrorist organizations and the nation states that support them. Specifically, since President Bush has taken office, the United States, under his leadership, has overthrown two terrorist regimes, rescued two nations and liberated over 50 million people, captured or killed close to two-thirds of known senior al-Qaida operatives, captured or killed 45 of the 55 most wanted in Iraq, including Iraq's deposed dictator, Saddam Hussein, who is now sitting in jail, hunted down thousands of terrorist and regime remnants in Iraq, disrupted terrorist cells on most continents and likely prevented a number of planned attacks. This is an astounding record of accomplishment for our commander in chief and his national security staff.

We also have to recognize the phenomenal job of our men and women in our military services. They have been phenomenal and I do not think we can repeat that enough. We are very fortunate to have their dedication and commitment, not only of the men and women who are serving in these services, but their families and their communities back home who support them.

The United States went to war in Afghanistan and Iraq risking significant loss of life and treasure to protect our way of life. Our goals are clear and twofold: Destroy the nexus of terrorism and weapons of mass murder that personify the two ousted regimes and create in their stead stable democratic states able to participate in the modern world community.

We succeeded in our first goal, having killed or captured perpetrators and supporters of the enemy terrorists. The courageous people of Afghanistan and Iraq are making remarkable progress toward adoption of constitutional reforms to secure momentum toward

lasting democratic independence. Nevertheless, we still have work to do.

The Senate Select Committee on Intelligence report on Iraq's weapons of mass destruction clearly identified what we have all known for some time, our intelligence has not performed in as desirable a way as we would like and in some cases has raised some issues about some of the decisions we had to make in this Congress.

As a former member of the Senate Intelligence Committee, I say to my colleagues that few employees in the Federal Government are as dedicated as those who work for our intelligence agencies. They are hard-working individuals who believe their work is critical to our Nation's national security, and they provide us good information. As policymakers, we also have to recognize the information they give us is not always absolute. A lot of time it is a little bit of information here, a little bit of information there, and we have to put it together and say this is a likely event that is going to happen or this is likely what is happening. It is not absolute in many regards, and we have to treat it that way.

I think that is the way the President treated it, and I think that is the way the Congress has looked at much of the information that we received right after 9/11 and how terrorism is affecting us. That is why it was so frustrating to learn our intelligence agencies did not connect many of the dots in regard to September 11 and again failed to provide reliable information on Iraq's weapons of mass destruction programs.

We clearly have a considerable amount of work to do. As the Senate Intelligence Committee recommended, we need to improve the process by which analysts, collectors, and managers fuse intelligence and produce judgments for policymakers, but that is not new. We have been facing this problem for some time. I am glad we are taking it more seriously. We need to greatly enhance almost every aspect of the intelligence community's human intelligence efforts. We need to address the tendency to build upon the judgments of previous assessments without including the uncertainties in those assessments.

I will note the Senate Intelligence Committee's report did conclude that the intelligence community's judgments regarding Saddam Hussein's government's link to terrorist organizations were reasonable. Equally important was the Senate Intelligence Committee's conclusion that the exaggeration of the intelligence on Iraq's weapons of mass destruction capabilities was not the result of political pressure.

As we prepare for the 9/11 Commission's report, I think it is appropriate that we thank the people who served on the Commission for their service to this country. Their service will go a long way to helping our Nation prevent future attacks.

I yield the floor.

The PRESIDING OFFICER (Mr. TALENT). Who seeks recognition?

Mr. MCCONNELL. Mr. President, I rise to make remarks today on two important subjects with which we are currently dealing in the Congress.

The PRESIDING OFFICER. The Senator from Kentucky.

SETTING THE RECORD STRAIGHT

Mr. MCCONNELL. Mr. President, ''Did the Bush administration manipulate intelligence about Saddam Hussein's weapons program to justify an invasion of Iraq?'' This is the central question posed by discredited Ambassador Joe Wilson in his July 6, 2003, oped published by the New York Times.

Wilson alleged the answer to the question was ''yes'', and a political firestorm ensued. Indeed, the year-long furor over the infamous 16 words stemmed from Mr. Wilson's disproved claims.

Many of the President's fiercest critics have since argued the Bush administration misled the country into war, a truly incendiary charge.

Lord Butler's comprehensive report includes the real 16-word statement we should focus on. Here is what he had to say:

> We conclude that the statement in President Bush's State of the Union address . . . is well founded.

It is well founded. Yet the New York Times threw its hat into the ring early and ran an editorial on July 12, 2003 amplifying Wilson's irresponsible claim and flaming the fires of this pseudo-scandal. This is what they had to say:

> Now the American people need to know how the accusation got into the speech in the first place, and whether it was put there with an intent to deceive the nation. The White House has a lot of explaining to do.

Will the New York Times, which printed 70 stories that repeated Joe Wilson's claims, now retract this editorial? Will it acknowledge on the editorial page the truth about Joe Wilson?

Rather than displaying caution and restraint, too many American politicians raced, like the New York Times, to echo this outrageous allegation.

Early into the fray was the senior Senator from North Carolina. On July 22, 2003, Fox News played a clip from one of Senator EDWARDS' rallies in which he repeats Wilson's attacks on the President's honesty. Senator EDWARDS claims:

> Nothing is more important than the credibility of the president of the United States and the words that come out of his mouth at the State of the Union are, in fact, the responsibility of the president.

According to the correspondent at the rally:

> Edwards blasted the president's 16-word State of the Union sentence on British intelligence information that Iraq sought nuclear weapons material from Africa.

Now a candidate for the Vice Presidency, Senator EDWARDS will have many media opportunities to set the record straight about his view of the President's State of the Union speech. In the name of fairness, I sure hope he will.

Not to be outdone, the Senior Senator from Massachusetts, Senator KENNEDY, delivered an attack on the Bush administration this January. Senator KENNEDY repeated Wilson's distortions, and claimed:

> The gross abuse of intelligence was on full display in the president's State of the Union address last January, when he spoke the now infamous 16 words. . . . And as we all know now, that allegation was false. . . . President Bush and his advisers should have presented their case honestly.

When will Senator KENNEDY acknowledge that the President's claim was ''well founded?'' The junior Senator from Massachusetts has also accused the President of misleading the country. An Associated Press report from 2003 includes an exchange between Senator KERRY and a woman on the campaign trail. Here is how it went.

> When a woman asked whether U.S. intelligence on Iraq was doctored, Kerry replies that Americans were ''clearly misled'' on two specific pieces of intelligence. ''I will not let him off the hook throughout this campaign with respect to America's credibility . . .

That is the junior Senator from Massachusetts. Let me quote another AP report about Senator KERRY from last summer:

> Kerry said Bush made his case for war based on U.S. intelligence that now appear to be wrong—that Iraq sought nuclear material from Africa.

Now that Joe Wilson's claims have been completely discredited, the junior Senator from Massachusetts has a chance to set the record straight. But will he?

I mentioned yesterday the distinguished Minority Leader had repeated Joe Wilson's discredited claims on the Senate Floor. Just last month, Senator DASCHLE said:

> Sunlight, it's been said, is the best disinfectant. But for too long, the administration has been able to keep Congress and the American people in the dark . . . serious matters, such as the manipulation of intelligence about Iraq, have received only fitful attention.

The bipartisan Senate Intelligence Report reached the following conclusions that directly refute the serious charges made by the President's critics:

> Conclusion 83. The Committee did not find any evidence that Administration officials attempted to coerce, influence, or pressure analysts to change their judgments related to Iraq's weapons of mass destruction capabilities.
>
> Conclusion 84. The Committee found no evidence that the Vice President's visits to the CIA were attempts to pressure analysts, were perceived as intended to pressure analysts by those who participated in the briefings on Iraq's WMD programs, or did pressure analysts to change their assessments.

Let us not allow honesty to become a casualty of the campaign season.

My colleagues now have an opportunity—and I am sure they will take

it—to set the record straight about their support of Mr. Wilson's outrageous claims. In the name of fairness, will they?

NOMINATIONS TO THE SIXTH CIRCUIT COURT

Mr. MCCONNELL. Mr. President, on another matter, we will be voting later this morning on the nominations of Henry Saad, David McKeague, and Richard Griffin to the Sixth Circuit Court of Appeals.

As this chart shows, the Sixth Circuit covers Michigan, Ohio, Kentucky, and Tennessee.

For the last 2 years, the Sixth Circuit has been trying to function with 25 percent of its seats empty. That vacancy rate is, as it has been, the highest vacancy rate in the Nation. Not surprisingly, the Judicial Conference has declared all four of these vacant seats to be ''judicial emergencies.''

For the last 3 years, I have taken to the floor to decry the crushing burden under which the Sixth Circuit operates. The years change but one seemingly immutable fact remains: The Sixth Circuit remains the slowest circuit in the Nation by far. According to the Administrative Office of the Courts, last year the Sixth Circuit was a full 60-percent slower than the national average. According to the AOC, the national average for disposing of an appeal is 10½ months, but in the Sixth Circuit it takes almost 17 months to decide an appeal. That means in another circuit, if you file your appeal at the beginning of the year, you get your decision around Halloween. But in the Sixth Circuit, if you file your appeal at the same time, you get your decision after the following Memorial Day, over a half a year later. If you can believe it, each year the disparity between the Sixth Circuit and its sister circuits gets worse.

In 2001 and 2002, the Sixth Circuit was the slowest circuit in the country, just like last year. In those years, the average time for decision was 15.3 and 16 months, respectively, but last year the delay jumped up to almost 17 months. So clearly my constituents and the other residents of the circuit are suffering more and more as the years go by.

What is the reason for this sorry state of affairs? An intra-delegation dispute from years ago when nearly a quarter of the current Senate wasn't even here. Nor, I might add, was the current President around for that dispute either. He, too, has nothing to do with it.

This dispute drags on year after year. As I understand it, although only two seats were involved in this dispute, six nominees, including four circuit nominees, continue to be bottled up.

Frankly, I don't know whose fault it was it has been so long. But I do know that neither the 4 million people in Kentucky, nor the 6 million people in Tennessee, nor the 11 million people in Ohio—nor their Senators—were any part of it.

They are all suffering for it, though, as are the 10 million people from Michigan.

The Michigan legislature has in fact passed a resolution calling on us, the U.S. Senate, to confirm these nominees. I ask consent that a copy of this resolution from the Michigan State Senate be printed in the RECORD.

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

SENATE RESOLUTION NO. 127

Whereas, The Senate of the United States is perpetuating a grave injustice and endangering the well-being of countless Americans, putting our system of justice in jeopardy in Michigan and the states of the Sixth Circuit of the federal court system; and

Whereas, The Senate of the United States is allowing the continued, intentional obstruction of the judicial nominations of four fine Michigan jurists: Judges Henry W. Saad, Susan B. Neilson, David W. McKeague, and Richard A. Griffin, all nominated by the President of the United States to serve on the United States 6th Circuit Court of Appeals; and

Whereas, This obstruction is not only harming the lives and careers of good, qualified judicial nominees, but it is also prolonging a dire emergency in the administration of justice. This emergency has brought home to numerous Americans the truth of the phrase ''justice delayed is justice denied''; and

Whereas, Both of Michigan's Senators continue to block the Judiciary Committee of the United States Senate from holding hearings regarding these nominees. This refusal to allow the United States Senate to complete its constitutional duty of advice and consent is denying the nominees the opportunity to address any honest objections to their records or qualifications. It is also denying other Senators the right to air the relevant issues and vote according to their consciences. This is taking place during an emergency in the United States 6th Circuit Court of Appeals with the backlog of cases; and

Whereas, We join with the members of Michigan's congressional delegation who wrote Chairman Orrin Hatch on February 26, 2003, to express their concern that ''if the President's nominations are permitted to be held hostage, for reasons not personal to any nominee, then these judicial seats traditionally held by judges representing the citizens of Michigan may be filled with nominees from other states within the Sixth Circuit. This would be an injustice to the many citizens who support these judges and who have given much to their professions and government in Michigan''; and

Whereas, We are concerned about the Sixth Circuit as a whole, a circuit court understaffed, with 4 of its 16 seats vacant, knowing that the Sixth Circuit ranks next to last out of the 12 circuit courts in the time it takes to complete its cases. Since 1996, each active judge has had to increase his or her number of decisions by 46%—more than three times the national average. In the recent past, the Sixth Circuit has taken as long as, 15.3 months to reach a final disposition of an appeal. With the national average at only 10.9 months, this means the Sixth Circuit takes over 40% longer than the national average to process a case; and

Whereas, The last time the Sixth Circuit was this understaffed, former Chief Judge Gilbert S. Merritt said that it was handling ''a caseload that is excessive by any standard.'' Judge Merritt also wrote that the court was ''rapidly deteriorating, understaffed and unable to properly carry out their responsibilities''; and

Whereas, Decisions from the Sixth Circuit are slower in coming, based on less careful deliberation, and, as a result, are less likely to be just and predictable. The effects on our people, our society, and our economy are far-reaching, including transaction costs. Litigation increases as people strive to continue doing business when the lines of swift justice and clear precedent are being blurred; and

Whereas, President Bush has done his part to alleviate this judicial crisis. Over the past two years, he has nominated eight qualified people to the Sixth Circuit Court of Appeals, with three of them designated to address judicial emergencies. Four of these nominees continue to languish without hearings because of the obstruction of the two Michigan Senators; Now therefore, be it

Resolved by the Senate, That we memorialize the United States Senate and Michigan's United States Senators to act to continue the confirmation hearings and to have a vote by the full Senate on the Michigan nominees to the United States 6th Circuit Court of Appeals; and be it further

Resolved, That copies of this resolution be transmitted to Michigan's United States Senators and to the President of the United States Senate.

Mr. MCCONNELL. Mr. President, that is 31 million people, who continue to suffer because our colleagues on the other side refuse to confirm any of these four Michigan nominees to the Sixth Circuit.

Indeed, two of the seats we are talking about were not even involved in this dispute. President Clinton never nominated anyone to the seat to which Henry Saad was nominated. That vacancy arose on January 1, 2000.

And the seat to which David McKeague was nominated did not even become vacant until the current Bush administration on August 15, 2001.

So what the Senators from Michigan seek to do is hold up one-fourth of an entire circuit because of a past intra-delegation dispute about two of these six seats, the genesis of which occurred many years ago.

As to disputes on judicial nominees, the Senators from Michigan do not have a monopoly on disappointment. There are several Republican nominees who were nominated by George H.W. Bush, who waited a year or more for a hearing, and who never got one. I note Sixth Circuit nominee John Smietanka, D.C. Circuit nominee John Roberts and Fourth Circuit nominee Terry Boyle, just to name a few.

The remedy for disappointment is not to take out your frustration on the populace of an entire circuit. Nor is it to demand that a President cede his constitutional power to another branch. It is to do what this President has done: re-nominate the person when your party is in the Oval Office.

Let us be clear. We are not talking about any particular problems with the nominees, including Judge Saad, who would be the first Arab-American on any Federal circuit court and who has been endorsed by both the Chamber of Commerce and the United Auto Workers. That is a pretty tall order.

Quite frankly, it wouldn't matter who from Michigan the President put in the slot: if his name were Henry Ford rather than Henry Saad the result would be the same—my colleagues from Michigan would filibuster the nominee.

Why? Presumably because the Michigan Senators didn't get to pick Judge Saad or other Michigan nominees to the Sixth Circuit.

What we are talking about, then, is Senators wanting to adorn themselves with the power of co-nomination.

Let us get back to first principles. Democrat Senators do not get to pick circuit court judges in Republican administrations. In fact, Republican Senators—myself included—do not get to pick circuit court judges in Republican administrations.

The Constitution gives the power to the President, and the President alone, to nominate. We all know as a matter of custom that Senators have a good deal of influence over who gets to be a district judge but little or no influence over who gets to be a circuit judge. Presidents of both parties have been unwilling to delegate the picking of circuit court judges to Senators. It is a Presidential prerogative and we shouldn't rewrite the Constitution to allow Senators—especially those of the opposite party—to nominate judges.

By tradition, the President may consult with individual Senators. But the tradition of ''consultation'' does not transform individual Senators into co-Presidents.

The President is not required to share his constitutional power with Senators, or with a ''non-partisan'' commission for that matter.

We have started a new precedent around here by filibustering judges; this is something that I and the vast majority of the Republican caucus opposed during the Clinton administration and refused to engage in, although Republicans had profound differences with many Clinton nominees.

In fact, 95 percent of the current Senators who never voted for a judicial filibuster are Republicans.

Let me say that again.

Ninety-five percent of the current Senators who never voted for a judicial filibuster are Republicans.

Our Democrat friends have started this troubling precedent. They have filibustered seven nominees and are now approaching double digits.

If my Democrat friends want to set another precedent, namely that Senators in opposite parties get to pick a President's circuit court nominees, I have news for you: this precedent may well be used when there's a Democrat in the Oval Office whether that is next year or next decade.

In closing, I don't get to pick Republican circuit nominees, and I don't think Democrats should get to do so in a Republican administration either. That is the President's job.

The Senate may establish a contrary precedent today. But if it does, I and other Republican Senators may invoke it the next time there is a Democrat in the White House. So I urge my Democrat friends to be wary of the steps they are taking because they are leading us down a dangerous path from which there may be no return.

The PRESIDING OFFICER. The Senator from Nevada.

APPROVAL OF JUDGES

Mr. REID. Mr. President, I can remember a famed lawyer named Melvin Belli who came to Las Vegas to try a case. The law at the time was you had to associate with a local attorney. Belli was very articulate and was so good at speaking to the court and the jury. When he finished, the Las Vegas lawyer stood and said, well, what he meant to say. This same lawyer said: When in doubt, wave your arms, scream and shout.

I think that is what we heard today on the Senate floor.

But what is really present in the Senate is the fact that we have approved 199 judges. We have turned down 6. There are crocodile tears that really are not necessary.

In this situation, if we followed the Republican rule established by the Thurmond rule, there would be no judges approved during the month of July. But we have indicated that we would be willing to approve judges during the month of July, and we have done that. I have spoken to a number of Republican Senators who indicated we would do that. The situation involving these three involve not only substance but procedure—199 to 6. That is the rule.

On behalf of Senator DASCHLE, I ask unanimous consent Senator LANDRIEU be recognized for 10 minutes and Senator SCHUMER be recognized for 15 minutes.

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

The Senator from Louisiana is recognized.

COLONEL JON M. ''JAKE'' JONES

Ms. LANDRIEU. Mr. President, I rise today to honor an exemplary soldier, a loyal American, a loving father, and a devoted husband. Our friend and neighbor, Colonel Jon Jones passed away on June 6 after a courageous battle with brain cancer that he waged on his own terms. Until the week of his death, Jon lived life to the fullest and did not allow cancer to define him or to diminish his dream. Rather, he chose to be a husband, father and soldier until the end. His death has been a profound loss to his colleagues in the Army, his neighbors, his friends, and especially to his family. I say to his wife Cynthia, to his two children Nick and Lena, who are here with us today, our Nation is grateful for your family's service and sacrifice.

Jon was born and raised in California. His mother was a teacher, and the influence she had on him was apparent throughout his life. He attended high school outside of Sacramento, and graduated from Cal State at Sacramento. He went the extra mile to participate in the ROTC program at UC-Davis, because his own school had abolished ROTC during the Vietnam war.

He graduated in 1980 as a distinguished military graduate and was commissioned as a regular Army military intelligence officer. He met Cynthia while he was in officers' basic course in Arizona, and they married in 1981. His career in the Army took Cynthia, Nick, and Lena to Turkey, Germany, and South Korea; and his last deployment was to Kuwait and to Iraq.

Jon died two weeks shy of serving 24 years in the U.S. Army and only 12 days from his change of command. For almost 2 years he successfully led the Army's only deployable echelons-above-corps contingency force protection military intelligence brigade. The men and women who served under him, as well as his colleagues and senior officers, testified to his leadership in a time of war. One soldier called it a privilege to be under Colonel Jones' command, and described his strength and leadership as going well beyond what this soldier had seen in any other military officer.

Throughout the war, in addition to his mission, Jon's focus was on the health, welfare, and safety of every soldier and civilian who served with him. When his brigade was deployed for 9 months to support Operation Enduring Freedom and Operation Iraqi Freedom, he succeeded in that mission and brought every one of his soldiers home.

A month after bringing his brigade home, Jon was diagnosed with an aggressive brain tumor. He was entitled to retirement, but he chose instead to stay in the Army. As he told a colleague: ''Quitting was not an option.'' Another person might have headed for the shore and waited for his time in comfortable surroundings, but this was not the path for Jon Jones.

At the time of his diagnosis, he had a battalion preparing to redeploy to Iraq, and the thought of leaving them went against everything he stood for. In fact, in the months preceding his death, in between his own treatments and surgeries, Jon went to Kuwait and Iraq several times to support and bolster his troops.

Before he passed away, Jon was nominated for the Distinguished Service Medal, for unparalleled dedication to duty. This citation states that his accomplishments will have a lasting effect on national security formulation at the highest levels. Later today, in a room near this distinguished Chamber, Jon's widow Cynthia will accept this medal on her husband's behalf.

Jon's commanding generals, some of whom are also with us today, accepted his decision to stay in the Army and continue in command throughout his treatments. Perhaps they would have

encouraged a lesser officer to retire, but Jon was too valuable a soldier to lose. Unfortunately, the Army, and especially the military intelligence community, realizes every day how valuable COL Jake Jones was. Perhaps the words of one of his fellow officers said it best when he stated:

Jake Jones did more than command a Brigade in war. He commanded the respect and confidence of his peers, his superiors, and his soldiers. He had a special aura about him—a calming presence that bespoke competence and reason.

All of the virtues that made Jon a good soldier also made him a devoted husband and father. In a career that takes you away from your family for extended periods of time, he made it home for his children's birthdays and other special events. The only birthday of Nick's he ever missed was last year when duty to country called him to stay in Iraq. He made it home in time for Lena's birthday last year, and only God's call home kept him from making that commitment this year.

He was driven to be a good example to his children and to make them proud. This drive contributed to his desire to continue in command even as he fought his own personal battle with a fierce enemy. Although his time with Nick and Lena was inexplicably cut short, I know the love he gave them and the lessons he taught them will shore them up, inspire them, and comfort them throughout their lifetime.

Mentor, hero, charismatic leader, humble individual, inspiring commander, confident, patient, steadfast, stalwart, a rock—these are a few of the descriptions used to communicate the man he was. Jon had the determination and perseverance to accomplish any task with which he was presented.

The role in life he cherished the most, after the role of father, was that of a mentor, whether to his soldiers or to his children. He simply loved to teach. Having been raised by a mother who was a teacher, he paid her the greatest compliment a child can give a parent: He followed in her footsteps. He taught those of us who knew him how much fun it was to live, and that quitting was not an option.

Jon Jones was a friend of our family, a neighbor, and an inspiration to all who knew him. His death is our Nation's loss. Rarely does a soldier so capable and so completely committed step forward to answer the call to service. And rarely has a family been so blessed to have such a father and husband.

May it be recorded this day that the people of the United States are grateful to COL Jon Jones for his years of service in the U.S. Army. His memory will live on in the hearts and minds of the many who knew him, admired him, followed him, and loved him.

Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from Louisiana yields the floor.

The Senator from New York is recognized.

Mr. SCHUMER. Mr. President, I ask to be recognized to speak in morning business.

The PRESIDING OFFICER. The Senator is recognized.

THE 9/11 COMMISSION REPORT

Mr. SCHUMER. Mr. President, I am going to speak on two issues: first, the imminent release of the final report of the 9/11 Commission, and then on the three judges we are voting on shortly.

First, on the imminent release of the report: First, I thank the commissioners. They have done an incredible job. In this town, racked by partisanship, to come up with bipartisan recommendations is an amazing accomplishment in itself. But when you look at what the recommendations are and the thoroughness with which the Commission investigated the mistakes that were made in the past, the report assumes even greater magnitude.

We will have a real challenge in Washington, at each end of Pennsylvania Avenue, to make sure these recommendations are implemented.

The area I want to touch on right now is homeland security, but I do want to say the reforms that were recommended, in terms of intelligence gathering, were right on the money. Many of us were puzzled after 9/11, learning that the FBI knew this little piece of information and an agent in another part of the FBI knew another piece, and the CIA knew this piece and that piece. The question was, why weren't these pieces tied together, which might have drawn the picture of what was going to happen? And I underline the word ''might.'' Who knows if it would have? But it certainly would have given us better odds.

The reason, as the Commission unveiled, is very simple: These intelligence agencies do not talk to one another. They regard the intelligence they have gathered, their work product, as so valued that they do not want to give it up to another agency. The recommendations of the Commission are outstanding—outstanding—in terms of requiring the intelligence agencies to talk to one another.

I am very pleased the Commission did not engage in the blame game or finger pointing but, rather, looked at the facts—just the facts, ma'am; that seems to be their underlying view—and then looked at recommendations based on those facts so that another 9/11, God forbid, would never happen again.

There is a particular area that has not received too much focus that I want to mention today. That is homeland security. The Commission's report shows that while mistakes were made in intelligence gathering and while mistakes after September 11 have certainly been made in fighting the war overseas—we need a strong foreign policy, a muscular foreign policy to fight terrorism—those are mistakes of commission. In a brave new world, a post-September 11 world, anyone is going to make certain mistakes. The mistakes that have been made on homeland security, on protecting our Nation from another terrorist attack, are mistakes of omission. We are simply not doing enough. That is what the Commission's report is going to reveal when they release it at 11:30. I have been briefed on it already, and I guess many Members are being briefed today.

To win this war on terror—it is the same as a good sports team. We need a good offense, we need a good defense. Most of the focus has been on the offense. There has been verbiage devoted to homeland security, but the actual dollars, the actual focus, the actual changes that have to be made are not being made, plain and simple.

The bottom line is that in area after area, when billions of dollars are required, the administration recommends and Congress allocates tens of millions of dollars. They do not do nothing. They don't want to say we are not putting any money into port security, rail security, truck security, or improving security at the borders. But they do the bare minimum essential to get away with saying we are doing something.

It is frustrating to me, particularly coming from New York and knowing too many of the people who were lost on September 11, that we are not fighting a war—it is a war on homeland security—the way we are fighting a war overseas in Iraq and Afghanistan. What is interesting is the technology is there. We know how to detect nuclear materials which, God forbid, might be shipped into this country. We know how to detect explosives if somebody were to walk into a railroad station or Disney World or somewhere else loaded with explosives that they might detonate. We know how to make our truck security more secure so people cannot use truck bombs. We know how to tighten up the borders.

The question is twofold: will and money. We are not doing either. As we stand here today, what are we doing in the Senate? We are debating three judges from Michigan who we know will not pass in a controversial and partisan way while Homeland Security appropriations languish. It has not been brought to the Senate. Why? What are our priorities? This is not a Democrat or Republican issue. This is not a liberal or conservative issue. This is an American issue. We want to preserve our homeland security. We want to make people secure. We want to make people safe.

Over and over again, we are not doing what we should be doing. The number of bills introduced and even passed out of committee to tighten homeland security are too many. It is not just homeland security legislation, it is legislation on ports, legislation on borders. Over these past few months, the Senate has been occupied by partisan political issues when nonpartisan and bipartisan issues that are far more important related to homeland security languish.

I hope the Commission's report is a clarion call. Let's get our act together. Again, this is not a partisan issue. This should not instigate fighting with one another. We should just do it.

I wish the White House in their budgets had allocated more money. When people in the Senate, both Democrat and Republican, said, We need to do this, that, and the other, had the President said, Yes, sir, right on—but we do not have that. We do not have leadership on homeland security. That is what the Commission's report shows.

Being a great leader and being a strong leader does not just mean fighting wars overseas in this brave new post-September 11 world; it means tightening things up at home. The bottom line is simple: Why aren't we protecting our airplanes from shoulder-held missiles which we know the terrorists have? Why aren't we saying more than 5 percent of the big containers that come to our ports on the east coast, the west coast, the gulf coast, should be inspected to see if they might contain materials that could hurt us? Why aren't we doing more to protect the borders? My State of New York has a large northern border. They have not allocated the dollars, the bottom line is they do not have enough manpower at the borders to prevent terrorists from sneaking in. They are doing a great job with the resources they have, but Lord knows they don't have them. We are not doing any of these things.

I point out one other thing the Commission has mentioned—here, Congress is as much to blame as the White House—and that is the allocation of homeland security funds. The Commission is very strong on this issue. The moneys that go to police, fire, and the others who are our first responders—we learned in New York how valuable they were. The report today will show the number of people who died below where the planes hit the World Trade Center towers was few—too many, but few—because of the great job the police and the firefighters did. Yet we are treating that money as pork barrel.

My State has greater needs than, say, the State with the smallest population, Wyoming. Yet Wyoming gets much more money on a per capita basis. To the credit of the administration, that did not happen the first year we allocated homeland security money. Mitch Daniels, a true conservative, the head of OMB, says he does not want to waste these dollars. He is sending dollars to the places of greatest need. I might have wanted more dollars, but at least the dollars that were allocated were allocated fairly. But now we have slipped away from that. Frankly, we do not hear the voice of Tom Ridge, who was the successor as we created a new Homeland Security Department, saying, allocate this money fairly. We do not hear the voice of the President, and we do not hear the voices of the House and Senate.

This wonderful report is very critical of what our Nation is doing on homeland security. It is saying we are not doing enough in area after area. I hope and pray this report will be a wakeup call. We do not want to be in the ''what if'' situation. God forbid there is another terrorist attack and the next morning we say: What if? What if we had done the job? What if the attack was by shoulder-held missiles? And we say: What if we had done the job. What if the attack was from ships and ports? We say: What if we had done the job on port security or on the rails? Or because someone got across our borders and shouldn't have? We do not want to be in a ''what if'' situation.

JUDICIAL NOMINATIONS

Mr. SCHUMER. Mr. President, my colleague from Michigan is here, and I know she will probably want to speak on the three votes on judges.

The first point I make is, I would much rather be debating the Homeland Security bill than these judges. Where are our priorities in this body? What are we doing? We have had weeks and weeks where many have called for bringing Homeland Security appropriations to the Senate. Instead, we have been debating all the political footballs. I know it is a Presidential election year, I know it is election season, but some things should have a higher calling.

On this particular issue, I make one point before yielding the floor to my colleague from Michigan. Anyone who thinks this is a tit-for-tat game at least misreads the Senator from New York. Were there bad things done on judges when Bill Clinton was President by the Republican-controlled Senate? You bet. But that does not motivate me in terms of what we ought to do in the future.

What motivates me is that in the issue of appointing judges—and I remind the American people that now 200 judges have been approved and 6 have been rejected. My guess is the Founding Fathers, given that they gave the Senate the advice and consent process, would have imagined a greater percentage should be rejected.

I am always mindful of the fact that one of the earliest nominees to the U.S. Supreme Court, Mr. Rutledge, from the neighboring State of the Presiding Officer, South Carolina, nominated by President George Washington, was rejected by the Senate because they didn't like his views on the Jay Treaty. That Senate, which had a good number of Founding Fathers in it—the actual people who wrote the Constitution, many of them became Senators the next year or two—didn't have any qualms about blocking a judge they thought was unfit.

Now all of a sudden when this body stops 6 of 200, we hear from the other end of Pennsylvania Avenue: That is obstructionist.

That is not obstructionist. That is doing our job. The Constitution didn't give the President the sole power to appoint judges. It was divided. In fact, for much of the Constitutional Convention the Founding Fathers thought the Senate ought to appoint the judges and only at the last minute did they say the President, with the advice and consent of the Senate.

This President—regretfully, in many instances—has not consulted the Senate. The two Senators from Michigan—they happen to be of a different party than the President but we know they enjoy working with the other party—were not consulted. I know it can be done. We have done it in my State of New York. We don't have a single vacancy in either the district courts or the Second Circuit because finally, after I said I was not going to allow judges to go through unless I was consulted, the White House came and consulted, and there is a happy result. All the vacancies are filled. The judges tend to be conservative, but they are mainstream people. I may not agree with them on a whole lot of issues, but they have all gone forward. In Michigan we have had no consultation.

Today when I vote against these three nominations, I am not just backing up two Senators from Michigan; I am defending the Constitution. That is what all of us who vote this way will do. Because for the President to say on judges, it is my way or the highway, no compromise, is just not what the Founding Fathers intended. It is not good for America. It tends to put—whoever is President—extreme people on the bench instead of the moderate people we need.

I regret that we have come to vote on these judges, but I have no qualms that I will vote and recommend to my colleagues that we vote against all three.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mrs. DOLE). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. I ask unanimous consent that the order for the quorum call be dispensed with.

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

Mr. REID. Would the Chair advise the Senator from Nevada what the status of the floor is at this time?

The PRESIDING OFFICER. There are 2 minutes remaining under morning business.

Mr. REID. I yield that time back.

The PRESIDING OFFICER. Time is yielded back.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

EXECUTIVE SESSION

NOMINATION OF HENRY W. SAAD TO BE UNITED STATES CIRCUIT JUDGE FOR THE SIXTH CIRCUIT

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session and resume consideration of Calendar No. 705, which the clerk will report.

The assistant legislative clerk read the nomination of Henry W. Saad, of Michigan, to be United States Circuit Judge for the Sixth Circuit.

The PRESIDING OFFICER. Under the previous order, the time until 11

a.m. shall be equally divided between the chairman and the ranking member or his designee.

Mr. REID. Madam President, on behalf of Senator LEAHY, I designate 5 minutes to the Senator from Michigan, Mr. LEVIN. If there is any time remaining on our side, following his presentation, the Senator from New York is yielded the remainder of the time.

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

The Senator from Michigan.

Mr. LEVIN. Madam President, the issues which we are going to vote on today relate to a principle. The principle is that we should provide hearings to people who are nominated by Presidents. When those hearings are denied in order to preserve vacancies so that a subsequent President can make the appointments, that is wrong. That is what happened with Clinton appointees to Michigan judgeships. Two women, highly qualified, were appointed. One was denied a hearing over 4 years, the longest time in the history of the Senate, never given a hearing by the Judiciary Committee. The second nominee, highly qualified, was denied a hearing for over a year and a half by the Judiciary Committee.

This happened in a number of States. It happened to a nominee from Ohio, whose name was Markus, who testified as to why he was denied a hearing because he asked the Republicans on the Judiciary Committee who were in the majority as to why he was never given a hearing. He was nominated for an Ohio vacancy to the Sixth Circuit. There are four States in our circuit: Ohio, Kentucky, Tennessee, and Michigan. He testified in front of the Judiciary Committee as to what happened, why he was never given a hearing.

. . . Senator DEWINE and his staff and Senator HATCH's staff and others close to him were straight with me. Over and over again they told me two things: There will be no more confirmations to the 6th Circuit during the Clinton Administration, and this has nothing to do with you; don't take it personally—it doesn't matter who the nominee is, what credentials they may have or what support they may have.

. . . On one occasion, Senator DEWINE told me ''This is bigger than you and it's bigger than me.'' Senator KOHL, who had kindly agreed to champion my nomination within the Judiciary Committee, encountered a similar brick wall. . . . The fact was, a decision had been made to hold the vacancies and see who won the presidential election. With a Bush win, all those seats could go to Bush rather than to Clinton nominees.

That is not an acceptable tactic. It should not be allowed to succeed. That is the fundamental issue with these nominees, as to whether that tactic of denying hearings—in one case for over 4 years and another case for a year and a half, to two highly qualified women appointed by President Clinton—is going to work. Senator STABENOW and I are determined that it should not work. But we are also determined to try to accomplish a bipartisan solution.

There is a rare opportunity here, because of the number of vacancies to the Sixth Circuit—there are four Michigan vacancies on the Sixth Circuit—to have a bipartisan solution. Two have been proposed to the White House. Senator STABENOW and I have proposed that there be a bipartisan commission appointed in Michigan to make recommendations on these nominations. Whether these two women succeed in getting those recommendations is not the point and it is not assured. We don't know. Recommendations would not be binding upon the President, nor on the Senate. They are simply recommendations. That has been rejected by the White House.

When Senator LEAHY was the chairman, when Democrats were in the majority in the Senate, he made a suggestion, a proposal to the White House as to how to solve this problem. The White House rejected that one as well.

Senator STABENOW and I have pursued bipartisan solutions to this deadlock. We are going to continue to pursue solutions. But what we will not do and the Senate should not do, in terms of the principle involved here of denying hearings year after year after year to nominees in the Judiciary Committee in order to keep those seats vacant so the next President can make the appointment, this principle, it seems to me, is not in all of our interests.

Even Judge Gonzales has acknowledged there were wrongs. He said: That was wrong. That was wrong to deny Judiciary Committee hearings. That is not right.

And he is right. We are going to try to correct that wrong. It can be corrected in a bipartisan way. But for these nominations to simply be approved and for cloture to be invoked is not the way to achieve a bipartisan solution.

One final comment, if I have another minute. How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 1½ minutes remaining.

Mr. LEVIN. I thank the Presiding Officer.

Madam President, for over 4 years, we made efforts to get hearings first for Judge White, who is a court of appeals judge in Michigan, and for Kathleen McCree Lewis, who is a noted appellate lawyer from Michigan in the Sixth Circuit. Two pages of efforts were made to get hearings. I am not going to read them all. All I can say is, month after month after month Senator DASCHLE, Senator LEAHY, and others pleaded with the Republican majority, the majority leader, and the chairman of the Judiciary Committee for hearings. We came to the floor and made speeches, even after the blue slip was returned from Senator Abraham.

There is a blue-ship issue here because Senator Abraham did not originally return the blue slip on these judges. But even after the blue slip was returned, there were no hearings provided.

There is a huge issue always, whether blue slips were returned or returned with objections, whether two Senators from a State who have objections should be overridden and the nomination should proceed. That is an issue which affects all of us, and all of us should give a great deal of thought as to whether, if two Senators from a State object to a nominee, that nomination should proceed. That gets to the advise and consent clause of the Constitution. But when blue slips are returned, which is the case with these two judges, there was still a refusal to hold hearings. That is unacceptable. That tactic should not work, and I hope cloture will not be invoked on these three nominations.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. LEAHY. Madam President, the handling of the nominations of Henry Saad, Richard Griffin, and David McKeague in the Judiciary Committee and here on the Senate floor sets an unfortunate precedent, and will be long remembered in the annals of this Chamber for the double standard it embodies. In collusion with a White House of the same party, the Senate's Republicans have engaged in a series of changed practices and broken rules. The home-State Senators of these nominees opposed proceeding on them any further until and unless they are able to reach a bipartisan solution with the White House, but their interests have been disregarded. In the process Republicans have trampled on years of tradition, practice and comity. This sort of behavior may not easily be repaired, but must be exposed.

Before I discuss the specifics of the Michigan nominations, I would like to review the recent history of Republican rule breaking, bending, and changing with regard to nominations for lifetime judicial appointments. Over the last 3½ years, the good faith efforts of Senate Democrats to repair the damage done to the judicial confirmation process over the previous 6 years has been sorely tested and met with nothing but divisive partisanship. Rule after rule has been broken or twisted until the process so long agreed upon is hardly recognizable anymore.

The string of transparently partisan actions taken by the Senate's Republican majority took a wrong turn in January of last year. It was then that one hearing was held for three controversial circuit court nominees, scheduled to take place in the course of a very busy day in the Senate. There was no precedent for this in the years that Republicans served in the majority and a Democrat was in the White House.

Then, two of the nominees from that hearing were voted out of the committee in clear violation of committee rules. Despite his prior statements acknowledging the proper operation of rule IV in February, which should operate to preserve the minority's right to debate, the chairman declared that Rule IV no longer applied. I spent months working to reach an agreement

to move forward the nominees voted out in violation of rule IV and reach an understanding that this important rule would not be violated again. However, in connection with the nomination of William Pryor to the Eleventh Circuit the chairman again overrode the rights of the minority in order to rush to judgment on a controversial circuit court nominee. The assurances given to us that minority rights would be respected and the Senate would not take up nominations sent to the Senate floor in violation of our rights were broken.

The Republican majority also supported and facilitated the unprecedented renomination and consideration of Priscilla Owen to a seat on the U.S. Court of Appeals for the Fifth Circuit, for which she already had been rejected by the Judiciary Committee. That, too, was unprecedented.

The other rule breaking I want to discuss is the one directly relevant to the Michigan nominees. It is the tradition of the ''blue-slip,'' the mechanism by which home-State Senators were, until the last 2 years, able to express their approval of or opposition to judicial nominees from their home States.

For many years, at least since the time of Judiciary Committee Chairman James Eastland, the committee has sought the consent of a judicial nominee's home-State Senators by sending them a letter and a sheet of blue paper asking whether or not they approve of the nominee. This piece of paper, called a blue slip, formalized a courtesy long extended to home-State Senators. It was honored without exception when Chairman HATCH chaired the Judiciary Committee during the Clinton administration. Not once during those six years when the committee was considering the nominations of a Democratic President, did the chairman proceed on a nominee unless two approving, or positive blue slips had been returned. One non-returned blue slip, let alone one where a Senator indicated disapproval of the nominee, was enough to doom a nomination and prevent any consideration. For that matter, it seemed that so long as one Republican Senator had an objection, it was honored, even if they were not home-State Senators like Senator Helms of North Carolina objecting to an African-American nominee from Virginia, or Senator Gorton of Washington objecting to nominees from California.

When President Clinton was in office, the chairman's blue slip sent to Senators, asking their consent, said this:

> Please return this form as soon as possible to the nominations office. No further proceedings on this nominee will be scheduled until both blue slips have been returned by the nominee's home state senators.

When President Bush began his term, and Senator HATCH took over the chairmanship of this committee, he changed his blue slip to drop the assurance he had always provided Republican Senators who had an objection. He eliminated the statement of his consistent practice in the past by striking the sentence that provided: ''No further proceedings on this nominee will be scheduled until both blue slips have been returned by the nominee's home state senators.'' Now he just asks that the blue slip be returned as soon as possible, disregarding years of tradition and respect for the interests of the home-State Senators. Can there be any other explanation for this other than the change in the White House? It is hard to imagine.

This change in policy has worked a severe unfairness on the interests of Senators LEVIN and STABENOW. They objected to the nominations of Henry Saad, Richard Griffin, and David McKeague for reasons they have explained in detail. From the very beginning, they have been crystal clear with the President and the White House about their objections, and they have done everything possible to reach a compromise. Their concerns ought to be respected, not rejected in favor of partisan political rule-bending.

This is not the first time the blue slip rule has been broken. Last year the Judiciary Committee, under Republican leadership, took the unprecedented action of proceeding to a hearing on President Bush's controversial nomination of Carolyn Kuhl to the Ninth Circuit, over the objection of Senator BOXER. When the senior Senator from California announced her opposition to the nomination at the beginning of a Judiciary business meeting, I suggested that further proceedings on that nomination ought to be carefully considered and noted that the committee had never proceeded on a nomination opposed by both home-State Senators once their opposition was known. Nonetheless, in one in a continuing series of changes of practice and position, the committee was required to proceed with the Kuhl nomination, and a divisive vote was the result. The Senate has withheld consent to that nomination after extended debate.

Continuing with the Saad nomination, and going further with Griffin and McKeague, the committee made more profound changes in its practices. When a Democratic President was doing the nominating and Republican Senators were objecting, a single objection from a single home-State Senator stalled any nomination. There is not a single example of a single time that Chairman HATCH went forward with a hearing over the objection or negative blue slip of a single Republican home-State Senator during the years that President Clinton was the nominating authority. But now that a Republican President is doing the nominating, no amount of objecting by Democratic Senators is sufficient. Republicans overrode the objection of one home-State Senator with the Kuhl nomination. Republicans outdid themselves when they overrode the objections of both home-State Senators and forced the Saad, McKeague and Griffin nominations out of committee.

We will hear a lot of arguments from the other side about the history of the blue slip, and of the practices followed by other chairmen, including Senator KENNEDY and Senator BIDEN. What I doubt we will hear from the other side of the aisle is the plain and simple truth of the two conflicting policies the Republicans have followed. While it is true that various chairmen of the Judiciary Committee have used the blue-slip in different ways—some to work unfairness, and others to attempt to remedy it—it is also true that each of those chairmen was consistent in his application of his own policy—that is, until now.

In addition, I think the Senate and the American people need to recall the party-line vote by which Senate Republicans defeated the confirmation to the District Court in Missouri of an outstanding African-American judge named Ronnie White. In connection with that vote, a number of Republican Senators who voted against Judge White justified their action as being required to uphold the role of the Missouri home-State Senators who opposed the nomination. Any Senator who voted against the nomination of Ronnie White and does not vote with Senators LEVIN and STABENOW today will need to find another explanation for having opposed Judge White or explain why suddenly the rules that applied to Judge White do not apply today.

I know Republican partisans hate being reminded of the double standards by which they operated when asked to consider so many of President Clinton's nominees. I know that they would rather exist in a state of ''confirmation amnesia,'' but that is not fair and that is not right. The blue slip policy in effect, and enforced strictly, by Republicans during the Clinton administration operated as an absolute bar to the consideration of any nominee to any court unless both home-State Senators had returned positive blue slips. No time limit was set and no reason had to be articulated.

Remember also that before I became chairman in June of 2001, all of these decisions were being made in secret. Blue slips were not public, and they were allowed to operate as anonymous holds on otherwise qualified nominees.

A few examples of the operation of the blue slip process and how it was scrupulously honored by the committee during the Clinton Presidency are worth remembering. Remember, in the 106th Congress alone, more than half of President Clinton's circuit court nominees were defeated through the operation of the blue slip or other such partisan obstruction.

Perhaps the most vivid is the story of the United States Court of Appeals for the Fourth Circuit, where Senator Helms was permitted to resist President Clinton's nominees for 6 years. Judge James Beaty was first nominated to the Fourth Circuit from North Carolina by President Clinton in 1995,

but no action was taken on his nomination in 1995, 1996, 1997, or 1998. Another Fourth Circuit nominee from North Carolina, Rich Leonard, was nominated in 1995, but no action was taken on his nomination either, in 1995 or 1996. The nomination of Judge James Wynn, again a North Carolina nominee to the Fourth Circuit, sent to the Senate by President Clinton in 1999, languished without action in 1999, 2000, and early 2001 until President Bush withdrew his nomination.

A similar tale exists in connection with the Fifth Circuit where Enrique Moreno, Jorge Rangel and Alston Johnson were nominated but never given confirmation hearings.

Perhaps the best documented abuses are those that stopped the nominations of Judge Helene White, Kathleen McCree Lewis and Professor Kent Markus to the Sixth Circuit. Judge White and Ms. Lewis were themselves Michigan nominees. Republicans in the Senate prevented consideration of any of President Clinton's nominees to the Sixth Circuit for years.

When I became chairman in 2001, I ended that impasse. The vacancies that once plagued the Sixth Circuit have been cut in half. Where Republican obstruction led to 8 vacancies on that 16-judge court, Democratic cooperation allowed 4 of those vacancies to be filled. The Sixth Circuit currently has more judges and fewer vacancies than it has had in years.

Those of us who were involved in this process in the years 1995–2000 know that the Clinton White House bent over backwards to work with Republican Senators and seek their advice on appointments to both circuit and district court vacancies. There were many times when the White House made nominations at the direct suggestion of Republican Senators, and there are judges sitting today on the Ninth Circuit and the Fourth Circuit, in the district courts in Arizona, Utah, Mississippi, and many other places only because the recommendations and demands of Republicans Senators were honored.

In contrast, since the beginning of its time in the White House, this Bush administration has sought to overturn traditions of bipartisan nominating commissions and to run roughshod over the advice of Democratic Senators. They attempted to change the exemplary systems in Wisconsin, Washington, and Florida that had worked so well for so many years. They ignored the protests of Senators like Senator BOXER who not only objected to the nominee proposed by the White House, but who, in an attempt to reach a true compromise, also suggested Republican alternatives. And today, despite the best efforts of the well-respected Senators from Michigan, who have proposed a bipartisan commission similar to their sister state of Wisconsin, we see the administration has flatly rejected any sort of compromise.

The double standards that the Republican majority has adopted obviously depend upon the occupant of the White House. The change in the blue slip practice marks only one example of their disregard for the rules and practices of committees and the Senate. In the Judiciary Committee, the Republican majority abandoned our historic practice of bipartisan investigation in the Pryor nomination, as well as the meaning and consistent practice of protecting minority rights through a long-standing committee rule, rule IV, that required a member of the minority to vote to cut off debate in order to bring a matter to a vote. Republicans took another giant step in the direction of unbridled partisanship through the hearings granted Judges Kuhl, Saad, Griffin and McKeague.

During the past year and a half we have also suffered through the scandal of the theft of staff memoranda and files from the Judiciary computer by Republican staff, a matter which is now under criminal investigation by the Department of Justice. It is all part of a pattern that has included bending, changing and even breaking this committee's rules to gain partisan advantage and to stiffen the White House's influence over the Senate.

The partisan Republican motto seems to be ''by any means necessary.'' If stealing computer files is helpful, do it. If rules protecting the minority are inconvenient, ignore them. If traditional practices are an impediment, break them. Partisan Republicans seem intent on turning the independent Senate into a wholly-owned subsidiary of the Presidency and our independent Federal judiciary into an activist arm of the Republican Party.

Senate Republicans are now intent on violating ''the Thurmond Rule'' and the spirit of the cooperative agreement reached earlier this year by which 25 additional judicial nominees have been considered and confirmed. The Thurmond Rule dates back at least to July 1980 when the Reagan campaign urged Senate Republicans to block President Carter's judicial nominees. Over time, Senator Thurmond and Republican leaders refined their use of and practices under the rule to prevent the consideration of lifetime judicial appointments in the last year of a Presidency unless consensus nominees. Consent of the majority and minority leaders as well as the chairman and ranking member of the Judiciary Committee came to be the norm. The agreement earlier this year on the 25 additional judicial nominees considered and confirmed was consistent with our traditions and the Thurmond Rule.

Senate Republicans abused their power in the last year of President Clinton's first term, in 1996. They would not allow a single circuit court nominee to be considered by the Senate that entire session and only allowed 17 noncontroversial district court nominees confirmed in July. No judicial nominees were allowed a vote in the first 6 months of that session or the last 5 months of that Presidency.

In 2000, we had to work hard to get Senate Republicans to allow votes on judicial nominees, even in the wake of searing criticism of their obstructionism by the Chief Justice of the United States Supreme Court. After July 4, 2000, the only judicial nominees confirmed were by consensus.

In stark contrast to their practices in 1996 and 2000, the Republican leadership of the Senate is now seeking to force the Senate into confirmations of judicial nominees they know to be highly controversial. That is wholly inconsistent with the Thurmond Rule and with their own past practices. Republican partisans seem intent on another contrived partisan political stunt. They insist on staging cloture votes on judicial nominees late in a Presidential election year knowing that they have broken rule after rule and practice after traditional practice just to force the controversial nominations before the Senate. They are manufacturing confrontation and controversy. Like the President, they seek division over cooperation with respect to the handful of most controversial judicial nominees for lifetime appointments.

Reports this week are that the Republican leadership is setting up unilaterally to change the Senate's historic rules to protect the minority. According to press accounts, some Republicans leaders are planning to have Vice President CHENEY, acting as President of the Senate, declare that the Senate's longstanding cloture rule is unconstitutional and then have his fellow party members sustain that partisan power grab. When this radical might-makes-right approach was advocated last year, some Republican had reservations about sacrificing the Senate's rights to freedom of debate. Traditional conservatives who understand the role of the Senate as part of the checks and balances in our Constitution recognized the enormity of damage that would be caused to this institution by empowering such a partisan dictatorship. From this week's reports, sensible Senate Republicans are being cast aside and overridden by the most strident.

Norm Ornstein observed: ''If Republicans unilaterally void a rule that they themselves have employed in the past, they will break the back of comity in the Senate.'' Republicans call this the so-called ''nuclear action,'' because it would destroy the Senate as we know it. It is unjustified and unwise. It is ironic that Republicans blocked nearly 10 times as many of President Clinton's judicial nominees as those of President Bush denied consent. Apparently, clearly Republican partisans will apparently stop at nothing in their efforts to aid and abet this White House in the efforts to politicize the Federal judiciary.

Both of the Senators from Michigan are respected Members of the Senate. Both are fair-minded. Both are committed to solving the problems caused

by Republican high-handedness in blocking earlier nominees to the Sixth Circuit. Both of these home-State Senators have attempted to work with the White House to offer their advice, but their input was rejected. They have suggested ways to end the impasse on judicial nominations for Michigan, including a bipartisan commission along the lines of a similar commission in Wisconsin. This is a good idea and a fair idea. I am familiar with the work of bipartisan screening commissions. Vermont and its Republican, Democratic and Independent Senators had used such a commission for more than 25 years with great success. I commend the Senators representing Michigan for their constructive suggestion and for their good faith efforts to work with this White House in spite of the administration's refusal to work with them.

Some Senators have said we need to forget the unfairness of the past on nominations and start on a clean slate. But the way to wipe that slate clean is through cooperation now, and moving forward together—not with the petulant, partisan unilateralism that we have seen so often from this administration.

Although President Bush promised on the campaign trail to be a uniter and not a divider, his practice once in office with respect to judicial nominees has been more divisive than those of any President. Citing the remarks of a White House official, The Lansing State Journal reported, for example, that the President is simply not interested in compromise on the existing vacancies in the State of Michigan. It is unfortunate that the White House is not willing to work toward consensus with all Senators.

Under our Constitution, the Senate has an important role in the selection of our judiciary. The brilliant design of our Founding Fathers established that the first two branches of Government would work together to equip the third branch to serve as an independent arbiter of justice. As columnist George Will has written, ''A proper constitution distributes power among legislative, executive and judicial institutions so that the will of the majority can be measured, expressed in policy and, for the protection of minorities, somewhat limited.'' The structure of our Constitution and our own Senate rules of self-governance are designed to protect minority rights and to encourage consensus. Despite the razor-thin margin of recent elections, the Republican majority is not acting in a measured way but in disregard for the traditions of bipartisanship that are the hallmark of the Senate.

When there was a Democratic President in the White House, circuit court nominees were delayed and deferred, and vacancies on the Courts of Appeals more than doubled under Republican leadership from 16 in January 1995, to 33 when the Democratic majority took over part way through 2001.

Under Democratic leadership, we held hearings on 20 circuit court nominees in 17 months. Indeed, while Republicans averaged 7 confirmations to the circuit courts every 12 months for the last President, the Senate under Democratic leadership confirmed 17 in its 17 months with an historically uncooperative White House.

With a Republican in the White House, the Republican majority shifted from the restrained pace it had said was required for Clinton nominees, into overdrive for the most controversial of President Bush's nominees. In 2003 alone, 13 circuit court judges were confirmed. This year more hearings have been held for nominees in just 5 months than were held in all of 1996 or all of 2000. One hundred and ninety-eight of President Bush's nominees have been confirmed so far—more than in all 4 years of President Reagan's first term, when he had a Republican Senate to work with, more than in the Presidency of the first President Bush and more than in the last term of President Clinton.

Many of the 198 nominees who have been confirmed for this President have proceeded by consensus out of committee and on the Senate floor. I would have hoped that the scores of nominees agreed upon by home-State Senators of both parties, voted out of committee unanimously and confirmed without opposition in the full Senate would have been a lesson for the President. I would have hoped that the Michigan Senators' principled and reasoned opposition to the way the Sixth Circuit nominations have occurred would have been a starting point from which to reach a compromise. But, as with so many other nominees and so many other issues, compromise was not forthcoming from this White House. Instead, they have refused to acknowledge the wrong done to President Clinton's nominees to the very same court, and they have refused to budge. It is a shame.

The Judiciary Committee has now reported more than 200 of President Bush's judicial nominees. Most have been reported with the support of Democratic Senators. Some have been contentious and some have been so extreme that they have not garnered bipartisan support and have been problematic. We have demonstrated time and again that when we unite and work together we make progress. Republicans have too often chosen, instead, to seek to pack the courts and tilt them out of balance and to use unfounded allegations of prejudice to drive wedges among Americans for partisan political purposes.

We have more Federal judges currently serving than at any time in our Nation's history and we have succeeded in reducing judicial vacancies to the lowest level in decades. Even Alberto Gonzales, the White House Counsel, conceded that: ''If you look at the total numbers, I think one could draw the conclusion that we've been fairly successful in having a lot of the president's nominees confirmed.'' The Republican leader in the Senate has termed our efforts ''steady progress.'' The White House would be even more successful if they would work with us to resolve this situation in the Sixth Circuit.

Senate Democrats had demonstrated our good faith in confirming 100 of President Bush's judicial nominees in our 17 months in the Senate majority. We have now cooperated in the confirmation of more judicial nominees for President Bush than President Reagan achieved working hand in hand with a Republican Senate majority. We have already confirmed more judges this Congress than were confirmed before the presidential elections in 1996. We fulfilled our commitment in accord with the agreement reached with the White House to consider 25 additional judicial nominees already this year. We have demonstrated not only our willingness to cooperate but we have done so to achieve historic confirmation numbers and historically low numbers of judicial vacancies. I have come to recognize that no good deed we do in correcting the Republican abuses of the past goes unpunished.

Unfortunately, this President has also chosen to nominate for some important circuit court seats some candidates who on their merits are not deserving of lifetime appointments. It appears that Judge Saad is one of those nominees. Clearly the Senators from Michigan have grave concerns.

I also have concerns about the nominee, his legal judgment, and his ability to be fair. While Judge Saad was an attorney his practice primarily consisted of defending large corporations against employees' claims of race discrimination, age discrimination, sexual harassment and wrongful termination. A review of Judge Saad's cases on the Michigan Court of Appeals raises concerns because he frequently favored employers in complaints brought by workers, even in the face of extremely sympathetic facts.

For example, in Cocke v. Trecorp Enterprises, a young Burger King employee was aggressively and repeatedly sexually harassed and assaulted by her shift manager. More than once, she reported this treatment to her other shift managers who promised to take care of it. The trial court prevented her case from going to the jury but Judge Saad dissented from an appellate decision reversing the trial court. Judge Saad ignored the legal standard of review followed by the majority and would have protected the corporation from responsibility for the shift manager's notorious and unlawful behavior.

Also, in Coleman v. Michigan, a female corrections officer brought a sexual harassment suit against her employer, the State of Michigan. This officer was assaulted and nearly raped by an armed prisoner. According to the officer's complaint, after this terrible attack, her supervisor insinuated that she provoked the attack because of her attire. The supervisor made the officer

come to his office on a regular basis to check the appropriateness of her clothing and he frequently called her to discuss personal matters, such as her relationship with her boyfriend. Despite these serious allegations, the trial court granted summary disposition in favor of the State of Michigan. Judge Saad joined in the Michigan Court of Appeals' per curiam opinion affirming the trial court's grant of summary disposition. The corrections officer appealed his decision to the Michigan Supreme Court, which reversed and held that her claims constituted sufficient evidence to go to trial.

In another case, Fuller v. McPherson Hospital, a jury who heard live testimony was persuaded to conclude that a woman had endured sexual harassment from her immediate supervisor and other superiors. The trial court vacated the jury findings because it found that the plaintiff had not complained of the harassment while working at the hospital. On appeal, the panel reinstated the jury's finding of sexual harassment but Judge Saad dissented. Unfortunately, his dissent in this case was only two sentences and failed to address his colleagues' legal conclusions.

I cannot speak in open session about all concerns but I can note a temperament problem, as evidenced by an e-mail he sent, a copy of which he mistakenly sent to Senator STABENOW as well. In Judge Saad's e-mail he displays not only shockingly bad manners, but appalling judgment and a possible threatening nature.

In the e-mail exchange, Judge Saad is writing to someone named Joe, forwarding him a copy of another e-mail sent by Senator STABENOW in response to a letter of support for Saad's nomination. In her response Senator STABENOW politely and reasonably explains the basis for her continuing objection to the nomination, explaining that she understands the writer's ''concerns and frustrations,'' thanking them, and offering her help in the future. Apparently this type of courteous explanation was too much for Judge Saad. Here is what he wrote in response to the Senator's explanation:

> She sends this standard response to all those who inquire about this subject. We know, of course, that this is the game they play. Pretend to do the right thing while abusing the system and undermining the constitutional process. Perhaps some day she will pay the price for her misconduct.

I know that Senator STABENOW does not need me to defend her, and I doubt that sort of personal threat concerns her, but I think Judge Saad's message deserves some attention. It shows a shocking lack of good judgment, a pronounced political viewpoint, and a total absence of respect for the process undertaken by Senators of good faith and good will.

As soon as they saw this e-mail message, both Michigan Senators wrote to the President's Counsel, Alberto Gonzales, alerting him to the offensive comments. While I do not believe Judge Gonzales or the President ever responded, 2 weeks later Judge Saad did get around to sending a ''non-apology.'' He wrote:

> I write regarding your and Senator LEVIN's recent letter to Alberto R. Gonzales, Counsel to the President (a copy of which you sent to me), relating to an e-mail message that I meant to send only to a close personal friend of mine. Unfortunately, this e-mail, which commented on my pending nomination, was inadvertently sent to your office. I regret that the e-mail was sent to you and certainly apologize for any personal concern this may have caused you. I have a great deal of respect for our political institutions and meant no lack of respect to you.

He cannot bring himself to say he is sorry for his words, to apologize for accusing a Senator of abusing the system she so respects, or even for expressing the hope that she would ''pay for her conduct.'' Instead he is sorry that he was caught, and if what he said may have caused Senator STABENOW ''personal concern.''

Apart from all of the procedural problems with this nomination, I have serious concerns about giving lifetime tenure to someone with this stunning lack of judgment.

I also have concerns about parts of the record of Richard Griffin. As a judge on the Michigan Court of Appeals since 1989, Judge Griffin has handled and written hundreds of opinions involving a range of civil and criminal law issues. Yet, a review of Judge Griffin's cases on the Michigan Court of Appeals raises concerns. He has not been shy about interjecting his own personal views into some of his opinions, indicating that he may use the opportunity, if confirmed, to further his own agenda when confronted with cases of first impression.

For example, in one troubling case involving the Americans with Disabilities Act (ADA), Doe v. Mich. Dep't of Corrections, Judge Griffin allowed the State disability claim of disabled prisoners to proceed, but wrote that, if precedent had allowed, he would have dismissed those claims. Griffin authored the opinion in this class action brought by current and former prisoners who alleged that the Michigan Department of Corrections denied them certain benefits on the basis of their HIV-positive status. Although Judge Griffin held that the plaintiffs had stated a claim for relief, his opinion makes clear that he only ruled this way because he was bound to follow the precedent established in a recent case decided by his court. Moreover, he went on to urge Congress to invalidate a unanimous Supreme Court decision, written by Justice Scalia, holding that the ADA applies to State prisoners and prisons. He wrote, ''While we follow Yeskey, we urge Congress to amend the ADA to exclude prisoners from the class of persons entitled to protection under the act.''

In other cases, he has also articulated personal preferences that favor a narrow reading of the law, which would limit individual rights and protections. For example, in Wohlert Special Products v. Mich. Employment Security Comm'n, he reversed the decision of the Michigan Employment Security Commission and held that striking employees were not entitled to unemployment benefits. The Michigan Supreme Court vacated part of Judge Griffin's decision, noting that he had inappropriately made his own findings of fact when ruling that the employees were not entitled to benefits. This case raises concerns about Judge Griffin's willingness to distort precedent to reach the results he favors.

In several other cases, Judge Griffin has gone out of his way to interject his conservative personal views into his opinions. The appeals courts are the courts of last resort in over 99 percent of all Federal cases and often decide cases of first impression. If confirmed, Judge Griffin will have much greater latitude to be a conservative judicial activist.

It is ironic that Judge Griffin's father who, as Senator in 1968, launched the filibuster of the nomination of Supreme Court Justice Abe Fortas to serve as Chief Justice. Former Senator Griffin led a core group of Republican Senators in derailing President Johnson's nomination by filibustering his nomination on the floor of the United States Senate. Eventually, Justice Fortas withdrew his nomination. I know that the Republicans here will call any attempt to block Judge Griffin's nomination ''unconstitutional'' and ''unprecedented,'' but his father actually helped set the precedent for blocking nominees on the Senate floor.

Finally, I turn to David McKeague, his record, and questions. In particular, I am concerned about Judge McKeague's decisions in a series of cases on environmental issues. In *Northwoods Wilderness Recovery* v. *United States Forest Serv.*, 323 F.3d 405 (6th Cir. 2003), Judge McKeague would have allowed the U.S. Forest Service to commence a harvesting project that allowed selective logging and clear-cutting in areas of Michigan's Upper Peninsula. The appellate court reversed him and found that the Forest Service had not adhered to a ''statutorily mandated environmental analysis'' prior to approval of the project, which was dubbed ''Rolling Thunder.''

Sitting by designation on the Sixth Circuit, Judge McKeague joined in an opinion that permitted the Tennessee Valley Authority (TVA) broadly to interpret a clause of the National Environmental Policy Act in a way that would allow the TVA to conduct large-scale timber harvesting operations without performing site-specific environmental assessments. *Help Alert Western Ky., Inc.* v. *Tenn. Valley Authority*, 1999 U.S. App. LEXIS 23759 (6th Cir. 1999). The majority decision in this case permitted the TVA to determine that logging operations that covered 2,147 acres of land were ''minor,'' and thus fell under a categorical exclusion

to the environmental impact statement requirement. The dissent in this case noted that the exclusion in the past had applied only to truly ''minor'' activities, such as the purchase or lease of transmission lines, construction of visitor reception centers and on-site research.

Judge McKeague also dismissed a suit brought by the Michigan Natural Resources Commission against the Manufacturer's National Bank of Detroit, finding that the bank was not liable for the costs of environmental cleanup at sites owned by a ''troubled borrower.'' See *Kelley ex rel. Mich. Natural Resources Comm'n* v. *Tiscornia*, 810 F. Supp. 901 (W.D. Mich. 1993). The bank took over the property from Auto Specialties Manufacturing Company when it defaulted on its loans. The Natural Resources Commission argued that the bank should be responsible for taking over the cost of cleanup because it held the property when the toxic spill occurred, but Judge McKeague disagreed.

In *Miron* v. *Menominee County*, 795 F. Supp. 840 (W.D. Mich. 1992), Judge McKeague rejected the efforts of a citizen who lived close to a landfill to require the Federal Aviation Administration to enjoin landfill cleanup efforts until an environmental impact statement regarding the efforts could be prepared. The citizen contended that if the statement were prepared, the inadequacies of a State-sponsored cleanup would be revealed and appropriate corrective measures would be undertaken to minimize further environmental contamination and wetlands destruction. Holding that the alleged environmental injuries were ''remote and speculative,'' Judge McKeague denied the requested injunctive relief.

In *Pape* v. *U.S. Army Corps of Engineers*, 1998 U.S. Dist. LEXIS 9253 (W.D. Mich.), Judge McKeague seems to have ignored relevant facts in order to prevent citizen enforcement of environmental protections. Dale Pape, a private citizen and wildlife photographer, sued the U.S. Corps of Army Engineers under the Federal Resource Conservation and Recovery Act of 1976 (RCRA), alleging that the Corps mishandled hazardous waste in violation of RCRA, destroying wildlife in a park near the site. Despite the Supreme Court's holding in Lujan v. Defenders of Wildlife that ''the desire to use or observe an animal species, even for purely esthetic purposes, is undeniably a cognizable interest for purpose of standing,'' and even though RCRA specifically conferred the right for citizen suits against the government for failure to implement orders or to protect the environment or health and safety, Judge McKeague dismissed the case, holding that plaintiff lacked standing to sue.

Judge McKeague found plaintiff's complaint insufficient on several grounds, in particular plaintiff's inability to establish which site specifically he would visit in the future. Plaintiff had stated in his complaint that he ''has visited the 'area around' the RACO site 'at least five times per year' and that he has made plans to vacation in 'Soliders Park' located 'near' the RACO site in early October 1998, where he plans to spend his time 'fishing, canoeing, and photographing the area.''' Comparing Pape's testimony with that of the Lujan plaintiff, who had failed to win standing after he presented general facts about prior visits and an intent to visit in the future, Judge McKeague rejected Pape's complaint as too speculative, based on the Court's holding in Lujan that:

> [Plaintiffs'] profession of an ''intent'' to return to the places [plaintiffs] had visited before—where they will, presumably, this time, be deprived of the opportunity to observe animals of the endangered species—is simply not enough to establish standing. . . . Such ''some day'' intentions—without any description of concrete plans, or indeed, even any specification of when the some day will be—do not support a finding of the ''actual or imminent'' injury that our cases require.

In concluding that ''the allegations contained in plaintiff's first amended complaint fail to establish an actual injury because they do not include an allegation that plaintiff has specific plans to use the allegedly affected area in the future,'' Judge McKeague seemed to ignore completely the detailed fact description that Pape submitted in his amendment complaint. The judge further asserted that there was no causal connection between the injury and the activity complained of, and that, in any case, the alleged injury was not redressable by the suit.

On another important topic, that of the scheme of enforcing the civil and constitutional rights of institutionalized persons, I am concerned about one of Judge McKeague's decisions. In 1994, (*United States* v. *Michigan*, 868 F. Supp. 890 (W.D. Mi. 1994)), he refused to allow the Department of Justice access to Michigan prisons in the course of its investigation into some now notorious claims of sexual abuse of women prisoners by guards undermines the long-established system under the Constitutional Rights of Institutionalized Persons Act. That law's investigative and enforcement regime is unworkable if the Department of Justice is denied access to State prisons to determine if enough evidence exists to file suit, and Judge McKeague's tortured reasoning made it impossible for the investigation to continue in his district.

I know that concern for the rights of prisoners who have often committed horrendous criminal acts is not politically popular, but Congress enacted the law and expected its statute and its clear intent to be followed. It seems to me that Judge McKeague disregarded legislative history and the clear intent of the law, and that sort of judging is of concern to me.

I also note my disappointment in his answer to a question I sent him about a presentation he made in the fall of 2000, when he made what I judged to be inappropriate and insensitive comments about the health and well-being of sitting Supreme Court Justices. In a speech to a law school audience about the impact of the 2000 elections on the courts, Judge McKeague discussed the possibility of vacancies on the Court over the following year. In doing so he felt it necessary to not only refer to—but to make a chart of—the Justices' particular health problems, and ghoulishly focus on their life expectancy by highlighting their ages. He says he does not believe he was disrespectful, and used only public information. There were other, better ways he could have made the same point, and it is too bad he still cannot see that.

The people of the Sixth Circuit deserve better than this. And the American people, the independent Federal judiciary, the U.S. Senate, all deserve better than the double standard that is now squarely on display for all to see.

Mr. SCHUMER. Madam President, I yield the time remaining to me to the Senator from Michigan.

The PRESIDING OFFICER. All time has expired on the Democratic side.

Mr. LEVIN. Parliamentary inquiry: I thought there was 15 minutes on each side.

The PRESIDING OFFICER. There is 7 minutes on each side.

Mr. SCHUMER. Madam President, I ask unanimous consent, since nobody is here and we are voting at 11, that Senator STABENOW be given 4 minutes to discuss this issue.

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

Ms. STABENOW. I thank the Chair. Madam President, I thank my colleague and friend from New York.

I rise to support the distinguished senior Senator from Michigan, my friend and colleague, who has spoken very eloquently about what we are about to vote on.

Today we will be asked to vote to close debate and proceed to a final vote on three judges who have been nominated by the President to the Sixth Circuit in Michigan. We are asking that colleagues vote no and give us an opportunity to work out this situation in a bipartisan way. We have been very close. I appreciate Chairman HATCH's efforts to work with us, Senator LEAHY, and others who have worked with us and proposed bipartisan solutions. I still believe we can develop a solution if we do not proceed with this vote today. If we do not vote for cloture, I believe we can continue to work together in a bipartisan way to resolve this issue.

It is always difficult when the President nominates people for the bench. Oftentimes people will say: Why not give the President his nominees? We know this is different from the Cabinet. I have voted to give the President his team, his Cabinet, because they are with him for his 4-year term, and they are part of his team. Except for those few exceptions I believed were too extreme, I supported individuals I personally would not select to be in a Cabinet, but it is his team.

In the case of the judiciary, this is the third branch of Government. As we learn from reading simple high school government books, in the beginning of the debate of our Founders, those at the Constitutional Convention gave the full authority to the Senate. Then there was further discussion and they said possibly the President should appoint the third branch of Government. In the end, they said this is so important that this judiciary, this third branch of Government, be independent of the other two branches that we are going to split the authority in half. We are going to give half to the President of the United States to make nominations, and the other half to the Senate to consult and to confirm.

Our concern is that in the case of Michigan, working together has not been happening. It is not about two Senators; it is about the people we represent. We represent 9 million people in the State of Michigan whose voices are heard through our input to the President.

My distinguished colleague from New York spoke about the fact that he and his colleague from New York, opposite parties of the President, have worked with him and have had agreement on judges they believe were mainstream, who were appropriate for the bench, and they have been able to work together to do that.

Why in New York and not Michigan? Why in California and not Michigan? Why in Washington but not Michigan? Why in Wisconsin but not Michigan?

The issue for us today on behalf of the people of our State is we are asking for the same consideration, the same ability to have input about people who will serve us long past this President, people who will serve us long past the next President, people who have lifetime appointments and make decisions that affect our lives in every facet of the laws that affect us, from the workplace to the home to the environment to civil rights. These judges make decisions that affect each of us, and it is our responsibility to be involved and make sure we are working with the White House, whoever that is, to have the very best choices that are balanced and mainstream and will continue on long beyond most of us who are serving in the Senate.

This is important, and it is with great disappointment that I rise today to ask for a ''no'' vote on cloture because we have been attempting to work this out now for almost 3 years. Unfortunately, this move to get this vote at this time does not help us get to a fair bipartisan conclusion. It is an effort that will only get in the way of that happening.

I ask colleagues to join with us in saying no to the motion to close debate and invoking cloture, and I ask colleagues to give us an opportunity, that same opportunity that anyone on this floor would ask, the same opportunity that others have been given, to work together with this White House to develop recommendations on the Sixth Circuit and nominees we all believe are in the best interest of the people of Michigan and in the best interest of the people of the country.

I yield back my time, Madam President, and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATCH. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. HATCH. Madam President, as chairman of the Judiciary Committee, I will take a couple of minutes before the vote to express my views with regard to Judge Saad. There is no question in my mind that Judge Saad is competent, decent, and honorable—a person of great temperament, great legal ability and great capacity. That is what all of the people who know him best say. He also has a ''very good'' recommendation from the American Bar Association. So he has fit the bill there.

The real problem has been in the prior administration, we were unable to get two judges through, Judge Helene White and Kathleen McCree Lewis, both of whom are nice people. I tried to do my best to get them through, but we could not because there was zero consultation at the time, and by the time we got to the end, it got into another set of problems and, frankly, they did not get confirmed.

The two Senators from Michigan have been very upset about that, and if I were to put myself in their shoes I would feel the same way, perhaps.

The fact of the matter is these are three excellent people who could do a very good job on the bench, and Judge Saad certainly in this particular case is very capable of doing the job. So are Judge Richard Griffin and Judge David W. McKeague. I will continue to work to try and resolve the problems that exist with the Michigan Senators, but these people deserve up-or-down votes and should have up-or-down votes.

Some have said if two Senators are against a nomination in their State, that should be the end of it. That is not true, and it never has been with regard to a circuit court of appeals nominees. Every administration has guarded its right to nominate and put forth circuit court of appeals nominations, and in most cases at least one or two of the Senators have been cooperative in helping.

In this particular case, both Senators feel aggrieved because of the prior two judges and in the process have had some difficulty with Judge Saad. I assure the Senate that Judge Saad is an excellent person. He deserves this position. There is no question about Griffin and McKeague. They are two excellent judges and have great reputations in the State of Michigan. They deserve to be voted up or down today. I hope the people will vote for cloture. It is the right thing to do.

We should not be filibustering Federal judges. It has never been done before, and I recommend to all of our colleagues to vote for cloture in all three cases.

I yield the floor.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the hour of 11 a.m. having arrived, the cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on Executive Calendar No. 705, Henry W. Saad, of Michigan, to be United States Circuit Judge for the Sixth Circuit, Vice James L. Ryan, retired.

Bill Frist, Orrin Hatch, Lamar Alexander, Charles Grassley, Mike Crapo, Pete Domenici, Lincoln Chafee, Mitch McConnell, Ted Stevens, George Allen, Lindsey Graham, John Warner, Jeff Sessions, John Ensign, Trent Lott, Jim Talent, Pat Roberts.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on Executive Calendar No. 705, the nomination of Henry W. Saad, of Michigan, to be United States Circuit Court Judge for the Sixth Circuit, shall be brought to a close.

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS) and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

The PRESIDING OFFICER (Mr. ENSIGN). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 52, nays 46, as follows:

[Rollcall Vote No. 160 Ex.]

YEAS—52

Alexander	Dole	Miller
Allard	Domenici	Murkowski
Allen	Ensign	Nickles
Bennett	Enzi	Roberts
Bond	Fitzgerald	Santorum
Brownback	Frist	Sessions
Bunning	Graham (SC)	Shelby
Burns	Grassley	Smith
Campbell	Gregg	Snowe
Chafee	Hagel	Specter
Chambliss	Hatch	Stevens
Cochran	Hutchison	Sununu
Coleman	Inhofe	Talent
Collins	Kyl	Thomas
Cornyn	Lott	Voinovich
Craig	Lugar	Warner
Crapo	McCain	
DeWine	McConnell	

NAYS—46

Akaka	Dorgan	Lieberman
Baucus	Durbin	Lincoln
Bayh	Feingold	Mikulski
Biden	Feinstein	Murray
Bingaman	Graham (FL)	Nelson (FL)
Boxer	Harkin	Nelson (NE)
Breaux	Hollings	Pryor
Byrd	Inouye	Reed
Cantwell	Jeffords	Reid
Carper	Johnson	Rockefeller
Clinton	Kennedy	Sarbanes
Conrad	Kohl	Schumer
Corzine	Landrieu	Stabenow
Daschle	Lautenberg	Wyden
Dayton	Leahy	
Dodd	Levin	

NOT VOTING—2

Edwards	Kerry

The PRESIDING OFFICER. On this vote, the yeas are 52 and the nays are 46. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. REID. I move to reconsider the vote.

Mr. BOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NOMINATION OF RICHARD A. GRIFFIN TO BE UNITED STATES CIRCUIT JUDGE FOR THE SIXTH CIRCUIT

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order and pursuant to rule XXII, the clerk will report the motion to invoke cloture.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on Executive Calendar No. 789, Richard A. Griffin of Michigan, to be U.S. circuit judge for the Sixth Circuit.

Bill Frist, Orrin Hatch, Lamar Alexander, Charles Grassley, Mike Crapo, Pete Domenici, Lincoln Chafee, Mitch McConnell, Ted Stevens, George Allen, Lindsey Graham, John Warner, Jeff Sessions, John Ensign, Trent Lott, Jim Talent, Pat Roberts.

Mr. HATCH. Mr. President, I am pleased that we are considering the nominations of Judge Richard Griffin and Judge David W. McKeague, who have been nominated by President Bush to serve on the United States Court of Appeals for the Sixth Circuit. These individuals each have a sterling resume and a record of distinguished public service. So I rise today to express my enthusiastic support for the confirmation of Judge Richard Griffin and Judge David W. McKeague to the Sixth Circuit Court of Appeals.

It is unfortunate that we have to continue coming to the floor to vote on cloture motions, to end debate on these nominations, rather than the Senate being able to vote up or down on the merits of the nomination. This unprecedented abuse of the process, by filibuster, to prevent a majority of the Senate from exercising its will is truly disturbing. What is going on is a hijacking of the constitutional process of advice and consent.

This abuse of the process isn't just being used on these two nominees. Unfortunately, we have now reached double-digit filibusters. There are ten judicial nominees who have been subjected to a filibuster. They are Miguel Estrada, D.C. Circuit; Priscilla Owen, 5th Circuit; William Pryor, 11th Circuit; Charles Pickering, 5th Circuit; Carolyn Kuhl, 9th Circuit; Janice Rogers Brown, D.C. Circuit; Williams Myers, 9th Circuit; Henry Saad, 6th Circuit; David McKeague, 6th Circuit; and Richard Griffin, 6th Circuit. In addition to these ten individuals, there are five additional Circuit Court nominations that are threatened to be filibustered—Claude Allen, 9th Circuit; Terrence Boyle, 4th Circuit; Susan Neilson, 6th Circuit; Brett Kavanaugh, D.C. Circuit; and William Haynes, 4th Circuit.

These individuals being filibustered represent a cross section of America and include men and women as well as members of various minority groups. And they are decent individuals with outstanding records in the law, in public service and in their States and communities.

It appears that these nominations are being tied up as some sort of payback for the way President Clinton's nominees were treated. However, a review of the record will demonstrate that this contention is without merit. What is happening is the creation of a stalemate for political purposes.

The current controversy surrounding the nomination of Henry Saad to be United States Circuit Judge for the Sixth Circuit dates back a decade. At the end of President George H.W. Bush's administration two Michigan nominees to the federal courts were denied hearings by the Democratic Senate and failed to attain confirmation. Those nominees were John Smientanka and Henry Saad, whose nomination we are considering again today.

As President Clinton named his nominees to fill judicial vacancies, there was no expectation, let alone demand, that the two previous nominees be renominated by a new administration. Accordingly, President Clinton did nominate Michigan nominees to both the Sixth Circuit and the district courts. In fact, nine of those nominees were confirmed. A majority were confirmed during Republican control of the Senate.

Two nominees, Helene White and Kathleen McCree Lewis, failed to attain confirmation. The primary circumstance for their failed nomination was the lack of consultation with one of the home State senators. In his letter to then White House Counsel Beth Nolan, Senator Abraham wrote to express his astonishment and dismay that President Clinton forwarded the nomination for a Sixth Circuit seat without any advance notice or consultation.

What was particularly troubling was that Senator Abraham had worked with the previous White House Counsel, Mr. Ruff, to improve the consultation process. In fact, despite previous difficulties, Senator Abraham had fully cooperated with the administration in advancing the nominations of a number of Michigan nominees. Unfortunately, the situation again deteriorated and the White House reverted to its previous pattern of lack of consultation. In fact, Senator Abraham was not consulted and in fact was told by the White House Counsel that despite earlier representations, the administration felt under no real obligation to do anything of the kind.

Because of the White House's lack of consultation, the nominations of the two individuals did not move forward. This was consistent with my well stated policy, communicated to Mr. Ruff, that if good faith consultation has not taken place, the Judiciary Committee will treat the return of a negative blue slip by a home state Senator as dispositive and the nominee will not be considered.

At the end of the Clinton presidency, the nominations of Ms. White and Ms. Lewis were returned to the President unconfirmed. Their renomination was urged by Senators LEVIN and STABENOW at the beginning of President Bush's administration. During the spring and summer of 2001, there was considerable consultation by the President with the Michigan Senators regarding nominations to judicial vacancies, and the Sixth Circuit in particular.

While the White House protected its constitutional prerogative to nominate individuals to the judiciary, there was an offer to consider nominating both of the two individuals to Federal judgeships in Michigan in an effort to advance the process. These overtures were not only rebuffed, but in fact holds were requested to be placed on all Sixth Circuit nominations.

This was an unfortunate escalation of the dispute, and was particularly unfair to other States in the Sixth Circuit. In addition, this left the circuit at half-strength. Fortunately, we have been able to confirm non-Michigan judges to the circuit court.

I regret that the cycle of acrimony and partisanship has escalated over the past decade. I believe the Bush administration made a good faith offer and regrets that the compromise was not accepted. However, even as the Judiciary Committee gives appropriate consideration to the views of home State senators, it is not in the public interest to permit this partisan obstructionism to continue.

So let me summarize regarding the treatment of Michigan judicial nominees. During the current Bush presidency the Senate has confirmed no Michigan judges. Six nominations are pending. During the Clinton presidency the Senate confirmed nine Michigan judges. Although two Michigan nominees were left unconfirmed at the end

of the Clinton presidency, two nominees were also left without hearings at the end of President Bush's term in 1993. During the first Bush presidency the Senate confirmed six Michigan judges. Two nominations were returned to the President.

So for those who like to keep score, the Michigan judge tally is as follows: Current President Bush: 0–6; President Clinton: 9–2; former President Bush: 6–2. The record is clear that previous Presidents were treated fairly by the Senate. It is time to give President Bush the same courtesy and move forward with his Michigan Judges to the Sixth Circuit and the District Courts. We can begin by approving the cloture motions we will vote on today for Henry Saad, Richard Griffin, and David McKeague.

Yesterday I spoke about the qualifications of Henry Saad. I would like to say a few words about the qualifications of the other two nominees whom we are voting on today.

Judge Griffin has exceptional qualifications for the Federal appellate bench. After graduating from the University of Michigan Law School in 1977, Judge Griffin spent 11 years in the private practice of law first as an associate at Williams, Coulter, Cunningham, Davison & Read from 1977–1981, then as a partner from 1981–1985. In 1985, Judge Griffin founded the firm Read & Griffin, in Traverse City, MI.

During his private practice Judge Griffin specialized in automobile negligence, premises liability, products liability, and employment law. Additionally, he provided pro bono legal services as a volunteer counselor and attorney with the Third Level Crisis Center. In 1988, Judge Griffin was elected to the Michigan Court of Appeals. He was elected to retain his seat in 1996 and again in 2002.

Judge Griffin was first nominated to this position by President George W. Bush on June 26, 2002. He was renominated to this seat on January 7, 2003. He is universally respected as one of the best judges in Michigan. He is not a controversial nominee. Yet he has been waiting for a vote for over 750 days because my colleagues on the other side of the aisle are, once again, playing politics with the Federal judiciary.

Judge Griffin has an exemplary record that includes service as both a committed advocate and an impartial jurist. The American Bar Association has rated him well qualified for this position. Although the ABA rating used to be the gold standard as far as my Democratic colleagues were concerned, I am only half joking when I say that an ABA rating of well qualified seems to have become the kiss of death for President Bush's judicial nominees. Miguel Estrada, Carolyn Kuhl, David McKeague, William Haynes, Charles Pickering and Priscilla Owen, all received Well Qualified ratings from the ABA, and all are, or were, being filibustered by Democrats. Judge Griffin deserves to fare better, and I certainly hope we can give his nomination an up-or-down vote on the Senate floor.

Simply put, Judge Griffin—along with the other qualified nominees to the Sixth Circuit—deserves a vote. I urge my colleagues to do what is right and join me in supporting his confirmation to the Sixth Circuit Court of Appeals.

Judge David McKeague has also been nominated to serve on the Sixth Circuit Court of Appeals. Judge McKeague was first nominated to fill a Federal judgeship in 1992, when the first President Bush nominated him for a seat on the United States District Court for the Western District of Michigan. The Judiciary Committee voted him to the floor with several other district court nominees en bloc, without any objection, and the full Senate confirmed him to the Federal bench by unanimous consent. Since 1992, he has served with distinction in the Western District of Michigan, and since 1994 has regularly been designated to sit on panels and draft appellate opinions for the Sixth Circuit Court of Appeals.

On November 8, 2001, President Bush nominated Judge McKeague for a seat on the Sixth Circuit, the position for which we are considering him today. When no action was taken on his nomination during the 107th Congress, President Bush renominated him to the Sixth Circuit on January 7, 2003. As with the other nominees, it is time for the Senate to vote up or down on this nomination.

In Judge McKeague, we have a jurist with impressive credentials who will honor his hometown of Lansing and serve with great distinction as a Sixth Circuit judge, as he already has for more than a decade as a Federal district judge in western Michigan.

Judge McKeague graduated from the University of Michigan in 1968 and then attended the University of Michigan Law School. Upon his graduation from law school in 1971, he joined the law firm of Foster, Swift, Collins & Smith, P.C., in Lansing, MI, and in 1976 was elected a shareholder and director of the firm. Judge McKeague served on the firm's executive committee in various offices, and was chairman of the firm's government and commerce department, from 1979 until his confirmation to the Federal bench in February 1992, where he serves as a judge on the U.S. District Court for the Western District of Michigan.

Since 1994, Judge McKeague regularly has participated by designation on, and authored appellate opinions for, panels of the U.S. Court of Appeals for the Sixth Circuit. So he already has considerable experience in handling Federal appellate cases—in fact, I understand that none of the decisions he has authored for the Sixth Circuit have been reversed—and I am certain that experience will serve him well once he is handling cases full time on the Sixth Circuit.

Judge McKeague has been active as a member of several community, local, and professional organizations, including the Judicial Conference of the United States, the Federal Judicial Center, the Michigan State and Ingham County bar associations, the board of directors of a community museum that provides science education for children, Junior Achievement, which provides business education to high school students, and Camp Highfields, a private facility that provides housing and counseling for troubled youth. He has also been active as a member of the Wharton Center for the Performing Arts Advisory Council, the American Inns of Court, the Catholic Lawyers Guild, and the Federalist Society for Law and Public Policy Studies. While in private practice and since his service on the Federal bench began, he has directed and participated in numerous seminars, moot court competitions, and trial advocacy programs at high schools, universities and law schools throughout Michigan. In addition, prior to his confirmation to the Federal bench, he served 6 years in the United States Army Reserve. Since 1998, he has also served as an adjunct professor of law at Michigan State University's Detroit College of Law, where he teaches Federal jurisdiction.

Judge McKeague is a distinguished and well-respected Federal judge who, in the words of one of his current colleagues on the Federal district court, ''let the law and the facts take him where they take him.'' He will make an outstanding addition to the Sixth Circuit, and I urge my colleagues to vote for his confirmation.

Let me make something absolutely clear: We need to vote on these nominations because it is critical that these Sixth Circuit vacancies are filled as expeditiously as possible.

The Sixth Circuit has a vacancy rate of 25 percent, and the four vacancies are all deemed judicial emergencies by the Administrative Office of the U.S. Courts. Among the twelve United States Courts of Appeal, the Sixth Circuit is last in the timeliness of its disposition of cases. For the 12-month period ending September 30, 2003, the median time interval from filing of Notice of Appeal to final disposition was 16.8 months. This was nearly 10 months longer than the Fourth Circuit Court of Appeals which was the fastest court that year at 7 months. By comparison, the average disposition time for appeals in all Circuits was about 10½ months.

Mike Cox, the Attorney General for the State of Michigan, wrote to the committee last year:

> My office alone has over 430 cases currently pending before the Sixth Circuit Court of Appeals. Those cases range the gamut of the law, from habeas matters involving horrendous murders to cases involving matters of broad public policy. . . . [O]n behalf of the citizens of my state, I urge you to quickly approve Judge Saad's nomination, and begin easing the vacancy crisis that has lingered far too long at the Sixth Circuit.

District judges and U.S. attorneys within the Sixth Circuit have publicly stated that the vacancy rate in the Sixth Circuit has slowed the administration of justice. Accordingly, nine members of Michigan's Congressional delegation have written to the Judiciary Committee, expressing their deep concern over the persistence of the Michigan vacancies and urging us to confirm President Bush's Michigan nominees. Under such circumstances, with the understanding that we will continue to work to resolve the Michigan Senators' concerns, we simply must move forward on these nominations and confirm Judge Saad, Judge Griffin, and Judge McKeague to the Sixth Circuit.

I yield the floor.

The PRESIDING OFFICER. By unanimous consent, the call for a quorum has been waived.

The question is, Is it the sense of the Senate that debate on the nomination of Richard A. Griffin, of Michigan to be United States Circuit Judge for the Sixth Circuit shall be brought to a close.

The yeas and nays are required under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS) and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 54, nays 44, as follows:

[Rollcall Vote No. 161 Ex.]

YEAS—54

Alexander	Dole	McConnell
Allard	Domenici	Miller
Allen	Ensign	Murkowski
Bennett	Enzi	Nelson (NE)
Bond	Fitzgerald	Nickles
Brownback	Frist	Roberts
Bunning	Graham (SC)	Santorum
Burns	Grassley	Sessions
Campbell	Gregg	Shelby
Chafee	Hagel	Smith
Chambliss	Hatch	Snowe
Cochran	Hutchison	Specter
Coleman	Inhofe	Stevens
Collins	Kyl	Sununu
Cornyn	Lincoln	Talent
Craig	Lott	Thomas
Crapo	Lugar	Voinovich
DeWine	McCain	Warner

NAYS—44

Akaka	Dodd	Leahy
Baucus	Dorgan	Levin
Bayh	Durbin	Lieberman
Biden	Feingold	Mikulski
Bingaman	Feinstein	Murray
Boxer	Graham (FL)	Nelson (FL)
Breaux	Harkin	Pryor
Byrd	Hollings	Reed
Cantwell	Inouye	Reid
Carper	Jeffords	Rockefeller
Clinton	Johnson	Sarbanes
Conrad	Kennedy	Schumer
Corzine	Kohl	Stabenow
Daschle	Landrieu	Wyden
Dayton	Lautenberg	

NOT VOTING—2

Edwards	Kerry

The PRESIDING OFFICER. On this vote, the yeas are 54, the nays are 44. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. REID. Mr. President, I move to reconsider the vote and to lay that motion on the table.

The motion to lay on the table was agreed to.

NOMINATION OF DAVID W. MCKEAGUE TO BE UNITED STATES CIRCUIT JUDGE FOR THE SIXTH CIRCUIT

The PRESIDING OFFICER. Under the previous order and pursuant to rule XXII, the clerk will report the motion to invoke cloture.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on Executive Calendar No. 790, David W. McKeague, of Michigan, to be U.S. circuit judge for the Sixth Circuit.

Bill Frist, Orrin Hatch, Lamar Alexander, Charles Grassley, Mike Crapo, Pete Domenici, Lincoln Chafee, Mitch McConnell, Ted Stevens, George Allen, Lindsey Graham, John Warner, Jeff Sessions, John Ensign, Trent Lott, Jim Talent, Pat Roberts.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the nomination of David W. McKeague, of Michigan, to be United States Circuit Judge for the Sixth Circuit, shall be brought to a close.

The yeas and nays are required under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from New Hampshire (Mr. GREGG) is necessarily absent.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS) and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

The PRESIDING OFFICER (Mr. GRAHAM of South Carolina). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 53, nays 44, as follows:

[Rollcall Vote No. 162 Ex.]

YEAS—53

Alexander	Dole	Miller
Allard	Domenici	Murkowski
Allen	Ensign	Nelson (NE)
Bennett	Enzi	Nickles
Bond	Fitzgerald	Roberts
Brownback	Frist	Santorum
Bunning	Graham (SC)	Sessions
Burns	Grassley	Shelby
Campbell	Hagel	Smith
Chafee	Hatch	Snowe
Chambliss	Hutchison	Specter
Cochran	Inhofe	Stevens
Coleman	Kyl	Sununu
Collins	Lincoln	Talent
Cornyn	Lott	Thomas
Craig	Lugar	Voinovich
Crapo	McCain	Warner
DeWine	McConnell	

NAYS—44

Akaka	Dodd	Leahy
Baucus	Dorgan	Levin
Bayh	Durbin	Lieberman
Biden	Feingold	Mikulski
Bingaman	Feinstein	Murray
Boxer	Graham (FL)	Nelson (FL)
Breaux	Harkin	Pryor
Byrd	Hollings	Reed
Cantwell	Inouye	Reid
Carper	Jeffords	Rockefeller
Clinton	Johnson	Sarbanes
Conrad	Kennedy	Schumer
Corzine	Kohl	Stabenow
Daschle	Landrieu	Wyden
Dayton	Lautenberg	

NOT VOTING—3

Edwards	Gregg	Kerry

The PRESIDING OFFICER. On this vote, the yeas are 53, the nays are 44. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. REID. Mr. President, I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. I ask unanimous consent to speak as if in morning business.

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

GENOCIDE IN SUDAN

Mr. FEINGOLD. Mr. President, I rise to join my colleagues in expressing my continued grave concern about the situation in Darfur, Sudan. For months now, Members of Congress have come to the floor to express their outrage at the situation in Darfur. All credible evidence indicates that what is unfolding in Darfur is genocide. Already, an estimated 30,000 civilians have been killed. More than 130,000 refugees have fled to Chad, and more than 1 million people have been displaced.

Numerous credible reports document the widespread use of rape as a weapon against female civilians. Entire communities have been razed, mosques destroyed, and wells poisoned, guaranteeing that a grave humanitarian crisis will continue to unfold for many months or even years. And now reports indicate that terrified survivors are being forced to return to their homes, which have been utterly destroyed, in a context of serious insecurity by Government officials who apparently view their own suffering citizens as something like a source of embarrassment.

Those of us who have followed developments in Sudan for many years see a horrifying familiarity in this crisis. The Government of Sudan has deliberately provoked a humanitarian catastrophe before in an attempt to repress dissent, and so for months now Members have come to the floor to speak out about this crisis.

I have written and spoken to administration officials, to U.N. officials, and to European officials to call for action and a firm unified message to Khartoum. I have raised the issue, as have

many colleagues, in numerous Senate Foreign Relations Committee hearings. This April, my colleague, Senator BROWNBACK, and I introduced S. Con. Res. 99 condemning the actions of the Sudanese Government. I have joined many of my colleagues in supporting Senator DEWINE's effort to direct urgently needed funds to Darfur for humanitarian relief, and I am a cosponsor of S. Con. Res. 124 acknowledging the genocide that is unfolding in Darfur, and I commend the leadership of Senators CORZINE and BROWNBACK, the sponsors of this legislation.

This is a tremendously difficult and complex situation. I commend the Secretary of State for traveling to Darfur to raise the profile on this issue. I commend the efforts of the USAID to respond to the urgent humanitarian needs in CHAD and IDPs in Darfur.

The administration can and must do more. First, the President needs to put in charge a senior official who can speak authoritatively to Khartoum and to key regional players, someone who is focused on Sudan exclusively each and every day. It is almost inexplicable that this has not been done to date.

Since our former colleague, Senator Jack Danforth, left his post as the President's special envoy for Sudan to serve as U.S. Ambassador to the United Nations, it appears that no one has been in charge of this issue on a day-to-day basis while this genocide unfolds. What kind of signal does this send about our seriousness? We need someone senior, with knowledge of the African and Arab worlds, put in place today to coordinate U.S. policy and deliver authoritative U.S. messages on a daily basis, to seize on fleeting opportunities, eliminate any confusion, match available resources with urgent needs, and constantly hold the Sudan Government's feet to the fire.

We also need serious thinking today about how to improve the security situation in Darfur. To date, the Government of Sudan has utterly failed to honor its commitments to disarm the janjaweed and to stop their brutal campaign.

Our strategy cannot simply consist of waiting for them to act. This is the same regime that orchestrated this misery in the first place. We cannot leave them in the driver's seat. So even as we push diplomatically for meaningful action from Khartoum, even as we do the hard work of building a strong, unified multilateral coalition to send a clear message about the serious consequences that will result from continued intransigence, we must develop plans to help people in spite of the Government of Sudan's policies. That means finding a way to provide security for Darfur's vulnerable populations and for the humanitarian organizations working to assist them.

We need to be working now to collect testimony and evidence so that those responsible for atrocities in Darfur can be held accountable for their crimes. This must not be an afterthought. It is a central part of our obligation. And in addition to appropriately and sensitively collecting testimony, we should be making plans today to develop strategies to reach the survivors of rape in Darfur with medical assistance, counseling, and community-based support strategies to help address issues of stigma.

Ultimately, we need to think about underlying issues of political disenfranchisement that stoked the initial conflict in Darfur. The North-South peace process made real progress, and I applaud the efforts of the many African, European, and American diplomats who worked so hard to help the parties come to agreement. But the process only created real political space for two entities, the Government of Sudan and the Sudanese People's Liberation Movement of the South. Neither the South nor the North are monolithic. We need to think today about political accommodations that can give the disenfranchised a voice in determining their own destiny.

I share the outrage of my colleagues. But I know that the people of Darfur—the malnourished children, the victims of rape, the broken families struggling to survive—this people need more than our outrage. They need our action.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FEINGOLD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded and I be permitted to speak as in morning business.

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

CAMPAIGN FINANCE REFORM

Mr. FEINGOLD. Mr. President, when major and hard-fought legislation nears enactment, the rhetoric on this floor can get a little overheated. Supporters of the measure sometimes overstate the importance of the legislation or exaggerate its benefits. Opponents make doomsday predictions of what will happen if the bill becomes law. Only the passage of time can answer those arguments, but by the time that answers are available, the Senate has often has moved on to other battles.

Today, I want to take a few minutes on the floor to call the attention of my colleagues and the American people to some promising indications that the doomsday predictions of opponents of the McCain-Feingold bill have not come to pass. As we told the Senate at the time, McCain-Feingold will not solve every problem in our campaign finance system, and it hasn't. Lately, there has been significant controversy over so-called ''527 organizations,'' which the FEC has permitted to operate in violation, I believe, of the Federal Election Campaign Act of 1974.

Nonetheless, McCain-Feingold is working as it was intended to work. It closed the political party soft money loophole, and it has restored some sanity to a system that had truly spun out of control over the last several elections. While it is still too early to reach a final conclusion, it appears that the cynics and the doubters were wrong. And that is good news for the American people.

When the Senate considered the McCain-Feingold bill in March 2001, we had just finished a hotly contested Presidential election in 2000. Nearly $500 million of soft money was raised in that election by the two political parties, almost double what was raised in the 1996 election. Nearly two-thirds of that total was given by just 800 donors, who contributed over $120,000 each to the parties. The biggest donors contributed far more than that. The most generous soft money donor, AFSCME, gave almost $6 million, all to the Democratic party. SEIU gave a total of $4.3 million, mostly to the Democrats. AT&T gave a total of $3.7 million to the parties, the Carpenters and Joiners Union $2.9 million, Freddie Mac and Philip Morris, $2.4 million. Then we had the ''double givers''—companies that gave money to both parties. In 2000, there were 146 donors that gave over $100,000 in soft money to both of the political parties.

The appearance of corruption created by this avalanche of soft money was overwhelming. The public knew it; and we all knew it in our hearts. And the Supreme Court knew it when it upheld the McCain-Feingold bill against constitutional challenge in the case of McConnell v. FEC. The Court stated the following:

> As the record demonstrates, it is the manner in which parties have sold access to federal candidates and officeholders that has given rise to the appearance of undue influence. Implicit (and, as the record shows, sometimes explicit) in the sale of access is the suggestion that money buys influence. It is no surprise then that purchasers of such access unabashedly admit that they are seeking to purchase just such influence. It was not unwarranted for Congress to conclude that the selling of access gives rise to the appearance of corruption.

In this election cycle, I am happy to report, political party soft money is no more. Not reduced, not held in check, not capped—it is just gone. I consider this one of the most significant developments in American politics in the last 50 years. In 2002, a colleague told me on this floor that he had just finished making an hour of calls asking for large soft money contributions. He said he felt like taking a shower. Now, many of my colleagues, including some who did not support our bill, tell me how happy they are to not have to make those calls any more. That's a huge change in how we spend our time, and how we relate to people who have a big stake in what we do on this floor.

But what about the political parties? When we were debating McCain-Feingold, we had a real difference of opinion on how the bill would affect the parties. On one side were Senators who

argued passionately that the bill would kill the political parties.

One Senator said the following during our debate:

This legislation seeks, quite literally, to eliminate any prominence for the role of political parties in American elections.

This legislation favors special interests over parties and favors some special interests over other special interests. Equally remarkable is the patchwork manner in which this legislation achieves its virtual elimination of political parties from the electoral process.

The same Senator claimed:

But under this bill, I promise you, if McCain-Feingold becomes law, there won't be one penny less spent on politics—not a penny less. In fact, a good deal more will be spent on politics. It just won't be spent by the parties. Even with the increase in hard money, which I think is a good idea and I voted for, there is no way that will ever make up for the soft dollars lost.

There isn't any way, he said, that they will ever make up for the soft dollars lost.

Twenty months after the McCain-Feingold bill went into effect as the law of the land, our two great political parties are alive and well. Apparently they do have something to offer to the American people other than fundraisers for lobbyists. A new study by Anthony Corrado and Tom Mann of the Brookings Institution reports that through the first 18 months of the 2004 election cycle, the national party committees raised $615 million in hard money alone, which was more than the $540 million that they had raised in hard and soft money combined at a comparable point in the 2000 election cycle. Let me say that again. As of June 30, the parties had raised more in hard money in this election cycle than they had raised in hard and soft money combined at a similar point in the 2000 cycle.

Remember the Senator who said there was ''no way'' that the parties could make up for the soft money they would lose under the McCain-Feingold bill. Well it turns out that Senator was wrong.

The parties are not just surviving, they are thriving. And they are doing this not just by taking advantage of the increased contribution limits instituted by McCain-Feingold. Corrado and Mann state the following:

While these increases in the contribution limits have provided the parties with millions of additional dollars, the growth in party funding in 2004 is largely the result of a remarkable surge in the number of party donors. Both parties have added hundreds of thousands of new small donors to their rolls.

The numbers are truly astonishing. The Republican National Committee has added a million new donors. The NRCC added 400,000 new contributors in 2003. The DNC has recruited more than 800,000 new small donors through direct mail alone. And these numbers don't include any new online contributions in 2004. And, of course, they don't include the hundreds of millions of dollars in hard money raised by the two major party presidential candidates.

The parties are stronger than they were before not just because they have raised more money than in 2000. Small contributors are a much better indicator of strength than big contributors. Small contributors volunteer, they are involved, they vote, and they inspire others to contribute and vote. I believe McCain-Feingold saved the political parties from the oblivion to which they were sending themselves with their reliance on the easy fix of soft money.

The argument over the effect of the bill on the political parties was just one of the disagreements we had when the bill was considered back in 2001. Another dispute concerned what would happen to all that soft money that had previously been contributed to the parties. Opponents of the bill expressed absolute certainty that the money contributed to the parties would simply migrate to less accountable outside groups. One Senator said the following during our debate:

Why do we want to ban soft money to political parties, that funding which is now accountable and reportable? This ban would weaken the parties and put more money and control in the hands of wealthy individuals and independent groups who are accountable to no one.

Another Senator quoted a prominent Republican lawyer who said: ''The world under McCain-Feingold is a world where the loudest voices in the process are third-party groups.''

Those of us who supported the bill certainly recognized that some donors would look for alternative ways to influence the political process. But we also thought that much of the money that was being given to the political parties was being given under duress. We argued that if Members of Congress and other public officials weren't asking for the money, much of it wouldn't be given at all. We had heard from countless corporate executives that the soft money system, which many had called legalized bribery, was really more like legalized extortion. I will never forget the words of Ed Kangas the former CEO of Deloitte Touche Tohmatsu. He said:

Businesses should not have to pay a toll to have their case heard in Washington. There are many times when CEOs feel like the pressure to contribute soft money is nothing less than a shakedown.

In 1999, on this floor, I said the following in a debate with another Senator who actually supported the soft money ban, but asserted that soft money would simply flow to outside groups:

I have this chart. It is a list of all the soft money double givers. These are corporations that have given over $150,000 to both sides. Under the Senator's logic, these very same corporations—Philip Morris, Joseph Seagram, RJR Nabisco, BankAmerica Corporation—each of these would continue making the same amount of contributions; they would take the chance of violating the law by doing this in coordination with or at the suggestion of the parties, and they would calmly turn over the same kind of cash to others, be it left-wing or right-wing independent groups?

I have to say . . . I am skeptical that if they cannot hand the check directly to the political party leaders, they will take those chances.

On this dispute, with 3½ months to go before the election, the jury is still out. But once again, the early indications are that the doomsday predictions of opponents of the bill will not come to pass.

Not long ago, the Wall Street Journal reported that it surveyed the 20 top corporate donors in the 2002 election cycle and more than half, including Microsoft, Citigroup, and Pfizer, are resisting giving large contributions to the outside groups, the 527s, that are trying to raise unlimited contributions since the parties can no longer accept them. As the article noted:

The reticence illustrates an uneasiness on the part of some of the corporations to get sucked back into the world of unlimited political contributions that they thought campaign reform had left behind.

According to a Washington Post article in June:

[E]lection law lawyers said corporations are showing significant reluctance to get back into making ''soft money'' donations after passage of the McCain-Feingold law.

According to the Center for Public Integrity, which maintains the most complete database of information on 527s using the reports required by the disclosure bill we passed in 2000, 527s that focus on federal elections along with labor-funded 527s have raised approximately $150 million as of June 30. This is far less than the $254 million that had been raised in soft money by the parties at a similar point in the 2000 election cycle and less than half of the $308 million raised in the first 18 months of the 2002 cycle. It is, of course, possible that 527 fundraising will pick up significantly in the wake of the FEC's determination in May that it will likely not regulate these groups as political committees in this election cycle. But the underlying problem with raising money for these organizations remain. That is very simple. It is central to this whole issue. They cannot offer the kind of access and influence that made the parties such effective soft money seekers prior to the enactment of McCain-Feingold.

There is no doubt that ideologically motivated wealthy individuals will continue to seek ways to influence elections. Most of the money being donated to the 527s is coming from such people. I continue to believe that many of these groups, since their stated goal is to influence federal elections, should be required to register as federal PACs, which can accept contributions of only $5,000 per year from individuals. But even if they continue to operate outside the law, they are not going to replace the political parties. Without significant corporate support, they simply cannot raise the kind of money that the parties raised in 2000, much less the amounts that would have been raised under the old system in this election cycle.

So to those who forecast or believed the doomsday scenarios back in 2001 and 2002 when we considered the bill, or who continue to believe them today, I suggest you look at the numbers. McCain-Feingold is working, and the Senate should be proud that it passed. As we approach the 2004 elections, and the airwaves become saturated with political advertising, note the difference. Party ads are paid for with the contributions of millions of hard-working Americans proud to participate in the political process and looking to parties and to their government to represent them, not the special interests that used to write the big checks.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDENT OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DURBIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. DURBIN. I ask unanimous consent I be recognized to speak in morning business.

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

9/11 COMMISSION REPORT

Mr. DURBIN. Mr. President, this may be the last day of Senate activity before we take a recess for August. In that recess, both major political parties will have their conventions in Boston and New York. Members will be back home in their States, some campaigning, some spending time with their families—a period of time we all look forward to each year. However, we leave this Senate with a great deal of unfinished business.

This morning, Governor Tom Kean, a former Governor of New Jersey, and Congressman Lee Hamilton of Indiana gave a briefing to Members of the Senate on the 9/11 Commission Report. Let me say at the outset that those two individuals, Governor Kean and Congressman Hamilton, as well as every member of this Commission, performed a great service for the United States of America. They have produced a report which, frankly, is a bargain. They were given an appropriation of some $15 million, they had 80 staff people, and over a very short period of time by congressional standards did a more thorough analysis of the events leading up to September 11 than any analysis that has been done by a congressional committee. They did it in a bipartisan fashion, an analytical fashion, and they did it not looking for someone to blame or someone to assign responsibility but, rather, to learn so they would learn as a Commission and we would learn as a nation how to make America safer.

As Governor Kean this morning went through this Commission report, he outlined all of the occurrences, starting with the initial bombing of the World Trade Center many years ago, that led up to September 11. As he read the list, it went longer and longer and longer, all of the clear evidence we had accumulated of activities by al-Qaida and other terrorists threatening the United States of America. When you heard this list, you reached the same conclusion he did; that is, why didn't we see it coming?

There was so much evidence leading in that direction. Governor Kean and Congressman Hamilton said many of our leaders, many of our agencies, many Members of Congress, and many American people were still thinking about the threat and danger of our world in terms of a cold war. Now we were facing a new danger, a danger which was not obvious to us, and very few people were prescient enough to see it coming.

He talked about how these al-Qaida terrorists on 9/11, with a budget of less than half a million dollars, managed to see weaknesses in our system of security, that they could bring a 4-inch bladed knife on a plane but not a 6-inch bladed knife. All they needed was a 4-inch knife. They used box cutters. They came on planes and threatened the crews and commandeered the aircraft. They knew the doorways to the pilots' cabin were not reinforced or locked. They put all this together into this hideous plan of theirs to crash airplanes into the World Trade Center and the Pentagon.

Well, the facts were there for us to see, and most of us missed it. But this Commission said: We need to look beyond that. We need to look to the next question: What should we be doing to make certain America is safer? What should we have learned from 9/11? And they identified several areas.

Congressman Hamilton said: We need more imagination. At one point he said—I suppose halfway in jest—we should have been reading more Tom Clancy novels and thinking about possibilities rather than just analyzing the way things had always been. We needed to make sure we developed imagination, developed a program that could respond to these new threats, capabilities. And we needed to make certain we had done everything we could to organize and manage our Government assets so they could be used most effectively.

Our friends in the military understand that. It is the reason why the United States of America has the best military in the world. About 10 years ago, Senator Goldwater and Congressman Nichols proposed some dramatic reforms in the military and its management to try to stop this competition among the branches in the military and bring them together, and it has worked. This cooperative effort has made our military even that much better today.

Well, this Commission report suggests we need to do the same thing when it comes to the 15 different intelligence agencies across our Government that are responsible for collecting and analyzing information, to warn us of dangers ahead. Fifteen different agencies, with many extremely talented people, some with the most sophisticated technology in the world, but often dealing with obstacles and hurdles between agencies that should not exist.

They gave us examples: that one agency would know of the 19 terrorists on 9/11 and that many of them were dangerous people, but it was not communicated to the Federal Aviation Administration to keep them off airplanes; that we would establish standards which said: If you were identified by our Government as a dangerous person, we are going to search your baggage, but we are not going to stop you from getting on a plane. All of these things suggest we need to be smarter and better and tougher in the future.

The proposals they came up with are going to be controversial. They will be discussed at length by Members of Congress and a lot of others. But they are on the right track.

First: to give to one person new authority over these intelligence agencies. Senator FEINSTEIN of California, my colleague, has one approach. The Commission has another approach. But the idea is to vest in that person more authority to get the job done.

Second: to force together all these different agencies, 15 different agencies, into a counterterrorism network that works and cooperates. That is something that is long overdue.

And then, third: to look at Congress, because we have a role in this, too. Congress did not do as good a job as it could have done. We have a Senate Intelligence Committee, of which I am proud to be a part, and the House Intelligence Committee. But we need more oversight. We need to be able to develop the skills, with staff and our own commitment, to ask hard questions of these intelligence agencies, to ask what they are doing, whether they are being imaginative enough, whether they are cooperating with other agencies.

We need to ask hard questions about the appropriations for these agencies. I happen to serve on the Intelligence Committee and on the Appropriations Committee. So I sat through both hearings recently. I will tell you what happened in our Appropriations Committee hearing. It was a meeting of the Defense Subcommittee, in the closed room upstairs.

Then-Director of the CIA George Tenet presented a lengthy analysis of the intelligence threats to the United States, about 150 pages, and went through it. On about page 110, he started talking about the appropriations. That is what we were there for. We were there to discuss the money needed for our intelligence operations. But the first 110 out of 150 pages were all about the threats around the world and how serious they might be.

When it came time for members of the Appropriations subcommittee to

ask questions, they dwelled on the front part of Mr. Tenet's presentation, the first 110 pages. They dwelled on questions related to threats to the United States.

I am way down the line on that committee. By the time it came, an hour and a half later, to my questions, I said to Director Tenet: May I ask you a question about your appropriations? It was the first question asked about that at that hearing. We spent less than 10 minutes asking about the money that was to be spent and why.

My question to Director Tenet at the time was: What is the most significant part of your budget? How has it changed from last year? And why do we need it?

Well, that is an obvious question in any Appropriations hearing. But we never got to it until extremely late in the hearing. We can do better.

One of the suggestions from Congressman Hamilton is to look for a joint Intelligence Committee between the House and the Senate. There is only one viable analogy, when we did the same thing with atomic energy 40 years ago. No one in Congress today served at that time. It would be interesting to see how it worked.

Another is to give to the Senate Intelligence Committee and House Intelligence Committee authorizing-appropriating authority. For most people following this debate, this sounds so arcane it does not sound important, but it is: to give to one committee the authority to look at the programs and how they are working and then look at the budget and see how it matches up. That is important.

We need to expand the Senate Intelligence Committee staff. We do not have enough people. How can we possibly keep track of 15 different agencies, thousands of employees, the reaches of these agencies into countries all around the world, in the heavens above and the Earth below, and do this with literally a handful of staff people?

On the Senate Intelligence Committee, which I have served on for 4 years, I have one staff person whom I share with another Senator. That is not good enough. Part-time staff will not do the job.

Again, let me say, the 9/11 Commission report is a great service to America. The men and women who spent the time to make it a reality deserve our thanks and praise. President Bush was right yesterday. This is not a matter of blaming President Clinton or blaming President Bush. We are called on, as Members of Congress, in a bipartisan fashion, to think of ways to change the law to make America safer. I think that is what people across America expect of us.

Let me tell you what we can do today in a bipartisan fashion. We are hours away from leaving. We will be off, as I said, for the August recess. We will leave behind this Senate Calendar of pending legislation. On the back page of this calendar, the first item: the Homeland Security appropriations bill. It has been on this calendar since June 17—over a month now. We will leave town. We will leave Washington for 6 weeks, without passing the Homeland Security appropriations bill.

We should have done that a long time ago. We should be moving toward a conference to make sure that when October 1 comes, the new fiscal year, we are ready to move, we are ready to send the resources that are necessary not only to the Department of Homeland Security but to State and local first responders. That is a critical issue.

Let me give you an example. The President's budget request for Homeland Security has a total appropriation of $32.6 billion. This is a 7.7-percent increase over last year. In the House of Representatives, they appropriated $33.1 billion, slightly more than the Senate. But the problem is within the appropriations request itself.

President Bush's budget request for the Department of Homeland Security represents a dramatic cut of $1 billion in money for State and local first responders. I have said it repeatedly, God forbid another act of terrorism hits the United States. People in the streets of America are not likely to look for the number of the White House or of the Senate. They will dial 911. They will be looking for first responders in their community.

When we cut money, as the President's budget does, for State and local first responders, we are shortchanging our line of defense, our hometown line of defense against terrorism.

When you make these cuts to these State and local units of government, let me give you an example of some of what we in Illinois and other places may find at risk.

We need the money that has been cut in the President's budget for homeland security. We need it to specially train and equip local and State teams, firefighters, policemen, medical responders. We need it for interoperable communications.

I was surprised to learn a few years ago that in my State of Illinois, with 12.5 million people, there is no single network for the police and firefighters and ambulance services and hospital trauma centers to communicate. They each have different radio systems, different frequencies. What is wrong with this picture? We need them all together. If something should happen in my State or in a neighboring State, in South Carolina, wherever it happened to be, the first responders in that State should have a common communications system. When President Bush's budget cuts money for State and local responders, it reduces the likelihood that we can develop those systems. We need standardized training, methods to share intelligence, and we need mutual aid plans.

Most people, when they think of dangers and threats in the State of Illinois, automatically think of the great city of Chicago that may be a target. I hope it never happens. We had an exercise 2 years ago to try to simulate what might happen if we had such a tragedy. We quickly learned that if something did happen, we would need a dramatic increase of first responders, that the existing police and firefighters in Chicago and most major cities were inadequate to the task. We would almost have to double their numbers. That means reaching out to surrounding communities in mutual aid, so if it is a situation in downtown Chicago or in a suburban area, surrounding units would come to their assistance. That is done today over and over again across America. When the tornado hit Utica, IL, a few months ago, they had fire departments and first responders from all over the region coming together. But in order to make this mutual aid happen, we need money for the State and local responders to develop it. That line in the budget was cut by President Bush. It needs to be restored by Congress. We need to do that before we go home.

Within this same Senate calendar, you will also find other provisions of homeland security, such as a provision to increase the safety and security of nuclear powerplants. We have six nuclear powerplants in Illinois. These are important for us. They provide more than half of our electricity. They need better protection. We need better coordination of the fire and police and medical units around them.

We also have in our State—and it is probably the reason why we have been as prosperous as we have throughout our history—so much transportation, intermodal facilities. I visited at the old Joliet arsenal out in the area where Shell is. All of these trainyards and interstate highways—each one of them is vulnerable and needs to have special protection. We are a significant source of our Nation's food supply. We have many great universities.

Our State is not unique. Virtually every State can tell the same story of areas where we need to focus our attention and resources. We have these four bills on the calendar that would address some aspects.

One of the bills provides for greater security and defense of nuclear power facilities. That is one that is obvious. We will leave the Senate today without enacting that legislation and moving it to conference committee.

We also have a provision for the chemical industry. Obviously, here is a part of the private sector that is really vulnerable. Legislation has been developed to make it safer, and it sits on the calendar while we spend our time spinning our wheels on the Senate floor.

The same thing for our ports with the thousands of containers that come in on a daily basis, and our rail facilities. Each one of these areas has a special piece of legislation on this calendar that we have failed to address as we leave to go on our August recess. I

hope there won't come a moment in the next 6 weeks when we look back and say: We really should have done our work. We should have spent less time on the Senate floor embroiled in these political debates that spin our wheels and go nowhere and more time doing things people care about.

FURTHER IMPORTANT ISSUES

I have devoted this period of time in my speech on the 9/11 Commission report and homeland security, but I will say that we are remiss if we leave Washington without thinking of other issues that have a direct impact on the families and businesses across America. Some are extremely obvious. Pick a State. Pick a city. Go to any business, large or small, and ask them their No. 1 headache today. It is likely that most will respond: The cost of health insurance. It is a cost which is crippling businesses, denying coverage to many people, it continues to go up and out of sight, and reduces protection for the people who are supposed to be helped.

What have we done in Washington in the Senate on the issue of the affordability of quality health care and health insurance? Absolutely nothing. We don't even talk about it. We act as if it is not a problem. It is the No. 1 complaint of businesses and unions and families in Illinois. How can this representative body, charged with changing the laws and making life better in America, have a session that is void of any meaningful debate on the cost and availability of quality health care? We will have done that. We will adjourn without having seriously considered it.

The second issue is the state of the economy, whether we are prepared to help those industries which have struggled during the last recession, particularly manufacturing, whether our trade laws are adequately enforced, whether we are training and equipping the workforce of the future.

The third issue is obvious to most: What are we going to do about energy? Are we going to continue to be dependent for decades to come on the Middle East, drawing us into the intrigue of Saudi Arabia and those surrounding countries and all the other sources or are we going to move toward energy independence? We had a debate on an energy bill that went nowhere. Sadly, that bill didn't get very serious about the real issues. Can you imagine a debate on energy policy in America that does not even address the question of the fuel efficiency of America's cars and trucks? That was our debate. We decided, because the special interest groups, the manufacturers, and some of their workers didn't want to get into energy efficiency, that we would consider an energy bill that did not address the No. 1 area of consumption of energy in America—the fuel efficiencies of cars and trucks.

We can do better. America can have a good, strong, growing economy that is environmentally responsible and energy efficient. We have done it before, and we can do it again. What is lacking is leadership, on the floor of the Senate, in the House, and in the White House. That is critically important.

Of course, the one issue I started with is the issue that I will end with—America's security defense. As we speak on the Senate floor today, just a few minutes away by car are Walter Reed Hospital and the Bethesda Naval Medical Center. In the wards and rooms of those two great medical institutions are men and women who served our country valiantly in Iraq, many of whom suffered extremely serious injuries. I have been out with colleagues to visit with them from time to time and can't help but be impressed. They are the best and brightest in America. They are young men and women who stood up, took the oath, put on the uniform, and risked their lives for America. My heart goes out to them every day and many just like them who are serving in Iraq and Afghanistan and all around the world.

We have to be mindful of the fact that our situation in Iraq is a long-term commitment. No matter what you might have thought when we decided to invade Iraq—and I was one of 23 Senators who voted against the use-of-force resolution at that time—we all come together now believing that we need to provide every resource our men and women in uniform need to finish their mission and come home safely. That is something that should never be far from our minds, as well as the question of what we are going to do to make America safer here at home.

We talk about a war on terrorism, but former Senator Bob Kerrey of Nebraska at the 9/11 Commission meeting made an observation we should not forget. He said to Donald Rumsfeld and George Tenet, who appeared before the Commission, that it really isn't a war on terrorism. Terrorism is a tactic. The question is, Who is the enemy using the terrorism tactic? That is the real question. What should we be doing now to discover the plots and dangers across the world that might come to threaten the United States but also to reach out to the next generation in countries around the world to let them know we are a compassionate, caring people with values they can share and that their lives will be better for that.

It goes beyond military strength and intelligence. It goes into diplomacy and leadership around the world so that this country, as we may hear from time to time, is not only strong at home but respected around the world.

We can do our part. We need to reach out in different areas where we have not as much in the past. Yesterday, I spoke on the floor about the situation in the Sudan. It is a situation where literally a thousand people a day are losing their lives to what is a horrible genocide occurring in that country. We need to do more.

The United States has spent over $100 million so far in food aid. We need to be a political force, too, to push that Sudanese Government to do what is right and to work with the United Nations so that we say to the world: The United States is not interested in treasure or territory; we are a caring people, a humanitarian people who care about some of the poorest places on Earth, such as the Sudan.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER (Mrs. DOLE). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WYDEN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. WYDEN. I ask unanimous consent to speak as in morning business.

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

Mr. WYDEN. I also thank my friend from Tennessee, Senator ALEXANDER. I know he wants to speak as well. I will not be long.

The PRESIDING OFFICER. The Senator from Oregon.

(The remarks of Mr. WYDEN pertaining to the introduction of S. 2723 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. ALEXANDER. I thank the Chair.

(The remarks of Mr. ALEXANDER pertaining to the introduction of S. 2721 are printed in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

9/11 COMMISSION REPORT

Mr. ALEXANDER. Madam President, this morning at about 10 a.m. we were given an opportunity to meet with Governor Kean and Lee Hamilton, the cochair of the 9/11 Commission. That is the subject of the news today. I know both men well. I know Governor Kean better. We served as Governors at the same time. I have known a lot of Governors. He was Governor of New Jersey at the time he served. My judgment was he was the best Governor in the country. Those leadership characteristics certainly showed themselves with this report.

Mr. Hamilton said he had been working actively with the directors of the CIA in every administration since Lyndon Johnson. In a few words, he gave us a very impressive presentation. I believe this is an impressive report. It is an impressive committee. It has had impressive leadership, and it certainly will command my attention as one Senator. I intend to read it all the way through, and I intend to take seriously the recommendations. I hope all Americans will take time to read it.

Terrorism, as they remind us, whether or not we like it, is the greatest challenge today to our national security. It will be for our lifetimes and perhaps much longer than that.

This is a hard matter for us to come to grips with in the United States of

America, because it seems too remote from us. It seems as if it is on television. That is hard to say after 9/11 when 3,000 people were killed in an hour.

But as Mr. Hamilton gave his report to us, he emphasized four areas of failure—not President Bush's failure, not President Clinton's failure, but our failure. In fact, he said both Presidents were active and busy and interested and working hard on the threat. But in these four areas, we as a country failed.

First was the failure of imagination. We didn't imagine what could have happened that day. Second was a failure of policy. A third was a failure of capability. And fourth was a failure of management.

It made me think, if I may give a personal reflection. I have thought about it many times because I have heard various people suggest, ''Why didn't President Bush think of this?'' or ''Why didn't President Clinton think of this?'' As the Chair knows, I was busy in the mid 1990s trying to occupy the same seat President Bush occupies today. I was a candidate for President of the United States in 1994, 1995, and 1996. I thought back many times. It never once occurred to me a group of people might fly airplanes into the World Trade Center and into the Pentagon and try to fly them into the Capitol.

It never occurred to me. And it also never occurred to me that if I should by some chance be successful in that race, that within a year and a half of taking office I would suddenly be interrupted in a meeting in Florida with some schoolchildren, and in a short period of time I would have to decide whether to shoot down a plane load of U.S. citizens on a commercial airline headed toward Washington, DC. It never occurred to me.

I thought for a long time: Maybe that is just me. Maybe I am naive and have not had enough experience, but I have asked other public officials with a lot more experience. I did not ask the Presiding Officer, whose husband was a candidate for our country's highest office, if that occurred whether they might have to shoot down such an airplane. Maybe with her background in transportation, she would have thought of that, but I didn't. And I think most policymakers did not. Obviously, many people in intelligence didn't.

What Mr. Hamilton was saying, and Governor Kean, is we are going to have to imagine all of the things that could be done, some of us at least, and think about them and take those things very seriously in the future.

As fortunate as we are to live in this big country with remote, safe places, far away from a lot of the fighting we see on television, an unfortunate part of living in today's world is there are real threats and we are going to have to imagine those things that even candidates for the highest office in our land a few years ago would not have ever imagined.

I salute the Commission for its work. I thank them for it. I like the fact that it is unanimous, without a single dissent, without a dissenting opinion. I thank them for their job.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. CLINTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ALEXANDER). Without objection, it is so ordered.

FINANCIAL SOLICITATIONS ON MILITARY BASES

Mrs. CLINTON. Mr. President, I rise today to express my concern about a rider included in the Department of Defense appropriations conference report that we will be taking up shortly. This rider is from the House Defense appropriations bill. It will limit the ability of the Department of Defense to address deceptive sales practices on our military bases.

This week, the New York Times has published a two-part series which included disturbing reports of financial advisers taking advantage of service men and women on our military installations. These articles contained evidence which indicate that recently enlisted service members are required, at many installations, to attend mandatory financial advisory classes. In those classes, it has been discovered that sales agents use questionable tactics to sell insurance and investments that may not fit the needs of our young men and women in uniform.

Mr. President, I commend to my colleagues the articles from the July 20 and July 21 editions of the New York Times titled ''Basic Training Doesn't Guard Against Insurance Pitch to G.I.'s'' and ''Insurers Rely on Congress to Keep Access to G.I.'s.''

Mr. President, as you well know, our men and women in uniform today are being called upon to sacrifice, sometimes—for more than 900 of them—the ultimate sacrifice. All of them are separated from their families. They are putting their lives at risk in the service of our Nation.

It is almost unimaginable that in addition to their sacrifice they would be exposed to less than scrupulous financial advisers at the installations at which they serve. However, instead of protecting our service members, a culture of financial abuse persists on our military bases. As soon as I learned of these reports, I immediately wrote to Secretary of Defense Donald Rumsfeld, asking for an immediate investigation of these practices, as well as immediate action to prevent these abuses from continuing.

Mr. President, I ask unanimous consent that my letter to Secretary Rumsfeld be printed in the RECORD.

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

U.S. SENATE,
Washington, DC, July 20, 2004.

Hon. DONALD RUMSFELD,
Secretary of Defense, U.S. Department of Defense, Washington, DC.

DEAR MR. SECRETARY: I write to urge you to conduct an immediate investigation into reports about efforts by financial advisors to take advantage of our men and women in uniform through the use of deceptive sales practices. I am greatly alarmed by these reports which indicate that recently enlisted service members at many installations are required to attend mandatory financial advisory classes in which sales agents use questionable tactics to sell insurance and investments that may not fit the needs of people in uniform.

Today our men and women in uniform are being called upon to sacrifice, be separated from their families, and to put their lives at risk in service of their nation. They should not, under any circumstances, be exposed to less than scrupulous financial advisors at the installations at which they serve. However, instead of protecting our service members, a culture of financial abuse persists at military installations. It should not be too much to expect that our service men and women are protected from this behavior through the enforcement of post policies and regulations restricting disreputable financial practices. In short, our men and women in uniform should never be the unwitting prey of self-interested sales agents at military installations.

In addition to conducting a thorough investigation, I urge you to establish a financial education program for enlistees and review the practices whereby sales agents are given unfettered access to new recruits. This financial education program should include a component that equips soldiers to recognize that an attempt is being made to entice them to purchase financial services that are not in their best interest.

With our men and women in uniform serving bravely in Iraq, Afghanistan and elsewhere, we owe it to them to make sure they are not solicited for questionable financial schemes at the installations where they live.

I thank you for your consideration of my request and look forward to your response.

Sincerely yours,

HILLARY RODHAM CLINTON.

Mrs. CLINTON. I have also written to and spoken to both Chairman WARNER and Ranking Member LEVIN from the Senate Committee on Armed Services, to ask for hearings on this issue when we return in September. However, I was alerted yesterday that there is a provision in the Department of Defense conference report that would prohibit the Department of Defense from taking immediate action to address these financial abuses on our military installations.

Specifically, section 8133 of the conference report does not allow any changes to the Department of Defense Directive 1344.7, entitled ''Personal Commercial Solicitation on DOD Installations,'' until 90 days after a report containing the results of an investigation regarding insurance premium allotment processing is submitted to the House Committee on Government Reform and the Senate Committee on Governmental Affairs.

With that investigation still ongoing, it could be months—maybe years, for

all we know—until any changes are made to these abusive practices. During that time, more of our young men and women will fall prey to these unscrupulous agents who sell them financial products they do not need and they barely understand.

Yesterday, I sent a letter to Senators STEVENS and BYRD, the distinguished chair and ranking member of the Senate Committee on Appropriations, as well as to Senator INOUYE, the ranking member of the Senate Appropriations Subcommittee on Defense, to express my concern about the inclusion of this provision in the conference report of the DOD appropriations bill and to urge them to take action to remove this rider.

I understand a similar provision, with an even longer delay before DOD can take action, was included in the House Defense authorization bill. I am a conferee in the House-Senate conference on the Defense authorization bill, and I intend to do everything I can to include language that will allow the Department of Defense to immediately address this troubling issue without having to wait several months while our men and women in uniform continue to be fleeced.

I hope I will have the support of my colleagues who are also conferees on the Department of Defense authorization bill. I look forward to working with Senators on the Committee on Appropriations to figure out the best way to address this issue.

The problem of financial advisers taking advantage of our service men and women is one that requires immediate action. It is almost hard to believe, as the two articles in the New York Times so poignantly point out, that young men and women, who have a lot on their minds—such as leaving their families; oftentimes worrying about young wives left alone, taking care of children; or parents who are worried about their safety; trying to get the training they need; trying to get prepared for the dangerous missions they will face in Afghanistan, Iraq, and elsewhere—would be required, in many instances, to attend these meetings, which could do a lot to help educate them.

In fact, in my letter to Secretary Rumsfeld I ask there be financial education provided to these young men and women and oftentimes, if possible, where there are large bases, to the spouses who are left behind. I have visited bases where particularly young wives—often as young as 17, 18, 19 years old—are seeing their husbands leave for overseas deployments. They do not know how to keep a checkbook. They do not know how to pay bills. They have gone literally from their parents' home into a new, young marriage, oftentimes under the pressure of an impending deployment—usually of their husbands—and now, all of a sudden, they are left to try to deal with the financial demands of running a household. They should be given help. They should not be taken advantage of.

It strikes me as just regrettable that we would permit the solicitation for questionable financial schemes at the very military installations where these young men and women live prior to asking them to go into harm's way.

There certainly is a role for additional insurance, for other kinds of investment information to be provided, but not in a situation where the people doing the presentations are often former military officers or high-ranking noncommissioned officers, who purport to and present themselves as people in authority, and often lay the groundwork for a very rushed and somewhat coercive atmosphere, where these young men and women sign things they do not understand. It is somewhat reminiscent of many of our college students, who are in comparable age and group settings, who are given the hard sells for credit cards and insurance policies they do not understand. So I think there is a tremendous opportunity for legitimate financial education and for helping our military service members know what their needs are, and then to meet those needs.

I am looking forward to working with my colleagues on the Committee on Armed Services, as well as Senators on the Committee on Appropriations, to find a solution to this problem. I regret these riders were injected into the DOD appropriations subcommittee conference report that we will vote up or down this afternoon.

I will certainly support the appropriations bill because there are much-needed resources in it for our military and other ongoing needs that are within the purview of the Department of Defense that we need to be funding.

REPORT OF THE 9/11 COMMISSION

Mrs. CLINTON. Mr. President, I salute the 9/11 Commission for an extraordinary job well done and an act of real patriotism. The men and one woman who served on this Commission were asked to do a very difficult task, to try to separate themselves from their prior associations. These are all political people. Not everyone ran for political office, but the distinguished chair and vice chair certainly did and other members as well. These are all people who understand our political process and who with great distinction have served their party as well as our country, but they put that to one side when it came to working together. This 9/11 Commission report is a great testimony to their willingness to search hard for the truth, to get at the facts, to then explain, in understandable language, whatever they could discover about the events leading up to 9/11.

This report not only is educational and informative, but it is an urgent call to action. There are recommendations that ask the branches of our Government, the executive and legislative, as well as the American public, to understand we are up against a determined and committed adversary. Therefore, we have to think differently. We have to organize differently. We cannot act as though business as usual is sufficient. The recommendations from this Commission will ask this body to reorganize itself, to have a different approach to the oversight of intelligence. I hope we will respond to that request and recommendation.

There have been many other commissions, led by distinguished Americans, who have plowed the same ground, who have come forth with worthwhile and compelling recommendations which, frankly, have been ignored. We ignore this one at our peril.

I have stood in this spot numerous times, most recently just a week ago Thursday, to ask what are we doing. We sometimes act as though there is no threat beyond what our young men and women in the military face in the mountains of Afghanistan or the streets of Baghdad. This threat is real and it is here. It is among us. We know enough to understand that there are credible reports of plans underway as I speak to strike again.

If one reads this report—and I hope every American does, and I hope this is assigned in junior high schools and high schools and colleges because this is not just a report to be read by decisionmakers, to be read by political leaders, this is a report that should be read by every American—they cannot help but be struck by the ongoing threat we face.

I perhaps feel it more strongly because we know that in every report of any credibility, New York is always mentioned. Therefore, I have to ask: Are we doing our part even now, before we get to the point of considering the Commission's recommendations? Why aren't we considering homeland security right now? Why have we done nearly everything but consider the appropriations for homeland security, consider the very good legislation offered on both sides of the aisle to try to have a better approach to everything from port security to providing our first responders with the resources they need, to disbursing Federal funds based on threat and not treating it, as the Commission rightly says, like some kind of revenue sharing? Obviously, that will mean New York will get more than any other place, probably followed closely by Washington, DC, but those are the places of highest risk and threat.

The work before us is obvious. But I have to confess to a certain level of frustration that we have not even addressed what is within our purview. Now we are being asked by the 9/11 Commission to be even more imaginative, to be willing to change the turf, to remove some of the authority some have in order to better organize ourselves going forward.

At the press conference today, one of our distinguished former Members who served in this body for a number of years, Senator Bob Kerrey, summed it

up. He said, knowing as he does how this town works and how this body works, how this Congress works, he was hopeful but not optimistic that we would face up to our responsibilities.

What does it take for us to realize that the partisan bickering, the divisiveness, the point scoring, and the political gamesmanship have no place in the ongoing serious war against terror?

I hope, as a result of the fine work of this Commission and the path it has charted that we should follow into the future, we will rise to the occasion. There are recommendations certainly for the White House, the FBI, the CIA, the Department of Defense, the Immigration and Naturalization Service, the Department of Homeland Security. There are many recommendations that go to the administration, that go to the executive branch, that regardless of who is our President after November, that President will have to address. But that does not let the Congress off the hook. We have not fulfilled our responsibilities of oversight, and we now must take seriously the recommendations of these patriotic, hard-working, thoughtful Commissioners.

This report cannot be allowed to sit on a shelf somewhere. I hope we will take it in the spirit it is offered, as not just a bipartisan but, frankly, nonpartisan report; that we will immediately, under the leadership we have in this Senate, begin to figure out how we will fulfill the hope this Commission offers us; that we will be better prepared, better organized to play our part in the struggle against terrorism. I certainly will look forward to working with my colleagues in order to do that. I trust and hope that I can afford to be optimistic and that we will be able to prove our former colleague and one of the Commissioners, Senator Kerrey, wrong to a limited extent, that we can be both hopeful and optimistic that the Senate, the Congress, and our Government will live up to the obligations this report lays out so clearly.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Ms. CANTWELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Ms. CANTWELL. Mr. President, I rise this afternoon to talk about what so many Americans are thinking about as they turn on their television today, and that is the 9/11 Commission report that is being issued by many of our former colleagues and partners in trying to address the security needs of our Nation. I am sure many Americans are going to want to know from this 9/11 report, is it going to result in us getting off our orange alert? Is it going to help us in providing better security across America?

One of the things we have to think about is the fact that this report now needs to be put into legislative action by this body. I thank the Commission, including Governor Keane, former Congressman Hamilton, and former Senator Slade Gorton, for their contribution to this report and their hard work. The voluminous report has a lot of recommendations, but I would like to call out two or three of those recommendations that are particularly important for us as a body to address when we return in September.

First and foremost is the need for us to focus on international cooperation. We in the Northwest learned that lesson very well when Ahmed Ressam came across the Canadian border with a car full of explosives on his way to LAX Airport. Many people in America know that story and know that a good customs agent was able to stop Ressam and confiscate those goods, and that act was never perpetrated on American soil. We also know after that, 9/11 did happen. So the question for us in America is, What are we going to do to make sure we have good international cooperation?

What is interesting about the Ressam case is Mr. Ressam started his efforts in Algiers, was successful in getting into France, then successful in creating a new identity and getting into Canada. Even though that was an illegal entry into Canada, he was able to remain in Canada and then create a Canadian passport and birth certificate and try to gain access to the United States.

As I said, the route he took through several countries to try to get to Port Angeles, WA, to start his journey shows the need we have in this country for international cooperation as it relates to our visa program and our visa standards. This is something we have seen a delay in in the last several years and something we need to pay particular attention to in the Senate to make sure this visa standard program gets implemented and gets implemented as soon as possible.

While we in the United States can have a visa entry program based on a biometric standard, that standard will only be as good as the standard that is then adopted by Canada and Mexico, our European partners, our Middle East allies, and various other countries around the world. By that, I mean if Mr. Ressam had entered France on a biometric standard which showed, perhaps with fingerprints or facial recognition, who Ahmed Ressam was, the various times he tried to perpetrate a false identity to get into the United States, we would be able to track that individual.

We know this is very important because we know that of the hijackers on 9/11, many of them had various trips back and forth to the United States. While we want to continue to have good international commerce with many countries and have people travel to the United States, we need a better security system with our visa standard, and we should make a top priority of getting such international cooperation based on biometrics.

I can say the same for international cooperation on port security. Washington State, being the home to many ports, needs to focus on the fact that cargo containers come in every day into the ports of Seattle, Tacoma, Vancouver, and various parts of Washington State. What we need is not to wait until the last minute for cargo containers to get into the Seattle area to find out whether they have explosives or whether the containers have been tampered with, but to have point of origin cooperation with countries all over the world to make sure that security system is deployed at the time the cargo leaves its port.

Here are two examples, one of human deployment of people coming to the United States and another of goods and services in which international cooperation is essential. That is why I take to heart the recommendation on page 20 of the 9/11 Commission report, the executive summary saying that:

> Unifying strategic intelligence and operational planning against Islamic terrorists across foreign-domestic divide with a National Counterterrorism Center.

What I believe the report is saying is we have to have the cooperation of our allies and the global community in fighting terrorism and doing so in a cooperative effort if we are going to be successful in the United States.

Secondly, while I think the report emphasizes the focus of a flat organization, from my 2 years on the Judiciary Committee and review of the incidents of 9/11 through the FBI and their organization and changes that have been made to that organization, one thing that is very clear about the 9/11 report is that a flat, decentralized organization and network of information must be accomplished.

While the report does talk about consolidation and the central focus, the important thing to understand is we are facing an asymmetrical threat by terrorists. We are not facing a superpower. We are not facing a well-oiled, well-heeled organization with a lot of support that we can track, detect, and analyze on a large-scale basis; it is very decentralized, with a lot of information flowing from a lot of different cells through different parts of the international community. What is important about that is if we are going to face that asymmetrical threat and meet that challenge, having a large bureaucracy facing an asymmetrical threat of lots of cells presents a challenging problem.

That is why it is very important, as Special Agent Coleen Rowley pointed out to many of the people in the intelligence community and the FBI community, the information that existed in different FBI offices throughout America but was not shared, was not pieced together with the other intelligence information by the CIA about potential people entering and exiting the country, needs to be pieced together in a flat organization.

Critical to this report and our success is for us to monitor the new organizations and agencies, such as Homeland Security, the structure of the FBI and CIA, and any new structures coming out of the 9/11 report to make sure we are keeping a flat organization. That flat organization is about getting access to as much information as possible.

Just as the Intelligence Committee report released by my colleagues in the last 10 days showed and just as this 9/11 report shows, the third thing we need to do is make sure we use the information we acquire and put much more focus and analysis behind that. While that sounds simple and it sounds like something that can be easily forgotten, I remind my colleagues that in 1998, ADM David Jeremiah, under a CIA governance order study, was asked the question: Why did the CIA miss India's testing of a nuclear bomb? Why did we as a country not really understand that was happening? Well, the No. 1 recommendation from that report was not enough analysis, and we had a culture that was not really assessing the 21st century threats to our country.

That is a report that was done in 1998 about a particular part of intelligence, in a particular part of the world, that missed something. We had a report that basically is saying the same things the 9/11 report is saying today, that information and analysis are critical to our success on international efforts at understanding information and potential threats or use of weapons of mass destruction.

To me, it is very important that we take to heart the fact that we need more analysts, and how that analyst structure is going to work. We live in an information age. You can say that terrorists, in their decentralized structure, are going to create much more information about their prospects, their attention to different projects, their communication with cells across the globe. It is this information that we need to acquire, put together, and have analysts working on, on an ongoing basis.

It is safe to say we need a dramatic increase in the number of analysts that we need to recruit into Government, new processes to put this information into a network, and access and assess it on an ongoing basis. I believe this is going to be a very hard challenge for us in Congress because we will see it as something that an agency is assigned to do, and we will forget about the challenges that face each of these agencies as they change their culture and change their structure.

We must keep in mind we are facing a threat of a very decentralized nature. To face a threat of a very decentralized nature we must build organizations and teams of people, including analysts, who also think in a decentralized way.

The report also talks about technology and the role that technology can play. I am a big proponent of technology in this information age. Something like a biometric standard on fingerprints and identification can be helpful. The report goes into a great deal of detail about implementing those at borders, at airports, at various other facilities. Yes, I want to expedite the speed and flow of individuals in and out of the country and have the United States continue to remain a great place where people want to visit. But in adopting these technology solutions, we need to work hard, as the 9/11 report says, to make sure the civil liberties and privacy rights of individuals are protected.

The United States has its privileges. The right to privacy is one of those. So we need to work on this recommendation in the report with that in mind. I think the structure within the FBI and Homeland Security needs to have someone, as these recommendations are implemented, who can—as databases are created, as information is assessed—help create the safeguards that are necessary.

But that should not impede us from working on an international basis to make sure that information about terrorist threats is shared through numerous countries in the world, and shared on a systematic database form with the United States. That is where I believe we have been lacking since 9/11. We have had a visa program and standard that we set in the PATRIOT Act and other bills as an objective. Yet we have failed to execute those. We should use this report today to continue our sharpened focus on getting that standard implemented so we can be sure the same people, like the 9/11 attackers, are not moving in and out of the country.

This report is so critical for us now to join together on these specific recommendations. We must not continue to focus on the past but focus on what we can do to get off of orange alert. It is important that we look at international cooperation, organizations, resources for analysts, new technology, and protecting civil liberties. But as I think about this issue, I think about the significant threats we face from those asymmetrical forms. Yet the results of those could be very catastrophic. That is why we need to get this program implemented.

I look to my colleagues, when we return in September, to keep away from what now has been an analysis of the past and look forward to implementing these solutions as quickly as possible, giving Americans better security in the future.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent to speak as in morning business.

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

TROUBLING TRENDS

Mr. LAUTENBERG. Mr. President, I rise this morning because issues are brought to mind that somehow or other have slipped into the background. For example, look at this morning's Washington Post and see there is disturbing news about the impending retirement of air traffic controllers. This is a subject I have dealt with, even in my previous terms, and certainly in my current term in the Senate, sounding the alarm that we are going to be woefully short of people to replace retirees. We have to be certain that in the middle of what is an impending crisis because of the lack of skilled professionals in the towers, we do not turn to the subject of commercializing this.

We went through an enormous amount of pain and dislocation when we took the baggage screeners out of commercial hands and put them into Government hands because we knew they would operate more efficiently. Now the conversation goes that we are trying as well to go back with our screeners and put that function into commercial hands.

I ask unanimous consent that article be printed in the RECORD.

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

[From the Washington Post, July 22, 2004]

FAA FACES EXODUS OF TRAFFIC CONTROLLERS

(By Karin Brulliard)

Federal officials said yesterday that they are preparing to deal with a nationwide wave of retirements by air traffic controllers over the next decade and that passenger safety will not be jeopardized.

Regional officials with the Federal Aviation Administration are gauging how a potential exodus of nearly half the nation's air traffic controllers will affect individual airports, including Reagan National, Dulles International and Baltimore-Washington International, said Doug Simons, manager at National's control tower.

''Neither the FAA nor its controllers will permit the system to operate in ways that are unsafe or with staffing that is inadequate to the task,'' Simons told reporters yesterday. ''We will be there, with the numbers of people we need, everywhere, at all times.''

The FAA estimates that nearly half of the nation's 15,000 air traffic controllers will be eligible for retirement before 2013. Many of the potential retirees were hired in 1982 after President Ronald Reagan fired more than 11,000 striking members of the Professional Air Traffic Controllers Organization the year before.

In the Washington region, nearly 700 air traffic controllers direct more than 3,000 daily flights from six towers and radar centers. Ten percent of those controllers will be eligible to retire in 2006, said FAA spokesman Greg Martin.

Paul Rinaldi, alternate vice president of the National Air Traffic Controllers Association's eastern region said at least one-third of the controllers at Dulles and BWI will be eligible to retire or will reach the mandatory retirement age of 56 by 2008.

The association has warned in recent weeks that the retirements, if not headed off by aggressive recruiting and increased funding, could cause a controller shortage that would result in chronic flight delays, overstressed controllers and safety risks.

If we don't have the adequate number of certified controllers to work this system, basically we're not going to be able . . . to

safely meet the needs of the traveler, Rinaldi said.

The association, which represents 30,000 controllers nationwide, has called on Congress to appropriate an additional $14 million to the FAA to hire controllers. The current budget is $6.2 billion. To stave off a crisis, at least 1,000 controllers must be hired annually for the next three to five years, Rinaldi said. The FAA hired 762 controller in 2003.

The retirements will come at a time when air traffic is expected to increase dramatically because of expanded flight schedules, new budget airlines, and growth in the private and charter plane industrys.

A shortage could hit Dulles especially hard. The flight schedule there is expanding rapidly, partly because of the arrival of Independence Air, a discount airline that has been based there since June, Rinaldi said.

The FAA says it is uncertain how many new controllers will be needed and which of the nation's 300 air traffic facilities will need them, Simons said. He said the agency is studying the situation at each of the facilities and will deliver a report to Congress in December.

In the meantime, the agency said, it is taking steps to stem a potential shortage. It has proposed raising the controller retirement age and is focusing on advancements in technology to help reduce the dependence on air traffic controllers.

It is also streamlining controller training, an extensive process that can take up to five years, officials said.

''The task at hand is not simply to hire a number of new controllers, but the right number,'' Simons said.

Union representatives say there is no time to wait. Hiring must start now so that enough veteran controllers are still in towers to train recruits, said John Carr, national president of the Air Traffic Controllers Association.

''When it comes to having eyes on the skies, we need help and we need help now,'' Carr said.

Mr. LAUTENBERG. That speaks to the leadership we have. We see a headline that says, ''War Funds Dwindling, GAO Warns.'' That is terrible. We have spent a ton of money.

One thing all of us can agree upon, whether Democrat or Republican, is that we want our troops protected. We want them to be able to conduct their responsibilities in Iraq and Afghanistan with the best equipment they can get. Frankly, I have been looking for some time now at a way to compensate these service people for the 90 days of extended term that has been demanded by this administration. I want to get a $2,000-a-month extra stipend to help them weather the financial storm.

The emotional, family storm is terribly painful. We see an unusual number of suicides—far greater than we have seen in past wars—because of the emotional distress. It is overpowering. Soldiers are away from their families for a year. They are often people with little children. These are people, largely in the Reserve Corps, who are often young, have young families, and are trying to take care of their family and financial needs at the same time—paying the mortgage payments, paying for the normal sustenance of life.

That could not get heard here. It wasn't allowed to be brought up.

There are other things that I consider detrimental to the purported support we want to give our troops. I agree all of us in this body want to do what we can for those who are serving so dutifully and courageously. But we see, no matter what we have allocated, the funds are short. We have a lack of sufficient numbers of service people there, and we are trying to find our way out of that. We now find that a promise made recently that we would go from 130,000 down to 90,000 service people there is now kind of canceled. It has fallen into the background. We are going to maintain 130,000 people there.

I submit that is not enough. We know darned well that is not enough because all we have to do is look at the casualty count and we see now we have finally gone over 900 dead in Iraq.

We see we are miscalculating on all fronts—whether it is financial, whether it is service, whether it is the kind of equipment we should have had early on.

I ask unanimous consent this article be printed in the RECORD.

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

[From the Washington Post, July 22, 2004]

WAR FUNDS DWINDLING, GAO WARNS

(By Jonathan Weisman)

The U.S. military has spent most of the $65 billion that Congress approved for fighting the wars in Iraq and Afghanistan and is scrambling to find $12.3 billion more from within the Defense Department to finance the wars through the end of the fiscal year, federal investigators said yesterday.

The report from the Government Accountability Office, Congress's independent investigative arm, warned that the budget crunch is having an adverse impact on the military as its shifts resources to Iraq and away from training and maintenance in other parts of the world. The study—the most detailed examination to date of the military's funding problems—appears to contradict White House assurances that the services have enough money to get through the calendar year.

Already, the GAO said, the services have deferred the repair of equipment used in Iraq, grounded some Air Force and Navy pilots, canceled training exercises and delayed facility-restoration projects. The Air Force is straining to cover the cost of body armor for airmen in combat areas, night-vision gear and surveillance equipment, according to the report.

The Army, which is overspending its budget by $10.2 billion for operations and maintenance, is asking the Marines and Air Force to help cover the escalating costs of its logistics contract with Halliburton Co. But the Air Force is also exceeding its budget by $1.4 billion, while the Marines are coming up $500 million short. The Army is even having trouble paying the contractors guarding its garrisons outside the war zones, the report said.

White House spokesman Trent Duffy said the Defense Department continues to believe that extra funds will not be needed this fiscal year. President Bush had requested a $25 billion reserve to cover shortfalls that may arise between Oct. 1, when the new fiscal year begins, and February, when the White House plans to submit a detailed funding request for military operations. But for now, Duffy said, there are no plans to tap the reserve. He added: ''This president has said repeatedly the troops will have what they need, when they need it. That's why he has stood steadfastly in support of funding for our troops.''

Lt. Col. Rose-Ann Lynch, a spokeswoman for the Pentagon's comptroller, said that though the fiscal 2004 budget is tight, ''the department still anticipates sufficient funding to finance ongoing operations.''

Democrats quickly pounced on the report, charging that the Bush administration is turning a blind eye to military funding issues to avoid adding to the overall budget deficit or conceding that the Iraq operations are off-course.

''George W. Bush likes to call himself a wartime president, yet in his role as commander in chief, he has grossly mismanaged the war on terrorism and the war in Iraq,'' contended Mark Kitchens, national security spokesman for Democratic presidential candidate John F. Kerry. ''He went to war without allies, without properly equipping our troops and without a plan to win the peace. Now we find he can't even manage a wartime budget.''

The GAO report detailed just why a $65 billion emergency appropriation has proved to be insufficient. When Bush requested that money, the Pentagon assumed that troop levels in Iraq would decline from 130,000 to 99,000 by Sept. 30, that a more peaceful Iraq would allow the use of more cost-effective but slower sea lifts to transport troops and equipment, and that troops rotating in would need fewer armored vehicles than the service members they replace.

Instead, troop levels will remain at 138,000 for the foreseeable future, the military is heavily dependent on costly airlifts and the Army's force has actually become more dependent on heavily armored vehicles. The weight of those vehicles, in turn, has contributed to higher-than-anticipated repair and maintenance costs. Higher troop levels have also pushed up the cost of the Pentagon's massive logistical contract with Halliburton subsidiary Kellogg Brown & Root.

About 4,000 Navy personnel in Iraq and Kuwait were not expected to be there, contributing to a $931 million hole in the Navy's budget for fiscal 2004. The Marine Corps was supposed to have decreased its presence in Iraq but instead has 26,500 Marines in the country and an additional two expeditionary units supporting the war on terrorism.

The strain is beginning to add up, the GAO said. The hard-hit Army faces a $5.3 billion shortfall in funds supporting deployed forces, a $2 billion budget deficit for the refurbishing of equipment used in Iraq and a $753 million deficit in its logistics contract. The Army also needs $800 million more to cover equipment maintenance costs and $650 million to pay contractors guarding garrisons.

The Air Force has decreased flying hours for pilots, eliminated some training, slowed civilian hiring and curtailed ''lower priority requirements such as travel, supplies and equipment,'' the report said.

The Pentagon comptroller told GAO investigators that the Defense Department has sufficient funds to cover the shortfalls, provided Congress gives officials more authority to transfer money among accounts.

But the GAO report warned that there will be a serious downside to that approach, especially the deferral of maintenance and refurbishing plans until next year.

''We believe that the deferral of these activities will add to the requirements that will need to be funded in fiscal year 2005 and potentially later years and could result in a 'bow wave' effect in future years,'' the report cautioned. ''Activities that are deferred also run the risk of costing more in future years.''

A ''bow wave'' refers to a time when deferred costs confront Congress all at once, making it impossible to meet the demands.

Mr. LAUTENBERG. When I look at the morning paper, I see examples of what the administration has failed to do. Look at the status of things in Washington, DC. I assume it is a representative city of urban centers across the country. We see the DC gap in wealth is growing.

I ask unanimous consent to have that article entitled ''D.C. Gap In Wealth Growing'' printed in the RECORD.

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

[From the Washington Post, July 22, 2004]

D.C. GAP IN WEALTH GROWING

UNEDUCATED SUFFER MOST, STUDY SHOWS

(By D'Vera Cohn)

The gap between rich and poor is as great in the District as in any other major city and has grown more here than in most places, a widening chasm that troubles government leaders.

A study to be released today by the D.C. Fiscal Policy Institute said the top 20 percent of the city's households have 31 times the average income of the 20 percent at the bottom. The gap in the District is fed by extremes at both ends: The poor have less average income than in most of the country's 40 biggest cities, and the rich have more.

The persistent gap between rich and poor has been fueling debate over whether the national economic recovery is helping all Americans. The study deepens the picture of an increasingly fractured city, where poverty and wealth both grew in the last decade. The average household income for the top group was $186,830, and the average income for the poorest group was $6,126.

''The rich got richer and the poor didn't get richer,'' said Stephen Fuller, a regional economist at George Mason University in Fairfax. ''The poor can't afford to get out of Washington to the suburbs. . . . Our wealthy class got wealthier in the 1990s, and it didn't trickle down to the bottom.''

The new report identifies the District, Atlanta and Miami as the big U.S. cities with the largest income gaps.

Another recent analysis, by the Lewis Mumford Center at the State University of New York at Albany, found that the District now ranks higher among economically polarized cities than it did in 1990. The analysis, by Brian Stults, a sociology professor at the University of Florida, employed a standard technique to analyze income inequality and ranked the District among the five big cities with the largest gap between rich and poor.

The D.C. Fiscal Policy Institute study measured 1999 income, but a co-author, Ed Lazere, said the income gap is not likely to have closed since then. Nationally, the gap between rich and poor widened from the 1970s until the early 1990s, and has inched up slightly since.

The trend, experts say, reflects a growing gap in wages between skilled, educated workers and those with no skills, as well as social changes such as a growing number of single parents, who have lower incomes than married couples. Although some gap is expected, they see the trend as a disturbing reflection of an economy in which people without college educations will be stuck at the bottom.

The city's richest and poorest households could not be more different, according to Lazere's analysis. Half of the richest households, with incomes starting at $89,814, are married. Among the poorest, where incomes topped out at $14,000, six in 10 were single, living alone. Single mothers accounted for less than 10 percent of the richest households, and more than a quarter of the poorest ones. Nearly all the working-age adults held jobs in the richest households, but only about half did in the poorest ones.

Using numbers from another census survey, Lazere's study calculated that the incomes of the city's richest households rose 38 percent over the decade, while those of the poorest went up 3 percent.

Tony Bullock, a spokesman for Mayor Anthony A. Williams (D), said the gap is the product of complex forces, including poor city services and poor schooling, that have persisted for decades and cannot be fixed overnight.

''We have a large concentration of poverty where no matter what we seem to do to bring investment into the District, a certain population is not able to access the kind of employment opportunities that come from a growing tax base,'' he said. ''But it is our hope that we can improve in the future.''

Bullock said the attractiveness of the city to high-income households is good for its tax base, and the study agreed. It said high-income families in the Washington region are more likely to live in the city than are affluent families in most other big metro areas.

Those at the top benefit from the District's unique job bank of high-paid employment related to the federal government, including lobbying and contracting. A single young professional can earn $100,000 in his or her first year out of law school.

At the other end of the income scale, Lazere's study said, the D.C. minimum wage, $6.15 an hour, is worth less when inflation is taken into account than it was worth in 1979. The purchasing power of the city's maximum welfare benefit—$379 for a family of three—fell by nearly a third over the decade, it said.

A bill co-sponsored by D.C. Council members David A. Catania (R–At Large) and Sandy Allen (D–Ward 8) would raise the D.C. minimum wage to $6.60 an hour next year and to $7 an hour by January 2006. It would be the first increase since 1997 in the D.C. minimum wage, which is set at $1 above the federal level. Catania said yesterday that he is confident that it will pass, and that he also wants the city to beef up its training programs for less-skilled workers.

''I don't want to focus so much on income disparity,'' he said. ''The government should focus more on how to lift these workers out of poverty and help them make better wages.''

Lazere said he is concerned that the mayor's efforts to boost the city's population by 100,000 over the next decade and attract high-income residents could squeeze out the poor through gentrification if the city does not expand its assistance to low-income workers.

''At the high end, the city already is attractive.'' he said. ''Specific policies to attract more high-income families may not be needed and may exacerbate the problems for our neediest residents.''

INCOME GAP

[The income gap between the richest and poorest households is at least as wide in the District as in the nation's other big cities, according to a new study by the D.C. Fiscal Policy Institute. The average income of the city's richest households was about 31 times that of the poorest ones.[1]]

Rank and city	Average income bottom fifth of households	Average income top fifth of households	Ratio of highest income to lowest income
1. Washington, D.C.	$6,126	$186,830	30.5
2. Atlanta	5,858	172,773	29.5
3. Miami	4,294	125,934	29.3
4. New York	5,746	159,631	27.8
5. Newark	3,747	93,680	25.0
6. Boston	5,832	145,406	24.9
7. Los Angeles	7,124	162,639	22.8
8. Fort Lauderdale, Fla.	7,831	176,053	22.5
9. Cincinnati, Ohio	5,440	117,086	21.5

INCOME GAP—Continued

[The income gap between the richest and poorest households is at least as wide in the District as in the nation's other big cities, according to a new study by the D.C. Fiscal Policy Institute. The average income of the city's richest households was about 31 times that of the poorest ones.[1]]

Rank and city	Average income bottom fifth of households	Average income top fifth of households	Ratio of highest income to lowest income
10. Oakland, Calif.	7,642	163,931	21.5

[1]Census 2000 data analyzed by the D.C. Fiscal Policy Institute. The difference between D.C., Atlanta and Miami may not be statistically significant.

Mr. LAUTENBERG. If you look at the chart and see what has happened in terms of the difference in the wage scales, it is atrocious.

The wage scale gap at the top of the ladder goes up $186,000 and the people at the bottom of the ladder are at $6,000. Once again, we see a failure of responsibility.

I see on television a message that says, ''My name is George W. Bush and I approve of this message.'' We see talk about the number of votes JOHN KERRY has missed but we don't see in the same message what JOHN KERRY did when he was in Vietnam. Even though he disagreed with the war, he went there and served bravely. He got three Purple Hearts, a Bronze Star, and a Silver Star—medals of bravery. One of the instances that got him that medal was pulling out of the water one of his colleagues who was practically drowning as bullets were flying overhead. He stopped that boat he was in command of and pulled his friend and subordinate out of the water. We don't see that. Instead, it says JOHN KERRY missed these votes.

Yes. JOHN KERRY is a man who is always devoted to duty. Right now what he is doing is important. All of us think the votes are very important here, but very often these votes are already predetermined by the numbers in the majority and the numbers in the minority—not that we should miss votes. But he has a more important task. He has a task of changing the leadership in this country and making sure we are paying attention to our responsibilities to the community at large and not just to a particular moment in time but, rather, in the total picture of leadership.

In my view, it is not how one runs government. What we see is a question of leadership in the administration—the question of leadership of President Bush and Vice President CHENEY. If you look at their prior leadership positions, you will see similar problems.

For instance, take Vice President CHENEY's recent leadership of Halliburton. How did he transform that company?

My experience in the corporate world was a very good experience. I, with two other fellows—all three of us coming from poor homes, two brothers—started a business over 50 years ago. It was a very small business in its beginning days. We had a few dollars of borrowed money—not much. We started a business that never looked like it was

going to mature. It took us 12 years to get to the stage where we could apply computer technology to our business. Today that company we started—three poor kids with no resources to begin with—has over 40,000 employees and the longest growth record of any company in America, a growth of 10 percent each and every year for 42 years in a row. We grew at 10-percent earnings each and every year. It is remarkable.

I give that background not to boast but, rather, to try to make a point, the point being that there is a culture associated with our company—a culture, I am proud to say, has never been challenged in over 50 years of business, a culture that says whatever we do we have to be honest with our customers, honest with our employees, honest with our shareholders, and honest with the public at large. That sets the corporate culture. It tells you how we want that company to operate.

A CEO has an impact on a company that should endure beyond his or her years of service. I want to use that example to reflect on what has happened with Halliburton, one of America's largest companies.

In the wake of early leadership, Halliburton has been associated with bribes, kickbacks, violating terrorist sanctions laws, and sweetheart, no-bid Government deals. It doesn't sound very pretty, and it is not.

To make matters worse, Vice President CHENEY still receives salary checks from Halliburton for well over $150,000 each and every year. It has been 4 years now, somewhere around $700,000. He still holds over 400,000 unexercised Halliburton stock options. They are exercisable to 2009. He left the company 4 years ago. If the administration continues its service, he will have 4 more years. That is 2008, by my count. But the options exercise in 2009.

It is unconscionable that he would have a financial association with this company that disgraced corporate leadership in a time of war.

When I was in the Army a long time ago, I enlisted in 1942. I was 18 years old. During that period of time that America was fighting for its life, it was unthinkable that a company could profiteer while a war was going on; unthinkable. It would have been considered traitorous behavior.

But here we are in a session where the Vice President is undermining our Nation's ethical credibility here and abroad.

On September 14, 2003, the Vice President was asked about his relationship with Halliburton and the no-bid contracts on ''Meet the Press.'' This is what triggered my interest. I listened very carefully, because I have respect for the office, and I think DICK CHENEY is someone who wants to do the right thing but it has hasn't come out that way. Vice President CHENEY told Tim Russert:

I have severed all of my ties with the company, gotten rid of all of my financial interest. I have no financial interest in Halliburton of any kind and haven't had now for over 3 years.

There is a problem with that statement. When he said it, he held over 400,000 Halliburton stock options and continued to receive a deferred salary from the company.

In fairness, the Vice President has said, well, this is insured income, took out an insurance policy not dependent on the operating results of Halliburton. I take him at his word. He said he is going to give profits away from the stock option exercise to charitable institutions, philanthropic institutions.

But it is better for him if the company does well. He has these options, and even if he wants to give away the profits, the more profits the better if you look at the institutes he is giving the profits to. But he does hold 433,000 unexercised Halliburton stock options. Even though most of the exercise prices are above the current market price, the majority of the options, as I mentioned earlier, extend to 2009.

Any optionholder has to hope that the stock price will surge relative to the value of the options in excess. One way it can happen is to be sure that lucrative contracts keep coming from whatever source, whoever the customer is. In this case, the customer is the U.S. Government, and it is happening.

In the first quarter of 2004, Halliburton's revenues were up 80 percent from the first quarter of 2003. Why? Wall Street analysts point to one simple factor—the company's massive Government contracts in Iraq.

In addition, as I said, to the stock options, Vice President CHENEY continues to receive a deferred salary. Halliburton has paid the Vice President a salary of at least $150,000 a year since he has been Vice President of the United States. I think it is wrong and it ought to stop.

I heard the Vice President's defense: The deal was locked in in 1999; there was no way for him to get out of his deferred salary deal. That is not so. A little checking of the facts shows otherwise. I have obtained the terms of Vice President CHENEY's deferred salary contract with Halliburton. The bottom line is that the deferred salary agreement was not set in stone.

In fact, one need only look at the ethics agreement of Treasury Secretary Snow to see what the Vice President should have done in order to avoid taking the salary from a private corporation while in public office. Secretary Snow took six different deferred compensation packages as a lump sum upon taking office. The Vice President is not a victim of Halliburton's generosity. He could have attempted to take the deferred salary as a lump sum.

In the meantime, what has happened to Vice President CHENEY's former company? For starters, Halliburton overcharged the Pentagon a $27.4 million fee for meals served to troops abroad. The company billed taxpayers for meals never served to our troops. This is not Senator LAUTENBERG's concoction. These are the facts printed in news media, printed in contract agreements, printed in Pentagon papers.

Another Pentagon investigation is continuing after an audit found Halliburton overcharged the Army by $61 million for gasoline delivered to Iraq as part of its no-bid contract to operate Iraq's oil industry.

Now whistleblowers, former Halliburton employees, have revealed Halliburton employees would abandon $85,000 trucks because of flat tires—do not bother to fix them, get rid of it—or the need for an oil change. Dump the truck; we can bill the taxpayers. The whistleblowers also said Halliburton spent $45 for 30 canned cases of soda when local Kuwaiti supermarkets charged about $7. Halliburton has a cost-plus contract so they get reimbursed for their spending plus a calculated percentage of profit. That system is being heartily abused and is costing taxpayers a lot of money.

In my view, Halliburton is a company that suffers from failures in leadership, the same type of leadership that continues.

These overcharges are confirmed when the Pentagon, the Department of Defense, is refusing to pay bills of $160 million comprised of the elements I talked about. The auditors at the Pentagon said, Don't pay them; we do not owe that kind of money.

Those are overcharges, Mr. President.

In the meanwhile, we see the attack on Senator KERRY, our colleague. They are saying he has misplaced priorities; he missed votes in the Senate. What they are unwilling to admit is Senator KERRY and all of us are on a critical mission such as those he took on in Vietnam. What he is doing is not purposeless, it is not something to be made fun of. He is working for a safer, stronger America at home and respect for us across the world.

I wish President Bush would talk about the things he did or failed to do and that he would want to correct, such as protecting the purchasing power of working families, eliminating the creation of larger and larger deficits, protecting the solvency of Medicare, now estimated to be insolvent in 2019.

How about the costs of gasoline to the average person in this country since this administration has taken over? And $2.40 a gallon is not unusual for high test; $2.19 for regular gas is not unusual. I don't hear the President saying he wants to correct that problem.

No, he would rather try to say JOHN KERRY deserted his responsibilities, he is soft on defense. He received three Purple Hearts. Citizens do not get Purple Hearts for nothing. They even wanted to challenge the depth of one wound to see whether it was deserving of a Purple Heart.

Look at the cost of prescription drugs. Where are we going with that if drug prices go higher and higher? But

we do not hear any protest. As a matter of fact, we had a Medicare bill that says within its content that Medicare is forbidden to negotiate with the drug companies to try to get a lower price because of the huge volume of purchasing for Medicare beneficiaries. The VA negotiates drug prices and it brings the prices way down, much lower, 20, 30 percent lower than those the Medicare beneficiaries pay.

How about improving the job market? We see what is happening in the stock market. If that is to be a barometer of where we are going, it is a terrible indication. The market has been reeling from shock and in an awesome decline from where it was. This market that was supposed to be making everybody, the pensioners and the mutual funds and the investors, happy is not doing so.

We should be hearing from President Bush about what he is going to do to correct the problems so worrisome to American families today: whether they can afford their mortgage, whether they can afford to educate their kids, whether they can afford to take care of a grandparent, if necessary, whether they could guarantee that someone who can learn can get an education. Those are the things we would like to hear.

Stop this insidious criticism, personal criticism, of Senator JOHN KERRY. Look at JOHN KERRY's record and look at the record of this administration. What a comparison that is. The Nation is tired of hearing this negative stuff. Talk about positive things. Talk about what you are going to do for America, not about what the other guy failed to do. Talk about what you failed to do and are ready to correct.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. CRAPO). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. INHOFE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

UNANIMOUS CONSENT REQUEST—S. 1039

Mr. INHOFE. Mr. President, I ask unanimous consent that the Senate proceed to legislative session to consider S. 1039, the Wastewater Treatment Works Security Act of 2003, that the bill be read a third time and passed, and that the Senate return to executive session.

The PRESIDING OFFICER. Is there objection?

The Senator from Nevada.

Mr. REID. Mr. President, will my friend restate the unanimous consent request?

The PRESIDING OFFICER. The Senator asks for a restatement of the request?

Mr. REID. Yes, please.

Mr. INHOFE. Of course.

Mr. President, I ask unanimous consent that the Senate proceed to legislative session to consider S. 1039, the Wastewater Treatment Works Security Act of 2003, that the bill be read a third time and passed, and that the Senate return to executive session.

Mr. REID. Mr. President, reserving the right to object, in committee I voted for this matter, to have it reported out. The ranking member, Senator JEFFORDS, did not, as did a number of other people who are in the minority. Their belief is this bill does not require wastewater systems to do basic tasks such as even completing a vulnerability assessment. Senator JEFFORDS believes this legislation is a step backward from existing law for drinking water plants and what we have agreed to already for chemical plants. So because of that, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. INHOFE. Mr. President, I would like to at least mention this is a bill that is in the committee I chair. It is one that has been requested by virtually every community we have in Oklahoma. In fact, the Senator who is presiding right now was a cosponsor of this bill. It passed the committee by a vote of 12 to 6. It passed the House of Representatives, once on a voice vote and the second time by a vote of 413 to 2—413 to 2. Virtually every Republican and Democrat voted for it. In fact, every Democrat voted for it. Only two Republicans did not vote for it. The House cosponsors include Congressman JIM OBERSTAR.

Wastewater treatment works are responsible for treating municipal and industrial waste to a level clean enough to be released into the Nation's waterways. I have to say, I cannot think of any one bill that means more to local communities. Having been a mayor of a major community at one time, this is a very critical bill. It is one I am hoping there will be no objection to when we come back from this recess in September.

With that, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. NELSON of Florida. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. NELSON of Florida. Mr. President, I ask to speak as in morning business.

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

9/11 COMMISSION REPORT

Mr. NELSON of Florida. Mr. President, I rise to comment about the 9/11 Commission report. I think it is an excellent report. Its recommendations ought to be implemented and they ought to be implemented soon by the Congress. Given the fact that we are near gridlock in an election season and it is very unlikely in September when we come back from the August recess we will get anything done, I think we ought to consider coming back after the election and implementing the recommendations of the report. Why? Because the only way we protect ourselves from the enemies whom we call terrorists is to have accurate and timely information.

The terrorist uses surprise and stealth, and the only way to defeat that is by having accurate and timely intelligence.

So whatever we need to do to avoid the colossal intelligence failure we had on September 11 and the colossal intelligence failure we had again prior to going into Iraq, we best get about the job of correcting that information gathering, information flow, and information analysis so we can try to continue to thwart the attempts at doing damage to us.

Is it not interesting what the 9/11 Commission report said? It specifically defined the terrorist as someone who is usually an Islamist fundamentalist who has warped the teachings of Islam so that it becomes a passion of hatred, and out of that wanting to do damage to the free world. Of course, we being the superpower are the target of that.

It was also noteworthy in the Commission's report, as they are suggesting how to restructure the intelligence apparatus, they have suggested having a national intelligence director and that the counterterrorism center would be a compendium that would report to him. It is also interesting that they still wanted to keep the administration of intelligence gathering and analysis from direct political involvement. So the Commission did not recommend the new intelligence chief be a member of the President's Cabinet but rather be what they have defined as the National Intelligence Director. Then in all of these subdepartments that have a myriad of filling out a flow chart, an organizational chart, it is interesting how all of the different components of intelligence, the CIA, the DIA, the FBI, would then fit together into this new apparatus.

We only have to remember that about a month ago we had another major information failure, and this was at the time of President Reagan's funeral. We had the Governor of Kentucky on his State airplane, having been given clearance by the FAA to come in and land at Washington National Airport, and his transponder was not working. He had been given clearance by the FAA, but the FAA was not communicating with the military. So the military, seeing a blip on the radar moving to the center of Washington, without a transponder, sent out the alert and, of course, everybody in this U.S. Capitol building and in all of those office buildings off to the side of this building got the emergency evacuate order, so much so that the Capitol Police, bless their hearts, were shouting at the top of their lungs, get out of the building, run, there is an inbound aircraft.

So how many more of these do we need to have before we come to the commonsense reality that we are not collating and coordinating all of this information like we ought to? So, we best get on the process of reforming the system.

Now we have a good blueprint with which to do it. We have an opportunity to make America safer—and, with our allies, quite a bit.

That leads me to the next subject I want to talk about, our allies. The 9/11 Commission report also says something that many of us in this Chamber have been saying for some period of time: You can't go out and be successful in the war on terror until you can bring in a lot of colleagues, a lot of allies, in a coordinated and planned effort so you internationalize the effort. We did that brilliantly 13 years ago in the gulf war. We did that again brilliantly in Afghanistan when we started going after bin Laden. But we didn't do that in Iraq. Especially, we didn't do it in Iraq after a brilliant military victory. We didn't do it in the occupation.

What the 9/11 Commission is pointing out is that if you want to improve the intelligence-gathering mechanism and analysis, then you have to internationalize the effort. That stands to reason.

Fortunately, through Interpol and direct one-to-one relationships with other countries' intelligence services, we get a lot of that information. But as the 9/11 Commission said, we have to do a lot more.

The 9/11 Commission also told us something that we didn't know. It said the country of Iran may have facilitated al-Qaida. It did not suggest that Iran's Government knew anything about the planning for the September 11 attack, but it suggested that some of those operatives passed through Iran.

There have been a number of us in this body who have been talking about Iran; that after September 11, and the importance of going after al-Qaida, that the next imminent threat to the interest of the United States were the countries of Iran and North Korea. Why? Because they are trying to acquire or already are building nuclear capability. Therefore, I think it is very important that we get our act together and implement this Commission report for many reasons. That is just one additional reason.

I see the esteemed chairman of the Senate Armed Services Committee has come into the Chamber. I want to say in his presence, as he knows, as one of the members of his committee, on a completely different subject, I have spoken out time and time again about the plight and the determination to find some evidence about CAPT Scott Speicher, the Navy pilot who was shot down on the first night of the gulf war in 1991.

There is a report in the Washington Times—and I will make reference directly only to what is reported in today's Washington Times—and what the Washington Times says is that a Speicher team has left and has given up the search. I hope that is not true. The family who lives in my State, in Jacksonville, FL, deserves to have closure. The family has been through a trauma like hardly any of us could believe. The Washington Times gives a great deal of detail. I don't know if it is true or not, but if it is, then what this country owes to that family is to keep searching. If a team has been returned, as the Washington Times has stated, then it is important that whatever the size of that team, that we have a presence. As long as the U.S. military is located there, a fallen flier in the future will always have the confidence to know we are not going to leave him or her there alone, and we are coming to get you. We didn't do that with Scott Speicher.

Mr. WARNER. Will the Senator yield?

Mr. NELSON of Florida. I am delighted to yield.

Mr. WARNER. First and foremost, I can't comment on the Washington Times article. But yesterday, in the course of an Armed Services Committee briefing by General Dayton, who at this point in time is also briefing the Senate Intelligence Committee—and I just left the Intelligence Committee meeting to come to the floor—the matter was discussed. That much I will confirm, as appropriate. As a member of the Committee of the Armed Services, my able friend knows that at every juncture our committee, largely through yourself and Senator ROBERTS most often, brings up a current report on that.

I will not say, other than it was a matter that was discussed, and General Dayton shared with us his views. But I wish to point out, in discussing it with General Dayton, he finds that whatever was carried today, reflects it as his views, and he simply wants to say the final decision rests with the Secretary of the Navy, not General Dayton, as to the course of this investigation. So that much I will say. Beyond that, I believe, regrettably, it was a top secret briefing, but nevertheless information might well have gotten out. That is regrettable.

I thank the Senator for bringing it up. I, too, join you in fervently wishing and praying for Scott Speicher. The Senator has to be commended for the amount of time he has spent on this situation.

Mr. NELSON of Florida. I thank my colleague, my esteemed chairman. I am a devoted member of his committee, under his leadership. I thank the Senator from Virginia for all the personal encouragement he has given to me as we have relentlessly kept after this, trying to find some evidence.

I do want to say, since my colleague mentioned General Dayton, I think he performed magnificently. He, of course, had many other responsibilities other than just the search for CAPT Speicher. He had all the responsibilities of the search for weapons of mass destruction. But he had a special team that was led by Major Eames, who has now been promoted to lieutenant colonel. That young officer was as devoted as any that I could ever imagine in the search, when I visited with him in his headquarters in Baghdad. At the time we had actually gone to one of the cells where we thought maybe it was Scott Speicher's initials on the wall, having been scratched into the stucco: MSS.

All those leads did not pan out. But there are other leads they need to follow. It is my hope the U.S. military will continue to do that, even though General Dayton is not in Iraq anymore, and he deserves to be home. Even though Colonel Eames is not in Iraq.

If those leads would be continued, Colonel Eames would, in fact, be back in Iraq in a heartbeat, following up that new information.

I want to take the occasion of reminding the Senate that this Senator will continue to speak out on this issue, to remind the U.S. military of its obligation to continue to search for evidence so the case of Scott Speicher can be brought to closure.

Mr. President, I yield the floor.

Mr. WARNER. Mr. President, I commend my colleague. He has worked very hard on the Speicher case and undoubtedly his commitment will carry forward. I suggest, based on what was said yesterday, that he will be in consultation with the Secretary of the Navy. He has the authority to make disclosures as he sees fit about this case, but I believe General Dayton, in a very professional and conscientious way, will discharge his duties.

THE 9/11 COMMISSION REPORT

Mr. WARNER. Mr. President, I would like to provide this Senator's observations, very preliminary though they may be, with regard to the report of the 9/11 Commission which was made public today.

Yesterday I joined about a dozen or so Senators, the distinguished majority leader, and others to receive a brief private briefing. That was our first official glimpse of this report. I have not had the opportunity to, of course, go through this rather prodigious volume—each Member received a copy—but I do intend to do so because I think it is a very important contribution by this Commission. I think many parts of it can provide a roadmap for things that must be done.

It has been my privilege to serve in the Senate—this is my 26th year, and I commit to work with other colleagues, all colleagues, to see what we can do to strengthen our ability, not only in intelligence, but across the board in all areas of national security.

As privileged as I am to be the chairman of the Senate Armed Services Committee, I am prepared to listen to how the responsibilities of that committee should be changed for the better. I will not participate in any obstruction simply because of turf. I have been here too long. Also, this changed

world in which we live is so very different than when I came to this institution a quarter of a century ago, and most particularly in the aftermath of the tragedy of 9/11.

So I think it is incumbent upon all of us in the Congress and, indeed, the executive branch to have a strong self-examination of the areas covered by this report; to use this report, along with input from other commissions, groups, and individuals, as a sort of roadmap to guide us into those areas which need to be carefully reviewed.

Out of that process, which I hope is a carefully thought through, not rushed, deliberative process, I hope will evolve such changes as we, Congress, deem necessary to strengthen our capability to deter and, if necessary, engage further in this war against terrorism. So, therefore, I say with respect, I welcome the recommendations of the Commission. I commit to study them and commit to work with my colleagues.

Yesterday a specific question was put to the two cochairmen of the 9/11 Commission: Is America safer today? And their unhesitating acknowledgment was it is safer today, and I agree it is. Is it as safe as we need? None of us believe that. But I think conscientious efforts have been made all along the way to make this a safer Nation, and we have, in large measure, succeeded with the goals within the timetable we have had.

I am disappointed, however, that there was not more thorough dialog between the 9/11 Commission and Members of the Congress. I do not take that personally. I did have an opportunity to visit in my office some 2 weeks ago—a very pleasant visit—with one member, at which time we exchanged views. Somehow I do not feel that was the type of consultation that enabled us to get into the report and make constructive contributions. I do not suggest all 535 Members of Congress troop up before the 9/11 Commission. We do not have time to do that. Somehow it seems to me a better balance could have been struck between the knowledge and the ideas we have in the institution of the legislative branch of our Government that could have been shared with this Commission. After all, the Commission was, in many respects, created as a consequence of the actions of Congress.

Having said that, I am going to take some specific issue with this rather sweeping indictment that we have been dysfunctional in our oversight.

All throughout my public service, I have been privileged to have a number of jobs, and I am very humble about it, but I am far from perfect, and I have always welcomed constructive advice and criticism. But this time this dysfunctional brush that was wiped across struck me as not fair to certain things I personally have a knowledge of that were done by this body, the Senate.

I will start back some years ago in 1987 when, as a member of the Armed Services Committee, we structured the Goldwater-Nichols legislation which had sweeping ramifications in our overall defense setup. It has been hailed since that period of time as a landmark achievement by the Congress to begin to transform our military from the cold war era to the era of the threats today which are so diverse and so different as compared to those we confronted during World War II and in the immediate aftermath of the cold war.

That was quite an accomplishment and, in large measure, is owing to Senator Goldwater and Congressman Nichols. Again, I had the privilege to serve with those two men for many years, long before we started the Goldwater-Nichols Act.

As a member of the Armed Services Committee—and I say with humility and personal pride, I was a close personal friend of Senator Goldwater. I admired him so much and looked forward to the times we worked together and traveled together. I remember Congressman Nichols bore the scars of World War II, having been a very courageous serviceperson in that war. He was extremely conscientious about his duties on the House Armed Services Committee. These two giants in the way of thinking got together and relentlessly drove this legislation through both bodies of the Congress, and it has withstood the test of time.

Contemporaneous with this, I remember my dear friend with whom I came to the Senate, Senator Cohen, who later became, after he resigned from the Senate, Secretary of Defense. We worked together as a team with others to carve out of the Department of Defense, taking from the Army, the Navy, the Air Force, and the Marines some of the best and the brightest to create the Special Operations Command.

While today most colleagues have seen their magnificent performance worldwide, particularly as a front line against terrorism, I remind them it was a tough and long struggle, vigorously resisted by the Department of Defense, to create this new entity and to give them their dedicated assets of modest naval vessels, modest number of airplanes, and other equipment which was their own. But we succeeded. Today those forces have established themselves in the contemporary military history of this country as an essential part of our military structure, much admired by all, much envied by all, and their performance record is second to none. I do not mean to suggest by that they have outpaced or outperformed the basic elements, particularly combat-committed elements of the Army, Navy, Air Force, and Marines. No, it is that the whole military looks with a sense of pride toward their accomplishments. I am proud to have been a part of establishing this important part of our armed forces.

Then in 1999, when I was privileged for the first time to become chairman of the Senate Armed Services Committee, I went in there and I changed basically a structure that had been in place for decades, the subcommittee structure. Again, I carved out a new subcommittee called Subcommittee on Emerging Threats and Capabilities. This is 1999. This is not in the aftermath of 9/11. This is 1999.

I must say, I have had the constructive support of the members of the committee, and by pure coincidence—I am speaking of the Subcommittee on Emerging Threats and Capabilities—the first chairman of that subcommittee, the distinguished Senator from Kansas, Mr. ROBERTS, just walked into the Chamber, and perhaps he will have a word or two about the functions of that subcommittee.

Mr. President, I say to my distinguished colleague, I was saying the 9/11 Commission has brushed the Congress as being sort of dysfunctional, and I was going back in history. The Senator from Kansas was one of my principal supporters on establishing the Subcommittee on Emerging Threats and Capabilities. He has been ranking member or chairman of that subcommittee, and under his leadership and that of the full committee, we have achieved a great deal, and have helped the Department of Defense move forward in the areas of joint experimentation, homeland defense, counterterrorism, and future technologies and concepts that will be needed to confront future threats.

That subcommittee was directed to look forward a decade and determine what are the threats that are going to face the United States of America and how best our Department of Defense needs to transform itself and allocate assets and men and women to take up the positions of responsibility to meet those threats.

That subcommittee has done its work and done it admirably and has measurably enhanced the overall strength of our military today.

My distinguished colleague, Senator ROBERTS from Kansas, is chairman of the Intelligence Committee. I am privileged to serve on that committee today. In years past, I was privileged to serve 8 years. We have this rotation in the Senate, and this is my second tour on that committee. When I was vice chairman, together with other members of that committee, we fought hard against the cuts in intelligence.

I ask unanimous consent that portions of the minority view report be printed into the RECORD.

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

MINORITY VIEWS OF SENATORS WARNER, DANFORTH, STEVENS, LUGAR, AND WALLOP

The United States must maintain and strengthen U.S. intelligence capabilities to provide for the future security of the Nation and for the protection of its interests around the globe. The U.S. should commit more resources to achievement of that objective than the fiscal year 1994 intelligence authorization bill reported by the Select Committee on Intelligence would provide.

The U.S. faced grave security risks during the Cold War, but it faced them in an international environment that was comparatively stable and predictable. With the end of the Cold War and the dissolution of the Soviet Union and its Warsaw Pact military alliance, the U.S. had hoped for a ''New World Order'' with stable and steady progress toward greater democracy, freedom and free enterprise. What the U.S. faces in the post-Cold War era, however, is a more chaotic environment with multiple challenges to U.S. interests that complicate the efforts of the U.S. and cooperating nations to achieve the desired progress. In an unstable world of diverse and increasing challenges, the need for robust and reliable U.S. intelligence capabilities has grown rather than diminished.

America faces a world in which:

Ethnic, religious and social tensions spawn regional conflicts;

A number of nations possess nuclear weapons and the means to deliver them on a target;

Other nations seek nuclear, chemical or biological weapons of mass destruction and the means to deliver them;

Terrorist organizations continue to operate and attack U.S. interests (including here at home, as the bombing of the World Trade Center in New York reflects);

International drug organizations continue on a vast scale to produce illegal drugs and smuggle them into the U.S.; and

U.S. economic interests are under constant challenge.

The United States continues to have a vital interest in close monitoring of developments in the independent republics on the territory of the former Soviet Union. The U.S. Government needs accurate and timely intelligence on the nuclear arsenals, facilities and materials located in Russia, Ukraine and other republics; the economic and military restructuring in the republics; and the ethnic, religious and other social turmoil and secessionist pressures in the republics.

To the extent that the end of the Cold War allows a reduction of U.S. resources devoted to intelligence capabilities focused on military capabilities of countries on the territory of the former Soviet Union, the U.S. should reallocate the gained resources to strengthen intelligence capabilities to deal with growing risks to America's interests. The U.S. should make such resources available for strengthened intelligence capabilities focused on the problems with which the U.S. Government must deal in the coming decades, including proliferation of weapons of mass destruction, terrorism, international narcotics trafficking, and the illegal transfer of U.S. high technology. In many intelligence disciplines, investment in research and development is needed now to yield intelligence capabilities a decade from now. Absent needed investment, capabilities will not be available when needed and existing capabilities will erode.

At the same time as risks to U.S. interest grow, U.S. military power will decline as the U.S. draws down substantially the size of its armed forces following victory in the Cold War. With a diverse and growing array of risks to U.S. interests and a reduced commitment of resources to the Nation's defense, the U.S. will grow increasingly dependent for its security and the protection of its interests abroad upon its intelligence capabilities—the Nation's eyes and ears. Indeed, the substantial cuts of recent years in defense budgets have been premised directly upon the strengthening of intelligence support to the remaining, smaller armed forces. Reducing the Nation's intelligence capabilities magnifies significantly the risks attendant to reductions in resources devoted to the Nation's defense. As this Committee noted in discussing legislation to assist in managing the personnel reductions at the Central Intelligence Agency, ''. . . maintaining a strong intelligence capability is particularly important when military forces are being substantially reduced . . .'' (S. Rept. 103–43, p. 3).

The U.S. will depend on effective foreign intelligence in allocating scarce U.S. national security resources effectively. To protect America's interests in times of peace and of conflict, U.S. policymakers and military commanders will depend heavily upon early warning of trouble and early and extensive knowledge of the activities, capabilities and intentions of foreign powers. Effective intelligence will multiply substantially the effectiveness of the smaller U.S. military force.

A sampling of the deployment of the U.S. armed forces abroad in the past four years illustrates risks to American interests in the post-Cold War world, likely uses of U.S. military forces in the future, and the importance of effective intelligence in supporting military operations. In late 1989, American troops in Operation JUST CAUSE liberated Panama from the Noriega dictatorship that suppressed Panamanian democracy and threatened U.S. personnel. In 1990 and 1991 in Operations DESERT SHIELD and DESERT STORM American and coalition forces liberated Kuwait from Iraqi occupation, and those forces remain on station in and around the Arabian Peninsula to enforce United Nations sanctions on Iraq. American forces have rescued American diplomats caught in civil insurrections abroad. U.S. forces have assisted in stemming the flow of illegal immigrants into the United States. U.S. forces have undertaken humanitarian relief operations, to feed hungry people and provide them medical care. The U.S. has assigned its forces as part of or in support of United Nations peacekeeping forces in many countries, including Bosnia, Macedonia, Somalia, and Cambodia. In every one of these operation—from massive operations on the scale of DESERT STORM to the smallest humanitarian relief operations—the successful accomplishment of missions by the U.S. armed forces and the protection of American troops have depended directly upon the high quality and timeliness of the intelligence available to American forces.

Reductions in U.S. intelligence capabilities in this period of international instability are unwise and do not serve the Nation's long-term security interests. Defense of America and America's interests abroad requires a greater commitment of resources to U.S. intelligence capabilities than the fiscal year 1994 intelligence authorization bill provides.

JOHN WARNER.
JOHN C. DANFORTH.
TED STEVENS.
RICHARD G. LUGAR.
MALCOLM WALLOP.

Mr. WARNER. I have the report that accompanied the 1994 bill. This was written in July of 1993. This report covered the ensuing fiscal year. I wrote the minority views, which were joined in by other colleagues on the committee at that time: Senator Danforth, who is now our Ambassador to the United Nations; Senator STEVENS, who is currently chairman of the Senate Appropriations Committee; Senator LUGAR, who is currently chairman of the Foreign Relations Committee; and our former colleague, Senator Wallop.

Here is what we had to say, and I do not think this is dysfunctional participation, but I will let my colleagues judge for themselves after I have read portions of this report.

The minority views of the following Senators:

The United States must maintain and strengthen U.S. intelligence capabilities to provide for the future security of the Nation and for the protection of its interests around the globe. The U.S. should commit more resources to achievement of that objective than the fiscal year 1994 intelligence authorization bill reported by the Select Committee on Intelligence would provide.

We were, of course, members of that select committee.

The U.S. faced grave security risks during the Cold War, but it faced them in an international environment that was comparatively stable and predictable. With the end of the Cold War and the dissolution of the Soviet Union and its Warsaw Pact military alliance, the U.S. had hoped for a ''New World Order'' with stable and steady progress toward greater democracy, freedom and free enterprise. What the U.S. faces in the post-Cold War era, however, is a more chaotic environment with multitude challenges to U.S. interests that complicate the efforts of the U.S. and cooperating nations to achieve the desired progress. In an unstable world of diverse and increasing challenges, the need for robust and reliable U.S. intelligence capabilities has grown rather than diminished. America faces a world in which: Ethnic, religious and social tensions spawn regional conflicts; a number of nations possess nuclear weapons and the means to deliver them on a target; other nations seek nuclear, chemical or biological weapons of mass destruction and the means to deliver them; terrorist organizations continue to operate and attack U.S. interests (including here at home, as the bombing of the World Trade Center in New York reflects)—

This is 1993. It is interesting. It was June 30, just about this time—

international drug organizations continue on a vast scale to produce illegal drugs and smuggle them into the U.S.; and U.S. economic interests are under constant challenge.

To the extent that the end of the Cold War allows a reduction of U.S. resources devoted to intelligence capabilities focused on military capabilities of countries on the territory of the former Soviet Union, the U.S. should reallocate the gained resources to strengthen intelligence capabilities to deal with growing risks to America's interests. The U.S. should make such resources available for strengthened intelligence capabilities focused on the problems with which the U.S. Government must deal in the coming decades, including proliferation of weapons of mass destruction, terrorism, international narcotics trafficking, and the illegal transfer of U.S. high technology.

I shall not read further because I will put it in the RECORD.

This is not dysfunctional action by legislators; this is legislators looking into the future and seeing much of what is occurring today. I only wish we had the opportunity to advise the 9/11 Commission of this and other contributions by many others in this Chamber at that period of time who were in the service of the Senate and their States. This was not dysfunctional.

In the days ahead, we do need to look at how best to organize the intelligence elements of our national security structure, along with many other components. We must not, however, do anything precipitously.

In the specific area of intelligence, our intelligence services, even with the flaws that have been recently pointed out, are the best in the world, by far. They are not perfect, and their business is, by definition, one of uncertainty—best judgments made with the information that is currently in hand. Any changes we make must be carefully constructed to preserve existing excellence, while improving other functions.

As we consider any changes, we must remember that intelligence is an integral part of military operations. Recent military operations by our forces in Afghanistan and Iraq have been extraordinarily successful, in large part because of excellent intelligence, and because of the close relationship between military operations and intelligence that has been so carefully built over the years. Intelligence is part of a whole Department of Defense, as well as part of a larger intelligence community. Moving defense intelligence functions under the authority of another cabinet-level official could have unintended consequences—we must move with careful deliberation.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DEWINE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CORNYN). Without objection, it is so ordered.

TRIBUTE TO TOM DIEMER

Mr. DEWINE. Mr. President, I rise today to recognize the retiring dean of the Ohio press corps. Tom Diemer, a veteran reporter who spent more than 26 years at the Cleveland Plain Dealer newspaper, has left the paper to pursue another career.

Tom is one of those rare reporters who truly do ''get it.'' Tom understands Ohio. He understands Ohio government. He understands Ohio politics and certainly national politics. He understands what his readers need and what they want to know.

Tom Diemer began working at the Columbus bureau of the Plain Dealer in 1978. A few years later, in 1981, Tom was promoted to bureau chief. When the opportunity came in 1985 to join the Plain Dealer's Washington bureau, Tom took it. During his career here in Washington, Tom has covered four Ohio U.S. Senators: first, Howard Metzenbaum and John Glenn; later on, myself and then GEORGE VOINOVICH.

With a healthy dose of skepticism, Tom reported to his readers in Cleveland about the activities in the U.S. Senate. But Tom was never a reporter to take a press release at face value or a prepared statement at face value. I think Tom was a skeptic in a good sense of the term. He required his sources and those he got information from to make the case to him, and he questioned them, questioned them hard. He asked them questions that showed he was looking for the story behind the story. Whether it was local issues, such as the Great Lakes or the Euclid Corridor, or national issues, such as a war declaration or the PATRIOT Act, we could always expect Tom to dig deeper and go further with his line of questioning than just about anybody else.

Tom would want to know the implications of a certain story or he would want some ''color'' for his story so he could capture the ''feel'' of an event for his readers. He would want to be able to take his readers here to Washington and let them feel and understand how things really work in our Nation's Capital.

I always got the feeling that when Tom wrote a story, his editors got off pretty easily. They really did not have to do much work. However Tom wrote it, that was probably just about the way the story appeared in the Plain Dealer because Tom got it right. No matter how tough his questions were to me, I always knew any story I read by Tom Diemer would be fair and accurate.

In Washington, Tom came to lead the Ohio press corps. His expertise about Ohio politics often made him the go-to person for C–SPAN or CNN or any of the national reporters anytime they needed someone to analyze the Ohio political scene during an election year.

I have always appreciated Tom's great professionalism, his thoroughness, his frankness, his fairness, his kindness, and the way he deals honestly, forthrightly with people.

Tom Diemer will still be writing, but he is leaving the Plain Dealer to set out now on his own. I certainly will miss him. I will miss my frequent contact with him. I certainly wish him the best of luck.

TRANSPORTATION SAFETY

Mr. President, I would like to turn to the issue of highway safety. Over 43,000 people lost their lives on our Nation's highways last year. That is one death every 12 minutes or the equivalent of two Boeing 747–400s filled to capacity going down every week with no survivors.

This past May, the National Highway Traffic Safety Administration, NHTSA, released its 2003 traffic safety report, which details when, where, and why so many Americans lose their lives on our roads. This information gives us an idea of how effective our efforts are at the local, State, and national levels and where we need to focus resources in the future to help save lives. Based on the preliminary 2003 data, we have, tragically, a long way to go.

Overall, fatalities increased 1 percent, from 42,815 in 2002 to 43,220 in the year 2003. This is the fourth consecutive increase in annual traffic fatalities. This is truly bad news, particularly in light of the progress we made throughout the 1990s, when the norm was a reduction in fatalities each year. On the other hand, the number of deaths per 100 million vehicle miles traveled stayed constant at 1.5 from 2002 to 2003. While not an increase, this figure does show how difficult it will be to reach the Secretary of Transportation's very aggressive goal of reaching 1.0 fatalities per 100 million vehicle miles traveled by the year 2008.

The 2003 report also includes a number of other findings that shed light on the direction our country is taking as far as highway safety. Among other things, the report states the following:

Standard passenger car fatalities are down but deaths in sports utility vehicles, SUVs, are up in the past year, with most of the increase coming from rollover crashes. NHTSA estimates this trend may continue as SUVs grow as a share of sales volume.

Motorcycle crash deaths are up 11 percent from last year, now totaling 3,592. Further, drunk driving death rates are essentially unchanged from 2002, with 40 percent of crash fatalities involving alcohol in the year 2003.

Further, the number of fatal crashes involving young drivers, those between 16 and 20, declined by 3.7 percent, from 7,738 in 2002 to 7,542 in the year 2003.

While the report does bring welcome news with regard to young drivers who are much more vulnerable while driving than adults, it is also clear that progress needs to be made in a host of other areas, particularly rollover crashes and drunk driving. I have been working in the Senate, along with others, to see that we do just that through safety issues we have added and that the Senate added to the 6-year highway bill currently under consideration by the joint House-Senate conference committee.

These initiatives are designed to advance our ability to test vehicles for passenger protection and rollover crashes, get consumers vital crash test information when they need it most, and increase seatbelt use and reduce drunk driving through nationwide high-visibility traffic safety enforcement campaigns. Combined with increased seatbelt use, something that in my State of Ohio, Ohio State Senator Jeff Armbruster is working diligently to enforce in Columbus, better driver education, which the Ohio Department of Public Safety is focusing on, and responsible practices, such as using a designated driver, can in fact make a real difference.

These initiatives are contained in the Senate-passed bill that is currently being considered by the House-Senate conference committee. It is vitally important that they remain in this conference committee. They will, in fact, save many lives.

Traffic safety affects all of us. We all have a role to play in making sure that when the 2004 numbers come out early next year, they are headed in the right direction.

In a related matter, I would also like to discuss a very important development in the effort to make our Nation's roads safer. Earlier this month,

Delaware became the 50th and last U.S. State to adopt a .08 blood-alcohol content per se drunk driving standard. Now every State in the Union has that standard.

This development constitutes the culmination of many years of work here in the Senate to get tough, uniform drunk driving laws on the books across our country. In 2000, the Senate took decisive action to help stop drunk driving by implementing mandatory sanctions for States that do not adopt a .08 per-se standard. Now we are finally seeing the full realization of this effort, as all 50 States now have .08 laws.

This is so important from a safety perspective because the fact is that a person with a .08 blood-alcohol concentration level is seriously impaired. When a person reaches .08, his or her vision, balance, reaction time, hearing, judgment, and self-control are severely impaired. Additionally, critical driving tasks, such as concentrated attention, speed control, braking, steering, gear-changing and lane-tracking, are negatively impacted at .08.

Beyond these facts, there are other scientifically sound reasons to have a national .08 standard. First, the risk of being in a crash increases gradually with each blood-alcohol level, but then rises rapidly after a driver reaches or exceeds .08 compared to drivers with no alcohol in their systems. The National Highway Traffic Safety Administration reports that in single-vehicle crashes, the relative fatality risk for drivers with blood alcohol levels between .05 and .09 is over eleven times greater than for drivers with blood alcohol levels of zero.

Second, .08 blood alcohol laws have proven results in reducing crashes and fatalities. Some studies have found that .08 laws reduce the overall incidence of alcohol fatalities by 16 percent and also reduced fatalities at higher blood alcohol levels. Now that all 50 States have a .08 law, we will have the opportunity to see its effects on a much larger scale.

The reduction in alcohol-related fatalities since the 1970s is not attributable to one single law or program. Rather, it is the result of a whole series of actions taken by State and Federal Government and the tireless efforts of many organizations, such as Mothers Against Drunk Driving, Students Against Drunk Driving, Advocates for Highway and Auto Safety, the Insurance Institute for Highway Safety, the Alliance of Auto Manufacturers, and many others.

I thank my friend from New Jersey, Senator LAUTENBERG, for his continued dedication to fighting drunk driving. His hard work and perseverance have made the nationwide .08 standard possible. Mr. President, .08 was definitely a legislative effort worth fighting for, and now that all 50 States have a companion law in effect, I believe we will see why.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

JOB GROWTH: GOOD JOBS

Mr. FRIST. Mr. President, shortly we will be going to the Defense bill and we will have a UC in a little bit on that. While we are waiting for some final approval on language, I want to take this opportunity to comment on the economy, job growth, and jobs.

Earlier this week, Chairman Greenspan presented his semiannual monetary policy report to Congress. The chairman's conclusion needs to be highlighted. He said: ''Economic developments of the United States have generally been quite favorable in 2004'' and that this favorable situation ''increasingly supports the view that the expansion is self-sustaining.''

On the same day the chairman presented his upbeat, optimistic assessment of the economy to the Senate Banking Committee, the Department of Labor released its latest report on State-by-State employment figures for June. The Department of Labor report presents hard data that shows the unemployment rate has fallen in 47 States since last June—47 States. Nonfarm payroll employment increased in 41 States in June. Over the past year, employment has increased in 46 States. Today, 37 States have unemployment rates at or below the national unemployment rate of 5.6 percent in June. Further, since last August, the economy has generated 1.5 million private sector jobs, and an average of more than 250,000 jobs have been created each month over the last 4 months. Finally, today, more Americans are working than at any time in this country's history—over 139 million Americans.

Unable to refute this good news, this positive news, this real and continually improving news on the job front, some of our Democratic Senators and colleagues, including the presumptive Democratic Presidential and Vice Presidential nominees, have tried a whole new approach in attacking this positive news. They now have decided: OK, maybe there have been jobs created, but they are not good jobs; they are low-paying jobs. This is a new approach. As former President Ronald Reagan would say: There they go again.

The question was asked directly of Chairman Greenspan by my colleague, Senator DOLE, on Tuesday:

Does your analysis show that the current jobs being created are basically lower wage jobs with little or no benefits?

The chairman's answer, in one uncharacteristic word for him:

No.

More recently, the University of Pennsylvania's nonpartisan Annenberg Public Policy Center supported research found that after analyzing data over the last year from the Bureau of Labor Statistics, there was ''solid growth in employment in relatively higher paying occupations,'' including construction workers, health care professionals, business managers, and teachers, and virtually no growth in relatively lower paying occupations, such as office clerks and assembly line workers.

Factually, the study concluded that we have seen ''good evidence that job quality has increased over the past year or more.''

I asked my staff to similarly analyze the data since the most recent job growth began last August. Using the current population survey data distributed by 11 industries broken down by 14 occupations, 154 categories of workers, there were in these 154 categories 1.8 million jobs created and 110,000 jobs lost since last August.

The median weekly earnings for these 154 categories in 2003 was $541. Of the gross 1.8 million jobs created since last August, 1.4 million were in categories where their weekly wage exceeded the median wage of all workers in 2003. In other words, 77 percent of all the jobs created since last August have been in occupations with weekly earnings above the median.

Of the 1.8 jobs created since last August, 461,000 were in occupations with weekly earnings below the median, or 27 percent of the jobs created were in those below median earnings jobs. Only about 110,000 jobs created since last August have been in occupations at the median.

The conclusion, supported by other objective analyses, higher paying jobs are growing faster than other jobs in this recovery.

My friends on the other side of the aisle who are looking hard to find a way to spread pessimism across the political landscape of this election year are simply wrong in saying the quality of jobs being created is low.

Chairman Greenspan just simply disagrees. The nonpartisan Annenberg Public Policy Center-supported research disagrees, and hard data from the Bureau of Labor Statistics disagree.

Economic growth is on track, job growth is good, and the quality of those jobs is high. I hope my Democratic friends could at least try to get their facts correct, and when they do they will find this latest attempt to discredit the progress made is a canard.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, what is the business before the Senate?

The PRESIDING OFFICER. The Senate is in executive session.

Mr. DODD. I ask unanimous consent to speak as if in morning business.

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

(The remarks of Mr. DODD pertaining to the introduction of S. 2755 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

LEGISLATIVE SESSION

The ACTING PRESIDENT pro tempore. The majority leader.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2005—CONFERENCE REPORT

Mr. FRIST. Mr. President, I ask unanimous consent that following the granting of this request, the official Senate copy of the Defense appropriations conference report having been presented to the desk, the Senate proceed to 2 hours for debate only, with 1 hour equally divided between the chairman and ranking member of the committee and 1 hour equally divided between Senator MCCAIN and Senator INOUYE; provided further that following that time the Senate proceed to a vote on adoption of the Defense appropriations conference report with no intervening action or debate and points of order waived; further, that when the Senate receives the official papers from the House, the vote on passage appear at the appropriate place in the RECORD following the receipt of those papers; and, finally, this agreement is null and void if the House does not agree to the conference report.

The ACTING PRESIDENT pro tempore. The Senator from Nevada.

Mr. REID. Mr. President, reserving the right to object, if all goes well, Members will not use the full 2 hours. This, I think, is the only remaining vote Members would have to worry about tonight unless something untoward happens. Is that right?

Mr. FRIST. Mr. President, we have several business items, one of which has Transportation, Coast Guard, and other issues. The assistant Democratic leader is right with his implication that this is going to be in all likelihood the only rollcall vote. It is absolutely critical that Members understand we have other items we have to address tonight. We need to do that, and finish with this vote, if all goes well.

Mr. REID. Mr. President, if everything goes well, Members may have a vote on this very important conference report.

There is no objection on this side.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Who yields time?

Mr. DAYTON. Mr. President, after the vote on the Defense appropriations, will there be opportunities for Senators to speak on other subjects?

Mr. FRIST. Mr. President, there will be. We will be happy to be here through the night for morning business—at some reasonable hour, I hope. We will be here for a while.

Mr. DAYTON. I thank the majority leader.

The ACTING PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4613) ''making appropriations for the Department of Defense for the fiscal year ending September 30, 2005, and for other purposes,'' having met, have agreed that the House recede from its disagreement of the amendment of the Senate, and agree to the same with an amendment, and the Senate agree to the same.

Signed by all of the conferees on the part of both Houses.

(The conference report is printed in the House proceedings in the CONGRESSIONAL RECORD of Tuesday, July 20, 2004 (No. 101—Book II).)

The ACTING PRESIDENT pro tempore. The Senator from Alaska.

Mr. STEVENS. Mr. President, our Appropriations Committee is pleased to present to the Senate the Defense Appropriations Conference Report for the Fiscal Year 2005. I believe passage of this measure today represents the earliest date the Defense bill has ever been sent to the President for signing.

This conference report symbolizes a balanced approach to fulfilling the financial needs for the Department for the fiscal year 2005.

It provides $416.2 billion in new discretionary spending authority for the Department of Defense. This amount includes $25 million in emergency spending requested by the President for the fiscal year 2005 costs associated with the operations in Iraq and Afghanistan. That provision becomes effective immediately upon the signing of this bill by the President.

The conference report fully funds key readiness programs critical to the global war on terrorism such as land forces training, helicopter flying hours, ship steaming days, and spare parts.

It fully funds the 3.5 percent military pay raise proposed in the President's budget, and increases levels for basic allowance for housing, eliminating service members' average out-of-pocket housing from 3.5 percent to zero in 2005.

It provides $1.5 billion above the President's budget request for Army and Marine Corps recapitalization of combat and tactical vehicles, helicopters, and ammunition, and provides a total of $18.2 billion for the Defense Health Program, an increase of $2.5 billion over the fiscal year 2004 enacted level.

I urge all Members to support the men and women in uniform who risk their lives for our country each day by voting for this measure.

I would like to thank Larry Lanzillota, the Acting Department of Defense Comptroller, for his hard work, dedication, and diligence throughout the past year. He has done a superb job and we wish him success in his future endeavors.

I also thank my cochairman, Senator INOUYE, for his support and valuable counsel, and recognize him for any statement he wishes to make.

I wish to put in the RECORD the names of the diligent staff members who have worked on this bill night and day to be able to present it to the Senate at this time, as follows:

Charlie Houy, Betsy Schmid, Nicole DiResta, Sid Ashworth, Jennifer Chartrand, Kraig Siracuse, Tom Hawkins, Kate Kaufer, Lesley Kalan, Alycia Farrell, Brian Potts, Brian Wilson, Janelle Treon, and Mazie Mattson.

I yield to my friend from Hawaii, if he wishes to make an opening statement.

The ACTING PRESIDENT pro tempore. The Senator from Hawaii.

Mr. INOUYE. Mr. President, I rise today to address the Defense appropriations conference report that passed the House earlier today.

First, I wish to commend my chairman, Senator STEVENS, and his capable staff for this agreement.

The proposals provided by the conference report represent a careful balance between the recommendations of each body. Moreover, it provides what the Defense Department needs for the coming year.

This is a good bill. It represents a fair compromise. It is the product of a lot of hard work by the chairman and members of the committee. I recommend all my colleagues support it.

Let me highlight just a couple of key items in this measure.

In meeting the conference committee priorities, the bill supports the men and women in uniform. It approves a 3.5 percent pay raise for them. It funds health care requirements to include benefits that are authorized for our guard and reserve forces. And, most important in this very challenging time, it provides significant increases for force protection—specifically up armored ''humvees'', body armor, better helmets, armor plating for other vehicles and new technology to try and counter improvised explosive devices.

The bill provides substantial resources to enhance investment programs in the Defense Department to support key programs like the V–22, the F–22, the new DDX destroyer, the littoral combat ship, missile defense and significant increases in Army equipment for Stryker combat vehicles, trucks, and helicopters.

But, I want to inform my colleagues that this bill does not rubber stamp the administration's desires. It reduces many programs for which insufficient justification has been provided. While we recognize that the country needs to continue to enhance its space capabilities, members of the Appropriations Committee have learned the hard way that improvements must be developed prudently. It is a waste of resources to try and accelerate complex new technologies in the manner recommended by civilian officials in the Defense Department.

The bill also provides $25 billion in emergency spending, the amount requested, but it allocates the funds to meet the priorities and needs of the individual military departments, not the

blank check sought by the administration. It provides adequate safeguards on these funds to ensure proper congressional oversight and requires stringent reporting requirements on its use.

I point out also that there are a few items in here that do not fall under the jurisdiction of the Defense Subcommittee. I will defer to others to speak to those.

This is a good bill. It represents a fair compromise. It is the product of a lot of hard work by the Chairman and Members of the committee. I encourage all my colleagues to support it.

I reserve the remainder of my time.

The ACTING PRESIDENT pro tempore (Mr. CHAMBLISS). Who yields time?

Mr. STEVENS. Mr. President, on behalf of my colleague from Hawaii, I reserve the remainder of our time. Senator BYRD has his time, Senator MCCAIN will have his time, and we will withhold our time.

Our time is reserved?

The ACTING PRESIDENT pro tempore. Yes.

Who yields time?

Mr. BYRD. Mr. President, how much time do I have?

The ACTING PRESIDENT pro tempore. The Senator has 30 minutes.

Mr. BYRD. Mr. President, I yield such time as I may require from my allotted time.

Yesterday, the General Accounting Office released a shocking report about the state of funding for our troops in Iraq and Afghanistan. Simply put, our troops are running out of money. But the White House denies that there is a problem.

The findings in the General Accounting Office report are alarming. The Army is overspending its fiscal year 2004 operations in maintenance funds to the tune of $10.2 billion. The Air Force urgently needs another $1.4 billion this fiscal year, and the Marines are short by $500 million. Our military is cutting back on training at the same time that retired service members are being pressed back into uniform to be sent overseas. These budget problems are being compounded by the fact that the White House planned on having only 99,000 troops in Iraq by this point instead of the 140,000 troops we will have there for the foreseeable future. This is the most astounding evidence to date that the administration has fundamentally mismanaged the financing for the wars in Iraq and Afghanistan. The President did not bother to put a single dime, not one thin dime, in his February budget request for these wars. He insisted that more funding would not be needed until January 2005.

Even when the administration flip-flopped and came to Congress on May 13, 2004, to ask for a $25 billion emergency reserve fund, top administration officials denied that there was an urgent need for more funds to support our troops in the field. Deputy Defense Secretary Wolfowitz described the $25 billion which is contained in the conference report of the Defense appropriations bill now before the Senate as an insurance plan. That is the way Mr. Wolfowitz described it. Secretary Wolfowitz stated in his testimony to the Armed Services Committee that our troops would not run out of funds until February or March 2005.

I didn't buy that line. The administration has fallen down on the job in budgeting for these wars, and his budget projections simply are not to be trusted. I say ''these wars'' because we are fighting two wars, one war in Afghanistan, which is the result of the al-Qaida attack upon the United States on September 11, 2001. That was an attack upon the United States by those individuals who had hijacked planes and flown them into the World Trade Towers, into the Pentagon, and into the field in Pennsylvania. That was one war. I supported Mr. Bush on that war. I support that war today.

The second war is the Bush war, the war that is of Mr. Bush and his ring of people around him in the White House. That is the Bush war. That was an attack upon a sovereign nation which had not provoked us, which had not attacked us. That was an attack on a nation in support of the Bush doctrine of preemption. I did not support that war then, and I do not support it today.

I did not buy that line. The administration has fallen down on the job of budgeting for these wars, and its budget projections simply are not to be trusted. It should have been clear to anyone who has picked up a newspaper in the last 6 months that our troops were beginning to run low on funds, but the administration sent witnesses bearing only rosy scenarios.

To add insult to injury, the White House asked for a $25 billion blank check on the heels of Bob Woodward's revelations in his book, ''Plan of Attack,'' about the Pentagon hiding from Congress $700 million in spending to prepare for war in Iraq. This was an astounding request.

Thankfully, Congress has seen through the administration's double dealing on funding our troops. I thank the chairman of the Appropriations Committee, Senator TED STEVENS, and his colleague, the ranking member of the Appropriations Defense Subcommittee, Senator DANIEL INOUYE, for working to pierce the fog of rhetoric to reshape this $25 billion reserve fund to best help our troops while protecting the constitutional prerogatives of Congress.

Instead of being a $25 billion blank check, $23 billion of these funds—that is, 92 percent—is made available for regular appropriations accounts. This means that Congress will be better able to track how these additional funds are used. In addition, the $25 billion in funding will be available for our troops as soon as this bill is signed into law. They will not have to wait until October 1 to purchase the critical equipment our troops need to survive in the combat zones in Iraq and Afghanistan. Again, I thank Senator STEVENS and Senator INOUYE for working with me to promote fiscal responsibility and accountability for how these funds are to be used.

Despite the improvements made to the administration's request for funding for the war, I continue to have serious concerns about the direction of the so-called peacetime defense budget; that is, the huge amount of funds not related to the wars in Iraq and Afghanistan. This bill contains $391.2 billion for the Pentagon, not including $25 billion for the cost of the wars. That is a massive increase over the $287.1 billion appropriated for the Pentagon as recently as fiscal year 2001.

The administration claims this explosion in defense spending is necessary to transform our military into a faster, lighter, and stronger fighting force. But today's Los Angeles Times states that the Army is delaying by 2 years the launch of its first modernized unit that is supposed to be the centerpiece of this defense transformation effort.

In this age of sky-high deficits, could it be that we are getting less bang for more bucks? How else can the administration explain a stalled transformation effort when defense spending has risen 36 percent in 4 years? If this rate of growth continues, this country will soon be spending half a trillion per year on the defense establishment, with no assurance that those funds are being well spent.

The Pentagon's accounting systems are a mess, an absolute mess. Despite Secretary Rumsfeld's promise to me at his confirmation hearing in January 2001 to get this problem fixed, the General Accounting Office has recently issued serious warnings that his accounting reform effort is headed down the wrong track.

In fact, this Defense appropriations bill cuts funds from this accounting reform effort precisely because the Defense Department's program to fix its accounting systems is underperforming. Tens of millions of taxpayer dollars that were supposed to have been put to use in establishing a robust system of financial accountability remain unspent. This Congress made the wise decision not to throw more money at a problem that is not being fixed. When Secretary Rumsfeld gets his accounting reform program back on its feet, I will be the first Senator in line to support all necessary funds for that purpose.

Senators should also realize this Defense appropriations bill brings back from conference something that was never included in the Senate-passed bill and something that was never included in the House-passed bill. It includes a deeming resolution to increase the annual discretionary spending limit to $821.9 billion for the fiscal year 2005.

The failure of this Congress to pass its annual budget has led to this move to include a deeming resolution in the

Defense appropriations bill, signaling the complete breakdown in this year's budget process.

Setting aside the fact that this provision violates rule XXVIII of the Standing Rules of the Senate, Senators should know that this deeming resolution authorizes $11 billion less than what the Congressional Budget Office says is necessary to maintain current services, adjusted for inflation. That $11 billion is needed to maintain services to our veterans, fund health care and education programs for our seniors and our youth, and maintain our mass transit and highway programs.

In a time of war, each dollar devoted to our military must be put to full use. No matter how many additional hundreds of billions Congress may approve for the Pentagon, defense spending without accountability ultimately hurts our troops in the field.

Each dollar that is spent on wasteful contracts, each dollar that is lost in an accounting maze, is one less dollar for our troops to buy ammunition, to buy fuel, to buy body armor. There must also be a budget so Congress can know the spending plan for our troops on the battlefield will be supported in the coming months and years.

The administration would do well to listen—just to listen; get off its high horse, swallow its false pride, and listen—to this commonsense message. Stop the budget gamesmanship that only endangers the lives of our fighting men and women. Enough of the political posturing that denies that our military in the field may have urgent needs. The President of the United States must take responsibility for the fiscal mess that he has created.

Mr. President, I reserve the remainder of my time.

I yield the floor.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. STEVENS. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I ask unanimous consent that the time during this quorum call be charged against the time of the Senator from Hawaii and my time.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. STEVENS. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

N O T I C E

Incomplete record of Senate proceedings.

Today's Senate proceedings will be continued in Book II.