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Senate

(Legislative day of Monday, July 10, 1995)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

The PRESIDENT pro tempore. We have a guest chaplain, Father Stephen Leva, St. Ann Church, Arlington, VA. He is the guest of Senator JOHN WARNER.

PRAYER

The guest chaplain, Father Stephen Leva, St. Ann Church, Arlington, VA, offered the following prayer:

Let us pray:

Almighty and eternal God: You have revealed Your glory to all nations. God of power and might, wisdom and justice, through You, authority is rightly administered, laws are enacted, and judgment is decreed. Assist with Your spirit of counsel and fortitude these women and men that they may be blessed with an abundance of wisdom and right judgment. May they encourage due respect for virtue; execute the law with justice and mercy; and seek the good of all the people of the United States.

Let the light of Your divine wisdom direct their deliberations and shine forth in all proceedings and laws framed for our rule and government. May they seek to preserve peace, promote civic happiness, and continue to bring us the blessings of liberty and equality. We likewise commend to Your unbounded mercy all the citizens of the United States; that they may be blessed in the knowledge and sanctified in the observance of Your law. May we be preserved in union and that peace which the world cannot give; and, after enjoying the blessings of this life, be admitted to those which are eternal. In Your holy name. Amen.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1996

The PRESIDING OFFICER (Mrs. HUTCHISON). Under the previous order, the Senate will proceed to consideration of S. 1026, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1026) to authorize appropriations for fiscal year 1996 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

The Senate proceeded to consideration of the bill.

Mr. THURMOND. Madam President, today the Senate begins consideration of S. 1026, the National Defense Authorization Act for fiscal year 1996. The bill we bring to the floor incorporates the Armed Services Committee's best judgments on the Nation's defense requirements. It is based on many long hours of testimony, analysis, debate, and consideration of opposing views.

I would like to thank the distinguished ranking member of the committee, Senator NUNN, for his outstanding leadership, and for his open, fair, and bi-partisan manner. I would also like to thank the members of the committee and the professional staff for their dedication and hard work.

It has been a privilege to work with Senator NUNN to bring this bill to the Senate. Although it is a good bill, not every Member, including me, is happy with every part of it. Throughout the past 6 months the committee worked in its traditional bipartisan manner because the security of the United States and the safety of our people are paramount. The bill reflects this cooperative effort, provides a clear direction for national security, and maintains a solid foundation for the defense of the Nation.

The committee's overarching intent was to revitalize the Armed Forces and enhance or preserve our national security capabilities. That is essential in this post-cold-war world in order to provide the leadership and stability which are critical to the growth of democracy. Our military must be capable and ready in order to provide our men and women in uniform the best possible chance to succeed and survive in every demanding situation. We were reminded recently, with the dedication of the Korean War Memorial, that freedom is not free. We must always remember that courage and sacrifice are the price of freedom.

This bill would fund defense at $264.7 billion in budget authority for fiscal year 1996. I have noted with interest some inaccurate reports in the press that the bill would increase defense spending, and I would like to set the record straight. The funding level in the bill we bring to the floor today is nearly $6.2 billion lower in real terms than last year's bill, and that represents a decline of 2 percent. Although it had been my hope to preserve funding at last year's level, this is the best the committee could do, given the budgetary pressures facing the Congress.

I have stated repeatedly that the administration is cutting defense too far, too fast. Most credible analysts conclude there is a shortfall of at least $150 billion in defense budget authority over the future years defense plan. Although the proposal contained in this bill represents a decline in defense spending, I would note that the funding level is still $7 billion higher than the administration's budget request. The administration requested a defense budget 5 percent lower than the fiscal year 1995 level, and that is simply unwise.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Despite a decline in defense spending, the bill provides the resources to maintain substantial U.S. military power and the ability to project that power wherever our vital interests are at stake. An implicit theme in our bill is that any aggressor or potential adversary should know that our military services will remain the most effective and combat ready in the world.

National security is the most important responsibility of the Federal Government, and as we begin debate on this matter, I would like to explain the priorities which the committee kept in mind in crafting the bill, and highlight a few key decisions. The first objective was to ensure that forces remain viable, and manned at sufficient levels by people of the highest quality. Well-motivated, well-trained, and well-led soldiers, sailors, airmen, and marines are the bedrock of national security. Strong support for equitable pay and benefits, bachelor and family housing, and other quality of life measures are key elements in attracting and retaining high-quality people. Perhaps more importantly, this bill expresses the commitment of the Senate to our men and women in uniform and attempts to uphold our part of the implied contract.

Our second objective was to ensure the military effectiveness and combat readiness of the Armed Forces. We believe the funding levels we have recommended will be barely adequate to take care of current readiness if the Department of Defense manages resources wisely and carefully.

The quality of overall readiness essentially depends on adequate funding for both current and future readiness. Although this funding allocation is often described in shorthand as a balance, I would suggest it is a fundamental obligation of the Federal Government to provide adequate resources for both current and future readiness. However, the mix is important because a disproportionate allocation of scarce resources to operation and maintenance accounts would limit funds for the research, development, and procurement essential to modernization. We sought to achieve a reasonable balance. We also addressed multiyear procurement to avoid creating bow waves of funding requirements in subsequent years.

Department of Defense decisions to cancel or delay modernization programs create unrealistic modernization requirements for the future. The committee has addressed critical modernization needs by adding $5.3 billion in procurement and $1.7 billion in research and development accounts to offset some of these problems. We believe the Department of Defense must continue to fund procurement, and research and development, at similar inflation-adjusted levels in future budget requests.

Congress must also continue to provide sufficient funds for research and development to ensure the military's technological superiority in the future. If we do not, future readiness will be jeopardized. Unless the research and development, and procurement accounts are adequately funded from year to year, the services will not have the right weapons, in sufficient quantity, to be able to fight and win in the next decade. We must remember that the force we sent to war in Desert Storm was conceived in the 1970's and built in the 1980's. We must focus on the future.

Third, we addressed the proliferation of missile technology and weapons of mass destruction. We cannot stand by, idly watching, as an increasing number of foreign states develop and acquire long-range ballistic and cruise missiles. Many people do not realize that we currently have no defense whatsoever against any missile launched against the United States. None. Such missiles are capable of carrying nuclear, biological, and chemical payloads to any point in our country. We, in the Congress, will richly deserve the harsh judgment of our citizens if we fail to prepare for this clear eventuality.

It is our grave responsibility to ensure we develop the capability to defend both our deployed forces and our homeland. The committee provided direction and funds for both these requirements in the Missile Defense Act of 1995. This title of the bill initiates a new program for defense against cruise missiles, while funding robust theater missile defenses. It also mandates a national missile defense program which will lead to the limited defense of the United States by the year 2003. I remind my colleagues that the largest single loss of life in the Persian Gulf war was from one, crude, Iraqi Scud missile that was not even targeted for the building it struck. It is entirely reasonable to spend less than 1½ percent of the defense budget to meet this serious security threat.

The bill's ballistic missile defense provisions also address the administration's attempts to limit theater missile defenses by an inaccurate interpretation of the ABM Treaty. That treaty was intended to limit only defenses against strategic ballistic missiles, not theater defenses. Unless this distinction is enforced, we will end up building less-than-optimally capable systems which may not be effective against the highly capable missile threats emerging in the world's most troubled regions.

Fourth, the committee was deeply concerned about maintaining the viability of the Nation's offensive strategic forces. According to the Nuclear Posture Review, the United States will continue to depend on its nuclear forces for deterrence into the foreseeable future. Safe, reliable, and effective nuclear weapons are at the core of deterrence. In this bill the committee directs the Department of Energy to meet its primary responsibility of maintaining the Nation's nuclear capability. This means the Energy Department must focus on a stockpile management program geared to the near-term refabrication and certification requirements outlined in the NPR. If DOE cannot or will not shoulder this responsibility, then another agency must be assigned the task. Unless steps are taken now to maintain a nuclear weapons manufacturing infrastructure and a safe, reliable nuclear weapons stockpile, we face the very real prospect of not being a first-rate nuclear power in 10 to 15 years.

The committee addressed the role of long-range, heavy bombers in projecting power. Although I regret the committee's vote not to fund the B–2 program, I understand the concerns of Members on both sides about the high cost of the program.

The committee is also concerned that the administration's budget request did not include funding for numerous operations which the Armed Forces are currently conducting, even though the administration knew when it submitted its budget request that these operations would continue into fiscal year 1996. We authorized $125 million to pay for these ongoing operations in order to avoid the kind of problems with curtailed training which emerged last year.

I caution the administration that one consequence of paying for these operations on an unprogrammed, ad hoc basis is ultimately to deny the funds necessary for readiness. Last year, the practice of paying for peacekeeping and other contingency operations without budgetary or supplemental funding was directly responsible for lower readiness ratings and curtailed training in some units. Unless the Department of Defense includes the funds for such operations in the budget request, it will be difficult if not impossible for Congress to assess the impact these operations will have on other accounts. The oversight responsibilities of Congress are hindered, if not usurped, when the Department does not budget for known requirements.

While I remain confident that this is a good defense bill under the present circumstances, I remain troubled. The defense budget trend over the past 10 years has been in constant decline, principally in response to budget pressures. The administration's request for procurement this year is at the lowest level since 1950, declining more than 71 percent in real terms since 1985. The defense budget is at its lowest level as a percentage of gross domestic product since 1940, just before a grossly unprepared United States entered World War II. Each successive budget since 1993 has continued to push recapitalization farther into the future. As a result, the Services have been forced to delay the fielding of critical modern systems while maintaining aging equipment at ever-increasing operating and maintenance costs.

The prospects of not having adequate defense funds in the coming years

should alarm us all. Despite the recommended fiscal year 1996 funding increase of $7.1 billion above the administration request, proposed future year budgets do not adequately fund the administration's Bottom-Up Review Force, which is itself barely adequate. These funding levels cannot meet known modernization needs and they do not even cover inflation. Shortfalls of the magnitude projected by the GAO and others will seriously impair the ability of the Department of Defense to field the combat-ready, modern forces essential to our national security. The limited progress reflected in this bill cannot be maintained unless future funding is increased.

As the Senate takes up this defense bill, some Members will no doubt argue that my concerns about steadily declining defense spending and emerging threats are misplaced. They will point out that the cold war is over and provide long lists of other programs that could absorb the money. Such criticisms always surface after a major victory, and just before the emergence of the next major threat. They are always shown in the long run to have been naive and shortsighted. They consistently fail to realize the usefulness of effective military power in shaping future events in ways that are favorable to us. They fail to recognize the instability and uncertainty of the times, and they fail to consider the future.

We cannot predict what challenges and dangers we will face in the future. We do not know with any certainty who will be our next peer competitor. I assure you, however, that a peer competitor will emerge and if such competitor believes there is an advantage because our military has been weakened, he will become bold and our challenge will be more significant. I encourage every Senator to keep this in mind as we debate this bill over the next few days.

I thank the Chair, and yield the floor.

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. NUNN. Madam President, as we begin debate on the National Defense Authorization Act for fiscal year 1996, I first want to congratulate Senator THURMOND and his staff on reporting together the first defense authorization bill that has been reported with Senator THURMOND as committee chairman. Although he has been a stalwart for many years on the committee and has helped prepare the bills in the past, this is his first bill as the official chairman of the committee.

The major themes of this bill reflect Senator THURMOND's longstanding and strong and effective support for our national security. It has been my great privilege and honor to have worked with Senator THURMOND in the Senate and on the Armed Services Committee for all of my 22 years, and for at least maybe slightly more than half of his time here in the U.S. Senate. His career—and his decorated service in World War II and unwavering support for strong national defense, and his devotion to the men and women of the Armed Forces—has served as a model and an inspiration to me, and to, I believe, his fellow members of the Armed Services Committee and the Senate.

The 18 to 3 vote in favor of the bill in the Armed Services Committee reflects the fact that the bill continues many bipartisan efforts initiated by our committee in recent years, such as improvements in military pay and benefits, modernization of weapons systems, and protecting, as Senator THURMOND laid out, military readiness and personnel quality. This bipartisan support also reflects the actions taken by the committee to address concerns raised by Secretary of Defense Bill Perry about a number of the provisions in the House bill. In contrast to the action taken by the House, for example, our bill provides full funding for the Nunn-Lugar Cooperative Threat Reduction Program, the program that is aimed at trying to prevent proliferation of nuclear, chemical, and biological weapons all over the globe. It also avoids micromanaging the Office of Secretary of Defense, as was done in the House bill, and we do not have unworkable restrictions on military operations as the Secretary of Defense specified very clearly he feared was being done in the House bill.

The bill before us provides $264.7 billion in budget authority, the amount specified in the budget resolution. This amount, which is $7 billion above the budget request, will enable us to fund the types of initiatives that have received bipartisan support in the past. This includes personnel programs such as the 2.4-percent pay raise for members of the Armed Forces and modernization programs from fighter aircraft such as the F–22 to unglamorous but essential items such as Army trucks. Most of the programs authorized by the committee reflect the administration's priorities as set forth in the current year budget request or in the future years defense program which covers the next 5 years. Dr. Perry, in his discussions with the committee, urged us to focus any additions to the budget on acquisition programs that are in DOD's future years defense program. The bill before us largely follows this recommendation.

And I believe as various Members may come to the floor and say that we do not now need this program or that program which is funded with the additional money that has been put in this bill that was provided in the budget resolution, I think it is very important for Members to keep in mind that these programs—most of them, not every, but most of them—that have been added are in the 5-year defense plan that Secretary Perry favors. And I think that is important for people to keep that in mind. That was the request that Dr. Perry made of this committee, and I think we have largely honored that request.

Madam President, this bill contains important legislative initiatives such as the authority to use innovative programs to finance military housing and housing for unaccompanied troops. This was a strong request and initiative by Dr. Perry and the Defense Department.

In addition, we establish a defense modernization account, which I sponsored and our committee supported, which for the first time that I have any knowledge about will provide incentives for savings in defense programs for use of those savings to modernize the equipment for our men and women in uniform.

In other words, Madam President, if the Army, Navy, Air Force, and Marine Corps can find savings, we will let them put those savings in a carefully monitored account that will have to be, of course, monitored by the Congress and will have to follow our normal procedures. But those savings will be able to be used for the most critical deficiencies we face in modernization. And modernization in the outyears, the years ahead, is the biggest challenge we face.

I think everyone would acknowledge that we are, even with the increases in this budget, underfunding the outyear modernization. When our equipment starts to wear out, which much of it will toward the end of this century, we are not going to have sufficient funding even with the increases in this bill to cover that.

So what we want to do in this defense modernization account—I know some Members will have some suggestions and concerns which we will certainly listen carefully to—but this account will be controlled by the Congress. It will be subject to the normal reprogramming and authorization and appropriation procedures which we have now.

There is a limit on how much can be accumulated. But for the first time we will be saying to each of the services, ''You will now have an incentive. If you figure out how to save money, it can go into an account. We are not going to grab that money and take it away from you as your punishment for saving it. We are going to let you spend it subject to the congressional oversight as outlined on the critical programs you need in the future.''

I believe this kind of initiative has real potential and promise in terms of giving people throughout the military services a real incentive to try to save money. We all know the horror stories of what we have heard for years, not just in the military but in all areas of Government where, when you get down toward the last couple of months of the fiscal year, there is money that has not been spent, and the people involved in those decisions decide that if the money is not spent, not only will it lapse but also they will have the budget cut the next year.

So there is almost a perverse incentive throughout Government now to take whatever is not spent and spend it so that you do not have your budget cut the next year. We want to reverse that psychology. This is at least a beginning along that line.

My outline of the bill's highlights should not, however, be viewed as representing unqualified support for all the provisions of this bill. The numerous rollcall votes during our committee markup reflect the serious concerns of many Members about inadequate funding of important programs as well as questions about some of the priorities reflected in this bill.

There is much in this bill that I support, and I do support the overall bill. But I do have serious reservations about those aspects of the bill that appear to head back without very much thought given to the period of the cold war.

For example, the proposed new Missile Defense Act of 1995 sets forth a commitment to the deployment of missile defenses without regard, without any regard for the legal requirements of the Anti-Ballistic Missile Treaty which we are a party to and which we signed and which is an international obligation of the United States of America, until changed or until we withdraw from the treaty under the terms of the treaty. That is our obligation. That is a law. That is a treaty. It is binding.

The same provision contains legally binding timetables in our bill for deployment of missile defense systems. For example, section 235 requires a multiple site national defense system to reach the initial operational capacity in 2003. These timetables are though exempt from adequate testing. I hope we can have a system by then. I hope we can have one that really works, and I hope it will be calibrated to meet the threat that we may have in those outyears. But since the applicable missile testing statutes that were in previous laws are repealed in this National Defense Act we have before us, what we have is a timetable for actual deployment stated as a part of the law and repealing the testing that would be required to determine if the systems are ready to deploy or whether they are going to be effective when they are deployed.

I do not think that is a good combination. Finally, there is an arbitrary—and possibly unconstitutional—restriction on the obligation of funds by the executive branch to enforce the terms of the ABM Treaty.

I invite all of our colleagues to look at those aspects where there is a demarcation definition between the theater ballistic missile and the national missile defense that is precluded except under certain conditions in the ABM Treaty. I have no quarrel with those definitions. I think they are sensible definitions, and I think we do have to have a demarcation point because clearly theater missile defenses are not intended to be covered under the ABM Treaty. They never were covered. They should not be covered now.

The problem is once this definition is set forth, the executive branch is barred from doing anything at all regarding the ABM Treaty in terms of its own negotiations, and I think that that goes way too far. In fact, the wording of the proposal we have before us is so broad that any Federal official including Members of Congress would be precluded, as that statute now would read, from doing anything contrary to that definition. I think that goes too far, and I do not think that is what we want. I hope we can work in a cooperative way to iron out some of those difficulties, which I believe can be done, while continuing the strong goal and endorsement of moving forward with defenses without doing so in a way that is counterproductive.

The Department of Energy portions of the bill contain provisions that direct the creation of new capabilities for the remanufacture of nuclear weapons.

Madam President, I have serious questions about whether this is a premature judgment at this time. The Department of Energy ''Stockpile Stewardship'' plan is only now under review by the Department of Defense. I know that Mr. DOMENICI, the Senator from New Mexico, and others have been in discussion with Senator THURMOND and his staff and Senator LOTT and his staff, Senator KEMPTHORNE, on these energy questions, and I hope we can work something out here that makes sense, that moves us in the right direction without making premature judgments that are not ripe for decision.

Madam President, these are important issues for discussion and debate. There are questions about the potential international implications of a number of these provisions. For instance, the Russian leadership and their Parliament have stressed repeatedly, both to this administration and to various Members of the Senate and House, both parties, the importance they attach to continued compliance with the ABM Treaty. They have indicated that should they judge the United States no longer intends to adhere to that treaty, then they would abandon their efforts to ratify the START II Treaty, which is now pending in the Russian Duma.

Further, they warned that they would stop further compliance with other existing treaties including the drawdowns mandated by START I. In my judgment, there is a real danger that the provisions of the Missile Defense Act will be considered by the Russians as what is known as ''anticipatory breach'' of the ABM Treaty.

Madam President, if this bill leads to that outcome, it will not enhance our national security. It will be adverse to our national security. Under START I and START II, the arms control treaties which have been entered into by Republican Presidents and adhered to by Democratic Presidents, the Russians are obliged under the terms of these treaties to remove more than 6,000 ballistic missile warheads from atop their arsenal of ICBM's and submarine-launched ballistic missiles. This includes the very formidable MIRV'd SS–18 ICBM's, the very ones that threaten our land-based Minuteman and MX missiles with first-strike possibilities.

These are not insignificant treaties, Madam President. They basically remove much of the first-strike capability that we spent 10, 15 years being concerned about and spending hundreds of billions of dollars trying to defend against.

They will also have to remove all of their MIRV'd SS–24 missiles and completely refit their ICBM force with single warhead missiles. These are goals that were worked on in a bipartisan fashion for several decades by both Democrats and Republicans with a lot of the leadership coming from Republican Presidents in the White House.

This removal of 6,000 warheads by treaty is a far more cost effective form of missile defense than any ABM system that the SDI Program has ever envisioned. I am not one of those who believes we ought to be so locked into every provision of the ABM Treaty that we do not believe it is a document that has to be improved, that has to be amended. I think it does. I do not think it is completely up to date. I think we need to take another look at it. I think we need to review it. I think there are changes that can be made and should be made in accordance with the provisions of the treaty.

Yet, this bill, if enacted, would create a very high risk of throwing away both the START II reductions which have not yet taken place, and the START I reductions which are taking place now. Because this bill, No. 1, acts as if the ABM Treaty does not exist; it does not even really acknowledge that there are any concerns. No. 2, it ignores the opportunity to negotiate sensible amendments with the Russians. And I think it is premature to believe that that effort cannot succeed. I do not think we have even started real serious efforts, and I think that those efforts at least have a strong possibility of success. And No. 3, this bill does not acknowledge that we can get out of that treaty. We can exit the treaty under its own terms if our national security is threatened.

If we are going to get out from under the ABM Treaty, if we are going to basically decide it no longer is in our national security interests, then we ought to get out of the treaty the way the treaty itself provides, which is our obligation under international law and our obligation under the treaty itself. We can serve 6 months' notice and exit the treaty if the Russians are not willing to make changes which we believe are necessary for our national security. That is the way to get out of the treaty. We should not get out of the treaty

by anticipatory breach with provisions of the law that we have not carefully thought through.

Indeed, Madam President, in this respect the actions proposed in the bill could be self-fulfilling. They could provoke Russia to stop its adherence to the START Treaties which would leave a huge arsenal of Russian missiles in place and we would then have to move from a thin missile defense to protect against accidental launch or to protect some kind of small nation, radical nation, or terrorist group launch, we would then have to start worrying about the SS–18's again.

Now, do we really want to do that? Do we want a self-fulfilling circle? We take action without regard to the ABM Treaty in this bill. The Russians react by not basically going through with START II. Then they decide they are not going to comply with START I. Then they decide they are not going to comply with the conventional forces reduction in Europe causing all sorts of problems there.

Then, of course, we have to increase our defense. We have to go from the kind of system that President Bush wanted, which is an accidental launch type thin system that does not cost hundreds of billions of dollars, is achievable, that we can do. We could go to a much different kind of system. We are back in a spiral of action and reaction between the United States and Russia. I do not think we really want to go back into that atmosphere. That is one of the accomplishments we have had in the last 10 years. I do not think that is what the authors of these provisions in the bill really intend. But I think it has got to be thought about because those are the implications of where this bill will head.

Madam President, this leads me to pose several questions. Are we as a nation better off if the START I and START II treaties are abandoned than if they remain in force? If somebody thinks we ought to abandon them and we are better off without them, why do we not say so? Why do we not say so? We have got to stop legislating as if there are no consequences to what we legislate. Other people in the world react. I think that is the way we have legislated too many times on foreign policy. I see it increasingly taking place. We act as if we can take part of a cake, legislate, forget the consequences, and not even own up to what is likely to happen based on what we ourselves are doing.

The second question. Are we and our NATO allies better off if the Russians decline to be bound by the limits on deployments of conventional forces contained in the Conventional Forces in Europe Treaty? We have already drawn down our forces to 100,000. The allies are reducing significantly, in many cases more than we are. We are drawing down based on the CFE Treaty and based on the Russians' behavior because they have indeed dramatically reduced their forces. Do we really want to reverse that?

Of course, someone can say, well, the Russians cannot afford it now. They are not going to be able to build up. That is probably true. I think for the next 5 to 6 to 7 years, they will not be able to afford a conventional buildup. What they can do is start relying on their early use of nuclear weapons very quickly, like tomorrow morning. If they are going to decide they are going to give their battlefield commanders tactical nuclear weapons again, we are going to go right back to a hair trigger situation. That is what they can do. That is cheap. That is the cheap way. I do not think that is what we want. I do not think that is what the Russian leadership wants at this stage. But are we thinking about what we are doing?

Next question. What will be the effect on Russian cooperation with us in forums such as the U.N. Security Council if arms control agreements are abandoned, even if it is an inadvertent abandonment on our part?

Fourth question. What is the ballistic missile threat to U.S. territory that requires us to abandon compliance with the ABM Treaty and to abandon the pursuit of possible amendments to that treaty even when there is nothing whatsoever in that treaty that prevents us from taking every step we would otherwise take in the next fiscal year? Why are we doing this at this point in time? I think that is the question. If we were at a point where we had to make a decision, then I could understand some of the pressure in this regard. But there is nothing, according to all the testimony, there is nothing whatsoever in the ABM Treaty, even as now interpreted, that prevents us from taking every step we need to take in the next fiscal year. So why are we doing this? I do not have an answer to that.

Finally, what is the nature of the theater missile threat? And that is what I believe everyone would acknowledge is the greatest priority, the greatest threat we have now. It is not a future threat. It is a present threat, theater ballistic missiles. We already face those. As Senator THURMOND outlined in his opening statement, we faced those in the Persian Gulf war.

What is the change that has taken place? That basically would have us, as we are doing in this bill, have the money for developing and deploying no less than four overlapping-coverage missile defense systems to protect the rear area of the theater while leaving our U.S. forward-deployed ground troops totally unprotected from attack by existing enemy short-range missiles.

Madam President, I will have an amendment later in this process that will add back in the only program we have to protect our frontline troops from short-range missiles. Those are the threats we face right now. We have a program called Corps SAM that is aimed at making those systems that can protect frontline troops. That system has been totally zeroed out in this bill; $35 million has been taken out. I assume that was part of the money that went into the beef-up of $300 million for national missile defense. I think that is a reverse priority. We ought the deal with the most imminent threats first. The most imminent threat we face now is the theater ballistic missile threat, particularly the frontline effect on our troops from short-range missiles. So I will have an amendment that I hope we can get some attention to in adding back that program at a later point in this debate.

Madam President, I have a number of other concerns about the bill. First, our ability to monitor and control treaty-mandated strategic weapons reductions could be affected by the failure of the bill to fully fund the Department of Energy's arms control and nonproliferation activities. I am not certain whether that provision is part of the negotiation that is ongoing now with the Senator from New Mexico, Senator DOMENICI, and Senator BINGAMAN who has taken a great lead in this, but I am sure that will be the subject of some debate here on the floor.

The other provisions, I think there are questionable priorities, as mentioned for the missile defense programs. While the bill provides an additional $300 million in funding for the national defense program and $470 million for other missile defense programs which were not requested by the administration, the Corps SAM missile defense system, which is strongly supported by the war-fighting commanders. That program is terminating. We will have a letter from our war-fighting commanders showing that is one of their top priorities. It makes no sense to provide vast increases for long-range speculative programs that will require billions in expenditure before their validity can be assessed while denying funds for specific theater missile defense initiatives designed to protect our frontline troops which we have the possibility of securing in the very short-range distant future—in the very next few years.

Madam President, also, I am concerned that the bill fails to fund certain ongoing Department of Defense programs on the theory that the programs should be funded by other agencies, even though neither the budget resolution nor the committee bill makes any provision for any other agency to assume DOD's responsibilities. These include programs that have received bipartisan support for many years, such as humanitarian assistance, which was initiated by our former colleague, Republican Senator Gordon Humphrey; foreign disaster relief, which was initiated by another former colleague, Republican Senator Jeremiah Denton; and the civil-military cooperative action program, which was developed on a completely bipartisan basis by the Armed Services Committee.

Madam President, there are many good features in this bill, but there are a number of key areas where this bill can be improved during the consideration by the Senate. I look forward to working with Senator THURMOND, the other members of the committee, and the Senate in a cooperative fashion to move this bill along so we can complete our work in a timely fashion, and so that we can come out with a solid bill that will move our national security in the right direction.

Madam President, I yield the floor.

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina, the President pro tempore.

Mr. THURMOND. Madam President, I wish to thank the able ranking member for his kind remarks and also thank him for his fine cooperation in getting this bill to the floor.

Madam President, I will now ask that the able Senator from Oklahoma [Mr. INHOFE] be recognized.

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. I do have an opening statement.

Madam President, before presenting my opening statement, I would like to yield momentarily to Senator KYL for the purpose of proposing an amendment.

Mr. KYL addressed the Chair.

The PRESIDING OFFICER. Is there objection?

AMENDMENT NO. 2077

(Purpose: To state the sense of the Senate on protecting the United States from ballistic missile attack)

Mr. KYL. Madam President, I have an amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. KYL], for himself and Mr. INHOFE, proposes an amendment numbered 2077.

Mr. KYL. I ask unanimous consent that the amendment be considered as read.

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

The amendment is as follows:

On page 371, below line 21, add the following:

SEC. 1062. SENSE OF SENATE ON PROTECTION OF UNITED STATES FROM BALLISTIC MISSILE ATTACK.

(a) FINDINGS.—The Senate makes the following findings:

(1) The proliferation of weapons of mass destruction and ballistic missiles presents a threat to the entire World.

(2) This threat was recognized by Secretary of Defense William J. Perry in February 1995 in the Annual Report to the President and the Congress which states that ''[b]eyond the five declared nuclear weapons states, at least 20 other nations have acquired or are attempting to acquire weapons of mass destruction—nuclear, biological, or chemical weapons—and the means to deliver them. In fact, in most areas where United States forces could potentially be engaged on a large scale, many of the most likely adversaries already possess chemical and biological weapons. Moreover, some of these same states appear determined to acquire nuclear weapons.''.

(3) At a summit in Moscow in May 1995, President Clinton and President Yeltsin commented on this threat in a Joint Statement which recognizes ''. . . the threat posed by worldwide proliferation of missiles and missile technology and the necessity of counteracting this threat . . .''.

(4) At least 25 countries may be developing weapons of mass destruction and the delivery systems for such weapons.

(5) At least 24 countries have chemical weapons programs in various stages of research and development.

(6) Approximately 10 countries are believed to have biological weapons programs in various stages of development.

(7) At least 10 countries are reportedly interested in the development of nuclear weapons.

(8) Several countries recognize that weapons of mass destruction and missiles increase their ability to deter, coerce, or otherwise threaten the United States. Saddam Hussein recognized this when he stated, on May 8, 1990, that ''[o]ur missiles cannot reach Washington. If they could reach Washington, we would strike it if the need arose.''.

(9) International regimes like the Non-Proliferation Treaty, the Biological Weapons Convention, and the Missile Technology Control Regime, while effective, cannot by themselves halt the spread of weapons and technology. On January 10, 1995, Director of Central Intelligence, James Woolsey, said with regard to Russia that ''. . . we are particularly concerned with the safety of nuclear, chemical, and biological materials as well as highly enriched uranium or plutonium, although I want to stress that this is global problem. For example, highly enriched uranium was recently stolen from South Africa, and last month Czech authorities recovered three kilograms of 87.8 percent-enriched HEU in the Czech Republic—the largest seizure of near-weapons grade material to date outside the Former Soviet Union.''.

(10) The possession of weapons of mass destruction and missiles by developing countries threatens our friends, allies, and forces abroad and will ultimately threaten the United States directly. On August 11, 1994, Deputy Secretary of Defense John Deutch said that ''[i]f the North Koreans field the Taepo Dong 2 missile, Guam, Alaska, and parts of Hawaii would potentially be at risk.''.

(11) The end of Cold War has changed the strategic environmental facing and between the United States and Russia. That the Clinton Administration believes the environment to have changed was made clear by Secretary of Defense William J. Perry on September 20, 1994, when he stated that ''[w]e now have the opportunity to create a new relationship, based not on MAD, not on Mutual Assured Destruction, but rather on another acronym, MAS, or Mutural Assured Safety.''.

(12) The United States and Russia have the opportunity to create a relationship based on trust rather than fear.

(b) SENSE OF SENATE.—It is the sense of the Senate that all Americans should be protected from accidental, intentional, or limited ballstic missile attack.

Mr. KYL. Madam President, I just wanted to propose this amendment now, since the Senator from Oklahoma, the coauthor of this amendment, is making his opening statement now because perhaps some of the remarks he will make in his opening statement will also reflect on the amendment, which we want to be considered next.

So I yield to the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. I thank the Senator from Arizona.

Madam President, I am pleased today to speak on behalf of the Fiscal Year 1996 Defense Department Authorization Act. I urge my colleagues to preserve it in its somewhat inadequate but present form.

Mr. FEINGOLD addressed the Chair.

Mr. INHOFE. Since the 1991——

The PRESIDING OFFICER. The Senator from Oklahoma has the floor.

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER. Would the Senator yield?

Mr. INHOFE. I would be glad to yield after the statement.

Mr. FEINGOLD. I ask unanimous consent that at the conclusion of the Senator's statement, I be permitted to make an inquiry of the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma has the floor.

Mr. FEINGOLD. Madam President, I made a unanimous-consent request.

The PRESIDING OFFICER. The Senator from Oklahoma has the floor.

Does he yield for that request?

Mr. FEINGOLD. Madam President, the Senator from Oklahoma indicated he had a statement. I merely ask unanimous consent that I be recognized for the purposes of that inquiry at the conclusion of the remarks of the Senator from Oklahoma.

Mr. INHOFE. I would like to ask the Senator to repeat his unanimous-consent request, please.

Mr. FEINGOLD. I ask unanimous consent that at the conclusion of the Senator's remarks, I be recognized for the purposes of making an inquiry of the Chair.

The PRESIDING OFFICER. Does the Senator yield for that request?

Mr. INHOFE. Yes.

Mrs. BOXER addressed the Chair.

I have a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Oklahoma has the floor.

Mr. INHOFE. I thank you.

Mrs. BOXER. I have a parliamentary inquiry.

Mr. INHOFE. I do not yield.

The PRESIDING OFFICER. I am advised by the Parliamentarian that the Senator from Oklahoma has the floor. If he does not yield, there is no ability to request a parliamentary inquiry.

Does the Senator from Oklahoma yield the floor?

Mr. INHOFE. I do not yield until the conclusion of my opening statement.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. FEINGOLD. Madam President, does the Senator object to my unanimous-consent request? I ask unanimous consent that at the conclusion of his remarks I be recognized for purposes of making a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Oklahoma has the floor. If he

yields for a unanimous-consent request, it is his prerogative to do so. Does the Senator from Oklahoma yield the floor?

Mr. INHOFE. Not at this time, Madam President.

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER. The Senator from——

Mr. FEINGOLD. The Senator indicated he would not object to my simply taking the floor to make a unanimous-consent request of the type I indicated. That is all I am asking at this time.

Mr. INHOFE. Madam President, let me continue my opening statement from the top again.

I am pleased to speak on behalf of this fiscal 1996 defense authorization bill. Although I believe it is still inadequate, I think it is as good as we could pass at this time.

Since the 1991 Persian Gulf war, the military has been cut, misused, neglected, and otherwise distracted from its ultimate purposes—protecting and preserving America's vital interests. This bill, with its House counterpart, represents a first step towards strengthening America's Armed Forces.

One of the most important messages which voters delivered in 1994 was the need to restore the strength of America's defenses. With this bill, the Senate has clearly had enough of the Clinton administration's weak hand in the national security arena. We have added $7 billion to the administration's request.

It has become fashionable in some circles to assert that now that the cold war is over, there is no longer a threat out there. But history has told us that most wars come with little or no warning. From the attack on Pearl Harbor to the invasion of Korea to the invasion of Kuwait, few could have predicted the size and scope of American military involvement which became necessary in the wake of these unexpected events. The lesson learned the hard way in Pearl Harbor remains true today: We must always be prepared.

President Reagan reminded us many times that we, as Americans, never have the luxury of taking our security for granted. It is up to each generation to take the steps necessary to preserve and pass on the legacy of freedom to the next. With this bill, we are beginning to take up that challenge.

As we look to the future, all we can predict with certainty is that there will be more surprises. What there will be we cannot be sure, but we can make some educated guesses. For instance, the gulf war taught us the growing importance of stealth, of space, and of ballistic missiles. As we look to the future, it is clear that technology will be playing a key role, both in shaping the threats we will be facing and the defenses that we will need.

Madam President, it was not long ago that the former CIA Director Woolsey estimated that there are somewhere between 20 and 25 nations that currently have or are developing weapons of mass destruction, either nuclear, chemical, or biological, and they are also developing the means with which to deliver those.

Today, we are going to have an amendment, the Kyl-Inhofe amendment, which will be addressing that, so I will not elaborate on that at this time but will seek time during the consideration of that amendment.

This is a good bill, but I must express my deep concern with the Senate's failure to support further funding of the B–2 bomber. The House, in its bill, had $553 million. America is reducing her military presence around the world. Budget constraints and the end of the cold war are naturally causing us to pull back our forward deployed forces overseas. But as a world leader, our continuing ability to project power around the world will be critical. Unfortunately, our ability to immediately respond in a crisis is going to be diminished unless we are able to use our technological advantages wisely.

This is why the revolutionary B–2 Stealth bomber is so important for our future arsenal. From bases within our own country, these aircraft can quickly deliver devastating payloads to virtually any target on Earth without refueling. They can penetrate the toughest air defenses with minimal risk to our pilots.

The B–2 multiplies mission cost-effectiveness. Today, the standard bombing run package using escorts, air defense suppression aircraft, refueling tankers, and bombers requires up to 67 aircraft and 132 crew members. The same mission can be completed with only two B–2's and four crew members.

Many Americans have been persuaded that sophisticated weaponry, such as the B–2, are relics of the cold war. They have been told that we can easily discard such systems without diminishing our security in the current world environment. They have been told that there are more important and immediate priorities. It is an easy argument to sell, but I do not buy it, and I plan to make my support for more B–2's clear as the deliberations go on.

For 8 years, Ronald Reagan gave us a policy of ''peace through strength,'' a policy which invested wisely in defense needs with a special emphasis on America's inherent leadership in advanced technology. I believe proven success of that policy should continue to guide our defense posture. This is why, despite my reservations regarding the B–2, I support this bill. It will help save lives and protect our vital interests in the future.

I congratulate Chairman THURMOND and Senator NUNN for the solid effort, united effort they put forth. I urge my colleagues to support it. I yield the floor.

Mr. KYL addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. KYL. Madam President, I would like to begin by complimenting both the chairman, Senator THURMOND, and Senator NUNN, for their work, and all the members of the Armed Services Committee for presenting a very good bill to the Senate this year. I do not have the honor of serving on the Senate Armed Services Committee. I did serve on the House Armed Services Committee for 8 years. Frankly, I am very pleased with the product that has come out of the committee this year.

I, second, want to associate myself with the remarks the Senator from Oklahoma just made. I believe they help to set the stage for a good debate on what we need to do to provide for the defense of the United States.

Third, Madam President, I want to begin a discussion of the amendment which Senator INHOFE and I have laid down and which I think deals with one of the key parts of the bill that has been presented this year. It is the issue of missile proliferation, and the question of what the United States ought to do about it.

Given the fact that there is some difference of opinion about exactly what the nature of the threat is and when we ought to begin to deal with that threat, it seemed to Senator INHOFE and me that we should add something to the bill in the way of findings and a sense of the Senate which expresses our belief that the American people should be defended from ballistic missile attack.

There are very fine findings currently in the bill. We all agree that those findings are a proper predicate for what follows in the bill. But we also believe that there are some other things that should be added as findings and that the Senate should go on record expressing its sense that Americans should be protected from either accidental, intentional, or limited ballistic missile attack.

Madam President, let me read the portions of the findings of the amendment which we believe help to lay the predicate for further action the Senate will be taking with respect to the protection of American people from ballistic missile attack. We say, first of all, that the Senate finds the proliferation of weapons of mass destruction and ballistic missiles present a threat to the entire world.

This threat was recognized by Secretary of Defense William J. Perry in February of this year in the annual report to the President and the Congress, which states:

> Beyond the five declared nuclear weapon states, at least 20 other nations have acquired, or are attempting to acquire, weapons of mass destruction—nuclear, biological, or chemical weapons, and the means to deliver them. In fact, in most areas where the United States forces could potentially be engaged on a large scale, many of the most likely adversaries already possess chemical and biological weapons. Moreover, some of these same states appear determined to acquire nuclear weapons.

We think this is an important finding because of this question that has been posed: Why should we be preparing some of the things that we are preparing now? Why should we be testing and

developing capable theater missile defenses and beginning to plan for the day when we would develop and eventually deploy a national missile defense system? It is because of the concern that has been expressed in this year's report to the President and Congress by the Secretary of Defense, among others.

Also, recently, in May of this year, at the summit in Moscow, President Clinton and President Yeltsin commented on this threat in a joint statement which recognizes:

. . . The threat posed by worldwide proliferation of missiles and missile technology and the necessity of counteracting this threat.

At least 25 countries may be developing weapons of mass destruction and the delivery systems for such weapons. We further find that at least 24 countries have chemical weapons programs in various stages of research and development. Approximately 10 countries are believed to have biological weapons programs in various stages of development. And, finally, at least 10 countries are reportedly interested in the development of nuclear weapons.

Several countries recognize that weapons of mass destruction and missiles increase their ability to deter, coerce or threaten the United States Saddam Hussein recognized this when he stated on May 8, 1990:

Our missiles cannot reach Washington. If they could reach Washington, we would strike it if the need arose.

Madam President, we further find in the preliminary findings to the sense-of-the-Senate resolution that international regimes like the nonproliferation treaty, biological weapons convention and the missile technology control regime, while effective, cannot by themselves halt the spread of weapons and technology.

On January 10, 1995, Director of the CIA, James Woolsey, said, with regard to Russia:

We are particularly concerned with the safety of nuclear, chemical and biological weapons, as well as highly enriched uranium or plutonium, although I want to stress this is a global problem. For example, highly enriched uranium was recently stolen from South Africa, and last month Czech authorities recovered 3 kilograms of 87.8 percent-enriched uranium in the Czech Republic—the larger seizure of near-weapons-grade material to date outside the former Soviet Union.

That is former CIA Director James Woolsey.

We further find in this resolution that the possession of weapons of mass destruction and missiles by developing countries threatens our friends, allies, and forces abroad, and will ultimately threaten the United States directly. On August 11, 1994, Deputy Secretary of Defense, John Deutch, now Director of the CIA said:

If the North Koreans field the Taepo Dong 2 missile, Guam, Alaska, and parts of Hawaii would potentially be at risk.

(Mr. THOMPSON assumed the chair.)

Mr. KYL. Mr. President, these are not hypotheticals for other countries, other places in the world. This is the United States and our territory. The former Deputy Secretary of Defense says that they would potentially be at risk.

We further find, in finding 11, that the end of the cold war has changed the strategic environment facing and between the United States and Russia. That the Clinton administration believes the environment to have changed was made clear by Secretary of Defense William Perry on September 20, 1994, when he stated:

We now have the opportunity to create a new relationship, based not on MAD, not on Mutual Assured Destruction, but rather on another acronym, MAS, Mutual Assured Safety.

The United States and Russia have the opportunity to create a relationship based on trust rather than fear.

That is the final finding in this sense-of-the-Senate resolution. As a result of all of these findings, these factors, of these statements made by the key representatives of this administration, it is the sense of the Senate that all Americans should be protected from accidental, intentional, or limited ballistic missile attack.

Let me focus a moment on that simple one-sentence statement of what the sense of the Senate would be. We should be protected from accidental launch of ballistic missiles. I cannot think of anyone who would disagree with that sentiment. It does not take a star wars or a strategic defense initiative to protect against such an attack. We have the capability to develop, and ultimately deploy, a system which would provide that protection. Inherent within this bill is the beginnings of the development and deployment of such a system.

It is the sense of the Senate that all Americans should be protected from intentional ballistic missile attack. Obviously, if there is an intentional attack, we want to be protected from that. We mentioned the Taepo Dong 2 missile under development by the North Koreans. Should they decide to launch an attack against Alaska, for example, who among us would argue that we should not be prepared to meet that threat? Indeed, the mere threat that such an attack could be launched inhibits the conduct of our foreign policy because of the potential of blackmail by a country like North Korea.

To digress a moment to further elaborate on this point, one of the reasons that we have such a difficult time dealing with North Korea today is that North Korea does pose an offensive threat to millions of South Koreans and thousands of American troops against which we have no real defense, because of the proximity of Seoul, Korea to the long-range artillery of North Korea, and because of the deployment of North Korean forces. It is very clear that if there were a North Korean attack or bombardment from their artillery, literally millions of South Koreans and thousands of Americans would be killed before the United States had an opportunity to respond. We simply do not have a defense against that kind of an attack, unless everybody from Seoul, Korea could move back about 30 miles. That is obviously not going to happen.

Because of the nature of this threat, we are in a position to be blackmailed by North Korea. We cannot go in and deal with North Korea as we would like to because they do have a means of inflicting great harm and damage on us and on the people of South Korea. We literally have no way to stop it. The only way to respond to that is by some kind of massive military action that would hopefully roll them back. But the damage would already be done.

That is the same thing with respect to missiles. A missile can be either used for blackmail in the conduct of one country's foreign policy, to push its weight around, or to actually launch against another country in a time of war, in order to either create chaos and inflict damage on civilian populations, or to be launched against military targets. And in order to prohibit that from inhibiting the conduct of our foreign policy, we have to have a way of defending against it. If you do have a way of defending against it, you can essentially say you can build the missiles if you want, deploy them if you want, but you cannot be effective in using them, so we are not going to be bullied.

If you do not have an effective missile defense—and as I quoted, we do not—then we are susceptible to that negative influence of bullying by a country like North Korea. That is why it is important for us to have the means of defending ourselves and our allies, whether troops are deployed abroad, or whether it is the defense of the American homeland—in this case, Alaska—by a threat from the North Koreans.

Finally, it would be the sense of the Senate that all Americans should be protected from limited ballistic missile attack.

The reason we state it that way, Mr. President, is because we are concerned here about a limited attack. We do not believe that there is currently existing a threat of massive, strategic attack of intercontinental ballistic missiles by a country such as Russia, and possibly China, which are the only countries today that could pose that kind of threat to the United States. We do not believe that circumstances warrant the development of a system that would provide a protection against such an attack.

That is why there is no longer an effort to develop a strategic defense, such as was contemplated during the Reagan administration when the cold war was a very real threat to the United States, and when the Soviet Union then was quite belligerent with the United States, and when such a threat actually existed. That is what not we are trying to do.

Now, that is why all we are saying here is that it is the sense of the Senate that all Americans should be protected from accidental, intentional, or limited ballistic missile attack.

That is the sense-of-the-Senate resolution. Those are the findings. Let me finish my presentation with a couple of other quotations that I think would not necessarily be properly included within the findings, but which I think help to make the case that this is not some hypothetical, this is not something that only paranoid people are concerned about, it is something that at the highest councils in our Government, our intelligence, and the Defense Department, there is concern.

The first reason is because it is not necessarily the development of an indigenous capability by a country that is of concern here. We are concerned about North Korea developing the missiles that could eventually reach the United States. As a matter of fact, the missile that could reach the United States is not even shown on this chart here which illustrates some of the other missiles that are in development, or already developed, and their capabilities.

The CSS–2, for example, is a Chinese missile that has been sold to the Saudi Arabians. It has a range of about 3,000 kilometers. That obviously poses a threat to countries in the Middle East, as well as some European countries.

It is not just the indigenous threat, but the possibility of a sale of one of these missiles to another country. I mention this missile, because this missile was sold by the Chinese to the Saudi Arabians. Saudi Arabians are obviously allies of the United States, and we do not fear that missile would be launched against us by this regime. We also did not fear during the regime of the Shah of Iran that Iran would ultimately be unfriendly to the United States. Of course, that is the situation that exists today.

A country that acquires a weapon like this today, if there should be some instability or other circumstance that changes its government, obviously, it could effectively, and perhaps not in the long-distance future, pose a threat to the United States.

We are first concerned about the indigenous threat, but second, we are concerned about a purchase. That is where the time element comes in. We can give an estimate of how long it takes a country like North Korea to develop a No Dong. It could be another 5 years to develop that. But they could sell a country with great capability in a matter of days or weeks, and the deployment could be a threat to us in a very short period of time.

A third aspect, in addition to the indigenous development and the sale of missiles to be used for military purposes, is, of course, the sale of satellite launch capable missiles. This has been done throughout the world, as well. There is absolutely nothing to prevent the interchange of a satellite to be launched into space for weather prediction, for example, and a warhead of mass destruction, a chemical or biological warhead, or even a nuclear warhead in such a missile.

These missiles are proliferating around the world. Even though they have a peaceful purpose, they can very quickly be used for military purposes, and therefore, for us to base predictions on the fact that an adversary of ours will take a long time to indigenously develop a weapon, again does not adequately and accurately state the intelligence threat to the United States.

We have to be prepared to accept the fact that nations will buy either weapons or buy space launch capable missiles for use as weapons, and that can be done in a very short period of time. We only have to look at previous examples to know it has been done.

As a matter of fact, Iraqi Scuds were purchased from another country and then modified by the Iraqis.

It is not just the indigenous development but the purchase of the weapons and the purchase of satellite delivery missiles that also create part of the problem here.

Mr. President, let me ask unanimous consent that other material be printed in the RECORD at this point, and allow me to reach a conclusion of my statement in support of this amendment for a sense-of-the-Senate statement.

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

THREAT AMENDMENT

Proliferation is a real concern:

(A) At their summit in Moscow in May of 1995, President Clinton and President Yeltsin commented on the threat posed by proliferation when they released a Joint Statement recognizing ''. . . the threat posed by worldwide proliferation of missiles and missile technology and the necessity of counteracting this threat. . . .''

(1) In a March 1995 report, The Weapons Proliferation Threat, the Central Intelligence Agency's Nonproliferation Center observed that at least 20 countries-nearly half of them in the Middle East and South Asia-already have or may be developing weapons of mass destruction and ballistic missile delivery systems. Five countries—North Korea, Iran, Iraq, Libya, and Syria—pose the greatest threat because of the aggressive nature of their regimes and status of their weapons of mass destruction programs. All five already have or are developing ballistic missiles that could threaten U.S. interests.

(2) The missile proliferation threat, even to the U.S. homeland with long-range missiles, is real and growing. Third World nations are advancing their missile programs through indigenous development, the purchase of missile components, and the purchase of space launch vehicles for reportedly peaceful purposes.

(3) While space launch vehicles can be used for peaceful purposes, such as launching communications satellites, they also give would-be proliferants an inherent missile capability. Every four years another country develops space launch capability.

(4) The Clinton Administration is overestimating how long it could take for Third World countries to develop nuclear missiles that could hit the American homeland. The Clinton Administration claims that missile attack threats from potentially dangerous Third World nations to the U.S. homeland will not arise for at least ten years. No one can possibly know that—much less depend on such a guess.

(5) This estimate is based on the assumption that the states acquiring missiles will develop them indigenously. While it is questionable whether it will take ten years for Third World countries to develop missiles on their own, it is clear that proliferants could purchase long-range missiles and nuclear warheads at any time, with little or no advance warning.

(6) Indeed, Saudi Arabia purchased the 2,000-mile range CSS–2 missile from China several years ago. Others, such as Iran and Syria, have purchased shorter range ballistic missiles from North Korea. There is evidence, including from Russian General Victor Samoilov, who was charged with maintaining control over nuclear weapons, that nuclear warheads have disappeared from former Soviet sites.

(7) There are also reports that nuclear weapons have been sold abroad covertly, particularly to Iran.

(8) The key to estimating how long the United States has to respond to a missile threat is not, as is currently the practice, to determine how long it takes a rogue state to produce ICBMs once it has decided to do so. Rather, U.S. planning should be based on how long a rogue state needs to field missiles once the intelligence community has convincing evidence that either their development or purchase is under way.

(9) The evidence, as reported by the Heritage foundation, thus far is troubling indeed. For example:

''(a) Iraq tested a booster with potential intercontinental range in 1990, only months after the U.S. intelligence community discovered what it was doing. After the Gulf War, it was discovered that Iraq had been pursuing an extensive, undetected, and covert program to develop nuclear warheads for its ballistic missiles. By authoritative accounts the Iraqis were within 18 months of having the bomb.

''(b) U.S. intelligence in early 1994 discovered that the North Koreans were developing a long range missile dubbed the Taepo Dong 2. Then Deputy Secretary of Defense John Deutch testified on August 11, 1994, that the Taepo Dong 2 may be able to strike U.S. territory by the end of this decade. If so, this capability will have arisen only five years after its discovery.''

(10) Once the basics of missile technology are mastered, adding more range to the missile is not a great technical challenge. It can be accomplished by adding more thrust and rocket stages. Further, it can be accomplished under the guise of developing space launchers. Every booster capable of placing satellites in orbit can deliver a warhead of the same weight to intercontinental range. And missile sales can create a new missile threat very quickly.

(III) Others will argue that if the United States were threatened by a nuclear weapon, it would be in the form of a suitcase bomb, or errant aircraft, or fashioned like the Oklahoma City bombing.

(A) Each scenario represents a possible method of attack. But, why is that an argument against BMD? We make great strides to cope with these and other kinds of threats. We have anti-aircraft weapons to shoot down hostile aircraft. We suspend commercial flights from potentially dangerous countries. The immigration and customs services monitor people and goods coming to the United States. Law enforcement agencies seek to identify terrorist groups before they act. Our tools may be woefully inadequate,

but we make considerable efforts. Not so in defending the country against ballistic missile attack.

(IV) Moreover, the ballistic missile is the weapon of choice in the Third World. Ballistic missiles signify technological advancement, and are thus a source of prestige in the developing world. Missiles have become symbols of power, acquiring a mystique unrelated to their capabilities. Regional powers that have acquired these weapons can threaten the security of global powers and extend influence throughout the region.

(A) Jasit Singh, Director of the Indian Institute for Defense Studies and Analysis, has pointed out that ''the element which is tending to rapidly enhance the strategic value of ballistic missiles . . . is there is yet no credible defense against them.''

(V) Others may argue that the arms control regimes will protect us from threat from ballistic missiles. Not so.

(A) The Non-Proliferation Threaty (NPT), provides a useful barrier to discourage the transfer of technology concerning weapons of mass destruction. It is not, however, leak proof, and should not be relied upon as a primary element of American and allied security. The NPT, for example, failed to prevent Iraq or North Korea from developing their nuclear weapons programs.

(B) The Missile Technology Control regime (MTCR), founded by Ronald Reagan in 1987, again, has admirable goals, but can only slow the transfer of missile technology until more effective measures can be developed. The MTCR is a weak agreement that has no monitoring agency or enforcement mechanism, does not incorporate all the world's missile producers (most notably China), and cannot forbid technologies that have civil uses.

(C) Former CIA Director James Woolsey said on January 10, 1995, that, with regard to Russia, ''. . . we are particularly concerned with the safety of nuclear, chemical, and biological materials, as well as highly enriched uranium or plutonium, although I want to stress that this is a global problem.

(D) We simply cannot rely on arms control to do the job.

(VI) The Kyl/Inhofe amendment expresses the Sense of the Senate that Americans should be defended—whether in foreign lands or here at home.

We can argue about how to do it: but we should not begin this debate without at least agreeing on the basic premise that Americans should be protected. Surely we can all agree with that.

There is nothing threatening about defenses. Missile defense destroys only offensive missiles.

Mr. KYL. These missiles are, unfortunately, becoming the weapon of choice of bullies in the world. Because they are relatively inexpensive, they can be used to great effect for blackmail purposes. The Iraqis demonstrated how even an errant launch, as the chairman of the committee noted in his eloquent opening statement, can cause great damage.

Mr. President, 20 percent of all United States casualties in the Iraqi war were from one Scud missile attack, which killed 28 Americans with one missile, because we did not have the capability of defending against that.

A question has been asked here, why now? Why are we so concerned about this now? Well, I did not realize until this morning, when radio reports carried the story, that it was 5 years ago today that Kuwait was invaded by Iraq. I think it is an anniversary worth reflecting on for a moment.

One could easily ask what has changed, knowing that this kind of threat can materialize almost overnight; knowing that we need to be prepared to deal with it; knowing that 28 Americans at one time died from a Scud missile attack—20 percent of all of our casualties came from that—knowing of the destruction that the Scuds directed on the State of Israel; and knowing of our great concern about that, because we could not locate the missile.

The only way we had to deal with it was to try to shoot it down, and finally, knowing after the fact that our Patriot missiles, designed to shoot down aircraft, not missiles, though pressed into action for that purpose, were really only effective to interdict about 30 percent of the Scuds that came their way.

Knowing all of these things, one would imagine that 5 years later, we would have made great strides to protect ourselves against the threats that are posed. The fact of the matter is that virtually nothing has changed. Other than a slightly upgraded investigation of the Patriot missile, we do not have a missile defense. This is 5 years later, a period of time in which we should have been able to develop and deploy an effective missile defense against a weapon like the Scud. We have not done so.

Just taking the theater context and forgetting for a moment the potential threat to the United States, it is clear that we have not adequately pursued a defense against this weapon of choice by the troublemaker nations of the world.

We have not developed and deployed a new sensor. We have not developed and deployed a new missile. We have made some strides in the research, but part of the reason we have not done this is because there has been no clear national mandate, no clear national instruction, to get about the business of doing this. There are all kinds of reasons why.

The fact of the matter is, we need to get on with the business of getting this done. That is why I compliment Senator NUNN and Senator THURMOND for much of what they have included in the bill this year.

We have some small differences we will perhaps need to work on. One thing on which we can all agree at this beginning point of the debate is that there is a threat to be concerned about, and that we do need, as we begin this debate, to at least express the sense of this body that Americans need to be protected against an accidental or a limited ballistic missile attack.

Mr. President, if we cannot agree on that, I suspect the American people would rightly question whether we are the body in which to repose confidence about their future security. I am confident that we can agree to this. Based upon that, we can make some sensible decisions about both the policy embodied in this year's defense bill and the expenditures inherent in the authorization bill.

I look forward to working with the chairman, Senator NUNN, and other members of the committee, and other Members of this body, in working through this bill based on an understanding there is a threat to the United States from ballistic missile attack, and to our forces abroad, and our allies, and it is against this threat we should be protected.

I hope when the time comes, Mr. President, my colleagues here will see fit to support the Kyl-Inhofe amendment, which expresses the sense of the Senate.

AMENDMENT NO. 2078 TO AMENDMENT NO. 2077

Mr. NUNN. Mr. President, I send a second-degree amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN] proposes an amendment numbered 2078 to amendment No. 2077.

Mr. NUNN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 5, beginning with ''attack,'' strike out all down through the end of the amendment and insert in lieu thereof the following: ''attack. It is the further sense of the Senate that front-line troops of the United States armed forces should be protected from missile attacks.

''(c) FUNDING FOR CORPS SAM AND BOOST-PHASE INTERCEPTOR PROGRAMS.—

''(1) Notwithstanding any other provision in this Act, of the funds authorized to be appropriated by section 201(4), $35.0 million shall be available for the Corps SAM/MEADS program.

''(2) With a portion of the funds authorized in paragraph (1) for the Corps SAM/MEADS program, the Secretary of Defense shall conduct a study to determine whether a Theater Missile Defense system derived from Patriot technologies could fulfill the Corps SAM/MEADS requirements at a lower estimated life-cycle cost than is estimated for the cost of the U.S. portion of the Corps SAM/MEADS program.

''(3) The Secretary shall provide a report on the study required under paragraph (3) to the congressional defense committees not later than March 1, 1996.

''(4) Of the funds authorized to be appropriated by section 201(4), not more than $3,403,413,000 shall be available for missile defense programs within the Ballistic Missile Defense Organization.

''(d) Section 234(c)(1) of this Act shall have no force or effect.''

Mr. NUNN. Mr. President, very briefly, this adds back $35 million to what is the Corps SAM program. I know other people want to speak on the Kyl first-degree amendment. That is a good amendment. I support it.

This amendment does not in any way strike or in any way change the first-degree amendment, but is directly relevant because this gives strong emphasis to the Corps SAM program, which is

at the heart of our forward theater missile defense.

I will explain this in more detail later. I know there are others who would like to speak, including the Senator from South Carolina.

Mr. FEINGOLD. Mr. President, I just have a little concern about the procedural step we started off with on the bill. At one point the manager of the bill on the majority side was properly recognized, as manager of the bill, for purposes of speaking. But during the process it appeared that the Senator sought to have another Senator recognized for purposes of offering an amendment. There was no unanimous consent requested for that purpose. I am sure this was inadvertent, but it becomes very, very difficult to have what we would like to call here a ''jump ball'' on recognition if one Senator can sort of call on another Senator, in effect.

I again say I do not think that was the intent, but I am concerned about the way we got started on this.

Mr. President, I therefore ask unanimous consent that upon the disposition of the Kyl amendment that I be recognized.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. FEINGOLD. I thank the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I do not think I can add a lot to what the very eloquent Senator from Arizona, Senator KYL, said about this sense-of-the-Senate amendment.

I do support the amendment and offer this with Senator KYL. One of the reasons I came to the Senate in the first place, and one of the reasons I sought to serve on the Senate Armed Services Committee, is a very deep concern over what has been happening to our Nation's ability to defend itself.

I have watched the cold war leave us and many people, when I was serving in the other body, would stand up and say, ''There is no longer a necessity to have a very strong defense system. The cold war is over and the threat is not out there.'' I honestly believe, in looking at this, through my service on the Intelligence Committee as well as on the Senate Armed Services Committee and formerly on the House Armed Services Committee, that there is a threat to our country out there that is even more severe, more serious today than there was during the cold war, because in the cold war we could identify who the enemy was. As Jim Woolsey said, there are 20 to 25 countries, not two or three, 20 to 25, that are working on or have weapons of mass destruction. That is not something that might happen in the future. That is something that is imminent and that is taking place today.

It is interesting that the administration downplays another conclusion by the intelligence analysts; namely, that there are numerous ways for hostile countries to acquire intercontinental ballistic missiles far more quickly. We have watched this. We have watched the discussions take place. I think we can come to some conclusions, and those conclusions are that there is a multiple threat out there.

The Senator from Georgia mentioned briefly the ABM Treaty. I think it is worth at least discussing in context with our need for a national missile defense system. I think at the time that the ABM Treaty went into effect, perhaps there was justification for that. There were two superpowers in the world—this was 1972—and the feeling was at that time, if neither of the superpowers were in a position to defend themselves from a missile attack, then there would not be any threat out there for the rest of the world. Maybe there was justification for that.

I had a conversation with the architect of the ABM Treaty just the other day, Dr. Kissinger. He said, and I will quote him now, he said:

> There is something nuts about making a virtue out of our vulnerability.

That is exactly what we are saying when we say, by policy and by treaty, that we can defend our troops who might be stationed overseas, that we can pursue a theater missile defense system, but we cannot defend our Nation against a missile attack. There is something nuts about that. So we are going to have to address this.

In the meantime, what can we do to put a national missile defense into effect in the next 5 years? We can do exactly what we are doing with this bill. I would like to move even quicker than we can move right now, but we feel what we are doing in this bill that we are looking at today is all we can do to prepare ourselves for what can happen in the next 5 years. So, when we are able to change this national policy, we will be in a position to not lose any time and do it in the next 5 years. I think the issue here is: Is it 10 years when the threat could be facing us or is it 5 years? I think it is incontrovertible it is closer to 5 years.

Even if we were certain there is no new threat that would materialize for 10 years, there are two compelling reasons to develop and deploy a national missile defense system. First, it will take more than 5 years to develop and deploy the limited system, even when the Missile Defense Act of 1995 is passed. By then, we will most certainly be facing new ballistic missile threats to the United States.

Second, deploying the national missile defense system would deter countries from seeking their own ICBM capabilities. A vulnerable United States invites proliferation, blackmail, and aggression.

We are going to hear, during the course of this debate, people who really are not concerned about the threats that face the United States of America talking about the missile defense system as star wars. They have always downgraded it by using that term. Star wars should not even be used. We are talking about an investment that we have in this country, through the THAAD system, through the Aegis system that we have—22 ships that are currently equipped—we have a $38 billion investment. That investment can be protected merely by putting approximately $5 billion over 5 years in, and being able to deploy a national missile defense system.

I implore my Senate colleagues in the strongest possible terms to wake up and see the world as it is and not the way arms control advocates in the Clinton administration would like it to be. The threat is clear. It is present. It is dangerous. That is why I strongly support this amendment.

Mr. President, I urge swift adoption of the Kyl-Inhofe amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I commend the Senator from Arizona for a fine amendment. This provision makes it absolutely clear that the world is becoming increasingly dangerous with regard to missile proliferation and the spread of weapons of mass destruction. It also makes clear that the United States cannot wait around for a bunch of rogue states and possibly terrorists to acquire ballistic missiles capable of attacking American cities before we respond with a serious national missile defense system. Lest we want to invite another Oklahoma City bombing multiplied many times over, we must begin to take action to defend our country against this ever increasing threat.

In my view, the Kyl amendment simply states the obvious: that the United States should be defended against accidental, unauthorized, and limited ballistic missile attacks, whatever their source. We have attempted to establish a path toward this end in the bill now pending before the Senate, so I am pleased to support this amendment.

It has been argued that there is no threat to justify deployment of a national missile defense system to defend the United States. This view is strategically shortsighted and technically incorrect. Even if we get started today, by the time we develop and deploy an NMD system we will almost certainly face new ballistic missile threats to the United States. Unfortunately, it will take almost 10 years to develop and deploy even a limited system.

As Senator KYL's amendment so clearly establishes, the intelligence community has confirmed that there are numerous ways for hostile countries to acquire intercontinental ballistic missiles in much less than 10 years by means other than indigenous development. Basically any country that can deliver a payload into orbit can deliver the same payload at intercontinental distances. Space launch technology is fundamentally ballistic missile technology, and it is becoming more and more available on the open

market. Russia has all but put the SS–25 ICBM on sale for purposes of space launch. China has repeatedly demonstrated a willingness to market missile technology, even technology limited by the missile technology control regime.

In his last appearance before Congress as Director of Central Intelligence, James Woolsey stated clearly that countries working on shorter range ballistic missiles could easily transition to developing longer range systems. Saddam Hussein demonstrated that even countries without a high technology base could get into the missile modification and nuclear weapons business.

North Korea has also demonstrated to the world that an ICBM capability can be developed with relatively little notice. The Taepo-Dong II missile, which could become operational within 5 years, is an ICBM. Each new development on this missile seems to catch the intelligence community by surprise. It certainly undermines the argument of those who downplay the threat and the intelligence community's own 10-year estimate.

Even if we knew with certainty that no new threat would materialize for 10 years there would still be a strong case for developing and deploying a national missile defense system. Deploying an NMD system would serve to deter countries that would otherwise seek to acquire an ICBM capability. A vulnerable United States merely invites proliferation, blackmail, and even aggression.

For this reason, I strongly and enthusiastically support Senator KYL's amendment. It is a reasonable statement for the Senate to make. Only those who believe that the American people should not be protected against the one military threat that holds at risk their homes and country should oppose this amendment. I urge my colleagues to support it.

The PRESIDING OFFICER. Is there further debate on the second-degree amendment?

Mr. NUNN. Mr. President, 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. DORGAN. 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. DORGAN. Mr. President, I would like to make a couple of comments about the Kyl-Inhofe amendment, and then also about an amendment that I intend to offer during the consideration of this legislation. I intend to offer an amendment that eliminates the $300 million that was added to national missile defense in the Armed Services Committee's deliberations.

There is, as I understand it, $371 billion for the national missile defense research and development in the budget that was submitted by the President and requested by the Pentagon. In other words, the Pentagon said, Here is what we think is necessary for that program. The Armed Services Committee added $300 million above that for national missile defense.

I listened to my friends from Arizona and Oklahoma, for whom I have great respect. We just disagree on this question. I intend to offer an amendment to strip the $300 million out of the bill because I do not think the national missile defense system described in this bill ought to be built or deployed, and I do not believe that the taxpayers should be asked to provide $300 million that the Pentagon says it does not need.

The Kyl-Inhofe amendment has four pages of findings. And on page 5, it says, ''It is the sense of the Senate that all Americans should be protected from accidental, intentional, or limited ballistic missile attack.''

It is hard to find fault with the language unless one asks the question: What does one mean by this? Is someone who suggests this saying that we should spend over $40 billion on a ballistic missile defense system, or star wars? I know that we were admonished not to use that term because that does not apply, we are told. This is in my judgment a star wars national missile defense proposal. It is that simple.

The Congressional Budget Office in 1993 said the cost of building a national missile defense system at Grand Forks, ND and five other sites would be $34 billion. A March 1995 Congressional Budget Office review pegs the cost of that same site plus five others at $48 billion.

If with this simple sense of the Senate on page 5 the Senate is saying, Yes, let us develop a program that costs the American taxpayers $48 billion, I think people here in the Senate ought to think long and hard about this.

Sure everyone wants to be protected. Today, in the old Soviet Union, they are crushing and busting up missiles under a program that we are helping pay for. Missiles are being destroyed today as I speak in the old Soviet Union.

What is the threat? Well, the Soviet Union has now disappeared. But we are not told that the threat is that some terrorist Third World country, perhaps Iraq, or Iran, maybe some would suggest Qadhafi, could get ahold of an ICBM and some weapons grade plutonium, build a nuclear bomb, put it on the tip of a intercontinental missile and shoot it toward the West. Maybe that is the threat.

In my judgment, if the wrong people get ahold of enough weapons grade plutonium to build a nuclear bomb, it is far more likely that they will threaten this country by putting it in the trunk of a rusty Yugo parked on a dock of the New York City harbor. That is far more likely that the case in which they would acquire or be able to build an intercontinental ballistic missile with which to threaten the West.

Frankly, this bill is interesting to me. People are saying that we do not have enough money, that we are up to our neck in debt, and that we must reduce the Federal deficit—and I agree with that. Then this bill says the Pentagon does not know what it is talking about on ballistic missile defense—$371 million, humbug. We want to add $300 million. And more than that, we have not learned our lesson about advanced deployment and emergency deployment. We also want to not only add $300 million, we want to say to the folks who are building this star wars project that we want accelerated development for a limited deployment in 1999. And full deployment will follow in 2003. That is the scheme in this legislation.

I thought maybe we learned something about those enhanced research schedules and accelerated deployment schedules with the B–1 bomber, and some other weapons programs, but maybe not.

In any event, I think the question is not should we protect America. The question is why should we decide to spend $300 million more on national missile defense than the Defense Department says it needs? Why should we decide that we are going to dump in extra money beyond what the Secretary of Defense says he needs or wants?

We have direct testimony from the Secretary of Defense saying I do not want this. This is not money that I am asking for. I do not need this. You are proposing, he says, to defend against a threat that does not exist. And you are proposing giving the Pentagon money it does not want.

I just find it unusual that the same people who always tell us that the big spenders are on this side of the aisle are saying the Pentagon does not know what it is talking about; they want to provide the Pentagon $300 million more for this boondoggle, dollars they do not want. But that is not what I guess is so important today. The fact is that this extra $300 million is just lighting the fuse on a $40 to $50 billion spending program that once underway will not be controlled, and all of us know that.

I recognize that part of this deals with my State. My State was the site of the only antiballistic missile system in the free world. It was built in northeast North Dakota 25 years ago. I said at the time I did not think it should be built. It did not matter much what I said then; it was built. And after billions of dollars were spent and after the system was operational, within 30 days it was mothballed.

Now, some might say, well, it was useful to spend all of that because we were creating bargaining chips with which to negotiate with the Soviets on an ABM Treaty. I do not know the veracity of that. But I do know that we were the site of the only antiballistic missile system built in the free world, the only one that has ever been built by the West. And it was mothballed

within 30 days after being declared operational.

Now we have a constituency to build a new ballistic missile defense system. This starts from President Reagan's announcement in the 1980's of a shield, sort of a national astrodome—I guess it was a national astrodome he was talking about, putting an astrodome over this country of ours so that no one could attack it. If an incoming intercontinental ballistic missile took aim on our country and took flight toward our country, we would have a system of defense, both ground based and space based, with which we would knock out those incoming missiles and protect our country forever.

The result was that an enormous amount of money has been spent all around this country on research, engaging academic institutions, engaging companies all over, virtually every State in the Union, and a constituency has developed for this idea. It does not matter that times have changed. It does not matter there is no longer a Soviet Union. It does not matter there is no Warsaw Pact, the Berlin Wall is gone, Eastern Germany does not exist. It does not matter the world is changed. The folks who want to build a star wars, ABM, national missile defense program have not had their appetites satisfied. So they want to continue with this program, but they are not satisfied by the Defense Department doing research in this area. They will only be satisfied if they require deployment—on an interim basis so that by 1999, less than 4 years from now, somehow, some way, someone will deploy the first contingent in any number of sites around the country of the national missile defense system.

Again, I certainly respect the views of those who have great ardor and support for this program. I respectfully disagree however. We have so many needs that we must prioritize them. Do we care about education? If we do, is not the need to build star schools more important than to build star wars? Do we care about hunger and nutrition? If we do, is it not more important to make sure that we fund those programs so that people in this country are not hungry instead of taking $300 million that the Pentagon does not want and building a system the Pentagon says should not be built at this point? It is a matter of priorities, and we must begin choosing.

I think those who push not only this but several other things in this legislation that go well beyond the funding request by the Pentagon are saying we do not have to make choices. We are not interested in prioritizing. Or at least if they are not saying that, they are making choices and prioritizing in kind of a burlesque way, saying, well, it is not important for a poor kid in school to have an entitlement to a hot lunch because we cannot afford it, and then changing suits, having a good sleep and coming back the next day saying it is important, however, to give the Secretary of Defense $300 million he does not need for a program he does not want to deploy at this point and for a program that he says is not going to be built to meet an existing threat.

I am just saying to you that I think those priorities are wrong. If I read Senator KYL's sense-of-the-Senate: ''It is the sense of the Senate that all Americans should be protected from an accidental, intentional or limited ballistic missile attack,'' I would say, oh, sure, it is a sense of the Senate all Americans ought to be protected. I understand that. That makes sense to me. If I change this and say it is the sense of the Senate that we begin embarking on a program that will eventually cost $40 billion to deploy in multiple sites around the country a ballistic missile defense system with a ground-based and a space-based component, have I changed the question? I think I have, because if I am asking the Senators in this room whether that is the way we ought to spend $40 billion in the coming years, they have to evaluate whether $40 billion spent for this versus $40 billion allocated for other competing needs in this country is the right choice.

So, Mr. President, as I indicated when I began, I intend to offer an amendment to strip the $300 million in additional funding that has been put in the legislation before us for the national missile defense system. There will still remain $371 million, a substantial amount of money. But if my amendment is accepted, there will not remain $300 million which the Secretary of Defense says he does not want, does not need, and did not ask for. We will, I am sure, have a rather substantial debate about this when I offer my amendment. I shall not pursue it further at the moment. But I could not help but comment on this amendment, which is a sense of the Senate with language seemingly so innocent but consequences so substantial. The consequences of this are to say, yes, we believe that it is appropriate to embark on a $40 billion program with enhanced deployment to build a shield over the United States to protect us against incoming intercontinental ballistic missiles.

Frankly, I think that is a misplaced priority. And I think we should have learned something in recent years that we must make very tough choices, all of us, very tough choices about what we spend money on. I think two questions ought to be asked on all of these proposals. Do we need it? And can we afford it? And with those two questions on the national missile defense system, nicknamed star wars—which is appropriate, because this talks about the potential of a space-based system—when we ask those two questions: Do we need it? And can we afford it? The first answer is answered by the folks that run the Pentagon. They have said, no, we do not need it. And they have not asked for it. The second answer ought to be answered by everybody who is in the U.S. Senate who is grappling with questions about can we feed our children through nutritional programs? Can we adequately educate our kids? And can we do all the things that are necessary? Can we adequately fund Medicare and Medicaid for the elderly and the poor?

Mr. INHOFE. Will the Senator yield?

Mr. DORGAN. The answer to my question is no. We cannot afford something we do not need when priorities require us to make a better judgment than this.

I would be happy to yield.

Mr. THURMOND addressed the Chair.

Mr. INHOFE. I am sure you heard several times——

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator has yielded for a question.

Mr. INHOFE. We have quotes by Jim Woolsey and John Deutch and other experts in this field. And in terms of the quote that was attributed to Jim Woolsey, there are between 20 and 25 countries that have developed or are developing weapons of mass destruction and the ability to deploy those.

Do you not believe that statement by Jim Woolsey?

Mr. DORGAN. Well, I would say to the Senator from Oklahoma that the statements that are made by—let me give you a statement by the head of the DIA. ''We see no interest in or capability of any new country reaching the continental United States with a long-range missile for at least the next decade,'' so on, so forth.

But I would say this, that the Secretary of Defense, having evaluated all of these conditions, including the potential of other developments of ICBM's, has concluded that this is not in our interest. I mean, what the Secretary of Defense has said to you looking at all those things, ''Don't do this. I don't want the money. I don't want the program as you constructed it. It doesn't make sense for this country's national security.''

I would be happy to yield further.

Mr. INHOFE. If the Senator will allow me to read a statement—two statements. One is by James Woolsey concerning what is out there today. ''We can confirm that the North Koreans are developing two additional missiles with ranges greater than 1,000 kilometers that it flew last year. These new missiles could put at risk all of Northeast Asia, Southeast Asia, and the Pacific area. And if we export, the Middle East could threaten Europe as well.'' Then further John Deutch says, ''If the North Koreans field the Taepo Dong 2 missile, Guam, Alaska, and parts of Hawaii would potentially be at risk.''

So it is a two-part question. First of all, do you believe this? And, second, and most significantly, Mr. President, what if the Senator is wrong?

Mr. DORGAN. Well, will someday some countries that we now consider terrorist countries or renegade countries have the capability of developing

or buying intercontinental missiles? Maybe. Maybe.

But I would say this. I ask if it is not the case, the single, strongest, best case that could ever have been made for a ballistic missile defense program, putting a shield over our country, will not be a case 5 years from now or 10 years from now or today. It would have been a case that you could have made 10 or 15 years previously when we had the proliferation of Soviet Union missiles, all of which were aimed at the United States, all of which the President said, at that point, required an umbrella around this country for protection.

But what did protect our country? No, it was not an umbrella. It was not a new ballistic missile program or a star wars program. What did protect our country? Well, it was a triad, of ground-based intercontinental ballistic missiles with Mark–12A warheads that persuaded the Soviets—and I assume will now persuade any other country foolish enough to think about this sort of thing—that they will exist about a day or a two or three, beyond when they launch that kind of an attack.

Mr. INHOFE. Will the Senator yield further?

Mr. DORGAN. The point I make is this: We developed the triad, ground missiles, sea-based missiles and air-launched nuclear capability, which has for decades persuaded countries far better armed than the potential terrorists you suggest from not even thinking about attacking this country. And I am just saying this: When we start taking the potential of the North Koreans developing a missile and deciding the result is America ought to consign itself to a $40 billion new program, at the time we say to the American elderly that we have got to cut $270 billion in Medicare because we do not have the money, or at the time we say to American kids that we are sorry about student aid, we do not have quite enough money, and quite enough money for nutrition programs, I am saying the priorities are out of whack.

Am I saying defense does not matter? No. I am saying that the Secretary of Defense, the folks that know this program, the folks that have spent a long, long while concerned about and evaluating the need for a ballistic missile defense system are saying it is wrong. It is wrong what is being proposed. The extra money should not be spent. This program should not be deployed. And it is not in this country's national interest.

Mr. INHOFE. Will the Senator yield?

Mr. DORGAN. They are the ones saying that, not me.

Mr. INHOFE. Is the Senator aware or do you deny that the Taepo Dong 2 is being developed today?

Mr. DORGAN. Let me say this again. Is the Senator aware that Yugoslavia produced Yugos and they are shipped to the United States and some terrorist could put a nuclear device in it and ship it to New York City and terrorize New York and this country? Would that require a sophisticated ICBM for delivery? Of course not. Would it accomplish the same result? Of course it would.

My point is, if you start taking a look at threats to this country, do not just look at the potential for developing an intercontinental ballistic missile. In fact, the Secretary of Defense and others are saying there is no realistic prospect within the next decade of that happening, No. 1. And No. 2, given all of the evaluations he and the folks in the intelligence community have made, he thinks what the Senator is proposing is not in this country's defense interests.

So that is the way I would answer the question of the Senator. I understand the case both Senators have made. I think they made it very well. It is just I do not agree with them. I think this is a case where you say, if you have unlimited funds that you can take from the taxpayer, you say, ''Just keep giving us your money, because we have got plenty of opportunity and we have lots of needs.'' If you have unlimited funds, then build everything. That is fine. The problem is we do not have unlimited funds. We are forced—literally forced—to start choosing among wrenching, awful, agonizing priorities. I think when the Senator proposes this, what he is saying is, we do not intend to choose, at least not in defense; we intend to build it all.

Mr. KYL. Will the Senator yield for a question?

Mr. DORGAN. Yes.

Mr. KYL. I know the Senator from Georgia is able to speak on his amendment. I can respond to each of the points that the Senator from North Dakota made in detail. But rather than doing that, I want to pose one quick question, because, frankly, it may not be necessary for us to do that.

Is the Senator prepared to tell us whether he is going to vote against or for my amendment? If the Senator is going to vote for the amendment, I will not bother to respond to some of the points.

Mr. DORGAN. I have not read the entire amendment. I read the sense of the Senate. It is hard to disagree with the sense of the Senate if you understand that the sense of the Senate says that ''It is the sense of the Senate that all Americans should be protected from accidental, intentional, limited ballistic attack.'' Yes, they ought to be protected.

I ask you this question: Are you saying with this that it is your sense that we should spend $300 million extra next year and go to enhanced deployment of a ballistic missile defense system; that it is your intention with this amendment to put the Senate on record to go for early deployment and $300 million extra and the tens of billions of dollars that will be required in the years ahead to fully deploy this system; is that your intention?

(Mr. CAMPBELL assumed the chair.)

Mr. KYL. In response to the Senator's question, it is as you have noted. You are going to propose an amendment to strike $300 million that is already in the bill. My amendment does not add any money to the bill. My amendment simply expresses the sense of the Senate that all Americans deserve to be protected from missile attack. So when the Senator makes the argument about the $300 million, he is really making the argument in support of his amendment that is going to be offered later to the bill. That is why I said I could easily respond to some of the things you said, but I do not want to take the time if the Senator is going to end up supporting my amendment. I think we can move on——

Mr. DORGAN. Let me just say this. The committee brought us $671 million, as I understand it, in ballistic missile defense, $300 million of which the Pentagon said it does not want, does not need and did not ask for.

My feeling is this country protects itself against nuclear threat, accidental, intentional, or ballistic missile attack by having intercontinental ballistic missiles in the ground, by having *Trident* submarines in the sea, and by having our bombers with nuclear capability in the air. In my judgment, the current triad, as I have indicated to you, has done that for 20 or 30 years.

I have not read the rest of your findings. As soon as I read the findings, I will determine whether it comports with what I think we ought to go on record with in the Senate.

Again, I ask the Senator from Arizona whether his intention with this is to provide support and comfort for and to assist in the accelerated deployment of a national missile defense system?

Mr. KYL. And I say to the Senator, absolutely, bingo.

Mr. DORGAN. If that is the Senator's intention, I will not want to be supportive of that, because I do not think that happens to make sense for this country.

Mr. KYL. The Senator, obviously, has the right to vote for or against my amendment. I was curious. There is a lot that can be said. Perhaps the Senator could be thinking—I would like to hear from some of the other Senators—perhaps the Senator could be thinking how he will substantiate the claim he made repeatedly now that the Secretary of Defense does not want this, did not ask for it, and so on. If the Senator can find those statements, I would be curious because, of course, General O'Neill testified to the Armed Services Committee that he could spend $450 million and he does not do that without getting the concurrence of the administration.

The administration's initial budget request did not ask for the money, I agree, but in last year's budget, the Clinton administration, in the 5-year defense plan, called for more than what is being requested——

Mr. DORGAN. Mr. President, reclaiming my time, I say it is good news

for the Senator from Arizona. In a body where there are so few answers and so much debate, he is about 50 paces from the answer. I will give him the telephone number. He can call the Secretary of Defense and ask the Secretary of Defense in the next 4 minutes, ''Do you want this $300 million, did you ask for it, and do you think that it is necessary for this country's security?''

His answer will be, ''No, I didn't ask for it; no, I don't want it; and I think it is a mistake.''

So the Senator is very close to an answer, physically and also with respect to time. Maybe by the next time we have this spirited discussion, when I offer the amendment to strike the money, maybe the Senator will have spoken to the Secretary of Defense and will have that answer.

Mr. COATS. Will the Senator yield for a question?

Mr. DORGAN. I will be a happy to yield.

Mr. COATS. The Senator from North Dakota, in answer to the Senator from Arizona as to what he would prefer, in response to what the Senator from Arizona has announced in terms of deterrence, he would prefer the deterrent that was used successfully for a long, long time, namely, we use the term ''mutually assured destruction.'' He said that our deterrence from submarines under the sea, missiles in the ground, and bombers in the air would be his proposed solution to a ballistic missile attack on the United States.

My question to the Senator is, do you believe that mutually assured destruction is the preferred solution to, say, an accidental launch?

Mr. DORGAN. Well——

Mr. COATS. And do you believe that would be any kind of a deterrent or appropriate response to an accidental launch of a missile?

Mr. DORGAN. The Senator understands, I would judge successful the strategy that has been employed with the nuclear triad in order to avoid nuclear war over some 25 or 30 years. Would the Senator agree with that?

Mr. COATS. I do, but the world has changed significantly since then. We are trying to deter something entirely different.

Mr. DORGAN. If I may respond to that—I did not respond to the Senator's question about North Korea. I would like to add for the record something I will not read, a rather lengthy paragraph, about the capabilities of North Korea written by two Nobel laureates, two veterans of the Manhattan project, a total of seven eminent physicists, who are completely at odds with the Senator's representations about the capabilities of the North Koreans at this point.

I guess the Senator from Indiana is standing up saying we need this system because it is the only way we can provide for an impregnable defense against the renegades, against terrorist countries; is that what the Senator is saying?

Mr. COATS. I am saying the world has changed significantly since we employed the doctrine of mutually assured destruction, and the deterrent effect the Senator alluded to that would satisfy the concerns of the Senator from Arizona simply may not be applicable in today's world.

Mr. DORGAN. It is interesting, what has changed it is quite remarkable—it is almost breathtaking in its scope—is that the Soviet Union does not exist any longer, and today we are cutting the tails off bombers, they are crushing their missiles, and we are taking warheads apart. What has changed dramatically is that we have stepped back from the brink, we have largely seen the cold war dissolve, we have a circumstance in this world today for which all of us should rejoice.

The arms race is largely over, and the Senator raises the question, are there still not some other threats? Yes, there are. But you know what has not changed is the appetite for those who are parents of weapons programs, because those who have parentage of new weapons programs just cannot give up. It does not matter what the world is like, it does not matter what the need is; they have a weapons program, and they are going to build it.

Mr. COATS. That may or may not——

Mr. DORGAN. Will the Senator at least acknowledge that the genesis of this kind of program came from Ronald Reagan, I believe, in 1982 or 1983, in which he described the holocaust from a devastating full-bore Soviet Union ICBM attack on the United States? That is the genesis of the description of the umbrella with which to protect our country.

Mr. COATS. That is true——

Mr. DORGAN. Things have changed. The Senator makes a correct point. Things have changed. What has changed is that that threat has changed dramatically because it has lessened, a much lesser threat than existed before. In fact, we have Yeltsin over here, we are working with Yeltsin on all these things, we have Russians and Americans cavorting in space in a spacelab. Adversaries? No, hardly. We are working together. We are doing a lot of things together, including reducing the risk of an accidental nuclear attack.

What has changed? Has the change occurred among those who said we need an umbrella for $40, $50 billion to protect America against a full-scale nuclear attack from the Soviet Union? No, the Soviet Union is gone, but it has not deterred by one step those who want to spend money on this program. They simply find another threat—North Korea, and the Nobel laureates and others tell us about North Korea.

It is at odds, and I will put it in the RECORD because I do not want to read the whole thing.

Mr. President, I ask unanimous consent that this portion of the physicists' letter be inserted in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. DORGAN. Mr. President, I would say that if you do not want to use North Korea, then somebody else will come waltzing over here and say, ''Well, maybe it's not Korea, maybe its Qadhafi.'' And the next person comes over and says, ''Maybe it's not Qadhafi, maybe it's Iran.''

Do all of those prospects concern me? Sure; sure. Is the likelihood of nuclear attack or the nuclear threat from those kind of renegade countries the likelihood of an ICBM pointed at Gary, IN? Of course not. The likelihood is a terrorist act that——

Mr. THURMOND. Will the Senator yield a minute to get somebody on the floor?

Mr. DORGAN. I will be happy to yield, without losing my right to the floor.

PRIVILEGE OF THE FLOOR

Mr. THURMOND. Mr. President, I ask unanimous consent that Michael Matthes and Peter Simoncini, military fellows in Senator WARNER's office, be granted floor privileges for the duration of Senate debate on S. 1026, the Defense Authorization Act.

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

Mr. DORGAN. Mr. President, I will be brief. I say that the likelihood of the nuclear threat coming from a renegade country is not them getting hold of some sophisticated targeted intercontinental ballistic missile; it is that they would get hold of some weapons grade plutonium and the know-how, which pretty readily exists, to turn that into a nuclear device, and then in some ingenious way to hold some country hostage with that device. It is unlikely that it is going to be on the tip of an ICBM in flight. It is much more likely that it is going to be different circumstances, in which the $40 billion and the best star wars program ever conceived by man or woman will be irrelevant.

I will make one other point to the Senator. On page 52 of the bill brought to us, on the bottom of the page, you are talking about deploying a system—deploy as soon as possible a highly effective system, and so on. Then it says, ''That will be augmented over time to provide a layered defense against larger, more sophisticated ballistic missile threats.''

When you stand and say we are trying to respond to North Korea—which I think gives them far more credit than they deserve—your bill would do much more than that. The legislation suggests that if you want to fund a program that will provide a layered defense against larger ballistic missile defense threats over time. That goes back to the Reagan star wars concept in the eighties.

My point is that nothing has changed with those that propose the program. They pull the wagon through here no matter what the climate is, whether

the wind blows, or whether it rains, it is the same wagon. They just change the debate a bit. In my judgment, the taxpayers ought not to fund something that the Secretary of Defense says he does not want, the country does not need, and he says putting in this bill—I have not even talked about the things we will talk about later, about abrogating the ABM Treaty and other things; I have not even discussed that. But I think you ought to listen to the Secretary of Defense on this issue. You ought to listen to the taxpayers. I think they understand.

Mr. COATS. If the Senator will yield, I am going to get off the floor. I just came over to ask a simple question. I got everything but the answer to my question. I did not mean to prompt the opportunity for the Senator from North Dakota to repeat what he already said earlier. I simply asked the question as to how the Senator proposed that we would deter an accidental launch of a ballistic missile toward the United States. I got everything but the answer to that particular question.

The Senator from Arizona is more than capable of answering—and I believe he probably has already done it—the reasons why this program is significantly different from what Reagan or anybody else proposed in the early eighties. It is not the so-called umbrella defense star wars system that has been debated on the floor here for a decade and a half. It is much, much different from that. The threat is different from that. I do not disagree with the Senator that the threat we face includes options other than——

Mr. DORGAN. Mr. President, if the Senator would like to ask a question, I will be happy to answer a question. If not, I would like to regain the floor.

Mr. COATS. How does the Senator propose to deal with an accidental ballistic missile launch in the United States? The Senator suggested that mutually assured destruction was the deterrent to that and the way to respond. I do not agree with the Senator. I wonder what his solution was to that question.

Mr. DORGAN. Mr. President, I appreciate the query. The Senator from Indiana is now suggesting that the principal reason for spending $40 billion is to protect against an accident. It occurred to me that the Koreans would not likely be involved in an accident, according to the Senator from Arizona. He is proposing that the Koreans might pose a threat. I assume when we hear discussions about other countries—Libya, Iran, or others —we are talking about a threat rather than an accident.

The question of an accidental nuclear launch, I suppose, is a question others could ask of us and we could ask of many in the world. We have, it seems to me, very carefully, over many, many years, decades, in fact, worked to prevent that sort of circumstance from occurring on any side, with respect to the nuclear powers. I again say that I urge all of us to evaluate. When we start talking about the need now, when the Soviet Union is gone, to build a star wars program to react to North Korea and spend $40 billion we do not have, I urge everyone to understand that at the same time we are going to consign ourselves to spend $40 billion, we are going to say we cannot really afford Medicare and Medicaid, and that the old folks should pay more and get less, and we will cut $270 billion out of Medicare.

We supposedly cannot afford all the other things we are talking about because we have to tighten our belts. It occurs to me that those that push this, especially in the year 1995, when the world has changed, but changed in a way that would augur for less incentive to need this kind of a program, those who push this are making an illogical argument. It seems illogical to me to be saying we have to tighten our belts here at home and have to worry about priorities, we have to make tough choices, and then pull a project like this to the floor and say, by the way, this is true for everything else, but we have $300 million here that that does not apply because this $300 million we will substitute our judgment for the judgment of the Secretary of Defense, and others, and say that we must now embark on an accelerated deployment of a national missile defense program, including star wars.

I am just telling you that we will probably have a long discussion on the question of that $300 million. If I see the glint in the eye of the Senator from Arizona from across the room, I suspect he will have a spirited defense of spending that money. I will be here, as soon as it works into the schedule, to see where we all stand on spending money we do not have on something we do not need.

Mr. President, I ask unanimous consent that portions of a July 7, 1995 letter from seven eminent physicists, including two Nobel Prize winners and two veterans of the Manhattan project, who discuss accidental launch by Russia or China and the likelihood of a threat from a third country, particularly North Korea, be printed in the RECORD.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

(I) Accidental launch of Russian or Chinese nuclear missile:

According to US intelligence officials, an accidental or unauthorized launch from Russia or China is extremely unlikely. Moreover, it is in the interests of Russia and China to ensure that such launches do not occur. Indeed, Defense Intelligence Agency Director Gen. James Clapper testified in 1994 that ''Russian strategic missile systems are currently considered to have very good control mechanisms'' to prevent such launches, and the United States is currently discussing sharing similar systems with China. National missile defenses are the wrong solution to this problem in any event since cooperative measures could be implemented more quickly and cheaply, and would be more effective than NMD. These include installing destruct-after-launch mechanisms on all missiles to abort an unauthorized launch and separating nuclear warheads from delivery systems.

* * * * *

(3) Deliberate missile attack by other country in the future:

Ballistic missiles are the least likely method a developing country would use to deliver an attack. Long-range missiles are more expensive and technically difficult to build and deploy than other means of delivery, and are less accurate. Since launches are readily detected by satellites, the United States would pinpoint the origin of a missile attack and could retaliate quickly with devastating force. Such retaliation would have to be considered as certain by any leader, and will always be a powerful deterrent to missile attacks.

Currently, no country hostile to the United States possesses ballistic missiles that can reach US territory. Even if such threats begin to emerge in the future, the United States will have considerable warning since missile development requires flight testing that can be monitored by satellite. Although some 20 countries in the developing world possess some type of short-range missile or space-launch vehicle, only countries friendly to the United States—Israel, India, and Saudi Arabia—have deployable systems with a range greater than 600 kilometers.

North Korea, perhaps the most discussed threat, has conducted one partial-range test of the 1000 kilometer range Nodong missile, but does not have an operational version after six to seven years of development. North Korea is reported to be working on new missiles with ranges up to 3,500 kilometers, but such missiles would require new technologies, such as staging and more powerful engines. Judging from the long development time of past North Korean missiles, deployment of such an intermediate-range missile is many years off at least, and progress can be monitored closely by satellite. In any event, none of these missiles would have the range to strike the US homeland.

CONCLUSION

Rather than devoting resources to national missile defenses, the United States should instead focus on programs to combat existing, more pressing threats. For example, a higher priority should be placed on bringing military and civil weapon-usable fissile material in the former Soviet republics under better control and accelerating safe, verified dismantlement of Russian nuclear warheads and delivery vehicles.

In sum, proposals to deploy NMD are misguided and irresponsible. National missile defenses do not address the existing and most likely future threats to the U.S. homeland and are diverting valuable resources. Instead, NMD will destroy much of one of the United States' primary tools for maintaining and increasing national security: arms control. We urge you to weigh carefully the negligible benefits and substantial costs of deploying NMD. Thank you for your attention to our views and please call on us if we can be of assistance as you deliberate on this matter.

Sincerely,

HANS BETHE,
Professor of Physics Emeritus, Cornell University.
RICHARD GARWIN,
Adjunct Professor of Physics, Columbia University and IBM Fellow Emeritus, IBM Research Division.
KURT GOTTFRIED,
Professor of Physics, Cornell University.

FRANK VON HIPPEL, Professor of Public and International Affairs, Princeton University.
HENRY W. KENDALL, Chairman, Union of Concerned Scientists and Stratton Professor of Physics, Massachusetts Institute of Technology.
WOLFGANG K.H. PANOFSKY, Professor and Director Emeritus, Stanford Linear Accelerator Center, Stanford University.

Mr. NUNN. Mr. President, I have enjoyed the dialog on this subject. I think this is a good way to begin the defense debate. I inform all of my colleagues that the biggest challenges we have in this bill, in managing the bill—the chairman, Senator THURMOND and myself—is the whole theory of ballistic missile defense, theater missile defense, and the ABM Treaty. We are off on the subject that I think is going to be the toughest subject. It will take the most time for debate. I consider this a good dialog with which to begin the debate and get the views out on both sides of this issue.

I am sure there will be other views as we go along. I would like to explain, in just a few minutes, the amendment I have offered, which is now the pending second-degree amendment to the Kyl first-degree amendment.

This amendment is intended to restore funds for the program known as the Corps SAM program, which is also a cooperative program called MEADS. They are one and the same program, but the MEADS program is the name given for SAM that is designated as a cooperative program and supported by the Governments of Germany, France, and Italy, where they will be paying approximately 50 percent of the cost of the program, which is what we have been encouraging for the last several years in terms of allied participation.

Corps SAM is a highly mobile theater missile defense system which is designed to defend our most vulnerable military forces, that is, our Marine and Army troops amassed at the very edge of the battle area. It is the only system under development that can meet this requirement. In addition to defending our forward troops from attack by short-range ballistic missiles, the Corps SAM/MEADS system will also replace the aging and outmoded and, in many cases, HAWK batteries that are now the Marines only defense against ballistic and cruise missiles, as well as enemy aircraft.

Notwithstanding the importance of the requirement to defend these forward deployed troops, the committee bill before us, unless it is changed, will cancel the Corps SAM/MEADS program that was done during the committee markup. That is the provision of the bill now. The bill does not just zero funding in the report; it directs the Secretary of Defense, in permanent bill language, to terminate this international program.

Mr. President, in my view, this is a shortsighted action and defies rational explanation. The Senate Armed Services Committee majority argued in their report accompanying our bill that 80 percent of the total ballistic missile defense funding goes to theater missile defense systems. And the majority of the report complains about both the number of the theater missile defense systems under development and their cost.

This bill has shifted more funds to the national missile defense, which is the overall, rather than the theater defense. But what the majority report does not set forth, Mr. President, is the following set of important facts:

First, the bill as it now exists, enshrines as the core theater missile defense program four programs to the exclusion of all the other programs.

Second, the bill does not recognize that these four core theater missile defense programs provide overlapping coverage of the rear area in the theater but often no coverage for our front line troops.

That is graphically shown on this chart, Mr. President. This is the forward battle area. These are various forms of attack coming from the enemy on a theoretical battlefield.

This unprotected zone, this area right here in red, is the area where our forward troops are, usually Marine forces or Army forces. The white zone is the theater zone that is the support area, not on the forward area.

The only system that is being designed now to protect these forces in the forward battle area is the Corps SAM system, which has been canceled in this bill and which I am seeking to add back in this amendment.

The programs that are left in the bill are all designed to protect in this zone. We have the Patriot intercept zone in white. The Patriot system is designed to protect in that area. We have the Navy upper tier—very difficult to read here—but it is the outlined pink area in the outline here.

That is the upper tier engagement. We have the THAAD intercept zone, the light green zone here. Then we have the Navy lower tier, which is a possible program, which is below here.

These are overlapping programs. We want some overlap. We did not know which programs will end up being the best programs. I am not complaining about the overlap. What I am complaining about is leaving this area completely—not only unprotected except for HAWK batteries, which are limited in their effectiveness—but we do not have any program, even with all this money that is being complained about that is being added, to protect the troops on the forward battle area.

There is a reference in the majority report to making the PAC–3 mobile. There is no money to do that. We do not know whether that can be done. In my amendment, what I provide is $4.6 million to test that view. Can we make the PAC–3 program apply to this area?

Right now the incoming missiles for this zone are only not protected now, if we have this bill without being changed, as it now exists, we will have no program being designed for that. We will cut out the only program that our international allies—at least three of them—have signed up for: Germany, France, and Italy.

That is what our Congress has asked, for our allies to get involved in this. They finally get involved, it is the very beginning of the program, and what did we do? We cancel the program. I do not understand it. Perhaps someone can explain it.

The third point I make is that the bill now makes the theater missile defense funding problem that is being complained about—that is, the majority report complains we are spending 80 percent of our money on overall defenses in the theater, but in this bill we add $215 million to the theater programs in this area while we cut out $30 million from the Corps SAM/MEADS program, which I seek to add back.

If there is a problem—and I am happen to be one that believes theater missile defense should be the priority because that is where the immediate threat is and where we have a chance to get programs in the field in the next few years that can be effective—if there is a problem with 80 percent of the overall funding going to theater, what is done in this bill as it now stands, those programs are being added to what the program that goes to the heart of the forward battle area is cut out.

The fourth point is that the bill argues that instead of pursuing Corps SAM, the ballistic missile defense office should begin development of a system based on making the Patriot PAC–3 technologies highly mobile to meet the Corps SAM requirement.

I do not have a quarrel with that. Perhaps PAC–3 would be better than Corps SAM. We do not have money in the bill to test that. Right now it cannot protect in this area. It is not being worked on. I do not mind seeking an answer to that question, but no one knows the answer now.

Why should we cancel the only program that is designed to protect this, and try the PAC–3, give them no money to try PAC–3, and in the meantime cancel the only program we have designed in that direction. I do not understand any logic in that.

The fifth point, the bill right now, unless it is changed, rejects the cooperation with our allies on the MEADS program. That is the program that three of our allies have signed up for, saying they are willing to put some of their money into it. For the first time we have some of our allies willing to put money into these programs. They will pay 50 percent of the MEADS program.

Now, that is puzzling to me, because every Congress—and I do not know of any objection we have ever had from this on either side of the aisle—has requested that the administration, the Bush administration and the Clinton administration, and even the Reagan administration in the early 1980's, push hard for greater involvement of our allies in missile defenses.

The allies finally, after a lot of urging, have voluntarily—we did not tell them which program to get involved in; they voluntarily chose this program. What do we do? The first thing we do after years of urging, we say, OK, you have signed up for this program, we will cancel it. We want you to now look at other programs, I assume. I do not think that makes any sense.

Mr. President, the bill's decision to terminate the Corps SAM/MEADS program leaves our forward-deployed Marine and Army troops virtually unprotected for the foreseeable future from attacks by short-range ballistic missiles.

I want no one to misunderstand. We are not talking about what the dialog was a little while ago, when we have a threat in 10 years against the Holy Land, the United States, or whether we have a threat in 12 years or 8 years, or a present threat. This is a present threat. It is today's threat. It is one in which the next time we have a conflict, we may well have a chemical weapon dropped on our forward battle troops by a delivery system, that the Corps SAM—which has been canceled under this bill—is designed to protect against.

I emphasize the point about today's threat. This is a Defense Daily report dated July 6, and it is reporting on the Roving Sands exercise, which the caption says ''Roving Sands Exercise Reinforced Need for Corps SAM, the Army Says.''

From the report, ''In a June paper, officials of the Army's Air Defense Artillery Center say that recently completed Roving Sands air defense exercise 'reinforced the Army's need to field the Corps SAM [surface-to-air missile]'''—that is what SAM stands for, surface-to-air missile—''to fill a void that exists as a result of emerging threats' from tactical ballistic missiles, unmanned aerial vehicles, and cruise missiles.''

''During the Army's live Theater Missile Defense Advance Warfighting Experiment, which was conducted as a part of Roving Sands, SS–21 short-range missiles employed by enemy red forces presented a particular problem for the friendly blue forces.''

Mr. President, getting away from the quote, this is an exercise. We have enemy forces, we have friendly forces. They test the various enemy systems against our present capability. SS–21 has been produced by the Soviet Union for years and have been sold to numerous countries around the world. These are widely distributed missile systems that exist in many countries.

''The largest problem for the blue forces,'' that is, the friendly forces, ''came from the red Alpha Battery 1st Battalion, 914 SSM Brigade, which 'successfully fired all missiles, many with chemical warheads, against some 20 Corps and Division targets.' The battery was not detected during a single mission, and they were not engaged by fixed wing aircraft, rotary aircraft,'' or the Army Tactical Missile System.

In other words, they had 100 percent success rate in the shots that were postulated with existing technology against forward battle troops. Any one of those in a real battlefield would have contained chemical weapons.

Continuing the quotation from this report:

For the exercise, four Scud brigades—of which two were simulated and two combined live and simulated equipment—and one SS–21 brigade formed the theater ballistic missile threat.

Surrogates for cruise missiles formed during Roving Sands ''also attacked Corps targets at will'' despite the deployment of blue forces of an advanced technology sensor to detect them.

This inability to deal with the major elements of the emerging threat during Roving Sands highlights a deficiency in corps missile defense capabilities, air defense officials conclude in the paper. The Army must field the Corps SAM system to ensure protection of friendly forces and allow the corps commander to accomplish his mission.

Mr. President, there is much more that can be said about those testings, but I think those paragraphs pretty much capture the essence of what we are faced with.

I am not going to get into a detailed comparison of the programs which are funded versus this program which is not funded. Suffice it to say, though, in my opinion we are pouring money into programs that are going to take a long time to develop, that are speculative in terms of whether they will work or not. I think some of them are worth some money. Some of them are worth putting money in, to see whether they will work or not. I do not disagree with that. But we are pouring in large sums of money, above the requests in those areas, and we are canceling the very program that our allies are working on with us, finally, that is designed to protect the frontline troops against today's threat. That does not make sense.

Finally, the termination of the Corps SAM program in this bill is bound to have a chilling effect on further cooperation with our NATO allies on all defense programs, not just missile defenses. The actions in this bill are a complete reversal of the previous policy of cooperation. The Congress has been urging cooperation by the allies. Frankly, we want them to put some of their money into these programs, too. We do not want to be the only ones who ever put any money up. We want them to put some money up, because we are going to be fighting, in most conflicts, certainly in the European theater, side by side with our allies.

Quoting from the National Defense Authorization Act for fiscal year 1994, and I give this as the exact quote from that bill—I know of no Senator or Congressman who opposed this provision in any way:

Congress encourages Allies of the United States, and particularly those Allies that would benefit most from deployment of Theater Missile Defense systems, to participate in, or to increase participation in, cooperative Theater Missile Defense programs of the United States.

We have urged them to get involved. They have finally gotten involved and we are canceling the program. We are talking about $35 million in this amendment and we are talking about, not an add-on to this bill, this amendment would shift the money from the big pot of money, over $3 billion that is provided in the overall missile defense area, and we leave it up to the Secretary of Defense, in this amendment, to determine how to shift those funds. But there is in my opinion sufficient funds for this purpose.

Let me briefly summarize. My amendment restores the $30.4 million requested by the ballistic missile defense office for the Corps SAM/MEADS program. We add another $4.6 million for the ballistic missile defense office to study the view of the majority that the PAC–3 system can also be made applicable to this. We say, ''OK, good idea. Take a look-see. But do not cancel this program while you are doing it because we do not know the answer.'' Thus, my amendment adds back a total of $35 million. Since the grand total of $770 million the majority has already added to the request for ballistic missile defense in my opinion is adequate, my amendment thus offsets the $35 million increase by an undistributed reduction of $35 million to the total BMD funding of $3.4 billion.

We have $3.4 billion in this bill. Of that $3.4 billion, we would shift $35 million to restructure, repay, and reinsert this program.

Mr. President, I should close by quoting from a number of letters of support for the restoration of the Corps SAM funding which I received both from the Pentagon and from our commanders in the field.

The first letter is a letter from Secretary of Defense Bill Perry. I will just quote selectively from that. It is a 2½ page letter addressed to Senator THURMOND.

DEAR MR. CHAIRMAN: As you continue your consideration of the Fiscal Year 1996 National Defense Authorization Bill, I strongly urge you and your colleagues to reconsider the termination of the Medium Extended Air Defense System (MEADS) program. The MEADS is a high priority advanced capability tactical ballistic missile defense system that merits your full support.

Continuing to quote:

The MEADS [program] represents an appropriate form of allied cooperation in the development of a missile defense system for which the United States and our allies share a valid military requirement.

Continuing to quote:

The outcome of the internationally structured MEADS program will be viewed on both sides of the Atlantic as one of the most important tests of future trans-Atlantic defense cooperation. At a time when both sides of the Atlantic are experiencing declining defense budgets and smaller procurements, we should welcome collaborative ventures where there are compatible requirements. Failure to follow through with this collaborative effort could significantly impact prospects for future defense cooperation within the alliance, jeopardize U.S. efforts to forge an alliance policy on theater missile defense, and may hamper the ability of U.S. defense industry to solicit joint programs with the allies in other areas.

The Senate report language specifies the United States would be best served to work with the allies on theater missile defense systems that would provide wide areas of coverage, such as the Navy wide area or Army THAAD systems. While future cooperative efforts in those programs may have merit, I firmly believe that MEADS uniquely offers the best opportunity for allied cooperation at this time. In a future conflict, as in Operation Desert Storm, the United States and our allies will likely be operating together in a theater of operations as a coalition force. In this manner, our maneuver forces will be vulnerable to attack by tactical ballistic missiles, cruise missiles and other air-breathing threat. The MEADS would allow the United States, French, German and Italian forces operating the system to provide protection for all coalition partners.

Mr. President, next I will read from a letter from Gen. George Joulwan who heads up our European command. Quoting from General Joulwan:

The recent Senate Armed Services Committee mark-up concerning the MEADS/Corps SAM program directly impacts USEUCOM and NATO's ability to fight and win on the future battlefield. USEUCOM and NATO have a critical need for MEADS.

Missile defense is one of my very top priorities. While the ''Core'' US Theater Missile Defense (TMD) systems (PAC–III, Navy lower-tier and THAAD) play a central role in defending US interests and forces, they do not provide the mobility and force protection required to defend against emerging air and cruise missile threats. These limitations provide our potential enemies a window of opportunity to attack perceived vulnerabilities in protection of our forces and/or national interests. Core TMD programs alone simply do not provide sufficient operational capability to meet our security requirements.

The MEADS/Corps SAM program will enable the US to protect its regional interests against a wide spectrum of threats. Excepting long range strategic missiles currently deployed by only a few countries, there is no direct missile threat to the continental United States today. Conversely, this theater faces a range of systems that could directly threaten US interests and US/Allied forces. Many nations in and around the European Theater (especially in our Southern Region) are developing and employing short range Theater Ballistic Missiles (TBM), cruise missiles and Unmanned Aerial Vehicles (UAV) to exploit perceived US and Allied vulnerabilities.

In the European Theater, interoperability is absolutely vital. Further, NATO is the enabler for coalition operations elsewhere. The MEADS program improves both US and NATO operational capability through total interoperability. Having MEADS deployed with our allies would mean less reliance on strictly US assets to defend US and Allied forces and interests.

Mr. President, next I would like to read a letter from General Luck, commander in chief, U.S. Army in Korea.

This situation, especially on the Korean peninsula, requires that we develop and field TMD systems that are highly flexible, extremely mobile, capable of 360 degree coverage and able to counter the full threat spectrum. Though there is no system that can currently do this job for us, I strongly believe the US Army has clearly articulated the need for such a system through the Corps SAM program.

I understand that recent action by the HNSC and the SASC have essentially terminated the Corps SAM program. I would think that the demise of that program should not be mistakenly linked to the vital Corps SAM requirement. The capability provided by Corps SAM represents one of our more important needs in protecting the force on the peninsula today and in the future.

Mr. President, he goes on to say:

While we do have Patriot PAC–2 assets in theater, we remain at risk given the growing and rapidly improving nature of the threat. The termination of Corps SAM continues and increases that risk. I would strongly recommend that Congress reconsider the Corps SAM requirement and restore appropriate funding to protect our forces.

Mr. President, I also would like to read a letter from Gen. Dennis Reimer, head of the U.S. Army:

The predominant threats to Army and Marine Corps maneuver forces are very short/short range tactical ballistic missiles (VS/SRTBMs), cruise missiles (CMs) and unmanned aerial vehicles (UAVs). Defense against these threats well forward of our forces is clearly one of the greatest concerns facing our Commanders-in-Chief (CINCs). The Corps SAM Operational Requirements Document (ORD) specifies countering these threats with a strategically deployable, tactically mobile system providing 360 degree coverage. Existing/proposed system configurations (PAC–3, THAAD, Navy Upper/Lower tier) fail to provide the required protection due to deployability and mobility limitations, lack of 360 degree coverage, and lack of growth potential to meet these essential requirements.

This is a compelling requirement. Army and Marine Corps forces are currently at risk, and will remain at risk with no defense against VS/SRTBMs and only limited capability against CM attacks.

Mr. President, finally a letter from Robin Beard. Many of you know Robin Beard. He was a Congressman from Tennessee, a Republican Congressman, and now is the Assistant Secretary General, NATO. He writes the following letter. This letter is addressed to Senator TED STEVENS:

DEAR SENATOR STEVENS:

I am writing to express extreme concern with the Senate Armed Services Committee's decision to terminate the Medium Extended Air Defense System (MEADS) program and to urge you and your colleagues to support the President's budget request of $30.4 million for MEADS in the FY 1996 Defense Appropriations Bill.

While others have spoken to the U.S. military requirements for MEADS/Corps SAM, I would like to offer a broader NATO perspective on the matter. Canceling MEADS would send a horrible message to the Allies. It would confirm their worst fears regarding the lack of U.S. interest in cooperative armaments projects and would seriously jeopardize on-going efforts to develop a cooperative approach for meeting the challenges posed by the proliferation of weapons of mass destruction and their delivery systems.

Mr. President, continuing to quote from Robin Beard who is now the Assistant Secretary General, NATO:

In addition to the political track, NATO Military Authorities have prepared a draft Military Operational Requirement for Theater Missile Defense that calls for the protection of NATO territory, forces and populations against ballistic missiles. And efforts are also underway under the auspices of the Conference of National Armaments Director (CNAD)—where NATO's material development is focused—to define future opportunities and mentors of collaboration in the area of TMD.

All of these efforts will lead, in the next couple of years, to the development of an Alliance policy framework on TMD cooperation endorsed by the North Atlantic Council. The termination of MEADS, the first significant TMD collaborative efforts, would be a serious setback for U.S. leadership in this area.

Mr. President, I also have a letter from General Shalikashvili, Chairman of the Joint Chiefs of Staff. But I think I have probably given enough so that my colleagues have gotten the drift of the priorities for this program.

I hope that the Senate will consider this carefully. I hope that this amendment could possibly be accepted. But, if it is not accepted, I urge my colleagues to vote for it.

I think this is a very important program. A lot is at stake here. The lives of the battlefield troops at the front line are at stake, and the future of cooperative efforts in our alliance in terms of theater missile defense I think also will be very significantly affected by how we handle this matter.

Mr. President, I ask unanimous consent that all of the complete letters that I have read excerpts from be printed in the RECORD.

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

JULY 24, 1995.

Hon. SAM NUNN,
Ranking Member, Senate Armed Services Committee, U.S. Senate, Washington, DC.

DEAR SENATOR NUNN: As you well know, our combined forces in Korea face a significant threat from DPRK tactical ballistic missiles, cruise missiles and unmanned aerial vehicles. The growing quantity and capability of this particular threat and the restricted nature of Korean terrain amplify the risk to our forces. This situation, especially on the Korean peninsula, requires that we develop and field TMD systems that are highly flexible, extremely mobile, capable of 360 degree coverage and able to counter the full threat spectrum. Though there is no system that can currently do this job for us, I strongly believe the US Army has clearly articulated the need for such a system through the Corps SAM program.

I understand that recent action by the HNSC and the SASC have essentially terminated the Corps SAM program. I would think that the demise of that program should not be mistakenly linked to the vital Corps SAM requirement. The capability provided by Corps SAM represents one of our more important needs in protecting the force on the peninsula today and in the future. In fact, TMD as a whole is a high priority in our theater and has the support of USCINCPAC as

one of the top ten priorities within our FY96 integrated priority list.

While we do have Patriot PAC–2 assets in theater, we remain at risk given the growing and rapidly improving nature of the threat. The termination of Corps SAM continues and increases that risk. I would strongly recommend that Congress reconsider the Corps SAM requirement and restore appropriate funding to protect our forces.

Sincerely,

GARY E. LUCK,
General, U.S. Army,
Commander in Chief.

U.S. ARMY,
THE CHIEF OF STAFF,
Washington, DC, July 14, 1995.

Hon. STROM THURMOND,
Chairman, Committee on Armed Services, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Senate Armed Services Committee (SASC) voted to terminate the Corps Surface-to-Air Missile (Corps SAM) program, after the House National Security Committee (HNSC) voted a $10 million decrement. However, the critical warfighting requirement that Corps SAM intends to fill remains completely valid.

The predominant threats to Army and Marine Corps maneuver forces are very short/short range tactical ballistic missiles (VS/SRTBMs), cruise missiles (CMs) and unmanned aerial vehicles (UAVs). Defense against these threats well forward of our forces is clearly one of the greatest concerns facing our Commanders-in-Chief (CINCs). The Corps SAM Operational Requirements Document (ORD) specifies countering these threats with a strategically deployable, tactically mobile system providing 360 degree coverage. Existing/proposed system configurations (PAC–3, THAAD, Navy Upper/Lower tier) fail to provide the required protection due to deployability and mobility limitations, lack of 360 degree coverage, and lack of growth potential to meet these essential requirements.

This is a compelling requirement. Army and Marine Corps forces are currently at risk, and will remain at risk with no defense against AS/SRTBMs and only limited capability against CM attacks. We strongly feel that development actions must continue, and welcome the opportunity to work with the Committee to demonstrate how we can leverage current capabilities in order to meet this critical need in a rapid, cost-effective manner.

Sincerely,

DENNIS J. REIMER,
General, U.S. Army,
Chief of Staff.

U.S. ARMY,
THE CHIEF OF STAFF,
Washington, DC, July 28, 1995.

Memorandum for Under Secretary of Defense (Acquisition and Technology).

Subject: Army Position for Corps Surface-to-Air Missile (Corps SAM)/Medium Extended Air Defense System (MEADS).

1. The Army fully supports the current proposed Corps SAM/MEADS program. We need to proceed as rapidly as possible with the Corps SAM program under any circumstances. The Army and the Marine Corps have a compelling need for the only system that can provide air and missile defense for maneuver forces as well as serve as an effective lower tier Theater Missile Defense (TMD) system under the Theater High Altitude Area Defense (THAAD) umbrella.

2. We have reviewed the current status of the Corps SAM/MEADS program with respect to the ongoing debate in Congress and the mid and long-term funding of DoD's TMD programs. We believe that the potential development cost savings and the prospects of allied interoperability and operational burden sharing in TMD fully justify pursuing the Project Definition—Validation phase of MEADS. The initial phase will define the program in terms of costs and other benefits to the participating nations and allow for an informed decision by all the countries involved regarding continuation of a cooperative program. The Army has the mechanisms in place to adequately address Congressional concerns with respect to leveraging current TMD and cruise missile defense programs while protecting our interests with respect to technology transfer. The industry proposals currently being evaluated reflect a high degree of leveraging of other programs and will serve as a sound foundation for entering into the MEADS program. We will provide full support to insure that MEADS is begun expeditiously and in a manner that protects the best interests of the United States. If efforts at a cooperative program are unsuccessful, the Request For Proposal (RFP) allows for a transition back to a U.S. only program.

3. I appreciate your continued support of this critical program for our warfighters.

DENNIS J. REIMER,
General, U.S. Army,
Chief of Staff.

NORTH ATLANTIC TREATY ORGANIZATION,
July 25, 1995.

Hon. TED STEVENS,
Chairman, Subcommittee on Defense, Committee on Appropriations, U.S. Senate, Washington, DC.

DEAR TED: I am writing to express extreme concern with the Senate Armed Services Committee's decision to terminate the Medium Extended Air Defense System (MEADS) program, and to urge you and your colleagues to support the President's budget request of $30.4 million for MEADS in the FY 1996 Defense Appropriations Bill.

While others have spoken to the U.S. military requirement for MEADS/Corps SAM, I would like to offer a broader NATO perspective on the matter. Cancelling MEADS would send a horrible message to the Allies. It would confirm their worst fears regarding the lack of U.S. interest in cooperative armaments projects and would seriously jeopardize on-going efforts to develop a cooperative approach for meeting the challenges posed by the proliferation of weapons of mass destruction and their delivery systems.

NATO is now closer than ever to formulating an Alliance approach to theater missile defense. At the January 1994 NATO Summit, Ministers recognized the dangers posed by proliferation and directed that work begin on developing a policy framework to reduce the proliferation threat and protect against it. Supporting this effort is NATO's Senior Defense Group on Proliferation, which recently concluded that preventing the proliferation of WMD and their missile delivery systems remains NATO's top counter proliferation priority. Additionally, the June 1994 Alliance Policy Framework on Proliferation and Weapons of Mass Destruction recognizes the growing proliferation risks, especially with regard to states on NATO's periphery, and called on the Alliance to address the military capabilities needed to discourage WMD proliferation and use, and if necessary, to protect NATO territory, populations and forces.

In addition to the political track, NATO Military Authorities have prepared a draft Military Operational Requirement for Theater Missile Defense that calls for the protection of NATO territory, forces and populations against ballistic missiles. And efforts are also underway under the auspices of the Conference of National Armaments Directors (CNAD)—where NATO's materiel development is focused—to define future opportunities and methods of collaboration in the area of TMD.

All of these efforts will lead, in the next couple of years, to the development of an Alliance policy framework on TMD cooperation endorsed by the North Atlantic Council. The termination of MEADS, the first significant TMD collaborative efforts, would be a serious setback for U.S. leadership in this area. The need to respond to the growing proliferation threat, coupled with the high cost of new defensive systems, means that we can't go it alone. We need Allied participation and MEADS is a good place to start because it responds to French, German and Italian requirements to develop a new defensive capable of addressing the threat posed by aircraft, ballistic missiles, and cruise missiles. And, as it has been noted by U.S. military authorities, it fulfills the requirement for a highly mobile TMD/cruise missile defense system capable of protecting Army and Marine Corps maneuver forces.

The implications of canceling MEADS go well beyond NATO TMD cooperation. As the centerpiece of the U.S. ''renaissance'' in trans-Atlantic cooperation. MEADS is an experiment that is being closely watched on both sides of the Atlantic. Failure of the U.S. to follow through will stifle prospects for future cooperation—such as with JSTARS—and play into the hand of those advocating a strong European defense industry at the expense of trans-Atlantic cooperation. U.S. industry will then find it increasingly difficult to solicit European cooperation across a broad spectrum of projects. It may well spell the difference between trans-Atlantic cooperation and competition.

In closing, I would again urge you and your colleagues to consider the broader geopolitical implications of this cooperative program and support the President's budget request. MEADS will pay dividends in the future both in terms of its contribution to trans-Atlantic armaments collaboration and as a military capability in support of out-of-area operations—a central tenet of the Alliance's new Strategic Concept.

Yours sincerely,

ROBIN BEARD,
Assistant Secretary General, NATO.

CHAIRMAN OF THE JOINT CHIEFS OF STAFF,
Washington, DC, July 12, 1995.

Hon. SAM NUNN,
U.S. Senate, Committee of the Armed Forces, Washington, DC.

DEAR SENATOR NUNN: Thank you for your letter of 11 July regarding your concerns about theater missile defense (TMD) priorities.

The President's Budget submit represents a balanced approach to satisfying our theater missile defense requirements. In that document, CORPS SAM/MEADS research and development was supported as a part of the integrated TMD architecture. It will fill a critical need for mobile, self-defensive capability for maneuver forces, both Army and Marine Corps. We support funding of this program at $30.4 million for FY 1996. In response to your questions, I support funding Corps SAM/MEADS at this level since none of the programs in the letter offer an alternative better than the President's Budget.

Current development efforts, new efforts in sophisticated strike operations against mobile launchers, and the Ballistic Missile Defense Organization-led TMD Cost and Operational Effectiveness Analysis will enable the Department to make critical TMD acquisition decisions in the FY 1998 budget process consistent with funding constraints and

the CINCs' warfighting requirements. For now, I believe the DoD Budget submit appropriately represents our TBMD warfighting priorities.

I discussed the above position with the Joint Chiefs and our CINCs, and all are in agreement.

Sincerely,

JOHN M. SHALIKASHVILI,
Chairman of the Joint Chiefs of Staff.

THE SECRETARY OF DEFENSE,
Washington, DC, July 28, 1995.

Hon. STROM THURMOND,
Chairman, Committee on Armed Services, U.S. Senate Washington, DC.

DEAR MR. CHAIRMAN: As you continue your consideration of the Fiscal Year 1996 National Defense Authorization Bill, I strongly urge you and your colleagues to reconsider the termination of the Medium Extended Air Defense System (MEADS) program. The MEADS is a high priority advanced capability tactical ballistic missile defense system that merits your full support.

The Department's approach to the MEADS program has its direct legacy in past Congressional direction that the United States seek cooperation with our allies on the development of tactical and theater missile defenses. I would cite the provision from the Fiscal Year 1994 Defense Authorization Conference Report that expressed the following sense of the Congress:

''Congress encourages allies of the United States, and particularly those allies that would benefit most from deployment of Theater Missile Defense systems, to participate in, or to increase participation in, cooperative Theater Missile Defense programs of the United States. Congress also encourages participation by the United States in cooperative theater missile defense efforts of allied nations as such programs emerge.''

The MEADS represents an appropriate form of allied cooperation in the development of a missile defense system for which the United States and our allies share a valid military requirement. As you are aware, MEADS will fulfill an existing U.S. operational requirement for a rapidly deployable, highly mobile, robust air defense system designed to protect maneuver forces and expeditionary forces of the U.S. Army and Marine Corps. Both Services are in strong agreement on the need for protection against short- to medium-range ballistic missiles and the full spectrum of air-breathing threats-aircraft, cruise missiles and unmanned aerial vehicles. This is also a military requirement shared by our European allies. In short, this is a valid requirement.

To satisfy this requirement and reduce costs, the committee recommends a restructured program that would merge ongoing efforts in PAC–3 and Theater High Altitude Area Defense (THAAD) to produce a mobile, hybrid system. The acquisition strategy for the current MEADS program does, in fact, leverage off existing ballistic and cruise missile defense programs as the committee suggests. During the MEADS program definition phase, we have planned to evaluate all viable options including hybrid solutions. Each approach will be assessed and its advantages in terms of costs and commonality will be compared to other system concepts. At least one of our partners, Germany, which already has PATRIOT, would most likely respond eagerly to any PAC–3 option which would provide part of a cost and operationally effective MEADS architecture. Additionally, any potential cost saving derived from unilateral development are more than offset by the political, operational and diplomatic benefits of international collaboration.

The outcome of the internationally structured MEADS program will be viewed on both sides of the Atlantic as one of the most important tests of future trans-Atlantic defense cooperation. At a time when both sides of the Atlantic are experiencing declining defense budgets and smaller procurements, we should welcome collaborative ventures where there are compatible requirements. Failure to follow through with this collaborative effort could significantly impact prospects for future defense cooperation within the alliance, jeopardize U.S. efforts to forge an alliance policy on theater missile defense, and may hamper the ability of U.S. defense industry to solicit joint programs with the allies in other areas.

The Senate report language specifies that the United States would be best served to work with the allies on theater missile defense systems that would provide wide areas of coverage, such as Navy wide area or Army THAAD systems. While future cooperative efforts in those programs may have merit, I firmly believe that MEADS uniquely offers the best opportunity for allied cooperation at this time. In a future conflict, as in Operation Desert Storm, the United States and our allies will likely be operating together in a theater of operations as a coalition force. In this manner, our maneuver forces will be vulnerable to attack by tactical ballistic missiles, cruise missiles and other air-breathing threats. The MEADS would allow United States, French, German and Italian forces operating the system to provide protection for all coalition partners. At the same time, THAAD and Navy Wide Area Defenses could provide a defensive overlay. Hence, MEADS supports coalition efforts, joint operations and interoperability of tactical ballistic missile defenses. These could be critical features in a future conflict.

I urge you to support the full budget request for MEADS, our centerpiece of Theater Missile Defense cooperation with our European allies.

Sincerely,

WILLIAM J. PERRY.

COMMANDER IN CHIEF,
U.S. EUROPEAN COMMAND,
July 20, 1995.

Hon. SAM NUNN,
Ranking Member, Senate Armed Services Committee, U.S. Senate, Washington, DC.

DEAR SENATOR NUNN: The recent Senate Armed Services Committee mark-up concerning the MEADS/Corps SAM program directly impacts USEUCOM and NATO's ability to fight and win on the future battlefield, USEUCOM and NATO have a critical need for MEADS.

Missile defense is one of my very top priorities. While the ''Core'' US Theater Missile Defense (TMD) systems (PAC-III, Navy lower-tier and THAAD) play a central role in defending US interests and forces, they do not provide the mobility and force protection required to defend against emerging air and cruise missile threats. These limitations provide our potential enemies a window of opportunity to attack perceived vulnerabilities in protection of our forces and/or national interests. Core TMD programs alone simply do not provide sufficient operational capability to meet our security requirements.

The MEADS/Corps SAM program will enable the US to protect its regional interests against a wide spectrum of threats. Excepting long range strategic missiles currently deployed by only a few countries, there is no direct missile threat to the continental United States today. Conversely this theater faces a range of systems that could directly threaten US interests and US/Allied forces. Many nations in and around the European Theater (especially in our Southern Region) are developing and employing short range Theater Ballistic Missiles (TBM), cruise missiles and Unmanned Aerial Vehicles (UAV) to exploit perceived US and Allied vulnerabilities.

In the European Theater, interoperability is absolutely vital. Further, NATO is the enabler for coalition operations elsewhere. The MEADS program improves both US and NATO operational capability through total interoperability. Having MEADS deployed with our allies would mean less reliance on strictly US assets to defend US and Allied Forces and interests.

MEADS has potentially significant economic and political benefits, as well. New TMD systems are so expensive that unilateral development and fielding often makes them unaffordable. Yet, with the Germans, French and Italians picking up 50% of the MEADS program costs, it appears that we can protect our forces and interests while realizing potentially large savings.

Politically, MEADS is a visible and important illustration of the US commitment to missile defense, to NATO, and to Europe. MEADS is a model for future transatlantic cooperation efforts. Terminating MEADS now would have serious ramifications in other ongoing cooperative ventures and raise yet another round of poignant questions about US intentions regarding leadership in NATO. Consequently, to protect US forces and our national interests, we must maintain the leadership and momentum for MEADS. Congressional support is critical. With it, MEADS can protect US interests and US/Allied forces from adversaries equipped with short range TBMs, cruise missiles and UAVs. Without MEADS, we will place future US and Allied forces at a serious risk. I urge continued development of MEADS.

Sincerely,

GEORGE A. JOULWAN,
General, U.S. Army.

Mr. NUNN. Mr. President, I yield the floor.

Mr. LOTT. Mr. President, I rise in support of this very important Department of Defense authorization bill. I think outstanding work has been done on this bill, and I commend the very distinguished chairman of the full committee, the Senator from South Carolina, Senator THURMOND, who really provided true leadership on this bill. He allowed the subcommittees to do their work. We had a lot of very good hearings. All of the Members were engaged and involved. And I think we have produced a good bill. Obviously, there are some points we disagree on. But I think we can work out some of those disagreements, and we will have votes on others and move forward.

I want to thank the distinguished Senator from Georgia, who has always done good work on the important defense of our country, and I look forward to working with him on a number of issues that are still outstanding that I think we can resolve.

I want to make the point at the beginning that we have already had a lot of negotiations and addressed a number of concerns in the Department of Defense authorization bill. I believe we are going to be able to make a number of changes in the Department of Energy portion of the DOD authorization bill that will address concerns of Senators on both sides of the aisle, and from States as divergent at South

Carolina, Idaho, New Mexico, and Tennessee.

We have tried to list all of the various concerns. We have resolved all of these issues except maybe one or two where we just need to have a good debate and have a vote and see how it turns out.

So I am pleased with the bill that we have produced. I think we should not lose sight of the fact that we need to move it on through in a reasonable time, get it into conference where we will continue to work out differences, and produce a bill that I feel confident that hopefully the President will be able to sign.

Also I would like to urge my colleagues to try to limit the number of amendments. Let us get right down to the basic issues and vote so we can finish up the authorization bill in the next 3 days and move on to the appropriations bill.

From an authorization standpoint, I think we need to remember that we are right on top of the appropriations process now. If we dally along very much, we will wind up on a side track, and the appropriators move forward. So let us work together and resolve these issues the best way we can.

But I would like to address the issue that has been discussed a lot here today—a couple of the issues that will be debated later on, and we will have amendments on it. That is the Missile Defense Act of 1995. Since there have been a number of assertions that I think are not true—I think they are false—concerning the content and the intent of this legislation, I would like to explain actually what it does and does not do in my opinion,

The Missile Defense Act of 1995 would replace the Missile Defense Act of 1991 which was a bipartisan effort that was developed in 1991 with more up-to-date legislation intended to respond more completely to the challenges and opportunities of the post-cold-war era—times have changed—and establish a more focused course for theater and national missile defenses.

The new legislation also addresses the growing cruise missile threat that we have around the world, for the first time establishing an integrated approach to ballistic and cruise missile defense.

Programmatically, the Missile Defense Act of 1995 has three pieces: One that focuses our efforts in the area of theater missile defense; one that establishes a clear policy to develop and deploy a limited national missile defense system; and, one that establishes the cruise missile defense initiative.

With regard to TMD, the legislation establishes a top priority corps program consisting of the Patriot PAC–3 system, the theater high altitude area defense system, or THAAD, the Navy lower tier system, and the Navy upper tier system. To allow us to maintain this high priority program and to make room for programs to defend American territory, the legislation also proposes to terminate two unfocused and relatively low priority programs—although its value or priority has already been discussed, and we will talk more about it in a moment—that is, the airborne boost-phase interceptor, and the Corps SAM system.

Each year, several of our colleagues say that, well, you never cancel any defense programs even when they have had problems or when their future is not clear, or regardless of what the cost is. Well here is a case where we are trying to terminate one that has been unfocused and has some problems.

We want to work with Senator NUNN on the Corps SAM issue and I think maybe we can find a way to work through this. But keep in mind, this is not some $30 million program or $35 million program. This is a program that leads us to over $10 billion now. If it is an international program that involves some of our allies in Europe, presumably they would take up some half of the costs of that Corps SAM program. But this is potentially a big dollar program.

So what I would like to see us do is let us look at the problems it has had, let us ask some questions about why it has moved on into the international arena without us I think directly acting on that, and see if we can understand where we want to go before we get started toward a program that could cost a lot.

I am impressed, we are all impressed, when the frontline commanders say we need this. We listen to that. But here is a case where we said we just do not feel we can afford this one in view of the way it has been developed and some of the problems it has had.

With regard to the national defense, I am amazed at what I hear on this. Listen to what I said: ''National defense.'' The Missile Defense Act would establish a policy to deploy a multiple-site ground-based system by the year 2003. This is not star wars but a modest and responsible answer to a growing threat.

After considering all the alternatives, the Armed Services Committee felt that the United States should move directly to a multiple-site system, since a single-site system would just not be capable of defending all Americans. We are thinking about a system that is going to allow some Americans to be defended and not others? Somebody want to defend that?

We felt it was inappropriate morally and strategically to select a subset of the American population for defensive coverage while leaving some undefended. You better check and see if you would be undefended or not. We are talking about national defense of our country and by one that could have more than one site so that everybody could be covered. This decision seems even more correct given that the most unpredictable and dangerous new ballistic missile threats will be capable of reaching States like Alaska and Hawaii before the continent itself becomes vulnerable. I am referring to the North Korean intercontinental ballistic missile program which the intelligence community believes could become operational within the next 5 years.

This is not some far-off potential threat. This is very close. An NMD system consisting of the only site in the middle of the United States simply cannot defend Alaska and Hawaii and would not do a very good job of protecting the coastal regions where most Americans live, including this Senator. I live on the Gulf of Mexico. I look at the areas covered. We probably would not be covered. I am uncomfortable with that.

In the area of cruise missile defense, the legislation would require the Secretary of Defense to focus U.S. activities and coordinate the various efforts within the Department of Defense. It would require the Secretary to integrate U.S. programs for ballistic missile defense with cruise missile defense to ensure that we leverage our efforts and do not waste resources through unnecessary duplication. It also requires the Secretary to study the current organization for managing cruise missile defense and recommend changes that would strengthen and coordinate these efforts.

There have been a number of other statements I just do not agree with raised against this legislation, most of them having to do with the ABM Treaty. Let me set the record straight. Nothing in this bill advocates or would require violation of the ABM Treaty. Every policy and goal established in this bill can be achieved through means contained in the ABM Treaty itself. The argument this bill would force us to violate the ABM Treaty is like arguing that one must drive off a cliff just because there is a bend in the road where the cliff is.

This bill recommends that we gradually and responsibly turn the wheel. Can we improve on it? Let us work at it. Maybe we can. I think we have got some scare tactics here with regard to what we are trying to do, and that is not what we want to do.

Let me also say that it is not this bill first and foremost that forces us to reconsider the ABM Treaty. Such a reexamination is warranted, indeed required, as a result of the end of the cold war and the growing multifaceted ballistic missile threat characterizations of this new era. The ABM Treaty with its underlying philosophy of mutually assured destruction, MAD, practically defined the cold war confrontation. Why would anybody argue that we should now reexamine that agreement? Times are different.

Let us be clear about what this bill in fact calls for. It recommends that the Senate undertake a comprehensive review of the continuing value and validity of the ABM Treaty. It suggests that the Senate consider creating a select committee to undertake a 1-year assessment. Let us not run up to the point where in the year 2002 or 2003 we

may actually want to move toward deployment.

Let us think about it. Let us have a group, and if this is not the way to set it up, set it up somewhere else. Get the various committees that would have jurisdiction involved. Let us start thinking about and talking about what we want to do with the ABM Treaty. So what we are recommending is a careful examination of all issues before making a specific recommendation to the President on how to modify our current ABM Treaty obligations.

By establishing a policy to deploy a multiple-site NMD, national missile defense system, this bill does assume that eventually we will need to amend or otherwise modify the ABM Treaty, but let me repeat that the means to achieve this are contained in the ABM Treaty itself. The treaty in no way limits the establishment of policies. It limits the deployment of ABM systems.

In the case of ground-based systems, the treaty in no way limits deployment or development or testing. Therefore, we can proceed simultaneously to develop the system called for in this bill while we figure out the best approach dealing in the future with the treaty.

We should remember that the ABM Treaty was meant to be a living document that can be changed as circumstances change. Anyone who argues that the strategic and political circumstances have not changed since 1972 is living on another planet.

Article XIII of the treaty envisioned possible changes in the strategic situation which have a bearing on the provisions of this treaty. So I wish to just emphasize again as I move forward that there are various treaty compliant ways to modify our current obligations under the treaty and we would like to work toward.

For those who are upset by the fact that this bill would establish a policy to deploy a multiple-site NMD system, I would point out that the ABM Treaty signed and ratified in 1972 did permit development and deployment of multiple sites. I would also remind my colleagues who seem to fear the prospect of amending the treaty that in 1974 the Senate approved a major amendment to the treaty. So we are not suggesting something happened that has not already happened before and we would not suggest doing it for quite some time.

Let me also briefly address another provision in the Missile Defense Act of 1995 which relates to the ABM Treaty. Section 238, which is based on legislation introduced earlier this year by Senator WARNER, would establish a clear demarcation line between TMD systems which are not covered by the treaty and the ABM systems which are explicitly limited. This provision is also consistent with the letter and the spirit of the treaty, and I know we will talk more about that later on.

Now, with regard to this specific amendment that is pending, I wish to commend Senator KYL for his amendment. How could anybody disagree with it? It says the purpose of this amendment is to state the sense of the Senate on protecting the United States from ballistic missile attack. That seemed like a very worthwhile proposal to me. The Senator from Arizona has clearly demonstrated that there is a real and growing threat to the security of the United States posed by ballistic missiles of all ranges. I fully conquer with his sense-of-the-Senate language that all Americans should be defended against this potential limited ballistic missile attack.

This week we will have a lot of debate on this subject and others related to it. One argument that will surface over and over is that there is no threat to justify the deployment decision of the national missile defense program. The Kyl amendment clearly establishes that this is an erroneous assumption. The United States currently faces ballistic missile threats from Russia and China, if only the threat of accidental or unauthorized attack.

Just as important, the missile technologies that these two countries possess have ended up or are likely to end up in the hands of countries that would like nothing more than to blackmail, if not attack, the United States. North Korea has also demonstrated that any country that has a basic technology infrastructure can develop long-range ballistic missiles without providing significant warning.

Saddam Hussein, I heard earlier today some Senators kind of seeming to brush off Saddam Hussein or what he might do. But he proved to the world that modifying existing missiles is not, you know, something we should take lightly. It can happen. High technology is not needed if the intent is to terrorize, if not directly act.

Since we will debate this issue at length, I will limit my remarks at this point. But I do think that the Kyl amendment is a good amendment to sort of lay out the parameters of this debate. I hope it will pass. I understand there has been a second-degree amendment by the Senator from Georgia that would put back in the Corps SAM funding at the $35 million level, as I understand it, which is $5 million more than what the administration asked for. Now, I understand that extra $5 million is so we can have a study of the potential problems and where we are headed.

My only suggestion would be here that maybe we are kind of getting the cart before the horse. Let us take a look at it and see where the problems are. Let us see how it is developing internationally.

Again, I sympathize with what the Senator from Georgia says on the front-line need for this. But I just have to ask if there is not a better way we can do it. Have we looked at the problems it has? And have we evaluated the fact that this could wind up costing $10 billion? I think we will talk about that some more. But again, my disposition on that is let us try to find a way to work it out, if we can. Let us go ahead and agree to the Kyl basic language and then get to some of the specifics. I think that, generally speaking, Senators on both sides of the aisle in the committee are comfortable with the dollar amounts, but we are still—and I know there will be some amendments to change the dollar amounts, but the big question is the policy we are establishing here. We could work on the language. That will allow us to move forward with the agreed-to policy.

Mr. President, I rise in strong support of the Kyl amendment. The Senator from Arizona has clearly demonstrated that there is a real and growing threat to the security of the United States posed by ballistic missiles of all ranges. I fully concur with his Sense of the Senate language which states that all Americans should be defended against limited ballistic attack, whatever its origin and whatever its cause.

This week we will have extensive debate on this subject and a variety of related matters. One argument that will surface over and over is that there is no threat to justify a deployment decision on national missile defense. The Kyle amendment clearly establishes that this is an erroneous assumption. The United States currently faces ballistic missile threats from Russia and China, if only the threat of accidental or unauthorized attack. Just as important, the missile technologies that these two countries possess have ended up or are likely to end up in the hands of countries who would like nothing more than to blackmail, if not attack, the United States.

North Korea has also demonstrated that any country that has a basic technology infrastructure can develop long-range ballistic missiles without providing significant warning. Saddam Hussein proved to the world that modifying existing missiles is not a serious challenge. High technology is not needed if the intent is to terrorize.

Since we will debate this issue at length, I will limit my remarks at this point. Later in the debate I will present a detailed rational for the missile defense provisions in the Defense authorization bill and respond to the many red herring arguments that have been made in opposition. Let me close by saying that the Kyl amendment is warranted and long overdue. I strongly urge my colleagues to support it.

This is not star wars but a modest and responsible answer to a growing threat. After considering all alternatives, the Armed Services Committee felt that the United States should move directly to a multiple-site system, since a single site system would just not be capable of defending all Americans. We felt that it would be inappropriate morally and strategically, to select a subset of the American population for defensive coverage while leaving some undefended.

This decision seems even more correct given that the most unpredictable and dangerous new ballistic missile

threats will be capable of reaching States like Alaska and Hawaii before the continent itself becomes vulnerable. I am referring to the North Korean intercontinental ballistic missile program, the so-called Taepo-Dong, which the intelligence community believes could become operational within the next 5 years. An NMD system consisting of only one site in the middle of the United States simply cannot defend Alaska and Hawaii, and would not do a very good job of protecting the coastal regions where most Americans live.

In the area of cruise missile defense, the legislation would require the Secretary of Defense to focus U.S. activities and to coordinate the various efforts within the Department of Defense. It would require the Secretary to integrate U.S. programs for ballistic missile defense with cruise missile defense to ensure that we leverage our efforts and do not waste resources through unnecessary duplication. It also requires the Secretary to study the current organization for managing cruise missile defense and recommend any changes that would strengthen and coordinate these efforts.

There have been a number of other false arguments raised against this legislation, most having to do with the ABM Treaty. Let me set the record straight: nothing in this bill advocates or would require a violation of the ABM Treaty. Every policy and goal established in this bill can be achieved through means contained in the ABM Treaty itself. The argument that this bill will force us to violate the ABM Treaty is like arguing that one must drive off a cliff just because there is a bend in the road. This bill recommends that we gradually, and responsibly, turn the wheel.

Let me also say that it is not this bill, first and foremost, that forces us to reconsider the ABM Treaty. Such a reexamination is warranted, indeed required, as a result of the end of the cold war, and the growing multifaceted ballistic missile threat characterizes this new era. The ABM Treaty, with its underlying philosophy of mutual assured destruction, practically defined the cold war confrontation. Why would anybody argue that we should not reexamine such an agreement.

Let us be clear about what this bill in fact calls for. It recommends that the Senate undertake a comprehensive review of the continuing value and validity of the ABM Treaty. It suggests that the Senate consider creating a select committee to undertake a 1-year assessment. What we are recommending is a careful examination of all issues before making a specific recommendation to the President on how to modify our current ABM Treaty obligations.

By establishing a policy to deploy a multiple-site NMD system, this bill does assume that eventually we will need to amend or otherwise modify the ABM Treaty. But let me repeat, the means to achieve this are contained in the ABM Treaty itself. The treaty in no way limits the establishment of policies, it limits the deployment of ABM systems. In the case of ground-based systems, the treaty in no way limits development or testing. Therefore, we can proceed simultaneously to develop the system called for in this bill while we figure out the best approach to dealing with the treaty.

We should remember that the ABM Treaty was meant to be a living document that could be changed as circumstances changed. Anyone who argues that the strategic and political circumstances have not changed since 1972 is living on another planet. Article XIII of the treaty envisioned ''possible changes in the strategic situation which have a bearing on the provisions of this treaty.'' Article XVI specifies procedures for amending the treaty. Article XV specifies procedures for withdrawal from the treaty. As we debate the Missile Defense Act of 1995, therefore, we must bear in mind that there are various treaty-compliant ways to modify our current obligations under the treaty, including withdrawal if we are unable to achieve satisfactory amendments. Talk of violation or abrogation at this time is nothing more than hyperbole.

For those who are upset by the fact that this bill would establish a policy to deploy a multiple-site NMD system, I would point out that the ABM Treaty, as signed and ratified in 1972, did permit deployment of multiple sites. I would also remind my colleagues who seem to fear the prospect of amending the treaty that in 1974, the Senate approved a major amendment of the treaty.

Let me also briefly address another provision in the Missile Defense Act of 1995, which relates to the ABM Treaty. Section 238, which is based on legislation introduced earlier this year by Senator WARNER, would establish a clear demarcation line between TMD systems, which are not covered by the treaty, and ABM systems which are explicitly limited. This provision is also consistent with the letter and spirit of the treaty. It simply codifies what the administration itself has identified as the appropriate standard. This provision is required to ensure that the ABM Treaty is not inappropriately expanded or applied in ways and in areas outside the scope of the treaty. In essence, it would prevent the ABM Treaty from being transformed, without Senate concurrence, into a TMD treaty.

Mr. President, before yielding let me briefly address one particularly flawed argument that is commonly used against this bill and missile defense programs in general. It has been asserted that this bill would undermine START II and perhaps even damage broader United States-Russian relations. There is no substantive basis to this argument. It is a red herring that has been used by some Russians and repeated by more than a few Americans including the Chairman of the Joint Chiefs of Staff.

Fundamentally, this argument is rooted in the cold war. It assumes an adversarial and bipolar relationship between the United States and Russia. Rather than repeat stale arguments, the Russians and the Clinton administration, including the Chairman of the Joint Chiefs of Staff, should be seeking to change the basis of our strategic relationship to one based on mutual security rather than mutual assured destruction. I would agree with Defense Secretary Perry's recent statement that ''the bad news is that in this era, deterrence may not provide even the cold comfort it did during the cold war.''

If we look closely at the argument that this bill undermines START II, we see no substantive content. The type of defense envisioned in the Missile Defense Act of 1995 should in no way undermine Russian confidence in strategic deterrence. We must remember that President Yeltsin himself proposed a Global Defense System and that, in the early 1990's, the United States and Russia had tentatively agreed to amendments to the ABM Treaty to allow deployment of five or six ground-based sites. According to testimony the Armed Services Committee received earlier this year from Mr. Sidney Graybeal, who was a senior United States ABM Treaty negotiator, the Russians were not opposed to permitting five or six sites in the original ABM Treaty. How is it, then, that today such deployments will upset stability and arms control? It simply will not.

Of course, we should seek to cooperate with Russia and take into account legitimate security concerns. But this is what START II is all about. That agreement is manifestly in both countries' interest and should not be held hostage to any other issue. Unfortunately, the Russians have linked it to a variety of issues including expansion of NATO. We must reject this linkage, lest we encourage the Russians to believe that they possess a veto over a wide range of United States national security policies.

Admittedly, START II is in trouble in the Russian Duma, but this has nothing substantively to do with the United States missile defense program. Stated simply, Russian hard-liners are intent on undoing START II so they can retain some or all of their multiple-warhead ICBM force. The United States should strongly oppose this effort to undo START II. But legitimizing the false argument about ABM Treaty linkage only obfuscates the issue. The United States should not participate in a clouding of the issue by repeating Russian arguments about ABM Treaty linkage. This is simply a distraction from the central problem.

As we proceed to debate the various aspects of the Missile Defense Act of 1995 and consider implications for START II, we should bear in mind that

today the United States has no defense against ballistic missiles. Russia, on the other hand, has an operational ABM system deployed around Moscow, which has been modernized and upgraded over the years. We should not feel threatened by the existence of this system. Indeed, we should encourage the Russians to invest in this system instead of their destabilizing strategic offensive forces. Likewise, the United States should develop and deploy a national missile defense system. Such a system would provide greater security for all Americans than an outdated theory of deterrence that does not even apply other countries. The Missile Defense Act of 1995 clears the way for a world that is safer and more stable for the United States and Russia.

I will be glad to yield to the Senator from Georgia if he would like to respond.

Mr. NUNN. Yes. First, I appreciate all his good work on this bill. He has done a yeoman's job in helping the chairman and all of us on this legislation. I do not think the Senator from Mississippi was here when I mentioned we have a total of four systems that are in the bill. Of all of those, as the Senator noted, this one could cost a good bit of money before it is over. The allies hope to pay about half of it. But this is the only system that is designed to protect the front-line troops. The rest of these systems are in the theater support area.

We have the Navy upper tier program, which is in this envelope. We have the THAAD intercept program, which is in this green envelope. We have the PAC–3 right in this envelope, and then a possibility of maybe a Navy lower tier in this envelope.

So my point is, this system should not be canceled unless we can find one of these systems that could also cover this. Now, I believe the majority report indicated that perhaps the PAC–3 system could. I am perfectly willing to have that study. That is what the extra $5 million is for, is to see if that idea really will be proven to be workable. I would also be willing to have this study take place and hold back some of this money. I think that has been suggested by the staff of the Senator from Mississippi. We could work on some fencing amendment so we make sure we are getting the best program. I certainly share that, but I do not think we should cancel this program when it is the only one, until we get some affirmative answer, which we do not have now, on something that could take its place.

Mr. LOTT. Mr. President, if I may respond to the Senator's comments there, I do think there is a possibility that we could do that PAC–3 modification. But we do not know yet that it could provide that additional coverage. We should look into that to see if it can be done. Perhaps we can work out a way not to completely cancel the Corps SAM while we take a look at that. But again, my argument is before we start down this trail that could lead to $10 billion, I think we need to look and see if there are other options.

I would like some clarification of how we got into this international agreement. What is that international agreement? What extent of commitments do we have from our allies about being willing to pay up to $5 billion of the cost of this program? There are just a number of questions in that area that I think we need to get clarified.

But we will work with the Senator from Georgia as the day progresses, and hopefully we can work something out.

Mr. NUNN. I say to my friend from Mississippi, each of these other programs is going to involve billions and billions of dollars, also. We know we will not be able to afford them all. We know that.

Mr. LOTT. Which one do we not want to afford?

Mr. NUNN. Well, right now we have four programs that cover the same area, and they are fully beefed up and funded, while the only program that covers the forward battlefield is being canceled. So we have tremendous redundancy here. I do not mind some redundancy, because we do not know which of these programs is going to work and be the most cost-effective program.

But we do not have any redundancy here and no coverage here. The problem is the majority suggestion about PAC–3 possibly covering this area. We need to get some funding into a study for that, if that is going to be done. Perhaps we can work on something while we are continuing the debate.

Mr. President, I yield the floor at this time.

Mr. BINGAMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, before we went to a vote on any of the amendments, I just wanted to ask the Senator from Georgia a few questions about his understanding primarily of the Kyl amendment. I certainly support his perfecting amendment as I understand it, and believe it is well considered. But I have some concerns about the Kyl amendment, which it is an amendment to. And I wanted to just clarify the thinking of the ranking manager on this bill as to what his thoughts were on the import of the Kyl amendment.

It seems harmless enough in some respects. When you read it, it says it is a sense of the Senate that all Americans should be protected from accidental, intentional, limited ballistic attack. I agree with that. But I add to that that we also ought to protect all Americans from cruise missile attack, terrorism, and from a variety of other potential hazards.

I guess my concern is that, as the Senator from Georgia knows very well, and all of us on the Armed Services Committee know, there is considerable controversy about the provisions in the bill that we are now beginning to debate regarding ballistic missile defense.

We have a letter from Secretary Perry to Senator NUNN, and I am sure to the chairman of the committee as well, dated the 28th of July, where Secretary Perry makes a variety of points or a series of points about this. He says he wants to register strong opposition to the missile defense provisions of the Senate Armed Services Committee defense authorization bill. In his view, they would institute congressional micromanagement of the administration's missile defense program and put us on a pathway to abrogating the ABM treaty.

I am concerned that I do not want to support the Kyl amendment if it puts us on a pathway to abrogating the ABM Treaty. I would be interested in the Senator from Georgia giving me his perspective on that as to whether I could vote for the Kyl amendment with confidence that it was not an endorsement of the various ballistic missile provisions in this bill, many of which I intend to join with Senator EXON and others to strike here when the opportunity arises.

Mr. EXON. Will the Senator yield for an additional question before the——

Mr. BINGAMAN. I will be glad to yield to the Senator from Nebraska.

Mr. EXON. Mr. President, I would say to my friend from the State of Georgia, I have the same concern about this, basically, as posed in the question by the Senator from New Mexico. I am for and wish to make a short statement in support of the Nunn underlying amendment.

But if I understand the procedures, the Kyl amendment is a sense-of-the-Senate resolution that I would strongly oppose because of its implications, even though it is only a sense-of-the-Senate amendment.

What would be the situation if the Nunn amendment in the second degree to the Kyl amendment passes, and then the Kyl amendment itself falls? Obviously, it would take the amendment that I support, offered by the Senator from Georgia, along with it, would it not?

Mr. BINGAMAN. Mr. President, I guess we have six or eight questions posed to the Senator from Georgia.

Mr. NUNN. I am sorry. I must ask the Senator from Nebraska, and I apologize, if he will repeat that question. He has gotten to be such a good—almost like a lawyer since he has been here. I am sure he can reframe that question.

Mr. EXON. I resent that statement.

Mr. NUNN. I knew the Senator would resent that statement. I said ''almost,'' not quite. Does the Senator mind repeating that, if he would?

Mr. EXON. I was simply saying to the Senator from Georgia, I was asking the same basic question just a little differently than the Senator from New Mexico. I am strongly in support of the

amendment by the Senator from Georgia, and would like to make a statement in support of that amendment.

As I understand the procedure, though, it is attached as a second-degree amendment to a sense-of-the-Senate amendment offered by the Senator from Arizona. I am questioning what the situation would be if we vote on the second-degree amendment, which I support, then vote on the Kyl amendment, which is a sense of the Senate. If the Kyl amendment fails, that would take along with it the amendment that I support offered by the Senator from Georgia. I am wondering if I properly understand the procedure.

The PRESIDING OFFICER. Does the Senator from New Mexico yield the floor?

Mr. BINGAMAN. I yield for a response from the Senator from Georgia, because I have two or three other questions I want to ask.

Mr. NUNN. Mr. President, I will say first to my friend from New Mexico, his question was, does the amendment breach the ABM Treaty. We are talking about the Kyl amendment now.

As I outlined in my opening statement, I feel that the provisions of the underlying bill create what I would call a very high risk that it would be perceived as an anticipatory breach of the ABM Treaty. That is the underlying bill. I do not think there is anything in the Kyl amendment, and the Senator from Arizona is not on the floor now, but I do not read anything in the Kyl amendment that would either breach the ABM Treaty or suggest breaching the ABM Treaty.

The operative paragraph in the Kyl amendment is the one at the end that says:

> It is the sense of the Senate that all Americans should be protected from accidental, intentional, or limited ballistic missile attack.

Like the Senator from New Mexico, if I were drafting this, I would certainly add cruise missile in there, perhaps some other threats. I see nothing wrong with the way it is worded in terms of in any way creating the impression that the ABM Treaty would be breached by this amendment.

I also note the paragraph just before the sense-of-the-Senate operative paragraph, paragraph 12, page 5 of this amendment says, explicitly:

> The United States and Russia have the opportunity to create a relationship based on trust rather than fear.

So it seems to me there is nothing in this amendment that would in any way breach the ABM Treaty or that would in any way violate the conditions that the Secretary of Defense, Secretary Perry, has laid down in his letter.

I made a lengthy statement about what my fears were about the course this bill takes, and we will have amendments dealing with that on the ABM Treaty. So I do have very similar concerns as the Senator from New Mexico on the underlying bill, but I do not have such concerns on this amendment.

I will also say, if you look at the findings in paragraphs 1 through 12, I think the findings I generally agree with. Everyone will have to read them to see if they agree with them. But the findings I personally agree with.

I say to my friend from Nebraska, he is correct. If my amendment, the second-degree amendment, were adopted and became part of this Kyl amendment, then if the Kyl amendment were defeated, it would take down the second-degree amendment. In that case, what I would do is propose it again, and I hope that will not happen. I really believe careful reading of the Kyl amendment will not have many people taking exception to it. Everyone will have to judge some of the findings.

Mr. BINGAMAN. Mr. President, can I pose one additional question to the Senator from Georgia? Senator EXON, Senator GLENN, Senator LEVIN, and myself intend to offer an amendment at some stage to strike various of the provisions that are contained in this bill at the present time, particularly the ones under subtitle C on missile defense. I think that striking those is totally consistent with the letter we have received from Secretary Perry.

As the Senator from Georgia sees this Kyl amendment, it would not be inconsistent for a person to support the Kyl amendment and still vote to strike those provisions relative to missile defense when that amendment comes up?

Mr. NUNN. I say to my friend from New Mexico, I do not see any inconsistency there. As long as the Senator from New Mexico really agrees with the bottom paragraph, that it is the sense of the Senate that all Americans should be protected from accidental, intentional, or limited ballistic missile attack, this Kyl amendment does not say how that should be done. It does not refer to the ABM Treaty. It does not set up any kind of anticipatory breach of the ABM Treaty. It does not say anything should be done in terms of deployment or testing that would violate the ABM Treaty. It simply states that we would like to protect Americans. So I do not see any inconsistency.

Mr. BINGAMAN. Mr. President, let me clarify one more time. My own position is that I do support the existing law with regard to the ABM Treaty, which I gather was adopted by us in 1991. And as the Senator from Georgia reads the Kyl amendment, the adoption of that amendment would be consistent with existing law and with the 1991 language which we put on the books; is that correct?

Mr. NUNN. As I read it—I will not pretend to the Senator from New Mexico that I have made a detailed sentence-by-sentence analysis of this amendment—I read it hastily, I read it again, my staff has read it. I see nothing in here that would contravene—in fact, the basic premise of this amendment is also the basic premise on which the 1991 Missile Defense Act passed, which I coauthored.

I see nothing inconsistent in that. Most of the findings in the Kyl amendment reference various statements Secretary Perry has made or that various military witnesses have made or simply statements that, for instance, the head of CIA has made and the statements that have been adopted, some in conference between the President of the United States and the President of Russia. I do not see that it contradicts.

Mr. BINGAMAN. Mr. President, I appreciate those responses, and I yield the floor.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, I rise in support of the Nunn amendment, that I just referenced, to make $35 million available to continue the funding on the Corps SAM Program, also known as the MEADS or Medium Extended Air Defense System.

This program will provide a rapidly deployable, highly mobile 360-degree coverage defense system to protect our maneuver forces against short- to medium-range ballistic missiles.

Corps SAM will also defend against a full spectrum of air breathing threats against our troops, including advanced cruise missiles. The committee decision to terminate this joint NATO program is a mistake. Corps SAM will provide missile defense for our troops that other systems, such as the Patriot or the THAAD will not. Corps SAM will have the mobility necessary to advance with U.S. and allied ground forces in the field of battle. Sometimes Patriot's protective umbrella cannot provide this, and certainly not against short-range missiles that would otherwise underfly the THAAD Missile Defense System, as important as that system might be.

Corps SAM is what the Congress has been pushing for for many years, a cooperative trans-Atlantic defense program. Pulling out the program now will harm ongoing, as well as future, cooperative ventures with our allies. More important, it will deny—I emphasize, Mr. President—it will deny our forces in the field of battle an important layer of defense against missile attack that does not otherwise exist.

Therefore, I urge my colleagues to support this modest addition. At a time when we are unwisely throwing billions of dollars, in my opinion, on unnecessary full-blown national missile defense systems, I believe we can afford this small investment in the protection of our troops overseas in battle conditions.

Mr. President, I yield the floor.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. LOTT. Mr. President, I wonder if we are perhaps ready to go with a modification and perhaps a couple of votes on the pending amendments?

Mr. NUNN. Mr. President, I have asked the staff to check with the leadership. I recommend that we go ahead

with the modification and have a rollcall vote on the second-degree and on the first-degree amendment.

I have talked to the Senators from Mississippi and South Carolina about modifying the pending second-degree amendment which is related to Corps SAM.

I will soon send a modification of the amendment to the desk. It basically says that we will defer $10 million of the $35 million until such time as we have the report referred to in subsection (c)(2). That is the report, as I explained in my remarks, to determine whether the PAC–3 system could basically also cover that unprotected forward area that the Corps SAM system is designed to. This is acceptable to me.

Mr. NUNN. Assuming the Senator from Mississippi and the Senator from South Carolina concurs, I will send a modification of my amendment to the desk.

The PRESIDING OFFICER. The Senator has that right.

The amendment is so modified.

The amendment (No. 2078), as modified, is as follows:

On page 5, beginning with ''attack,'' strike out all down through the end of the amendment and insert in lieu thereof the following: ''attack. It is the further Sense of the Senate that front-line troops of the United States armed forces should be protected from missile attacks.

''(c) FUNDING FOR CORPS SAM AND BOOST-PHASE INTERCEPTOR PROGRAMS—

''(1) Notwithstanding any other provision in this Act, of the funds authorized to be appropriated by section 201(4), $35.0 million shall be available for the Corps SAM/MEADS program.

''(2) With a portion of the funds authorized in paragraph (1) for the Corps SAM/MEADS program, the Secretary of Defense shall conduct a study to determine whether a Theater Missile Defense system derived from Patriot technologies could fulfill the Corps SAM/MEADS requirements at a lower estimated life-cycle cost than is estimated for the cost of the US portion of the Corps SAM/MEADS program.

''(3) The Secretary shall provide a report on the study required under paragraph (2) to the congressional defense committees not later than March 1, 1996.

''(4) Of the funds authorized to be appropriated by section 201(4), not more than $3,403,413,000 shall be available for missile defense programs within the Ballistic Missile Defense Organization.

''(d) Section 234(c)(1) of this Act shall have no force or effect.

''(e) Of the amounts referred to in section (c)(1), $10 million may not be obligated until the report referred to in subsection (c)(2) is submitted to the Congressional defense committees.''

Mr. LOTT. Mr. President, if I could comment briefly, our staffs—Senator THURMOND's, mine, and Senator NUNN's—have discussed this, and I think this is acceptable, from my viewpoint. If the chairman is comfortable with that, it makes the amendment acceptable.

Mr. THURMOND. Mr. President, I ask unanimous consent that after we take the vote on Senator NUNN's amendment that we take the vote on Senator KYL's amendment, back to back, to save time.

Mr. NUNN. Reserving the right to object, I will ask the leadership to respond. I propose that we vote on both of those. I would like to accommodate the Senator.

I have received word, so I will not object.

I ask for the yeas and nays on the second degree amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. LOTT. On behalf of the Senator from Arizona [Mr. KYL], I ask for the yeas and nays on his amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

VOTE ON AMENDMENT NO. 2078, AS MODIFIED

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to amendment No. 2078, as modified.

The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Ohio [Mr. DEWINE] is necessarily absent.

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

The result was announced—yeas 98, nays 1, as follows:

[Rollcall Vote No. 350 Leg.]

YEAS—98

Abraham	Ford	Mack
Akaka	Frist	McCain
Ashcroft	Glenn	McConnell
Baucus	Gorton	Mikulski
Bennett	Graham	Moseley-Braun
Biden	Gramm	Moynihan
Bingaman	Grams	Murkowski
Bond	Grassley	Murray
Boxer	Gregg	Nickles
Bradley	Harkin	Nunn
Breaux	Hatch	Packwood
Bryan	Hatfield	Pell
Bumpers	Heflin	Pressler
Burns	Helms	Pryor
Byrd	Hollings	Reid
Campbell	Hutchison	Robb
Chafee	Inhofe	Rockefeller
Coats	Inouye	Roth
Cochran	Jeffords	Santorum
Cohen	Johnston	Sarbanes
Conrad	Kassebaum	Shelby
Coverdell	Kempthorne	Simon
Craig	Kennedy	Simpson
D'Amato	Kerrey	Smith
Daschle	Kerry	Snowe
Dodd	Kohl	Specter
Dole	Kyl	Stevens
Domenici	Lautenberg	Thomas
Dorgan	Leahy	Thompson
Exon	Levin	Thurmond
Faircloth	Lieberman	Warner
Feingold	Lott	Wellstone
Feinstein	Lugar	

NAYS—1

Brown

NOT VOTING—1

DeWine

So the amendment (No. 2078), as modified, was agreed to.

VOTE ON AMENDMENT NO. 2077, AS AMENDED

The PRESIDING OFFICER. The question is on agreeing to the Kyl amendment, No. 2077, as amended.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Ohio [Mr. DEWINE] is necessarily absent.

The PRESIDING OFFICER (Mr. SMITH). Are there any other Senators in the Chamber who desire to vote?

The result was announced, yeas 94, nays 5, as follows:

The result was announced—yeas 94, nays 5, as follows:

[Rollcall Vote No. 351 Leg.]

YEAS—94

Abraham	Glenn	McConnell
Akaka	Gorton	Mikulski
Ashcroft	Graham	Moseley-Braun
Baucus	Gramm	Moynihan
Bennett	Grams	Murkowski
Biden	Grassley	Murray
Bingaman	Gregg	Nickles
Bond	Harkin	Nunn
Boxer	Hatch	Packwood
Bradley	Hatfield	Pell
Brown	Heflin	Pressler
Bryan	Helms	Pryor
Bumpers	Hollings	Reid
Burns	Hutchison	Robb
Campbell	Inhofe	Rockefeller
Chafee	Inouye	Roth
Coats	Jeffords	Santorum
Cochran	Kassebaum	Sarbanes
Cohen	Kempthorne	Shelby
Conrad	Kennedy	Simon
Coverdell	Kerrey	Simpson
Craig	Kerry	Smith
D'Amato	Kohl	Snowe
Daschle	Kyl	Specter
Dodd	Lautenberg	Stevens
Dole	Leahy	Thomas
Domenici	Levin	Thompson
Exon	Lieberman	Thurmond
Faircloth	Lott	Warner
Feingold	Lugar	Wellstone
Feinstein	Mack	
Frist	McCain	

NAYS—5

Breaux	Dorgan	Johnston
Byrd	Ford	

NOT VOTING—1

DeWine

So, the amendment (No. 2077), as amended, was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Chair reminds the majority leader that under the previous order the Senator from Wisconsin is to be recognized.

Mr. FEINGOLD. Mr. President, I yield to the majority leader for purposes of making remarks without losing my right to the floor.

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

Mr. DOLE. I think we have worked out an agreement that might not require the introduction of an amendment and second-degreeing it, and that is in the process of being typed, so if we could just have a brief quorum call, I think it would be a matter of 2 minutes.

Mr. FEINGOLD. Mr. President, will the majority leader yield for a question?

Mr. DOLE. Yes.

Mr. FEINGOLD. I would like to offer the amendment at some point, but if

there is an agreement, I can hold off and offer this particular amendment later in the process.

Mr. DOLE. This would not prejudice the Senator's right to offer the amendment as far as I am concerned immediately after disposition of the other two amendments.

Mr. FEINGOLD. I would clarify, upon the disposition of the unanimous-consent agreement, I ask unanimous consent that I be recognized for the purposes of offering an amendment.

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

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

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

Mr. DOLE. Mr. President, in reference to the pending bill, let me encourage my colleagues—I know we have lost a little time here, but we started on the bill at 9 o'clock. We have had two rather, I guess, important votes, but one was a sense of the Senate; one was concerning $35 million. So this is a big, big piece of legislation. We are going to shut her down on Friday night. I hope that we can accept some of these amendments, and others who feel—we are not going to shut down the Senate Friday night; we are going to shut down this bill on Friday night.

I hope we can get time agreements on amendments. It seems to me that most have been argued every year for the past 10, 15 years. If we can get time agreements, I think it is the hope of the managers, Senators THURMOND and NUNN, that they can complete action by Friday evening, and then we can go to either Treasury Department appropriations bill or Interior. And then, Saturday, we will start on the welfare reform package. Later next week, we will take up the DOD appropriations bill, along with the legislative appropriations conference report, I guess, and maybe—depending on Bosnia—maybe a veto override.

In any event, I urge my colleagues that if we can cooperate with the managers, they are prepared to work late late this evening and late late tomorrow night and late late Friday night and would really appreciate your cooperation.

UNANIMOUS-CONSENT AGREEMENT

Mr. President, I ask unanimous consent that Senator BOXER be recognized to offer an amendment regarding ethics and that no second-degree amendments be in order to the Boxer amendment, and immediately following that, her amendment be temporarily laid aside and Senator MCCONNELL be recognized to offer an amendment regarding ethics, and that no amendments be in order to the McConnell amendment, and that the time on both amendments be limited to a total of 4 hours, to be equally divided between Senators MCCONNELL and BOXER.

I further ask unanimous consent that following the conclusion or yielding back of time on both amendments, the Senate proceed to vote on or in relation to the Boxer amendment to be followed immediately by a vote on or in relation to the McConnell amendment.

The PRESIDING OFFICER. Is there objection?

Mrs. BOXER. Reserving the right to object. Perhaps I did not hear it, but is this the unanimous-consent request on the two amendments? May I ask who will control time?

Mr. DOLE. You will control time on that side and Senator MCCONNELL will on this side.

Mrs. BOXER. Two hours per side. We will debate those simultaneously?

Mr. DOLE. Yes, that is what the agreement says.

Mr. DASCHLE. Mr. President, I have had the opportunity to consult with a number of our colleagues, and we find that this unanimous-consent agreement is agreeable, and we would like to proceed.

Mrs. BOXER. Reserving the right to object. I want to ask one more question of both leaders. Is a motion to table in order here?

Mr. DOLE. Just what the agreement says, ''on or in relation to.''

Mrs. BOXER. I do not have a copy of the agreement.

Mr. DASCHLE. ''On or in relation to'' would include a motion to table on each amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. DOLE. I thank the Democratic leader and the other people involved. I hope this will not take 4 hours. This is another half day off of the August recess, which we hope will start sometime in August.

The PRESIDING OFFICER. Under the previous order, the Senator from California is recognized.

Mrs. BOXER. Parliamentary inquiry. Does the Parliamentarian have a copy of the Boxer amendment?

The PRESIDING OFFICER. There is not a copy here at the desk.

AMENDMENT NO. 2079

(Purpose: To require hearings in the investigation stage of ethics cases.)

Mrs. BOXER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from California [Mrs. BOXER] proposes an amendment numbered 2079.

SEC. . ETHICS HEARINGS.

The Select Committee on Ethics of the Senate shall hold hearings in any pending or future case in which the Select Committee (1) has found, after a review of allegations of wrongdoing by a Senator, that there is substantial credible evidence which provides substantial cause to conclude that a violation within the jurisdiction of the Select Committee has occurred, and (2) has undertaken an investigation of such allegations. The Select Committee may waive this requirement by an affirmative record vote of a majority of the members of the Committee.''

The PRESIDING OFFICER. Under the previous order, the amendment is temporarily set aside, and the Senator from Kentucky is recognized.

AMENDMENT NO. 2080

Mr. MCCONNELL. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kentucky [Mr. MCCONNELL] proposes an amendment numbered 2080.

At the appropriate place in the bill, insert:

(A) The Senate finds that:

(1) the Senate Select Committee on Ethics has a thirty-one year tradition of handling investigations of official misconduct in a bipartisan, fair and professional manner;

(2) the Ethics Committee, to ensure fairness to all parties in any investigation, must conduct its responsibilities strictly according to established procedure and free from outside interference;

(3) the rights of all parties to bring an ethics complaint against a member, officer, or employee of the Senate are protected by the official rules and precedents of the Senate and the Ethics Committee;

(4) any Senator responding to a complaint before the Ethics Committee deserves a fair and non-partisan hearing according to the rules of the Ethics Committee;

(5) the rights of all parties in an investigation—both the individuals who bring a complaint or testify against a Senator, and any Senator charged with an ethics violation—can only be protected by strict adherence to the established rules and procedures of the ethics process;

(6) the integrity of the Senate and the integrity of the Ethics Committee rest on the continued adherence to precedents and rules, derived from the Constitution; and,

(7) the Senate as a whole has never intervened in any ongoing Senate Ethics Committee investigation, and has considered matters before that Committee only after the Committee has submitted a report and recommendations to the Senate;

(B) Therefore, it is the Sense of the Senate that the Select Committee on Ethics should not, in the case of Senator Robert Packwood of Oregon, deviate from its customary and standard procedure, and should, prior to the Senate's final resolution of the case, follow whatever procedures it deems necessary and appropriate to provide a full and complete public record of the relevant evidence in this case.

The PRESIDING OFFICER. Under the previous order, there will now be 4 hours of debate on the Boxer and McConnell amendments, 2 hours under the control of the Senator from Kentucky and 2 hours under the control of the Senator from California.

Who yields time?

Mrs. BOXER. Mr. President, I yield myself 15 minutes.

The PRESIDING OFFICER. The Senator from California is recognized for 15 minutes.

Mrs. BOXER. Mr. President, there is a big difference between these two

amendments. The reason we took a little time on our side looking over the amendment of the Senator from Kentucky is because, at first blush, you think all this sounds good, but when you get to the end of it, you learn quickly that it is essentially a ''feel good'' amendment, a ''cover yourself'' amendment. It is the ''no public hearing'' amendment. It is a sense-of-the-Senate amendment which has no force of law, no requirement.

On the other hand, the Boxer amendment, which I believe will have strong support here today, will require that if the Ethics Committee wants to close the door on a case that has reached the investigative phase where there is credible, substantial evidence of wrongdoing against the Senator, they need a majority vote to close those doors.

I think that is very reasonable. I think the fact that we have a deadlock in this case is very serious. It is the first time in history this has happened. This matter deserves our attention.

I also think it is important to note that the amendment of the Senator from Kentucky deals with one specific case, the case pending before it, whereas the Boxer amendment talks to the issue in generic terms. In other words, what we are saying is that in every case that we visit this stage, there should be public hearings, unless the committee votes by majority vote to slam those doors shut.

Today, the Senate can break the deadlock. It is up to each and every Senator to decide that issue. I think the message that has been sent on a deadlock vote by the Republicans on the Ethics Committee is a message that does not sit well with the American people.

Let me read from just a few individuals today. Sometimes I think if we would listen to the voices of America, we can learn a lot. The question in the USA Today poll of average people: Should the Packwood ethics hearings be forced open?

I will read a couple of these responses. A young man aged 19, a student in Florida:

> They definitely should be open. He is an elected official and a public servant. People should know what is going on. Government already has a bad name for being secretive.

A woman, a 32-year-old from Oregon:

> Keep them open to take the mystery out of what is going on. Women have a particular interest and may not be well represented behind closed doors.

John Larson, 55, a financial planner in Bloomington, MN, says:

> They should be open so the public would have more information about what is going on in Government. Ethics should be on a high level for everybody. Whatever happened to honesty? If we are not honest at the top, what do we expect our young people to do?

I think the people of America understand this. I just hope and pray that Senators do.

As we debate this today, I think we are going to hear very reasoned voices on this side of the aisle. So much for comments that if this was a secret ballot, 98 Senators would vote against open hearings. That notion will be dispelled here today when we see the kind of eloquence we will see on the floor on this matter.

Now, I have to make a point. When the Ethics Committee voted 3–3 and deadlocked, they made a big point of saying, the chairman did, of how he was going to release all the materials in the case. As a matter of fact, a couple of the members from the Ethics Committee have said to the press, ''I feel really good. We are disclosing everything.'' Making people believe that there was something unique about this, that the papers were being released.

Mr. President, if we look over here—I can barely see over this—here we have the pile of materials that have been released in every other ethics case that has reached this stage. They are always released. They have never been withheld. Papers are always released. This is every case in history—these are the papers that have been released.

Of course, that is a precedent. So is public hearings. Every one of these cases also had public hearings. In this case, the doors have been slammed shut. I just hope that is a temporary glitch that we can straighten out here today.

There are a number of points, I know, that my Democratic colleagues on the Ethics Committee will make more eloquently than I, because they understand the precedence of the committee better than I, because it is their job to serve on the committee, to study the committee, and to act in the best traditions of the committee.

I have to say, as one U.S. Senator who is going to vote on how to dispose of this matter in a fair and just fashion to all concerned, I do not want to base my vote on a stack of papers. I know that the Senator in the case had a chance to go before the committee and look them in the eye and explain any discrepancies, in fact, if any; and when you read the papers, clearly there are. I do not know for a fact, but if you read the papers, there are discrepancies, in fact.

Yet, those on the other side have no chance to walk into that room, look in the eyes of the Senators, and tell their story. It reminds me of a trial where one side is heard and then they just say, OK, the jury should go in now, sequester itself and vote a penalty.

Excuse me, a juror might say, I never heard from the victims. I never heard from the victims. Yeah, I read what they said. But the defendant has said No, in certain cases, that is not what happened. I need to find out for myself. That would be a mistrial, and it would be unprecedented. That is what we are dealing with here.

I cannot believe that some Senators, from what I hear, are going to vote against public hearings and cast a vote without all the facts. I think this is something extremely important.

Now, I want to point out in my amendment I have bent over backwards to be fair to the Ethics Committee. As a matter of fact, it is a very respectful amendment. It says that the committee, by majority vote, can vote to close the hearings, and it underscores the fact that rule 26 will allow the committee to protect witnesses if they decide that must be done.

We are in no way in this amendment being disrespectful of the Ethics Committee. We are being respectful of the Ethics Committee.

For some to say Go away and never comment, would be a dereliction of constitutional responsibility of each and every Senator, if you read article V, section 1, that says, ''We are responsible in this Congress to police ourselves.''

Here we have an unprecedented circumstance where, for the first time in history, a case that has reached the investigative stage will not have public hearings. And then we must ask ourselves the next question: Why? Why? That is the question.

The question is not about Senator BOXER or any other Senator, or about what the record is in the House in holding hearings. The question is, why would the Republicans on the Ethics Committee vote not to proceed to public hearings when every single time in history—and it goes back to the day the Ethics Committee was formed—there have been public hearings.

I want to say, there were some who said, ''Wrong, Senator BOXER, there were not any on this or that case.'' I will ask to have printed in the RECORD the dates of every public hearing, of every single case. You cannot argue with the facts. This would be the first time.

When you answer that question—why—the only thing I can think of are a few responses. One is, protect this particular Senator from something we never protected any other Senator from. The second is, it is embarrassing. Well, that is no answer, Mr. President. The Senators should have thought of that before.

Is the message that if you do something and it is embarrassing, there will not be public hearings? That is a swell message to send. That is the message that is being sent unless we break the deadlock here today.

I was going to quote from Senator BRYAN, in his letter that he sent when five Senators were concerned about this matter, but he is here and rather than quote him, I know he will have much to say on the subject.

But I want to personally thank the courage, the courage of the Ethics Committee members who were fighting hard in a very difficult situation for what is justice and what is right. What the Republicans have done by voting against public hearings is a miscarriage of justice any way you slice it. The best face you can put on it is a miscarriage of justice to allow the Senator to come before the committee and not allow the victims—and not allow factual differences to be explored by

the committee. That is wrong. And if Senators want to hide behind a feel-good amendment, a sense of the Senate that does nothing on this matter, so be it. So be it. But let there be no mistake, that is what we are facing: An amendment that says there shall be public hearings unless a majority vote says no by the committee; and a feel-good amendment that is a sense of the Senate that does nothing.

Mr. President, it has been a very long road for me to get to this point, and it has been a harsh road, and it has taken many turns, some of them quite personal. But I am so honored that I am a Member of the U.S. Senate and that, because the people of my State sent me here and believe that I have a right to be here, that is all it took for me to hold my ground. You cannot be intimidated when you know you are doing what you think is right. So this has been, in many ways, a very important debate, just getting to this point.

In concluding my remarks, before I yield 30 minutes to the vice chairman of the Ethics Committee, Senator BRYAN, let me summarize. There are four main reasons to support public hearings in this case.

First of all, honor Senate precedent. Do not make an exception in one case. That is a very perilous path, because the message that it could send is: The more embarrassing the transgression, the more protected you will be. And if it is sexual misconduct, you can count on it being behind closed doors. And that is wrong, not only to the women of this country, but to their husbands, to their sons, to their fathers, to their uncles. We are all in this together.

Second, public hearings will clarify the issues that are in dispute.

Third, it is a question of fairness. The Senator got his chance to appear before the committee. The accusers did not.

Finally, we should fully air our problems. This is not a private club. This is the people's Senate, and we ought to act that way and open up the doors. We can handle it. My God, the Republicans voted for hearings and hearings and hearings and hearings on Whitewater, on Foster, on Waco. I voted with them. Open up the doors. Do not let problems fester. But do not suddenly close them when it comes to sexual misconduct. That is wrong, and a terrible signal for us to send.

Mr. President, I yield 30 minutes to the distinguished and eloquent vice chairman of the committee, Senator BRYAN.

The PRESIDING OFFICER. The Chair recognizes the Senator from Nevada.

Mr. BRYAN. Mr. President, I firmly support the amendment offered by the distinguished Senator from California. For more than six decades, the U.S. Senate has held public hearings on all major ethics cases. The committee counsel again confirmed this fact to each member of the committee earlier this week at our Monday meeting. So there can be no misunderstanding, what Senator BOXER seeks to accomplish with the amendment she is offering this afternoon is to continue that unbroken precedent of public hearings.

I embrace this position after considerable reflection. I can assure my colleagues that no one is more anxious than I to have this matter concluded without further delay. My service as chairman of the Ethics Committee for 2 years, and more recently my service as vice chairman over the past 7 months, has not been a pleasant experience.

Yet, I am firmly convinced that public hearings are essential if the integrity of the Senate and of the ethics process are to be sustained. There are many reasons to hold public hearings. There is no credible reason to make an exception in this one case.

On May 17, the Ethics Committee released the charges it was bringing against Senator PACKWOOD. The Ethics Committee found substantial credible evidence providing substantial cause for the committee to conclude that Senator PACKWOOD may have engaged in a pattern of sexual misconduct between 1969 and 1990, and may have engaged in improper conduct and/or violated Federal law by intentionally altering evidentiary materials needed by the committee; and may have inappropriately linked personal financial gain to his official position by soliciting offers of financial assistance from persons who had legislative interests.

Following its rules, the committee then offered Senator PACKWOOD an opportunity to appear before the committee to make a statement and to answer committee questions. That occurred over a 3-day period, from June 27 to June 29.

In addition, Senator PACKWOOD was also offered his right to a hearing, which would involve cross-examination and appearances by those who had brought the charges against him. He declined this opportunity.

When the Senate returned from the Fourth of July recess, it was the point in the process for the committee to make a decision on what else needed to be done in the final investigation and final stage, including the all-important question as to whether or not public hearings should be held; in other words, to complete the evidence phase.

On July 31, the Ethics Committee voted on the question of holding public hearings. The committee was split, deadlocked at 3–3.

So here we are today with a deadlock in the committee. In my view, it is entirely appropriate that the question now come before the full Senate for its determination.

I want to address the question of delay which has been raised. There is, in my view, no delay or improper interference with the committee process for the Senate to debate and vote on an amendment as to whether public hearings should be held.

In fact, this is the proper time for the Senate to make that decision. Otherwise, the committee will move ahead on making the decision on sanctions without holding customary and traditional and, in my opinion, needed hearings.

As for the delay in completing this case, I am confident the committee can hold public hearings, bring this case to the Senate, and the Senate can resolve it without undue delay. I have suggested we put a time limit on the hearings, say, no more than 3 weeks. During those 3 weeks, we can call witnesses the committee needs to hear, we can hear from them in person, we can examine their demeanor, we can test their believability. We can attempt to resolve discrepancies in previous testimony and to give to the alleged victims—the point made by the distinguished Senator from California—the same opportunity that rightfully we extended to our colleague from Oregon, who faces these accusations; in effect, to give the victims their opportunity to be heard.

I would like to put the process in some perspective, if I may. We deadlocked on the decision for public hearings. The committee, after that deadlock, did vote to release all relevant evidentiary materials to the public.

Some have suggested this is an unprecedented action. I assure my colleagues, this is consistent with the practice followed in the past; namely, that all evidentiary material is released.

I asked that this material be released as soon as possible, as opposed to waiting until after these proceedings are concluded, and the committee agreed. The committee counsel has told us it would take about a week to compile and print the documents.

I fully support the release of all evidentiary materials, as did each and every member of the Ethics Committee.

However, the release of all evidentiary materials is not and cannot be a substitute for public hearings. I can tell you unequivocally that there is a world of difference between reading a transcript and holding a hearing.

Release of the evidentiary material has been standard operating procedure in all previous major ethics cases, the same cases where public hearings were held. Release of all evidentiary material is the precedent. The release of all evidentiary material was done in the seven major ethics cases that the Senate has dealt with in this century. Indeed, if the Ethics Committee had not voted to do what it did yesterday, it would have broken yet another precedent in this one case.

What was done by the decision of the Ethics Committee earlier this week to release the evidentiary materials is a minimum public disclosure standard. I do not believe that the U.S. Senate wants to be judged by a standard of minimum public disclosure. I believe the appropriate standard is public disclosure and is consistent with the history and the practice of the Ethics

Committee. That requires public hearings.

I would like to briefly run through some of the reasons why I think public hearings are important—indeed, necessary—in this case. And I would suggest to my colleagues that this will be one of the most important ethics votes that will be cast in this session of Congress, or perhaps in their congressional careers.

First, the precedent of the ethics process has been to hold public hearings in every major ethics case in this century. As you know, those of you who have served on the Ethics Committee were often guided by precedent just as courts are in legal matters. Indeed, few decisions are made by the committee without first inquiring of the staff to state the precedent or case history. The precedent on the question of holding public hearings is clear. The committee has always held public hearings.

Since 1929, seven Senators—Senators Bingham, McCarthy, Dodd, Talmadge, Williams, Durenberger, and Cranston—have been the subject of disciplinary proceedings on the floor of the U.S. Senate. All first faced public hearings. The pending case against Senator PACKWOOD has now moved into the final investigative phase. Since the three-tiered ethics process was adopted in 1977 setting up the investigative phase, public hearings have been held in all four cases—Talmadge, Williams, Durenberger, and Cranston—matters which reached this very serious stage.

Let me briefly review the major cases.

In 1929, the Hiram Bingham hearings were held between October 15 and October 23 on charges of employing on his committee staff an employee of a trade association which had a direct interest in legislation then before the committee.

In 1954, the celebrated Joe McCarthy hearings began August 31 and ended on September 13 on charges of obstructing the constitutional process.

In 1966, the Dodd hearings of March 13 to 17 on charges of converting political contributions to personal use.

In 1978, the Talmadge hearings, 27 days of hearings between April 30 and July 12 on charges of submitting false expense vouchers and misuse of campaign funds.

In 1981, the Senator Harrison Williams hearings were held, July 14, 15 and 28, on the question of misuse of his official position to get Government contracts for a business venture in return for a financial interest.

In 1989, Durenberger, June 12 and 13, hearings on charges of accepting excess honoraria and illegal reimbursement of personal living expenses.

In 1991, in the Keating matter, in which only the Cranston case entered the investigative phase, had 26 days of hearings beginning on October 23, 1990, on conduct which linked campaign fundraising and official activities.

There were no other ethics cases which entered the investigative phase or which came before the Senate for a proceeding. In short, there has been no exception in holding public hearings in any major ethics case in this century.

I suggest that is the standard by which the Senate ought to act today in supporting the Boxer amendment which seeks to continue that unbroken precedent.

Second, I ask myself: Is there some reason, some compelling or persuasive reason, as to why we ought not to hold a hearing in the Packwood case in light of the fact that there has been a clear and undeniable precedent?

I have given that considerable thought. And I must say I can find no justifiable reason for not holding a hearing in this case. I have heard no credible reason offered from any of my Senate colleagues.

I would ask you to ask yourself: Why would we make an exception in this one case? I do not think by and large you will be pleased with the only answer that I believe exists, and that is, the Senate does not want to hold public hearings in this case because it deals with sexual misconduct. In my view, that is not a persuasive reason to depart from our honored tradition of the past.

Third, I think this case presents an even more compelling reason for holding public hearings because of the alleged victims. This, to the best of my ability to review the record of the ethics process in the Senate, is the first case in the history of the Senate in which there are alleged victims that have come forward and filed sworn charges against a U.S. Senator for actions that have been directed against them individually and personally.

This is a case of first impression on two aspects—because they are alleged victims and because of the finding of substantial evidence of sexual misconduct. From a public credibility standpoint, there should be no doubt about the need to hold public hearings on a matter of this magnitude.

What message will the Senate be sending to those who have come forward in this case or anyone who dares to come forward in the future? If there are victims, we do not want to hear from you, so we will close the door? Mr. President, that is the standard that we invite if we decline to hold public hearings in this case.

Fourth, this is not just a question of the future of one Senator. This decision speaks to the fundamental question of whether the Senate as an institution is capable of disciplining its Members and itself in a manner which merits public confidence. This is far more important than any one of us individually.

In the most recent serious ethics case before the Senate, the so-called Keating case, all six Ethics Committee members voted to hold public hearings—Senators HEFLIN, PRYOR, Sanford, Rudman, HELMS, and LOTT.

In the opening statements of the first day of those hearings, no Senator was more eloquent nor more persuasive nor more to the point than our colleague Senator LOTT, who said it best in focusing on the need for hearings for the sake of public credibility of the institution, when he said:

> It may be necessary to hold these public hearings if for no other reason than to remove the cloud that has come over the Senate and to clarify the basis for decisions on whether violations of laws or rules have occurred. These proceedings will mean that the public will have a full opportunity to hear and view for itself the evidence in each case.

I wish I were so eloquent. That is, in my view, a compelling and riveting reason for the public hearing process in this case and all cases which reach this stage in the ethics process.

This debate is not based upon ideological division. Four Christian profamily groups have called for hearings. Gary Bauer of the Family Research Council told the Hill, a newspaper publication, on June 7, and I quote:

> We are an organization that talks about values . . . I've urged my Republican friends that the party ought to err on the side of being aggressive in removing any cloud over it. These charges are serious enough to warrant full hearing and investigation.

Eight women's law or advocacy groups have called for public hearings. Nine of the women who have made charges to the Ethics Committee have publicly called for hearings.

Let me comment here on an objection which some have made to holding public hearings. I am afraid I think it is more of an excuse rather than a reason. It is argued by some that we should not hold public hearings because we need to protect the women who have filed charges. I point out again that 9 of the 17 women have called for hearings. I am not aware that any of the others have expressed opposition.

I am not unmindful of the need to protect victims.

In order to protect women who come forward with complaints of sexual misconduct I asked the committee to adopt the principles of the Federal rape shield law. As the author in 1975 of Nevada's State rape shield law, I feel strongly about these principles. Rape shield laws are designed to protect victims of sexual misconduct from unfair cross examination when there are attempts to inquire into the most personal and intimate relationships totally unrelated to the current allegation.

There is no issue which should be before the committee or the Senate, nor should any other issue be referred to by any Senator or anyone involved in this case, except the issue of the specific allegation made by a woman against Senator PACKWOOD.

The issue of public hearings, some have tried to claim, is strictly an issue within the beltway. To the contrary, editorials from newspapers throughout the country, every geographical region, have called for public hearings.

USA Today, July 14:

> Open the PACKWOOD hearings; this isn't a personal matter

read their headline. And the editorial went on to say,

No doubt public testimony about such acts may prove embarrassing. But the Senate can be shamed only if it tried to deal with the allegations behind closed doors.

Cincinnati Enquirer, July 1:

So why the soft glove treatment and protection for Senator Packwood? Perhaps the mostly male, starched-shirt proper Senate is embarrassed or scared at being criticized and scrutinized over this matter.

The way Packwood's alleged exploits are being treated by the Senate, there's room for suspicion—suspicion that could be quelled if the hearings were open.

Charlotte Observer, May 26:

As committee members move to the next phase of the Packwood case, the public is watching how they treat their own.

San Francisco Chronicle, May 19:

The system has worked and the process should now move to the final, necessary stage . . . the public forum for which Packwood has so often pleaded.

Atlanta Constitution; June 10:

Word has it around the Capitol that the Senate Ethics Committee is under considerable pressure to spare the upper Chamber, and perhaps Packwood himself, the embarrassment of a public inquiry. . . . Some Packwood allies are hopeful of arranging a settlement, presumably including some sort of penalty, so as to avoid a messy hearing and clamor for Packwood's ouster. . . . He's entitled to the best defense he can muster, but that must be a public defense if he is to minimize suspicions of favoritism.

A fifth reason for public hearings is that the hearings will build upon the evidence already before the committee, and give committee members an opportunity to listen to and see the reactions of witnesses firsthand, not just read a report, and also ask questions to follow up on earlier interviews by our committee counsel.

As a former prosecutor, I know a little about evidence. I know that sometimes when a witness faces a jury in person, he or she provides additional information or gives additional insight from what can be gathered from reading a written report.

I know that if there are conflicting explanations, I want to question all parties in person about those conflicts.

I am familiar with the depositions of the women who have made charges of sexual misconduct. However, in the interest of fairness and judicial prudence, they should be given the right to come before the committee, just as Senator PACKWOOD was given that right.

It is equal justice that we seek here. We are rightly concerned about being fair to our colleague who is being charged by others. We need to be fair to those who have come forward at considerable personal risk themselves and who have made very specific allegations and seek the opportunity for a public hearing.

Some reports today are stating the committee hearings will be in private. Let me correct that impression. The committee voted to hold no hearings, public or private, not to hear in person from anyone involved in this case except Senator PACKWOOD.

So those are the reasons, Mr. President, I feel very strongly that public hearings should be held. First, it has been the precedent of this institution in major ethics violations for this century.

Second, I know of no justifiable reason for not holding public hearings. The only answer that has been suggested is that somehow the Senate ought to avoid embarrassment because this issue deals with sexual misconduct. I believe that is unacceptable rationale.

Third, this is a case of first impression in which we have victims coming before the Senate Ethics Committee and hopefully to be heard by the entire Senate and the American people who have made sworn charges against a U.S. Senator for actions directed against them. And this is also the first time the Senate will judge a Senator who has been charged by the Ethics Committee with sexual misconduct.

The PRESIDING OFFICER (Mr. GRAMS). The Chair reminds the Senator that he has spoken now for 30 minutes and the Senator from California could yield more time.

Mr. BRYAN. May I have 3 more minutes?

Mrs. BOXER. I yield 3 more minutes.

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

Mr. BRYAN. Fourth, the credibility of the institution to deal with this issue is very much irreparably damaged without public hearings.

Fifth, as I have indicated, I think each of us needs an opportunity to evaluate credibility.

I will conclude by noting: What kind of message does the Senate want to send to the citizens we serve? This is really our opportunity to send a message to the American people that fits the message they sent to each of us last November. The public expects their Government to be open and to hold Members accountable to a proper standard of behavior. The message the Senate risks sending today, however, is that in disciplinary matters involving Members, we have chosen to retreat and to close the door tighter than it has ever been before.

Mr. JOHNSTON. Mr. President, will the Senator yield for a question?

Mr. BRYAN. I will be happy to yield for a question. I only have a couple more minutes, so if I am abrupt with the Senator, I do not mean to be rude.

Mr. JOHNSTON. Mr. President, I am concerned about whether there is any issue of material fact—I do not know what the Senator can tell me about that. I know there is some privilege. But can the Senator tell me whether there is an issue of material fact which by having a hearing the Senate would be further instructed as to the different sides of that material fact?

Mr. BRYAN. Let me just respond as I have tried to do in my statement that I believe the Ethics Committee, the Senate, and the American people would be further enlightened if we heard the testimony of the witnesses. I cannot get into the specifics of the evidence, but I must say that this is not in my view a circumstance in which nothing is to be gained by holding public hearings because I believe there are points at issue that, indeed, would be clarified.

Mr. JOHNSTON. Just one further question. Has Senator PACKWOOD publicly pleaded guilty in effect to the charges? Does the Senator know whether that is so?

Mr. BRYAN. I do not believe—I think the answer to that is no.

Mr. JOHNSTON. I thank the Senator.

Mr. BRYAN. In terms of public statements, those would be for each Senator to interpret.

I yield the floor. I thank the Senator.

Mrs. BOXER. Mr. President, may I ask the manager of the amendment for the majority if he is interested in taking any time to discuss this matter?

The point is I do not want to use all the time up on our side, but want to see if there are any speakers on the other side.

I will ask unanimous consent to have printed in the RECORD two important documents here which I believe go to the question of finding of fact that the Senator from Louisiana spoke of. In other words, his concern is, is there a need to have hearings to figure out if there are discrepancies?

In an AP story, an Associated Press story that was reprinted in one of the newspapers on July 29, Senator PACKWOOD is quoted as saying:

If there was a hearing, we'd finally have a right to question the complainants. We've been unable to do that.

So I think that sentence alone says to me that there are differences of fact. And second, there is documentation from a ''Nightline'' appearance that I was on with Senator SIMPSON in which Senator SIMPSON says:

If they want to come forward in a public hearing, they got to get their right hand up and be cross-examined with the rules of evidence. The last one,

meaning women,

made moves on Bob Packwood. You'll find that in the deposition.

Now, this raises a lot of other questions, but it certainly raises the issue that there are differences of fact here.

The point made by the Senator from Nevada, who is very careful on what he says on this floor—I am only amplifying his answer by showing you two very important statements, one by Senator PACKWOOD himself quoted in the AP story, the other by Senator SIMPSON which indicates that there is, in fact, a dispute over what occurred.

And I now ask unanimous consent to have them printed in the RECORD at this time. They are identified as the actual words from the ''Nightline'' appearance and the AP wire story.

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

[From ABC News ''Nightline'', July 27, 1995]

THE DAWDLING PACKWOOD INVESTIGATION

(This transcript has not yet been checked against videotape and cannot, for that reason, be guaranteed as to accuracy of speakers and spelling. (JPM))

ANNOUNCER. July 27th, 1995.

Sen. MITCH MCCONNELL, (R), Chairman, Select Ethics Committee. This has been the mother of all ethics investigations.

CHRIS WALLACE [voice-over]. The sexual misconduct investigation into Senator Bob Packwood: why won't the Ethics Committee conduct public hearings?

Sen. BARBARA BOXER, (D), California. I don't want to tell the Ethics Committee what to do, I want them to do the right thing.

PAUL JIGOW [sp?]. The demand for a public hearing is real low-ball, hardball politics.

CHRIS WALLACE [voice-over]. Tonight, the Packwood investigation; is it a case of the old boys' network looking after one of its own?

ANNOUNCER. This is ABC News Nightline. Substituting for Ted Koppel and reporting from Washington, Chris Wallace.

CHRIS WALLACE. The veil of decorum in the U.S. Senate was pulled back ever so slightly today in a debate over what to do about Bob Packwood. While maintaining all the practiced civilities of the Senate floor, the Republican head of the Ethics Committee, Mitch McConnell and a Democratic freshman from California, Barbara Boxer, were very politely sticking a shiv in each other. McConnell said the Ethics Committee wasn't about to be pushed around in deciding to deal with the Packwood case. Boxer said she respects the committee, but if it doesn't decide to hold public hearings on its own, she will bring the issue to the Senate floor.

Ever since the Clarence Thomas hearings, there's been a charge that the Senate—made up overwhelmingly of white middle-aged men—is insensitive to issues of sexual misconduct. Now, as the Packwood case is well into its third year, and so far, all the proceedings have been behind closed doors, that charge of insensitivity is being heard again. As ABC's Michel McQueen reports, the investigation of one senator is now putting some heat on all of his colleagues.

1st former PACKWOOD STAFF MEMBER. There was no warning. He suddenly grabbed me by the hair and forcefully kissed me, and it was very hard to get him off.

2nd former PACKWOOD STAFF MEMBER. He stood on my feet, pulled my hair, pulled my ponytail, my head back, was forcefully trying to kiss me, and with his other hand——

3rd former PACKWOOD STAFF MEMBER. In his offices, did grab me at the shoulders and kiss me forcefully.

MICHEL MCQUEEN, ABC News [voice-over]. There isn't much doubt about what he did.

Sen. BOB PACKWOOD, (R), Oregon. [NBC, 1992] My actions were just plain wrong, and there is no other, better word for it.

MICHEL MCQUEEN [voice-over]. The question has always been what to do about it.

[on camera] For two and a half years, the Senate Ethics Committee has investigated charges that Republican Bob Packwood of Oregon repeatedly harassed the women around him, and then tried to tamper with evidence to cover it up. In May, the Ethics Committee issued a finding that there was substantial credible evidence to warrant a formal investigation, the equivalent of a pretrial indictment or charge. But little has happened since then, and many people are getting impatient.

[voice-over] Last week, Senator Packwood's accusers and some of the congresswomen who support them held a press conference.

Rep. NITA LOWEY, (D), New York. Let me be very clear. The women of America will not tolerate politics as usual. We will not tolerate politics as usual in the good old boys' club. We will not stand for another Anita Hill. Whether it's in the Senate or in the office, the American people understand that sexual harassment is a serious abuse of power.

MICHEL MCQUEEN [voice-over]. What the lawmakers and many of Senator Packwood's accusers want are public hearings to air the allegations against him. An Oregon women's group paid for this ad in *The Washington Post*, designed by Democratic media consultant Mandy Grunwald.

MANDY GRUNWALD. For 40 years, the Ethics Committee has had public hearings every time they've found credible evidence. They put out a public report saying they found credible evidence of abuse of office tampering with evidence, and 17 counts of sexual misconduct. I think getting these things out in the open is appropriate, I think actions should have consequences, and he should be held accountable.

MICHEL MCQUEEN [voice-over]. The battle was joined on the Senate floor last week when five women senators [Boxer, Moseley-Braun, Feinstein, Murray, Snowe] led by California Democrat Barbara Boxer, strongly urged the Ethics Committee to hold public hearings.

Sen. BARBARA BOXER, (D), California. I have written the Ethics Committee and informed them that if no public hearings were scheduled by the end of this week—and that means the end of today—I would seek a vote on the matter by the full Senate.

MICHEL MCQUEEN [voice-over]. Senator Boxer's demand triggered threats to reopen past Democratic scandals, and complaints about her respect for protocol.

Sen. BOB DOLE, Majority Leader. Well, I believe in the integrity of the committee process. I don't believe that every time a senator doesn't like what the committee does, they come out with some motion.

MICHEL MCQUEEN [voice over]. Senator Boxer, who is not a member of the Ethics Committee, said Senate rules and the precedent set by previous cases demand public hearings.

STANLEY BRAND [sp?]. The line of precedent is unbroken on the fact that this stage of the procedure occurs in a public hearing.

MICHEL MCQUEEN [voice over]. Stanley Brand is a former Democratic counsel to the House of Representatives. He now represents both Democrats and Republicans before the ethics committees.

STANLEY BRAND. It really has nothing to do with partisan politics. These have been the rules through both Democratic and Republican control of the House and Senate, and in fact, these committees are evenly split along party lines, to prevent partisanship from taking control, if you will.

MICHEL MCQUEEN [voice over]. Not so fast, says Wall Street Journal editorial writer Paul Jigow.

PAUL JIGOW. What we're seeing here is the politics of ethics. If you don't have an issue, you can use personal politics, personal foibles of politicians. It was elevated to an art form in the 1980s against people like John Tower, Clarence Thomas, and in Bob Packwood's case, it's being used again, not to say that there's not real allegations here, but the public hearing aspect, the demand for public hearing, is real low-ball, hardball politics.

MICHEL MCQUEEN [voice over]. Whether it was politics or process, the argument erupted on the Senate floor today between Ethics Committee chairman Mitch McConnell and Senator Boxer.

Sen. MITCH MCCONNELL. This has been the mother of all ethics investigation. It is also the first full-fledged investigation of sexual misconduct ever conducted in the Senate. Although allegations of sexual misconduct were leveled against two other senators in the past, the committee dismissed both of these cases rather than proceed to an in-depth inquiry.

Sen. BARBARA BOXER. I'm glad that the committee is meeting, but I'm not backing off one bit. If they don't vote for public hearings, I'll be back here with an amendment, so let's keep the wheels turning.

MICHEL MCQUEEN [voice over]. Senator McConnell said that the committee would resume its work on the Packwood case next week, after what he called a ''cooling-off period.'' But there was no word on how the committee will handle the question of public hearings. This is Michel McQueen for Nightline, in Washington.

CHRIS WALLACE. When we come back, we'll be joined by one senator who's defending Senator Packwood's right to private hearing and by another who's pressing for them to be made public. [Commercial break]

CHRIS WALLACE. Senator Alan Simpson is a supporter of Senator Packwood's attempt to have his hearings held in private. He joins us now from our Washington bureau, as does Senator Barbara Boxer, the Senate's most vocal supporter of public hearings.

Senator Boxer, let's start with this issue of public hearings. The Ethics Committee has conducted a thorough investigation, they've issued what amounts to a tough indictment. Why not let them finish this matter in private? I mean, what good does it do either the Senate or Bob Packwood to have a public spectacle?

Sen. BARBARA BOXER, (D), California. What I want is for the Ethics Committee to do the right thing, and the right thing is what ethics committees have always done in the entire history of the United States Senate, and that is, when you get to this phase of an investigation where there is credible, substantial evidence that a senator has committed wrongdoing, that there are public hearings. It's the way the Senate has always been. And by the way, I think it's important to note, even with that, the Senate, under Rule 26, could close those hearings if there was a sensitive matter or to protect a witness, so I think I'm just being very reasonable and, frankly, conservative, because that's what the ethics committees have always done throughout Senate history.

CHRIS WALLACE. Senator Simpson, this is a public official charged with misconduct. Personally painful as it may be, doesn't this have to be conducted out in the open?

Sen. ALAN SIMPSON, (R), Wyoming. Well, let's let the Ethics Committee finish their work. They're not finished with their work, and this is unprecedented, that a member of the Senate would ask and try to go past the Ethics Committee. If that ever happens, I can tell you who'll be the losers. The losers will be those who in the minority of the U.S. Senate, Election time comes, just roll one up and fire the shot, and let'em dig out from under the rubble. I'm not suggesting that we go—that we don't have private or public. I'm just saying let them finish their work, and Senator Boxer said that on the floor in November of '93, let them finish their work.

CHRIS WALLACE. But Senator Simpson, isn't this the point at which the committee has to decide, or the Senate has to decide, whether or not to hold hearings, in private or in public?

Sen. ALAN SIMPSON. But that will come when the committee has finished their work. If you allow a single senator to subvert the process at this point, the only losers will be those who are in the minority. Senator Boxer's party is in the minority. Can you imagine what happens if this gets done? I can tell

you, there are plenty of people on our side who, in a personal vendetta, would simply file grievances and reports against Senator Boxer. Then, when we're in the minority, that's the purpose of the Ethics Committee.

CHRIS WALLACE. But Senator Simpson, let's not get bogged down in the procedural issue. Let's talk about the actual decision as to whether to hold public or private. You favor private hearings, do you not?

Sen. ALAN SIMPSON. I have—I have never—I have never objected to public hearings. I say let the Ethics Committee finish its work. I know you'd like me to say that I don't want them to have public hearings, but I don't know.

CHRIS WALLACE. No, I want you to say whatever you—whatever you feel, Senator.

Sen. ALAN SIMPSON. I just believe that the Ethics Committee should finish its work. If you—if you shortcircuit the investigatory process right now, you're—you're dooming the U.S. Senate. That's what you're doing.

CHRIS WALLACE. Let me ask you about this, Senator Boxer, because since you called for public hearings, some of your Republican colleagues have warned about possible repercussions. In fact, Senator Simpson took you aside the other day off the Senate floor. What did he——

Sen. ALAN SIMPSON. No, that's not true. I never warned Senator Boxer at all. I have the highest regard for her, and respect. We don't agree with things, but you can ask her—she's here——

CHRIS WALLACE. Well, I just——

Sen. ALAN SIMPSON [continuing]. I never warned her about——

CHRIS WALLACE [continuing]. I was just trying to, Senator.

Sen. ALAN SIMPSON [continuing]. No, but I get offended by that, because that didn't happen. I've already written a letter about the reporter that reported it that way.

CHRIS WALLACE. Well, Senator Boxer, what—whether it's a warning or whatever he said to you, what did Senator Simpson say?

Sen. BARBARA BOXER. Well, Senator Simpson and I are friends, and he gave me some friendly advice. The friendly advice was, essentially, to lay off. And I have to say this. I find it offensive. I had——

CHRIS WALLACE. To lay off?

Sen. BARBARA BOXER [continuing]. The advice. Because I think it's wrong, I think, to tell a senator to back off when she thinks something is important. I'll tell you what's unprecedented, not a senator making a view known on an important issue like this; what's unprecedented is that, in fact, in fact, we already had Trent Lott, who is a leader of the Republicans in the Senate, say he favors private hearings. It's no great secret that Mitch McConnell, the head of the Ethics Committee, favors private hearings. Listen, I wasn't born yesterday. That's where it's moving. That would be a change in precedent, and that would be wrong. The Senate is not a private club, as much as some would like to see it. It is the people's United States Senate, and we cannot sweep these things under the committee room rug, and that's exactly where this was going unless I had spoken up, and I'm really proud that I have.

Sen. ALAN SIMPSON. Well, let's get the record straight. I never said to Barbara Boxer to lay off, and Barbara Boxer was a member of the House of Representatives while they did five of these kind of hearings, and she never once asked for a public hearing, and voted on the rules to prohibit public hearing.

Sen. BARBARA BOXER. That's incorrect. That is incorrect.

Sen. ALAN SIMPSON. Well I can read and write, too.

Sen. BARBARA BOXER. Well, that is so incorrect, that—in 1989 we changed the rules in the House to force public hearings, and in the two sexual misconduct cases that came before me, Chris, what I did is vote for tougher penalties, and that was against a Democrat and a Republican. But what happens is, when you're winning an argument, my mother always taught me, your opposition is going to change the subject. I am not the subject. The subject is can the Senate police itself, and will they, in this one case, make an exception and close the doors? That would be wrong, and I'm not going to be intimidated.

Sen. ALAN SIMPSON. Well——

CHRIS WALLACE. Senator Simpson, let me ask you, there have been reports—and we're asking you about them so you can tell us if they're true or not—that you and other Republicans have suggested that if Barbara Boxer goes ahead with her call for public hearings on Packwood, that the Republicans might have public hearings on every Democratic scandal since 1969. First of all, did you say it?

Sen ALAN SIMPSON. No, I've never said that. I think that'd be a real mistake. I heard 'em mention Ted Kennedy. I heard 'em mention Tom Daschle. I think those things would be a real mistake. But I'll tell you one thing we could do. We could go back just as far as the statute of limitations on these cases in every other jurisdiction in America, and the longest one is three years, and they're back in 1969 on this one. How many of—in the people in this audience can pass that little test, as to what they were doing in 1969?

Sen. BARBARA BOXER. Well——

Sen. ALAN SIMPSON. And remember, he was not charged with sexual harassment, it is sexual misconduct. You want to get back to the real specter of this, Anita Hill and Clarence Thomas, remember that Anita Hill never charged Clarence Thomas with sexual harassment, either.

CHRIS WALLACE. Senator Simpson. Senator Boxer, we have to break in here for a moment, but when we return, I want to bring up the Hill-Thomas hearings and ask you just how enlightened the Senate is these days when it comes to matters of sexual misconduct, and we'll be back in just a moment. [Commercial break.]

CHRIS WALLACE. and we're back now with Senators Alan Simpson and Barbara Boxer.

Senator Boxer, you were elected to the Senate in the wake of the Clarence Thomas hearings, and there was some feeling then that a lot of senators, quote, ''Didn't get it,'' when it came to matters of sexual misconduct. Are we still seeing some of that here in the Packwood case?

Sen. BARBARA BOXER. Well, I have to say that we are, although I'm very hopeful, because now that Senator Bryan, who's the vice chair of the committee, has called for meetings, and Mitch McConnell agreed today that they will vote to have public hearings, but let me tell you this. Supposing they vote not to, and it's a 3–3 deadlock, 'cause there's three Republicans and three Democrats, and they don't move forward, and this is the first time in history, as I've said, that they would have closed hearings. What is the message? That if you violate ethics and it has to do with mistreating women that you get the privacy behind closed doors to look at those charges? I think that would be awful. If it's embarrassing, the more embarrassing it is, the more it's behind closed doors? And I think it's important to note that the charges against Senator Packwood where the committee found substantial credible evidence in three areas, not just sexual misconduct, but tampering with evidence, and then trying to get his wife a job so, presumably, he could lower his alimony payments, and going to lobbyists, those are the charges that are before us here. They're serious, and the last one was in 1990, in terms of the sexual misconduct, so it isn't that it just was in 1969.

CHRIS WALLACE. Senator Simpson, is this, as some have charged, a case of the boys' club protecting one of its own?

Sen. ALAN SIMPSON. No, you know, that's really old stuff. I have a mother, a wife and a daughter, one of whom has been subjected to much more than anything I ever heard in the Anita Hill issue or this issue. This is absurd. This is a—an elitist, sexist statement, and it's not true.

Sen. BARBARA BOXER. Well, you don't know what happened in this issue, Senator Simpson.

Sen. ALAN SIMPSON. I do know what happened to people in my own family, and I do know——

Sen. BARBARA BOXER. No, I said——

Sen. ALAN SIMPSON [continuing]. That this man has not been charged with sexual harassment, and sexual harassment, as a statute of limitations, is three years in every other jurisdiction in America.

Sen. BARBARA BOXER. The women haven't had a chance to come forward before the committee. Senator Packwood has——

Sen. ALAN SIMPSON. Well, I'll tell you, there are going to be a couple of 'em that won't want to come forward, and the last one, which was the charge—

Sen. BARBARA BOXER. Well, what does that mean?

Sen. ALAN SIMPSON. Just what I said. If they want to come forward in a public hearing, they got to get their right hand up and be cross-examined with the rules of evidence. The last one made moves on Bob Packwood. You'll find that in the deposition.

CHRIS WALLACE. Senator Boxer?

Sen. BARBARA BOXER. Well, I'm just saying this. In every single case that has come before the Senate Ethics Committee, we've had public hearings. In every single——

Sen. ALAN SIMPSON. That's not true.

Sen. BARBARA BOXER [continuing]. In every single case. I put that in the record today. The vice chairman of the committee has stated that, Richard Bryan, very well-respected. It's been stated by Senate historians. I am not partisan. The amendment that I plan to offer if, in fact, we don't get the hearings, just says, in every case, be it against a Democrat or a Republican, if it gets to the stage——

CHRIS WALLACE. Senator——

Sen. ALAN SIMPSON. Barbara's gonna get——

Sen. BARBARA BOXER [continuing]. If it gets to the stage where there's substantial credible evidence, there should be public hearings.

CHRIS WALLACE. Senator Simpson, I want to ask you about the last comment you made, because there was a lot of feeling after the Anita Hill-Clarence Thomas hearings that in some sense—and this part of, I think,the anger of some people on one side, you would certainly say—was a feeling that some Senate members tried to make Anita Hill, through cross-examination, tried to make her into the transgressor. What you seem to be saying is, if this becomes public hearings, there's going to be a kind of fierce cross-examination of some of Bob Packwood's accusers.

Sen. ALAN SIMPSON. Of course there will. What do you think happens in these kind of situations where you're trying to destroy a person? People get destroyed in the process. Is anyone so out of that they don't understand that?

Sen. BARBARA BOXER. Well, you know——

Sen. ALAN SIMPSON. Barbara Boxer is going to have her chance too anything she wants, bring up any amendment, bring up any argument, tear the joint down, tear it up, but not until the committee is through with their work.

CHRIS WALLACE. Senator Simpson, you know, for all the talk about issues of sexual misconduct and enlightenment and all that, is this just pure politics? Is this just Democrats looking for a way to embarrass a big Republican and Republicans looking for a way to sweep it under the rug?

Sen. ALAN SIMPSON. I don't know, but I do know this that my friend from California is a highly partisan individual. She has said remarks on the floor since she come here, and they're hard, and I know hard politics, 'cause I do it myself. But Barbara Boxer is one of the toughest partisan shooters in this building.

Sen. BARBARA BOXER. Well, first of all——

CHRIS WALLACE. Senator Boxer, is it just politics?

Sen. BARBARA BOXER. This is ridiculous. I already showed you where, when I was in the House and the Ethics Committee was too soft on a Democrat who I felt committed sexual misconduct, actually worse than that, I voted for a tougher penalty. My amendment isn't aimed at Bob Packwood. It is a generic amendment that just says we shall have public hearings in any case that gets to the stage of the investigation. I am stunned to hear my colleague say some of the things he has said tonight, turning the tables on this situation, making women look like they're the problem. Here——

Sen. ALAN SIMPSON. See, there's the argument, there it goes.

Sen. BARBARA BOXER [continuing]. No, well, Alan——

Sen. ALAN SIMPSON. Now you're getting the argument.

Sen. BARBARA BOXER [continuing]. Well, Alan, Alan, if you would give me a chance.

Sen. ALAN SIMPSON. I've heard that one.

Sen. BARBARA BOXER. You bet you have.

Sen. ALAN SIMPSON. Yeah, you bet.

Sen. BARBARA BOXER. And you're going to hear it again, and here's what it is.

Sen. ALAN SIMPSON. Well, I've heard it enough.

Sen. BARBARA BOXER. Here's what it is. Well, one more time, just for the road.

Sen. ALAN SIMPSON. Yeah, well, trot it out one more time.

Sen. BARBARA BOXER. One more time for the road. The fact is, Mitch McConnell and his Republicans on the Ethics Committee, Richard Bryan and his colleagues on the Ethics Committee, found substantial credible evidence.

That's a very high level of proof——

Sen. ALAN SIMPSON. Yes.

Sen. BARBARA BOXER [continuing]. That there was wrongdoing. It is time for the light to be shined on this matter, so that senators know how to vote, so that the public can understand it. Today we learned the vast majority of the American people agree they ought to have a chance to know more about this. After all, we are not a private club, we are not a country club where guys put their feet on the table, light up a cigar, and disguise it.

CHRIS WALLACE. Senator Simpson, you've got 30 seconds for the final word.

Sen. ALAN SIMPSON. Well, that's pretty sexist. I've been in these a lot, you know, and I know that finally they flee to this one about bald white guys that don't understand anything, and really, I practiced law for 18 years, I understand an awful lot about sexual issues.

Sen. BARBARA BOXER. You sure do.

Sen. ALAN SIMPSON. And molestation.

Sen. BARBARA BOXER. You do.

Sen. ALAN SIMPSON. And rape and incest, that's what I did in my practice, so I've heard all that guff before. Let's get down to the point. This senator is going to have her chance to do whatever she wishes when they finish the investigation, and there was only one charge of sexual misconduct in the last 13 years, and if that's a pattern, I'll buy the drinks.

CHRIS WALLACE. Well I think we're going to have to leave it there, but I think I'd point out, as a point of information, Senator Simpson, that I think there were a half-dozen allegations of sexual misconduct——

Sen. ALAN SIMPSON. No, there were not. In the last——

CHRIS WALLACE [continuing]. In the—during the course of the '80s.

Sen. ALAN SIMPSON [continuing]. Thirteen years, one.

CHRIS WALLACE. I know, but there were a lot in between '80 and '83, so the question——

Sen. ALAN SIMPSON. Yeah, but in the last 13 years, one.

CHRIS WALLACE. Well, you can divide it where you want to.

Sen. ALAN SIMPSON. Yeah, I will divide it.

CHRIS WALLACE. Sentor Simpson——

Sen. ALAN SIMPSON. It's called fairness.

CHRIS WALLACE [continuing]. Senator Boxer, thank you both very much for joining us.

Sen. BARBARA BOXER. Thank you.

CHRIS WALLACE. And I'll be back in just a moment. [Commercial break]

CHRIS WALLACE. Tomorrow on 20/20, an exclusive interview with David Smith. Barbara Walters talks with the ex-husband of convicted murdered Susan Smith. That's tomorrow, on this ABC station.

And that's our report for tonight. I'm Chris Wallace in Washington. For all of us here at ABC News, good night.

[From the Fresno Bee, July 29, 1995]

PACKWOOD SEES BENEFITS TO A PUBLIC HEARING

WASHINGTON.—While not endorsing the public hearings being demanded by Democrats, Sen. Bob Packwood said Friday they would give his lawyers their first chances to cross-examine some of the women accusing him of sexual and official misconduct.

''If there was a hearing, we'd finally have a right to question the complainants. We've been unable to do that,'' the Oregon Republican said in an interview with The Associated Press.

Packwood's lawyers earlier told the Senate Ethics Committee that the senator would not exercise his right to ask for a public hearing. The senator refused Friday to say whether he wanted a public hearing.

''It's up to the Ethics Committee to decide whether there is anything to be gained by that. I'm not sure any new information would be gained,'' Packwood said.

Two Democrats on the panel, Richard Bryan of Nevada and Barbara Mikulski of Maryland, have called for public hearings. Committee Chairman Mitch McConnell, R-Ky., opposes the idea.

Packwood said he would make clear in any hearing that most of the allegations were more than a decade old.

Mrs. BOXER. Is there anyone on the other side who wishes to take some time?

The PRESIDING OFFICER. Right now, there is no one to answer that.

Mrs. BOXER. There is no one to answer that. I say to my colleagues that this is a very important debate that is going on. And I think in fairness we ought to go back and forth, side to side, here. I find it very strange, given all the criticism of this Senator's amendment in the press, personally, publicly, every which way you could send a message to somebody, that they are not here to talk about it.

But in any event, at this time I am going to yield 30 minutes to the Senator from Maryland.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Thank you very much. I thank the Senator who has sponsored the resolution for yielding me this time.

I rise to speak in favor of the Boxer resolution. The purpose of this resolution states: ''To instruct the Select Committee on Ethics of the Senate to hold hearings on certain allegations of wrongdoings by Members of the Senate.'' I want to commend Senator BOXER for her efforts in pursuing this issue. Senator BOXER has been persistent and clear. She says we must hold public hearings in order to defend the integrity of the U.S. Senate and follow its historic precedent. I agree with her purpose.

I regret that some have made Senator BOXER the issue. Senator BOXER is not the issue. And I would like to compliment Senator BOXER on her stamina and on her strength in resisting the abuse that has been hurled at her because she wishes to exercise her prerogative as a Senator and offer legislation on the floor. I compliment her that she refused to have her voice silenced on behalf of defending the women who have been the victims in this ethics proceeding. As we both know, whenever women are assaulted, battered, they themselves are always made to look like they are the problem rather than the victim. So I thank Senator BOXER. I thank her for not having her voice silenced, and I thank her for offering an amendment to ensure that the voices of the women are not silenced.

And I say that because as we look at what has been happening, we now see that as a Member—as it currently stands, the voices of the women will be silenced. As a member of the Ethics Committee, I voted to support public hearings in the Packwood case. Unfortunately, that motion failed on a 3 to 3 vote, strictly on party lines. I wanted public hearings to occur because I felt it was important for the honor and integrity of the U.S. Senate. I also voted to release all relevant information to the public as soon as physically possible.

Let me clarify that this release of information is the usual practice of the Ethics Committee. It is neither unusual nor is it unprecedented. It is the committee's customary practice that this type of information has been released to the public in the seven major cases in this century—involving Senator Hiram Bingham, Senator Joe McCarthy, Senator Thomas Dodd, Senator Herman Talmadge and Senator Harrison Williams, as well as Senator David Durenberger and Senator Alan Cranston.

I want to emphatically state that I do not believe that the release of this information is a substitute for public hearings. I do not believe that it is in lieu of public hearings. And, also, it is

not a proxy for public hearings. It is the minimal acceptable form of disclosure.

Now, why is this not a substitute for public hearings? As my colleagues know, I am always for public hearings, public hearings to protect the honor of the Senate and because it is important to give voice and value to the charges brought by women. These women are the first actual victims ever to bring complaints against a U.S. Senator to the Ethics Committee. It is the case of first impression. And if we silence them now on the issue of sexual misconduct, will victims ever, ever again bring a charge to the Ethics Committee because they believe they will be treated as the problem or that they will be silenced because of the kind of vote that we saw?

I voted for public hearings because I wanted to be sure that women got a fair shake and that they got a fair shake in the U.S. Senate, that, as we know, when again women are ever assaulted, battered, or abused they are told to be silent or there is institutional forums to be silent. I want to assure them that their voices were not silenced, that they were treated with respect and dignity, that their allegations were taken seriously and would have value.

I never met these women. I have only heard their stories through depositions, affidavits, and through the summaries of their testimonies. I do not want their stories to be filtered. I also did not have a chance to personally hear the other witnesses, whether it was related to diary tampering or solicitation of jobs for Senator PACKWOOD's wife to have a job to lower the alimony. I did hear Senator PACKWOOD's statements.

There has been no opportunity to cross-examine or ask questions of the women or other witnesses in this area of investigation. I did not get to talk to the women. I did not get to talk to the lobbyists that Senator PACKWOOD spoke to about a job for his former wife. I did not get a chance to talk to the woman who has been typing Senator PACKWOOD's diary for all of these years and whether, in fact, there has been diary tampering and why. Because that is the way the committee works.

The committee first functions like a grand jury. We listen to the issues and concerns through depositions, through affidavits. And then we come to a conclusion. Is there substantial, credible evidence to present a bill of particulars to the U.S. Senate? We did do that. Now we have to decide whether there is clear and convincing evidence on those allegations to determine the sanctions. Now, how can we decide whether something with a higher standard of evidence is clear and convincing unless we follow the practice that has been done by the Senate in each and every one of those cases? That is the purpose of public hearings.

I also believe that the public hearings will help restore the honor and integrity of the U.S. Senate. We all know the American people have little confidence in their elected representatives and little confidence in the institution of Congress. They do not believe that we can police our own. The American people believe that, given a choice, we will always protect our own at the expense of others. They believe we meet in backrooms, behind closed doors, cut the deals, circle the wagons to protect our own. We must demonstrate by our actions this is not so. And this is why we need public hearings.

Now, I lived through the Anita Hill debacle. To many, the Senate did not deal fairly with Miss Hill's allegations. The Senate trivialized what Miss Hill had to say. Anita Hill was put on trial and treated very shabbily. She was shamed here in the U.S. Senate. And the institutional behavior of the U.S. Senate raised questions whether this institution could ever deal with allegations related to sexual misconduct.

Now, I want the American people to believe that we can act responsibly, and we do that not with words, but with deeds, and the most important deed we can do today is to vote for the Boxer resolution on public hearings.

I support public hearings because it will allow all of us, Members of the Senate and the American public, to judge for ourselves what has happened, to show that we can hold hearings that are neither a whitewash nor a witch hunt. No matter what we decide, the full Senate and the American people have a right to know the facts on these cases, a right to know how we arrived at those facts and reached our decisions. And they should have confidence that we have done the right thing.

Now, why do the arguments against hearings not hold up? Some say this will be a spectacle. I say it is going to be a spectacle if we do not hold public hearings. No matter what the Senate decides, I believe that there will be a public forum held on this matter.

Mrs. BOXER. That is right.

(Mr. SMITH assumed the Chair.)

Ms. MIKULSKI. We need to have a fair format, to make sure the format and tone is fair for the victims telling their stories, and a fair format for Senator PACKWOOD. Public hearings are the best way to ensure that there is no spectacle and that all parties are treated fairly. s

To say that those hearings will debase and sensationalize the Senate and that the Senate will compete with the O.J. trial—hey, let me say this. No one seems very concerned about the Whitewater hearings debasing the U.S. Senate. No one seems concerned that the Whitewater hearings are debasing the Presidency.

No one seems very concerned about debasing the Congress through the Waco hearings. Nobody seems very concerned that at the Waco hearings, one of the purposes is to demean another woman, the Attorney General of the United States.

Nobody seemed to be concerned when a Senator stood on one side of the aisle and chanted, ''Where's Bill? Where's Bill?''

No one seemed concerned about the Senate when another Senator stood on the floor and sang ''Old MacDonald Had a Farm,'' concluding with ''oink, oink, oink.''

Well, there is a question about where the barnyard really is.

So I think we should stop these arguments that are filled with fallacy. If we want to honor the Senate, let us follow its historic precedents.

I think we further debase the Senate if we do not hold these hearings, precisely because citizens have come forward, they believed in us, they believed in the process, and the procedure. This is the first time that citizens have come forward and made statements about misconduct, the first time victims have come and asked us to listen to them, to allow them to tell their story, and this must occur.

Let me be clear, a public hearing at this point in the proceedings has been the practice of the Senate. If the Senate does not hold public hearings in this matter, the Senate would deviate from its own precedent.

In every case where the Ethics Committee has reached the investigation stage, where the Packwood case now stands, there have been public hearings. Those cases were Senators Tom Dodd, Herman Talmadge, Harrison Williams, David Durenberger, the cases involving Charles Keating—Senators DeConcini, MCCAIN, Riegle, GLENN, and Cranston.

Let me be clear that in this case the Ethics Committee found substantial credible evidence of misconduct and has moved to the ''investigation'' stage.

This resolution sets forth the committee findings in three areas: Sexual misconduct, diary tampering, and jobs for Mrs. Packwood.

Let me remind my colleagues what the committee members found. We found substantial credible evidence that Senator PACKWOOD may have engaged in a pattern of sexual misconduct spanning 20 years, 18 instances involving 17 women. Let me give an example, just so it refreshes everybody's memory.

Out of our bill of particulars, we found substantial credible evidence that in the basement of the Capitol, he walked a former staffer into a room, where he grabbed her with both hands in her hair and kissed her, forcing his tongue into her mouth.

We also found that in his Senate office in DC, he grabbed a staff member by the shoulders, pushed her down on a couch and kissed her. When the staffer tried to get up, he repeatedly pushed her down.

In the Capitol, he grabbed an elevator operator by the shoulders, pushed her to the wall, kissed her on the lips, followed her home, tried to kiss her and elicit her to engage in an intimate relationship.

I cannot bring myself to read more of these cases on the floor of the U.S.

Senate, but I think if you read the bill of particulars, you will see what this is.

Then we find there is a strong possibility that Senator PACKWOOD tampered with his diaries; that he fought the committee 1 year—1 year—and this is why it has taken so long.

Then there are the allegations he improperly solicited job offers for his former wife so he could reduce his alimony payments.

All I see for the Senate to do is what it has done before, to hold public hearings in a case where we also found substantial credible evidence of misconduct, to then determine what is clear and convincing so we can come to what sanctions we need to recommend to the Senate. Hearings will allow all of us—Members of the Senate and the American public—to judge for ourselves what happened.

No matter what we decide, the American people have a right to know how we reached our decision. They should have confidence in us that we did the right thing.

As we try to then judge for ourselves what happened in the Packwood matter, know today when this vote is taken, it will be the Senate that will be judged and the criteria will be: Can the Senate police its own? Can it follow its precedent, and can it do its business in an open, public, fair format?

Mr. President, I yield the floor. How much time do I have left?

The PRESIDING OFFICER (Mr. GRAMS). The Senator from Maryland has 15 minutes left.

Ms. MIKULSKI. I reserve my time for later on in the debate.

Mrs. BOXER. Mr. President, that means I will hold that time for the Senator from Maryland; is that appropriate?

The PRESIDING OFFICER. The Senator from California controls that time.

Mrs. BOXER. I will reserve that time for my friend.

Let me just say to my friend from Maryland, who for so long carried issues for the women of this country, in many ways by herself that her courage and her conviction and her sense of fairness pervade this institution. I know how lonely the fight can get, and I was not nearly as lonely as the Senator from Maryland was for a long time. So I want to thank her.

Mr. President, I note there is not one Republican on the floor, except the good Senator in the chair. I wonder whether or not the Republican Senators would yield me additional time, because I have a number of people who wish to speak and it does not appear that any Republicans wish to speak. There is much debate in the media.

I see now the manager. I was going to ask the manager of the amendment, if he did not have many speakers if he would yield me an additional 30 minutes of time, because I have more speakers than I thought.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. McCONNELL. I say to my friend from California, I understand her request, but I am going to have to reserve the 2 hours for this side and hope that she will be able to work everybody in under the agreement that we entered into.

Mrs. BOXER. Does the Senator have speakers at this time to take any time?

Mr. McCONNELL. The Senator will be using the time or controlling the time, and that is his prerogative.

Mrs. BOXER. My question is, does the Senator have any speakers at this time? Does the Senator from Kentucky have any speakers at this time?

Mr. McCONNELL. Mr. President, I have said three times that I have 2 hours under my control under the unanimous-consent agreement. I was trying to respond to the request from the Senator from California. I believe I did that. I retain the 2 hours for this side.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, I was trying to find out in the spirit of running this place if the Senator had any particular speakers at this time, I would defer. How much time does the Senator from California have remaining?

The PRESIDING OFFICER. Sixty-two minutes.

Mrs. BOXER. I yield 5 minutes to the good Senator from Wisconsin, Senator FEINGOLD.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. I thank the Chair. Mr. President, I especially thank the Senator from California, Senator BOXER, for her courage and tremendous leadership on this issue, a painful issue but something that absolutely has to come before the Senate.

Mr. President, let me say how much I admire the work of the Senator from California, the courage, really, in this case. This is a hard thing to do. It is a hard thing to have to come before this collegial body and force an issue about public hearings that I think just comports with the common sense of every American.

As I look out at the room and see no one—no one—from the other side prepared to speak, I wonder if this is really a debate at all. Several of us have already spoken. The Senator from Maryland made a very eloquent, clear presentation; the Senator from Nevada; the Senator from California; others here are ready to speak.

What I understood was that they were going to have a back-and-forth debate for the American people to see about whether or not we should have public hearings in this Packwood case.

I recognize that this is a very emotional and painful matter for every Member of the U.S. Senate. These kinds of charges and the appropriate response by this institution is something that no one can enjoy considering. We are uncomfortable with the subject of the charges, with the task of judging one of our colleagues and with the taking of responsibility as a body with what is the proper format for dealing with this issue.

For some, Mr. President, there is a tremendous desire to just let the Ethics Committee decide whether there should be public hearings. Some say let Senator PACKWOOD make the decision. Some say let someone else take responsibility for this difficult question.

Mr. President, as the Senator from California pointed out so well, this is really an abdication of our responsibility to the American people and to the countless number of women and, yes, men, who have been the victims of the kind of conduct which is alleged to have been committed in this case.

The question before this body today is not whether Senator PACKWOOD is guilty, not whether the punishment proposed fits the alleged misconduct; the question, rather, is whether those who have alleged that they have been the victims of misconduct should have the right to a public hearing in which they have the opportunity to present their evidence and be heard.

I am pretty sure, Mr. President, if Senator PACKWOOD had requested a public hearing to clear his name or his reputation, there is little question that these women would be required to present public testimony supporting their charges. There could be no doubt of that, as I know the Senator from Maryland is very aware. Yet, Mr. President, in this instance, it is apparent that the Ethics Committee intends to break with a longstanding tradition of holding public hearings when a case reaches this stage of the proceedings.

Our current rules provide for a three-tiered process for examining allegations of misconduct. First, the preliminary inquiry; second, initial review; and, third, the investigative stage. A case reaches the investigative stage only if there is substantial, credible evidence that misconduct has occurred. Heretofore, when a case reached this stage, every time public hearings have taken place, even before the current system was adopted, public hearings have been held in cases involving serious allegations of misconduct. Yet, Mr. President, somehow, despite this history, the Ethics Committee is currently deadlocked on whether to order such hearings.

Mr. President, the Senate has an obligation to make a decision on whether such hearings should be held. We should not try to hide behind the Ethics Committee for excuses that we should not interfere with its processes. The Senate, as a whole, is responsible for establishing what are fair procedures—fair to those directly involved and fair to the American public.

So, Mr. President, as we look at this whole picture here, with all the Senators on this side ready to speak and debate, the Senators on the other side not even present, I ask, what is the image that is being presented in an institution that prefers to conduct its

business behind closed doors, an institution that believes that scandalous charges should not be publicly discussed, even after its own factfinding body has determined that there is substantial, credible evidence to support those charges?

Mr. President, let me repeat that phrase: Substantial, credible evidence to support the charges. This is not a request for a public hearing on every libelous or baseless charge made against any elected official. This is a request only for public hearings in a case which has advanced to the final stages.

The PRESIDING OFFICER. The Chair reminds the Senator that his 5 minutes have expired.

Mrs. BOXER. I will yield 2 additional minutes to the Senator from Wisconsin.

The PRESIDING OFFICER. The Senator is recognized for an additional 2 minutes.

Mr. FEINGOLD. I thank the Senator. Now we are asking the American public to allow the Senate to make its decision on this case behind closed doors, without public testimony. Little wonder that the public is so disillusioned about our political process. We are so concerned about protecting the image of this institution that we seem to forget one big thing, and that is that we are a public entity that is responsible to the American public. This is not a private club where the rules are made to please ourselves or to protect ourselves from public scorn.

The charges are sexual misconduct. There is little doubt but for the nature of the charges, the public hearings would have been scheduled quickly. That has been the practice of the past. We do ourselves no great service by this debate.

We should not seek to hide this matter behind closed doors. Public hearings should take place, and obviously the committee has the authority to close those portions of the hearings that would be prejudicial, or otherwise be appropriately closed. But to say that no public hearings at all should be held in this matter because of the nature of the charges is just plain unacceptable.

Across America, countless women are watching how this institution handles this matter. What is the message we send to those women who have been subjected to sexual misconduct if we refuse to air those charges in a public format? What are we telling our daughters about what can happen if you are the victim of this kind of misconduct and bring charges against a powerful person?

So, Mr. President, the Senate should go on record now, today, making it clear that this institution is prepared to hold its disciplinary process up to the plain light of day and to public scrutiny.

I again thank my colleagues on the floor, and especially the Senator from California for her persistence in this matter.

I yield the floor.

Mrs. BOXER. Mr. President, I yield 3 minutes to the Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I asked for 3 minutes because there is really no one to debate. I do not want to use up any more time on this side.

I voted for and support public hearings in the case of Senator PACKWOOD.

There are two values to which I hold fast as a U.S. Senator: fairness and accountability. This is the commitment I have made to Minnesotans who sent me here.

Refusing to hold public hearings on this matter runs contrary to these values and what, I believe, the American people expect of this institution. Given the committee's refusal to hold public hearings, I am very concerned about the message we are sending to the public.

We are now in the final investigative stage where there is precedent in the Senate for public hearings on ethics cases. It is time to move forward.

Shining the light of day on Senate proceedings is very important. I voted for public hearings because it is important to show that this investigation has not been held behind closed doors. While I commend the committee for unanimously voting to release all relevant documents, it is not sufficient. There simply is no substitute for full and open hearings at this stage of the proceedings before the committee and then the Senate are called upon to render our judgment about this case. I believe full and open hearings will help to ensure the public's confidence that we can—and will—police the conduct of Members—we have that responsibility.

It is also important to give voice to the charges brought by these women. I believe each of these women should have the opportunity to come before the committee to tell their story and I believe Senator PACKWOOD should have that same opportunity.

I feel strongly today that this is the right course. Let us honor the values of fairness and accountability. Let us move forward with public hearings.

Mr. President, I really came down to the floor for this debate, first of all, for a personal reason, which is to support my colleague from California. Senator BOXER is a friend, and I very much admire her courage. And I have some indignation—the same indignation that Senator MIKULSKI from Maryland has—about some of the attacks on a Senator who has been persistent and has had the courage to speak up, and whom I think has been a most effective Senator representing not just women, but men, really people all around the country. Because to me, Mr. President, the issue is just one of accountability.

At this final investigative stage, I think it is very important for all the parties concerned—for all the parties concerned—and I think it is very important for the U.S. Senate, that we now have a public hearing. It seems to me that there are important, compelling questions to be answered. I know that this process will be fair.

I do not believe anybody in this Chamber is pleased about where we are right now. It is painful for everybody. But we cannot have this kind of hearing at this stage of the process done privately. We cannot have it done behind closed doors. It really will serve no good purpose. It will serve no Senator well, and it certainly will not serve any of us well, whether we are Democrats or Republicans, or men or women.

Therefore, I am in strong, strong support of the Boxer amendment. I thank the Senator.

Mr. President, I will retain the remainder of my time for the Senator from California, who is managing her amendment.

Mrs. BOXER. How much time do I have now, Mr. President?

The PRESIDING OFFICER. The Senator from California controls 52 minutes 20 seconds.

Mrs. BOXER. I do not see any Republican Senators on the floor to engage in a very important debate that involves the constitutional responsibility of each and every Senator. I am very disappointed in that.

I have many Senators who wish to speak. At this time, I will yield 5 minutes to the Senator from Washington, Senator MURRAY, who has been such a leader on issues such as this.

The PRESIDING OFFICER. The Senator from Washington [Mrs. MURRAY] is recognized.

Mrs. MURRAY. Mr. President, I rise today to address the amendment offered by the Senator from California. First of all, I want to commend my friend, my colleague from California. She has been aggressive, forthright, and true to her principles on the issue currently pending before the Ethics committee. She has raised very difficult, but I believe very important, questions to which all of us must give very serious thought.

This has been a very long and very difficult case for the Ethics Committee. The whole Senate has waited for over 30 months while the committee has pored over the documents, interviewed the witnesses, and attempted to find the right path. In light of this work, I regretfully must express my grave disappointment in the committee's decision not to hold public hearings on this case.

Mr. President, this case is a test of the Senate and the Ethics Committee. The U.S. Constitution gives this body the sole responsibility for policing itself. No other agency of Government—not the executive, not the House, not the judicial branch—has authority to ensure that the Senate adheres to high standards of ethics and conduct. I am sure the senior Senator from West Virginia, or any other constitutional scholar, can give us a detailed explanation of this authority. Therefore, this case, like every other considered by the committee, is a test of whether

the Senate can demonstrate to the public that it is capable of policing itself.

All Senators have gone out of their way to not interfere in this case, to give the committee the time it needs to go through the process.

Indeed, we have supported them when they needed the full Senate to support the investigation. We have continued steadfastly to allow the committee to do its job. As individual Senators, this has been our responsibility to the institution and to our constituents.

Now, we have a responsibility to conclude this matter in an equally responsible way. If it cannot be done by the Ethics Committee, it cannot be done at all.

I urge my colleagues to put aside the emotions of this case and focus carefully on the facts. In May, the committee found substantial, credible evidence of Senate rules violations. I am not a lawyer. I have never tried cases. I know that is a very high standard.

In every major case that has come before, public hearings have been held. Why, I ask my colleagues, should this case be any different? That is the key question. Why should this case be any different?

I believe a deviation from precedent on this case will cast a long shadow over the Senate's credibility. Specifically, the lack of hearings will shade any subsequent action by the committee on this issue and any issue that comes before the committee in the future.

I feel very strongly this will create doubt in a general public that is already skeptical of its public officials. They have a right to know their elected officials are held to high standards. Anything less not only damages this institution, but also our individual credibility.

Mr. President, like many Senators, I am already on record in support of public hearings on this issue. I believe this is the only way the committee and the Senate can show the public that it is serious about its responsibilities. I encourage Senators to weigh the facts as we currently know them. I believe we will conclude that the amendment offered by the Senator from California offers the best course of action. I urge its adoption.

I yield back the remaining time to the Senator from California.

Mrs. BOXER. Mr. President, I yield time to my friend and colleague from Illinois who has fought many of these battles. I think she will add greatly to the debate, Senator MOSELEY-BRAUN.

Ms. MOSELEY-BRAUN. Thank you, Mr. President.

Mr. President, I very much regret that this issue has become embroiled in partisanship, because the issue before the Senate now is not a partisan issue.

In truth, it is not even about Senator PACKWOOD. The amendment offered by my distinguished colleague from California, Senator BOXER, does not in any way represent any attempt to express a judgment on the merits of the complaint against Senator PACKWOOD that is presently pending before the Ethics Committee.

In fact, Mr. President, I think it is fair to say that this amendment is not about Senator PACKWOOD's ethics at all. This amendment is about the Senate's ethics. This amendment is about how we, as an institution, as a body, will comport ourselves in the public view.

Quite frankly, I think it is not surprising, I say to my colleagues, Senator BOXER and the Senator from Maryland, it is not surprising, no one on the other side of the aisle will speak to this issue. This is still something that can only shame, and I think it is the shame of the attempt to try to defend the indefensible that has kept the opposition from coming forward and speaking to this issue.

What this amendment is all about, in my opinion, is not any individual case, but about the Senate's obligation to the American people in every case. That is, the obligation that we have to resolve these ethics cases in public.

Mr. President, I serve on the Senate Banking Committee. The membership of that committee, with few additions, constitute the membership of the Special Whitewater Committee. Last year, under the resolution, we reviewed over 10,000 pages of documents. We conducted about 37 depositions. The committee had days and days and days of hearings—6 days, in fact.

The whole purpose of the public hearings was that the American people would have the opportunity to hear and to see the people who were involved in Whitewater themselves, and to reach their own judgments.

Now we are back again this year. The committee has reviewed, again, an additional hundreds of thousands of pages of documents, conducted at least 61 depositions, and we are right now in the middle of 13 days of public hearings—hearings that go all day long. Again, so the American people can see for themselves, can hear for themselves, and make their own decisions about the circumstances around the handling of papers following Mr. Foster's untimely death.

Mr. President, that is the way this should be. That is the way that we do things here in the United States. We investigate in public; we decide this in public. That, in fact, if anything, is one of the founding cornerstones of our democracy.

We do not have secret trials. We do no have star chambers. We believe sunshine is the best disinfectant. Quite frankly, acting in public is not just the principle of the Congress that applies to our investigations of the executive branch. The Senate has always applied that same principle to ethics investigations involving this body.

Without going over the details or the process, which the Senator from Maryland has spoken to, the fact is, in every single past case handled by the Ethic Committee that moved to this third stage, there have been public hearings. It seems to me, Mr. President, that our obligation to the American public is no less now than it has been in the past. We have the same responsibility to conduct public hearings now as we did in the past.

So the question then remains, Mr. President, whether or not we are going to stand up for this institution, whether or not we are going to stand up for the regard that the public has of this institution's business, whether or not we are going to allow in this particular instance for raw power to determine whether or not we air these issues in public or whether or not they will simply be covered up.

I do not believe that the Members of this body want to be seen as participating in a coverup. I do not believe that the Members of this body want to be seen as participating in any diminution of stature in regard to this institution, in the minds of the American people.

Mr. President, again, this is not a personal issue. I also happen to be the first woman—the only woman—to serve on the Senate Finance Committee. I have had occasions to work with Senator PACKWOOD. He is a brilliant man. He has certainly been fair. He certainly has been fine to work with.

In that regard, it puts me in a very difficult situation to stand on this floor and to take this position in the collegial atmosphere of the Senate. I have to say that service on the same committee—notwithstanding the fact is this is not a partisan issue, this is not a personal issue. This is not an issue of Senator PACKWOOD's ethics. This is an issue going to the ethics and the regard of the U.S. Senate in the minds of the American people.

I believe that toward that end and in defense of this institution, we have an obligation, a moral obligation, if you will, to support the amendment of the Senator from California.

I yield the time back to the Senator from California.

Mrs. BOXER. Mr. President, I see the Senator from Kentucky on the floor, so I will defer to see if he wants to make a statement. I yield the floor.

The PRESIDING OFFICER. If no one yields time, the time will be deducted equally from both sides.

Mrs. BOXER. Mr. President, I suggest the absence of a quorum. I ask that the time be charged to the other side, since they have no speakers at this time.

Mr. MCCONNELL. Mr. President, I object.

Mrs. BOXER. Mr. President, I have to say this is a very sad day for the Senate. It is sad for a number of reasons.

It is sad because we ought to all be for public hearings. That is the right thing to do. It is also sad that because clearly we have a lot of speakers on our side who wish to express themselves, who are assuming there would be speakers on the other side to participate in the debate.

I think there is an obvious point being made here, which I will let others interpret.

I think something that the Senator from Illinois said ought to be thought about. Namely, why no Member is willing to come over here at this point and debate on the other side.

Another point that was made by my friend from Maryland when she says, ''Don't kid yourself. Whether there is a public hearing or not, there's going to be a public hearing,'' because this is the United States of America.

The American people already, 2 to 1, are in favor of public hearings in this matter, when they watch this debate. Unless we prevail, I think they will demand it.

Ms. MIKULSKI. Mr. President, will the Senator yield? When I said there would be a public hearing, even if your amendment is defeated, the women are counting on the U.S. Senate to provide a forum. They have counted on us for 30 months.

If, in fact, the Senate rejects that opportunity, and rejects them, I believe that the women will conduct some type of forum themselves—I do not know that.

I will reiterate the point that I have never spoken to the women as a member of the Ethics Committee. I have followed the rules of the Ethics Committee and never spoken to those women.

They are going to tell their story. I would much rather that they tell their story in an organized format in the Senate than through a series of other forums.

Mrs. BOXER. I think the Senator made such an excellent point here, because some of the things we hear whispered around here are, ''This is too embarrassing. We better have this behind closed doors.'' If anyone on the other side thinks this is going to stay behind closed doors simply because they tried to close the doors today, they are mistaken. Because this is America. This is not a tyranny. This is not a country that gags its people.

At this time I yield 4 minutes to my friend from Vermont, Senator LEAHY. I am very proud he has come over to join the debate.

Mr. LEAHY. Mr. President, I agree this is a matter that should be heard before the Senate and heard in public. There is no question it is going to be heard, one way or the other. But we Senators, no matter how painful it might be, no matter how torn any one of us might be individually, for the good of the Senate—and that is important in our constitutional government—for the sake of trust in elected officials in the Senate, these hearings should be held here.

Certainly, for the women who have waited to be heard, the accusers in this case, ought to be heard and heard in public. For the Senator in question, he ought to be able to be heard in public, be able to hear his accusers and give his answers.

But I worry: in a country like ours, a democracy where our Government operates on the trust of the people, that the U.S. Senate should be the conscience of the Nation. The Senate, with our 6-year terms, with our unlimited debate, is the body that can be the conscience of the Nation. We are not reflecting that conscience if we do not have open hearings. Not because anybody in this body will relish this, but because we know, every single Senator knows in his or her soul, that it is the right thing to do. Every single Senator in this body knows in his or her soul that, if we are to be the conscience of the Nation, we must do this publicly before the Nation, no matter how difficult it is.

None of us knows how these hearings are going to unfold. When I was a prosecutor I presented a case, the other side presented a case, and the court ruled. Here, in a way we become judge and jury together. For many of us that is a unique experience. But for the U.S. Senate, it is not a unique experience. It has over 200 years of proud history. It is the body that has, time and time again, allowed the conscience of the Nation to be expressed. Unless we do it here openly, we do not uphold our own conscience, we do not uphold the standards we ask of others, and we do not uphold the standards of a great institution.

I hope the whole Senate will rise and support the Senator from California and say, let us have the open hearings. Whatever happens, we will have them, for the good of the Nation, for the good of the individuals involved, but also for the long term good of this fine institution.

I yield the floor.

The PRESIDING OFFICER (Mr. GREGG). Who yields time? The Senator from Kentucky.

Mr. McCONNELL. Mr. President, I was doing some work on matters for my constituents, and my staff tells me there is some suggestion that there might not be any speakers on this side of the issue. Let me disabuse my friends on the other side of that notion. It is my understanding, under the unanimous consent agreement, each side had 2 hours. We are prepared to use some or all of that time.

Let me say at the outset that I am told a number of Senators have suggested that a 3–3 vote in the Ethics Committee is not a decision. In fact it is a decision. The Ethics Committee was crafted on purpose to require four votes from a bipartisan committee to take any affirmative action. So at the outset let me make it clear, there is no deadlock to be broken. A decision was made on the public hearing issue.

Also, let me suggest that the resolution offered by my friend from California, ironically in the name of precedent, really seeks to uphold a precedent that does not exist—it simply does not exist—but demolishes other precedents which do exist and are vital to the ethics process and to the Senate.

One precedent which it destroys is that, in the 31-year history of the Ethics Committee, there has not been a single occasion upon which the full committee—the full Senate—injected itself into the process and sought to push the committee one way or the other or to overturn decisions the committee had properly taken.

Mr. President, with regard to the argument about whether there are precedents for public hearings, let me say that, while there is a consistent precedent for no interference with the procedures of the Ethics Committee by the full Senate until the full Senate is presented with the final product, there is a clear precedent for not doing that, which the approval of the BOXER proposal would violate, setting a new precedent. There is no precedent on the issue of public hearings.

The Durenberger case, for example, was a staged presentation with a prescripted proceeding, without witnesses and without cross-examination, hardly in any way what we would normally consider a public hearing.

In the Cranston case, there were some public hearings. They were used in the preliminary fact-gathering phase alone and not later in the case. The committee decided, actually, in the Cranston case not to hold public hearings, at a point when its rules and procedure provide, at the end of the inquiry.

So, with regard to the precedent issue, there is no clear, consistent precedent for holding public hearings at the end of major investigations in the Ethics Committee. But there is a 31-year precedent for not having the full Senate bind the Ethics Committee in any particular case. And while I suppose it could be argued that the amendment of the Senator from California is generic in nature, it is certainly no accident that it is being offered at this particular time. This is not the normal way in which we would change a committee rule.

So make no mistake about it, Mr. President. The precedent that would be set today would clearly be the beginning of the end of the ethics process, because you can imagine what would happen, particularly around campaign season when out here on the floor where there is always a majority and always a minority—unlike the Ethics Committee where it is 3–3—the temptation to offer amendments directing the committee to do this or to do that would be overwhelming, particularly as you get closer and closer to an election.

The second point I want to make, Mr. President, and those members of our committee on both sides who have served for the last 2½ years, I think, all agree that the professional staff of the Ethics Committee is completely nonpartisan. The same folks who are working there now under my chairmanship were there working under the chairmanship of the vice chairman last year. This professional staff, which has its reputation on the line in this case

as well—these are professional investigators who serve the Ethics Committee on a nonpartisan basis. There is no partisan hiring whatsoever in putting together the staff of the Ethics Committee. They know more about this case than anybody else, more than I know, more than the vice chairman knows, and on many occasions members of the committee from both sides on our committee have praised the work of the staff.

In almost every instance we have followed their advice and counsel in working on this case, or other cases. The staff in this case, Mr. President, recommended that public hearings were not appropriate.

Why did they do that, this group of skilled professionals who have their own reputations on the line in a high-profile case like this? Mr. President, I think the answer is rather clear. There are two investigative criteria for holding hearings. One is to ensure the completeness of the evidentiary record—to ensure the completeness of the evidentiary record—and the second would be to assess the credibility of the witnesses who gave testimony.

The Ethics Committee, first and foremost, is an investigative body, and investigative criteria must be applied to our decisions. The staff judgment was that the evidentiary record is not just complete, the staff judgment was that the record was not just complete; it was encyclopedic and ready for final decision. Hearings would be needed only if witness credibility was in doubt tested by questioning and cross-examination.

Every committee member, Mr. President, has strong feelings about the believability of the testimony given to us through sworn depositions. No hearings are going to change that—we have voluminous sworn depositions before us—and poring over those.

In addition, there is the question of delay. The staff opinion is that real hearings would take at least 2 months, actually probably much more than that, given the preparation time involved to get ready for having them.

So we needed to ask: Is there another way to make our proceedings in this case public without adding unnecessary delay to a 2½-year-old case? The fact that the public has a right to know all the relevant information in this case is really not in dispute. The relevant sworn testimony of witnesses who came forward will be shared with the public. The Senate and the public will have all the relevant facts prior to the disciplinary action.

So it is not a question of whether the public is going to be denied information relevant to the final decision.

The resolution of the Senator from California, in effect, Mr. President, destroys the independent ethics process. I have some personal knowledge of this. I happen to have been a summer intern here in the summer of 1964, the year I graduated from college. I was in Senator John Sherman Cooper's office. Some of the folks here in this body who have been around for a while remember Senator Cooper. He is something of a legend in Kentucky, known for his integrity and his wisdom. Interestingly enough, it was Senator Cooper's resolution in 1964, the year I was an intern here, that created the Ethics Committee. What he was trying to do was to get misconduct cases—this was in the case of the Bobby Baker incident—which in those days was handled by the Senate Rules Committee, and, obviously, the Rules Committee, like every other committee of the Senate except the Ethics Committee, was controlled by the majority. So there was a sense, after the Bobby Baker case, that it really was not handled all that well, and both sides felt that way.

So it was Senator Cooper's vision that there would be created an evenly balanced committee, in effect, forced to be bipartisan because of the nature of the committee, and that committee, to act in any affirmative way, would have to achieve four votes. It would require bipartisanship to go forward. Mr. President, for 31 years this process has stood the test of time until today.

The Ethics Committee, as Senator Cooper envisioned it, was to be empowered to investigate cases as it—it—saw fit without outside intervention. The committee's authority was intended to be exclusive and absolute through the investigative phase.

Obviously, at that point it was envisioned the committee's work would come to the full Senate typically with a recommendation for action which only the full Senate could approve. The whole idea, Mr. President, was to make it possible in this most political of all places to have a bipartisan investigation, and the process has served the Senate well. And at no point during the 31-year history has there been a resolution offered, debated, and voted upon in front of the full Senate seeking to tell the committee what to do.

So the resolution of the Senator from California will shatter this 31-year precedent, and the new precedent for the future will be a way of proposals on the Senate floor to suggest that the committee open a case here, close a case there, do this, do that. That will be the precedent.

The approval of the proposal of the Senator from California would destroy the vision of Senator Cooper, and others, that the Senate could, at least through the investigative phase, remove a misconduct matter, deal with it on a bipartisan basis, and then produce a final product for the floor of the Senate.

All future Ethics Committee actions, Mr. President, or split votes—which, as I have already indicated earlier, is a decision—would be fair target for bruising, public floor fights.

Currently, the Ethics Committee sets aside preelection season complaints. Now I am fairly confident that the wave of the future will be resolutions in the Chamber forcing immediate action on one matter or another.

The resolution of the Senator from California sends really an unequivocal message. The Ethics Committee can be treated like a political football, propelled in any direction that the majority seeks to push it—kicked around by any Member who wants to push a political or personal agenda. The approval of the Boxer resolution would be the beginning of the end of the Ethics Committee and a return to the bad old days. And the bad old days before 31 years ago were to deal with misconduct cases on a partisan basis.

The other irony, Mr. President, is that the principal loser under a system which allowed the majority to control misconduct cases would be the minority party in the Senate. So the other ironic effect of the proposal of the Senator from California is to force a matter out of a bipartisan forum onto the floor of what arguably is one of the more partisan places in America. In what way does the minority party benefit from, in effect, ending a bipartisan forum?

Second, Mr. President, while we are discussing precedents, the resolution of the Senator from California clearly violates the precedent set earlier in this case when we had before the full Senate the question of the subpoena of diaries. Just a little while back, in 1993, I remind my colleagues, the Senate voted 94 to 6 to enforce the Ethics Committee's subpoena of the Packwood diaries. The Senate also voted 77 to 23 against an amendment restricting the committee's access to diaries. And clearly what was in this Chamber just in the fall of 1993 was a question of whether the committee judgment was going to be sustained. My friend from California and others were emphatic in saying the Ethics Committee should handle the case. Unfortunately, that was then and this is now.

At that time, both Democrats and Republicans argued that the Ethics Committee had exclusive authority to investigate misconduct without interference from the full Senate or from any single Member, and that was just in the fall of 1993. The Senate voted overwhelmingly that the Ethics Committee alone had the right to determine what procedures it should follow in conducting investigations. Senators from this side of the aisle voted almost unanimously against the interests of one of our own. Republicans voted against the demands that one of their own was trying to impose on the committee.

I know it would be extremely tough for someone on the other side of the aisle to oppose the resolution of the Senator from California, but I hope there may be a few listening to this debate who will think through the ramifications of the passage of the Boxer amendment. Remember, there is no deadlock. Three-three on the Ethics Committee is a decision. It takes four votes to do anything affirmatively in

the ethics process. Make no mistake about it. This proposal is designed to overturn a decision already taken by a bipartisan committee.

Now, this vote today, in my judgment, is not about Republicans versus Democrats or, in my view, even being for or against public hearings. This vote is about whether the Ethics Committee should be allowed to do its work, to do its work without interference or second-guessing from the floor at least until it finishes its job. And that is important to understand. It is not like any individual Senator or group of Senators are not going to have ample opportunity to express themselves, to condemn the work of the committee, to argue that we should have done this or should have done that. None of those options are waived, Mr. President, by allowing us to finish our work. As a matter of fact, given the controversial nature of this case, it is inconceivable to me that we are going to be applauded by very many of our friends up in the gallery or anybody on the other side no matter how we handle it. The question is will we be allowed to finish? And—and—will the process be changed, the 31-year precedent of no interference in this bipartisan committee's work?

Many of us like to quote our senior colleague from West Virginia because he has said many wise things when it comes to this institution and what is necessary to protect it. Back during the diary debate, the diary subpoena debate in this case, Senator BYRD said, ''If we turn our backs on our colleagues who have so carefully investigated this difficult matter, we may as well disband the committee.''

I do not know where we go if we are going to set the precedent that the committee is to be in effect micromanaged from the Senate, but it does make one wonder whether this is a useful process. The committee is either going to be allowed to finish its work without interference from the floor or it is not. And if it is not, then I wonder why anybody would want to serve on the Ethics Committee. My colleagues, Senator CRAIG and Senator SMITH, and I have scratched our heads on that issue occasionally and wondered why we agreed to do it in the first place.

Imagine a scenario under which this Ethics Committee or any Ethics Committee knows that all along the way, at any crucial point or at any time when somebody is trying to score a political point or wants to make a few headlines, they are going to be out on the floor of the Senate in an awkward position trying to protect confidential information that they know about and at the same time trying to engage in a public debate on a case not yet finished. I do not want to be an alarmist here, but it seems to me there is no point in having the Ethics Committee if that is the way it is going to be from now on.

I cannot imagine that anybody would want to serve. I just cannot imagine it. It is not much fun now, I can assure you. It is not the way I particularly want to spend my afternoons. But imagine if in addition to presiding over the toughest kind of investigation against one of your own colleagues, you know that all along the way during the process you are going to be out here like we are today getting a bunch of bad press, trying to do what you think is right, while one or more Members of this body get terrific editorials and terrific headlines standing up for what appears to be the popular thing.

So I think we ought to think it through, Mr. President, whether or not if the Boxer resolution passes—and I say, think this through on a bipartisan basis, really—whether we want to continue to have an ethics committee. Maybe we go back to the Rules Committee. Maybe Senators think that would be a better way to do this. Of course, the Rules Committee is controlled by the majority party, and some people might be concerned that the Rules Committee might be a little less enthusiastic about pursuing a Member of the majority than a Member of the minority.

But maybe I am off base here. Maybe it would not operate that way. Maybe people would on the Rules Committee just kind of rise above party affiliation and be just as interested in pursuing examples of alleged cases of impropriety against Members of the majority as they would against Members of the minority. Or maybe we ought to just throw up our hands and say, ''We cannot do this job. Let us let outsiders do it.'' Some have suggested that.

Well, Mr. President, one thing you can say about the case that has generated this floor debate, it is the toughest investigation in history. As I said earlier, it has been the mother of all ethics investigations. The witnesses have consistently praised the committee's comprehensive inquiry. The handling of the Packwood case outshines all previous investigations of sexual misconduct, certainly here because we have not had any, and compared to the House, which has had 5 in the last 10 years, the handling of this has been vastly superior in every measurable way.

The committee has interviewed 264 witnesses, taken 111 sworn depositions, issued 44 subpoenas, read 16,000 pages of documents, spent 1,000 hours in meetings. And even in spite of all of that, if the Senate will allow us to finish our work, the Senate will indeed have an opportunity at the appropriate time to substitute its collective will for ours.

The Senate will have a chance to challenge committee action. The Senate rules give broad latitude—broad latitude—for floor action after the committee's work is done. Any Member can accept, reject, or modify the recommendations of the committee at the appropriate time. No rights are waived. No rights are waived by allowing the committee to finish its work.

But to undermine the work of the committee in the middle of the case takes away its independence. It is tantamount to abolishing the committee outright or maybe dissecting it piece by piece by piece.

Let me say in conclusion, Mr. President, every precedent weighs against the resolution of the Senator from California. And precedents do not mean a thing, Mr. President, if they are not upheld in difficult cases.

Let me say again, there is no clear, consistent precedent for full-fledged public hearings at the end of every investigation involving ethics.

I may speak again later, but let me say, regardless of the outcome, I pledge as chairman of this committee we are going to try to finish our work. We are going to try to finish it in good faith. And let me say I would be less than candid if I did not say that the spilling over of this case on to the floor of the Senate has divided our committee. We have been able to work together on the whole, I think, on a good, bipartisan basis in this long and difficult investigation. There is no question that we have been feeling the strain. And I hope that once this unfortunate floor proceeding is over, that the six of us who have actually in many ways become good friends during the course of this difficult assignment, will be able to come back together, finish this case, do what is best for the Senate, for the American people, and for Senator PACKWOOD.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has approximately 1½ hours.

Mr. MCCONNELL. Mr. President, I yield such time as he may desire to the Senator from New Hampshire.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. SMITH. I thank the Senator from Kentucky for yielding.

Mr. President, in seeking office to be a U.S. Senator, it was not my hope that I would ever be in the position that I am now in on the floor of the U.S. Senate as a member of the Ethics Committee essentially debating in some ways regarding a case involving one of our colleagues. It is not something you look forward to.

But before entering into the discussion of the Boxer amendment, which I strongly oppose, I just want to say regarding the chairman of this committee—and frankly, his predecessor as well, Senator BRYAN—starting first with Senator BRYAN, I served on the Ethics Committee and I have served for the past 4 years on that committee, a year—2½ years of that—3½ years of that was under the chairmanship of Senator BRYAN. Never, ever under any circumstances did I see any partisanship reflected by him or his colleagues on the committee. We always worked together in the spirit of knowing,

frankly, as you refer to this case, but for the grace of God it could be some or one on the other side.

See, as Senator MCCONNELL has so brilliantly outlined, that is the beauty of the whole concept of the Ethics Committee, Mr. President, to the fact that we have taken this whole issue of judging a colleague out of the hands—out of the hands—of politics and put it into a nonpartisan, rather than bipartisan, in my estimation, Ethics Committee.

Senator Cooper, who was referred to by Senator MCCONNELL, who helped to craft this legislation to create this committee, was brilliant, in my estimation. Is it a perfect process? No. I can certainly attest to that, as can any of my colleagues who have served on this committee.

Senator MCCONNELL, as the chairman of this committee, involving a major case of one of our colleagues on our side of the aisle, has taken more abuse than any chairman of this committee that I can recall in recent times. And every word of it, every single word of it has been unfair. And I happen to know because I have served with him every step of the way, both when he was ranking member and as chairman. He has taken it from the press, he has taken it from colleagues on his side of the aisle, he has taken it from colleagues on the other side of the aisle. And none of it, none of it, is justified.

I know how frustrating it is—because I have been in the Senate when I was not a member of the committee—when there is a case of this magnitude, or any case that is before this committee, to not know what is going on, meeting behind closed doors, if you will. There is a reason for that.

No, it may not be popular out there in the public. It is certainly not going to be popular when you have colleagues like Senator BOXER railing against the process on the floor of the Senate. No, it is not going to be popular. It is going to be unpopular because when Senator BOXER and others rail against the process on the Senate floor, they will make it unpopular. That is why it is unpopular.

There is no confidence in public officials or public institutions, it has been said on the other side of this debate. When I say ''on the other side of this debate,'' I do not necessarily mean all of the other party. But that is the reason why, because with all due respect to my colleague, she did not give us the opportunity to render a decision, not a decision in regard to Senator PACKWOOD in terms of punishment, if any. No, no; that is not the issue. She did not give us a chance to render a decision on whether or not there was going to be a public hearing.

This issue is not about a public hearing. Let us be honest about this. This is not about a public hearing. If it was about a public hearing, with all due respect to the Senator from California, the Senator from California would have waited until the Ethics Committee took a vote and, as it turned out, it was 3 to 3. Then she would have come to the Senate floor and criticized the vote, which she has a right to do, and say we should have had public hearings.

But that is not what happened, I say to my colleagues. Senator BOXER decided, before the Ethics Committee made a decision, that she was going to criticize the Ethics Committee to intimidate the Ethics Committee and break up the process, the nonpartisan process. That is what happened. That is exactly what happened, and my colleagues know that is what happened, and that is wrong. We have now interjected the ugly aspect of partisanship into this process.

I heard it said on the floor of the Senate prior to this debate that the three of us on our side of the aisle in this case had made up their minds and had already announced their decisions. This Senator had not made any such decision, and my colleagues on the other side of the aisle know it. If they are honest about it, they will admit it, because I never made any statements until just days, a couple of days, before this whole thing happened, did I ever say to one of my colleagues on the other side of the aisle how I was voting. I did not know how I was going to vote. I tried to keep an open mind.

I heard Senator MIKULSKI say in the debate a while ago that I have always been in favor of public hearings. Let me just say, that is not true. In my case, I was never always against public hearings. You know what; I tried to listen to the merits of this case and I tried to make my mind up on whether or not there should be a public hearing based on what I heard after 2½ years. I did not make my mind up on anything, not anything at all, because it is too important to do that.

This is a colleague that we are talking about; these are victims out there that we are talking about. They all deserve—they all deserve—a fair process, and the process that has been outlined by Senator MCCONNELL is fair. It is fair, and it keeps politics out of it. It allows the Senate Ethics Committee to operate not under the pressures of what is popular out there, or unpopular out there, whatever the case may be, not what the Washington Post says or anybody else says out there in the media, not what is written on the editorial pages, no, and not what is said on the floor of the Senate in some partisan debate. That is not the way we are supposed to operate. We cannot operate that way.

I urge my colleagues to consider that when you vote. Forget about the ''D'' or the ''R'' next to your name and think about it. Think very carefully about it, because as Senator MCCONNELL has said, we very well may be back to the Rules Committee making decisions.

I do not know who in the world, as he said, would serve on the Ethics Committee if before you make a decision on anything, be it public hearings or final decision, we have to be told or intimidated by debate as to what may be popular how we are supposed to rule. That is not the process.

As Senator MCCONNELL also said, we never had any partisan rancor in this case; a little bit of it when we had the situation on the floor over the diaries, but minimal. But in terms of the meetings that we had, I do not know how many hundreds of them we have had and the hours we have spent.

I was sitting here and did not check the record—and I will be happy to stand corrected if I am wrong—I cannot recall one vote, not one, that was 3 to 3 on anything that we have done on this case, and we have had one heck of a lot of votes. This is the only one. It was 3 to 3.

I have to deal with my own conscience and with my own Creator, and I made that decision not based on whether there is an ''R'' next to my name or not, thank you, I say to Senator BOXER, but I made it on the basis of what I thought was right. That is how I made my decision. And my colleagues on the committee who have worked with me for the past 4 years know it.

The Senator seeks to undermine the bipartisan nature of this committee. It is a very dangerous road to travel down. The many issues that we face with other committee members have been handled not only in a bipartisan, nonpartisan, but a respectful manner—respectful manner.

I truly believe that each member of this committee feels strongly about every case we have worked on, about each Member's conduct we have judged, and the effect every case has on the Senate as an institution, as well as the victims, as well as the Senator accused—but also the Senate.

I can honestly state that I have never seen any partisanship until now. I understand the pressures, and I regret very much that because of those pressures, some have had to succumb to this. I regret very much—and I do not cast any personal aspersions, and my colleagues know that—but I regret very much for the few moments that I was in the chair earlier this afternoon, seeing all of my colleagues on the other side of the aisle on the Ethics Committee converged around the Senator from California with their staffs, working on an amendment which, in essence, guts the entire Ethics Committee process. I regret that very much. I want to get that out on the floor as a matter of public record. I regret it very much.

At each step of this investigation, with a Democrat as chairman, with a Republican as chairman, we have conducted our business fairly, bipartisanly, and we have never left a stone unturned that I am aware of, and that includes the committee. When Senator MCCONNELL took over as chairman of the committee, he did not change one staff member; not one. Can

we say that about other Senate committees after the parties changed power? Not one staff person. It did not even cross his mind. It was never discussed, ever.

We cannot circumvent the procedure that we have here. If this Boxer amendment is adopted, no longer—no longer—will there be a thoughtful discussion of the facts among committee members, no more thoughtful discussions. It will be what is popular.

I resent very much—and I again want to be strong in my statement—I resent very much some of the terms that have been used on the floor in this debate: ''Whitewash''; ''sweep things under the rug''; ''behind closed doors''; ''men's club.'' I have heard all of it. I have heard all of it, and it is an insult, frankly, to all six members, and all six members know it is an insult.

The public has a right to know; it absolutely has a right to know the facts in this case. I spent 6 years on a school board, 3 years as its chairman. I strongly support the public right to know, the right-to-know laws, and full public disclosure. I take a back seat to no one on that.

I can tell you that when this case is concluded, everything that this committee knows the public will know. I can also tell you that after the decision is rendered and this case is discussed on the floor, you can ask any question that you want to ask of this Senator, of any other Senator on the committee, any information. It is all there. You will have it all. You can question anything you want—anything. You can overturn any decision we make. You can agree to any decision we make. But that is the way the process is supposed to work, and that is not what is happening now.

Think about this. In this case, it is a popular thing that Senator BOXER has brought up here. It is popular in the sense that somehow the perception is that a ''men's club,'' a U.S. Senate with very few women, is somehow, because of this being an allegation involving sexual matters, sweeping something under the rug simply because we do not have public hearings. Hearings are supposed to produce new evidence, add to the debate. That is a decision for the committee to make, and we made it.

We made it in spite of the attacks that were made on this committee and the integrity of the process by the Senator from California. And I am glad we did, because it was the right thing to do. And tomorrow, God forbid, or next year, it may be someone on your side of the aisle, and you will be glad we did. You will be very glad we did.

Mr. President, in my judgment, we have enough information to move on the disciplinary phase of this process. I would like to end this 2½-year investigation, which has taken many, many hours of my time and days of my time, and that of my colleagues—time I would have liked to have spent with my family or on other matters. I believe that at its conclusion, most likely the case will be before you here on the floor. Every one of you will have the opportunity to make your own judgment.

I say to you, give us the chance, my colleagues. Vote against the Boxer amendment and give us a chance to be judged on the decision that we make. Give us that opportunity to be judged on the decision that we render.

Mr. President, I yield the floor.

Mr. MCCONNELL. Mr. President, I want to thank the distinguished Senator from New Hampshire not only for his outstanding comments here today, but also for his dedicated and principled service on the Ethics Committee. He has been absolutely indispensable to the process and has always conducted himself with the highest integrity, both in the committee and outside the committee, in how he has dealt with the matters before the committee and in complying with the rules of the committee. So I thank him very much for his kind comments.

Mr. President, another important member of our committee that has been with us during this process would like some time.

I yield the distinguished senior Senator from Idaho such time as he may need.

Mr. CRAIG. Mr. President, I thank the chairman of the Ethics Committee. Let me inquire of the Chair, are we to move to recess at 4 o'clock for the purpose of the conference, or is there any standing UC on that?

The PRESIDING OFFICER. There is no pending unanimous-consent request on that.

Mr. CRAIG. All right.

Mr. President, I, like all of my colleagues, come to the floor today gravely concerned about the ability of the Ethics Committee of the U.S. Senate to function in an appropriate manner and to render its decisions and to bring those decisions to the floor of the U.S. Senate to be considered by our colleagues.

At the outset of my comments, let me recognize the chairman from Kentucky, who has, in my opinion, served in an honest and forthright way to cause this procedure to go forward in a timely fashion, but in a thorough and responsible fashion, so that the accused and the victims of this issue could be considered appropriately. I think he has done an excellent job. And I must also say that, in my over 1½ years of service in this body, I also served under the Democrat chairman. He, too, functioned in the same manner.

As has been mentioned by my two colleagues, the staff of that committee is, by every respect and every test, bipartisan. They have worked in that fashion untold hours to bring about a body of knowledge and information from which we should make decisions that is probably, in total, unprecedented in number of pages and hours of work effort involved.

For the next few moments, then, let me read something into the RECORD that I think is extremely valuable for the Senate to focus on, because somehow in this proceeding, there is an attempted air of suggesting that things are being done behind closed doors, and that that somehow is unfair to the process and unprecedented in the openness of the U.S. Senate, and, therefore, judgments and decisions rendered inside that environment could somehow be distorted on behalf of a colleague under consideration and against those who might be victims.

Let me read:

May 17, 1995. The attached resolution of investigation was unanimously voted by the Senate Select Committee on Ethics on May 16, 1995.

RESOLUTION FOR INVESTIGATION

Whereas, the Select Committee on Ethics on December 1, 1992, initiated a Preliminary Inquiry (hereafter ''Inquiry'') into allegations of sexual misconduct by Senator Bob Packwood, and subsequently, on February 4, 1993, expanded the scope of its Inquiry to include allegations of attempts to intimidate and discredit the alleged victims, and misuse of official staff in attempts to intimidate and discredit, and notified Senator Packwood of such actions; and

Whereas, on December 15, 1993, in light of sworn testimony that Senator Packwood may have altered evidence relevant to the Committee's Inquiry, the Chairman and Vice-Chairman determined as an inherent part of its Inquiry to inquire into the integrity of evidence sought by the Committee and into any information that anyone may have endeavored to obstruct its Inquiry, and notified Senator Bob Packwood of such action; and

Whereas, on May 11, 1994, upon completion of the Committee staff's review of Senator Packwood's typewritten diaries, the Committee expanded its Inquiry again to include additional areas of potential misconduct by Senator Packwood, including solicitation of financial support for his spouse from persons with an interest in legislation, in exchange, gratitude, or recognition for his official acts;

Whereas, the Committee staff has conducted the Inquiry under the direction of the Members of the Committee; and

Whereas, the Committee has received the Report of its staff relating to its Inquiry concerning Senator Packwood; and

Whereas, on the basis of evidence received during the Inquiry, there are possible violations within the Committee's jurisdiction as contemplated in Section 2(a)(1) of S. Res. 338, 88th Congress, as amended;

It is therefore resolved.

I. That the Committee makes the following determinations regarding the matters set forth above:

(a) With respect to sexual misconduct, the Committee has carefully considered evidence, including sworn testimony, witness interviews, and documentary evidence, relating to the following allegations:

I am now going to proceed to read 18 different allegations. Mr. President, am I divulging secret information? Is this something that was held behind closed doors? Am I, for the first time, exposing to the public information that the committee has known that might otherwise come out in a public hearing?

No, I am not. This is a document that was put before the public and put before the press corps of this Senate some

months ago. And it was thoroughly reported in many of the newspapers, on television and radio across this Nation.

(1) That in 1990, in his Senate office in Washington, DC, Senator Packwood grabbed a staff member by the shoulders and kissed her on the lips;

(2) That in 1985, at a function in Bend, OR, Senator Packwood fondled a campaign worker as he danced. Later that year in Eugene, OR, in saying good night and thank you to her, Senator Packwood grabbed the campaign worker's face with his hands, pulled her toward him and kissed her on the mouth, forcing his tongue into her mouth;

(3) That in 1981 or 1982, in his Senate office in Washington, DC—

And the allegations go on, all 18 of them, through 1969.

Then it says:

Based upon the committee's consideration of evidence related to each of these allegations, the committee finds that there is substantial creditable evidence that provides substantial cause for the committee to conclude that violations within the committee's jurisdiction as contemplated in section 2(a)(1) of Senate Resolution 338, 88th Congress, as amended, may have occurred; to wit, that Senator Packwood may have abused his U.S. Senate office by improper conduct which has brought discredit upon the U.S. Senate, by engaging in a pattern of sexual misconduct between 1969 and 1990.

Mr. President, I ask unanimous consent this document be printed in the RECORD.

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

RESOLUTION FOR INVESTIGATION

Whereas, the Select Committee on Ethics on December 1, 1992, initiated a Preliminary Inquiry (hereafter ''Inquiry'') into allegations of sexual misconduct by Senator Bob Packwood, and subsequently, on February 4, 1993, expanded the scope of its Inquiry to include allegations of attempts to intimidate and discredit the alleged victims, and misuse of official staff in attempts to intimidate and discredit, and notified Senator Packwood of such actions; and

Whereas, on December 15, 1993, in light of sworn testimony that Senator Packwood may have altered evidence relevant to the Committee's Inquiry, the Chairman and Vice-Chairman determined as an inherent part of its Inquiry to inquire into the integrity of evidence sought by the Committee and into any information that anyone may have endeavored to obstruct its Inquiry, and notified Senator Packwood if such action; and

Whereas, on May 11, 1994, upon completion of the Committee staff's review of Senator Packwood's typewritten diaries, the Committee expanded its Inquiry again to include additional areas of potential misconduct by Senator Packwood, including solicitation of financial support for his spouse from persons with an interest in legislation, in exchange, gratitude, or recognition for his official acts;

Whereas, the Committee staff has conducted the Inquiry under the direction of the Members of the Committee; and

Whereas, the Committee has received the Report of its staff relating to its Inquiry concerning Senator Packwood; and

Whereas, on the basis of evidence received during the Inquiry, there are possible violations within the Committee's jurisdiction as contemplated in Section 2(a)(1) of S. Res. 338, 88th Congress, as amended;

It is therefore *Resolved:*

I. That the Committee makes the following determinations regarding the matters set forth above:

(a) With respect to sexual misconduct, the Committee has carefully considered evidence, including sworn testimony, witness interviews, and documentary evidence, relating to the following allegations:

(1) That in 1990, in his Senate office in Washington, D.C., Senator Packwood grabbed a staff member by the shoulders and kissed her on the lips;

(2) That in 1985, at a function in Bend, Oregon, Senator Packwood fondled a campaign worker as they danced. Later that year, in Eugene, Oregon, in saying goodnight and thank you to her, Senator Packwood grabbed the campaign worker's face with his hands, pulled her towards him, and kissed her on the mouth, forcing his tongue into her mouth;

(3) That in 1981 or 1982, in his Senate office in Washington, D.C., Senator Packwood squeezed the arms of a lobbyist, leaned over and kissed her on the mouth;

(4) That in 1981, in the basement of the Capitol, Senator Packwood walked a former staff assistant into a room, where he grabbed her with both hands in her hair and kissed her, forcing his tongue into her mouth;

(5) That in 1980, in a parking lot in Eugene, Oregon, Senator Packwood pulled a campaign worker toward him, put his arms around her, and kissed her, forcing his tongue in her mouth; he also invited her to his motel room;

(6) That in 1980 or early 1981, at a hotel in Portland, Oregon, on two separate occasions, Senator Packwood kissed a desk clerk who worked for the hotel;

(7) That in 1980, in his Senate office in Washington, D.C., Senator Packwood grabbed a staff member by the shoulders, pushed her down on a couch, and kissed her on the lips; the staff member tried several times to get up, but Senator Packwood repeatedly pushed her back on the couch;

(8) That in 1979, Senator Packwood walked into the office of another Senator in Washington, D.C., started talking with a staff member, and suddenly leaned down and kissed the staff member on the lips;

(9) That in 1977, in an elevator in the Capitol, and on numerous occasions, Senator Packwood grabbed the elevator operator by the shoulders, pushed her to the wall of the elevator and kissed her on the lips. Senator Packwood also came to this person's home, kissed her, and asked her to make love with him;

(10) That in 1976, in a motel room while attending the Dorchester Conference in coastal Oregon, Senator Packwood grabbed a prospective employee by her shoulders, pulled her to him, and kissed her;

(11) That in 1975, in his Senate office in Washington, D.C., Senator Packwood grabbed the staff assistant referred to in (4), pinned her against a wall or desk, held her hair with one hand, bending her head backwards, fondling her with his other hand, and kissed her, forcing his tongue into her mouth;

(12) That in 1975, in his Senate office in Washington, D.C., Senator Packwood grabbed a staff assistant around her shoulders, held her tightly while pressing his body into hers, and kissed her on the mouth;

(13) That in the early 1970's, in his Senate office in Portland, Oregon, Senator Packwood chased a staff assistant around a desk;

(14) That in 1970, in a hotel restaurant in Portland, Oregon, Senator Packwood ran his hand up the leg of a dining room hostess, and touched her crotch area;

(15) That in 1970, in his Senate office in Washington, D.C., Senator Packwood grabbed a staff member by the shoulders and kissed her on the mouth;

(16) That in 1969, in his Senate office in Washington, D.C., Senator Packwood made suggestive comments to a prospective employee;

(17) That in 1969, at his home in Virginia, Senator Packwood grabbed an employee of another Senator who was babysitting for him, rubbed her shoulders and back, and kissed her on the mouth. He also put his arm around her and touched her leg as he drove her home;

(18) That in 1969, in his Senate office in Portland, Oregon, Senator Packwood grabbed a staff worker, stood on her feet, grabbed her hair, forcibly pulled her head back, and kissed her on the mouth, forcing his tongue into her mouth. Senator Packwood also reached under her skirt and grabbed at her undergarments.

Based upon the Committee's consideration of evidence related to each of these allegations, the Committee finds that there is substantial credible evidence that provides substantial cause for the Committee to conclude that violations within the Committee's jurisdiction as contemplated in Section 2(a)(1) of S. Res. 338, 88th Congress, as amended, may have occurred; to wit, that Senator Packwood may have abused his United States Senate Office by improper conduct which has brought discredit upon the United States Senate, by engaging in a pattern of sexual misconduct between 1969 and 1990.

Notwithstanding this conclusion, for purposes of making a determination at the end of its Investigation with regard to a possible pattern of conduct involving sexual misconduct, some Members of the Committee have serious concerns about the weight, if any, that should be accorded to evidence of conduct alleged to have occurred prior to 1976, the year in which the federal court recognized quid pro quo sexual harassment as discrimination under the civil rights Act, and the Senate passed a resolution prohibiting sex discrimination, and taking into account the age of the allegations.

(b) With respect to the Committee's inherent responsibility to inquire into the integrity of the evidence sought by the Committee as part of its Inquiry, the Committee finds, within the meaning of Section 2(a)(1) of S. Res. 338, 88th Congress, as amended, that there is substantial credible evidence that provides substantial cause for the Committee to conclude that improper conduct reflecting upon the Senate, and/or possible violations of federal law, i.e., Title 18, United States Code, Section 1505, may have occurred. To wit:

Between some time in December 1992 and some time in November 1993, Senator Packwood intentionally altered diary materials that he knew or should have known the Committee had sought or would likely seek as part of its Preliminary Inquiry begun on December 1, 1992.

(c) With respect to possible solicitation of financial support for his spouse from persons with an interest in legislation, the Committee has carefully considered evidence, including sworn testimony and documentary evidence, relating to Senator Packwood's contacts with the following persons:

(1) A registered foreign agent representing a client who had particular interests before the Committee on Finance and the Committee on Commerce, Science and Transportation;

(2) A businessman who had particular interests before the Committee on Commerce, Science and Transportation;

(3) A businessman who had particular interests before the Committee on Finance and the Committee on Commerce, Science and Transportation;

(4) A registered lobbyist representing clients who had particular interests before the Committee on Finance and the Committee on Commerce, Science and Transportation;

(5) A registered lobbyist representing a client who had particular interests before the Committee on Finance.

Based upon the Committee's consideration of this evidence, the Committee finds that there is substantial credible evidence that provides substantial cause for the Committee to conclude that violations within the Committee's jurisdiction as contemplated in Section 2(a)(1) of S. Res. 338, 88th Congress, as amended, may have occurred, to wit; Senator Packwood may have abused his United States Senate Office through improper conduct which has brought discredit upon the United States Senate by inappropriately linking personal financial gain to his official position in that he solicited or otherwise encouraged offers of financial assistance from persons who had a particular interest in legislation or issues that Senator Packwood could influence.

II. That the Committee, pursuant to Committee Supplementary Procedural Rules 3(d)(5) and 4(f)(4), shall proceed to an Investigation under Committee Supplementary Procedural Rule 5; and

III. That Senator Packwood shall be given timely written notice of this Resolution and the evidence supporting it, and informed of a respondent' rights pursuant to the Rules of the Committee.

Mr. CRAIG. The reason I do that is to show you and the rest of the Senators who I hope are listening this afternoon that there has been a concerted effort on the part of the Ethics Committee, not only to thoroughly investigate but to, in a responsible and timely fashion, spread before the Senate and the public the process and the procedure by which the Senate Ethics Committee was conducting its charge and its responsibility in the investigation of Senator BOB PACKWOOD.

Mr. President, I have had the unique experience of serving on this Ethics Committee and the Ethics Committee in the U.S. House of Representatives. I have also had the unique experience of serving on both of those bodies during times of extremely high profile cases. During the time that I served in the House it was the time that the House Ethics Committee was investigating the Speaker of the House, Jim Wright. All during that investigation there was never a question that there should be public hearings. But there was always a tacit understanding that all of the findings and all of the information collected would become a part of the public record, and that it would become a part of the public record simultaneous to the decisions, the findings and the recommendations of that Ethics Committee to the whole of the U.S. House as to the penalties that might be brought down on then the Speaker, Jim Wright.

I must tell you, Mr. President, that is exactly how the Ethics Committee of the U.S. Senate plans to operate. That there will be full public disclosure. Less than a few days ago we voted unanimously to cause that to happen. That, upon our findings and upon our recommendations to the U.S. Senate we would spread, for the public's review and for the Senators' review, all of our thousands and thousands of pages of findings and all 264 witness depositions, the vast body of information that you have already heard about today that have been talked about by my colleagues.

Never once in my experience on any Ethics Committee in either of these two bodies have I ever voted against public disclosure. I believe it is our responsibility. I think it is, more importantly, the right of the public to know.

But I also recognize it is the responsibility of the Ethics Committee of the U.S. Senate so charged by the U.S. Senate to operate in a bipartisan—or as my colleague from New Hampshire said, a nonpartisan—environment, in which to render its decisions.

I was, frankly, very amazed to see our committee for the first time split apart on this issue. I do believe that this, in itself, could be one of the most precedent setting involvements that we have ever seen, precedent setting in the fact that after 32 years of nonpartisan or bipartisan relationships we now find ourselves causing that aisle to divide us on how this committee should operate before it has rendered its decision to the Senate as a whole.

Last week that professional nonpartisan staff looked at us, after having provided us with all of this information, and said: It is our recommendation that public hearings are not necessary. There is nothing to be gained. It appears that, after the exhaustive effort at full discovery that was a unanimous vote of the committee, that there is little or no information that can be gained. It is now time to make a decision. It is now time to review and to render to the Senate our findings for the purpose of the Senate agreeing or disagreeing on those findings and those recommendations.

I am therefore tremendously bothered and frustrated that we risk making partisan what some 31 years ago we took off from the partisan table. I understand the pressures. I understand the nature of the arguments being placed. I also understand the uniqueness of these particular allegations.

But in all fairness I find them no different, as it relates to the conduct of a Senator in this body charged with the responsibility of being a U.S. Senator, whether he or she acted in a proper and responsible fashion, or whether he or she did not. And that is exactly what the Ethics Committee of the Senate is charged with finding out.

I am also amazed that we have members of the committee who would suggest they ought to have the right to question witnesses. It is important for the U.S. Senate to know that, by a unanimous vote of the committee, we charged the professional staff with the responsibility of going forward to take depositions and at no time was any member of that committee barred from the right to attend those depositions and to question any and all witnesses. So I am a bit surprised today that any member of the Ethics Committee would come to the floor using the argument that they did not have the opportunity to question all of the witnesses of whom questions were asked and depositions were taken. That is not true. What is true was that they had that right but, because of the vastness of the investigation, we spread the bulk of that responsibility to the professional staff of the Senate Ethics Committee.

I also remember arguing and agreeing and voting unanimously to not leave one stone unturned, to examine all allegations, to ask all parties under which allegations had been launched as to any kind of relationship or involvement Senator PACKWOOD had with any individual. And I must say, in all fairness, in a wholly bipartisan voice, that the committee responded in an exhaustive bipartisan, nonpartisan fashion. So there is a precedent here, and it is a precedent of risk.

It is a precedent of politicizing. It is a precedent of making partisan this very nonpartisan approach to dealing with the discipline of U.S. Senators. Discipline is the responsibility of the Senate and of its calling, and all of us understand that. And all of us for 32 years in this body have taken it most seriously. Every Senator has one absolute uncontested right—that when the Ethics Committee renders its finding and its decision, and it brings it to the floor of the U.S. Senate for a full public debate, that any Senator can investigate and review those findings, make a determination, argue for or against, offer amendments to change judgments and decisionmaking, and proceed in that fashion. That is the way we have always functioned.

As the chairman of the committee said, never before in the middle of a proceeding has it ever occurred to the U.S. Senate to abruptly attempt to cause the rules of the Senate to be changed because a Senator comes to the floor arguing that something in an alternative fashion ought to be done. The Senate has the rule. The Ethics Committee has made a decision, and the decision was not to hold public hearings. The fundamental reason has already been stated, time and time again—upon advice of the professional staff. All of the information was available.

So if hearings are for the purpose of allowing the public to know and to collect additional information and the second criteria had been met, then what about the first criteria? That criteria has also been met, and that is to provide full public disclosure of all relevant information, which is nearly 100 percent of all of the documentation that has been put before the committee for its process.

So I have one simple closing plea that I offer to my colleagues, my fellow Senators. I hope they are listening this afternoon in their offices, and I hope that they will come to the floor to vote with this in mind. I ask my colleagues

to allow us to finish our decisionmaking process, to allow us to bring to the floor in a responsible fashion our findings and our conclusions and our recommendation, and then for the Senate to do as they have done historically, and I believe responsibly: Judge us, judge our findings, and vote accordingly. I hope that is the case. I hope you will allow us to finish our work in a responsible fashion in defense of the victims, and in respect for the process, recognizing that in the end Senator PACKWOOD, too, has rights, and that we respect all parties as we work this issue to bring about that conclusion that I hope this Senate will honor and recognize in its vote on this issue this afternoon. To fulfill that request, your vote would be to oppose the Boxer amendment, which I believe is the appropriate vote in allowing this committee to continue to function with its responsibility at the request of the U.S. Senate.

Mr. MCCONNELL. Mr. President, how much time is remaining on each side?

The PRESIDING OFFICER (Mr. INHOFE). Forty-nine minutes is remaining on your side; the other side has 36 minutes.

Mr. MCCONNELL. Mr. President, I have a number of requests for time, so I am going to have to start allocating minutes, fewer minutes than I had hoped. Senator KASSEBAUM has indicated she wants to speak. Senator HUTCHISON has indicated she wants to speak. Senator SIMPSON is here. Senator BROWN is here. But I believe Senator BROWN is really sort of next in order. I would like to give to Senator BROWN 10 minutes.

I yield Senator BROWN 10 minutes.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. BROWN. Thank you, Mr. President. Thank you, Mr. Chairman. I appreciate the time.

The Senate is now deliberating a change in its rules, and ostensibly the question that should be before us is one of openness. I am for openness. I believe in openness and in sharing information—I think it is the foundation of our democracy. I am not just verbally for openness. I was a sponsor of Colorado's sunshine law. It is probably one of the most—or the most—progressive laws in the country. It guarantees open meetings. It talks about open records. It even guarantees that whenever legislators get together, even in a caucus, that the press is allowed to be there to make sure that information gets out to the public.

I not only advocate openness, I vote for it. But Members should be aware that the amendment before us is not just about openness. The deliberations of the Ethics Committee will come to the floor regardless of how they rule, and they will be open, they will be public, and they will be subject to debate. And the information will be there.

The decision has already been made to make the information, the documents, and the investigation public. This debate is not about whether or not the facts about this case become public. They will become public, and the documents will be open and available.

This debate goes to a different problem, one that is always possible with investigations of this type. The danger in this or in any investigation is that it will become bottled up in committee and never heard of again. I served 7 years on the House Ethics Committee. It is my impression that this problem surfaced on a number of occasions and that people who committed serious infractions simply waited for their terms to end while the committee investigated. Often the matter was never brought forth in time.

Even though openness and access to the public are important, Mr. President, it may surprise some to know that the House rules accommodated delay and coverup. They allow the committee to continue to deliberate and never bring the matter to a close thus keeping it from the public. I voted against those House rules.

But amazingly, the sponsor of this amendment voted for those House rules, consistently voting for rules which allowed the Ethics Committee to bottle up complaints. That is not openness, Mr. President. That is a vote for closed Government and turning a blind eye toward ethics violations.

In 1983, Mr. President, there was a motion on the floor of the House to create a select committee to investigate alterations in hearing transcripts, a serious infraction. Believing in openness, I voted for that investigation. But the author of the amendment before us did not vote for openness. She voted against that investigation. She voted to close it down, to not let people see what went on.

In 1983, there was a proposed change in the House rules to make it easier for committees to hold meetings that are closed to the public, precisely the issue that we are deliberating today. I voted against closed meetings. I voted against that motion in 1983 because I am for openness. But the sponsor of the amendment today voted for it, voted for the motion to make it easier to close meetings.

Mr. President, the question before us today goes beyond openness or closed meetings. It is about something far different.

In 1987, the House had a motion to further investigate Congressman St Germain and to report findings back to the House. I voted for that further investigation, for the openness, and for the report. The sponsor of the amendment that is before us voted against it. She did not vote for openness. She voted for closed meetings.

In 1987, further, there was a sense of the House that a special commission be established to investigate an allegation of corruption of Members, charging the select committee to come back with suggested reforms. I voted for that select committee and for that investigation because I believe in openness. But the sponsor of the amendment before us voted against it.

Mr. President, the bottom line is simply this. This amendment is not about openness. Each of us have had countless votes on which we can express our view and our feelings as to whether this body and the democratic process ought to be open. I am for openness, and I voted for it and I stand for it consistently. But this amendment is not about openness. The documents in this case are open and will be available to the public. The results of the deliberations will be open and publicly debated in this Chamber. This amendment is about partisan gamesmanship. I do not think it deserves to pass.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, I would like to yield 5 minutes to Senator EXON of Nebraska.

The PRESIDING OFFICER. The Senator from Nebraska is recognized for 5 minutes.

Mr. EXON. I thank the Chair, and I thank my friend and colleague from California.

I have been listening with great interest to the debate. It is one of those painful debates that the Senate has to go through from time to time, and I have been through many of them. I simply say I think we all owe a debt of gratitude to Members on both sides of the aisle who serve on the Ethics Committee. It is a thankless task. I think I have supported the Ethics Committee any time there has been any controversy. I would simply say that I have served in this body longer than any other Member on either side of the aisle on the Ethics Committee, and therefore I think I have some claim to what I think is proper for this body and for this institution and for what it stands.

I wish to thank personally once again now by name the distinguished Members on both sides of the aisle who have served with great distinction, in my view, on the Ethics Committee, as have Members of the body before them, once again a totally thankless task. If I were charged with an ethics violation, I would have complete confidence, I might say to the President, and the Members on that side of the aisle, Senator MCCONNELL, Senator SMITH, Senator CRAIG, and likewise the three Senators on this side of the aisle, Senator MIKULSKI, Senator BRYAN—and, of course, Senator BRYAN used to serve as the chairman of the committee—and certainly the newest member of the committee has served with great distinction, the Senator from North Dakota, Mr. DORGAN.

I have no ill will toward any of them. I think they have done a very yeoman job. But we are now down to a situation where we have to make a decision, and I stand here today in defense of the Senator from California for what I think is a proper course of action.

I looked through the previous open hearings that we have held in the Senate since I have been here, Cranston in 1991, Durenberger in 1990, Harrison Williams in 1981, and Herman Talmadge in 1978. I was here through all of those. And I remember the difficult task, very difficult vote that we as Senators were called upon to cast after the Ethics Committee had made its recommendations, all of them, I might say, after open hearings.

Therefore, I simply say that I have been quite amazed at the broadside against the Senator from California for what I think is a very legitimate action on her part. When she first made her announcement of considering going to and asking the Senate to go on record, I intended to visit her about it and see what was behind it. Then about that time a Member on that side of the aisle made a public statement—it has not been retracted as far as I know—that I consider a direct threat to the prerogatives of the Senator from California, by saying if the Senator from California proceeded with her action, that Senator on that side of the aisle might well investigate other prominent Members of the Democratic Party on this side of the aisle.

That was a threat. That should never have been made. And it is about time to receive an apology for that.

With that statement, Mr. President, this one Senator, who tries to be evenhanded on these things, recognized and realized that the Senator from California was only doing what I think is right and should be done.

The Senate of the United States is on trial. The institution is being looked at by the American people today, and its credibility is on trial.

I have no ill feelings against Senator PACKWOOD at all. I have worked with him on many, many important measures over a long period of time. I would just happen to feel better, frankly, if the Senator—could I have 2 more minutes?

Mrs. BOXER. One more minute to the Senator. I am running out of time. One more minute.

Mr. EXON. I hope that maybe Senator PACKWOOD would be better served by open hearings.

In closing, let me say that if the amendment offered by the Senator from California fails, the Senate fails, and the time will never come when the Senate can redeem itself in the eyes of the public and/or the eyes of itself. The Senate self-esteem is at issue. It was important yesterday. It is important today. It will be important tomorrow.

The Senate itself is on trial, and I hope that it does not fail in accepting the amendment offered by the Senator from California.

The PRESIDING OFFICER. Who yields time?

Mrs. BOXER. Mr. President, I yield 4 minutes to the senior Senator from California, [Mrs. FEINSTEIN].

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. I thank the Chair very much.

Mr. President, I rise to support my colleague and her resolution, which I believe is appropriate, fitting, and not partisan. I do not believe that she had in mind a partisan effect at all. I believe she had in mind being able to conclude a process in a way which gave much fresh air and clarity and credibility to it. So I am pleased to support her.

I think every member of the Ethics Committee has worked hard in what has been a very difficult case. None of us likes to sit in judgement of another, and certainly the Senator at issue is one who is competent, who has had great credibility and great standing in this body.

Nonetheless, I came here in 1992, and this issue was very much with us in 1992. The allegations and the statements of the accusers have been printed and published all over the United States. The question really is, are they credible statements? And this question can only be answered by a hearing.

I heard the distinguished chairman of the Ethics Committee say 264 witnesses had been interviewed but, of course, that is by staff. The Senator from New Hampshire said, well, any member of the committee could sit in and listen to those depositions. That is not likely to happen with the busy nature of the life we lead in this body.

Human beings are certainly not perfect, and there may well be mitigating circumstances, but I think sexual misconduct, and particularly sexual harassment, is often misunderstood. It means different things to different people.

What is compelling to me is that 9 out of the 18 accusers have publicly asked for public hearings. Generally, this is not true. Generally, women do not want to come forward publicly. However, these women have publicly asked for the hearings.

As the Senator from California, my colleague, has pointed out, in every one of these cases, when the investigation has been completed, there has in fact been a public hearing. As I have heard stated on this floor, the reason not to have a public hearing is often to protect the accuser or the person who provides the testimony. However, that is not the case here.

I think the only way to successfully conclude this is with a public hearing. Why? Because questions can be asked. Questions can be clarified. Issues can be probed. And the degree of culpability can be established. Perhaps that is very low. Perhaps it is very great. Without a hearing, I have no way of knowing, as a non-Ethics Committee member.

Another reason that is important to me is the allegations have all taken place in the course and scope of the individual's duties as a U.S. Senator. This is not private, personal conduct. This is conduct that took place in public service, and many of the people involved are themselves Federal employees. So I think these allegations involve conduct about which a hearing must be held and a decision must be made.

Is it acceptable? Is it not? If it is not, to what degree? I think issues revolving around sexual misconduct are issues that need to see the clarity of day and the openness of probing questions, and their resolution. So I am very proud to support my colleague from California and to stand and say that I believe her motives were of the highest. And I am hopeful that this body will conclude the process as rapidly as possible.

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. I want to thank my friend from California.

I yield 4 minutes to the Senator from Massachusetts, Senator KERRY.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I thank the Senator from California. I would like to begin by paying tribute and gratitude to Members on both sides of the aisle who served on the Ethics Committee. They bear an enormous burden. There are too few here willing to serve. And we should all understand the difficulty of that service.

Whether willful or not, Mr. President, the effect of denying a public hearing here is to sweep away the human voices and to replace them with paper. That is a denial of process. And it is a reversal of the very commitment made by the U.S. Senate recently where we voted to live the way other Americans live. If probable cause was found in a case of sexual misconduct against an American citizen, that American citizen would find themselves in a public situation facing an accuser, having a public review. It is only because there is this hybrid entity called an Ethics Committee that was set up, in a sense, to try to guide this special institution through its life that there is now a denial of that open process.

It is contrary to all prior precedent where you have had a finding of probable cause, where you have found substantial and credible evidence. In every substantial and credible evidence case, the U.S. Senate has had a public hearing. If we are going to apply the standard which friends on the other side of the aisle are now suggesting, that when you build a sufficient record of depositions, you can make a judgment, that because it is encyclopedic you do not have to have a hearing, then let us end the Whitewater hearings today. Maybe we should come in here with a resolution as an addendum to this to say we have an encyclopedia of depositions. Let them speak for themselves. We do not have to hear from all these other people. I know my colleagues would vote against that. It is a double standard, double standard for Alan Cranston, double standard for JOHN GLENN, JOHN

MCCAIN, DON RIEGLE, and now here we are at a moment where the Senate has to make a judgment as to whether or not depositions speak like people.

BOB PACKWOOD had his moment before the members of this committee. It was sufficient for him to be able to come forward and look them in the eye and be able to be asked questions. But our colleagues are being denied that same right to provide a record. That is what is important here, Mr. President, the question of whether there will be a sufficiency of a record for the U.S. Senate, where people are put to the test. It may help BOB PACKWOOD to have some of these people asked questions publicly, to have the full measure of these accusations judged by the American people, not off paper that everybody knows they will never read, but in the full light of day. That is what this is really about. Staff doing a deposition is not a Senator asking a question within public scrutiny of the hearing process.

So I respectfully suggest, Mr. President, that based on precedent, based on the standard we have accepted in the Senate, based on the best means of providing process in this situation, i.e., adequate capacity to ask questions and to judge answers, it is appropriate for the Senate to explore this in public. And it is interesting to hear my colleagues suggest that somehow this is popular——

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

Mr. KERRY. Can I have 1 additional minute?

Mrs. BOXER. I yield 1 additional minute.

Mr. KERRY. I hear the notion of popularity. There is a reason that one is popular and one is not. That is because one judgment is correct and the other is not. This is not a matter of partisanship, and it should not be. But it is highly inappropriate to apply a different standard that suggests that we are going to shut the door and sweep away the human capacity to speak to what has happened. These probable cause issues rise not just to the question of sexual misconduct, but they rise to the question of obstruction of justice, they rise to the question of a breach of ethics with respect to assistance in job finding for personal family members. And it is very hard to explain why all of a sudden sufficiency of record will be in depositions without senatorial participation. If that is the new standard around here, then let us fold up Waco, let us fold up Whitewater. Let us just do the depositions and live by that standard across the board. So the test here is very, very clear. And I congratulate my colleague for having the courage to bring it before the Senate.

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. I will yield 5 minutes to my friend from Connecticut. I want to make a point to the Senator from Massachusetts. I just want to thank him for coming over here because it was such a new point that was just injected into the debate that was worth repeating for just a couple seconds. Why do we not just shut down all the committees and not call one witness in any of our work and just read the depositions? That is what this is about. And I want to thank my friend, because obviously that is ludicrous. But yet it is a standard that three members of the Ethics Committee want to apply.

I yield 5 minutes to my friend from Connecticut.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. I thank the Chair, and I thank my friend and colleague from California.

Mr. President, I rise to support the resolution offered by the Senator from California. And I do so with great respect and empathy for the six colleagues who are on the Ethics Committee. And I do so—it does not need to be said; I am sure it is true of all of us today—I do so without in any way prejudging the allegations that have been made against Senator PACKWOOD. In fact, quite the contrary. What I am saying in rising to support the resolution is that I believe that I, as one Senator, will not be able to reach the kind of informed decision I want to reach on the serious allegations that have been made against Senator PACKWOOD without the benefit of testimony from the witnesses live before the committee, subject to examination by the members of the committee and by counsel for Senator PACKWOOD.

Mr. President, the Senate has established the Ethics Committee in a remarkable act as a way to delegate responsibility to this committee to adopt standards for the behavior of the Members of this institution and then to uphold those standards. As a way, if you will, to discipline, to set standards for our behavior, in between those times when the ultimate judges of our behavior, namely our constituents, have the opportunity to vote on us.

The committee was established, I am convinced, to keep strong the bonds of trust between those of us who have been privileged and honored to govern and those for whom we govern. And at the heart of that trust is credibility and confidence in the process by which we judge each other. And it is on that basis that I feel so strongly that it is right and fair to have public hearings in this matter.

The precedents seem to say to me that in every case which has reached the investigative stage, including, I gather, the case of former Senator Cranston, there have been public hearings, although in the Cranston case the hearings were uniquely at an earlier stage. The point here is to preserve public credibility on the one hand. And that credibility is based on the public's assessment of the fairness of the process. But it is also critically important in terms of the judgment we reach. The members of the committee will have the opportunity to hear the witnesses come before them, and as I have said, Senator PACKWOOD's counsel will have the opportunity to cross-examine those witnesses.

The fact also is that how can we explain to the witnesses, those who have made allegations, that the doors to the judge's chamber essentially are closed to them, although the one against whom they have made the accusations has had the opportunity to appear in person.

Mr. President, the chairman of the committee, the distinguished Senator from Kentucky, has made an important argument and statement when he says that this would be a breach of precedent for the Senate as a whole to intervene in ongoing ethics proceedings, without letting the committee make the judgments itself.

It is an important point. Let me explain to him, and I was troubled by it, why I am supporting Senator BOXER's resolution. I do not take this resolution to amount to an intervention on a side. I do not take this resolution to equal an intervention to direct a particular verdict, to bias the proceedings. I see this as an intervention that is totally procedural and not at all substantive. It is, in fact, neutral on the question of substance.

Does it create a precedent? In a sense, it builds on a precedent and perhaps creates a clear statement by the full Senate, which has delegated our authority to govern ourselves and judge our own ethics to this six-member committee. And the precedent is that the burden of proof should be on the committee in rejecting hearings, because the openness of these proceedings is so critically important to the credibility of the final judgment.

Let me repeat what I said as one Senator as to why I am supporting this resolution to the members of the committee.

We give them a tremendous responsibility, and it is a difficult responsibility, to spend all this time, to hear all this evidence and to come back and report to us. On the basis of that, we make these terribly difficult judgments about our colleagues.

This Senator is saying respectfully to the members of this committee, I feel that I will not have all the information I need to make an informed judgment on the charges against our colleague from Oregon unless the committee has the opportunity to hear and confront those who have made these serious allegations and to cross-examine them. That is why I hope that my colleagues on both sides of the aisle, in that spirit, will vote to support the resolution of the Senator from California, understanding it does not in any way prejudge the case. Quite the contrary, it suggests the desire that all of us have for the fullest possible information before we reach a conclusion in this case.

I thank the Chair and I yield the floor.

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. I yield 4 minutes to the Senator from Montana.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, this is not an easy matter for me. I am on the Finance Committee. BOB PACKWOOD is my chairman. I have known BOB PACKWOOD, I have served with BOB PACKWOOD for many years.

But I believe that we as Senators have a higher calling. It is not friendship—though friendship is very important—it is more important than friendship. It is fulfilling our responsibility of public service; living up to our obligation to the people we represent.

When I first came to the Congress, there was a joint conference meeting on a tax bill, a major tax bill. I wanted to learn a little bit about the tax bill. I wanted to learn how Senators and House Members decide matters in a conference. But I had a hard time finding where the conferees were meeting. Finally, I asked myself, ''Who would know where the conferees were meeting?'' This is about 20 years ago, about 1975.

Mike Mansfield, the majority leader of the U.S. Senate, I thought ought to be able to tell me where the conferees are meeting. I went to his office. They told me. I went to the meeting. There was a policeman standing at the door. I said, ''I am a Member of Congress.'' He said, ''OK, go in.''

It was the House Ways and Means Committee hearing room: A sea of executive branch people. Secretary Bill Simon was there. Senator Russell Long, chairman of the conference, was talking about when he was a boy back years ago in Louisiana. Al Ullman, chairman of the Ways and Means Committee, was talking. Then Jimmy Burke of Massachusetts walked up to me and said I had to leave. ''Why,'' I asked.

He said, ''Because of the rules.''

I said, ''What rules?''

He said, ''The Senate rules.''

I asked, ''What Senate rules?''

He said, ''Just the rules.'' He said, ''Nobody else can be in here; nobody else; no other Senator or Congressman. It is closed to everybody—closed to the public, closed to the press, closed to Members of the House, closed to the Senate.''

I said, ''That is wrong. And I am going to do something about it.''

That afternoon, I stood up on the floor of the House and I said it was time to change this rule.

Ab Mikva, then a House Member, got up and agreed with me. And the next year we had the rules changed, so now all conferences are open to the public. I am very proud of that.

And I am also very proud of my home State of Montana and a provision we have in our State constitution requiring that all public meetings be open. It causes a certain burden on our Governor, a burden on certain State officials who would rather, in some instances, not to have everything open, but it is open. And the public benefits from this openness. In Montana, we know what our State government is up to. This has helped tremendously to increase confidence in the people of the State of Montana in State government. It has made a big difference.

I just stand here, Mr. President, basically to say that we have a much higher calling and honor to perform the public trust; that is openness. The U.S. Congress now is at one of its lowest ebbs in public popularity in modern history. Seventy-five percent of the public distrust the Congress.

I say one way, albeit a small way, to help regain some trust that the American people have lost in this institution is to open up everything. Open up the Ethics Committee investigation. What is there to hide? Sure, there is going to be a little bit of embarrassment. It is going to be difficult for some people. Some people of the Senate will be a little bit put out, but in the long run, public confidence will increase.

Again, this is a very difficult matter for me to address, because I am on the Finance Committee. But I feel very strongly that fair and open hearings are the right thing to do. I am bound to stand up and do what I think is right. I think we should vote for the resolution sponsored by the Senator from California.

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

Mr. MCCONNELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. How much time remains?

The PRESIDING OFFICER. Forty-four minutes are left, and on the other side, 11 minutes are left.

Mr. MCCONNELL. I yield 10 minutes to the distinguished Senator from Iowa.

The PRESIDING OFFICER. The Senator from Iowa is recognized for 10 minutes.

Mr. GRASSLEY. Mr. President, I will not support the Boxer amendment. I have to say that it is a tempting proposition probably for a lot of us because on its face, I think it is a perfectly reasonable request, because, after all, what is wrong with letting the sunshine in on all the business we do around here?

But there is an important reason for holding public hearings generally, because you hold public hearings, do you not, so the truth can be known to the public? It allows the public then to judge the credibility of what we do as a body. Public disclosure, in general, helps this process.

There are three elements of what has helped our democracy endure and flourish: seeking the truth, holding people accountable, and dispensing justice. It is my belief that the Senator from California, hopefully, wants all three of those elements to prevail in the case of Senator PACKWOOD. I think we agree with those elements. We support those elements.

The Senate does have a process, however, for achieving all three of those elements. Of course, it begins with the relevant committee and it ends with the action of this full body. This process is set up to gather facts, and it is set up to learn the truth. It must then evaluate the facts, it must assign responsibility, and then it sets appropriate punishment.

I might add that the Ethics Committee is not yet finished with its own part of the process. To me, this is a very key point, and I will return to that point in just a minute.

But during the Senate process, sometimes it is necessary to air the facts publicly, sometimes not. But I would stress that closed hearings are OK if, and only if, the punishment at the end of the process fits the facts because, otherwise, the process opens itself up to legitimate criticism. Public hearings are necessary when a problem of credibility arises, as in the Anita Hill case, or if the punishment does not fit the facts, as I have stated. But, Senator BOXER, the committee has to render a judgment before it can be criticized. That is my view.

By the way, the issue of public disclosure is met to a large degree by the committee's decision already made to disclose all the relevant documents. Of course, this is not the same as a hearing, and I do not pretend that it is. But if the committee decides not to hold public hearings, then it, for sure, better do the right thing. If it does, then public hearings become a nonissue, so long as disclosure of documents is made. If it does not, then a motion to recommit is in order and the Senate should then demand open hearings. That is because the credibility of the committee's decision would have been questioned. But the key is, for Senator BOXER and my colleagues, the committee must render a judgment first before we can credibly call into question the committee's work. In the past, the committee process has produced unacceptable results that did not fit the facts, and that process has been rightly criticized. The Ethics Committee has been criticized in the past for whitewashing and dispensing mere slaps on the wrist, when a much harsher punishment seemed to be justified.

This Senator has joined in that criticism. I also intend to vote against the McConnell amendment, as well, because of the first finding of the amendment that would say this: ''The Senate Committee on Ethics has a 31-year tradition of handling investigations of official misconduct in a bipartisan, fair, and professional manner.''

Mr. President, I am not so sure that I can support an amendment with that language, because I think too often in the past—and, of course, this is not under Chairman MCCONNELL's able leadership, but well before him—the committee has acted too timidly, and I

think it is important to not regard that too lightly.

And it is not just the Ethics Committee. I have had my own battles with the Armed Services Committee on closed versus open hearings. I tied up the Senate for 2 days at the end of the last Congress on a nomination that you will recall was General Glosson's promotion. I should add that I did so with the help of the Senator from California. The committee had recommended that General Glosson retire with a third star. We felt that the facts of the case dictated that he should not get such a promotion.

The committee recommended a third star, despite the fact that General Glosson had tampered with the promotion board. This was a serious offense because it jeopardized the integrity of the military promotion process, and the committee had a history of cracking down on such tampering.

Also, the Defense Department inspector general found that Glosson lied under oath during the investigation.

Mr. President, no evidence was uncovered at that time that overturned these serious charges. As the committee deliberated over the facts in the case and its recommendations, I took the posture of informing of the committee's judgment.

Yes, I believed in General Glosson's case there should be a public hearing, but I did not demand one. I wanted to give the committee a chance to do the right thing without it, a chance to make recommendations to be commensurate with the facts of that case. The committee chose to review the matter in several closed hearings.

If the closed-hearing process would produce a verdict commensurate with the merits, I would have had no problem. Under that scenario, public hearings in the Glosson case were, in my mind, irrelevant. It is the dispensing of a just remedy that I was most concerned with.

Well, the committee had several hearings and availed itself of the information I provided. Nonetheless, the committee recommended a third star for General Glosson. But—and this is important—it was not until I examined the committee's evidence and the committee's rationale in support of its decision that I decided to question the committee's judgment. And then I made my case on the Senate floor.

The committee and Senate leaders supported General Glosson —regardless of the facts in the case—I think out of friendship. I think that is as plain then as it is today. I accused the committee of putting friendship over integrity.

My point is, the amendment by the Senator from California has a proper objective. But the timing is wrong. In my view, the Senator from California has an appropriate amendment when, and only when, the committee renders a recommendation, and when, and only when, she measures the recommendations against the facts as presented by the committee's findings, because that is when the credibility is earned for persuading the public and this body of her intent.

I, for one, would join the Senator from California in a motion to recommit if it were clear that the committee fails to do the right thing, because if it were clear that the Ethics Committee were once again dispensing slaps on the wrist, having learned nothing then from the Anita Hill experience, the Senator from California would have all the moral authority in the world to insist on public hearings and insist that the committee get it right.

But the time for sending that message is not yet upon us. So let us wait for the committee's recommendations first. Clearly, that is the right thing to do right now.

Finally, let me reiterate a point about Senator MCCONNELL's leadership. The comments I have made with respect to the Ethics Committee's past do not reflect on him. The Senator from Kentucky has conducted himself fairly in this case, especially in the case of acquiring diaries and disclosing the relevant documents. Up to this point, I can find no fault with his committee's approach, and he has shown able leadership on a difficult issue. But I will reserve final judgment on his committee's work product pending its recommendations. That is the proper time to do it.

I yield the floor.

Mr. MCCONNELL. Mr. President, how much time do I have left?

The PRESIDING OFFICER. There are 34 minutes remaining. The Senator from California has 11 minutes remaining.

Mr. MCCONNELL. Mr. President, I yield 8 minutes to the distinguished Senator from Wyoming.

The PRESIDING OFFICER. The Senator from Wyoming is recognized for 8 minutes.

Mr. SIMPSON. Mr. President, I rise to speak against the pending motion regarding hearings in the current Ethics Committee investigation of our colleague, Senator BOB PACKWOOD.

I have listened very carefully to the remarks made by my colleague, Senator BOXER of California. Let me try to start on a positive note, a nonpartisan note, by outlining those areas where we agree. The Senator from California has urged us to focus our thoughts, to avoid being distracted by irrelevant issues, or by peripheral considerations. She has, in the past, urged us to remember what the issue is, saying, ''I am not the issue.''

I could not agree more. Senator BOXER is not the issue; partisan politics is not the issue; and I will say very firmly—and I hope this is heard correctly—sexual harassment, even, is not the issue here. Senator PACKWOOD has not been charged with that. My colleague from Iowa has just spoken about another issue we were both involved in, the Clarence Thomas hearings. Remember, too, please, in that particular grievous exercise sexual harassment was not the issue in that matter either. I know that may be shocking to some, but Anita Hill never charged Clarence Thomas with sexual harassment—ever. That was never in the record, never any part of that proceeding. She wanted us to ''be aware of his behavior and his conduct. That is all borne out in the record. You can find that to be true through the Democrats and Republicans who served and anguished with regard to that.

The issue here is, how we do the difficult business of conducting ethics investigations, of passing judgment on our colleagues in a way that is fair and is nonpartisan? That is the issue here—the only issue. The issue before us is whether or not we are going to begin to dismantle the nonpartisan process by which such decisions are made in the U.S. Senate and whether to subject gritty, tough, sometimes ugly ethical decisions and questions to the whims of partisan majorities. That is the issue.

I hope everyone will understand this. It is absurd to say that it is a ''threat'' to simply note that it is a very, very bad idea to make these questions contingent upon who can rally the most votes on the Senate floor, and, ironically, this surely cedes a terrible degree of power to the party in the majority. Hear that. That is not a ''threat.'' That is as real as you can get about partisan politics.

We have, through the Ethics Committee, deliberately created a nonpartisan forum in which these questions can be addressed. It is just about the worst job any Senator can have. I do not want it, would never take it. Chairing that committee is a daunting task. At the very least, in the past, we have tried to assure the chairman and co-chairman of the Ethics Committee that the process employed by the Ethics Committee would be respected, and that the full Senate would not interfere to change the rules in the middle of a case.

And I do hope that any suggestions that there is an attempt at secrecy here can be swiftly laid to rest. I have been reading all this now for about 2½ years. I read about the witnesses. I read about what they have said about Senator PACKWOOD. I do not know what is left to hear—except one thing that I am anxious to hear, and that is what will be said when somebody stands up and puts their right hand up and, under affirmation or oath, subjects themselves to cross-examination and the rules of evidence. Then I will be right here. I would love that. I practiced law for 18 years. Few here did.

I am not talking about ''leaks'' from the Ethics Committee, but it is surely all out there. There is not a single new thing you are going to find that is relevant. You might find some things that are not relevant, or what happened that might destroy somebody else from an event occurring 10 years ago, 20 years ago.

Let the record be very clear here too. I have never received or seen a committee deposition. That has been reported. Perhaps that is my own misstatement. I have never seen a deposition. I have seen statements. Those statements have a very different view of the ''contact'' that took place at that particular time; a very different view. Those will come out. Somebody will be very hurt in that process. That is not a threat. That is the way it works.

But I think, when we talk about secrecy, it is very difficult for anyone to believe that when the committee is going to release thousands upon thousands of pages of documents in an unprecedented airing of private information—yes, even personal diary information—I can assure you that few of us, if this were happening to us, would find that to be a laudable result. Who among the hundred of us does not know dozens, even hundreds of individuals who stand ready to cast all form of aspersions upon us for things that we may have done through the decades? Fortunately, I threw all mine right out there when I first ran. It is all there for the public to see. I believe any one of us would be stunned to find that there was to be a release of thousands of pages of such allegations. I do not believe any of us would ever feel that such an action, as seen by us or the public, would be called ''covering up,'' or ''secrecy.'' What an absurdity.

What we are debating today my colleagues, and I hope all will understand, has nothing to do with the merits of the case in question. It has to do strictly with the integrity of the process itself. It has to do only with whether or not we will respect the judgments of the committee with respect to the appropriate process to follow.

What is the appropriate process? What is it in such a case as this? Do we calibrate our sensitivities to the issue of sexual misconduct by how much we are willing to trample upon the nonpartisan procedures of the Senate in order to achieve a desired result? Do we measure our sensitivity by how far we are willing to go back to dredge up embarrassing and inappropriate conduct? No. We measure—or should measure—our sensitivity and our seriousness by the degree to which we ensure that such charges are weighed in a nonpartisan atmosphere of fairness.

Even if Senators are to be held to a higher standard of conduct, this surely does not mean we should employ a lower standard of fairness.

Under the current Federal law—hear this—when an individual wishes to bring a charge of sexual harassment, the individual has 180 days to file that complaint with the EEOC if there is no State agency to handle the complaint, 180 days, hear that; 300 days is the limit in a State with a deferral agency.

There is not a single statute of limitations in America that is over the limit of 6 years for sexual harassment—and Senator PACKWOOD has not been charged with sexual harassment; not one case. Not one jurisdiction in the United States. Go back more than 6 years, and here we are back in 1969, we are back in 1974, we are back in 1979 and 1980.

Why is there a statute of limitations? Probably because the reliability of such charges, such grievous charges as these, cannot be accurately judged at a tremendous distance from the time in which they were alleged to occur.

I agree with Senator JOHN KERRY, my good friend from Massachusetts. Let us indeed apply to ourselves the laws we apply to others because the biggest one out there is the statute of limitations on tort and sexual harassment. It is 6 years, as far back as you can go in any jurisdiction in this country. But in the matter of the conduct of the Senator from Oregon, conduct which even the Senator has himself said was ''terribly wrong''——

The PRESIDING OFFICER (Mr. ABRAHAM). The Senator's 8 minutes has expired.

Mr. MCCONNELL. I yield the Senator 1 additional minute.

Mr. SIMPSON. But in the matter of the conduct of the Senator from Oregon, conduct which even the Senator has himself said was ''terribly wrong,'' we are dealing with charges reaching back for decades.

All of us will soon pore through thousands of pages of depositions to investigate charges that would not get a moment's hearing if they were brought before any other jurisdiction in this country. It is astonishing the degree to which we go. And we do that because we are different. These are decades after the fact. If ever there was a ''consistent pattern'' of behavior here, the pattern ceased to exist some time ago.

What we see here is a case study in the continuing destruction of a man. I ask my colleagues, how would you feel if this were happening to you? There is a good reason to pose the question, because if we approve the resolution of the Senator from California, someday it will happen to each of us, whether we ''had it coming'' or not. Our political opponents will see to it. Believe it. It is a sad chapter in the Senate history if this resolution passes.

The PRESIDING OFFICER (Mr. ABRAHAM). Who yields time?

Mrs. BOXER. Mr. President, I yield 3 minutes to the Senator from Maine, Senator SNOWE.

The PRESIDING OFFICER. The Senator from Maine.

Ms. SNOWE. Mr. President, I thank the Senator for yielding.

On July 10, I cosigned a letter to the chairman and vice chairman of the Ethics Committee urging that they hold public hearings at the concluding stages of the case currently before the committee.

Signing that letter was not an easy step to take. But I believe it was the right step to take. It was not an issue of politics; it was an issue of principle. The fact is, instances of misconduct know no partisan lines. Allegations of impropriety know no political boundaries.

My singular goal and overriding goal in this matter has been to preserve the integrity and reputation of this institution, and I believe we do so by opening up the final stage of an ethics process for public view.

Let me say from the outset, though, that I have the utmost respect for the hard work, dedication and integrity of the Chairman, Senator MCCONNELL, Senators, and staff of the Ethics Committee have done in this case to date. Indeed, they have been assigned the most difficult and thankless of tasks in this institution.

Without question, this is a painful and difficult matter. It is tough for the institution of the Senate. It is difficult for each and every Senator in this Chamber and everybody involved.

But the time has come, Mr. President, the time has come for a decision to be made about the ethics process. On Monday, the Ethics Committee opted not to hold public, open hearings in the case pending before them. That is a decision with which I respectfully disagree.

I recognize that this is a very complex and delicate process, and I understand why some Senators look upon this amendment with concern.

But, Mr. President, this Chamber at the top of a hill in the Nation's Capital is not a museum. It is not an institution that should be removed from the people. And it must never be above the ideals of our country or its people. It must represent America at its very best.

This is a place where nominations to the U.S. Supreme Court are decided. It is the place where members of the President's inner circle—the Cabinet—are confirmed. And it is the part of Congress where the hope for peace is hatched through our unique role of crafting treaties.

The U.S. Senate is not immune to some of the problems and challenges of our society. Throughout the history of the Senate, Members have been cited and reprimanded for those flaws.

In this case, since December 1992, the Senate Ethics Committee has conducted a thorough investigation into accusations of misconduct against a Member of this institution.

Clearly, the Senators of this committee and their staff have not taken this case lightly.

Their analysis—released in mid-May—concluded that there exists ''substantial credible evidence'' that the Senator has engaged in clear misconduct over a period of 25 years. The committee then voted unanimously to proceed to the third and final investigative stage.

These are very difficult, very sensitive, and very disturbing allegations. For perhaps the first time since its creation 31 years ago, the Ethics Committee has had to investigate charges that are not simply numbers on paper. They

are not a series of accountant's slips or ledgers. It is about a tough subject—we all know that—and it is about never tolerating that kind of misconduct, no matter when it occurs, no matter who the perpetrator, no matter what the context.

But the real issue that has come before this Chamber is whether to continue this matter behind closed doors or to conclude this last—and most serious—phase of the investigation in full, public view by way of open hearings.

Some have claimed that this will embarrass us as an institution.

Embarrass us as an institution? It is by our lack of action, Mr. President, by our failure to hold open hearings and by our embrace of the institutional sanctuary of closed doors that we would embarrass this institution.

To do otherwise would threaten those bonds of trust and faith with the American people. Does this policy mean that, simply because the issue at hand is in the form of sexual misconduct, even less openness is in order? Does that mean that financial misconduct deserves open, public hearings, but sexual misconduct should be a closed door policy? I think not.

The point is, if we are ever to turn back the tide of sexual misconduct—which has taken years to even get into the realm of public debate and dialog—open hearings must be held in this and othe cases.

In words attributed to Lord Acton, this point is made: ''Everything secret degenerates, even the administration of justice; nothing is safe that does not show how it can bear discussion and publicity.''

These are thoughts to bear in mind as we make our decision on this amendment today.

Mr. President, this amendment takes the simple and honest step of shining light into the process of the U.S. Senate.

In the end, the issue at hand drives us to cross a new threshold for this revered institution. Its significance cannot be underestimated, not just in terms of fairness and justice, but in terms of what we are as an institution, and who we are as servants of the American people. It is my hope that we will make the right decision.

Thank you, and I yield the floor.

Mr. MCCONNELL. Mr. President, how much time do I have?

The PRESIDING OFFICER. Twenty-five minutes.

Mr. MCCONNELL. Mr. President, I yield such time as she may need to the distinguished Senator from Texas.

Mrs. HUTCHISON. I thank the chairman. Thank you, Mr. President.

Mr. President, the matter before us today is very serious and extremely important. It is not an issue for partisanship. It is an issue that demands of each of us our best judgment of what is right and wrong. What is right about this matter is that the Senate Ethics Committee has been scrupulous about investigating every charge and accusation lodged against the Senator from Oregon. It is unprecedented in Senate history that so much time and effort has been devoted to assembling the facts on such a matter.

What is wrong is that this amendment threatens to render null and void all that has been done to date. The Ethics Committee must be allowed to finish its work and make its recommendations. At that point the full Senate will be called upon to agree or disagree and act on the recommendation. The full Senate will be heard on this matter. The question is whether we will wait to hear the Ethics Committee decision as our rules require us to do.

If we are not going to wait for the Ethics Committee's full report and recommendations before acting, we might as well disband the committee completely and conduct all future proceedings on the floor of the Senate. I think that bypassing the committee and conducting public hearings at this critical moment in the Packwood case would be a terrible mistake.

If we open these hearings and overrule our bipartisan Ethics Committee today, we will set the precedent that its authority can be usurped at any time the majority intends to make political points or whatever motive the majority might have.

I have been asked how my position on this question pending before the Senate squares with my position regarding sexual harassment in the Navy. In the case of the Tailhook incident, the Navy conducted its investigation. I was asked if the investigations were adequate. In my judgment, they were not.

The case before us is very different. We have an investigation in process. No recommendation has yet been made. But some of our Members want to make a judgment on its adequacy before it is finished. And I think that is wrong; wrong for the Senate and wrong for the process we have established for ethics cases.

I believe we should not change the rules in the middle of the case. If we decide the rules should be changed, we should do so when and if we have acted on the Ethics Committee recommendation and judged it to be inadequate. I believe fair play to all concerned is to give our respect to the process and to wait for the Ethics Committee to act.

Thank you, Mr. President. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. MCCONNELL. If the Senator from South Carolina will use some of her time right now, I would appreciate it.

Mrs. BOXER. You mean the Senator from California, not the Senator from South Carolina. I do not know who you thought I was. But it is an interesting slip.

Mr. MCCONNELL. I say to my friend that I have no doubt in the world who she is.

[Laughter.]

Mrs. BOXER. I yield 3 minutes to my friend from North Dakota.

Mr. DORGAN. Mr. President, other members of the Ethics Committee have now all spoken on this floor on this issue, and it understates the case, it seems to me, to say that this is a difficult ethics case requiring tough, hard choices for everyone in the Senate. The ethics issues are difficult under any circumstances, especially difficult it seems to me in a political institution like the U.S. Senate. Our duties require us to confront not only what is convenient but rather what is necessary, and the duties of those of us on the Ethics Committee require us to with fairness judge the ethics complaints that are filed against Members of the U.S. Senate. I serve on that committee not by choice; I serve because I was asked, and there is no joy in that assignment.

In the committee process of the pending case, six of us who serve on that committee, three Republicans and three Democrats, were faced finally with the question of public hearings. I mention that the Senate Ethics Committee has six members. I want to say that I have enormous respect for every member of that committee. When confronted with the question of hearings, we voted. And the committee had a 3-to-3 vote on the question of whether to hold hearings. It takes four votes to advance and, therefore, the motion to hold hearings died.

Senator BOXER, exercising her rights as a Member, brings a resolution to the floor of the Senate calling for public hearings. She has asked the full Senate to express its will on a matter already voted on in the Ethics Committee and on which there was a tie vote. It is perfectly within her rights to do so. And I intend to vote for the resolution offered by Senator BOXER just as I voted for the resolution in the Ethics Committee.

So the will of the Senate will be expressed on this issue. One thing is clear. When the decision is made, men and women of good will, with a sense of purpose and fairness, must meet their responsibilities on the Ethics Committee and deal with the decisions in this case and bring our determination to the full Senate.

I want to say that I will not be critical of those who reach a different conclusion on the issue of public hearings. I respect their decision as well. But I will vote for public hearings as I did earlier this week in committee. It seems to me that when the Senate has expressed its will on this question—and it is an important question—whatever the Senate decides, however it turns out, we must as an Ethics Committee and as a Senate move to a conclusion on this case. We owe that to the U.S. Senate, and we owe it to the American people.

Mr. President, I yield whatever time is remaining to the Senator from California.

The PRESIDING OFFICER. Who yields time?

Mr. MCCONNELL. Mr. President, I yield to the distinguished Senator from Kansas whatever time she may use.

The PRESIDING OFFICER. The Senator from Kansas.

Mrs. KASSEBAUM. I thank the Senator from Kentucky.

Mr. President, I oppose the amendment offered by the Senator from California.

As a former member of the Ethics Committee, I certainly can sympathize with the comment Senator DORGAN made preceding my comments—that there is no joy in the process in serving on the Ethics Committee. But I also know the difficulties that are imposed in the process that this Ethics Committee has to undertake, and I am flatly and strongly opposed to any effort to inject the full Senate into the committee process in midstream, and at this point.

It saddens me that we have reached this point, Mr. President. It should be a cause of great concern to all of us on the floor of the U.S. Senate. I would feel this same way whether it was a Member on the other side of the aisle or a Member on this side of the aisle. We should not be debating the case at this point, but the process.

The Ethics Committee has one of the most difficult jobs in the Senate. It is never easy to sit in judgment of a colleague. But it is essential to the working of the Senate and to the public confidence in government that some of us take on that role.

I regret that the committee is now divided on how to proceed in this case. I have enormous respect for both the chairman, Senator MCCONNELL, and the vice chairman, Senator BRYAN. There is an honest difference of opinion with legitimate concerns on both sides. I believe it is a serious mistake to turn that honest disagreement into a partisan battle.

I do not believe that there is any effort for a coverup. I do not believe that it was designed to be done behind closed doors. And I really regret that we have reached this particular point.

The investigation of charges against Senator PACKWOOD has now been underway for 31 months. The committee has spent thousands of hours and interviewed hundreds of witnesses. It has conducted what may be the most thorough and exhaustive investigation in Senate history. Now we are at the end of this process, and the committee apparently is preparing to render its verdict, as it should.

Mr. President, I see no purpose in further delaying this matter by ordering the committee to conduct public hearings on this matter that could go on and on and on.

It is time to make a decision. That is the real question that the committee and the full Senate must address. Is Senator PACKWOOD guilty of the charges leveled against him? And, if so, what is the appropriate punishment? I believe we must answer that question in a fair and prompt manner. The committee should lay out all the evidence it has gathered, and then it should present its verdict to the Senate and the American people. We can then focus our energy not on committee procedures but on the committee product. Mr. President, that is the way it should be.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. McCONNELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. McCONNELL. If I could take a moment, I thank the distinguished Senator from Kansas for her remarks. As a former member of the Ethics Committee, I think she understands this process very well, and I am extremely grateful to her for expressing her view on this most important matter.

Mrs. BOXER addressed the Chair.

Mr. McCONNELL. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. I yield 2 minutes to the Senator from Nebraska, [Mr. KERREY].

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. I come to the floor to support this amendment. I must confess that at first I thought it was a terrible idea. I thought the Senate Ethics Committee ought to complete its work and then let us make a decision about whether the work was worthwhile. I was concerned that the rhetoric was getting partisan. I was concerned as well that Senator PACKWOOD could be tried in a court of public opinion as opposed to allowing the facts to determine guilt or innocence, and I believe the charges of sexual misconduct necessitate special protection for those bringing the charges.

I have listened very carefully and particularly to the arguments of the Senator from Nevada, [Mr. BRYAN], who has made five very compelling arguments. First, he observes that every case this century which resulted in a Senate proceeding first had a public hearing, and every case which reached the final, serious investigative stage had a public record. This is our unbroken precedent.

Second, the Senator from Nevada points out that a justifiable reason must be there for not holding public hearings in this case. Except that if the Senate does not want to hold public hearings because it deals with sexual misconduct, there is not one. Since none of the alleged victims are unwilling to endure cross-examination, our concern does not stand as an excuse.

Third, he makes a legal point that this is a case of first impression because, for the first time in Senate history, these are alleged victims, citizens who came forward and filed sworn charges against a U.S. Senator for actions against them.

Fourth, the Senator from Nevada points out that he is concerned that the credibility of the Senate itself to deal fairly and openly with the discipline of its Members would either be greatly enhanced or irreparably damaged.

Mr. President, he is unquestionably right. The integrity of the Senate is far more important than the risk of embarrassment to any Member.

Fifth, he believes that hearings would provide a valuable opportunity to evaluate the witnesses firsthand, not just read a written statement. This last point made me believe that Senator PACKWOOD——

Mrs. BOXER. Mr. President, if the Senator will yield, the Senate is not in order, and I think it is very important. This is a Senator who has changed his view on this matter. Perhaps other Senators ought to hear his reasoning.

The PRESIDING OFFICER. The Senator's time actually expired. If the Senator would like to yield more time.

Mrs. BOXER. I yield the Senator an additional 1 minute.

Mr. KERREY. Mr. President, this is a rather simple change and I think it is a very important change in our law governing all ethics cases including the one involving Senator PACKWOOD. The simplicity and brevity of this proposed law compels me to read it in full:

> The Select Committee on Ethics of the Senate shall hold hearings in any pending or future case in which the Select Committee, first, has found, after a review of allegations of wrongdoing by a Senator, that there is a substantial credible evidence which provides substantial cause to conclude that a violation within the jurisdiction of the Select Committee has occurred, and second, has undertaken an investigation of such allegations. The Select Committee may waive this requirement by an affirmative record vote of a majority of the members of the committee.

This proposal deserves the support of any who are concerned about the integrity of this institution, the Senate, as well as the integrity of one of our Members, Senator BOB PACKWOOD. One stands accused of misconduct by citizens. He has not been convicted and deserves to be treated as innocent until a judgment is rendered. The other will stand accused of impeding the chance for justice to be delivered if we vote no on this amendment.

Mr. President, H.L. Mencken said that ''Injustice is not so difficult to bear as it is made out by some to be; it is justice that is difficult to bear.''

Let us vote yes with this truth in mind.

The PRESIDING OFFICER. Who yields time?

Mrs. BOXER. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 2 minutes 4 seconds.

Mrs. BOXER. I yield the remainder of the time to the Senator from New Jersey [Mr. LAUTENBERG].

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. I thank the Senator from California for her willingness to give me just a couple minutes.

I first wish to commend her for bringing the issue to the point that we

have, where it is being discussed openly. And that ought to be the focus, because the public as well as the Senate has been working very hard on opening the process.

In the last 2 weeks we have had a couple of very serious votes on whether or not lobbyists have to be open in their dealings. We have openness questions on whether or not gifts are acceptable. We have tried to illuminate the process for the public. We all know that the public trust is no longer with us and they will not be with us if this process continues to be hidden, secretive.

Even though our friends on the other side of the aisle say that we ought not to interfere with the committee process, this is far above the committee process. This is a matter of human rights, of individual rights of a woman to work and to not be harassed during her job hours.

This is a question of whether or not someone has violated the basic rules of the Senate, and we should have an open hearing. I know that Senator PACKWOOD loves this institution. He has worked very hard on many good issues and has delivered positively on those issues. But we are not judging Senator PACKWOOD's past record. What we are making a judgment about is whether or not the public is entitled to know what is taking place. And in my view there is no doubt about it. The Senator from Connecticut, when he spoke, suggested that even for Senators it would be worthwhile to be able to gain the knowledge that would come as a result of a public hearing.

Mr. President, I think we are at a crossroads, and whether or not the hearings are secret or public will determine what the public thinks about Senator PACKWOOD's guilt. They will condemn him absolutely if the process continues to be hidden. And I hope that our Members will take heed for the good of the body to insist——

The PRESIDING OFFICER. The Senator's time has expired.

Mr. LAUTENBERG. That Senator BOXER's resolution goes through and that we have public hearings on this matter.

The PRESIDING OFFICER. Who yields time?

Mr. MCCONNELL. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 18 minutes.

Mr. MCCONNELL. Mr. President, in closing this debate, I wish to particularly thank Senator SMITH and Senator CRAIG, who have served with me on the Ethics Committee on our side of the aisle for these 2½ long years. I wish to say that they have approached this issue in every single instance with character, with integrity, with conviction and a sincere desire to produce the best possible result for the Senate and for the accused Senator.

To my colleagues on the other side of the aisle on the committee, until very recently, I think we had, indeed, succeeded in developing a bipartisan approach to this, and I regret deeply that this case has spilled over into the full Senate before it was over.

And that is what is before us today. Thirty-one years ago, Senator John Sherman Cooper, of Kentucky, some of the old-timers around here may remember, in the wake of the Bobby Baker case, felt that there ought to be a better way to handle misconduct charges against a sitting Senator. He felt we had to remove, if at all possible, these kinds of cases from the floor of the Senate where everything is partisan. And so he suggested we have a bipartisan Ethics Committee with not too many members, just six, three on each side of the aisle.

This approach, coupled with the requirement that there be four votes to do anything affirmatively, guaranteed—guaranteed—that the results of any case would have a bipartisan stamp. It has been said that the committee was deadlocked when it voted 3–3. It was not deadlocked. That was the decision. Because under the rules of the Ethics Committee, a 3–3 vote is not an affirmative act to proceed. So the decision on the issue of public hearings in the Packwood case has been made pursuant to the rules of the committee. So the Senator from California today would have us change the rules in the middle of the game—change the rules in the middle of the game.

I would say, Mr. President, not only is it a bad idea generally speaking to change the rules in the middle of the game, it is a bad rules change anyway. And beyond it being a bad rules change, what is happening here on the floor of the Senate today is exactly what Senator Cooper feared would happen if we did not create the Ethics Committee. And that is, have every one of these cases debated here in the most partisan forum imaginable, with the majority making the decision.

One of the astonishing things about this proceeding today is I think it can be totally persuasively argued that the principal beneficiary of the bipartisan Ethics Committee is whichever party happens to be in the minority in the Senate at a given time, and yet this proposal emanates from the minority side to bring a matter out of a bipartisan forum into a partisan forum for decision.

We will rue the day we go down this path. Just imagine campaign season. We are out here on the floor of the Senate introducing resolutions to condemn Senator so-and-so because the latest poll shows he is in trouble and our side may be able to pick up a seat. The temptation would be overwhelming. And so that is what this vote is about.

The reason for an Ethics Committee was that these cases would be investigated through the investigative phase without interference from the Senate. And it has never been interfered with in 31 years. At the end of the process the committee would take an affirmative action which would require at least four members, which would guarantee some bipartisan stamp. If the case was serious enough, bring it to the floor of the Senate, and at that point every Senator would have his or her opportunity to say whatever they felt appropriate about the work of the bipartisan committee. Criticize it, condemn it, applaud it, amend it, filibuster it, whatever. There is an opportunity, Mr. President, for any Senator to have his or her fair say about this when we get through.

So what we are experiencing today is the great fear that Senator Cooper had 31 years ago if we did not have an Ethics Committee. And yet here we are having this debate, slowing down the disposition of the case.

As I said earlier, candidly, it has all had an impact on the members of the committee. It has pulled us in opposite directions. It has tried to make us more political. And one of the things we are going to have to do, if the Boxer resolution is hopefully not approved, on the committee is to get ourselves back together again. Friendships have been strained. And we have got to get ourselves back together so we can finish this case.

Nobody's taken a bigger beating in the last 2½ weeks than I have. I am getting to wonder who the accused is in this case.

But I am proud to be chairman of the Ethics Committee because I believe in this process. I think it serves this institution well and I think it serves the public well. There is not going to be any coverup in this case. No coverup. Let us finish our work. We will release everything relevant to the decision. And if you do not like the penalty that we recommend, recommend another one. But do not start down this path. It is the beginning of the end of the ethics process, which has served this body well for 31 years.

So, Mr. President, I sincerely want to thank as well the Senators not on the committee on this side who came over and pitched in. Frankly, I thought I might be the only speaker. I did not have to ask anybody to come over. Senator SIMPSON was here. Senator BROWN was here. Senator KASSEBAUM was here. Senator GRASSLEY was here. And Senator HUTCHISON was here. And none of them on the committee. And this is the kind of thing your staff will whisper in your ear, ''Boy, you don't want to get near this one. Vote and leave.'' And yet they came over and spoke in opposition to this resolution, expressed their opinion that the resolution was a bad idea and that the Ethics Committee ought to be able to finish its work.

Mr. President, it is my understanding that the Democratic leader would like to use some leader time to speak. I do not see him on the floor at the moment. So how much time do I have remaining?

The PRESIDING OFFICER. Eight minutes.

Mr. MCCONNELL. I will for the moment reserve the balance of my time. I

may well choose not to use it, but I reserve the balance of my time.

I suggest the absence of a quorum and that the time in the quorum not be taken out of the 8 minutes remaining.

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

Mrs. BOXER. Mr. President, I have to object to that. Every time, when I tried earlier, and I had so many people waiting, I was unable to get additional time.

The PRESIDING OFFICER. The objection is heard. The objection is heard.

Mrs. BOXER. I am trying to resolve the matter. Perhaps my friend can——

The PRESIDING OFFICER. The objection has been heard, Senator.

The Senator from Kentucky.

Mrs. BOXER. I just reserve my right. I did not say ''object.'' I reserve my right to object. And I would ask my friend from Kentucky——

The PRESIDING OFFICER. The Senator from Kentucky has the floor.

Mr. McCONNELL. How much time do I have remaining?

The PRESIDING OFFICER. Seven minutes.

Mr. McCONNELL. I am more than happy to yield back the time and ask for the yeas and nays.

Both sides had 2 hours. I do not think it is in any way unfair for the time to be equal. If the Democratic leader would like to speak, it is my understanding the Republican leader would like to speak. Otherwise, we could——

Ms. MIKULSKI. Will the Senator from Kentucky yield for a point of clarification?

The Senator from Maryland wishes to inform him, the Democratic leader is coming.

The PRESIDING OFFICER. The Senator from Kentucky has the floor.

Mr. McCONNELL. Mr. President, I am not aware of any additional speakers on my side.

I gather the two leaders can speak with leader time?

The PRESIDING OFFICER. That is correct.

Mr. McCONNELL. Consequently, I yield back the balance of my time.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Mr. President, I support the amendment offered by the Senator from California. The amendment tracks many years of precedent in the Senate Ethics Committee by clarifying that all cases advancing to the substantial-credible-evidence stage should be the subject of public hearings. At the same time, it allows the Ethics Committee to waive those hearings by a simple majority vote.

I regret that some have chosen to suggest this is a partisan matter, for it is not. Furthermore, such statements distract us from the real issue of how the Ethics Committee and the Senate should pursue ethics complaints. I believe the Boxer amendment charts a course that is both warranted and appropriate.

The vice chairman of the Ethics Committee and several others have already outlined some of the facts that lead me to that conclusion:

First, under the precedent of the Senate and the Ethics Committee, in every major ethics case this century, public hearings have been held. In 1977, a three-tiered ethics process was adopted. Public hearings have been held in all four cases that reached the final investigative phase under this process.

Second, the amendment before us today would apply to all pending and future cases that reach the final investigative phase. We must, as the vice chairman of the committee has suggested, consider whether or not there is sufficient reason to stray from that clear precedent in any particular case, including the case currently before the committee. Three members of the Ethics Committee have argued that we should not make such an exception, though, again, I note that the Boxer amendment would allow a simple majority of the committee to do so.

The issue before us goes far beyond the specifics of any case. If the evidence in a case before the Ethics Committee has reached the final investigative phase, and if there is not sufficient reason to make an exception for that case, then it is appropriate for the committee to move forward with public hearings. I urge my colleagues to support the amendment.

Finally, I want to commend the Senator from California, Senator BOXER, for offering this amendment. I also want to commend my other colleagues on the Ethics Committee. We all know theirs is a thankless job, yet they deserve all Senators' thanks.

Mr. DOLE. How much time remains?

The PRESIDING OFFICER. No time is left. This will be yielded from leader time.

Mr. DOLE. How much?

The PRESIDING OFFICER. There are 5 minutes left.

Mrs. BOXER. I am sorry, Mr. President, how much time do I have?

The PRESIDING OFFICER. Five minutes left.

Mrs. BOXER. Mr. President, I yield 2 minutes to the Senator from Nevada.

Mr. BRYAN. Mr. President, I thank the distinguished Senator in California.

My colleagues have spoken on both sides of this issue with eloquence and passion. For me, the central issue that we are debating today is the simple proposition of shall there be public hearings. A vote for the Boxer amendment commits this Senate to public hearings; a vote for the amendment of the distinguished chairman of the Ethics Committee votes not to have public hearings.

There has been much comment made about this somehow disrupting the process, or that it portends that in the future the minority may be placed at some disadvantage.

What this is all about, as far as I am concerned, is that in every case, whether a Member of the majority or the minority in which there is an ethical matter of this magnitude brought to the attention of the committee, there ought to be public hearings.

It has been said that precedent will be violated, 31 years of precedent will be violated if, indeed, the amendment is offered and approved. That is true, but if we fail to support the amendment of the Senator from California, the Senate abandons nearly a century of precedent, a precedent which has said that in every case of a major ethics violation, public hearings have been held. If my colleagues have any question about that, simply call the ethics office, and they will tell you the same thing that they have told each and every one of us.

I conclude, Mr. President, where I began, and that is: Why should this case be different? I am unable to reach a conclusion as to why this should be different. We have another precedent, and that is for the first time we have victims who seek to come forward and to present their testimony before the members of the committee. I think that we ought to reflect for a moment on what kind of a process we support——

The PRESIDING OFFICER. The Chair informs the Senator his 2 minutes have expired.

Mrs. BOXER. I thank my friend. I yield 1 minute to the Senator from Maryland.

Ms. MIKULSKI. Mr. President, I want to make clear that at no time during this debate or at any time during my membership on the Ethics Committee have I been critical of the other members of the Ethics Committee or of its current chairman. I believe that the Ethics Committee has conducted itself with honor, meticulousness, and really pursued due diligence.

We have an honest disagreement on the issue of public hearings. There is something special about the U.S. Senate. The world views us as the greatest deliberative body. The rules guarantee full and complete opportunity for all concerned parties to speak. We have great pride in the way we protect the rights of the minority.

It is that history and tradition that I believe that calls us now, as we get ready to vote, to honor the precedent of public hearings, for cross-examination of witnesses, to resolve discrepancies in testimony, to have a fair format——

The PRESIDING OFFICER. The Chair informs the Senator the 1 minute has expired.

Ms. MIKULSKI. A vote here is the right thing to do. It is the senatorial thing to do. It is the American thing to do.

The PRESIDING OFFICER. The Senator from California has the floor.

Mrs. BOXER. Mr. President, I thank my friends. I say to my colleagues on both sides that my amendment is very respectful of the Ethics Committee but is also respectful of the full Senate and

the victims in this case. It is very respectful to the American people who want us to open the doors, very clearly.

The Ethics Committee chairman says the committee has not deadlocked. Only in the U.S. Senate would you say a 3 to 3 vote resulting in no action is not a deadlock. Clearly, the committee has deadlocked for the first time in its history.

The Boxer amendment says you need a majority vote to close hearings. I think that is very reasonable and no Senator—no Senator—from either party should fear a majority vote.

We have had 18 Senators speak in behalf of my amendment, including one Republican. I am a very proud Senator, as I stand here today, because when I started this, many colleagues told me that nobody cares about this but the Senator from California, and that never was true.

Why do we care? Because we love this place, and we want it to work right. I read the Constitution, and article I, section 5 says each and every one of us has a responsibility to make sure we police ourselves and do it in the right way.

The Senator from Kentucky has stated that I am turning precedents on its head. Nothing could be further from the truth. If you vote for the Boxer amendment, you vote to continue public hearings. We have heard it from the vice chairman of the committee; we have heard it from Senator MIKULSKI. These are valued Members of this body. I know they are well respected. It is not just a Senator who is not on the Ethics Committee calling for public hearings.

Then we hear we have the documents. Is that not wonderful, let us just have the paper. I want to ask you, does a piece of paper talk to you about the humiliation? Does a piece of paper come alive? I say not.

Finally, Mr. President, I note with regret that during debate on this amendment, several Senators made reference to my record on ethics matters as when I served as a Member of the House of Representatives. Unfortunately, their statements mis-characterized my record. I wish to take this opportunity to clarify the record.

Specifically, the Senator from Colorado, Senator BROWN, stated that I repeatedly voted against public hearings in ethics matters. In fact, the opposite is true. In 1989, I supported a comprehensive ethics reform bill that greatly improved House ethics procedures. As a result of that bill, rules were promulgated requiring public hearings in the final stage of ethics cases. The Senator from Colorado opposed that bill.

Also, in cases of sexual misconduct to reach the House floor, I voted twice to increase sanctions against individual Members. In those cases, one of the accused Representatives was a Democrat and one was a Republican. Senator BROWN, then my colleague in the House, voted for increased sanctions for the Democrat, but not the Republican.

The PRESIDING OFFICER. The Senator's time has expired.

Mrs. BOXER. Do not vote in favor of paper, vote in favor of people and support the Boxer amendment.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Mr. President, I have not had an opportunity to hear the debate. I know every second has been used. To many this is a very important matter and certainly the charges leveled against the Senator from Oregon are serious ones. There is no place for sexual harassment or any other form of sexual misconduct in the United States, in the U.S. Senate. That is point one.

Equally as important is point two. We do have an Ethics Committee. We may not have another one again. Maybe this is the end of the Ethics Committee. Maybe it should be. If they do not have any standing, if they do not have any credibility, if they are not supported by the bipartisan leadership, I am not certain what function they can perform in the future.

It is supposed to be a bipartisan committee. That is why it is 3 to 3, to avoid all the things we are doing right now. That is the reason it was implemented in this way, structured in this way, so we avoid a circus on the floor if somebody felt so inclined.

So we have a procedure that has worked, as I understand, fairly well for 31 years. I think it ought to be followed today. We have had 2½ years of investigation in this case—2½ years—against Senator PACKWOOD. As a part of this investigation, the Ethics Committee has interviewed 264 witnesses, taken 111 sworn depositions, issued 44 subpoenas, read 16,000 pages of documents and spent 1,000 hours in meetings just on this case alone.

It is now my understanding, at least, that the Ethics Committee is preparing relevant information, the most detailed public submission ever made by the committee in any case. As it does in other cases, the Ethics Committee will also recommend an appropriate sanction. And before the Senate votes on this sanction, the committee will provide a full and complete record of all relevant evidence, and this record will be made available to the public.

So I believe the American people, as they should, will have a right to know. The American people will know; they will have an opportunity to review the record, blemishes and all. It just seems to me, as someone not on the Ethics Committee—and, believe me, it is not easy to ask your colleagues to serve on that committee; it is going to be even more difficult from this day forward, I assume, unless you want to make it just a partisan committee, and then maybe we ought to change the numbers. But I guess the real question is whether or not we are going to allow the Ethics Committee to do its work without second-guessing on the floor of the Senate.

The Ethics Committee should not be a political football. We have a process and that process should be followed. It has been followed in numerous cases in the past. If we want to change the rules and change the process, I assume we will do it as we normally do, prospectively, in future cases, and not in the middle of a case.

I can imagine what would happen if this case were on the other side of the aisle. The Senator from California would not be on her feet. There were several cases in the House, as I understand it, and there was not a word uttered by the Senator from California, who was then in the House. But this is different.

I have confidence in the Ethics Committee. We are out here in the middle of a case—actually, at the end of this case, because I understand the committee would like to act. Now, if we do not believe in the integrity of the Ethics Committee, why do we not abolish it? We can turn it over to the Senator from California to be in charge of everybody's ethics in the Senate, or to someone else who does not agree with the Ethics Committee.

We do not agree with a lot of things that happen in committees around here, but I am not certain we challenge every committee when we have a disagreement and bring it to the floor and demand a public hearing on our issue because we did not prevail in any other committee.

This is the Ethics Committee. I can tell you, as the leader, that it is extremely difficult to ask your colleagues to serve on this committee. It is going to be more difficult if this becomes a transparent effort to score partisan political points either in this case or the next case. Maybe the next time it will be on this side and we will want to score the partisan political points. Things that go around come around here, or whatever it is. I hope that is not the case.

If I felt for a moment that there were Republicans on the Ethics Committee—not in this case—who were not men of integrity, I would say move right ahead. I think their integrity probably matches that of those on the other side. I think they are all men and women of integrity on the Ethics Committee.

So I hope my colleagues will defeat the amendment offered by the Senator from California and then adopt the amendment offered by the Senator from Kentucky.

Let the committee proceed. This may be good media, but it is bad policy. The press loves this. They have been flocking in all day long. They like it. Going after a Member really whets their appetites, whether it is this case or any other case. It is a great way to get big headlines and make the nightly news.

But what does it do for the integrity of the Ethics Committee to score a few political points at the expense of the

institution? If anybody can show me that Senator MCCONNELL or Senator CRAIG or Senator SMITH have, in some way, violated their oaths and violated their obligations as members of the Ethics Committee, or anybody else in this Chamber, then I would say, OK, let us proceed, because they have let us down. If anybody, including the Senator from California, can find one scintilla of evidence that somehow the Republican members prejudged or overlooked whatever they overlooked, whatever the charge might be, then that is one thing.

So I hope I will be standing here the next time when it may be reversed, and I will be making the same speech, not a different one. I will be saying, maybe the next time, wait a minute, we have an Ethics Committee—we may or may not have an Ethics Committee, who knows. But if we have an Ethics Committee, and if it is evenly balanced with Democrats and Republicans, then let us wait until we hear what the decision is.

So for all the reasons I can think of—and I know it is, again, good theater, but sometimes we have to look beyond the theater in this body. This is a proud institution and, in my view, I think we can properly oversee and provide appropriate remedies for misconduct by anybody in this Chamber, Republican or Democrat, and I trust that is the way it will be in the future.

Mr. President, the charges that have been leveled against my colleague from Oregon are very serious ones. There is no place for sexual harassment or any other form of sexual misconduct in the United States or in the U.S. Senate. That is point 1.

Point 2 is that the Ethics Committee has established procedures for investigating charges of misconduct against Members of the Senate. These procedures have worked in the past, an they should be followed today.

During the past 2½ years, the Ethics Committee has been diligently investigating the charges against Senator PACKWOOD. As part of this investigation, the Ethics Committee has interviewed 264 witnesses, taken 111 sworn depositions, issued 44 subpoenas, read 16,000 pages of documents, and spent 1,000 hours in meetings just on this case alone.

It is my understanding that the Ethics Committee is now preparing the largest, most detailed public submission every made by the committee in any case.

As it does in other cases, the Ethics Committee will also recommend an appropriate sanction. And before the Senate votes on this sanction, the committee will provide a full and complete record of all relevant evidence in this case. This record will be made available to the public.

So, this debate is not about the American people's right to know, as some of my colleagues on the other side of the aisle have claimed. The American people will know. They will have an opportunity to review the record—blemishes and all.

The real question here is whether we will allow the Ethics Committee to do its work, without second-guessing from the floor of the Senate. The Ethics Committee should not be a political football. We have a process, and that process should be followed as it has been followed in numerous cases in the past.

If we want to change the rules, change the process, then we should do so prospectively, in future cases, not in the middle of this case or any other case, and certainly not as part of a transparent effort to score partisan political points.

Mr. MCCONNELL. Mr. President, have the yeas and nays been ordered?

The PRESIDING OFFICER. No.

Mr. DOLE. Mr. President, I ask for the yeas and nays on both amendments.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

VOTE ON AMENDMENT NO. 2079

The PRESIDING OFFICER. The question is on agreeing to amendment No. 2079 by the Senator from California.

The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

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

The result was announced—yeas 48, nays 52, as follows:

[Rollcall Vote No. 352 Leg.]

YEAS—48

Akaka	Feingold	Levin
Baucus	Feinstein	Lieberman
Biden	Ford	Mikulski
Bingaman	Glenn	Moseley-Braun
Boxer	Graham	Murray
Bradley	Harkin	Nunn
Breaux	Heflin	Pell
Bryan	Hollings	Pryor
Bumpers	Inouye	Reid
Byrd	Johnston	Robb
Cohen	Kennedy	Rockefeller
Conrad	Kerrey	Sarbanes
Daschle	Kerry	Simon
Dodd	Kohl	Snowe
Dorgan	Lautenberg	Specter
Exon	Leahy	Wellstone

NAYS—52

Abraham	Gorton	McConnell
Ashcroft	Gramm	Moynihan
Bennett	Grams	Murkowski
Bond	Grassley	Nickles
Brown	Gregg	Packwood
Burns	Hatch	Pressler
Campbell	Hatfield	Roth
Chafee	Helms	Santorum
Coats	Hutchison	Shelby
Cochran	Inhofe	Simpson
Coverdell	Jeffords	Smith
Craig	Kassebaum	Stevens
D'Amato	Kempthorne	Thomas
DeWine	Kyl	Thompson
Dole	Lott	Thurmond
Domenici	Lugar	Warner
Faircloth	Mack	
Frist	McCain	

So, the amendment (No. 2079) was rejected.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendment was rejected.

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

The motion to lay on the table was agreed to.

VOTE ON AMENDMENT NO. 2080

The PRESIDING OFFICER (Mr. GORTON). The question is on agreeing to the amendment of the Senator from Kentucky [Mr. MCCONNELL].

Mr. DOLE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of Senator from Kentucky. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 62, nays 38, as follows:

[Rollcall Vote No. 353 Leg.]

YEAS—62

Abraham	Frist	McCain
Ashcroft	Gorton	McConnell
Bennett	Gramm	Moynihan
Bond	Grams	Murkowski
Breaux	Gregg	Nickles
Brown	Hatch	Nunn
Bumpers	Hatfield	Packwood
Burns	Heflin	Pell
Campbell	Helms	Pressler
Chafee	Hutchison	Pryor
Coats	Inhofe	Roth
Cochran	Inouye	Santorum
Conrad	Jeffords	Shelby
Coverdell	Johnston	Simpson
Craig	Kassebaum	Smith
D'Amato	Kempthorne	Stevens
DeWine	Kerrey	Thomas
Dole	Kyl	Thompson
Domenici	Lott	Thurmond
Dorgan	Lugar	Warner
Faircloth	Mack	

NAYS—38

Akaka	Feinstein	Lieberman
Baucus	Ford	Mikulski
Biden	Glenn	Moseley-Braun
Bingaman	Graham	Murray
Boxer	Grassley	Reid
Bradley	Harkin	Robb
Bryan	Hollings	Rockefeller
Byrd	Kennedy	Sarbanes
Cohen	Kerry	Simon
Daschle	Kohl	Snowe
Dodd	Lautenberg	Specter
Exon	Leahy	Wellstone
Feingold	Levin	

So, the amendment (No. 2080) was agreed to.

Mr. DOLE. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. What is the pending business?

The PRESIDING OFFICER. Under the previous order, the Senator from Wisconsin [Mr. FEINGOLD] is to be recognized.

Mr. DOLE. If he would yield for a moment.

I have talked to the managers of the bill. I think it is their intent to stay here late this evening. And I understand they are going to take the

amendment of the Senator from Wisconsin and take an amendment from the Senator from Iowa. But we need to find other amendments. And we have had a five-hour delay here, rain delay, that is not the fault of the managers. So we have lost five hours. So they would like to make up some of that time tonight.

If we cannot find any amendments, we need, in fairness, to let our colleagues know. If we cannot find amendments, we need to have our colleagues know whether we can have a roll call, and at what time. So maybe the managers can take a quick check and let the leaders know, so we can advise our forces.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Mr. President, I urge Democratic Senators to come to the floor. We have a whole series of amendments that ought to be debated. This is prime time and a very important opportunity. I hope we will not let it go to waste. There are Senators who have expressed their interest in amending this bill, and they ought to come to the floor to offer these amendments.

I urge Cloakrooms to encourage Senators to come to the floor at their earliest convenience.

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. BYRD. Mr. President, will the distinguished Senator yield to me without losing his right to the floor?

Mr. FEINGOLD. I yield to the Senator from West Virginia.

CONGRATULATIONS TO DARIUS JAMES FATEMI, Ph.D.

Mr. BYRD. Mr. President, Plato thanked the gods for having been born a man and for having been born a Greek and for having been born during the age of Sophocles. I thank the benign hand of destiny for allowing me to live to see one of my grandsons become a Ph.D. in physics.

On yesterday, Darius James Fatemi was given his Ph.D. in physics. Seneca is reported to have said that a good mind possesses a kingdom. Disraeli said, upon the education of our youth, the fate of the country depends. Emerson said that the true test of civilization is not the census nor the size of cities nor the crops—no, but the kind of man the country turns out.

You can imagine, those of you who are grandparents, and those of you who may not yet be grandparents, the pride which I share with my wife, Erma, in feeling that we have, indeed, contributed to this great country a new physicist, a doctor of physics.

Darius was named after Darius the Great, who became King of Persia upon the neigh of a horse. Darius James Fatemi did not get his doctorate by the neigh of a horse.

We are grateful that the good Lord has blessed us with wonderful grandchildren, and this is the first Ph.D. in our line. I suppose if we all look back far enough, may I say to the distinguished majority leader and to my colleagues, we would find somewhere in our ancestry a slave—the Greeks, the Persians, the Romans, other peoples of antiquity owned slaves. And so we may have an ancestor who was a slave. At the same time, we may have an ancestor who was a king. But as far as I know, this is the first Ph.D. in my line, and I thank the good Lord for that.

I thank all Senators for listening.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1996

The Senate continued with the consideration of the bill.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin holds the floor.

Mr. REID. Mr. President, I ask my friend from Wisconsin to withhold.

Mr. FEINGOLD. I yield without losing my right to the floor.

PRIVILEGE OF THE FLOOR

Mr. REID. Mr. President, I ask unanimous consent that Debbie Allen, a congressional fellow assigned to my office, be assigned privilege of the floor during pendency of the legislation now before the Senate.

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

The Senator from Wisconsin is recognized.

AMENDMENT NO. 2082

(Purpose: Sense-of-the-Senate resolution regarding Federal spending)

Mr. FEINGOLD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Wisconsin [Mr. FEINGOLD] proposes an amendment numbered 2082.

Mr. FEINGOLD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place in the bill, insert the following:

SEC. . SENSE OF THE SENATE REGARDING FEDERAL SPENDING.

It is the sense of the Senate that in pursuit of a balanced federal budget, Congress should exercise fiscal restraint, particularly in authorizing spending not requested by the Executive and in proposing new programs.

Mr. THURMOND. Mr. President, will the Senator yield for 10 seconds to get some people on the floor?

Mr. FEINGOLD. Yes, I yield.

PRIVILEGE OF THE FLOOR

Mr. THURMOND. Mr. President, I ask unanimous consent that Jack Kennedy and Floyd DesChamps, who are currently serving fellowship assignments on Senator MCCAIN's staff, be granted the privilege of the floor during the Senate's consideration of S. 1026, the fiscal year 1996 national defense authorization bill.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, this is a simple sense-of-the-Senate amendment stating that Congress should exercise self-restraint in authorizing and appropriating funds for all Federal spending, including defense spending, especially in cases where the spending has not been requested by the applicable agency in the first place or is not directly related to national security needs.

I will just speak very briefly, because I understand the managers intend to accept this, but I do want to make a brief point about it.

I think every Member of this body is aware of the problem this sense-of-the Senate is intended to address. Congress passed a budget resolution a short time ago that called for increased defense spending over the next few years of more than $58 million. We ought to understand that just because there is room in the budget resolution to spend that extra money, it does not mean that Congress has to or is forced to spend it on projects that are either unnecessary or not directly related to national security interests.

In recent weeks, the reports, Mr. President, have been increasing. Media reports have documented what they have called a business-as-usual attitude in Washington, DC, as many of these so-called reformers have gotten in line not to decrease but to add defense spending for weapons systems that our military people have not even asked for. Why? Because the weapons systems are built in their districts or their home States. That is the simple answer.

Mr. President, I ask unanimous consent that an article from the Monday, July 31, Washington Post, entitled ''Extra Pentagon Funds Benefit Senators' States,'' be printed in the RECORD.

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

[From the Washington Post, July 31, 1995]

EXTRA PENTAGON FUNDS BENEFIT SENATORS' STATES

(By Dana Priest)

While Republicans talk about a revolution in the way government spends taxpayer money, in at least one area, according to a new study, the GOP is now the keeper of a decades-old bipartisan tradition: funneling Defense Department dollars to businesses back home.

Of the $5 billion in weapons spending that the Senate Armed Services Committee added on to President Clinton's budget request, 81 percent would go to states represented by senators who sit on the committee or on the Appropriations defense subcommittee.

This includes $1.4 billion for an amphibious assault ship built by Ingalls Shipbuilding, a huge employer in Sen. Trent Lott's state of Mississippi and partial funding of $650 million for two Aegis destroyers built by Ingalls and Bath Iron Works in Sen. William S. Cohen's state of Maine. Republicans Lott