

between Senators BENNETT and LEAHY, with Senator BYRD in control of 10 minutes of the Leahy time. I finally ask consent that at 11:30, Senate Joint Resolution 22 be read a third time and the Senate proceed to a vote on passage of that resolution and immediately following that vote the Leahy resolution be read a third time, and the Senate then proceed to a vote on or in relation to Senate Joint Resolution 23, the Leahy resolution. I also ask unanimous consent that there be 2 minutes of debate equally divided in the usual form between those two votes.

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

PROGRAM

Mr. LOTT. For the information of all Senators, on Wednesday, following the hour of closing remarks, the Senate will vote on Senate Joint Resolution 22, the independent counsel resolution. Following that vote the Senate will vote on or in relation to Senate Joint Resolution 23, Senator LEAHY's resolution. Therefore, Senators can expect two consecutive rollcall votes beginning at 11:30 a.m. tomorrow. It is also possible that on Wednesday the Senate will consider a resolution relating to disapproving the decertification, or certification, of Mexico. Additional votes are, therefore, possible following the stacked votes that occur at 11:30. We are also still working to get a time agreement with regard to the nomination of Merrick Garland for the District Court of Appeals. That could come on Wednesday or Thursday of this week. And, of course, the Senate may also consider any other legislative or executive items that can be cleared.

ORDER FOR ADJOURNMENT

Mr. LOTT. If there is no further business to come before the Senate, I now ask the Senate stand in adjournment under the previous order, following the remarks of the distinguished Democratic leader, Senator DASCHLE.

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

Mr. LOTT. I yield the floor.

The PRESIDING OFFICER. The Democratic leader.

THE NOMINATION OF ANTHONY LAKE

Mr. DASCHLE. Mr. President, I ask unanimous consent that the letter submitted by Anthony Lake to the President involving his nomination to be Director of Central Intelligence be printed in the CONGRESSIONAL RECORD at this time.

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

THE WHITE HOUSE,
Washington, March 17, 1997.

The PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: I am writing to ask that you withdraw my nomination to be Director of Central Intelligence.

I do so not because of concern that the nomination would be defeated if it ever came to a vote. In fact, there are sufficient votes for confirmation—in both the Select Committee and the Senate.

And not because of concern about further personal attacks. That gauntlet has been run. Every question has been answered.

I do so because I have regretfully concluded that it is the right thing to do.

While we have made great progress in the nomination process over the past month and during last week's hearings, I have learned over the weekend that the process is once again faced by endless delay. It is a political football in a game with constantly moving goal posts.

After more than three months, I have finally lost patience, and the endless delays are hurting the CIA and NSC staff in ways I can no longer tolerate.

I am told that the Chairman of the committee, having now reviewed the positive FBI materials underlying the report on my background investigation, may want other members of the committee to read them. I had doubts about the precedent we have already set in allowing him and the Vice Chairman such access. To bend principle further would even more discourage future nominees to this or other senior positions from entering public service.

I am also told that his committee staff will again insist that NSC staff meet with the committee on terms that White House Counsel will find unacceptable, leading to a further stalemate on that issue as well.

In addition, the story today about the activities of Mr. Roger Tamraz is likely to lead to further delay as an investigation proceeds.

All of this means a nomination process that has no end in sight. We have been proceeding on the assumption that there would be a vote this week. It now seems certain the committee deliberations will extend past the recess until after Easter, and probably longer. In addition, even after the nomination receives a vote in committee, whenever that might be, there is no prospect for a near-term vote on the floor and every chance it will be extended as long as your political opponents can do so.

I have gone through the past three months and more with patience and, I hope, dignity. But I have lost the former and could lose the latter as this political circus continues indefinitely. As Senator Richard Lugar, perhaps the most respected member of the Senate, has said with regard to my nomination and its treatment, "The whole confirmation process has become more and more outrageous." It is nasty and brutish without being short.

If this were a game, I would persist until we won. My colleagues tell me to stay the course, lest I be perceived the loser or scared of a further fight. I'm not.

But this is not a game. And this process is not primarily about me. It is about the future of the Central Intelligence Agency. The Agency, once again, is becoming politicized. The longer this goes on, the worse the damage. The controversy and its effects could linger on after my confirmation. The men and women of the CIA deserve better than this.

The process is also impugning, through a new form of guilt by association, the names of NSC staff members who have done nothing

wrong. So long as my nomination is mired in partisan politics their reputations will be, as well. It is ironic that the staff, which in every case took the right positions in keeping national security decisions and domestic politics separate, as I had encouraged them to do, is now the staff bearing the brunt of criticism because it didn't go beyond its own responsibilities to manage others' business as well. This is a staff that was doing its job properly. There was never any disguise of wrong-doing; they were consistently doing right in the advice they offered, while concentrating on the large daily agenda of important national security issues before us. I am very proud of our work on these issues and very proud of our staff members.

In unprecedented fashion the nomination is also politicizing the Senate committee.

And I have noticed that, in numerous ways, it is poisoning the attitude of members of the Agency towards the committee.

Most of all, the way this process has been conducted would make it difficult for me to work with the committee in the ways that a Director of Central Intelligence must do—and as I had hoped to do.

I am deeply grateful to you for your strong support, for your encouragement over these difficult months, and—most of all—for the opportunity to serve over the past four years. I am very proud of your foreign policy record and of whatever contributions I made to it.

I have greatly appreciated the support of Senators McCain, Lugar, Lieberman, Kerrey, Kerry, Kennedy and many others, like John Deutch. I have been moved by the principled position of a large number of Republicans like John McCain, Warren Rudman, Richard Lugar, Robert Gates and Peter King. And I am especially grateful to the volunteers from the NSC who have put so much into this, as well as officials of the CIA. I am sorry that their efforts were not better rewarded.

I have believed all my life in public service. I still do. But Washington has gone haywire.

I hope that, sooner rather than later, people of all political views beyond our city limits will demand that Washington give priority to policy over partisanship, to governing over "gotcha." It is time that senior officials have more time to concentrate on dealing with very real foreign challenges rather than with the domestic wounds that Washington is inflicting on itself.

This is a very difficult decision. I was excited about this new opportunity to serve. I had developed firm ideas on how to bring further reform to the Agency and had no doubt about my capacity to implement them. I was ready to devote four years to a tough new challenge. I truly regret that I will not have the opportunity to seize it.

Sincerely,

ANTHONY LAKE.

Mr. DASCHLE. Mr. President, I do so simply to comment on the very unfortunate set of circumstances that led to the decision by Mr. Lake to submit this letter.

I have had the opportunity to work with Tony Lake now for some time; first, as a Senator; and, second, as leader. I must say that I do not know that I have ever met anybody more decent, more committed, more dedicated to public service than is Tony Lake. Our Nation owes him a big debt of gratitude for his contributions, and a great level of appreciation for the many ways in which he has already served his country. I only hope that he will continue to choose to do so in spite of these extraordinary circumstances.

Mr. Lake was asked to be the Director of Central Intelligence by the President of the United States. It has been the prerogative of the President to name people within his administration, going all the way back to George Washington. Of course, there are times when the Senate in its role as a body to serve with advise and consent that it has disagreed with the President about a particular nomination, or about a particular member of a given administration. But I must say in all of history I challenge somebody to come up with more flimsy evidence with which to destroy the character of a candidate for public office appointed by the President as grievously as what I see has happened to Tony Lake in the last several months.

Mr. Lake was not even given the opportunity to be voted on, never presented an opportunity for a vote in the committee, never presented with an opportunity to be voted on on the floor.

I was asked this morning if this is some retribution for John Tower, or Robert Bork. My answer was that I hope our Republican colleagues are not that cynical. I hope there is some other motivation for doing to Tony Lake what they did over the last couple of months. It is very unfortunate. And it is sad, Mr. President. A man of his integrity, his character, was treated so shabbily by the committee that is supposed to be as devoid of politics as any in this institution. I think they owe him an apology. At least they owed him a vote.

Under these circumstances, I think he made the right decision. But I am deeply troubled. I am troubled by the way it was handled. I am troubled by the insinuations and allegations all printed on the front page of every newspaper as fact. I am troubled by his inability to be given the opportunity to defend himself adequately against this never-ending list of additional allegations and questions going over old material time and time again almost as if it was an inquisition.

So, Mr. President, it is a sad day for this body. It is a sad day for the Intelligence Committee. And it certainly is a sad occasion for those seeking to serve our country in the capacity and the level as Director of Central Intelligence.

I don't know what recommendation I would give to some other candidate who now may consider this particular position. What advice do you give someone who puts himself forward knowing full well that there will be raw FBI data available to Members, and, if the chairman of the committee had his way, to all Members? What do you tell someone who has laid himself out? What do you tell the next person who is expected not to subject himself or herself to the same set of circumstances?

Mr. President, this institution needs to restore civility, needs to come up with a way with which to take the meanness out of our process, whether

it is a legislative issue or a nomination. Civility has to be brought back into this process. I hope we will start soon.

INDEPENDENT COUNSEL

Mr. DASCHLE. Mr. President, I don't know that I will have an opportunity tomorrow morning to discuss another matter, and I want to do so just briefly.

We will have the opportunity to vote, as the distinguished majority leader has indicated, on two resolutions tomorrow. My colleagues have done a good job of explaining what the circumstances are. But I hope everyone who will watch the debate tomorrow will try to understand the circumstances involving the two resolutions and what this issue is all about.

There are four factors here that I want to briefly mention.

The first factor is the timeliness of this resolution. I am deeply disturbed that on the very day that the President found himself on the operating table, our colleagues chose to file a resolution demanding that there be an independent counsel investigating the President. Moreover, on the very day the President leaves for Helsinki to begin negotiating extraordinarily important matters with heads of state, this body has chosen to vote on the independent counsel resolution. Taste and timeliness were certainly not factors in making the decision to bring about the resolutions under these circumstances.

The second issue involves necessity. Certainly necessity wasn't a matter of concern here either. In accordance with the law, the Judiciary Committee may send a letter to the Attorney General. In good faith I think both sides worked to try to find a mutually acceptable letter, and that was impossible. So, as I understand it, three letters were actually sent. But that started the process under law. That is what is required. But that wasn't good enough for some of our colleagues. For whatever reason, our colleagues then chose to say, "Well, in addition to the legal requirements, we are now going to do something extralegal. We are going to do something that was actually criticized on this floor when the independent counsel legislation was debated."

We considered whether we ought to have a debate on the floor about requiring or asking for an independent counsel. And the decision was made on a bipartisan basis. In fact, Senator Dole was very involved at that point in this debate, and the agreement was that having Congress vote on the need for an independent counsel for a particular investigation would politicize the process.

So, for that reason, we agreed that it should not be a function of the Senate floor, but that it ought to be a legal process confined to the Judiciary Committee. That is the way the law was passed.

Yet, what do we do now? What do we find ourselves faced with? Not just a resolution calling for the Attorney General to consider under the law the available evidence; the Republican resolution goes even beyond that. It says, first of all, that the Judiciary Committee letter is not adequate, and, second, that we are going to use a resolution to dictate to the Attorney General that she ought to appoint an independent counsel—in total violation of the intent and the spirit of the law we passed just a few years ago. So the intent, Mr. President, is questionable to say the least.

The third issue is scope. We had a good debate about scope last week, and it became clear that a significant majority of the Members on both sides of the aisle said if anything is going to be investigated, then we better investigate everything. And that, indeed, is what is called for in the independent counsel law, which includes the alleged misdeeds of senior executive branch officials and Members of Congress.

Curiously, once more, the Republican resolution, just as it did last week initially, specifically limits the scope of the requested investigation to the President. Our resolution calls for a review of all of the reported improprieties to determine the severity of the problem. Our resolution calls for the scope to be as broad as the one that was set out in the Governmental Affairs resolution last week and adopted in the Senate by a vote of 99 to 0.

So we will have an opportunity tomorrow to vote on scope, to vote on whether or not we limit the independent counsel's investigation just to Presidential activity or whether—in the name of fairness, balance, and the real intent of the law—everything is on the table. To vote no on the Democratic resolution is to say, "No, we do not want an independent counsel to look at Congress." So scope is a very critical issue, and that will be the subject of a good deal of debate and scrutiny as we go forth in the coming weeks.

Finally, there is the question of whether or not it ought to be our purpose to dictate at all what direction the Attorney General should take. How is it that we put ourselves in a position to say we know better than she does the circumstances that might dictate the appointment of yet another special prosecutor? She has 25 FBI agents and a grand jury investigating all of this. She is reviewing the matters, I am sure, on a daily basis. What do we have? So far, we only have newspaper reports and the reports on all of the nightly networks. It is on that basis that some of our colleagues have already concluded an independent counsel is warranted.

It is arrogant in the least to say we know better than the Attorney General on this issue and to dictate to her that she should appoint a special prosecutor in spite of whatever facts she may have available to her today.