

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.

So, Mr. President, with regard to all four of these questions, I hope our colleagues will take great care as they vote tomorrow morning.

There is one other procedural matter unrelated to substance that I think is also curious. The resolution offered by our colleagues on the Republican side is a congressional resolution requiring a vote in the House and a signature by the President of the United States. That is curious. Why is it that this body would offer a resolution asking for an independent counsel and then put it in a form which requires a Presidential signature? I am skeptical about the motivation in that regard as well.

For all these reasons—taste, timeliness, scope, attitude, not to mention the resolution itself in the form that it

takes—I certainly hope my colleagues will vote against the very maligned, poorly worded, extraordinarily ill-timed, narrowly drawn resolution offered by our colleagues and simply join us in restating what current law already requires. It is for the Attorney General to make that determination and, if she makes it, to recognize that scope ought to be as broad as she needs to make it, even including Congress, if that may be required.

I yield the floor and I, given the resolution already adopted, call upon the Chair for the final issuance of the day.

ADJOURNMENT UNTIL 10:30 A.M.
TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands

adjourned until 10:30 a.m. Wednesday, March 19, 1997.

Thereupon, at 7:05 p.m., the Senate adjourned until Wednesday, March 19, 1997, at 10:30 a.m.

CONFIRMATION

Executive nomination confirmed by the Senate March 18, 1997:

DEPARTMENT OF DEFENSE

KEITH R. HALL, OF MARYLAND, TO BE AN ASSISTANT SECRETARY OF THE AIR FORCE.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.