

such dedication on the parts of our athletes and school administrators who prize and promote such equality. As the struggle to root out discrimination from all realms of life continues, I am very proud to say West Virginia is a strong part of the extraordinary progress that America is celebrating during title IX's anniversary year.●

EMERITUS LAW PROFESSOR J.  
WILLARD HURST

● Mr. FEINGOLD. Mr. President, last month, this Nation lost one of its most distinguished scholars when J. Willard Hurst, Emeritus Professor of Law at the University of Wisconsin, died at his home. He was 86.

Professor Hurst was that wonderful and rare combination of truly gifted scholar and great teacher. Indeed, his scholarship was so profound, it was responsible for the creation of a new field of study, and today Willard Hurst is widely recognized as the Founding Father of American legal history.

Hurst was born in Rockford, IL in 1910. He graduated Phi Beta Kappa from Williams College in 1932 and went on to Harvard Law School, where he graduated at the top of his class in 1935.

Hurst worked as a research fellow for Prof. Felix Frankfurter, who was later named to the U.S. Supreme Court, and clerked for Supreme Court Justice Louis D. Brandeis before heading to Wisconsin, at Brandeis's suggestion, where he joined the University of Wisconsin law school faculty.

When Hurst first joined the law school faculty, Dean Lloyd Garrison encouraged him to design a program in law and society that investigated how the State's legal system and economy related to each other. Hurst began that project by studying the law's impact on the State's lumber industry, research that would result in his seminal work, "Law and Economic Growth: The Legal History of the Wisconsin Lumber Industry." That landmark study chronicled the social and economic forces that shaped and used the laws of property, contracts, accident compensation, and other legal areas to destroy the greatest natural stand of timber in the world between 1830 and 1900.

That work was a classic application of the new scholarly discipline of American legal history, a discipline Hurst himself had created—his great legacy and a field he dominated directly or indirectly even in retirement. As Lawrence M. Friedman of Stanford Law School was quoted as saying of legal historians, "You're either a Hurstian or a revisor of Hurst."

In a 1990 article in the New York Times about Professor Hurst, David Margolick wrote of the state of the study of law when Hurst attended law school. "The law was a self-contained science and the law library its laboratory," Margolick reported. "One need not study how law actually affected people or how legal institutions

evolved; all wisdom could be gleaned from appellate decisions. This approach not only gave law professors a shot at omniscience but also spared them from having to learn other disciplines, set foot in a courtroom or state legislature, or even step outside." As Margolick added, from the moment he arrived at the University of Wisconsin Law School, Professor Hurst changed all that.

University of Wisconsin Emeritus Law Professor Bill Foster said Hurst forced people to think of problems separate from the law in an historic sense and think about the economic, social and political consequences. "He trained us to see around corners." As Stanford Professor Hendrik Hartog noted, Hurst's interest in the relationship between the law and social sciences, especially economics, was really a study of how law was experienced by people.

That approach to studying law found a nurturing home at the University of Wisconsin, which was heavily influenced by the so-called Wisconsin Idea, the Progressive Era philosophy which encouraged scholars to view the entire State as their campus, and which envisioned academics as a vital resource for reform-minded government.

Willard Hurst and Wisconsin were a perfect match. Hurst loved Wisconsin. On three occasions he turned down offers to be Dean of the Yale Law School. He also turned down the offer of a chair at Harvard. Hurst said, "I guess I was just too pleasure-loving. I was having too good a time in Wisconsin."

At Wisconsin, Hurst was a prolific writer, contributing to law reviews, writing articles, and authoring over a dozen books, including "The Law Makers" (1950), "Law and Conditions of Freedom" (1956), "Law and Social Process in U.S. History" (1960), "Justice Holmes on Legal History" (1964), and "A Legal History of Money in the United States" (1973).

Hurst was more than a great original thinker. He was an enormously talented and caring teacher. Robben Fleming, former president of the University of Michigan and former Chancellor of the University of Wisconsin, said that Hurst was the finest teacher he ever had. University of Wisconsin Law Professor Stewart Macaulay said Hurst was wonderfully generous. "What Willard would do is go out to lunch with someone who was an absolute beginner. He would give you time, make incredible suggestions, make contacts for you."

Willard Hurst continued to be an academic force in retirement with a steady flow of research and writing. As Margolick reported in the Times, even in retirement Hurst remained one of the few legal scholars whose work could be "measured in shelf feet—and shelf feet of bona fide research rather than cut-and-paste cases and comments."

A number of his books became standard texts for law students. In fact, I still remember of the five books I was

asked to read before I entered Harvard Law School, two were written by Willard Hurst.

As the acknowledged grandfather of American legal history, Hurst's legacy is not only a new field of study, but generations of law students, and dozens of distinguished scholars. Willard Hurst was a giant intellect, but a gentle giant who cared about his students and who loved his adopted State. I was privileged to have known him.●

CHANGE OF CLOTURE MOTION  
SIGNATORIES

Mr. GREGG. Mr. President, I ask unanimous consent that Senator FAIRCLOTH's name be removed from the cloture motion filed on July 23 and replaced by Senator SESSIONS.

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

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. GREGG. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nominations on the Executive Calendar: Nos. 186 through 199; the nominations placed on the Secretary's desk in the Air Force, Army, Marine Corps, and Navy; and the nomination of John Hamre, to be Deputy Secretary of Defense, which was reported from the Armed Services Committee today.

I further ask unanimous consent that the nominations be confirmed, en bloc, the motions to reconsider be laid upon the table, and any statements related to the nominations appear at this point in the RECORD, and the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

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

The nominations were considered and confired, en bloc, as follows:

IN THE AIR FORCE

The following Air Force National Guard of the United States officer for appointment in the Reserve of the Air Force, to the grade indicated, under title 10, United States Code, section 12203:

To be brigadier general

Col. Tommy L. Daniels, 0000

The following-named officers for appointment in the U.S. Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. William J. Begert, 0000

Maj. Gen. Lance W. Lord, 0000

IN THE ARMY

The following-named officers for appointments in the Regular Army to the grade indicated under title 10, United States Code, section 624:

To be brigadier general

Col. Edwin J. Arnold, Jr., 0000

Col. John R. Batiste, 0000

Col. Buford C. Blount III, 0000  
 Col. Steven W. Boutelle, 0000  
 Col. John S. Brown, 0000  
 Col. Edward T. Buckley, Jr., 0000  
 Col. Eddie Cain, 0000  
 Col. Kevin T. Campbell, 0000  
 Col. Jonathan H. Cofer, 0000  
 Col. Bantz J. Craddock, 0000  
 Col. Keith W. Dayton, 0000  
 Col. Barbara Doornink, 0000  
 Col. Paul D. Eaton, 0000  
 Col. Jeanette K. Edmunds, 0000  
 Col. Karl W. Eikenberry, 0000  
 Col. Dean R. Ertwine, 0000  
 Col. Steven W. Flohr, 0000  
 Col. Nicholas P. Grant, 0000  
 Col. Stanley E. Green, 0000  
 Col. Craig D. Hackett, 0000  
 Col. Franklin L. Hagenbeck, 0000  
 Col. Hubert L. Hartsell, 0000  
 Col. George A. Higgins, 0000  
 Col. James C. Hylton, 0000  
 Col. Gene M. LaCoste, 0000  
 Col. Michael D. Maples, 0000  
 Col. Philip M. Mattox, 0000  
 Col. Dee A. McWilliams, 0000  
 Col. Thomas F. Metz, 0000  
 Col. Daniel G. Mongeon, 0000  
 Col. William E. Mortensen, 0000  
 Col. Raymond T. Odierno, 0000  
 Col. Eric T. Olson, 0000  
 Col. James W. Parker, 0000  
 Col. Ricardo S. Sanchez, 0000  
 Col. John R. Schmader, 0000  
 Col. Gary D. Speer, 0000  
 Col. Mitchell H. Stevenson, 0000  
 Col. Carl A. Strock, 0000  
 Col. Charles H. Swannack, Jr., 0000  
 Col. Hugh B. Tant III, 0000  
 Col. Terry L. Tucker, 0000  
 Col. William G. Webster, Jr., 0000  
 Col. John R. Wood, 0000

The following-named officers for appointment as the Judge Advocate General\* and the Assistant Judge Advocate General\*\*, U.S. Army and for appointment to the grade indicated under title 10, United States Code, section 3037:

*To be major general*

Brig. Gen. Walter B. Huffman, 0000\*  
 Brig. Gen. John D. Altenburg, Jr., 0000\*\*

The following-named officers for appointments in the U.S. Army to the grade indicated while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

*To be lieutenant general*

Maj. Gen. Montgomery C. Meigs, 0000  
 Lt. Gen. John N. Abrams, 0000  
 Maj. Gen. William H. Campbell, 0000  
 Maj. Gen. Roger G. Thompson, Jr., 0000  
 Maj. Gen. Michael S. Davison, Jr., 0000

*To be general*

Gen. William W. Crouch, 0000

The following-named officer for appointment in the Regular Army of the United States to the grade indicated under title 10, United States Code, section 624:

*To be major general*

Brig. Gen. Warren C. Edwards, 0000

IN THE NAVY

The following-named officers for appointment in the Reserve of the Navy to the grade indicated under title 10, United States Code, section 12203:

*To be rear admiral*

Rear Adm. (1h) Thomas J. Hill, 0000  
 Rear Adm. (1h) Douglas L. Johnson, 0000  
 Rear Adm. (1h) Jan H. Nyboer, 0000  
 Rear Adm. (1h) Paul V. Quinn, 0000

The following-named officers for appointment in the U.S. Navy to the grade indicated under title 10, United States Code, section 624:

*To be rear admiral*

Rear Adm. (1h) John A. Gauss, 0000

NOMINATIONS PLACED ON THE SECRETARY'S DESK

IN THE AIR FORCE, ARMY, FOREIGN SERVICE, MARINE CORPS, NAVY

Air Force nominations beginning James W. Adams, and ending Michael B. Wood, which nominations were received by the Senate and appeared in the Congressional Record of June 17, 1997.

Air Force nominations beginning James M. Abatti, and ending Scott A. Zuerlein, which nominations were received by the Senate and appeared in the Congressional Record of July 8, 1997.

Army nomination of Juliet T. Tanada, which was received by the Senate and appeared in the Congressional Record of June 17, 1997.

Army nominations beginning Cornelius S. McCarthy, and ending \*Todd A. Mercer, which nominations were received by the Senate and appeared in the Congressional Record of June 23, 1997.

Army nominations beginning Terry L. Belvin, and ending James A. Zernicke, which nominations were received by the Senate and appeared in the Congressional Record of June 27, 1997.

Army nominations beginning Daniel J. Adelstein, and ending \*Alan S. McCoy, which nominations were received by the Senate and appeared in the Congressional Record of July 8, 1997.

Army nomination of Maureen K. Leboeuf, which was received by the Senate and appeared in the Congressional Record of July 8, 1997.

Army nominations beginning James A. Barrineau, Jr., and ending Deborah C. Wheeling, which nominations were received by the Senate and appeared in the Congressional Record of July 8, 1997.

Foreign Service nomination of Marilyn E. Hulbert, which was received by the Senate and appeared in the Congressional Record of February 13, 1997.

Foreign Service nominations beginning John R. Swallow, and ending George S. Dragnich, which nominations were received by the Senate and appeared in the Congressional Record of April 25, 1997.

Marine Corps nomination of Thomas W. Spencer, which was received by the Senate and appeared in the Congressional Record of June 23, 1997.

Marine Corps nomination of Dennis M. Arinello, which was received by the Senate and appeared in the Congressional Record of June 23, 1997.

Marine Corps nomination of Carlo A. Montemayor, which was received by the Senate and appeared in the Congressional Record of June 23, 1997.

Marine Corps nominations beginning Demetrice M. Babb, and ending John E. Zeger, Jr., which nominations were received by the Senate and appeared in the Congressional Record of June 27, 1997.

Marine Corps nomination of Anthony J. Zell, which was received by the Senate and appeared in the Congressional Record of July 8, 1997.

Marine Corps nomination of Mark G. Garcia, which was received by the Senate and appeared in the Congressional Record of July 8, 1997.

Navy nominations beginning John A. Achenbach, and ending Sreten Zivovic, which nominations were received by the Senate and appeared in the Congressional Record of June 12, 1997.

Navy nominations beginning Layne M. K. Araki, and ending Charles F. Wrightson, which nominations were received by the Senate and appeared in the Congressional Record of July 8, 1997.

DEPARTMENT OF DEFENSE

John J. Hamre, of South Dakota, to be Deputy Secretary of Defense.

STATEMENTS ON THE NOMINATION OF JOHN J. HAMRE FOR DEPUTY SECRETARY OF DEFENSE

Mr. DASCHLE. Mr. President, it is a distinct pleasure for me to convey to the entire Senate what I communicated to the Senate Armed Services Committee earlier today—I am an enthusiastic supporter of John Hamre for Deputy Secretary of Defense. I am pleased to note that the committee reported out his nomination unanimously. Evidently they, like many of their colleagues, are already well aware of John's exceptional background and skills, and his impressive record. Therefore, I will not belabor these points—except to say that I think they make John an excellent choice for this critically important post.

Less known to some of my colleagues perhaps is the fact that John is from South Dakota, my home State. In fact, John was born in the tiny town of Willow Lake, South Dakota and grew up in Clark, SD. His rise to the No. 2 civilian position in the world's number one military force is a tribute not only to John and his family, but to the entire state of South Dakota and its people.

Like many of the families in our state, John's family's story reads like a Charles Kuralt profile of small-town America. His maternal grandfather was a Lutheran preacher who lived to be 100 years old (which should eliminate any chance of John having to take an early retirement). His paternal grandfather was a farmer and county sheriff. One of John's uncles, Julian, was killed in action as an aviator in the Pacific during World War II. John's father, Mel, was a banker and his mother, Ruth, was a teacher. They have lived in Clark all their adult lives. If you happen to visit Clark on a Sunday morning, chances are you would hear them performing with their church choir.

John graduated with a degree in political science from Augustana College in Sioux Falls, SD. After that, he did what every political scientist does: headed off to Harvard to earn a masters degree in Divinity. It was the first time he had ever really been away from South Dakota. From Harvard, John went on to earn a masters degree and doctorate degree in 1978 from the Johns Hopkins School of Advanced International Studies. I would just note parenthetically: If John is confirmed, he may be the first Deputy Secretary of Defense who can say the Lord's Prayer—in Russian.

After graduate school, John joined the staff of the Congressional Budget Office [CBO]. In 1984, he joined the staff of the Senate Armed Services Committee, where he developed a reputation for being able to work closely with both sides of the aisle.

John was appointed Undersecretary of Defense—comptroller by former Defense Secretary Les Aspin. In his new position, John will be the second highest-ranking civilian in the Pentagon's

chain of command. The Deputy Secretary of Defense is one of the most critical national security positions in the U.S. Government. He or she is given full power and authority to act for the secretary of Defense in the secretary's absence.

As an indication of the trust and confidence Secretary Cohen has in John's talents, he recently asked John to head up the Defense Management Reform Task Force—perhaps the most critical study the Pentagon will undertake in the next decade or so. If our available defense resources are to match our proclaimed defense policies for the 21st century, it is crucial that the Pentagon adopt more efficient business methods. The task force John will head is charged with the responsibility of overhauling the Defense Department's accounting methods and streamlining its business practices. Such reforms are long overdue and much needed if we are to get a dollar of defense for each dollar we provide the Pentagon. On behalf of the Congress, I wish John well in this endeavor and will be closely following his progress.

Anyone who has spent any time with John Hamre knows his passion for defense policy. From his days at CBO in the late 1970's to his present position at the Department of Defense, he has demonstrated time and again his mastery of defense policy issues. Throughout his career, Dr. Hamre has consistently demonstrated an even-handedness and objectivity. That has allowed him, in turn, to establish and maintain good relations with members of the Congress. The regard in which he is held by both parties will enable him to serve the President well. Even more importantly, it will enable him to serve his country well.

In conclusion, it is an honor and a privilege to commend a true South Dakotan, a man who has dedicated his life to integrity, love of his country and outstanding achievement, and who will serve his country well as Deputy Secretary of Defense.

Mr. GRASSLEY. Mr. President, I come to the floor today to announce my support for Mr. John J. Hamre's nomination to be the next Deputy Secretary of Defense.

Mr. President, my support in favor of the Hamre nomination may come as a surprise to some of my colleagues.

A yes vote on the Hamre nomination may appear to be totally inconsistent with all that I have said here on the floor about the nominee.

I have made a series of critical speeches about Mr. Hamre since January.

I have criticized Mr. Hamre for failing to control the money and make sure it is spent according to law.

I have attempted to hold him accountable.

In my book, accountability in government should be a top priority.

My criticism of Mr. Hamre boils down to one main problem area.

As Chief Financial Officer at the Department of Defense [DOD], Mr. Hamre

pursued a policy on progress payments that the Inspector General [IG] had declared illegal.

The General Accounting Office [GAO] has just completed another review of the Department's progress payment policy.

As of July 21, 1997, the GAO report indicates that the policy declared illegal by the IG remains in operation.

It remains in operation today—at this very moment.

Mr. President, I am happy to report that Mr. Hamre has promised to change the policy.

He has made a commitment to bring the Department's progress payment policy into compliance with the law.

This happened at an important meeting on Tuesday evening, July 22d.

The meeting took place in the office of Senator STROM THURMOND, chairman of the Armed Services Committee.

This meeting was attended by Senators THURMOND, LEVIN, WARNER, and the Senator from Iowa.

The nominee, Mr. Hamre, was also present.

Mr. President, I don't quite know how this meeting came about, but I suspect that my good friend from Virginia, Senator WARNER, was the motivating force behind it.

I would like to extend a special word of thanks to my friend from Virginia for helping me out.

He helped me find a reasonable solution to a very difficult dilemma.

The Senator from Virginia was instrumental in resolving the dispute.

At this important meeting, Mr. Hamre made a commitment to bring the department's progress payment policy into compliance with the law.

To do that, the IG says DOD has taken two distinct steps.

*Step One:* The Director of Defense Procurement, Ms. Eleanor Spector, is issuing a new contract regulation—known as a DFAR.

The DFAR will authorize contracting officers—or ACO's—to require that each contract contains specific funding instructions.

These would be fund citations.

*Step Two:* The Comptroller, Mr. Hamre, has ordered the Defense Finance and Accounting Service or DFAS to shut down the current operation.

DFAS must issue payment instructions that match up with the DFAR.

This would allow DFAS to match the money with the work performed—as required by law.

This would allow the disbursing officers to post payments to the correct accounts.

Since DOD makes about \$20 billion a year in progress payments, this should help to clean up the books.

It should cut down on overpayments and erroneous payments.

It should cut down on costly reconciliation work done by the big accounting firms like Coopers & Lybrand.

The new policy should save money.

But the fix won't happen overnight.

It will take time to phase down the old system and get the new policy up and running.

The IG is planning on a kick off date of October 1, 1997.

At the meeting, Senator LEVIN raised questions about the cost of the new policy.

Mr. Hamre responded by saying that he would have to add 50 people to the DFAS work force.

The extra people would be needed to manually process the payments under the new policy.

The software necessary to support automated computer processing will not be available until the year 2000 or beyond, according to Mr. Hamre.

Now, Mr. President, that sounds like more Pentagon nonsense to me.

Businesses, like NationsBank, routinely conduct 15.5 million comparable matching operations in a single day—using computers.

The software is here—now!

This is off-the-shelf stuff—not leading edge technology.

DFAS needs to get on the stick.

Senator LEVIN also insisted that the new policy should apply just to new contracts—and not be retroactive.

That makes sense to me.

Senator LEVIN raised one other very valid concern.

He said: "Maybe we need to change the law? Maybe the law governing these payments doesn't make sense?"

These are valid questions. They need to be explored.

But I would like to offer a word of caution on this point.

If Congress should decide to change the law—as Mr. Hamre proposed late last year, Congress must then change the way the money is appropriated.

We must never allow DOD to merge the appropriations at the contract level, while Congress continues to appropriate and segregate money in special accounts.

That would subvert the whole appropriations process.

If DOD were authorized to merge the money at the contract level, then Congress would have to consolidate accounts upstream in appropriations.

We might, for example, create an acquisition account by merging R&D and procurement money in one big account.

Quite frankly, Mr. President, I don't think that idea would be a very popular around here.

Segregating the money in the R&D and procurement accounts gives Congress some broad and general control over how the money is used—as intended by the Constitution.

Mr. President, I left the meeting in Senator THURMOND's office believing that something important had been accomplished.

First, Mr. Hamre made a commitment to bring the Department's policy into compliance with the law.

Second, it was agreed that the IG would send a letter to the committee.

This letter would serve two purposes.

The IG would certify that the Department had taken the two steps necessary to bring the policy into compliance with the law.

And the IG would agree to provide Congress with periodic follow-up reports to ensure that the new policy is, in fact, executed.

Mr. President, I have the IG's letter here in my hand.

It provides the assurances I sought.

With those assurances in hand, I can support the Hamre nomination with a clear conscience.

I ask unanimous consent that my letter requesting certification by the IG and the IG's response be printed in the RECORD.

INSPECTOR GENERAL,  
DEPARTMENT OF DEFENSE,  
Arlington, VA, July 23, 1997.

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

DEAR MR. CHAIRMAN: This is in response to your request for my views as to whether the Department of Defense has made a good faith effort to address previous audit findings on progress payments to contractors and whether the Department has established a reasonable schedule to implement the changes needed to bring progress payment practices into compliance with fiscal law.

On June 30, 1997, the Director, Defense Procurement, issued the requisite contracting guidance in draft form for comment. While we cannot prejudge or speculate as to the outcome of the comment period, I can tell you that at this time this office concurs with the draft guidance as written. The guidance should be issued in final form by October 1, 1997.

The first elements of the necessary guidance for paying offices, two Under Secretary of Defense (Comptroller) memoranda, were signed out today. Given current statutory requirements, we believe that the procedures and timelines outlined in those memoranda are appropriate at this time and demonstrate positive movement toward fixing this longstanding problem. Between now and the planned October 1, 1997, implementation date for the new progress payment distribution policy, we will work with the Comptroller and the Defense Finance and Accounting Service to ensure that sound desk procedures are developed for the paying offices.

This office is already auditing various aspects of DoD vendor payment operations and will ensure that coverage of the implementation of the new progress payment procedures receives high priority. We will provide periodic status reports to the Department and the Congress starting in January 1998.

Thank you for seeking our views on this important issue. If we can be of further assistance in this matter, please contact me or Mr. Robert J. Lieberman, Assistant Inspector General for Auditing, at (703) 604-8900.

Sincerely,

ELEANOR HILL,  
Inspector General.

U.S. SENATE,  
Washington, DC, July 21, 1997.

Hon. JOHN W. WARNER,  
U.S. Senate,  
Washington, DC

DEAR JOHN: I am writing to clarify my position on the nomination of Mr. John J. Hamre to be Deputy Secretary of Defense.

My opposition to Mr. Hamre's nomination boils down to one main problem area. As Chief Financial Officer at the Department of Defense, Mr. Hamre aggressively pursued a policy on progress payments that the Inspector General (IG) declared illegal. The General Accounting Office has just completed a review of the department's progress payment policy. This report clearly indicates that the

policy declared illegal by the Inspector General remains in operation today—at this very moment.

John, that's the bad news. There is some good news, however.

I can see a solution looming up on the horizon.

The IG is telling me that Mr. Hamre is moving to bring the policy into compliance with the law. The IG says that the department must issue: 1) new contract (DFAR) regulations; and 2) The Defense Finance and Accounting Service must issue new payment instructions to match the DFAR regulations. The IG says the new policy directives are in the process of being issued. The new policy must then be put into practice.

John, I will not oppose the Hamre nomination if two conditions are met: 1) The IG certifies in writing that the department has taken the two steps necessary to bring the policy into compliance with the law; and 2) The IG provides Congress with periodic reports to ensure that the new policy is, in fact, being executed.

Your assistance in this matter is appreciated.

Sincerely,

CHARLES E. GRASSLEY,  
U.S. Senator

U.S. SENATE,  
COMMITTEE ON ARMED SERVICES,  
Washington, DC, July 24, 1997.

Senator CHARLES E. GRASSLEY,  
U.S. Senate,  
Washington, DC

DEAR CHUCK: Enclosed is a copy of a letter from the Department of Defense Inspector General received today by the Committee on Armed Services. The letter addresses the concerns that you expressed in the meeting in my office on July 22.

With kindest regards and best wishes,  
Sincerely,

STROM THURMOND,  
Chairman.

Mr. GRASSLEY. Mr. President, I only hope Mr. Hamre understands my position on this issue.

From day one, I have merely tried to hold him accountable for the improper progress payment policy.

I do my best to watchdog the Pentagon.

And when the IG tells me something is wrong, then I'm going to speak out. I'm going to dig and bore in—until things are right.

That's what I did in this case.

I believe that together we have crafted a constructive solution to this problem.

I thank the committee for its leadership and for helping me resolve this issue.

Mr. LEVIN. Mr. President, I strongly support the nomination of Dr. John Hamre to be Deputy Secretary of Defense. The position of the Deputy Secretary of Defense is one of the most important members of the Secretary of Defense's team. The Deputy serves as the Secretary's alter ego; he traditionally exercises primary responsibility for the internal management of the Department of Defense; and he acts for the Secretary when the Secretary is absent.

Those are all very important responsibilities. The decisions that Secretary Cohen and his deputy make will have a major impact on the security of our

Nation, on the protection of our national interests, and on the well-being of the men and women of our Armed Forces. I have complete confidence in John Hamre's ability to perform these important responsibilities.

John is, of course, very well known to many Members of the Senate from the 8 years he spent on the staff of the Senate Armed Services Committee. Since leaving the committee staff in 1993, John has moved on to serve as the Comptroller and Chief Financial Officer of the Department of Defense.

In this capacity, John has devoted a tremendous amount of time and energy to bringing about meaningful and much-needed reform in financial management within DOD. John would be the first to acknowledge that the job is far from finished, but the progress under his leadership has been substantial in my view. For example:

DOD is in the process of consolidating its accounting offices, moving from 333 offices to only 21 in less than 5 years. DOD had closed 230 accounting offices through fiscal year 1996 and is scheduled to close an additional 103 in fiscal year 1997 and fiscal year 1998.

As a result, DOD has been able to reduce employment at the Defense Finance and Accounting Service [DFAS] from more than 31,000 in fiscal year 1993 to 24,000 today. DFAS operating costs have dropped 25 percent in 4 years, from \$1.6 billion in fiscal year 1993 to \$1.2 billion in fiscal year 1997, in constant fiscal year 1993 dollars.

DOD has consolidated its civilian pay systems from 25 systems in fiscal year 1991 to 2 systems today and hopes to be down to a single system next year. The system that DOD has designated to take over all civilian pay accounts has gone from handling 15 percent of DOD accounts in fiscal year 1992 to a projected 73 percent in fiscal year 1996 and 83 percent in fiscal year 1997.

DOD has consolidated its military pay systems from 24 systems in fiscal year 1991 to 4 systems today and hopes to be down to 2 systems next year, with only the Marine Corps maintaining a separate system. The system that DOD has designated to take over all military pay accounts has gone from handling 15 percent of DOD accounts, other than Marine Corps accounts, in fiscal year 1991 to a projected 65 percent in fiscal year 1996 and 90 percent in fiscal year 1997.

DOD contract overpayments have dropped from \$592 million in fiscal year 1993 to \$184 million in fiscal year 1996.

The two most significant categories of problem disbursements—unmatched disbursements and negative unliquidated obligations [NULO]—have dropped from \$34.3 billion in June 1993 to \$7.9 billion in January 1997. Unmatched disbursements are cases in which a payment has been made, but cannot be matched to its obligation authority; NULO's are cases in which too much money is disbursed, for example, contractor overpayments, or the wrong obligation has been charged.

The third category of problem disbursements—in-transit disbursements—has increased recently, but is still down substantially over the long run, from \$16.8 billion in June 1993 to \$11.1 billion in January 1997. In-transit disbursements are cases in which a payment has been made, but the obligation has not yet been matched to its obligation authority, and more than 180 days have passed.

Over the last several months, a number of statements have been made about Dr. Hamre's handling of progress payments under complex contracts using money from more than one appropriation. While there is no evidence that the existing progress payment system has ever resulted in a violation of the Antideficiency Act, Dr. Hamre has acknowledged that this system is incapable of meeting all applicable requirements, and he has been working hard to address the problem.

On Wednesday afternoon, I received a letter from Eleanor Hill—the inspector general of the Department of Defense—who first identified the progress payment issue. In response to a joint request from the chairman of the Armed Services Committee and myself, Ms. Hill reviewed the steps taken by Dr. Hamre to address the progress payment issue. Her letter concludes:

Given current statutory requirements, we believe that the procedures and timelines outlined in those memoranda are appropriate at this time and demonstrate positive movement toward fixing this longstanding problem.

I am pleased that Dr. Hamre has taken the actions necessary to address the progress payment issue in compliance with existing requirements. But we also need to make sure that these changes are in the best interest of the taxpayers and the Department of Defense. I have asked Dr. Hamre to review the issue and let the Armed Services Committee know if any legislative changes may be needed in this regard.

Mr. President, I think President Clinton and Secretary Cohen have made an excellent choice with this nomination. I strongly support John Hamre's nomination to be Deputy Secretary of Defense, Mr. Chairman, and I look forward to working closely with him and Secretary Cohen in the future.

Mr. President, I ask unanimous consent that Ms. Hill's letter be printed in the RECORD.

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

INSPECTOR GENERAL,  
DEPARTMENT OF DEFENSE,  
Arlington, VA, July 23, 1997.

Hon. CARL LEVIN,  
Committee on Armed Services,  
U.S. Senate,  
Washington, DC.

DEAR SENATOR LEVIN: This is in response to your request for my views as to whether the Department of Defense has made a good faith effort to address previous audit findings on progress payments to contractors and whether the Department has established a reasonable schedule to implement the changes needed to bring progress payment practices into compliance with fiscal law.

On June 30, 1997, the Director, Defense Procurement, issued the requisite contracting guidance in draft form for comment. While we cannot prejudge or speculate as to the outcome of the comment period, I can tell you that at this time this office concurs with the draft guidance as written. The guidance should be issued in final form by October 1, 1997.

The first elements of the necessary guidance for paying offices, two Under Secretary of Defense (Comptroller) memoranda, were signed out today. Given current statutory requirements, we believe that the procedures and timelines outlined in those memoranda are appropriate at this time and demonstrate positive movement toward fixing this longstanding problem. Between now and the planned October 1, 1997, implementation date for the new progress payment distribution policy, we will work with the Comptroller and the Defense Finance and Accounting Service to ensure that sound desk procedures are developed for the paying offices.

This office is already auditing various aspects of DoD vendor payment operations and will ensure that coverage of the implementation of the new progress payment procedures receives high priority. We will provide periodic status reports to the Department and the Congress starting in January 1998.

Thank you for seeking our views on this important issue. If we can be of further assistance in this matter, please contact me or Mr. Robert J. Kieberman, Assistant Inspector General for Auditing, at (703) 604-8900.

Sincerely,

ELEANOR HILL,  
Inspector General.

#### LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

#### MEASURE READ FOR THE FIRST TIME—S. 1065

Mr. GREGG. Mr. President, I understand that S. 1065, which was introduced earlier today by Senator SPECTER, is at the desk, and I ask for its first reading.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1065) to amend the Ethics in Government Act with respect to the appointment of independent counsel.

Mr. GREGG. I now ask for its second reading, and object to my own request on behalf of the other side of the aisle.

The PRESIDING OFFICER. Objection is heard.

The bill will remain at the desk and have its next reading on the next legislative day.

#### ORDERS FOR FRIDAY, JULY 25, 1997

Mr. GREGG. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 9:30 a.m. on Friday, July 25. I further ask that on Friday, immediately following the prayer, the routine requests through the morning hour be granted and the Senate immediately begin consideration of Calendar No. 120, Senate

Resolution 98, the global warming resolution.

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

#### PROGRAM

Mr. GREGG. For the information of all Members, tomorrow the Senate will begin consideration of Senate Resolution 98, the global warming resolution. By previous consent, there are two amendments in order to the resolution with a vote on the resolution occurring at 11:30 a.m. Following disposition of Senate Resolution 98, the Senate may proceed to a cloture on the tuna-dolphin legislation, if an agreement is not reached prior to the global warming resolution. Also, by consent, at 5 p.m. on Monday, the Senate will begin consideration of the transportation appropriations bill. However, as announced by the majority leader, there will be no rollcall votes during Monday's session of the Senate. As a reminder to all Members, following the votes on Friday, the next votes will be a series of votes occurring on Tuesday at 9:30 a.m. on the Commerce, Justice, State appropriations bill.

#### ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. GREGG. Mr. President, if there is no further business to come before the Senate, I now ask that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 10:22 p.m., adjourned until Friday, July 25, 1997, at 9:30 a.m.

#### NOMINATIONS

Executive nominations received by the Senate July 24, 1997:

##### THE JUDICIARY

CHARLES R. BREYER, OF CALIFORNIA, TO BE U.S. DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF CALIFORNIA VICE D. LOWELL JENSEN, RETIRED.

FRANK C. DAMRELL, JR., OF CALIFORNIA, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF CALIFORNIA VICE EDWARD J. GARCIA, RETIRED.

MARTIN J. JENKINS, OF CALIFORNIA, TO BE U.S. DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF CALIFORNIA VICE EUGENE F. LYNCH, RETIRED.

JORGE C. RANGEL, OF TEXAS, TO BE U.S. CIRCUIT JUDGE FOR THE FIFTH CIRCUIT, VICE WILLIAM L. GARWOOD, RETIRED.

#### CONFIRMATIONS

Executive nominations confirmed by the Senate July 24, 1997:

##### DEPARTMENT OF DEFENSE

JOHN J. HAMRE, OF SOUTH DAKOTA, TO BE DEPUTY SECRETARY OF DEFENSE.

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.

##### IN THE AIR FORCE

THE FOLLOWING AIR FORCE NATIONAL GUARD OF THE U.S. OFFICER FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE, TO THE GRADE INDICATED, UNDER TITLE 10, UNITED STATES CODE, SECTION 12203:

##### To be brigadier general

COL. TOMMY L. DANIELS, 0000.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE U.S. AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601: