

will become a permanent solution without the plan, without the analysis, and without the expenditures that have already gone into the permanent solution that is available.

Therefore, for these two reasons, I announce my opposition to the depositary on the Goshute Reservation in Utah. I am sending a letter to the Nuclear Regulatory Commission asking that they extend the time for another 120 days for public comment on their proposal to proceed with this license. I think the first reason that I have cited alone justifies that extension of time because there has not been sufficient analysis of the impact of this proposed facility on the Utah Test and Training Range. I hope in that 120-day period we can get that kind of analysis.

The second more serious reason will still remain. I hope in that 120-day period we can begin to approach that, as well.

I thank the Senators for their courtesy in allowing me to proceed on this issue. It relates directly to the State of Utah, but I think in terms of the impact on nuclear power as a whole, it is an issue about which the entire Nation should be concerned.

I yield the floor.

DR. WEN HO LEE

Mr. SPECTER. Mr. President, I have sought recognition to comment briefly on the extraordinary case of Dr. Wen Ho Lee who was released from custody yesterday by the Federal judge saying that Dr. Lee was owed an apology because of major mistakes made by ranking officials at the Department of Justice and the Department of Energy. This matter has been the subject of oversight inquiry by the Judiciary subcommittee, which I chair. Our inquiry began last October and ended in early December at the request of the Director of the FBI so that it would not interfere with the pending prosecution of Dr. Lee.

There are many questions which arise from what has happened since—especially the dramatic comments of Judge Parker yesterday that Wen Ho Lee was owed an apology, and that blame lay at the doorsteps of the top officials in Justice and Energy.

The questions which need to be explored are:

What evidence or what factors were there which led to Dr. Lee's detention and solitary confinement for some 9 months?

What did the Department of Justice and the Department of Energy do by way of their investigation?

What were the specifics where the key FBI witness changed his testimony from an earlier hearing where he said Dr. Lee was deceptive, to a later hearing where he omitted that very important fact which led to Wen Ho Lee's detention?

Was there any racial profiling in this case?

How did the Department of Justice focus on Dr. Lee?

Those are among the many questions to be answered in an oversight hearing which our subcommittee is attempting to schedule now for the week of September 25.

The inquiries which we have already made have suggested that there was significant reason for the FBI to conduct the investigation. Dr. Wen Ho Lee is entitled to the presumption of innocence like every American. And on this date of the report, he is presumed innocent, and he is, in fact, innocent. But on this date of the record, the Department of Justice has convicted itself of absolute incompetence. Let me be very specific about why.

Director Louis Freeh sent his top deputy, John Lewis, to talk to Attorney General Janet Reno in August of 1997 to request a warrant for Dr. Lee under the Foreign Intelligence Surveillance Act. There was a statement of probable cause which was very substantial which justified the issuance of that warrant to gather further evidence. Attorney General Reno referred that matter to a man named Daniel Seikaly in her department, a person who had never handled a warrant under the Foreign Intelligence Surveillance Act.

The wrong standard was applied, and the FBI was turned down notwithstanding the top deputy, John Lewis, having been sent there by Director Freeh. Then, inexplicably, for the next 16 months, the FBI did not conduct any investigations. Some memoranda were transmitted between Washington, DC, and Albuquerque, NM, but the case lay dormant.

It is really hard to understand why the case would lie dormant when the FBI had been so arduous in asking for the warrant under the Foreign Intelligence Surveillance Act. But then, in late December of 1998, it was known that the Cox committee was about to publish its report and was said to be highly critical of the way the Department of Justice and the Department of Energy handled the Wen Ho Lee case.

Then the Department of Energy initiated a polygraph of Dr. Lee on December 23, 1998, conducted by an outside agency—not by the FBI but by Wackenhut. The Wackenhut contractors told the FBI that Dr. Lee passed the polygraph but did not give the FBI agents the polygraph charts or the videotape of the interview.

On January 17 of 1999, the FBI conducted an interview with Dr. Lee to close out the case. But then, on January 22, 5 days later, the FBI finally received the complete record of the December 23 polygraph and began to question the Wackenhut interpretation of the results.

Without going into more of the details in the limited time I have at the moment—there will be more time to amplify this statement later in the subcommittee hearings—Dr. Lee was not terminated until March 8. The search warrant was not issued until April 9 in the context of substantial evidence of deletions and downloading.

There are very significant questions for the Department of Justice to answer as to why the warrant was not issued under the Foreign Intelligence Surveillance Act, why the investigation was not made by the FBI from August of 1997 to December of 1998, why Dr. Lee was kept on the job in the face of downloading very substantial classified matters.

The issues about his retention require very serious oversight. There are all the appearances that the FBI's failure to handle the matter properly, the Department of Justice's failure to handle the matter properly, through the disclosure by the Cox committee in January of 1999, and the ultimate firing, the ultimate search warrant, suggest that the Department of Justice really threw the book at Dr. Lee to make up for their own failings. But there needs to be a determination on oversight as to the justification for keeping Dr. Lee in solitary confinement. When the judge finally suggested that he was going to release Dr. Lee to house arrest, the Federal Government put out an objection to his having any contact with his wife, which was really extraordinary.

Then suddenly, on a plea agreement, on one of 59 counts under the indictment, according to the Department of Justice, it is OK to release Dr. Lee on the plea bargain. There was no fine, no jail time on the conviction, only a debriefing. There is a real question as to how meaningful that is since those materials are customarily offered on a tender by Dr. Lee's counsel before the plea bargain is entered into.

These are some of the issues which our Judiciary subcommittee will be looking into on oversight, both as to the Department of Justice and the Department of Energy. When a Federal judge says that America owes Dr. Lee an apology, the details have to be determined. When the FBI makes representations that Dr. Lee poses a threat to the security of the United States, and that the information he has downloaded could lead to the defeat of our military forces worldwide, those assertions need to be investigated as a matter of oversight. How did the Department of Justice move from those very serious allegations to a statement, in effect, that let the matter go, without a fine, without a jail sentence, with only probation on a single one of 59 counts.

The handling of these espionage matters is of great import. The subcommittee is nearing completion of a report on Dr. Peter Lee, who confessed to providing information to the People's Republic of China on nuclear secrets and submarine detection. These are matters which require congressional oversight. Our Judiciary subcommittee will undertake just that.

I yield the floor.

Mr. GRAMM. Mr. President, like most people this morning, I read the headline "Physicist Lee Freed With Apology." I want to comment on this.

I want to be careful about what I say because I am angered and embarrassed about what has happened to one of our fellow Americans.

For the last few months I have been troubled by the case of Wen Ho Lee. I have been troubled because I have had the deep suspicion that Dr. Lee was a victim of scapegoatism by the Justice Department and by the Energy Department. But I tried to follow the old adage we all learn from our mamas—that when you do not have the facts, wait until you get the facts before you have something to say. Today we have the facts. The facts are that the Federal judge in this case said—talking about Janet Reno, the Attorney General of the United States of America, and Bill Richardson, the Secretary of Energy—and I quote the Federal judge:

They did not embarrass me alone. They have embarrassed our entire nation and each of us who is a citizen of it.

Let me say they certainly embarrassed me. It seems to me that what happened was we had a terrible breach of security. Our Energy Department was asleep at the switch when the nuclear secrets of this country were stolen. That was raised to a level of public awareness. Rather than going out and finding the person who was guilty of stealing these secrets, it now appears that what the Justice Department did, to its great shame and our embarrassment, is engage in racial profiling to identify an Asian American of Chinese ancestry, Dr. Lee, and to use him as a scapegoat for the failure of this administration to protect American national security.

This individual citizen ended up month after month in solitary confinement, having been charged in a 59 count indictment, and then when it was clear that there was no case, they plea bargained to release him on a minor offense. I say “minor” only as compared to the selling of nuclear secrets of the United States to the Chinese, or giving such information to them. Dr. Lee transferred secure data to a nonsecure source, a charge for which John Deutch, in a much higher position of government in this administration, was never prosecuted.

In return for admitting guilt to this charge, this man, who was denied his freedom and who was on the verge of having his life ruined, is now exonerated by a Federal judge. I would like to say this:

First of all, I don't understand an administration that stands up and damns racial profiling and yet engages in it when it suits their political agenda.

I don't understand scapegoating when you are talking about a man's freedom and when you are talking about a man's life.

I think if our Attorney General, Janet Reno, had any honor and any shame, and I think if Bill Richardson had any honor and any shame, they would resign as a result of this outrage to the American people.

The idea that this man was in solitary confinement month after month,

deemed a public enemy, and vilified, it seems to me, at least, based on everything we know—and it seems if the Justice Department had any facts, they would have presented them to this court and to this judge—because of his race. I think it is an outrage. And I think an apology is due from the President of the United States.

I think this is a terrible wrong and an outrage. I have for months been suspicious that this was happening, but I didn't want to say anything until we had the facts.

I hope my language hasn't offended anybody. But I just do not understand people who, to get political cover for their own failings, don't seem to care that we are talking about the life of a real person. Our system is not based on my rights, or Bill Clinton's rights, it is based on the rights of each individual citizen.

The idea that this man has had his good name and his family so attacked and has been in solitary confinement when the only thing the Justice Department ended up getting him to plea bargain on was that he took material out of a secure setting to a nonsecure setting when another official of this Government, by his own admission, did exactly the same thing and was never prosecuted—this is a terrible outrage.

I just didn't feel comfortable not saying something about it. I just wanted to go on RECORD as saying that there is something very wrong in America. This is not the America I grew up in when this kind of thing happens. Somebody in the Senate needed to say something about it. I decided that was me.

I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, could I respond in the most emphatically sympathetic and supportive way to the statement of the Senator from Texas.

In 1993, this Congress passed legislation to create the Commission on Protecting and Reducing Government Secrecy in the United States. We had a fine commission. Senator HELMS and I represented the Senate, and in the House, LARRY COMBEST and Lee Hamilton, and John Deutch of the CIA. The commission came up with a unanimous finding.

We began with the proposition—and I can say to a fellow academic; he will recognize it—Max Weber set forth that secrecy is the natural weapon of a bureaucracy against the parliament and against the other agencies of the political system. We found the most extraordinary things. I later wrote about this.

In December 1946, a brilliant crypto analyst at Arlington Hall Girl's School, not far from the Pentagon, and broke the first of the Soviet KGB codes. These are one-time pads. You “can't break them” but they got a little careless, used once or twice. There were the names of all the physicists at Los Alamos, the principal ones. A

measure of the extent of the KGB operation in this country? As our crypto analyst worked along, an Army corporal cipher clerk handing him pencils, coffee, whatever, an Army corporal cipher clerk, a KGB spy. In very short order, the KGB knew we were breaking their code.

Then, of course, Kim Philby was at the British Embassy and we shared some of these findings with the British—we probably still do. Then he defected. In no time at all, they knew that we knew, and we knew that they knew that we knew.

People might be interested to learn, who was the one person in the U.S. Government who did not know? The President of the United States. On whose orders was this the case? Omar Bradley, Chairman of the Joint Chiefs of Staff. This is Army property. I guess he had a sense that if he said, “Give everything to the White House,” it gets out.

President Truman never knew any of these things.

With the exceptions of the Rosenbergs, none of these persons were ever prosecuted. One of them, the most important, Hall, teaches physics at Cambridge University in England, and comes back and forth to this country. He had been part of that tremendous effort. He was from an immigrant family living in Manhattan, went to Queens College. They spotted him at Queens College, and they sent him up to Harvard. Then he was sent to Los Alamos. He was never prosecuted because to prosecute, it must be stated where we got the information and so forth.

Secrecy can be so destructive to the flow of information that is needed. It will continue long after there is any conceivable need for secrecy. We estimated recently that the classified documents we have in place now would be 441 times stacked up the height of the Washington Monument.

A trivial example, but a characteristic example, President Ford at one point had in mind that I might be Librarian of Congress. I was in India, leaving the post as Ambassador and had a cable exchange with the head of personnel in the White House. I was going back through Peking, staying with the Bushes, stopped at Pearl Harbor, and then would be here. An historian writing about the Library of Congress—an interesting post; there have only been seven or eight in our history—picked this up and went to the Ford Library. Yes, there is information; but no, she couldn't see it, it was classified. It took months to get the cable to Washington declassified.

One could argue that there was good reason to keep that classified for seven days, but 30 years later? That is a pattern. It is a pattern that the people who deal with these things as classified don't know the material, the subject matter; they don't know the physics taught to first-year graduate students

at MIT, but information is still classified "top secret, no form," in some bureaucracy in Washington. The absolute standard operating procedure is to classify something "Top secret" and then send it to the President in the hopes that it will get on his desk if it looks really enormous.

There are endless examples of clippings from Newsweek magazine stamped "Confidential." Just a bureaucratic mode.

The idea that Dr. Lee was imprisoned is hard to understand. Solitary confinement, worse. But leg irons? There were leg irons so one could not run off to Mexico. Obviously, much needs to be explained.

I say also for Dr. Deutch, this is a man of utmost patriotism. What was his offense? I don't think it is a crime at all. He took work home with him. After dinner he would sit down and work. There is a penalty for that, and he accepted it. He has had all his clearances removed, which is a heavy price for a scientist, but he has accepted that. The idea that he has done anything wrong beyond that is to say to people: Don't go near the clandestine services of the United States, don't go near the atomic laboratories.

I have no standing as a scientist, but I was a member of the President's Science Advisory Committee, and I am a fellow of the American Association for the Advancement of Science, and having been a member of the board and vice president at one point, I can say I know a fair number of scientists. Their postdoctorate students don't want anything to do with the Federal laboratories.

If you want to do something to the national security of the United States, keep the best minds out of the weapons labs. That will do it faster than any transfer of information, which has a half-life of nine months before others catch up or they think it up on their own.

I can speak to this. For example, with atomic secrets, we have a wonderful person, a great man, Hans Bethe, who was standing alongside Oppenheimer at Los Alamos. A man of luminous intelligence. There is nothing that he is more skeptical about than the idea of keeping physical science secret. He tells the story that after the atomic bomb was detonated, he and the other physicists involved said: All right, but no hydrogen bomb. No, that is too much.

And there was the further advantage:

And thank God, nobody knew how. It was not possible to make one. It can't be done. The physics just won't work.

And then he said: Stanislaw Ulam and Edward Teller figured out how it could be done.

And we said: Oh, Lord, if Ulam can think of it, Sakharov will think of it. So we had better go through with it.

He and Oppenheimer said:

You have to go through to a hydrogen bomb because science is not in a box that you can put in a closet.

I also want to say on this floor that I have not known a more patriotic man than John Deutch; absolutely committed to this country's security. Provost at MIT, a physical chemist, a man of great science, who made the error of working after supper at home. Nothing was ever transferred to anybody. He was working. What do I do in the morning? That kind of thing. And the very idea we would try to punish him for that is to put, I say, in jeopardy the whole reputation of American classified science and clandestine service. We do that at a great cost, which you will not recognize for half a century, perhaps. But it will come.

I thank the Senator from Texas for what he has said. I appreciate his indulgence in what I have joined him saying.

I see my colleague seeks recognition. I yield the floor.

PRESCRIPTION DRUGS

Mr. FRIST. Mr. President, I rise to speak briefly on an issue which has been talked about on the floor of the Senate this morning, and that is prescription drugs.

We all hear the critical cry—I say "cry" because it is almost that—as we talk to seniors across this country who say: We need some help; these drugs cost too much; they are out of our reach; we need help.

What is interesting is this is not heard from everybody. It is principally from a group of people who don't have access to affordable prescription drugs, and now we are charged as a body to develop a policy to ensure, to guarantee that coverage and getting it as quickly as we can to those people who need it, who are crying out now.

This past year I received over 3,000 letters or e-mails from seniors in Tennessee on this very topic. What did I hear? One elderly couple from Kingsport, TN, wrote:

We are requesting that you do not support any big government drug scheme. Government does not do things better than individuals. Please protect seniors' choice of private coverage. One size does not fit all. We do not want the bureaucrats interfering with our doctor-patient prescription drug choices.

A widow from Tennessee who had a liver transplant writes:

I'm against the big government plan. I have certain medications I must take and want to be able to get whatever medicines I need.

These letters speak volumes. They, first of all, point out the importance of health care security for our seniors that prescription drugs do provide but also the importance of having a right to choose what is best for one's individual needs.

I mention these letters because I do believe this body should respond as government should, in the broader sense, with a health care proposal, prescription drug plan, that gives affordable access to all seniors, making it a part of health care security. The plans

we have heard talked about in the press today are the Bush Medicare plan and the Gore prescription drug plan that have been contrasted on the floor earlier today by a colleague from the other side of the aisle.

I want to comment on those. It is useful for this body because, in essence, Governor Bush's proposal looks at two bills on this floor. One is Chairman ROTH's bill, which gives an immediate helping hand to those seniors who need it today, working predominantly through the States; the second component of the Bush proposal is modeled on the same concept as Breaux-Frist, the bipartisan plan that is based on the way we get our health care as Senators today.

On the Gore side—and that is why this contrast is useful—is the Clinton-Gore proposal, which is also on this floor in terms of prescription drugs. Although we use Governor Bush and Vice President GORE, they both represent bills that are currently on the floor of the Senate.

Looking at Governor Bush's Medicare plan, it has two parts. One is overall modernization, long-term strengthening of the overall Medicare plan, the health care plan for our seniors and individuals with disabilities. The second part offers immediately, right now, the help that seniors are crying out for today. You simply cannot ignore those low-income and middle-income individuals who can't afford the drugs, who really are choosing between putting food on the table and buying those prescription drugs.

The two-part plan has its overall goal to strengthen Medicare and to get that prescription drug coverage to all seniors. It is based on this bipartisan plan, this Breaux-Frist type principle.

The primary focus of Governor Bush's proposal is a universal prescription drug proposal that includes this comprehensive modernization. It does several things. No. 1, it lets seniors choose. Beneficiaries can stay in traditional Medicare, what they have today, or they can choose a plan such as Senator BILL FRIST or Senator ROTH or President Clinton has, a model called the Federal Employees Health Benefits Plan. Under Governor Bush's proposal and under the Breaux-Frist proposal, all current Medicare benefits are preserved.

The real advantage is that seniors for the first time are given a real option to choose among plans that might better be able to meet their individual needs. One plan might have more preventive care. Another plan might have vision care—not in Medicare today. Another plan might have dental care—not in Medicare today.

No. 2, Governor Bush's proposal, and the Breaux-Frist proposal in the Senate, provides all seniors some prescription drug coverage access. Yes, there is a 25-percent subsidy of the cost of those premiums for everybody with a 100-percent subsidy for those people under 150 percent of poverty.