

defense system will give us more flexible options in a crisis. First, defenses against missiles will help the United States to avoid nuclear blackmail, intended to freeze us into inaction by the very threat of a missile attack. Imagine the impact on our decision to go to war against Saddam Hussein in 1991 had he been able to threaten the United States or our allies with nuclear missiles. Additionally, missile defense will reduce the incentive for ballistic missile proliferation by devaluing offensive missiles. Finally, missile defenses, in a worst-case scenario, will save American lives.

The development of missile defenses and the end of the superpower rivalry does not obviate the need for traditional deterrence, however. As the world's remaining superpower, we need to maintain maximum flexibility and the ability to play the ultimate trump card if need be. Deterrence and defenses—with neither, of course, being 100 percent fail-safe—will be mutually reinforcing. The prudence of maintaining a nuclear deterrent was shown during the Gulf War when we hinted that we might draw on that capability if Iraq attacked allied troops with chemical or biological agents. As then-Secretary of Defense Dick Cheney warned during a visit to the Middle East on December 23, 1991: “Were Saddam Hussein foolish enough to use weapons of mass destruction, the U.S. response would be absolutely overwhelming, and it would be devastating.” Iraqi Foreign Minister Tariq Aziz acknowledged several years later that Iraq did not attack the forces of the U.S.-led coalition with chemical weapons because such warnings were interpreted as meaning nuclear retaliation.

Of course, with the end of the U.S.-Soviet standoff, we can maintain our deterrent at lower levels—thus President Bush's decision to unilaterally reduce our arsenal. But lower levels require greater attention to the safety and reliability of our remaining arsenal. This will, I believe, require renewed testing of that arsenal at some point.

Thankfully, this body defeated the Comprehensive Test Ban Treaty, CTBT—which would have obligated the United States to give up for all time the option of testing our nuclear weapons—in October 1999. The Bush administration has made it clear that it strongly opposes the treaty. While it has no plans to do so, the administration has retained the option of nuclear testing to assure the safety and reliability of our nuclear arsenal. It is also moving to improve the test readiness posture. As Assistant Secretary of Defense J.D. Crouch stated during a briefing on the Nuclear Posture Review, NPR, the “NPR does state . . . that we need to improve our readiness posture to test from its current two to three year period to something substantially better.” I am pleased that the House version of the Defense authorization bill contains a provision that requires

the Department of Energy to reduce to one year the time between the Presidential decision to conduct a nuclear test and the test itself, and I hope that the Senate will ultimately choose to include such a provision, as well.

The threats to the United States today are more complex and difficult to predict than those we faced during the cold war. Recognizing their inherent limitations, it is therefore time to move beyond traditional arms control treaties as a means to protect American lives from these threats. President Bush has committed to do just that. He has set the United States on a course that unequivocally places faith not in traditional arms control, but in the time-honored philosophy that led to the West's victory without war over the Soviet Empire: Peace through strength. As a result, we will be able to pursue the development of missile defenses and maintain a credible nuclear deterrent. These demonstrations of strength, coupled, of course, with the maintenance of robust conventional capabilities—not more pieces of paper—are what will keep this nation secure.

President Bush's overall security strategy rightly focuses on the root of the problem—the dangerous regimes that possess the weapons. As Margaret Thatcher once stated, “. . . the fundamental risk to peace is not the existence of weapons of particular types. It is the disposition on the part of some states to impose change on others by resorting to force.” The heart of the matter is that our strategy should seek to change the regimes themselves, whether through military, diplomatic, or economic means. The United States has made clear its intention to pursue that objective, and I have no doubt that our efforts will lead to success.

The PRESIDING OFFICER (Mr. MILLER). The Senator from Utah.

FTC REPORT

Mr. HATCH. Mr. President, my staff just attended a non-embargoed briefing conducted by the Federal Trade Commission. It is our understanding that tomorrow the FTC will transmit to the Congress and the American people a copy of its comprehensive study of the pharmaceutical industry with respect to litigation involving the two major components of the pending legislation: first, the report examined the use and abuses of the statutory 30-month stay. Second, the report examines how the 180-day marketing exclusivity rule has been the source of collusive arrangements between pioneer and generic firms.

I will be very interested to study the full report when it released tomorrow morning.

Let me say this tonight. First, I want to commend Chairman Muris and the other FTC Commissioners for undertaking this important study. I would also like to acknowledge the efforts of the FTC staff including, Maryann

Kane, Mike Wroblenski and Sarah Browers for their work on this report.

It is my understanding that the key recommendations contained in the report are somewhat at odds with the legislation on the floor.

It is my understanding the first FTC recommendation, consistent with the position that I took at the Health Committee hearing May 8 and my floor statements the past two weeks, will basically say that there should only be one automatic 30-month stay per drug product per ANDA to resolve challenges to patents listed in the FDA Orange Book prior to the filing date of the generic drug application.

Senator GREGG took this position in the HELP Committee and I commend him for his work to strengthen the bill.

Clearly, as I have laid out in some detail in earlier speeches, the Edwards-Collins substitute delves into areas way beyond this recommendation.

I also understand the second FTC recommendation, which touches upon the so-called reverse payment agreements whereby generic firms are paid not to market generic drugs, will suggest that the Congress pass legislation to require brand-name companies and first generic applicants to provide copies of certain agreements to the FTC.

This is exactly what Senator LEAHY's bill, S. 754, the Drug Competition Act, requires. As I discussed in my previous statements, I voted for Senator LEAHY's bill in the Judiciary Committee and worked with him to refine the final language. In my view, S. 754 contains a much more measured—and certainly more comprehensible—approach than does the Edwards-Collins substitute.

Because the staff briefing just occurred and the full report will be issued tomorrow, I am not prepared tonight to give you my full evaluation of the FTC report. But I can say that the major recommendations of the FTC appear to be somewhat at odds with key provisions of the legislation that is pending on the floor, the Edwards-Collins substitute to S. 812.

I look forward to examining the data collected by the FTC and analyzing the report's two major recommendations and its several subsidiary recommendations.

Frankly, I think that it would be appropriate for the relevant committees, the Judiciary Committee, the Commerce Committee, and HELP Committee, to have the opportunity to examine this comprehensive study before we adopt legislation in this area.

I will be interested to learn if the sponsors of the bill on the floor would be open to a process that will allow a careful evaluation of what the FTC study reveals and will not just act to ram this legislation through in the last week before August recess.

I have lodged my concerns about the way this bill so hastily was adopted by the committee and appeared on the floor, and urged that we take the time necessary to get this legislation right.

The Hatch-Waxman Act is an important consumer bill that has helped save about \$8 billion to \$10 billion each year since 1984. So we should not be playing around with this bill, especially without the benefit of carefully studying this this soon-to-be-released FTC report.

Once again, I urge my colleagues to do the right thing and give us an adequate opportunity to factor in this FTC study.

It would be advisable to spend the time before the recess to adopt trade promotion authority rather than to continue to struggle with the hastily crafted and not fully vetted Edward-Collins substitute.

In that regard, I pay specific tribute to our colleague, Senator BAUCUS, who represented the Senate so well in the trade conference that occurred Thursday evening and early Friday morning. I was a member of the conference committee. Senator BAUCUS did himself proud, did our body proud, did a very good job, as did Chairman THOMAS. Those two worked very well together to come up with what is landmark legislation to help our economy move forward. It is one of the reasons I think the stock market turned around today. It is not the only reason. I think we would have another reason if we would treat the Hatch-Waxman language with the care and treatment it deserves before we go off half cocked to enact a bill before we examine the FTC study and its recommendations.

I am grateful I serve on the Finance Committee with Senator BAUCUS and Senator GRASSLEY, both of whom did a good job in this last conference on trade promotion authority. I also am very pleased one of my long-term friends in the Congress has been Chairman BILL THOMAS in the House. It is a tough job being chairman of the Ways and Means Committee. It is a very divided committee in many respects; yet it works very well. There is no one in this Congress who does a better job on health care issues than Chairman THOMAS.

All of them deserve credit, as do the ranking members, CHARLIE RANGEL, without whom this agreement probably could not have come to pass, a man for whom I have tremendous respect; and, of course, Senator GRASSLEY in our body who has worked so well with Senator BAUCUS on so many pieces of legislation that mean so much to our economy and our country.

These are important issues. I have given some rather lengthy speeches on the Hatch-Waxman issue and even some lengthy speeches on the trade promotion authority. I was one of those in the Finance Committee who pushed very hard to get the trade promotion bill on the floor and get us to conference. I express my regard for all concerned. I hope we can resolve this matter on the floor this week, but I believe trade promotion authority deserves even greater precedence than what we are trying to do in the under-

lying bill S. 812. If we act on the underlying bill, it ought to be done in a thoughtful fashion. It should not be done just politically. We ought to pay attention to the experts at FTC and elsewhere who have spent so much time on the issue.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

JUDICIAL NOMINATIONS

Mr. SPECTER. Mr. President, I have sought recognition to speak about three nominees from Pennsylvania who have been confirmed by the Senate. It is a very happy day, indeed. We will have a judge to the western district of Pennsylvania and two judges to the middle district of Pennsylvania, both districts being in dire need of assistance. These three individuals were recommended by a bipartisan nominating commission which Senator SANTORUM and I have established, where there is independent review in each of the districts. These individuals were recommended to Senator SANTORUM and myself and then, in turn, we recommended them to the President. They have passed the examinations of the American Bar Association with flying colors, the FBI check, the Judiciary Committee hearing, and finally have been voted upon by the Senate.

Earlier today, the Senate confirmed Ms. Joy Flowers Conti for the United States District Court for the Western District of Pennsylvania. Ms. Conti brings an outstanding academic record to the bench: Her bachelor of arts degree from Duquesne University in 1970; her law degree also from Duquesne in 1973; summa cum laude, the highest honors; and she was the first woman to serve as editor in chief of the Duquesne Law Journal. She has had an outstanding career in private practice. She has been associated with the distinguished Pittsburgh law firm, Buchanan, Ingersoll, from 1974 until the present time; served as a professor of law at Duquesne from 1976 to 1982; has worked as a judicial officer, hearing examiner for the Commonwealth of Pennsylvania in the Department of State Bureau of Occupational and Professional Affairs.

She received a "well qualified" rating by the American Bar Association's Standing Committee on the Federal Judiciary, has served in the House of Delegates of the American Bar Association, and is currently serving in the Pennsylvania Bar Association's House of Delegates.

She received the Pennsylvania Bar Association's Anne X. Alpern Award, a very distinguished award named for the first woman supreme court justice in the Commonwealth of Pennsylvania—Justice Alpern, whom I knew and practiced before many years ago when I was chief of the appeals division in Philadelphia's Attorney General's office. Mrs. Conti brings the highest credentials to the western district, a court

very much in need of additional judicial manpower, or in this case woman power.

Also confirmed earlier today was a distinguished lawyer from Pottsville, PA, John E. Jones. Mr. Jones has an outstanding academic record from Dickinson College, 1977, and the Dickinson School of Law in 1980. He has been engaged in the active practice of law in Pottsville for the past 21 years.

I have personally known Mr. Jones for 15 years. Just earlier today I was talking to the former Governor of Pennsylvania, Tom Ridge, now serving as President Bush's homeland security adviser, and we compared notes on Mr. Jones and agree that he has outstanding credentials.

His background includes being the assistant public defender in Schuylkill County from 1985 until 1985. That is a part-time job. But the defender's office will give him a good background and balance, looking at the defense side of the bar. He served as Pennsylvania's State attorney general for the Drug Abuse Resistance Education Program, and more recently has been chairman of the Pennsylvania Liquor Control Board, having been appointed there in May of 1995.

In Pennsylvania, that is a major board, quasi-judicial, and serving as chairman gives one very extensive administrative responsibilities. In that capacity, he has simplified the procedures there in a context of some 20,000 licensees, so that he has a very extensive background to give diversity to the middle district.

On Friday, the Senate confirmed another distinguished lawyer, Christopher C. Conner, from Harrisburg, PA. Mr. Connor is chair of the litigation department of Mette, Evans and Woodside, one of the largest law firms in Pennsylvania.

He, too, brings excellent academic credentials, being a graduate of Cornell University in 1979 and the Dickinson Law School in 1982, where he was editor of the National Appellate Moot Court Team.

He has been active in bar association affairs, taking on the vice presidency of the Pennsylvania bar, coauthoring a Law Review article on "Partisan Elections, the Albatross of the Pennsylvania Appellate Judiciary."

Interestingly, with the Supreme Court of the United States recently declaring that candidates for judicial office are now free to campaign, that may be a great impetus to take judges out of elective office; something which I believe should have been done years ago in Pennsylvania and something I urged as long ago as 1968 when we were preparing Pennsylvania's constitution, which was adopted in 1969.

Mr. Connor has also served as adjunct professor at the Widner University School of Law on the Harrisburg campus where he taught pretrial procedure. So he brings a very diversified background and an excellent background to the middle district.