

HOMELAND SECURITY ACT OF 2002—Continued

AMENDMENT NO. 4513

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. THOMPSON. Mr. President, on behalf of myself and Senator WARNER, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Tennessee [Mr. THOMPSON], for himself and Mr. WARNER, proposes an amendment numbered 4513.

Mr. THOMPSON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 8, strike lines 1 through 3.

On page 9, strike lines 13 through 15.

On page 12, line 15, strike “, with the Director,”.

On page 12, strike lines 18 through 26 and insert the following:

(4) To make budget recommendations relating to the Strategy, border and transportation security, infrastructure protection, emergency preparedness and response, science and technology promotion related to homeland security, and Federal support for State and local activities.

On page 77, lines 22 and 23, strike “, the Office,” after “OSTP”.

On page 103, line 5, strike “amended—” and all that follows through line 12 and insert the following: “amended in section 204(b)(1) (42 U.S.C. 6613(b)(1)), by inserting ‘homeland security’ after ‘national security.’”.

On page 156, lines 15 and 16, strike “, the Office,”.

On page 158, line 9, strike “, the Office,”.

On page 162, line 11, strike “and the Director”.

On page 162, line 17, strike “and Office”.

On page 173, strike line 15 and all that follows through page 197, line 19.

Mr. THOMPSON. Mr. President, the purpose of this amendment is to strike title II and title III and make conforming amendments.

Title II would create an office in the White House that would coordinate the homeland security activities of the Federal Government. Title III would require the new office and the Secretary of Homeland Security to jointly produce a national strategy.

The administration opposes the creation of an office in the White House that would have a Senate-confirmed director with specific responsibilities and authorities. The White House believes that such an office would blur the lines of accountability and diffuse responsibility, particularly since the White House already has an office, the Office of Homeland Security, that is responsible for coordinating the Federal Government's homeland security efforts.

The committee's proposed structure will also create confusion because similar functions will be performed by the Secretary of Homeland Security, the Director of the Office of Homeland Security, and the Director of the Office of Combating Terrorism, which is the Na-

tional Security Council. With all these different offices, it will be extremely difficult to determine who is responsible. When a homeland security issue arises, which official does the Congress hold accountable, the Secretary for Homeland Security or the proposed Director of the Office for Combating Terrorism?

We should also recognize that statutorily creating an office in the White House impairs the President's flexibility and authority to structure the Executive Office of the President to best meet his and the Nation's needs. The President traditionally has had broad authority to structure the Executive Office as he sees fit. This proposal is an infringement on that authority.

There certainly have been times when it has been necessary to create an interagency coordinating body in the White House. The creation of the National Security Council is an excellent example of this.

However, this proposal goes too far. It gives the proposed office specific responsibilities and authorities that tie the President's hands and limit his ability to mold the office to serve the needs of the American public.

Another disconcerting aspect of this proposal is that it would require the director to be Senate confirmed. For the last year, the President has made it clear that he desires a confidential homeland security adviser who would advise him on domestic security issues. He doesn't want or need another Senate-confirmed official who would be required to testify before a congressional committee. We have such an individual in the new Secretary that has been created. The President must have his own advisers who work for him. I think he is entitled to that.

Senator WARNER, the ranking member of the Senate Armed Services Committee, also expressed concern in a letter to the Senate Governmental Affairs Committee, where he wrote:

The structure proposed by the Chairman would be redundant of the structure that is already in place.

He further said that:

The budget review and certification authorities would undercut the ability of several cabinet members, including the Secretary of Defense, the Attorney General, and the Director for the Central Intelligence, to carry out their responsibilities. In the case of the Secretary of Defense, in particular, the proposal would give the director of this new office the ability to decertify; in essence, to veto the defense budget. It would be unwise to give this authority to an official who does not have to balance the many competing needs of the Department of Defense.

Finally he said:

The drafting of a new comprehensive strategy for homeland security is unnecessary. Legislating anything other than a periodic review and update of this strategy would be burdensome and would divert attention and resources away from the administration's focus on homeland security.

Prior to the President's June 6 decision to support a Department of Home-

land Security, I spoke in favor of a Senate-confirmed official that the Congress could hold accountable. We now have that with the new Secretary, or soon will have with the new Secretary of Homeland Security.

I see little value in creating this new office when such an office already exists. Simply put, another office in the White House is redundant and unnecessary. Moreover, probably more importantly, there appears to be several negative consequences, potentially creating confusion as to accountability, as to budget authority, and the creation of a new homeland security strategy.

Therefore, I urge adoption of the amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Mr. President, at the request of our colleague, Senator LIEBERMAN, I will be managing the debate on this particular amendment, an amendment for which I feel a strong parental relationship.

Shortly after the tragic events of September 11, with Senator FEINSTEIN, I introduced legislation to establish such an office of terrorism within the White House in order to create a focal point for decisionmaking and informing the President and the Congress of a national strategy on how to combat what clearly was emerging as the major challenge to America's national security.

My good friend, Senator THOMPSON, has just suggested that events that have occurred since that time, particularly the event of the President deciding, after a long period of consideration, to support a statutorily created Department of Homeland Security, had rendered irrelevant or, maybe even worse, redundant the idea of an office to combat terrorism within the Presidency.

I disagree with that analysis and look forward to the debate which will lay out the case of why these two agencies—a Department of Homeland Security and an office within the Office of the President—are, in fact, reinforcing in the same way that, in 1947, Congress found it appropriate to reorganize the previously distributed military, distributed by the various services, Army, Navy, a newly emerging Air Force, into a single Department of Defense. But at the same time they did that, in fact in the same legislation, they created the Office of National Security Council. They found those two actions to be reinforcing, cohesive, and both contributing to the Nation's security.

I will attempt to make the case that the same is true for the action suggested in the legislation before us.

I strongly support the creation of the Department of Homeland Security and the legislation before us today to do so. I wish to commend our colleagues, Senator LIEBERMAN and Senator THOMPSON, Senator LEVIN, Senator COCHRAN,

as well as Senator SHELBY, who serves with me on the Senate Committee on Intelligence, for their leadership on this issue and for the wisdom which they have shown in the development of this specific legislation.

The establishment of a Department entrusted with the security of our homeland, in my judgment, is a critical step to making our Nation safer. The vicious terrorists who struck out on September 11 may have succeeded in executing their plot, but they failed in achieving their mission.

America is sad; America is not afraid. We are alert, not panicked. We are firm in our resolve to orient ourselves to protect against future attacks; without altering the fundamental aspects of our life, we are committed to a strategy that will both protect us against our vulnerabilities here at home, while we take the war aggressively and successfully to our enemies, wherever they might live.

The Department of National Homeland Security Act of 2002 makes necessary changes in our governmental structure. It does so in a reasoned, careful way, preserving our constitutional liberties while increasing the effectiveness of our security organization.

This legislation is consistent with our history where periodically we have reexamined what our national priorities are and how the Federal Government should be organized to achieve those national priorities. A perfect example of this is the agency most affected by this legislation—the U.S. Coast Guard, which will represent about 25 percent of all the personnel in the new Department.

The Coast Guard began in 1789, the same year that George Washington was sworn in as President of the United States. At that time, it was known as the United States Light House Service, and its primary function, as its name implies, was seeing that lighthouses were operational. The agency eventually merged with four others and assumed a new role, and that was enforcing our customs laws, collecting tariffs. At that point, it was moved into the Department of the Treasury. Other than twice during World War I and again during World War II, when the Coast Guard was transferred by Executive order to the Navy, it stayed in the Department of the Treasury until 1967, when its role evolved yet again and it became seen as a maritime safety and security agency.

The Coast Guard was transferred to the newly formed Department of Transportation. It has stayed in that Department since 1967. Today, the Coast Guard is recognized as a primary component of our Nation's homeland security force. Thus, the recommendation in this legislation is that the Coast Guard in toto be transferred to the Department of Homeland Security.

I focus my remarks today on that portion of the bill which is the subject of the amendment that has just been

offered by Senator THOMPSON, the amendment to delete from this legislation title II and title III, which would establish within the White House a national office for combating terrorism. The need for a coordinator within the White House has been recognized by a number of blue ribbon commissions in the last several years. Here are recommendations from three of the most prominent of those commissions.

The Gilmore Commission, chaired by the former Governor of Virginia, stated:

Recommendation No. 2: The next President should establish a National Office for Combating Terrorism in the Executive Office of the President, and should seek a statutory basis for this office.

The Hart-Rudman Commission, chaired by two of our former colleagues, said this:

Strategic planning is largely absent within the United States Government. . . . Across the Government, [a coordinator] should be given a stronger hand in the budget process. . . . Congress should develop mechanisms for a comprehensive review of the President's counterterrorism policy and budget.

The Bremer Commission, chaired by the distinguished Ambassador Bremer, stated:

The President and the Congress should reform the system for reviewing and funding departmental counterterrorism programs to ensure that the activities and programs of various agencies are part of a comprehensive plan.

In a recently released—in July of this year—Brookings Institution report on the events since September 11, it was stated:

Whether Congress establishes the broad-ranging department the Bush administration proposes or the more focused Department we advocate, there will remain a need for White House coordination. . . . By the administration's own reckoning, more than 100 U.S. Government agencies are involved in the homeland security effort. . . .

Continuing, the Brookings Institution report states:

There is a critical need to coordinate their actions with those of [the Department of Homeland Security] and to develop and implement a government-wide homeland security strategy.

As I indicated earlier, this concept of an office within the White House with the responsibility for coordinating efforts to combat terrorism was originally embodied in legislation I introduced with Senator FEINSTEIN last fall and is based on the lack of any central coordinating figure within our Government with a singular focus on terrorism.

We believed then—and with the creation of the new department, we believe now—that it is essential the sometimes-discordant group of departments and agencies with counterterrorism responsibilities must be brought into harmony.

The creation of the Department of National Homeland Security does not change that fact. While this new Department will subsume some of the existing agencies, there will be many oth-

ers which remain outside the authority of the Secretary of Homeland Security but will still be performing vital missions related to our efforts to combat terrorism.

As an example, the intelligence community itself is not going to be brought into the Department of Homeland Security. Clearly, it will play a very significant role if we are going to anticipate and be able to respond to terrorist attacks before they are launched.

The Department of Defense has recently created a new central command called Northern Command. That command will have increased responsibility for the military's role in protecting the security of our homeland. The departments of the Treasury will still be responsible for coordinating economic measures to reduce the opportunities of terrorists who finance their activities through U.S. sources or international sources. The departments of State and the Department of Energy, which has a major role in our nuclear policy and will have a major role in the Department of Homeland Security's efforts to develop new technologies that will help us better confront terrorism—they will all play a role in our national efforts to combat terrorism.

The Director of the National Office of Combating Terrorism will have three missions. First, the Director will be able to provide that coordination on counterterrorism for all of the agencies—not only the Department of Homeland Security but the intelligence community, Department of Defense, Department of the Treasury, Department of State, Department of Energy, just to list some of the other agencies that will be most directly involved in homeland security.

He will be able to do this with his power to certify budgets, that they are consistent with the comprehensive plan for combating terrorism. The model for this is twofold. I mentioned earlier the 1947 National Security Act, created by statute for a National Security Council and a National Security Adviser to the President.

In more recent years, we have created an office of drug policy. That office has been increased in authority over the years as we have seen that greater authority was needed in order to bring the Federal Government more effectively into a common army to combat the enemy of drug traffickers. That legislation now provides that the head of that office is appointed by the President, subject to Senate confirmation, and has the power to decertify budgets that are not consistent with the President's antidrug plan.

Those two models—the National Security Council and the National Office for Drug Policy—are the models for the office that we are proposing to create today.

This office and these powers, particularly the power to certify budgets, are what are necessary for the Director to

effectively coordinate the counterterrorism efforts of the important agencies that will not be part of the Department of Homeland Security.

The second responsibility of the Director will be to assure that his status and his effectiveness derives from law, not just the personal relationship with the President. Like the Office of Drug Policy, this is an agency that serves not only the interest of the President but also the interest of all of the American people and their representatives in the Congress. So it is important there be a level of shared responsibility and confidence in the individual who occupies that position.

Third, the Director will be subject to the explicit oversight of Congress. This is important so that Congress is a full partner; that Congress is there at the launch of our comprehensive strategy to combat terrorism so that Congress will be there during the good days and the bad days, and there will be some of both as we move forward in this effort to protect the homeland.

Fourth, this Director will have the confidence of both the executive branch and the Congress and will play the critical role of assuring that the agencies most involved in the war on terrorism will make the necessary institutional adjustments to move toward the era of terrorism and away from many of the concepts which have dominated us during the cold war.

One of the concerns I have developed, as our Intelligence Committee has reviewed the events leading up to September 11, is the question of why was the intelligence community slow to recognize that the world changed in a very fundamental way in terms of its mission with the end of the cold war? It was not surprising that the intelligence agencies were very influenced by the history of the cold war because they were a product of the cold war.

The United States had not had an organized intelligence service until World War II. During the war, a special security agency was established to develop and analyze intelligence for a military purpose. As soon as the war ended, so did that agency.

Two years later, President Truman recognized that as the Soviet Union changed from being a wartime ally to now an adversary, we needed to know more about the Soviet Union, about its capabilities, about its intentions, and in order to do so, we needed to have a permanent and a mixed civilian and military set of intelligence agencies.

Out of that decision came the 1947 National Security Act and the creation, in addition to the Department of Defense and the National Security Council, of also the intelligence community more or less as we know it today.

The intelligence community grew up dealing with the peculiarities of the Soviet Union. We knew a tremendous amount about the Soviet Union. We probably, without question, had more information about issues of warfare in

the Arctic Ocean than any other place in the world, including the Soviet Union itself because it was very much in our interest to understand that particular water body.

As we were acquiring this tremendous depth of knowledge about the Soviet Union, we were doing it at the expense of not learning more about much of the rest of the world. Our intelligence agencies became focused narrowly—culturally, and linguistically—particularly on the Soviet Union. We were not acquiring competencies in other parts of the world.

Second, we became very dependent on technology as a means of collecting intelligence. The Soviet Union was a hard place to get spies into and to support and to sustain them once they were there. Particularly our satellite-based technologies gave us the means of acquiring most of the information we wanted to learn about the Soviet Union without the risk and difficulty of putting human beings into a position to collect that intelligence.

Finally, there was a criticism, which is subject to debate, that our intelligence communities became risk averse; that we were reluctant to engage in operations that might fail and be embarrassing; it might fail and cost lives. All three of these characteristics, real or alleged, have disserved us in the post-cold-war era. Instead of being narrowly focused, we now must be broadly focused. We must understand the cultures and languages of countries that did not exist at the time the cold war started.

We no longer can depend on our technology, although it continues to be a very significant part of our intelligence collection, but if you are going to understand the mind of Osama bin Laden, you cannot do so by taking a picture or even listening to a conversation. The fact is, modern international terrorists rarely use the kind of communication that we have the greatest capability to intercept. Rather, we must have an intelligence capability which is extremely diverse, that understands many cultures, understands many languages, and is able to function in alliances with the intelligence services from many other nations.

Finally, this is going to be a riskier war than was the cold war. While the cold war posed the ultimate risk—nuclear annihilation—this is going to require human beings operating in very close contact with our adversaries and exposing themselves to the risk of that close encounter.

The reason I use this example of the intelligence community and its necessity, but slowness, to make the conversion from its cold-war orientation to the orientation of the new era on terrorism is that these same challenges will be faced by the agencies which are now being given responsibility for homeland security.

I can state with virtual certainty of correctness that over the next 10 to 20 years the nature of our enemy at home,

the tactics that are used, will be substantially different than those that were used on September 11, 2001, and we must have a homeland capability which recognizes those changes and is prepared to adapt to the new challenges, the new threats that it will face.

I believe one of the things that was missing in the intelligence community was having an office which could be constantly challenging the intelligence leadership: Are you relevant to the challenge we are facing today? Are you looking over the horizon at the kinds of capabilities you will need in the tomorrows in order to prepare against this emerging threat?

In my judgment, the most important function of this office to combat terrorism will be its role as the constant challenger of all of the main line departments, from the new Department of Homeland Security to the Department of Defense to the Department of Energy, challenging them: Are you relevant to the current face of evil that we are continuing against?

What are you doing to prepare for future emerging threats? What are you doing to identify those threats? What are you doing to recruit and train and provide professional advancement to your key personnel so they will be personally responsive to the new challenges? Those are some of the issues. Those are some of the challenges. Those are the fundamental rationales why the committee, under the leadership of Senator LIEBERMAN, included title II and title III in providing for the Office for Combating Terrorism within the Office of the President.

These four missions together will assure the Director has both authority and legitimacy, authority with respect to his colleagues who lead other Governmental agencies, and legitimacy with respect to the important role the legislative branch will play in the achievement of his goals.

This position, as I indicated earlier, parallels the job being done today by the Director of the President's National Security Council. It does for domestic security many of the things that Dr. Condoleezza Rice does for foreign policy. It also parallels in many ways the emerging Office of Drug Policy and its challenge to have a coherent plan of action, and then assure all the Federal agencies that are responsible for that play their appropriate role.

We are about very serious business. It is not just business that will fade after the sorrow and shock of September 11. It goes further into history. In my judgment, for our lifetime, as it is today, the issue of terrorism will be the single most significant security threat faced by the United States of America. So we must prepare for the long haul, the sustained commitment.

There has been some criticism that Congress played a role in this failure of the intelligence community and other aspects of our National Government to

make the transition from the cold war to prepare for the challenges of the new era of terrorism. Some of those criticisms are no doubt deserved. This is an opportunity for Congress to take action which will help prepare us to avoid the unstated criticism. I do not want to have our predecessors in the Senate ask the question 25 years from now: Why did we create, in the year 2002, agencies that would become the dinosaurs of 2022 because they were unable to make the transition as the rapidly evolving but not fully understood threat of terrorism confronted our people?

This office, in my judgment, will reduce the likelihood of that criticism because, if this office functions as the architects intend, it will be the agency for continuing renewal within all of our Departments which have a responsibility for protecting the American people in our homeland.

For those reasons, I respectfully resist the amendment offered by Senator THOMPSON, urge its defeat, and the continuation within this legislation of the important concepts contained in title II of the Office for Combating Terrorism.

The PRESIDING OFFICER (Mr. NELSON of Nebraska). The Senator from Tennessee.

Mr. THOMPSON. Mr. President, I appreciate the well-thought-out statement of my colleague from Florida with regard to his opposition to this amendment. I think the groundwork has been laid now for a good discussion of the pros and the cons.

The points my good friend made are not valid and are certainly not sufficient to defeat this amendment. I support this amendment basically for the following reasons, in addition to what I said earlier: It seems the opponents of this amendment—those who would create the new national Office for Combating Terrorism—take the position we need a coordinator to develop a strategy. But since this idea was first proposed, lots of things have happened. One is we are now on to the consideration of a large, new Department containing 22 agencies. Secondly, we have a strategy. In July, the President came forth with a national strategy.

Now we have under consideration a large new Department taking in most of the agencies that will have a homeland security function, and we have a strategy that this new Department will be following in trying to implement the safety measures that we all know are needed.

In addition, we still have a coordinator. We have someone to coordinate this new Department and those agencies which cannot be brought into the new Department, such as the Department of Defense and the FBI and other agencies. That is the Office of Homeland Security, under the leadership of Mr. Ridge. We also have the Office for Combating Terrorism under the NSC. Those offices are already there. We have those two offices in the White House serving a coordination function.

Plus, we will have a new Department with a new Secretary and all of his responsibilities. So we have a strategy.

I have not heard criticism that the strategy is not a good one or that we should go in a different direction or that there is some reason we should set up a whole new mechanism and bureaucracy to come up with a new strategy. So we have those components which the opponents of this amendment say we need. I agree we need them. We have them. We have them in a different way than what our friends on the other side would suggest.

It is suggested that the National Security Council is an analogous entity or one after which this provision in the Senate bill has been patterned. There has been a comparison between the NSC and this proposed office, but the National Security Act of 1947 created the National Security Council, and this legislation gave the NSC broad responsibilities and limited authority.

The head of the NSC, of course, is not confirmed by the Senate. There is no advice and consent with regard to the NSC. There is no Senate-confirmed official. The NSC has no budget authority, which is another big distinction between the NSC and the proposed Director in this bill. It was also designed for the sole purpose of coordinating policy.

In contrast, the proposed White House office would have specific statutory responsibilities and functions; would have a Senate-confirmed Director; would have considerable budget review authority; and would, I submit, interfere with the executive branch's current budget process.

I will dwell on that particular aspect of the bill because I think it is significant. That has to do with the budget authority. It is substantial. In title II, section 201, it states the new Director is:

To coordinate, with the advice of the Secretary, the development of a comprehensive annual budget for the programs and activities under the Strategy, including the budgets of the military departments and agencies within the National Foreign Intelligence Program relating to international terrorism, but excluding military programs, projects or activities relating to force protection.

It goes on to say:

To have the lead responsibility for budget recommendations relating to military, intelligence, law enforcement [et cetera]. . . .

To serve as an advisor to the National Security Council.

It goes on in section 202 and says with regard to the submittal of proposed budgets to the Director:

The head of each Federal terrorism prevention response agency shall submit to the Director each year the proposed budget of that agency for the fiscal year beginning in that year for programs and activities of that agency. . . .

The proposed budget of an agency shall be submitted to the Director before that information is submitted to the Director of the OMB.

It goes on to say:

If the Director determines that under paragraph (1) that the proposed budget of an

agency for a fiscal year . . . is inadequate, in whole or in part . . . the Director shall submit to the agency . . . a notice and a statement.

It goes on to state:

The head of the Federal terrorism prevention response agency that receives a notice [as described] shall incorporate the proposed funding . . . set forth in the statement accompanying the notice in the information submitted to the Office of Management and Budget. . . .

So as I read that he pretty much had to do what the Director says even though the agency has the primary responsibility for dealing with the problem under their jurisdiction.

It goes on under the section having to do with review and decertification, the Director:

Shall review each budget submitted under paragraph (1);

And may decertify the proposed budget.

So, in effect, this Director has a veto over the budget.

National Terrorism Prevention and Response Program budget in general:

For each year, following the submittal of proposed budgets for the Director under subsection (b), the Director shall, in consultation with the head of each terrorism prevention agency concerned—

(A) develop a consolidated proposed budget for each fiscal year for all programs and activities under the Strategy . . .

And submit it to the President and Congress.

The head of the Federal terrorism prevention and response agency may not submit to Congress a request for a reprogramming or transfer of any funding specified in the National Terrorism Prevention and Response Program Budget for programs or activities of the agency under the Strategy for a fiscal year in excess of \$5,000,000 without the approval of the Director.

So, obviously, there is substantial budgetary authority—even though we have created a new Secretary with vast responsibilities, including the normal budgetary responsibilities—that the head of this Department would have. We still have the OMB and the regular process. Yet we would have a new Director who may not have the entire view of the Government that OMB has.

Certainly it has an important function, an important role to play. Certainly it can have some input, but the ability to unilaterally make those kinds of budgetary decisions when we have this process, at a time when we are creating a new Department and a new Secretary, and to kind of take that away from the OMB, which has responsibility for a bigger picture, shall we say, I submit is not a good idea and it is unnecessary.

It is not necessarily accurate to say that more is better when creating this Department. We can make it so large, so huge, there are so many moving parts—and we already have more directorates in the Senate bill than the President would submit—that it becomes unworkable or much more difficult to handle and to manage than is necessary.

Also, it takes away from ease of accountability. One of the most difficult

things we have seen in the Governmental Affairs Committee with regard to the overall operation of the Government in looking at so many of the efficiencies that many of the Departments have and that we fear we may be incorporating into this new Department is lack of accountability, who is in charge. If the administration has it their way—and I submit on a close call you ought to give an administration, and the President, and a new Secretary, a fighting chance to take the approach they want to take and then have the accountability of making it work than otherwise—if we adopted the President's suggestion, we would have the Office of Homeland Security, Mr. Ridge, which he says he will retain under any circumstances. So we have to assume he will.

The Office of Combating Terrorism, under the NSC, which we have, and a new Department with a new Secretary with a big umbrella covering 22 agencies, I submit that will be complicated enough. We do not need a new directorate duplicating the budget process, duplicating the strategy process, when we already have one, and doing all those things that the administration is saying we don't want to do, we don't need to do. There has not been any good reason to say that is an incorrect position or that we need it. I don't think anyone has ever recommended exactly what we are considering today.

The Gilmore Commission suggested a statutory White House position. That is true. But they did not also suggest a new Department. That was before we had the new Department under consideration, as we have today.

Hart-Rudman recommended a new Department, but they did not recommend a statutory White House position. They recommended a coordinator, as I recall. I think I am accurate in saying that no Commission, no entity, anywhere, has ever recommended we have both a statutory, confirmable White House entity in addition to a new Department with a new Secretary which would be confirmable.

I submit it is a reasonable and prudent thing to prune this huge—some have called it—monstrosity. Maybe I have in times past. It is so big and potentially so unwieldy. I hope it does not turn out to be a monstrosity. I am talking about the new Department with all of the different agencies and 170,000 people, coming together and all of that. Surely, on something that is clearly as duplicative as this, we can pare it down a bit, use those offices and people we already have in place in all these key positions, and give the administration the ability to start this extremely important operation on a level playing field and one with which they feel comfortable. It does nothing for homeland security. It does not do anything to make this Nation safe by just adding on new agencies or any offices and new Directors and new responsibilities.

Let this entity also do what this other entity is already doing and estab-

lish someone else in play with regard to that. That does not do a thing to enhance homeland security.

I submit that it diminishes homeland security. None of us want to do that. So I submit the amendment is founded on sound principles and deserves serious consideration.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I rise in opposition to the amendment offered by my friend and colleague from Tennessee, which would strike title II and title III, two very important pieces of our legislation; that is, the amendment that was passed out of the Governmental Affairs Committee.

I thank my friend and colleague from Florida, Senator GRAHAM, not only for his eloquent statement in response to the introduction of the amendment by Senator THOMPSON, but for the considerable work he has done on this proposal for almost a year now building on work, as he said in his statement, that was done by other groups calling for such an office. It was bipartisan work, incidentally—including members of the other party here in the Senate. This work greatly influenced the Senate Governmental Affairs Committee as we put together the amendment that we bring before you. So I thank the Senator from Florida for his thoughtful leadership on this matter.

This is not an amendment that strikes at the margins of our committee proposal. This is an amendment that really goes to one of the fundamental parts of the amendment that the Governmental Affairs Committee reported out in a bipartisan vote of 12 to 5. Look at the title of the amendment, the proposed bill: The National Homeland Security and Combating Terrorism Act of 2002. It clearly is the intention of our committee not just to create a Department of Homeland Security, which is, of course critical, but to combat terrorism. Terrorism goes beyond homeland security. It goes beyond the Department of Homeland Security. We feel very strongly that it requires the kind of strong coordination that the National Office for Combating Terrorism would provide. We wrote these two titles, title II and title III that Senator THOMPSON's amendment would strike, into our bill because while the new Department of Homeland Security would be a critical advance in our efforts to combat terrorism by raising our guard, by defending ourselves, the American people here at home, it is obviously not all that is needed to rise to the challenge that our terrorist enemies have put before us.

More than half the Members of the Senate were in New York Friday with more than half the Members of the House to meet in an unusual joint session to express our solidarity and respect and admiration to the people of New York, to honor those who were heroes that day, to mourn those who died that day, and to support their sur-

vivors. But also, I think, to rededicate ourselves to the war on terrorism so, as much as it is humanly possible, we believe that we have done everything we can to prevent another September 11 type of attack from occurring.

I strongly believe for that to be so we need not only the Department of Homeland Security, but the office that this proposal would require because even after the Department is up and running, there are going to be many agencies and programs with key roles in the war on terrorism that would be outside the purview of the new Department. That is why we created this national office in the White House.

The Director of the office, in my view, and I believe in the view of the majority on the committee, would be the primary architect of an antiterrorism multi-agency strategy working, of course, for the President because the Director is the appointee of the President. That strategy would include a host of components beyond homeland security—some diplomatic, some financial, some military, some intelligence, some law enforcement. I think Senator GRAHAM has listed the possibilities and the realities quite effectively.

What we are saying is, what we need to prevent another September 11 from ever happening again is not just a new department to oversee the most critical aspects of homeland security, but a coordinator, a director working directly for the President, who has the real power and positioning to see the larger picture of the war against terrorism and to coordinate it in a very aggressive way for the President.

We heard testimony at one of our Governmental Affairs Committee hearings—one of 18 we have held since September 11, 2001, from Ashton Carter, who was an Assistant Secretary of Defense in the Clinton administration. I want to quote from him. Ash said:

The announcement of an intention to create a cabinet-level Department of Homeland Security should in no way obscure the paramount need for a strong White House hand over all aspects of homeland security . . . The nation's capabilities for homeland security, even optimally coordinated, are simply not adequate to cope with 21st century terrorism. What is needed is far less a coordinator of what exists than an architect of the capabilities we need to build.

I want to read from a few others who have both supported the creation of a new Department and a strong White House office.

In July, the Brookings Institute issued a report called, "Assessing the Department of Homeland Security." They say in that report:

Whether Congress establishes the broad ranging department the Bush administration proposes or the more focused department we advocate—

That is the nonpartisan experts on this task force at Brookings—there will remain a need for White-House coordination. By the administration's own

reckoning, more than 100 U.S. government agencies are involved in the homeland security effort . . . There is a critical need to coordinate their actions with those of DHS and to develop and implement a government-wide homeland security strategy.

Indeed [Brookings continued] it would be advisable to broaden the scope of the Office of Homeland Security to include overseeing the intersection between the U.S., domestic and overseas counter-terrorism activities. Under this arrangement, the Office of Homeland Security will likely only be able to perform its vital coordinating functions if Congress steps in and provides the homeland security office, council and director status in law.

Which, parenthetically, I say, is exactly what our proposal would do. Going back to Brookings:

Moreover, if the Office of Homeland Security and its director are to continue to have a major role in drawing up an integrated homeland security budget—

As was the case for Governor Ridge for the 2003 fiscal year request—

it is absolutely critical that the director not only have statutory authority but be accountable and answerable to Congress.

I will read one more quote of GEN Barry McCaffrey, who testified before our committee on October 12 of 2001. Of course, General McCaffrey had been the Director of the Office of National Drug Control Policy. He talked about the importance of the authority to review and certify budgets if we are going to have and implement a national strategy for combating terrorism. General McCaffrey said:

A strategy without the resources is not worth the paper it is written on. The director of the Homeland Security Office needs the authority to independently decertify any agency budget that does not provide the resources needed to combat the threat of terrorism.

He added:

Not only are budget certification powers required to ensure sufficient resources, they also play a critical role in policy-making. The ability to decertify an agency's budget is the nuclear weapon of policymaking—it isn't something you can use often, but the mere fact that it is in your arsenal guarantees you are taken seriously. If you want to see another agency get with the program fast, just articulate the possible decertification of its budget.

End of quote from General McCaffrey. It is a very important point. The reality is that President Bush has acknowledged the need for an ongoing White House coordinating office on homeland security and terrorism, saying he would retain the current office he established last October once the new Department is established. That is what the Thompson amendment seeks to achieve, preserving the status quo with respect to the powers of the Office of Homeland Security.

But with all due respect, that would give us less than we need. We need an office that, of course, is accountable to the President, the President's appointee, but nonetheless can be an advocate within the councils of our Government to make antiterrorism a priority and, also, as General McCaffrey's words suggest, to create an incentive,

because of the potential use of the power of decertification, for agencies not to slip back and underfund our antiterrorism effort, not to allow us to fall back into a slumber and make counterterrorism and antiterrorism a secondary or tertiary matter.

This office, with the authority our bill gives it, through both budgetary authority and Senate confirmation, will have the power to be what we all need it to be. The President basically acknowledges the utility of continuing the office. The question is, Will it be a strong office or a weak office?

I think the very reasons that convinced President Bush, contrary to his original position on this—and, of course, I am grateful for the change he made and I appreciate and admire him for making it—make the case for a strong White House office. He concluded that the original Office of Homeland Security was not enough to do the job that he wanted, as President, to have done because it did not have the power to do the job.

Also, there are war stories you can hear from inside the councils of Government about various attempts Governor Ridge made to try to bring some coordination to the disparate agencies involved in homeland defense. For instance, there was a proposal on coordinating the border agencies, and it was knocked down from within the agencies themselves.

Part of why, probably, those four men to whom Senator BYRD refers often, who gathered secretly to put together the administration's position or recommendation on the Department of Homeland Security, did so is that I think they—wisely, in this case—did not want to enter into a process preliminarily that would have allowed the bureaucracy to fight change, which was what Governor Ridge was facing.

So I think the fact that the Governor hit a lot of roadblocks and speed bumps rather than paved stretches of road should convince us that a Senate-confirmed director of the White House office, exercising statutory powers, would have the clout he or she needs to accomplish what the President wants him or her to accomplish.

Some argue, I know, that once we create the new Department, it will not really matter if the White House position is statutory and Senate confirmed. Certainly, I agree that even without a statutory and Senate-confirmed director of the White House office—which, again, we know will exist, in any case—the new Department of Homeland Security would be a vast improvement over what we have today. But it is still risky.

It is inadequate to assume that, even with the new Department, we can afford to have anything less than the strong antiterrorism coordinating office in the White House that was conceived by Senator GRAHAM and his co-sponsors and adopted by our committee. As he has said, critical pieces of the antiterrorism effort cut across

the Government and will not and cannot and should not be folded into the new Department even if it is well organized. Somebody needs to be looking at the big picture with a comprehensive sense of how every piece and element of the fight supports every other element, and then directly advising the President as to how the entire effort can be strategically integrated and implemented.

The White House office can be a crucial complement to a line agency. It is not unprecedented for Congress to create such positions within the White House, as Senator GRAHAM has said. Such legislatively created offices include the National Security Council; the U.S. Trade Representative, subject to confirmation; the Office of Drug Control Policy, of course, subject to confirmation by the Senate; and the Director of OMB, naturally subject to confirmation by the Senate.

The complexity of orchestrating the fight against terrorism makes this mission, which will be central to our security for a good part of the years ahead of us, every bit as worthy of statutory status within the White House as those other missions fighting drugs, expanding and providing for fair trade, and coordinating management and budgeting.

The White House office our legislation envisions would not be charged with homeland security per se, I want to make clear. Homeland security is the responsibility of the new Department. The White House office's job is to orchestrate and advise the President more broadly on the fight against terrorism. For instance, central questions that this office would consider, that will not come before the Department of Homeland Security or the Secretary, are: Are we doing enough to cut off the money supply of al-Qaida? And where might a new funding stream come from? Are our public diplomacy efforts, which are run through the State Department, complementing the other pieces, the military pieces, of the wider war against terrorism? How should our trade policies or our foreign aid policies be structured to be maximally effective in the fight against terrorism? Are there efforts that are duplicative or are there gaps between the various Departments beyond homeland security that need to be addressed? Those are central questions in the war against terrorism which will not come before or be decided by the Secretary of Homeland Security or all the agencies working under him or her.

A lot of our antiterrorism effort was not well coordinated before September 11. That is a sad fact. As we approach the first September 11 since the dark day of September 11, 2001, it is critically important that we make sure our antiterrorism effort has learned all the painful lessons of last September 11. It is just unrealistic to think that a new Department alone will achieve that goal. We must still press for the most effective coordination and leadership we can achieve.

I must say, we must do that for the longer term. I understand the President has strong feelings about this, but Congress has a responsibility to legislate for the longer term. As we all have agreed, the battle against terrorism is going to go on for the longer term, not just through this administration. And that really argues strongly for a statutory, Senate-confirmed position such as this bill would provide.

I want to quote David Walker, the Comptroller General, who made this point when he testified before our committee in April. On that occasion, he called for support of a statutory, Senate-confirmed official to coordinate antiterrorism policy Government-wide. Comptroller General Walker stated:

Bottom line, there is a clear correlation that to the extent that there is a significant responsibility that spans administrations and years, that involve significant sums of money, . . . Congress has historically sought to address those with a statutory basis and to head those offices or operations with a Presidential appointee subject to Senate confirmation. History has shown that those lead to . . . more effective and accountable activity.

That is a critically important statement. We are legislating here for the long term. David Walker explains why the long-term interests of the security of the American people argue for this office as we have conceived it.

Brookings Institution scholar Paul Light added at one of our hearings:

Congress should establish a statutory foundation for the White House Office of Homeland Security. Such a foundation is essential for the strategy, authority, and, perhaps most importantly, accountability.

Again, an important office. There is no sense in maintaining this office, as the President wants to do, unless it has an important role. If it has an important role, it ought to be subject to Senate confirmation and, therefore, accountable to the Congress as representatives of the people.

Title III of the legislation calls for a comprehensive national strategy to combat terrorism to be developed collaboratively by the new Secretary of Homeland Security and the Director of the White House Office for Combating Terrorism. The Secretary will have the lead role in issues of border security, critical infrastructure protection, emergency preparation and response, and integration with State and local efforts. Those are the elements within the Department. But the Director will have overall responsibility for preparing the strategy and will take the lead on strategic planning concerning intelligence and military assets, for instance, law enforcement, and diplomacy.

The idea is, the Director, working with the Secretary, will ensure the coordination of critical counterterrorism areas of Government outside the Secretary's direct control. And the legislation establishes an interagency council to be cochaired by the Secretary and Director to assist with preparation and implementation of the strategy.

It very progressively establishes a nonpartisan nine-member panel of outside experts to provide an assessment of the terrorism strategy. This is similar to the national defense panel created in legislation that came out of the Senate Armed Services Committee, of which I am privileged to be a member, that, in 1999, assessed the first Department of Defense Quadrennial Defense Review for military planning, and did so with very productive results.

In the area of antiterrorism, complacency has to be our constant concern. This panel our legislation creates will help assure an outsider-based, so-called red team critique of the strategy on a periodic basis.

Under our legislation, this antiterrorism strategy would be updated on a regular basis. The President's recently completed and released homeland security strategy is a good, constructive beginning, but of course it does not obviate the need for more detailed and updated strategies in the years to come.

I don't know if it is fair to quote a distinguished citizen from Tennessee when arguing against an amendment offered by the Senators from Tennessee, but I remember Fred Smith of FedEx said in a speech years ago, speaking to his employees—I paraphrase; I may not have it exactly—the journey to higher quality services has no final destination point.

That is a good point because the journey goes on and on. We are constantly trying to improve. In that same sense, the need for constant review and revision of our antiterrorism efforts will have no end. We have to keep reviewing and being a step ahead of our enemies.

I hope in the years to come and in future administrations, obviously, that terrorism is much less fresh in the minds and hearts and souls of the American people than it is less than a year after September 11. When it is, we need to ensure that, nonetheless, antiterrorism does not fall from the top of our concerns because these enemies of ours will still be out there in the shadows.

This statutory proposal of ours seems to me to be one of the best ways we can guarantee steadfast attention to the terrorism threat from administration to administration, from generation to generation, as we go forward in this century. We have never before had to organize and implement both a concerted assault against terrorists and to mount a defense of our people here at home at the same time, following an attack of this kind against civilians, innocents, on our territory. It is unprecedented.

Meeting the challenge means not only consolidating and organizing the dozens of agencies responsible for homeland security into a single unified chain of command, as we did in the first title of our bill, but it also means ensuring that the agencies and offices that remain outside the Department do

not slip to the fringes of the fight against terrorism. That is what is achieved in titles II and III of the bill which Senator THOMPSON's amendment would strike.

We need every gear of government turning in the right direction, supporting every other as far ahead as we can see, to maximize our antiterrorism strategy, to advance the President's vision and policies, and to provide, in this painfully new context, for the common defense.

Therefore, I strongly oppose the Senator's amendment.

I yield the floor.

THE PRESIDING OFFICER. The Senator from Tennessee.

MR. THOMPSON. Mr. President, I thank my good friend from Connecticut for eloquently laying out his case against this amendment. It makes for a good debate.

As I sit and listen and think about what we are about here, it occurs to me that never before in the history of this country have we ever set up an organizational framework at this level of government. That is a pretty strong statement. I stand to be corrected if I can be.

We are setting up something here that we have never tried before. We are experimenting in a way in which we should not be experimenting. Why do I say that? I say that because we have never had a situation in the highest levels of government where we had a department with clearly defined responsibilities for an area of government and a White House entity that is Senate confirmed with decertification authority over the budget that pertains to that Secretary.

If there is another situation like that in the history of the Government, I will acknowledge it and stand corrected.

Reference has been made to the drug czar. He is Senate confirmed. He has decertification authority. But there wasn't a department such as the one we are in the process of creating. He, by his nature, by the nature of his job, had to coordinate legions of different entities and agencies and departments' budgets under the framework they had then. There was no one drug department or drug-fighting department other than him. He was it.

He had to deal with budgets of the Department of Agriculture, the Corporation for National and Community Service, the DC court services and offender protection, the Department of Defense, the intelligence community management account, the Department of Education, the Department of Health and Human Services, the Department of Housing and Urban Development, the Department of the Interior, the judiciary, the Department of Justice—I am not listing all the divisions and agencies within these Departments—the Department of Labor, the OMBCP, the Small Business Administration, the Department of State, the Department of Transportation, and the

Department of the Treasury. He was a coordinator in the truest sense of the word—not analogous at all to the situation we have here.

Reference has been made again to the NSC. We all know that the NSC not only does not have decertification authority; the NSC has no budget authority. The NSC is not confirmed by the Senate. Reference was made some way to our Trade Representative. He is confirmed by the Senate. He is the Trade Representative. I guess you could make some analogy to the Department of Commerce in terms of there being a Department that somehow has a responsibility in that area, but he is the person there, plus the fact that he has no decertification authority with regard to the Department of Commerce or anybody else.

So, again, I cannot think of another situation where we have had a large Department that we are getting ready to create, with 22 agencies, 170,000 people, and all the responsibilities, and we are going to be looking to that new Secretary. Everybody agrees there needs to be a coordinator there. I don't hear any reference to Mr. Ridge not doing a good job or the present circumstance not working out.

As the Office of Homeland Security is now constituted, we have a coordinator. But a new Department, a coordinator, who has decertification authority—think about how that would work. It is a recipe for conflict and turmoil within any administration. I don't know that there is a comparable in the history of our Government. It stands to reason that there would not be. What we seemingly have done is taken a lot of good ideas from a lot of people and added them together and not eliminated much of anything.

I don't know of any proposal that we do that is truly analogous. Perhaps Brookings comes the closest, but they were thinking about a much narrower Department. They were thinking about a border security department more than anything else.

So I suggest that we really think this through. More is not necessarily better. Do we really want a new coordinator who apparently is going to work down the hall from Mr. Ridge? I don't know if we are assuming—the President tells us he deserves to have his own person there. Are we assuming that he is going to back off? Is the new person—new Director—going to work down the hall from Mr. Ridge? Are we going to insist that the President get rid of Mr. Ridge's position because one is not confirmed and the other one is to be confirmed? It cannot be the same person serving both functions. I don't know what we are assuming.

Do we really want to set up a person there who has decertification of the budget—even over the military, apparently, according to Senator WARNER, who can speak for himself, and I understand he will—inside the White House? It is to be submitted to the budget and to him before it even goes to OMB,

when you have a Secretary there with all of the responsibilities, budgetary and otherwise, that Secretaries normally have? Do we really want to do that? Is that really going to improve the operation of Government?

Like I say, there have been different ideas at different times, at different stages of this process. Many of them are good ideas, but many of them came before the President proposed his ideas for a Department and before he submitted his national strategy in July. To a great extent, unfortunately, what we have done is taken all these proposals and kind of added them together and said if a Senate-confirmed new Secretary for a Department is good, then a Senate-confirmed new Office of Homeland Security would be even better. And if the responsibility of the new Secretary for his budget is a good idea, let's have somebody over in the White House who can decertify his budget.

As I say, I think it is a recipe for turmoil within any administration. It is a recipe for conflict. I know that is not what is intended. As I sit here and think about how this would work, I think that would happen in any administration.

I think Mr. McCaffrey used his authority one time to great consternation with regard to everybody, but it would not be anything—perhaps he used it wisely, and I assume he did, but it would not be anything like a new Secretary with the responsibilities that a new Secretary would have, and the responsibility that OMB has.

We are going from a budget surplus to a budget deficit. We have no idea, in my humble opinion, as to how much this is going to cost us. We don't know how much it is going to cost the private sector and the State and local governments. I think it is going to be a lot if we do what we need to do to protect our infrastructure and the other things that constitute homeland security. It is certainly going to cost the Federal Government an awful lot of money.

We cannot shut this Nation down. We cannot spend all of our money on homeland security. We cannot have someone—I suggest it would not be wise—in the White House who only has responsibility for homeland security dictating what the entire Federal budget ought to look like. Somebody has to balance those, goodness knows, legitimate and, I would even say, primary concerns. But they are not exclusive concerns. We don't have an unlimited amount of money. We are apparently not willing to make tradeoffs.

We are spending money like there is no war against terrorism. We are adding new entitlement programs—the Congress is—as we speak. We have done some and are in the process of doing others. So what are we going to do, send somebody up in the White House to say, stop, don't let us kill again; is that the idea?

I think it has to do more with the will of Congress. We are going to have

to do the right thing as a Congress. The Secretary is going to have to make proposals. The President and the head of OMB are going to have to say how much money we have to spend, and then take it to Congress and see what we think about it.

There will be plenty of ways for Congress to exert its will—properly so. We are not going to be cut out and should not be. That is the normal process. Do we really need another entity, which I think would be unprecedented, in the midst of all this confusion and difficulty that we are going through? People talk about maybe we ought to look at this thing in stages. Maybe that is one of the things we ought to look at in stages.

If it turns out that the strategy does not pan out, it is not satisfactory, that the budgetary situation is not working, it might be something we can revisit at another time. But with all these difficulties, is this really something we want to interject in the middle of this very difficult process? I submit to you that it is not.

I yield the floor.

The PRESIDING OFFICER (Mr. CORZINE). The Senator from Florida is recognized.

Mr. GRAHAM. Mr. President, just to respond to some of the comments of my friend and colleague from Tennessee, it seems to me, as this debate has gone on for the last couple of hours, that we have sort of narrowed the focus. One question is: Does America need—assuming that there will be created an Office for Homeland Security—an office in the Presidency for the specific purpose of coordinating our efforts to combat terrorism?

I think the Senator from Tennessee just said he agreed—or he thought the President agreed—that some sort of office like that was going to be necessary. Basically, it is the office that Governor Ridge has been occupying now for approximately 10 months. So we agree there is a sufficient potential disorder, with the number of agencies that are going to have a role in our efforts to combat terrorism, and that is the specific and sole focus of this office in the White House; that it justifies somebody to attempt to bring order out of disorder.

As I was reviewing the legislation, I found some agencies that, frankly, I had not originally thought were going to be part of the fight to combat terrorism which I did not mention in my earlier remarks. One of those is the Environmental Protection Agency. One might say: How in the world is the Environmental Protection Agency going to be a part of the effort of homeland security against terrorism?

The answer is, if you list our vulnerabilities to terrorists, clearly one of the most significant of those vulnerabilities is our infrastructure, our basic water systems. If you were a creative terrorist and wanted to quickly disrupt America, identifying and targeting your efforts against our

water supply would be one of the ways that you might consider doing so.

Obviously, if that is going to be a vulnerability, then the agency of the Federal Government which has the primary responsibility, particularly for protecting the quality of our water—the Environmental Protection Agency—becomes an agency that has a role to play in deterring terrorists from access to that part of America's infrastructure.

The list of agencies you can consider today, much less what we might be dealing with 10 or 20 years from now when the imagination of the terrorists in our own sense of vulnerabilities have become more mature, could be very numerous. So we agree there is a need for there to be an agency in the White House for purposes of focusing on the specific issue of terrorism.

The second question then becomes: If so, how should that office be organized? Should it be called "a meeting and hope people will come and, if they come, that they will cooperate" type of agency, or should they have some agency with teeth that can sink in, if that is necessary, in order to accomplish the result?

We have had some experience with the former type of agency in the original version of the National Office of Drug Control. That office had relatively little real teeth and, therefore, had little effectiveness on chewing on the difficult problems of getting the variety of Federal agencies that have a role in our drug policy to collaborate.

We already are aware of some of the difficulties we are going to have in the area of homeland security because we are identifying areas in which various agencies, for reasons of their cultural attitudes or traditions, their isolation, their desire to not share the potential glory of success with other agencies, have been insular and the American people have paid the price because the agencies that should have known important pieces of information were denied that information and, therefore, their ability to be as effective on behalf of the American people in giving us security against terrorists was frustrated.

We know that this office within the White House has to have enough power to be taken seriously. I believe it is the evolution of the Office of Drug Policy that is the most informing recent experience in American Government as to what kind of agency this needs to be and that we do not have the luxury of waiting 10 years for it to get there; that this office within the White House needs to have some ability to oversee and control the budget as it is being developed to assure that it is consistent with the strategy for combating terrorism that has been agreed to and that, in the implementation of budgets, agencies will devote the required funds necessary to carry out that strategy.

I believe if we are serious about a war on terror—and the American people are very serious about an effective war on

terror—they need to have what, in this beginning of the season, we might refer to as a head coach who can oversee all of the assistant coaches who have responsibility for individual components of the team to assure that the team in totality is focused on victory against its opponent.

There is the third question, and that is: How do we prepare for the future? It was said that we do not need title III which calls for the development of a strategic comprehensive plan to combat terrorism because we already have a plan. It was the plan the President submitted a few weeks ago.

Without commenting about the current plan that the President submitted, I can tell you—and I do not believe there would be anyone here who would speak to the contrary—but that is not the plan we are going to have 10 years from now. We are not so lame-headed as to be unable to learn from the experience that we are going to have over the next decade and to then incorporate that experience into what we think is the effective strategy to protect Americans against terrorism.

Unfortunately, there is a tendency to want to reverse the status quo and to resist change. In my earlier remarks I talked about some of the history of the American intelligence agencies, going back to their inception in 1947 and how they became so committed to fighting the cold war against the one big enemy, the Soviet Union, that when the cold war was over and we suddenly had a much different environment of enemies, that they found it difficult to make the transitions that were necessary to respond to the new set of enemies.

The same thing is going to happen in our domestic war to secure Americans here in our homeland, but we have already demonstrated some of the slowness to respond.

One of my critiques of the current effort at homeland security is that we have tended to focus our efforts on those vulnerabilities that have been attacked. Just think of all the things we have done to change the character of American airports and American commercial airlines, with many more changes still to be fully implemented. Contrast that to what we have done to substantially increase the security in areas that, in my judgment, are equal in their vulnerability and threat to the people of the United States, such as the water systems to which I referred earlier.

What have we done to increase the security of our seaports and those thousands of containers which enter America every day? In my own judgment, they represent one of the greatest threats for a terrorist wishing to bring a weapon of mass destruction into the United States.

We have almost a genetic tendency to support the status quo and a genetic tendency to respond when we have been hit where we have been hit. Hopefully, this agency, at its best, will be an

agency that will challenge us to think creatively about what our vulnerabilities might be, and then to assess: Are we taking those steps that are reasonable and appropriate to protect us against an attack, against a vulnerability that has not yet been exploited?

I believe an agency that has that kind of an orientation, mission, and responsibility will also then need the authority this legislation provides to see that, in fact, we act against that.

It is easy to get Americans energized to deal with commercial airline safety when commercial airliners have been flown into some of the symbols of America's greatness, but it is more difficult to get Americans to respond to dealing with the potential threats at a seaport, or a metal container rolling down the highway when we have not yet been attacked at that point of vulnerability.

This agency will have the opportunity, within the White House, with the power of the Presidency and the power of the Congress, through confirmation, and with the power that this legislation would provide, to be that creative watchdog to ensure that we are responding to the threat profile as it changes and that we do not require that we be attacked in a particular point of vulnerability before we take steps to secure that vulnerability.

So I think those are the basic issues in this debate.

Does America need such an office? I believe there is unanimity, yes. Once established, does the office need to have the capability, the authority, and the clout to assure that it can conduct a difficult job? I think the answer to that question is yes because it then answers the third question: Are we going to look to this agency to be, yes, a coordinative agency; yes, an agency that will help advise us as to the wisest strategy to combat terrorism, but, maybe most importantly, to be the agency that will be responsible for our creative inquiry as to what is the nature of the threat today, what is it likely to be tomorrow, and how do we prepare to give to the American people what they deserve and what they look to us to provide, the most effective security in the homeland of America?

The PRESIDING OFFICER. Who yields time?

The Senator from Tennessee.

Mr. THOMPSON. Mr. President, I agree we do have some points of agreement. One is the fact that we do need a person in the White House in this coordination function. I agree with the second point also that we need a person with some clout. I submit Condoleezza Rice has clout and Tom Ridge has clout to do their jobs. Neither is confirmed by the Senate.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Connecticut.

Mr. LIEBERMAN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

The Senator from West Virginia.

Mr. BYRD. Mr. President, if I may just momentarily desist and continue to hold the floor?

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

Mr. BYRD. Mr. President, throughout this debate—and there really hasn't been a lot of debate—there was talk about rushing this bill through and putting it on the President's desk before the August recess. Then there was kind of a fallback position in which it would be rushed through but it would be on the President's desk by 9/11, September 11. Neither of these efforts, as they appeared to be explained in the newspaper, was a very wise approach to dealing with such a very, very difficult, important—and I will use the word complex, which encompasses difficult as well, but I will add it to the sentence—piece of legislation.

How many Senators are paying attention to what is being said on this very important legislation? We have on the floor the distinguished manager of the bill, the chairman of the committee which had jurisdiction over this legislation, and we have the ranking member. These two Senators are here at their posts of duty. How many other Senators are there? I see the distinguished Senator from New Jersey, Mr. CORZINE, in the Chair. And here is this middling upstart from West Virginia at this desk.

So the deadline for completing this legislation by the beginning of the recess came and went, and the deadline of September 11 is going to come and go, but who is paying attention? My thought was that if Senators had the August recess, many of them would read this bill. What I mean by "this bill," this bill is a House bill which was passed by the House after 2 days of floor debate—imagine that. Two days of floor debate. Why, it would take longer than that to get a sewer permit approved by the city council in many towns. And here we are passing a bill of this magnitude in 2 days by the other body and great pressure on this body, now, to act on this mammoth proposition, great pressure from the President, who is going up and down the country saying: Pass my bill. Pass my bill. Pass my bill. Then there are others from both sides who are willing to go along and really want to hurry through this legislation.

But let me say in all candor that if we do not pass this bill until next year, this country is not going to go undefended at its borders, at its ports, at its airports. No. The same people who will be working in the agencies within the new Department, when it is

created, are already out there right now. They are out there on the borders today. They were out there last night when you and I were sleeping. I take it that you slept a little bit. I got a fair amount of sleep. But they were out there protecting us. They are at the airports. We are not satisfied with the protection we are getting at the airports, but I don't know that this bill is going to improve that.

But, in any event, what I am saying is that the very people who are going to be protecting the ports of entry, protecting the long borders to the north and to the south, protecting the seaports and the river ports, they are out there now. These are experienced people. These are those terrible Federal employees whose rights are about to be swept away under the administration's proposal. But under this bill they are being protected.

That is not exactly the point I am making. The point I am trying to make is why the hurry? On the other hand, in looking about this Senate one would say: Why not? There is no interest in this bill. Senators are not at their desks. Look on that side: One Senator. Look on this side: Two Senators, and one in the Chair. I am not saying that in derogation of Senators. They are busy, very busy. Senators are on committees, they have people back home who are No. 1. This is the people's branch. They are busy.

But how many Senators have read this bill? That is the key. If more Senators had read this bill than obviously have read it, I think we would have more Senators on both sides on the floor.

The chairman and ranking member have given plenty of attention to this bill. They worked for days. Their staffs worked for days and far into the nights in developing this piece of legislation. So we have several Senators on both sides of the aisle who have read the bill and worked over it and they have far more expertise so far as this bill is concerned than I have.

I am not on the committee that has jurisdiction over their legislation; what business do I have here?

Well, I have the same business here that every other Senator on both sides of the aisle has, and I have been concerned about this legislation. I have read the House bill. I have read the Lieberman substitute. And I have read them both more than once—twice is more than once, so I read them at least twice, you can say—you can draw from that statement. But I read this bill. When I say "this bill," I am talking about the House bill and the Lieberman substitute. The House bill is the underlying bill here—we all know that—and it can be amended, too.

But the Thompson amendment is the amendment before the Senate right now, and it would strike title II and I believe it would strike title III as well; am I right?

Mr. LIEBERMAN. That is true.

Mr. BYRD. Mr. President, the Thompson amendment touches the bill

in more than one place. It touches the bill in several places so it is open to a point of order to strike, a point of order against this amendment because it touches the bill in several places—more than one place, certainly. Also, it certainly is open to division. I am not sure at this point in time that I intend to pursue either of these two courses: make a point of order or ask for divisions. I am not sure of that at all.

I want to proceed right now with my statement. But I want to call attention to the fact that neither the Senate, apparently, judging from the attendance on the floor, nor the press is greatly concerned about this bill. Maybe Members and the media are just taking it for granted that this bill will pass, and it is a good bill, and the President wants it, and there it is; that is all there is to it. It is going to pass, so why fool around with it? Let's get on with something else. We have many other issues to occupy our attention.

I cannot fathom the reasons, except that I do not believe Senators have read this bill. I just do not believe it. If Senators read this bill, I think many more Senators would express concerns about it. Several Senators have expressed concerns about it. I am very concerned about it. It is a complex bill, and I think we are about to pass legislation here, if we are not very careful, that we will come to rue, that there will be many, many problems in connection with this bill that Senators have not thought through and will look back and say: My, how could that have happened? I didn't know that was in the bill.

So, in a way, I can understand Mr. THOMPSON's desire to strike titles II and III of the bill. I can understand that. I am not all together happy with either of those titles. But I think that the Senate will err in adopting the amendment by Mr. THOMPSON.

Throughout this debate, such debate as we have had, I have made clear my respect for the efforts of Senator THOMPSON in his work with Chairman LIEBERMAN on the homeland security bill. First of all, I think the Senator from Tennessee, Mr. THOMPSON, has a head full of common sense. You can find a good bit of that in those Tennessee hills and throughout most of Appalachia. I can say that because I am likewise from Appalachia. There are several States in Appalachia. But this Senator from Tennessee is one of the Senators representing a State in Appalachia where the common people, the common folk live. There are a lot of them down there, just ordinary people who live on my side of the tracks, the side of the tracks where I grew up.

I have also made clear my intention to oppose any effort that I believe jeopardizes the rights and liberties of the American people. I, therefore, must oppose Senator THOMPSON's amendment because, as I see it, it would contribute to the undermining of our constitutional system of checks and balances between the executive and legislative branches.

Now, to begin with, let me say that the administration's proposal does exactly that in several ways. I will not go into all the ways today. But if Senators will take the time to read the House bill, which reflects, in great measure, the administration's position on homeland security, they will find many instances in the House bill reflecting the administration's position which do just that—that get between the Constitution and the people, that put the Constitution and the people off to one side—and while this piece of legislation goes like a steamroller over that constitutional system of checks and balances, the separation of powers.

So the Thompson amendment would strike titles II and III of the Lieberman substitute. Title II is a title that provides a National Office for Combating Terrorism be established within the Executive Office of the President, presumably to replace the current White House Office of Homeland Security.

So we already have, in essence, just such an office as the one we are talking about in title II; namely, a National Office for Combating Terrorism. There is already one in the White House. There is already one established within the Executive Office of the President. It has not been established by law, but it has been established by Executive order. I do not have much use for Executive orders, whether they are issued under a Republican President or a Democratic President. But this legislation would replace, in my judgment, the current White House Office of Homeland Security.

In the legislation we are talking about here, in title II of the underlying legislation, such an office would be headed by a Director, who would be subject to Senate confirmation and made accountable to the Congress. Get that.

We already have such a Director down at the White House now working within the office of the White House, and that person is Tom Ridge, a former Governor of Pennsylvania. He has been there quite a while. He has been given a great deal of authority by the administration, by this President. He is an individual who is not subject to Senate confirmation and, therefore, is not made accountable to the Congress.

This legislation would make him subject to confirmation and accountable to the Congress. Why shouldn't that be the case?

Mr. President, the White House Office of Homeland Security was created to respond to an immediate need for an Executive Office that would oversee our Nation's homeland security efforts. Since its creation, however, it has become clear that that office, which has taken on such an important role in protecting our homeland, was also designed to be insulated from the American people, to operate from within the White House without congressional oversight and outside our constitutional system of Government, without, as I say, congressional oversight.

Now, Senator STEVENS and I, as all Senators know, tried repeatedly to have Mr. Ridge come before the Senate Appropriations Committee and testify on the budget for homeland security. The Director of the Office of Homeland Security has repeatedly refused.

I say with respect to Mr. Ridge, he is a former Governor. He is a very able, likable man, who once served in the Congress of the United States. He repeatedly refused to testify before the Congress. The administration arrogantly, in my opinion—arrogantly—maintained that he is accountable to the President only and not to the people's Representatives.

Now, I have some sympathy for the argument that a President ought to be able to have advisers from whom he can receive confidential guidance.

I am not saying that every Tom, Dick, and Harry, every clerk high and low at the White House, should have to come up and testify before the Congress if it invites him or her up to the Hill. I have sympathy for that idea as a concept.

But in the Director of Homeland Security, we have something that goes far beyond a mere staff person, far beyond a mere adviser to the President.

The Bush administration designed the Office of Homeland Security to be the Federal Government's point man on homeland security. There is the man. He is the man in whom the President of the United States has reposed great confidence and authority. Authority? Well, there was an Executive order.

The Office of Homeland Security was intimately involved in crafting the President's proposal to create a new Department of Homeland Security. I have said many times, I have almost spoken ad nauseam about the way this idea was initiated in the bowels of the White House and brought to life, much like Aphrodite, who sprang to life from the ocean foam and later appeared before the gods on Mount Olympus, and they all were much taken with Aphrodite; or much like Minerva who sprang from the forehead of Jove, fully armed, fully clothed, fully grown. And here it is, Minerva.

Well, that is the way this thing kind of came up. It came right out of the White House like an ocean foam. There it is, bango. You got it. We have something here that was created, lock, stock, and barrel, from an embryo of a tiny imagination. It was not quite the committee that created the Declaration of Independence, not quite of that caliber, but it was a committee of respectable men. There were four of them.

It was all done in secret, you know, down there in the subterranean caverns where there was not even a candlelight whose rays might illuminate just what was being talked about. But here it came.

Do you know why it came? In large measure, I say to my friend, Senator THOMPSON, I think one of the compel-

ling factors in this idea that sprang from the White House foam might have been that legislation, that appropriations bill which was fast approaching and which had in it the language that Senator STEVENS and I put in it to require Mr. Ridge to be confirmed by the Senate of the United States.

That was in the appropriations bill. That appropriations bill passed the Senate in the seventies for it. Nobody took on provision. Nobody attacked that provision when it was before the Senate. Nobody tried to strike it. But there was a provision in that appropriations bill that said the Director of Homeland Security should be confirmed by the Senate of the United States.

Well, the administration saw that coming. They saw it coming like a train down the track. And it passed the Senate. Nobody raised any questions about it. It was headed for conference. And it went to conference.

So the administration, I think, thought: Wait a minute here. We had better get on board. Let's not get on board. Let's get ahead of that train. That is a fast train coming down the track. Let's get ahead of it. And so here came this thing out of the dungeon, out of the dark bowels of the Earth, beneath the White House.

So the administration had to do something fast to get ahead of this train so that the administration could claim, of course, credit for it. So here they came with this big idea of having a Department of Homeland Security. I am not sure they would have done that had TED STEVENS and I and the other members of the Appropriations Committee not included that provision in our appropriations bill which passed the Senate with nobody raising a finger against that provision. The administration saw that train coming.

The Office of Homeland Security was intimately involved in crafting the President's proposal to create a new Department of Homeland Security. Its Director has represented our Nation in forging international agreements related to our homeland security. You see, Governor Ridge could go to Mexico, he could go to Canada, but he couldn't come here before the Senate Appropriations Committee. "No. No. No, don't throw me into that briar patch." He didn't want to come here. I think probably it was the President who didn't want him to come here.

Further, the President has vested in the Director of Homeland Security budgetary powers that led our colleague, Senator SPECTER, to say in testimony before the Governmental Affairs Committee in April:

Some have compared Governor Ridge's position to that of Dr. Condoleezza Rice, the National Security Adviser. However, Governor Ridge's authority over such a large piece of the budget clearly distinguishes his position from that of the National Security Adviser. When an adviser such as Governor Ridge has significant responsibility for budgetary matters, he should be subject to congressional oversight.

That was Senator SPECTER. He went on to say:

We need to "codify" Governor Ridge's position.

The Office of Homeland Security is perhaps the clearest example of the administration's contempt, utter contempt, for Congress, a contempt that drives the White House to operate in a cloud of secrecy, beyond the boundaries of our constitutional system of government.

I recall—I am sure my distinguished friend from Tennessee recalls because he was here, as I was, and he was right in the middle of the news of that day and time—the Nixon administration attempting to create an entire executive system to bypass Congress. It has been called a "personalized presidency." It has been called an "administrative presidency." But whatever we call it, President Nixon wanted an administration in which the Federal Government would be run out of the White House, while the executive departments, those agencies and offices that are subjected to the oversight of Congress—I am talking about the people's branch—were, for all practical purposes, stripped of policymaking powers.

I do remember that period quite well. I was the Senate Democratic whip at the time. Senator THOMPSON must remember that period, too. He was minority counsel to the Senate Select Committee on Presidential Campaign Activities—in other words, the Watergate committee. He did a very competent job because he is a very competent man and a very knowledgeable person, as I said, and has a lot of the sense of the American people who read this thing and who are far ahead of any of us most of the time.

I remember not only the Watergate scandal, but I also remember the atmosphere and the culture that created it. As President Nixon's counsel, John Dean, later pointed out, Watergate was "an inevitable outgrowth of a climate" that had developed over the previous years of the administration.

Foreign and military policy at the time was being run not by the State Department so much or the Defense Department but largely out of the White House by the National Security Council, with National Security Adviser Henry Kissinger in command. There existed at the White House a layer of Government between the President and his Cabinet departments, with their congressionally confirmed Cabinet secretaries.

To run domestic policy, the Nixon administration created a White House Domestic Council, which was patterned after Kissinger's version of the National Security Council. According to former Nixon administration official Richard Nathan, in his book, "The Plot That Failed: Nixon and the Administrative Presidency," Nixon's intent was "to achieve policy aims through administrative action as opposed to legislative change." I repeat, "through administration action as opposed to

legislative change"—by the White House rather than the Congress, where the people have their say.

I recall the Nixon administration's defiance of Congress and the constitutional process. This included Nixon administration officials refusing to appear before Congress. It included the Nixon administration's efforts to "stonewall" Congress by denying information to congressional committees. It included the Nixon administration's efforts to belittle Congress and its constitutional responsibilities. It included the impoundment of funds appropriated by Congress by Mr. Nixon.

"Quite clearly," I wrote in my own history of the Senate, "President Nixon set out to circumvent Congress."

"Had Nixon succeeded," wrote Arthur Schlesinger, "he would have effectively ended Congress as a serious partner in the Constitutional order"—a stunning thought that, through such brazen power grabs by the administration, in fact, one man could so dramatically shift the balance of power that safeguards the people's liberties. It should worry us all. It should worry us, as the people's elected representatives. It should worry the media, as the fourth estate that is to enlighten the people—our people. It should worry us all just how easily that shift can be accomplished.

Cloaked in secrecy and shrouded in arrogance, the Nixon administration became one in which the President and his aides believed that they operated outside the constitutional process and beyond congressional oversight. "Even before Watergate," wrote Nathan, "Nixon's management strategy was criticized as dictatorial, illegal and impolite."

My point is that Watergate didn't just happen. Years of Executive secrecy and arrogance and contempt for Congress created it. As John Dean said, it was an "inevitable outgrowth."

When I think of these preconditions that led to Watergate, I keep thinking—I cannot help but think of the current administration. I am concerned—no, let me say I am not just concerned, I am alarmed that in this administration we are witnessing another Nixonian approach to Government; that is, holding the Congress at bay, saying to congressional committees, no, this man won't come; he is not coming up there—holding the Congress at bay using Senate-confirmed department and agency heads, while the real policy decisions are being made by advisers to the President behind the protected walls of the White House. That is where the real decisions are being made.

The Assistant to the President for National Security, Condoleezza Rice, plays a major role in crafting foreign policy for the Bush administration. That position, however, unlike that of Secretary of State, is not subject to Senate confirmation. While the Secretary of State testifies regularly before the Congress and is accountable

for the Bush administration's foreign policy, the President's National Security Adviser operates secretly, inside the White House, and is largely unaccountable to the American public.

The same can be said for the Assistant to the President for Economic Policy, Larry Lindsey. The President's economic adviser is not subject to Senate confirmation and, while he crafts economic policy for the administration, he is not accountable for that policy to the Congress. The Treasury Secretary, who is confirmed by the Senate, has to justify his decisions and actions to Congress and to the public. The President's economic adviser, however, has no such obligation.

These are policymakers inside the White House who operate outside the constitutional system of checks and balances.

With the creation of this new Department of Homeland Security, my concern—indeed, what should be the concern of every Member of this body—is that the Department and its Secretary will be used as decoys to divert the attention of the American public away from the White House's Office of Homeland Security and its Director, Tom Ridge.

I speak with great respect for Tom Ridge, who happens to be the person in that position at this point. It could be "Jack in the Beanstalk," or John, or Henry, or Robert—whatever. The White House has tried to shield that office. I know. TED STEVENS knows that. I know the White House has tried to shield that office from the Congress and the American public ever since its creation last year. Oh, they are willing to come up, yes. I heard from Tom Ridge. He was willing to come up and brief the members of the Appropriations Committee.

Well, now, that is a way of getting around what the people desire. The people deserve something better. The people deserve to see these hearings. The Appropriations Committee has been created now since 1867. So for these 135 years, since its creation, that is the way it has been done. I know the other body apparently settled for that kind of thing but not our side; we are not going to settle for that. We will do it the way it has always been done—out there within public view, with the record being written, questions being asked, and the American people watching.

The American people want answers to these questions, not just members of the Appropriations Committee. So it is the way it has been done for 135 years, and as long as I am chairman, that is the way it is going to be done. We are not going to settle for merely briefings. We can get that from lots of people.

But title II of the Lieberman bill seeks to make the actions of a Homeland Security Office inside the White House more accessible and more accountable to the public. What we must strive to avoid is a White House Homeland Security Office—be it the Ridge

office or John Doe's office or the one envisioned by the Lieberman substitute—that would act as a puppet-master for Homeland Security, pulling the strings of the new Department and its Secretary from behind a curtain of secrecy.

That is why it is so important that the White House office, whatever its form, whoever its Director may be, be held accountable to the Congress and the American people. The head of that office must be a confirmable position, no matter what the President—any President—may say. After all, we hear that this battle, this war on terrorism, is going to go on for a long time. So I take “a long time” to mean beyond this year, beyond next year, beyond the next election, beyond the next 2 years. And who knows, we may have a different President in 2 years; we may have a Democratic President.

Will I feel any differently? No, not one whit. No. The head of that office must be a confirmable position. If the war is going on for a long time, that position is going to be there a long time. That office will be there a long time, and it should be a confirmable position.

If there is a Democratic President in office 2 years from now—and who knows. I do not know if I will be around or not. Only the Good Lord knows that. But whether I am around or not, that position, under a Democratic President or under a Republican President, should be confirmed by the United States Senate. He should be accountable to the American people, the people out there who are looking through those electronic lenses right up there, right now. He should be accountable to them.

Mr. President, the men who drafted our Constitution carefully laid out a system of government that has worked remarkably well for more than two centuries. It began in 1789. The First Congress in 1789 was probably the most important Congress of any of the 107 Congresses we have had. There was no Congress before it to tackle those problems. That Congress took on great problems, and the Senate especially is to be credited with the formulation of the Judiciary Act, creating the judiciary.

There we are, 1789. What would those signers of that Constitution think about the way we are running our Government today? Would they say to ROBERT BYRD: Senator BYRD, you should take your seat; there is no reason for that person to be confirmed; he should not be confirmed; we should accept at face value whatever President is in office, whether he is a Democrat or Republican. They would say: We did not have any political parties in our time, but you have them. You ought to just sit down and not worry. Leave it all to the President. If he is a Democratic President, leave it all to him. If he is a Republican President, leave it all to him. Leave it up to him. Trust him. Don't require that person to be confirmed.

How many Senators would believe those men who signed that Constitution of the United States would say that? They would turn over in their graves, as we hear an expression often in our part of the woods. They would turn over in their graves to even contemplate such a thing.

A major reason our Government has been so successful is that our Founding Fathers were wise and cautious people who had no naive expectations about human behavior. They understood human behavior. It has never changed. It is just like it was when Adam and Eve were in the garden, just as it was when Cain slew Abel. It does not change. That is why we have Saddam Hussein because human nature has not changed.

Everybody loves power, and sometimes we get intoxicated with the power we have. That intoxication feeds on intoxication and power feeds on power. I would much rather believe that the American people were in the mix. I should think any President would want that to be the way: I have nothing to hide; let the American people see it.

James Madison, the Father of our Constitution, had a shrewd view of human nature. He knew that those who achieved power too often tried to amass more power or, in other ways, misuse their power. “If men were angels,” he observed in *Federalist* 51, “no government would be necessary.”

According to Madison, history showed that those in power often overreach; they want more. It is like that song: Give me more, more, more of your kisses. They want more, more, more power.

According to Madison, history showed that those in power often overreach and, as a result, power too often can become located in a single person or a single branch of government, either of which is dangerous to liberty. That is what we are talking about, the liberty of the American people. We are not talking about the prerogatives of the Senate *per se*. They are prerogatives of the Senate by the Constitution, but it goes deeper than that.

We are talking about the people's liberties. “The accumulation of all powers, legislative, executive, and judiciary, in the same hands,” wrote Madison, “may justly be pronounced the very definition of tyranny.”

This very point was emphasized by none other than the Vice President of the United States, RICHARD CHENEY, when as a Member of the House of Representatives, during a hearing by the Iran-Contra committee, he, RICHARD CHENEY, lectured Oliver North saying, and I quote the now-Vice President:

There is a long tradition in the Presidency of presidents and their staffs, becoming frustrated with the bureaucratic organizations they are required to deal with, to increasingly pull difficult positions or problems into the White House to be managed because there is oftentimes no sense of urgency at State or at Defense or any of the other departments that have to be worked with. . . .

[P]roblems . . . that automatically lead presidents sooner or later to move in the direction of deciding that the only way to get anything done, to cut through the red tape, to be able to move aggressively, is to have it done, in effect, inside the boundary of the White House.

That was now-Vice President CHENEY back then.

Is that what is going on now? I remember the concerns and issues raised by Members on the other side of the aisle when the Clinton administration's health care task force was forming its policies in secrecy. One Republican Senator, who is here today—not on the floor right at this time—denounced the Clinton administration for operating—and I quote the Senator—a “shadow government, without accountability to the American people.”

That Senator went on to say that:

All Americans should know what their Government is doing and how it is spending public funds. That is just the way we ought to do things in a democracy.”

While I do not agree this is a democracy—Senators know we do not pledge allegiance to the Flag of the United States and to the democracy for which it stands. This is a republic. But that is neither here nor there.

This Senator said that is just the way we ought to do things in a democracy. Well, I think that Senator was right. He was a Republican Senator from Iowa, Senator GRASSLEY.

Another Republican Senator at that time, Senator Simpson, charged:

The secrecy on the ongoing negotiations within the confines of the White House is a major concern of mine. . . . Health care is too important an issue to the American public to deliberate behind secretive walls of the White House.

Well, Senator Simpson was right, too. I do not dispute those comments, but I do ask this: If health care is too important an issue to the American public to deliberate behind the secretive walls of the White House, then what about the challenges of protecting our Nation in this frightful new age of terrorism, and what of a White House that seeks broad new authorities without respect to the harm they may do to the people's liberties or to our system of government? What about an officer who has his hand in intelligence, health care, law enforcement, commerce, environmental protection, transportation, agriculture, all matters that fall under the broad rubric of homeland security? What of a White House officer who would be granted never-before-seen authorities to involve the U.S. military?

Now get this, Mr. President, as you sit up there in that chair presiding over this august body. It is probably not very difficult to preside over when there are only three Senators in the Chamber. What of a White House officer who would be granted never-before-seen authorities to involve the U.S. military in any domestic matter that can be labeled “homeland security”? What about that?

Let me read that again. What of a White House officer who would be

granted never-before-seen authorities to involve the U.S. military in any domestic matter that can be labeled "homeland security"?

That is enough to choke on, is it not? Give me a glass of water. My gosh, that is enough to choke on. That is more than a bone. We will find that more than a bone in one's throat.

The White House is clearly seeking new and expanded roles for the military within our own borders. It has articulated as much in the homeland security plan the President released last July.

The White House aims to provide broad authorities to the military as part of its national antiterrorism homeland security plan. That should give us all pause.

I am certainly not to be equated in any sense with George Washington, but I think of George Washington who said, I have grown old and gray in my country's service; now I am growing blind. So in that sense I am a bit like George Washington.

Now, when we are talking about the military, I am reading from the national strategy for homeland security. This is what it says, in part—these are major Federal initiatives. I will just pick out this one. It jumps out at me.

Review authority for military assistance in domestic security. Federal law prohibits military personnel from enforcing the law within the United States except as expressly authorized by the Constitution . . .

Oh, that word. How many of us have heard that word on television recently, the word "constitution"? Let me read that again.

Federal law prohibits military personnel from enforcing the law within the United States except as expressly authorized by the Constitution or an act of Congress. The threat of catastrophic terrorism requires a thorough review of the laws permitting the military to act within the United States in order to determine whether domestic preparedness and response efforts would benefit from greater involvement of military personnel and, if so, how.

All right, Senators, see if you can swallow that one. Apparently, there is some thinking going on in certain circles, because this says so, that the threat—I will read this portion again:

The threat of catastrophic terrorism requires a thorough review of the laws permitting the military to act within the United States in order to determine whether domestic preparedness and response efforts would benefit from greater involvement of military personnel and, if so, how.

I say to Senators, beware.

The Lieberman substitute includes language requiring the Director of the new National Office for Combating Terrorism, in consultation with the new Homeland Security Secretary, to develop a national strategy that would include "plans for integrating the capabilities and assets of the United States military into all aspects of the Strategy."

Let me read that to Senators. I read from the substitute by Mr. LIEBERMAN. I read title III, section 301, the section entitled "development," which says:

The Secretary and the Director shall develop the National Strategy for Combating Terrorism and Homeland Security Response.

Then it goes on and tells the responsibilities of the Secretary, and among those responsibilities I go down to the word "contents," and then I go down to the fourth paragraph which reads as follows:

Plans for integrating the capabilities and assets of the United States military into all aspects of the Strategy.

Title III of the Lieberman bill talks about the Strategy. And so the Director and the Secretary together will develop the National Strategy for Combating Terrorism and Homeland Security Response. That is being done now in the White House by the Director, Tom Ridge, I would say undoubtedly.

Senator LIEBERMAN is trying to put—I have a little dog. I used to have a dog named Billy. I have a little dog now whose name is Trouble. My wife named him Trouble. She may have been looking at me when she named the dog. We put a little collar on that dog, and then I have a nice little chain that goes into the collar. That little dog might go astray if we did not have that collar on that sweet little dog. She has my wife and I around her two front paws. So when I take her out for a walk, she then would not run out on the street and get run over by a car.

Senator LIEBERMAN is seeking to put a collar on this office. He is seeking to put a chain on it, and for good reason. So Lieberman's substitute includes language requiring the Director—this is the chain in the collar—requiring the Director of the new national Office for Combating Terrorism, in consultation with the Homeland Security Secretary, to develop a national strategy that would include plans for integrating the capabilities and assets of the U.S. military and to all aspects of the strategy. The White House Homeland Security Director, Mr. Ridge, is under similar orders from the President. But at least, as I say, under the Lieberman plan, the Government official responsible for developing plans to mobilize U.S. troops within our own borders, if it comes to that, would be held accountable—and I hope it does not come to that—to the American public and the Congress. That is a critical difference.

Certainly the American people should feel uncomfortable with the thought of government officials, hidden away inside of the White House, drawing up plans on how to insert the military into the homeland security efforts of our communities. Ours is a nation in which the streets of our small towns and large cities are patrolled by civil forces, not tanks and black hawk helicopters. Our policemen are accountable to locally elected leaders, not four-star generals in distant command centers. Our citizens are tried in courts of law, not secret military tribunals. We may, in an abstract sense, recognize the danger of a growing involvement of the military in civil af-

fairs, but we do not seem to recognize that the wall between civil and military government may be eroding as we speak. It is imperative, therefore, to ensure that any White House officer who would be granted such broad powers—as, say, Mr. Ridge would be—to insert the military into "all aspects" of the homeland security strategy should also be made accountable to the people's representatives.

I recognize the value of an Executive Office to coordinate homeland security efforts across the Federal Government. But there is also a need to ensure that any office with such long arms, so able to reach into the affairs of so many agencies, and with powers so sweeping that it can trim the liberties of the American people is, ultimately secured under the control of the people. Title II of the Lieberman bill attempts to respond to that need.

The mere fact that White House advisors have quietly accumulated broad powers in the past is certainly no reason to allow a White House office with influence of this magnitude and without congressional oversight to go forward.

We stand today in the swirl of unanswered questions about this administration's intent with regard to an unprovoked, preemptive attack against the sovereign nation of Iraq, the reasons for which have not yet been explained to Congress or the American people. Perhaps the White House has the answers to the questions that people are asking about why we may soon send our sons and daughters to fight, and perhaps die, in the sands of the Middle East, but thus far, we have encountered only a wall of secrecy at the other end of Pennsylvania Avenue—a wall built on the pillars of Executive privilege.

On the issue of homeland security, however, the lives at risk are not only of those who have chosen to serve our country in uniform. Homeland security is about protecting the lives of innocent civilians—men and women, children and grandparents—from terrorist attacks. The current administration is quite evidently eager to avail itself of every past precedent and every current day opening to hide its affairs from the public eye. If anything, we, the people's representatives, should be alarmed.

If I were Paul Revere and had the lungs, brass lungs, if I could speak as thunder from the cloud in a storm, I would insist that any such powerful White House Homeland Security Office not be allowed to operate outside the reach of the American people.

So I urge the Senate to refuse to be a party to erecting such a dangerous wall of secrecy between the people and their government. I urge the Senate to refuse to be a party to erecting such a dangerous wall of secrecy between the American people and the American Government, their Government. I urge my colleagues to vote against the Thompson amendment.

So, Mr. President, here we are. We are talking—I am not sure we are debating it, but we are talking—about this massive piece of legislation that would constitute the greatest reorganization of the American Government since 1789—not since the Department of Defense was created, not since the National Security Act, but I think the greatest reorganization of Government and, it is certainly arguable, since 1787, when our constitutional forebears met in Philadelphia to create a new Constitution, a new Government under a new Constitution, while those men at Philadelphia were serving under the Constitution that then guided them, and that then obtained the Constitution under the Articles of Federation. That was the first Constitution, that was the first American Constitution. There were State constitutions, State constitutions in 13 States before that time. They reconstituted this Government. Not all of the delegates from the 13 States attended; Rhode Island did not think too much of the idea. But under that Constitution, and the new Constitution, the support and ratification by nine States would constitute enough, a sufficient number to adopt this new Constitution and create a new order of—a new order of the ages. “*Novus ordo seclorum*,” a new order of the ages. There it is, up there on the wall. They created it.

“*Annuit coeptis*.” He has favored our undertakings. God.

So they set forth a new order for the ages. They created anew, they reorganized this Government. That was the greatest reorganization ever. And there was the reorganization of the military that we have already talked about. And now we come along with this reorganization. But this is a far-reaching reorganization and this is a new Department.

Senators will remember the first three Departments were the Department of State or foreign affairs, the Department of War, and the Department of the Treasury. And the first committees, the real committees of the Congress, were created in 1816—the permanent committees. And the Appropriations Committee, as I say, was created in 1867. But here we are. We are creating a new Department of Government.

I have been here when several new Departments have been created. This will not be my first one, but this is the one which gives me greatest pause, the creation of this Department.

I will not proceed to make a point of order against this amendment at this time. I am not the manager of this bill. I am not even on the committee that created it. But I still have the rights of any Senator, so I can make a point of order. But out of courtesy to the distinguished chairman of the committee and the distinguished ranking member, who certainly has listened to me and my concerns—and TED STEVENS and his concerns, our concerns with respect to the power of the purse—they have lis-

tened and they have given great consideration to our concerns in those regards—I will not make the point of order, as I indicated was available to me and I could have made, but I am not going to do that out of respect for them. They are managers of the bill, not I. But I must say I am very concerned, extremely concerned about this whole matter.

I think the language that has been brought to the floor by Mr. LIEBERMAN and Mr. THOMPSON is—I wouldn't say light years ahead, but it is certainly way ahead of the House bill. I only hope Senators will read the House bill so that they can see the legislation that pretty accurately reflects the administration's position with respect to this new Department. I am telling you, it will make your hair curl if you pay close attention to that language.

I have some problems with this substitute, I have to say. But I will have opportunities as time goes on. I have an amendment which I will offer. I have more amendments than one, but I do have one I am going to offer within the next few days.

I hope, may I say to the chairman and ranking member, that other Senators will come to the floor and discuss this amendment. I hope they will come to the floor and discuss this amendment. I hope they will read in the RECORD tomorrow morning what was said today and that they, too, will come to the floor. The people will profit by vigorous debate.

I thank both Senators for their courtesies to me. I have great respect for them.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I thank the distinguished Senator from West Virginia for a characteristically learned statement, and also for the passion with which he has delivered it. He always informs this Senator and illuminates and informs the debate generally. I am very grateful to him.

I share his wish that Senators will come to the floor and debate this amendment. This amendment really does, as I indicated earlier today, go to one of the pillars of the bill. It is not just a bill to create a Department of Homeland Security. It is a bill to create a Department of Homeland Security and Combat Terrorism. The strength and structure and authority and accountability of this White House office really will determine, in my view, how effectively we will be able to combat terrorism.

Senators were here for a vote earlier today. As the Senator from West Virginia said, I know and respect the difficult schedules of Senators, but this is a very important amendment and I hope more Senators will come to the floor tomorrow. I believe it is the intention of the leadership to move to a vote on this amendment sometime tomorrow afternoon. There are many amendments filed by other Senators.

This is the beginning of the second week on which we have been on this bill, though last week was a shortened week because of Labor Day at the beginning and our joint meeting in New York at the end.

This bill deserves the involvement for which the Senator from West Virginia has called. I thank him for it. I echo it. We are going to keep moving forward.

I thank Senator THOMPSON for putting forward a very consequential amendment which deserves the attention of all Members of the Senate.

I appreciate what the Senator from West Virginia has said. There is a point of order that is appropriate here. He reserves the right, of course, to make that point, as others of us do, and I would like to counsel with him on this tomorrow as we go forward and also to engage the Senator from Florida, Mr. GRAHAM, who was a major contributor and drafter of this particular part of the amendment we have put before the Senate.

The bottom line is I want to thank the Senator for West Virginia for his commitment, his understanding of how significant this piece of legislation is, and the extent to which he has devoted his valuable time to studying the various proposals and then his valuable time to preparing the learned statements—I go back to that adjective—learned statements that he has already made in the 3 or 4 days we have been on the bill, on different parts of the bill. He sets a standard for the rest of us. I must say even when, as occasionally happens, I do not agree with him, I always benefit from his involvement and appreciate very much his extraordinary public service.

I yield the floor.

Mr. WARNER. Mr. President, on June 6 of this year, President Bush proposed the establishment of a Department of Homeland Security and, arguably, the most fundamental reorganization of the United States Government since the passage of the National Security Act of 1947.

This proposal by our President is the logical culmination of a very deliberate process that started when then-Governor George W. Bush established homeland security as his highest priority during a speech at the Citadel in September 1999, when he stated, “Once a strategic afterthought defense has become an urgent duty.”

While I support the overall intent of the legislation and strongly agree with the need to better organize our Government to protect our homeland, I do not support all provisions of this bill as drafted. Two such provisions are addressed by the pending Thompson amendment—which I support—which would strike titles II, and III of the underlying legislation.

Title II mandates the establishment of a National Office for Combating Terrorism and title III mandates the development of a national strategy for terrorism and homeland security response. I would like to note that the

administration is strongly opposed to both of these titles.

On October 8, 2001, following the tragic events of September 11, President Bush formed the Office of Homeland Security in the Executive Office of the White House to oversee immediate homeland security concerns and to propose long-term solutions. Governor Ridge and others have worked hard under the President's guidance to produce a comprehensive plan that now deserves our serious consideration and support.

To now mandate the establishment of a national Office for Combating Terrorism within the Executive Office of the President would be redundant to the structure currently in place, particularly since the President has already stated his intention to retain the position of Assistant to the President for Homeland Security.

Additionally, I have serious concerns about the budget review and certification authority provided by this legislation to the proposed Director of the National Office for Combating Terrorism. In my view, such authorities would undercut the ability of several Cabinet-level officials, including the Secretary of Defense, the Secretary of State, the Attorney General and the Director of Central Intelligence, as well as the new Secretary of Homeland Security, to carry out their primary responsibilities.

In the case of the Department of Defense, the Secretary of Defense has wide-ranging responsibilities to protect vital U.S. interests and to prevent threats from reaching our shores. The Department, under the leadership of Secretary Rumsfeld, is currently engaged in an all-out global war against terrorism—designed to bring to justice those responsible for the September 11 attacks on our Nation and to deter would-be terrorists and those who harbor them from further attacks.

The Secretary of Defense must ensure that the Department is adequately and properly funded to carry out its many missions. It would be unwise to subject portions of the budget carefully prepared by the Secretary of Defense to a “decertification”—in essence, a veto—by an official who does not have to balance the many competing needs of the Department of Defense and the men and women of the Armed Forces.

Title III of the pending legislation requires the development of a national strategy for combating terrorism and the homeland security response. When the President established the Office of Homeland Security, he directed Governor Ridge to develop a comprehensive strategy to protect the United States from terrorist attacks.

In July of this year, President Bush unveiled his Homeland Security Strategy, precluding the need for Title III of the pending legislation. Legislating anything other than a periodic review and update of this strategy in conjunction with normal updates of our overall national security strategy would be

burdensome and would divert attention and resources away from the administration's focus on homeland defense and the global war on terrorism.

As the President stated in releasing the homeland security strategy on July 16, “The U.S. Government has no more important mission than protecting the homeland from future terrorist attacks.” We in the Congress should do all we can to help our President achieve this goal.

I urge my colleagues to support the Thompson amendment.

MORNING BUSINESS

Mr. REID. Madam President, I ask unanimous consent that the Senate now proceed to a period for morning business with Senators permitted to speak for up to 5 minutes each.

The PRESIDING OFFICER (Ms. CANTWELL). Without objection, it is so ordered.

TRIBUTE TO MR. PAUL SCHNEIDER

Mr. LOTT. Madam President, I would like to recognize the professional dedication, vision, and public service of Mr. Paul Schneider, who is leaving his position as the Principal Deputy Assistant Secretary of the Navy for Research, Development and Acquisition. It is an honor for me to recognize the many outstanding achievements he has provided to the Assistant Secretary of the Navy for Research, Development and Acquisition, the Navy, and our great Nation.

Mr. Schneider has spent almost four decades ensuring our Nation and its naval forces are equipped with the technological supremacy to ensure victory over America's enemies. As our Nation enters the 21st century and faces new and unsettling changes, the leadership and technological achievements Mr. Schneider has nurtured will continue to ensure our strength and freedom.

Mr. Schneider began his public service career over 37 years ago at the Portsmouth Naval Shipyard as a project engineer to the Submarine Propulsion and Auxiliary Machinery Branch and Waterfront Design Liaison Office. Throughout the 1970s Mr. Schneider was a key member of the Navy's Trident submarine program, where he provided leadership, expertise, and vision in design, engineering, program management, and advanced technology development.

The Navy, recognizing Mr. Schneider's leadership and engineering expertise, brought him to the Naval Sea Systems Command in 1981 to be a Deputy Director in the Engineering Directorate where he was responsible for design and engineering of ship and submarine mechanical and electrical support systems and auxiliary machinery. In his next assignment, Mr. Schneider became executive director of the Amphibious, Auxiliary, Mine and Sealift Ships Directorate.

Throughout the 1990s, Mr. Schneider continued to be one of the Navy's leading engineers, becoming Executive Director of the Surface Ship Directorate. In October 1994, he became Executive Director and Senior Civilian of the Naval Sea Systems Command where he led efforts to revamp the Navy business process by adopting commercial cost processes and practices in the acquisition of major systems. He also implemented training and education programs to retool the Navy's acquisition workforce for the 21st century. In 1998, Mr. Schneider became Principal Deputy Assistant Secretary of the Navy for Research, Development and Acquisition.

Mr. Schneider has earned numerous awards, including the Department of Defense Distinguished Civilian Service Award, the Department of the Navy Distinguished and Superior Civilian Service Awards, and Presidential Distinguished and Meritorious Executive Rank Awards.

I could go on and on about the many significant contributions made by Paul Schneider throughout his long and distinguished career. There are almost too many to recount. Despite his many professional, technical, and engineering achievements, perhaps his most noteworthy trait is his genuine concern for those around him. He regards as his family the entire community of military personnel, civilian employees, contractors, and industry who faithfully serve the Navy throughout the world. His memberships in the American Society of Naval Engineers, Society of Naval Architects and Marine Engineers, Association of Scientists and Engineers, Navy League and the Naval Institute attest to his dedication to be a friend, counselor, and mentor to many hundreds of junior personnel who have had the pleasure to serve under him during his tenure.

I ask my colleagues to join me today as I wish Mr. Paul Schneider all the best in his future as he continues his successful career as Senior Acquisition Executive for the National Security Agency. On behalf of my colleagues on both sides of the aisle, I wish Paul and his loving wife Leslie fair winds and following seas.

REMEMBERING ALAN BEAVEN

Mrs. FEINSTEIN. Madam President, I come to the floor today to honor the heroism of Alan Beaven—a Californian aboard Flight 93 who helped prevent the terrorists from crashing another airplane into its intended target on September 11, 2001.

As we approach the one-year anniversary of that horrible day, our thoughts turn to the heroes like Alan who gave their lives to save others.

To honor the courageous passengers of Flight 93, I joined Senator SPECTER to co-sponsor the “Flight 93 National Memorial Act,” which I believe the Senate will pass today to establish a