

sincerely that it would be preferable to give support to the President in two stages, first to endorse yesterday's call for U.N. action, and then to return later, if the U.N. does not act, to authorize the use of America's military power against Iraq. Other Members of the Senate are understandably concerned that a debate on the question of war against Iraq may be unnecessarily politicized if it occurs in the more heated environment of this fall's congressional elections.

But the White House has made it clear it will ask for a resolution of support and authorization in the very near future. Each member of the Senate must, and I am confident will, face that reality in a spirit of non-partisanship, going where their hearts and heads take them, in deciding how best to fulfill our Constitutional responsibility to provide for the common defense in the current circumstances. For my part, I intend to work with Members of both parties in the Senate with the White House to draft a Senate resolution that will receive the broadest possible bipartisan support for the President, as Commander in Chief, as he works to protect our Nation and the world from Saddam Hussein.

On October 22, 1962, as nuclear weapons were being amassed in Cuba, President Kennedy spoke to the Nation and warned Americans of the need to act in the face of the rising threat. President Kennedy's courageous and eloquent words can guide us now. He said on that occasion.

My fellow citizens, let no one doubt that this is a difficult and dangerous effort on which we have set out. No one can see precisely what course it will take or what costs or casualties will be incurred. Many months of sacrifice and self-discipline lie ahead, months in which many threats and denunciations will keep us aware of our dangers. But the greatest danger of all would be to do nothing.

The path we have chosen for the present is full of hazards, as all paths are, but it is the one most consistent with our character and courage as a nation and our commitments around the world. The cost of freedom is always high, and Americans have always paid it but there is one path we shall never choose, and that is the path of surrender or submission.

Our goal is not the victory of might, but the vindication of right—not peace at the expense of freedom, but both peace and freedom, here . . . and, we hope, around the world. God willing, that goal will be achieved.

I yield the floor.

HOMELAND SECURITY ACT OF 2002

The PRESIDING OFFICER (Mrs. LINCOLN). Under the previous order, the hour of 12 noon having arrived, the Senate will now resume consideration of H.R. 5005, which the clerk will report by title.

The assistant legislative clerk read as follows:

A bill (H.R. 5005) to establish the Department of Homeland Security, and for other purposes.

Pending:

Lieberman amendment No. 4471, in the nature of a substitute.

Thompson/Warner amendment No. 4513 (to amendment No. 4471), to strike title II, establishing the National Office for Combating Terrorism, and title III, developing the National Strategy for Combating Terrorism and Homeland Security Response for detection, prevention, protection, response, and recover to counterterrorism threats. (By 41 yeas to 55 nays (Vote No. 214), Senate failed to table the amendment.)

Lieberman amendment No. 4534 (to amendment No. 4513), to provide for a National Office for Combating Terrorism, and a National Strategy for Combating Terrorism and the Homeland Security Response.

The PRESIDING OFFICER. Under the previous order, the Senator from West Virginia is to be recognized.

Mr. BYRD. Madam President, I do not expect to yield, except for questions. I have several thoughts with respect to the pending measure. I can speak at great length. Only the Lord can intervene and make that statement fall. But I don't expect to do that today.

House Republicans yesterday criticized the majority leader and the managers of the bill, Senator LIEBERMAN, for not moving quickly enough to pass legislation to create a new Homeland Security Department. They accuse the Senate Democratic leadership of endangering the country by not passing legislation.

We are going to hear more and more of that. There is no excuse for not giving the people of this country a homeland security bill, said the Speaker of the House yesterday.

Let me say again what the Speaker of the House yesterday said: There is no excuse for not giving the people of this country a homeland security bill.

What a flimsy argument, with all due respect, and I have great respect for the Speaker. I know the rules of the Senate and the House. I am not going to go beyond that quotation in referring to what the Speaker of the House said. I am not going to go beyond that to in any way appear, in any way, and I do not now appear, even presume; I don't want anyone to presume or to assume or to interpret what I say as any personal criticism of the Speaker of the House of Representatives. But what a flimsy argument. We are going to hear that argument; we are going to hear it from other people. It will not be long in coming, if it has not already been expressed by others. But worse than flimsy is the kind of argument we ought not be making. It is an empty argument. It is shallow. That kind of argument cannot stand up under its own weight, that there is no excuse for not giving the people of this country a homeland security bill.

Let us be clear about a few things. Neither the House bill nor the President's proposal would create any new agencies. They are proposing only to move existing agencies from one Department to another. The Immigration and Naturalization Service, the Cus-

toms Service, the Coast Guard, all of these agencies currently exist. They are operating. They are funded. And the people are out there working day and night. These agencies have been working around the clock since the terrorist attacks last year on September 11. They have been out there working. They were on the borders. They were patrolling the U.S. waterways last night, the night before, and the night before that, and in all of the nights that have occurred, beginning on September 11, and before.

Whether or not we create a new Homeland Security Department, and regardless of when we do it, these same agencies will continue to protect our homeland. The funds are there. The funds are being used. The people are there on the job. So do not have any concern about that. They are not absent their protest and they are not empty handed. They are not empty handed. They are working.

Now, we must be careful about how we create this Department. And I want to create this Department of Homeland Security; I want to create a Department of Homeland Security. But I am not one who wants to debate the bill on the Senate floor for 2 days and vote on it. That is what the House did, the other body. They have their own rules. I have been a Member, many years ago. I say "many;" many in the context of the ordinary lifetime of many years ago. They have their rules. I don't criticize that at all. They can operate fast. The House can operate quickly, they can operate fast, and so can the Senate, as we did last year when we passed an appropriations bill within 3 days of the fall of the towers, the Twin Towers. We passed an appropriations bill within 3 days, a bill appropriating \$40 billion.

The Senate can act fast, too. But thank God, the Senate has different rules from the rules of the other body. And that is no criticism of the rules of the other body. But why the hurry? Why pass a bill in 2 days? Why should the Senate not take a little time and discuss this? The people are out there. Our security people are at their posts. They have been funded. As a matter of fact, the Senate has passed bills coming out of the Appropriations Committee, chaired by me and with the ranking member, Mr. TED STEVENS, a former chairman of that committee, and all of the members acting unanimously—Republicans and Democrats alike. We have provided funds, more funds than the President has been willing to sign into law. We sought to provide \$2.5 billion in a bill. All the President needed was to sign his name. That was all he needed. Two point five billion more would have been available—for what? For homeland security. And the President had 30 days in which to sign that measure into law. He refused to sign it into law. So who is in a hurry?

The real threat to the American people is that by transferring 22 agencies and 122,000 employees to this new Department, all at once we will throw our homeland security efforts into a state of chaos and therefore make the country even more susceptible to a terrorist attack. What is more, if we are not careful about how we create this Department and the authorities that we grant to this new Department with regard to its intelligence and law enforcement powers, we could do irreparable harm to the constitutional liberties of the American people.

For this reason, 26 leaders of nationally prominent conservative organizations have urged the Senate to exercise—and I use quotes—“restraint, caution, and deeper scrutiny before hastily granting unnecessary powers to a homeland security bureaucracy.”

Let me say that again: 26 leaders of nationally prominent conservative organizations have urged the Senate to exercise “restraint, caution, and deeper scrutiny before hastily granting unnecessary powers to a homeland security bureaucracy.”

I say to those who would say there is no excuse for not giving the people of this country a homeland security bill: Don't push this Senate. Don't push it. The Senate will act in due time. Don't push this Senate. Back off. Don't push this Congress as a whole into unwise and hasty decisions that would make this country even more vulnerable to another terrorist attack.

That attack can happen right now, later today, tonight. Why should we hurry in acting on this particular measure? The people are out there. The people in the agencies, the Customs, the Coast Guard, the Naturalization and Immigration Service, at the ports of entry into this country, at the river ports, at the seaports, food inspectors, the health officials, the firemen, the policemen—they have been there. We have done our part, up to this point, by funding those agencies that provide security to the country, to the nuclear facilities, along the border. We have funded them. We have provided more funds than the President himself has been willing to sign a bill for. They have been there. He had days to sign that bill, but he didn't do it. Now the hue and cry is: Pass this bill, the homeland security bill.

The House of Representatives passed it in 2 days. That is all right; their rules will allow them to do that. But I say to the leadership in the House, and to the leadership down at the other end of this avenue: Don't push the Senate. Don't push the Congress into unwise and hasty decisions that would make this country more vulnerable to another terrorist attack. Don't push the American people. Don't push the American people, I say, as I look through those electronic eyes, the lenses there. Don't push those people into handing over their civil liberties.

Now, pay attention. Not much attention has been paid thus far to my ex-

pression of concerns about this hasty action on this legislation. But don't push the American people into handing over their civil liberties in the name of homeland security. And some debate on this bill—when I say this bill, the House bill or the Lieberman substitute—debate will surface, will open the eyes of the American people and the eyes of Senators, to the threat of eroding the liberties of the American people.

Don't risk eroding the liberties of the American people. It doesn't sound like passing a homeland security bill would do all that, does it? It has an innocent sounding name, a good name. But let's take a look at the bill. Read closely the bill. Don't push the American people into handing over their civil liberties in the name of homeland security.

Everybody understands when our Nation is put on a wartime footing, we have to put certain limits on ourselves. But take a look at this bill. Take a look at the bill. Don't risk eroding the liberties of the American people and lead the public to believe this proposal is a panacea for homeland defense. That is what the administration is pressing for. That is what those who are pressing the Senate are pressing for when they argue that the Senate is endangering the security of the American people by not quickly passing the President's proposal. I believe that the administration and others who take that position have lost sight of the real goal here, which is not a Homeland Security Department but a more secure homeland.

The President and his administration seem more concerned with scoring a political victory, maybe, than whether a Homeland Security Department will actually work and will actually protect the American people from another terrorist attack.

My interpretation of what is being done is—I have to say that I can be wrong, too. Perhaps I am putting the wrong interpretation on it. Perhaps the President is not more concerned with scoring a political victory than whether the Homeland Security Department will actually protect the American people from another terrorist attack. I don't want to read it that way. I don't want to misinterpret it. I don't want to see the President as doing that, or feeling that way about it. I don't want to even assume that is his motivation. But that is the motivation of some. That is the motivation of some.

Forty-one Senators opposed the Thompson amendment to strike titles II and III from the Lieberman substitute. Yet there is only one Senator on the floor defending those titles. I did not draft the language. Yet I am the only one fighting for it. I am the only one fighting at the moment to retain titles II and III of the bill. I will have something to say about those titles at some point.

When I say titles II and III, I am talking about the Lieberman proposal.

Let me briefly explain what my amendment does so those who are listening will understand that my amendment is not seriatim to the bill that has been introduced by Senator LIEBERMAN. My amendment only goes to title I of that bill. There are 24 titles to the bill. My amendment only goes to title I of Mr. LIEBERMAN's bill. I am not yet addressing the House bill. That is far worse. The House bill is really a poison pill.

Mr. LIEBERMAN's bill has 24 titles listed. My amendment only goes to title I.

Mr. LIEBERMAN's proposal has encompassed in the bill that was reported by the committee a Department of Homeland Security. I am for that. My amendment does not do otherwise in support of a Department of Homeland Security.

The Lieberman proposal provides for a Secretary. My amendment provides for a Secretary.

The Lieberman proposal provides for a Deputy Secretary. My amendment provides for a Deputy Secretary.

The Lieberman proposal provides for seven Under Secretaries. My proposal provides for seven Under Secretaries.

The Lieberman proposal provides for five Assistant Secretaries in title I. My amendment provides for five Assistant Secretaries in title I.

The Lieberman proposal proposes six directorates. My proposal provides for six directorates in title I.

There is another directorate provided for in title XI. I don't touch that at the moment. My amendment does not touch that. We are only talking about title I in my amendment.

Thus far, the same superstructure that is provided for by Mr. LIEBERMAN is provided by the amendment which I have introduced—the same thing; no change; nothing different about that.

The Lieberman proposal provides for a huge transaction here, which Mr. LIEBERMAN has told me involves 28 agencies and offices. We have heard the figure 22 bandied around here. I have seen those all over the press. I accepted that figure for a while, until I asked Mr. LIEBERMAN how many agencies are we really talking about. He said: I have counted them, and I count 28 agencies and offices, and 170,000 Federal workers being transferred to this Department.

I don't say anything criticizing Mr. LIEBERMAN's bill. I am comparing my amendment in certain respects with the bill which was reported by the Senate committee which Mr. LIEBERMAN chairs and of which Mr. THOMPSON is ranking member.

That bill provides for all this huge transaction—all of this movement of people, all of this shifting around of people in the agencies, or among the agencies in which they are presently working. And it provides for all this to be done—for these agencies to be shifted into the new Department.

Their letterheads will probably change. Their telephone numbers will probably change. The offices in which they serve today may or may not

change. They may be moved up Pennsylvania Avenue to a new place. They may have to move their desks and their telephones and their computer systems. Their culture will change. They may not have the same associates. They may not be located in the same location. Their telephone numbers may be changed. Their missions may be changed. Their assignments may be changed. Their objectives, overall, may be changed. We have seen the objectives of the FBI, for example, change since the September 11 attacks.

Mr. DAYTON. Madam President, will the Senator yield for a question?

Mr. BYRD. Just in a moment, if I may, and then I will yield.

They are undergoing all of these changes. This will all be done within a period of 13 months following the signing by the President of the act. Thirteen months after that act becomes law, all this will be completed. My amendment does not change that calendar date as to when this massive transaction will be completed.

My amendment provides that at the end of the 13 months this is envisioned as to be done the same way, the same thing—not the same way, but the same time period over all. Thirteen months occurs with respect to the Lieberman bill and with respect to my amendment, if my amendment is adopted—the same time period, 13 months.

So what is the difference? Under the bill, the committee bill, once the Senate passes whatever it passes, and that is sent to conference, and it comes back, and it is signed into law, Congress is out of it except with respect to the appropriations that will go forward to the agency, to the new Department. When the Senate passes this bill and sends it to conference, for all purposes of amending that process in the Senate, it is over. When it goes to conference, whatever comes back from the conference between the two Houses—the Republican-controlled House and the Democratic-controlled Senate—whatever comes back from that conference is it.

We have one more—one more—chance, and that is in voting up or down on that conference report. When that conference report comes back to the Senate, it may not even look like the bill that passed the Senate. Ha, ha, ha. Now, Senators, you may have an entirely different breed of legislation on this bill when it comes back. It is there. You can vote it up or down. But, Senators, you will not be able to offer any amendments to that conference report. You can vote it down, you can vote it up, but you cannot change it.

It may be virtually an entirely new proposition. Who knows what the conferees will agree to. Senators, you are having your last chance here when we vote, eventually, on this bill, if we do.

So why, why, why should Senators just roll over and play dead, as it were; perhaps come to the floor, make a short speech—of 10 minutes, 15 minutes—in support of the bill, or a short

speech in opposition to it? Why should Senators have to do that within the next week, let's say, or 2 weeks or 3 weeks? Why should Senators have to do that before a new Congress sits in January?

Let me repeat, the Immigration and Naturalization Service, the Customs Service, the Coast Guard, other existing agencies that provide security to our country and to us—all of these agencies currently exist. The agencies have been working around the clock since the terrorist attacks last year. They were on the borders. They were patrolling U.S. waterways.

Whether or not we create a new Department of Homeland Security in September, whether or not we create a Department of Homeland Security in October, whether or not we create a Department of Homeland Security in November, whether or not we create a Department of Homeland Security in December, these same agencies will continue to protect our homeland.

Now, back to my amendment, and then, shortly, I will yield to the Senator for a question.

What is the difference between the bill, then, and my amendment? I have already said as to the superstructure, as to the overall time period of 13 months, we are in lockstep, we are in lockstep with Mr. LIEBERMAN and his committee.

Now, here is the difference. Here comes the difference: Remember, this is all to be done within 13 months. Under the Lieberman committee proposal, once this bill that is before the Senate—once whatever the Senate passes, and it is concurred in by both Houses—whatever package is sent to the President, and he signs it, these things are going to take place.

We are going to do it in the same period of time, but under the Byrd amendment, all of this chaotic happening is not going to occur at once. We are not going to pass the bill and send it to the President and say: Now, Mr. President, it's all yours. We're going to step off to the sideline. Congress is not going to have any more part in it. We have passed the bill. It sets up the new Department by legislation. It deals with 22 or 28 or 30—that many—agencies and offices. So here it is. Here is the bill. Here is our bill. It's yours. Under the Lieberman approach, it's yours. You have 13 months to do it in. Have at it. Good luck. Good luck, Mr. President. Here's the package. It's all yours.

Can Senators imagine the chaos that will occur in trying to do all of this in a way that is other than systematic and orderly?

My amendment provides an orderly process whereby on February 3—if the amendment is included in the act—on February 3, the Secretary of the new Department would send up his recommendations as to what agencies, what functions, what assignments, and so on, would need to be carried out to complete the flushing out of this skel-

eton, of putting into effect the establishment of the first directorate.

Remember, I said that there were directorates in the Lieberman bill. There are Directorates in the Byrd amendment.

The Secretary of the Department of Homeland Defense, the new Department—which will be established by this law, if it becomes law—the Secretary sends up his policies, his recommendations as to what agencies shall go into this new Directorate. That is on February 3.

The recommendations of the Secretary will be sent to the committee in the Senate and the committee in the House that have jurisdiction over this subject matter. Mr. LIEBERMAN's committee and Mr. THOMPSON's committee, their committee will still be in the mix. Their committee will still be front and center.

Under my amendment, we are not going to say: OK, Mr. President, here it is. Have a good time. Good luck to you. Enjoy what you are doing. We are just going to move off to the side.

Our committee is going to say: All right, we have a department. We are going to create this first directorate. We are going to have this new Secretary of Homeland Defense send up his policy recommendations to the House and Senate. They will be referred to the committees of jurisdiction, Mr. LIEBERMAN's committee in the Senate, and his counterpart committee in the House. And those committees will take these policy recommendations that have been sent up by the Secretary of the Department of Homeland Security, and they will treat those as recommendations for a bill.

They will look over those policies. They will debate them in the committee. They will report, ultimately, a bill which accepts the policies or which amends those policies.

There will be, in my concept, an expedited procedure where that bill does not just go through the committee and lie there. But within 120 days after the policies have been sent to the Congress by the Secretary, the Secretary then, 120 days later, or on June 3, would be required to send up his recommendations for fleshing out the next two directorates which are named in Mr. LIEBERMAN's bill also.

The second proposal, there will be the Directorate of Intelligence and the Directorate of Critical Infrastructure Protection. Those directorates are named in the Lieberman bill.

But we say, now, the first directorate that we will deal with will be the directorate of Border and Transportation Protection. All of these directorates are the same directorates as are provided for in the Lieberman bill. But we are saying that the first directorate to be decided upon and to be fleshed out will be the Directorate of Border Transportation and Protection.

That is February 3. So there is 120 days for action to be taken in moving those agencies that are involved in the

Directorate of Border and Transportation Protection into the Department. One hundred twenty days later, June 3, the Secretary will send up his recommendations for the Directorate of Intelligence and for the Directorate of Critical Infrastructure Protection; 120 days later, or October 1, the Secretary would send up his recommendations. And in each of these three phases, Mr. LIEBERMAN's committee would take the recommendations of the Secretary. And in each, the Lieberman committee will report to the Senate a bill containing the recommendations of the Secretary. They may have been amended in the committee. They may have been modified somewhat. But Mr. LIEBERMAN's committee would then report that and so would the House committee report that bill to their respective houses, and then the respective houses would take up the bill under expedited procedures, as I conceive it, expedited procedures. So there could be no filibuster.

That committee can be discharged from the bill. If the committee cannot report the bill, the committee will be discharged, and it will come to the full body, in the House or in the Senate, whichever is having a problem.

So we have three phases, each phase of 4 months. The first phase will take a look at that, the committee does, the Senate does. There you go, you have a directorate in being, one directorate, the agencies, the number of people that will be moved into that particular directorate, that will be going forward.

When it comes time, on June 3, for us to take a look at the policies, at the recommendations sent by the Secretary ensuring the next two directorates, we will have the advantage of seeing the mistakes, seeing the errors, seeing the faults, seeing the shortcomings of the way these agencies were moved into the first directorate. So we profit by staying in the mix. Congress profits, and the people represented by the Congress profit.

Perhaps I should not use the word "profit." They "benefit" from the experience in fleshing out that first directorate. Then comes along the second and third directorates, every 4 months, and the same thing happens. And then the fourth and fifth directorates come along 4 months later, and the same thing obtains. The recommendations go to the two committees. They are reported out under expedited procedures. Each House would be required to go to the measure under expedited procedures, and it is passed.

Congress stays in the mix. Why Congress? Because Congress is made up of the elected, directly elected, not sent here by any electoral college but directly elected by the people of Arkansas or the people of Minnesota or West Virginia. So Congress stays in the mix.

It is phased. There is an orderly process of doing what Mr. LIEBERMAN wants to do and over the same time period. So we come out at the end, 13 months; we have created this Department that

Mr. LIEBERMAN creates. We have created six of the seven directorates that Mr. LIEBERMAN's bill creates, and we have set up the superstructure. We have appointed the same number of directors, the same number of Secretaries, the same number of under secretaries, the same number of assistant secretaries—all of it.

We take Mr. LIEBERMAN's proposal, but we say we won't just turn it over to the administration the day after it is passed. We will go off fishing, if it is summertime, or perhaps we can go play golf. We will just quit. That is the responsibility of the administration, his bill says.

Mine says, oh, no. No. That is the responsibility of Congress and the administration—Congress working with the administration; the administration working with Congress in an orderly process. The people in 28 agencies won't have to be moving their desks all at once. It will be some now; 4 months later, some more; 4 months later, the rest.

What's wrong with that? That provides an orderly process. Madam President, I think at this point I have explained enough of what my amendment does to yield to the distinguished Senator from Minnesota for a question. We will have plenty of opportunity later to explain what my amendment does. I want people to go home this weekend to know what my amendment does. That is it in a nutshell.

I don't claim to be a medicine man. I don't claim to be a magician. I don't say watch what is in my right hand and don't watch what the left hand is doing. It is there. This is it.

Yesterday, included in the CONGRESSIONAL RECORD was a brief statement explaining the amendment. I also tried to explain it on the floor today. I have been up all night and the night before with my wife in the hospital. I sat right in her room all night, watching her and reading my Constitution again. It is a little hard to make things quite come together as one would like when one has lost sleep. I merely mention that so that everybody will know that I have tried to explain the purpose of my amendment, but not under the best conditions.

I yield now to the distinguished Senator from Minnesota for a question only, retaining my right to the floor.

The PRESIDING OFFICER (Mr. BAUCUS). The Senator from Minnesota is recognized.

Mr. DAYTON. Mr. President, I thank the Senator from West Virginia, whose explanation has been very clear—last night and also today. I trust the Senator's amendment comes from wisdom gained from many years of watching executive branch organizations, new departments brought together, and, of course, the Senator has the sweep of history both in this institution, and also I recall hearing the Senator last week quote a Roman, and I must confess a week later, whose name and statement I have forgotten, but which

the Senator has remembered for all these years. It was something to the effect that reorganizations are just another way of delaying and confusing matters.

I wonder if the Senator can share some of that experience gained and the insight into other organizations or reorganizations of Federal agencies, and how that might have suggested some of the oversight that the Senator has in his amendment.

Mr. BYRD. Mr. President, I thank the very dedicated, patriotic, able, and distinguished Senator for the diligence with which he pursues his responsibilities as a U.S. Senator. I appreciate very much what he has said with reference to me. Those remarks are very flattering. They might, if left alone, appear to be more than exactly the fact. I don't have a lot of experience, but I have seen some departments created during my tenure. I remember the new Department of Health, Education and Welfare, I believe it was called. I remember I was here and voted for that Department; the new Department of Energy, I voted for that; the new Department of Education, I voted for that; the new Department of Veterans Affairs, I voted for that.

Now, as to reorganizations, I can take a look at recent experience as to reorganizations. The administration, since the September 11 attacks, has announced at least 3 major governmental reorganizations prior to the President's proposal to create a new Homeland Security Department.

Last December, in response to numerous media reports criticizing the Nation's porous borders, the administration proposed the consolidation of the Customs Service and the Immigration and Naturalization Service within the Justice Department. Last March, following the mailing of two student visas by the INS to two of the September 11 hijackers 6 months after they crashed planes into the World Trade Center Towers, the administration announced that the INS, the Immigration and Naturalization Service, would be reorganized—split into a services bureau and a separate enforcement bureau.

Last May, following the reports about intelligence failures by the FBI, the administration announced a reorganization of the FBI. These reorganizations have either produced very little, or they have been replaced by subsequent additional reorganization proposals. It is as if we are spinning around in circles, with little left to show for all of the energy that we have expended, little left but dizziness. To avoid a similar fate of this new department, which I support—I am not opposed to creating a new Department of Homeland Security. As a matter of fact, I urged that months ago.

The story behind that, which I recounted more than once, about the efforts of Senator STEVENS and myself to have Tom Ridge, the Director of Homeland Security, which was created by

Presidential Executive order—not by statute—come up and testify before the Senate Appropriations Committee on the budget, on the homeland security agency's budget, he would not come. I have gone through that ad nauseam, time and time again. I may go through it again.

Right now, it is sufficient to say that we had an unfortunate experience there. So I suggested that we have the Homeland Security Director be a person appointed by the President, and with the consent of the Senate, requiring Senate confirmation of that position, that officer. I recommended that, and we could not get him to come by invitation, the President having put his foot down hard and in concrete, being immovable, claiming that "this is my staff person, this is my adviser. He is not required to go up there." Well, with all of the responsibilities and the authorities that were being assumed or carried out by the new Homeland Security Director, Mr. Ridge—he was going all over the country speaking to chambers of commerce, explaining his work and the things we were doing and the things we needed to do to secure our homeland—he would appear anywhere, anytime, apparently, because I read of many of his appearances around the country.

Each time I read about his being here, there, or out in Montana, or wherever, I thought: Why can't he come up before the people's branch and tell the people's representatives what he wants, what he needs, what this country needs, what the people need for their security and safety? Why doesn't he come before the elected representatives of the people? Oh, yes, he is an adviser to the President, but the President has lots of them. He is on the staff of the President, yes. But this man is carrying a much larger bag of responsibilities than the ordinary staff person, the ordinary adviser to the President.

I know the President has to have advisers to whom he can talk. They do not need to come before Congress. I told the administration: Look, we are not going to ask Mr. Ridge, your Homeland Security Director, who was appointed pursuant to a Presidential order—we are not going to ask him about his private conversations with the President. We are not interested.

We want to ask this man, who is the point man for the administration on homeland security—he is the person who is running around telling everybody what it is. He is the man running around all over the country spilling his beans to this agency, that agency, whatever agency, whatever committee or whatever group of people, fraternal order or civic order, whatever it might be—he is the man running all over the country talking to the people everywhere and going up to Canada. He is the man who has gone down to Mexico and talked about various and sundry subjects pertaining to border controls, surely, and so on.

Why can't he come to Jenkins Hill, on which this great architectural structure has been for 200 years or thereabouts? Why can't he come here and answer questions by the people's elected representatives in the Congress? After all, it is the people's money. He is being paid out of the pockets of the American people, this Mr. Ridge is. Pennies do not fall from heaven. He is being paid by the taxpayers, and the President is being paid by the taxpayers. Who pays him?

He says this man cannot come up, this man does not have to go up to Congress. That is the President talking. Who pays him? The people. The people. Who pays us? The people. So the people are entitled to know a little about this, about how their moneys are being spent.

That is why we have public hearings in the Appropriations Committee and by the subcommittees of the Appropriations Committee. The hearings are in public. The hearings are open. There can be a huge audience out there in some of those massive, handsome rooms over in the Senate office buildings. People can hear. They can see on television. They can hear over the radio. They can hear their people, their representatives, and they can hear the President's man, all of us being paid by the people, some of us being elected by the people.

But some of those who testify are not elected by the people. Tom Ridge is not elected by the people; he has not been elected by the people, except to run as Governor of Pennsylvania and run for membership in the other body, which he has done. He has been Governor of Pennsylvania. He has been a Member of the other body of the Congress. So he is a man who knows a great deal about the subject matter, and he has thrown himself into his work. He is the expert. He knows the answers to a lot of these questions. He is a very intelligent man, a very articulate person. He is the person in charge.

Why shouldn't the Congress hear him? They said: We will be happy to send him up for briefings. He can meet with Senators and House Members and have little briefings, and we can tell you all about it. That is not the point. His portfolio is much greater than the portfolio of an average staff person of the President or an "adviser" to the President.

He is dealing with a subject that is virtually brand new to the American people. Last September 11 brought to the view of the American people something we had not seen before, something we had not experienced before, and opened to all of us a new kind of world, and the world is changed forever. Our country in some ways is changed forever. Every person in this country—man, woman, boy, or girl—their life is changed forever. It is not going to be a short time. The President himself has said this war—they call it a war; it is a different kind of war—this war is going to last a long time. It is going to take us a long time.

Does anyone think we are going to get all the terrorists ever? No. We have not even gotten Bin Laden yet. We do not know where he is. He may be alive; he may not be alive. But whether he is alive or not, his agents are spread, we hear, in 60 countries or more. This is something big, and it affects our lives, it affects our work in the Senate.

Why shouldn't the person who is the top man in the United States with reference to homeland security appear before a Senate committee, the Appropriations Committee? We are not seeking to put him on the spot or to embarrass the President by some question, such as: Tell me about your private conversations with your President. We are not going to do that.

The Senate Appropriations Committee has been in business for 135 years. This committee was established in 1867. Think of that. Two years after the Civil War ended—1867. Fifty percent, or more—a very high percentage—a great majority of some of our students in the polls do not know when the Civil War ended; they do not know that it even occurred in this country.

But we know that in 1867 this Appropriations Committee in the Senate was established. Before that, the Finance Committee in the Senate, which had been established in 1816, did the appropriations work, as well as raising taxes, and so on. In 1867, the Finance Committee did that work no longer. Seven Members of the Senate were appointed to this new Appropriations Committee. I believe it was seven Members. In any event, the Appropriations Committee has been doing business ever since.

The way we have done business is the right way. We get testimony; we get people to appear before the subcommittees. There are 13 subcommittees of the Senate Appropriations Committee, and every one of those subcommittees has subpoena power in that Appropriations Committee. That committee has subpoena power—the Appropriations Committee. No wonder everyone wants on the Appropriations Committee.

That Appropriations Committee deals with the public purse, and by virtue of this Constitution, the power of the purse is vested in the legislative branch. Article I, section 9, of this Constitution, which I hold in my hand, vests the power of the purse in this body. So the right way to do it is to have public hearings.

The people need to know what questions are asked. The people need to know what answers are being given.

It is out there. Everybody can see it. Everybody can hear it. There is a record of it.

Then when the appropriations bill is put together, the testimony of these witnesses is read again. There are hearings printed. Hearings will be available to members of the Appropriations Committee of what was said during the testimony by Mr. Ridge, if he had come before the committee. And when the bill is taken up on the floor, there are

the printed hearings. They are available. There is a committee report—aha, a committee report on that bill—for the benefit of the Senators who are to vote on the bill.

That committee report is important. It is really laughable that the administration would propose that they would be willing to send up this man, who is the know-all, as far as anyone can know, about homeland security and what is being done by our Government, or what we hope to do—So the American people need to know that. The committee needs to know that. But he is going to come up in a private briefing? That is the administration's proposal: No, we will not let him come up there and get before that committee. No, no, no. He is the President's man. We are not going to let him come up. You do not call Condoleezza Rice. He is in the same position.

No, he is not. You cannot equate the one with the other in this respect.

So the committee is going to write a report. How important is a committee report? Suppose there is a court case at some point with respect to a provision in a bill. One of the things the court would need to know is what was said in the committee. In order to get the intention of the legislators, in order for the court to interpret the intention of the legislators with respect to that particular bill or that particular provision, the court may want to resort to a committee report. That has happened before in this country.

What committee report is going to be around where we have a shadow government, as it were, with the administration officials coming up to the Senate and talking in private, behind closed doors? Oh, the doors can be open, that is all right, but there is no record. The people out there do not see what is going on. What kind of government is that?

This is an open government—it is supposed to be—with respect to its appropriations, with respect to our bills. How utterly foolish the administration was to take that utterly foolish position in refusing to allow Tom Ridge to come before the Appropriations Committee of the Congress. That was utterly foolish. It poisoned the well.

The result was a provision which Senator STEVENS and I wrote into an appropriations bill providing that the Director of Homeland Security would indeed require confirmation by the Senate of the United States, and that appropriations bill came before the Senate not too long ago. Not one finger was raised against it. Not one Senator rose to strike that language from the bill.

It was in the bill. Everybody knew it. The staff of every Senator saw it. They knew it, or they should have known it. Not one effort was made to remove it. That overall appropriations bill passed the Senate, including that provision, by a vote of 71 to 22—quite a secure majority, 71 to 22. I will try to remember that. That bill was passed, including that provision.

I say to the distinguished senior Senator from Montana who presides today, that bill passed the Senate by a vote of 71 to 22, and went to conference.

Oh, wait a minute. The administration suddenly sees on the horizon, here comes this bill, here comes this provision. Oh, Mr. Director, Mr. Tom Ridge, you know the Senate has—here it is right here, this appropriations bill. They are going to make you come up there. They are going to make you come up there.

Mr. President, look at this bill here. The Senate is going to make this man come before the Senate of the United States in the Appropriations Committee. The President will not be able to say, well, he is an adviser of mine; he cannot come. The President will not be able to put his feet in concrete and say, this man is on my staff and my staff people do not have to come.

Mr. President, it is in this bill. I do not care what you say. You can veto the bill, if you want to. Do you want to veto that appropriations bill? Do you want to veto that appropriations bill because it has that provision? Then you will have to explain to the American people why you will not let this man go before the Appropriations Committee of the Senate and answer questions of interest to the American people, questions dealing with their money, the money they pay in taxes to pay your salary, Mr. President, and to pay your salary, Mr. Ridge.

Oh, you cannot hide behind that desk any longer. That part of the shadow government just will not work any longer because this legislation is going to require you to have that man of yours come up there.

And you know what happened? Then down in the subterranean caverns, in the ill-lighted recesses of the bowels of the White House, four solemn individuals met one day and there was hatched the egg to provide the homeland security proposal. There was the egg. I do not care how warm the egg is, it still takes it 3 weeks to hatch. Try it sometime—3 weeks. But it did not take 3 weeks for that egg to hatch, not in that White House.

The administration wanted to get out front on this provision that was in the appropriations bill, written in there by Senators BYRD and STEVENS and supported by every member of that Appropriations Committee and not questioned by any Member of the Senate.

It is on its way to conference, Mr. President. I tell you, we have to act quickly, and the President did act quickly. They came out and unveiled this great proposal that came to life like Minerva who sprang full grown and fully armed from the forehead of Jove. That is how it came about.

Then there was Aphrodite who sprang from the ocean foam and was carried by a seashell or a leaf to a nearby island and then went on to Mount Olympus and appeared before the gods, and the gods were overcome by the beauty

of Aphrodite. All of that happened. And the same way with this egg that hatched, it just sprang into being all of a sudden and here it was, this massive proposal by the President. He unveiled it, and they were quite successful in taking the people's eyes away from some of the other things that were demanding attention in the newspapers of the time. They took those things off the front page.

Here was a new Department. Since then, the President and all the people in his administration, the King's men and women, have been out there saying: Pass this bill, pass this bill, which was hatched by four individuals. Let me see if I can remember their names. Mr. Ridge was one. Mr. Mitch Daniels was another. He is the Director of the Office of Management and Budget. Mr. Gonzalez, I believe he is the President's counsel, and Mr. Card, I believe. I hope I am right. I am. Someone nodded in the affirmative to me and so I am. There it was in the newspapers. Those four gentlemen, very reputable persons, people of high caliber and unblemished reputations, as far as I know, and this was their idea.

Now compare that group of four, working in the shadows, the dim light. The lights may have gone out, but I expect there might have been candles there, or perhaps oil lamps. I can just see the shadows, the figures of the shadows moving back and forth in those caverns, on the walls of those caverns, as the men remonstrated, and said this: We ought to have this, we ought to have that. Whatever they say. Anyhow, that was hatched down there.

Now that was a different committee. Four individuals, from the committee that wrote the Declaration of Independence. By the way, I carry that Declaration of Independence right here in my shirt pocket. Who was on the committee that wrote that Declaration of Independence? Thomas Jefferson, John Adams, Benjamin Franklin, Roger Sherman, and Livingston. So there were five. My, my, look at those giants, five giants who wrote the Declaration of Independence. Had they been arrested by the British for treason, they could have been sent to England and they could have been hanged. And so could the others who signed that Declaration of Independence. The signers are all listed in this little book I hold in my hand.

They were doing things that challenged. They were doing things for which they were willing to give their lives. They would have given their lives, had they been tried for treason. Those men committed treason against the government under which they then lived. The far reaches of the Parliament's hand, the King's hand, from Great Britain, from England, could have snatched them, taken their fortunes, taken them to England, tried them, taken their lives. So they pledged their lives, their fortunes, their sacred vows.

How about those four in the White House? Were they pledging their lives

and fortune? Quite a different committee, I must say.

Anyhow, with all respect to the four men who are public servants, and who are doing their best, as they see it, for their President—quite a different matter.

Mr. JEFFORDS. Will the Senator yield for a question?

Mr. BYRD. Yes, I yield to the distinguished Senator for a question, retaining my right to the floor.

Mr. JEFFORDS. I have listened carefully to your dissertation of the past and the responsibilities that all of us have to make sure we uphold the Constitution. And I also recognize that what the administration was doing in this regard, and agree with the Senator that what happened at that time, was most unfortunate.

Is the Senator aware the administration has compared the creation of the Department of Homeland Security to the reorganization of the Government set forth by the passage of the National Security Act of 1947?

Mr. BYRD. Yes, allusions to that act, the National Security Act, which was created in 1947 after a period of at least 3 or 4 years. This Senator is aware of the allusions that have been made to that act and the references that have been equated, the reorganization of the Government under the Bush Administration and how it is compared.

Mr. JEFFORDS. I have done some research on the creation of the Department of Defense that I would like to share with my friend. I found the research helpful in putting the current debate in context.

First, I agree this proposal is similar in scope to the 1947 debate, but there are also some notable differences between the 1947 debate and today's dialog.

Mr. BYRD. I would like to hear those.

Mr. JEFFORDS. The Bush administration proposal and the Lieberman substitute we are debating represent a dramatic reorganization of the Federal Government. The most obvious difference between the process in the 1940s and this summer is time. The creation of the Department of Defense was a collaborative process between the executive branch and Congress, measured not in days and weeks but years.

Proposals for combining the military services were first considered in Congress in 1944. President Harry Truman became keenly involved in the effort and sent a message to Congress at the end of 1945 proposing the creation of the Department of National Defense. Congressional hearings were held on the matter throughout the following year. In 1947, the President sent legislation to Congress that, after additional hearings and congressional input, was finally passed and signed into law in July of 1947.

Mr. BYRD. The Senator is certainly laying down a very impressive premise for the question which he will ultimately ask. Please go ahead. The Senate needs to hear this.

Mr. JEFFORDS. Additionally, Congress made significant changes in the Department of Defense in 1949. Thus, the thoughtful and deliberate process to create an effective Department of Defense did not happen in a summer, a year, or even one session of Congress.

Mr. BYRD. How about that. Right.

Mr. JEFFORDS. It took 5 years and was founded upon discussion, debate, and compromise.

Mr. BYRD. Say that again.

Mr. JEFFORDS. It was founded upon discussion, debate, and compromise.

Let me be clear that I am not advocating we take 5 years to debate the proposal before us, only that we ought to be thoughtful and deliberative. This current reorganization will affect the lives of every American for years to come. Unfortunately, the current administration has made it clear it will veto any legislation that is not almost identical to its proposal.

Mr. BYRD. Say that again, please.

Mr. JEFFORDS. It is clear it will veto any legislation that is not almost identical to its proposal.

Recently, President George Bush, speaking about this legislation, said: The Senate had better get it right.

I agree with the President that we do have a solemn responsibility to consider, debate, amend, and strengthen this legislation. I am sure the President understands that the Senate's deliberate consideration of this bill is an integral part of the process of "getting it right."

As the President's father said, a time of historic change is no time for recklessness.

Mr. BYRD. Right again. What was that?

Mr. JEFFORDS. A time of historic change is no time for recklessness.

Mr. BYRD. Yes.

Mr. JEFFORDS. As my friend from West Virginia knows, when Congress created the Department of Defense, the affected agencies had input into the process.

Here is another significant difference between the development of the Department of Defense and the current debate over homeland security.

In the 1940s, the executive branch agencies affected by the proposed reorganization were participants in the process. The Army, the Navy, and the Joint Chiefs of Staff proposed specific plans for reorganizations as early as 1945. And the Army and Navy were consulted prior to the President submitting draft legislation in 1947, 2 years later. This cooperative approach in developing a workable new Department contrasts starkly with the way the administration developed homeland security draft legislation.

A small group of advisers, which the Senator has explained well, working in secret in the White House, developed the present Bush proposal. Members of Congress and the Secretaries of the affected Cabinet agencies were reportedly not even informed about the proposal.

Mr. BYRD. How about that.

Mr. JEFFORDS. Amazing.

As I have said many times, I understand, in the wake of the horrific events of September 11, we would look for ways to strengthen our Nation's defense to prevent any further catastrophe. I fully support that goal, but we must be cautious, to make sure that we work to correct what went wrong and not interfere with what went right.

We know what went wrong, and I firmly hope we, as a nation, will develop a comprehensive plan to address the shortcomings of our intelligence gathering and communication efforts which, to me, were the core of the problem.

Mr. BYRD. Right on. Right on.

Let me hear that said again. I want to be sure I remember that.

Mr. JEFFORDS. We know what went wrong, and I firmly hope that we, as a nation, will develop comprehensive plans to address the shortcomings in our intelligence gathering and communication efforts.

Because of the similarity of the September 11 attacks and the attack on Pearl Harbor, over 60 years ago—which I am just barely old enough to remember, being 5 at that time, but I remember that day to this moment—we should remember the finding of the Joint Congressional Committee that investigated Pearl Harbor, that:

... the security of the nation can be ensured only through ... centralization of responsibility in those charged with handling intelligence.

That, to me, is the key that we have to look at for a resolution of this problem.

I hope we will learn a lesson after the tragic events that occurred on September 11. Correcting intelligence failures must be the hallmark of any new Department of Homeland Security.

I thank my colleague for yielding, and I look forward to continuing this debate and considering this important legislation.

In closing, I hope we will take our time in creating this new Department and that we will protect the role of the legislative branch throughout this process. I commend Senator LIEBERMAN for leading debate on this important topic, but I also thank my friend from Virginia. In the 200-year history of this body, there has never been a more vigilant defender—

Mr. BYRD. Would the Senator mind repeating that and addressing his remarks to the Senator from West Virginia and the Senator—

Mr. JEFFORDS. Yes, right. I also thank my friend, the Senator from West Virginia, Mr. BYRD. In the 200-year history of this body, there has never been a more vigilant defender of the legislative branch than the Senator from West Virginia.

Mr. BYRD. Mr. President, I thank the distinguished Senator. I didn't want him to repeat what he said for that part. But I wanted him just—

Mr. JEFFORDS. I wanted to repeat it for that part.

Mr. BYRD. I thank the Senator. He referred to this Senator as the Senator from Virginia. That was inadvertent and it was pretty much out of levity, in a way, that I wanted him to get the States right and recognize me as a Senator from West Virginia, which he knows. People do have that slip of the tongue. It happens many times.

But what the Senator said—putting that entirely aside—is what I have been saying. We need to take the time and not act in haste. That is what we are being pushed to do, and the press, the media has not paid enough attention, in my judgment, overall, to this bill and to the Lieberman substitute. Somebody hasn't been listening.

My colleagues, I do not believe, have been listening. That is why I said slow down a little bit here.

I am grateful to the divine hand that brought these Senators to the floor. At least this Senator from West Virginia is getting a little attention. It is not that I want attention, but this Senator from West Virginia is getting a little attention as to what he is saying, why this stubborn guy from West Virginia—I will call him a guy—this stubborn upstart from West Virginia is trying to stop the train, trying to stop our hurrying forth, acting in the least amount of time, acting almost immediately to give to the President this legislation creating a Department of Homeland Security.

At last, at last, at last two of my colleagues have asked questions today. I am sure there will be other Senators who will do the same, now that I am beginning to break through, get through the ice, get through the veil that this is a measure that is vitally important to every individual in this country today, every man, woman, boy, and girl. It goes beyond just creating a Department of Homeland Security.

That is what the distinguished Senator said. He is talking about intelligence. He is getting into the intelligence area of what is involved here. It is much more involved than just creating a Department of Homeland Security. I am for that. I have been for it. But I am glad, I am grateful to the distinguished Senator for what he has said here. He has capsuled this very large subject with respect to the National Security Act, how time passed, the steps that were taken, the pauses that occurred, the scrutiny that was given, and the fact that the heads of the military branches—the Navy and the Army and others—their thoughts were acquired, their recommendations were acquired, their advice was sought as to the creation of this new department of defense. So they had input into it.

It wasn't done overnight. It didn't grow up like the prophet's gourd, overnight. It took time and that was a wise move.

I thank the Senator for going into that particular aspect of this in depth. He has been thorough in what he has

said with respect to the creation of the department of defense. I am grateful and the American people can be grateful to the Senator for what he has said, what he has contributed here today in just the few minutes he held the floor and he zeroed right in on one of the things that I eventually wanted to get to, and there are others.

I am not going to say anything further now, if the Senator wants to ask a further question.

Mr. JEFFORDS. No. I am very pleased to have been able to have this time with the Senator, and I look forward to working with him.

Mr. BYRD. I thank the Senator. I am delighted. I am just delighted that he came to the floor and made this statement. I am delighted that he believes we should take our time. Not an exorbitant amount of time, not an inordinate amount of time, but take time, the necessary time to scrutinize this proposal and act. It is not so important that we act quickly; it is important that we do it right. That is all I have been saying. Let's do this right.

Mr. DAYTON. Will the Senator yield for a question?

Mr. BYRD. I again thank the Senator from Vermont.

Mr. DAYTON. I think the Senator from Vermont is very enlightening as to the timing of that crisis—also following right in the aftermath of World War II, certainly another time where this country faced a very grave threat, leading into the beginning of the Korean war where the country again faced another enormous threat.

I wonder if the Senator can comment on how that experience should be instructive to the Senator's amendment. It seems the Senator has foreseen the kind of timetable of bringing back from these various directorates their preliminary plans that would lead to a far more insightful and, I think, constructive reorganization than the one that is contemplated by the proposal of the administration.

Mr. BYRD. Mr. President, I think I grasped the question that was asked. It was well put. I think I have a problem with the Senator's microphone and where he is standing. Would he shorten his question?

Mr. DAYTON. The Senator from West Virginia has an amendment which would seem to embody the intention of what occurred post-World War II, which was the sequential development of a department of such critical importance. I wonder if there is a parallel to be drawn there to instruct all of us that the approach being recommended by the learned Senator from West Virginia is the one that is going to likely produce the much more beneficial result to the country rather than the helter-skelter that would go forward without the Senator's direction.

Mr. BYRD. Absolutely. The Senator, by his question, has really answered his question. We saw that the country took more time in the 1940s to create a Department of Defense. It took time. It

had the input of the heads of the military branches and their advice. Mr. Truman took time. It wasn't enacted during the heat of battle. The thought was there. The suggestion was there. Committees held hearings, and buildings were proposed during that time. But it was after the war that the Department of Defense was created. It wasn't all done in a hurry. There was need to do something along those lines. Many Members of Congress introduced legislation to carry out the results, to create and reorganize the Government in that respect. The military people who were directly involved and had input put.

We may be in a situation here where we can't wait 4 years, or 3 years, or 2 years, as was the case there. But there is a direct parallel. They took their time. In taking their time, it didn't mean they were just dragging their feet. They took time. During the time that was passing, they talked about this; they got the advice of the military. They were preparing all along their action—but do it right; not do it quickly but do it right.

The same is true here in many respects. The point is that we must not do it quickly. We are being urged in the Senate: Get on with it, pass it. The President, with his backdrop as he goes around the country and appears before the military organizations and others: Do it, do it, do it now.

There was a little ad I used to hear on television not too many months ago: Do it now; do it here. Do it now; do it here. Well, that is what I am hearing: Do it now, do it now, do it now, do it here, do it quickly. I am saying no, no. The object is, do it right—not do it by this weekend or not do it by next weekend, and not to do it in a hurry, do it right.

This is a far-reaching measure. If this act is passed as the administration wants it passed, believe you me, it is going to affect the civil liberties of Americans. That is what I am saying. Just hold on a minute.

In the bill by Mr. LIEBERMAN that came out of his committee—I will refer to that momentarily to just kind of jar the senses of Members of the Senate who have not been paying very much attention—many of them. They are busy people. They have their attentions drawn to other very important matters all the time. There is just not enough time allotted to us as Senators to do our work right in every case. There just isn't enough time.

I just want to read one provision from Mr. LIEBERMAN's bill. It is on page 186 of the bill. It is title III that sets up a national strategy for combating terrorism and the homeland security response.

Under title III of the committee bill, in section 301 designated "Strategy," under the first paragraph:

The Secretary and the Director—

That means the Director of the Department of Homeland Security, and the Secretary of Homeland Security—

shall develop the National Strategy for Combating Terrorism and Homeland Security Response—

They shall do this. I will read it—for detection, prevention, protection, response and recovery to counterterrorism threats, including threats, vulnerability and risk assessment and analysis, and the plans, policies, training exercises, evaluation, and interagency cooperation addresses each such action relating to such threats.

Responsibilities Of The Secretary.

The Secretary shall have responsibility for portions of the Strategy—

Strategy with a capital S—

addressing border security, critical infrastructure protection, emergency preparation and response, and integrating State and local efforts with activities of the Federal Government.

Next paragraph:

Responsibilities Of The Director.

The Director shall have overall responsibility for development of the Strategy—

Again, with a capital S—

and particularly for those portions of the Strategy addressing intelligence, military assets, law enforcement and diplomacy.

Next paragraph:

Contents.

The contents of the Strategy—

Strategy with a capital S—

shall include—

Get that: The contents of the Strategy which will be developed by the Secretary of the Department and the Director—

shall include:

(1) a comprehensive statement of mission, goals, objectives, desired end-state priorities and responsibilities;

(2) policies and procedures to maximize the collection, translation, analysis, exploitation, and dissemination of information relating to combating terrorism and the homeland security response throughout the Federal Government and with State and local authorities;

(3) plans for countering chemical, biological, radiological, nuclear and explosives and cyber threats.

Now get this. Paragraph 4 is one of the items that will make up the contents of the Strategy with a capital S—strategy that is developed by the Secretary of the Department of Homeland Security and the Director of Homeland Security—the Director. Here is someone I want the Senate to be required to confirm—this Director. We will provide for the confirmation of the Secretary. But I want the Director confirmed, too.

Get this. This is paragraph 4 of the Strategy with a capital S. There is much more to be said about this Strategy set forth in title III. But listen to this. This is part of the plan, part of the Strategy.

(4) plans for integrating the capabilities—

My—

And assets of the United States military into all aspects of the Strategy. . . .

Now, does that get the attention of any Senator? We have something we call posse comitatus—some would say comitatus, which would be correct, too—both. But there are laws, there are statutes, that have to do with posse comitatus. And I shall have a speech to

make on posse comitatus, or comitatus, at some point, hopefully, or likely, if we continue.

But forgetting the statute for a moment, listen to this. The Secretary and the Director are going to draw up a strategy for dealing with this homeland security. And what is part of something that this bill is requiring that they include in their plans, and that they have the authority to develop and include in its strategy? Let me read that again. It says:

The contents of the Strategy shall include—

And we jump down to (4):

plans for integrating—

What does that mean?

integrating the capabilities—

My, “the capabilities.” What are they talking about, “capabilities”?

. . . include . . . integrating the capabilities and assets—

What does that mean, “assets”?

of the United States military into all aspects of the Strategy.

Now, what do we have here? What are we dragging into this legislation? Why, that should cause every Senator in this body to raise an eyebrow. What are we talking about here? What are we voting for? I will have more to say on this.

I believe that at last I am getting a little attention to what I say about this homeland security.

Let me read that again so it will be in the RECORD for the weekend, and Senators can think about it a little bit. And the media may have had their attention called to something here that is in this bill. Let me tell you something. I expect Senators would open their eyes even more as to what is in the administration's plan and what is in the House bill. But just in the Lieberman bill, which, as I say, is an improvement over these other approaches by the administration and the House, the House of Representatives—let me read that again:

“The contents of the Strategy”—this is in title III—“The contents of the Strategy shall” be developed by the Director of Homeland Security and by the Secretary of the Department of Homeland Security—yes, my attention has been called to an error I made. The correct title of the Director is the Director of the new Office for Combating Terrorism. I referred to the Director of Homeland Security. This is the exact title of the director. And this, the Lieberman bill, and these two titles here, have to do with this new office. These two titles in the Lieberman bill have to do with the establishment of this new Office for Combating Terrorism, established in title II. So I will just refer to this as the director.

The Director and the Secretary of the Department of Homeland Security will devise this strategy for securing the country. That is what we are all talking about. But this bill requires that among the responsibilities of the Director are these:

The Director shall have overall responsibility for development of the Strategy, and

particularly for those portions of the Strategy addressing intelligence, military assets, law enforcement, and diplomacy.

And among the “Contents”: “The contents of the Strategy shall include”—(1), (2), (3,) and now (4)—there are nine items to be included in “The contents of the Strategy.” The fourth one is this:

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

Now, what are we going to have? A police state? Are we going to have the Army and the Navy, the Marines—are they going to get involved? I don't think anybody wants to do that. I don't think anybody is thinking of that.

But look at this language, what it says. We have to contemplate the unintended consequences of what we do here. Even at best, if we have both eyes and both ears, and the full attention and focus of our collective brains, and we pass an item, we give it careful attention, there may still be unintended, unforeseen consequences that will flow from that act that we passed.

How much more so might that happen if we pass an act in a hurry and don't apply the full focus of our faculties in addressing that legislative matter? The question answers itself.

Finally, let me just read, once more, item No. (4) in “The contents of the Strategy”:

(4) plans for integrating—

“Integrating,” what does that mean? integrating the capabilities and assets of the United States military. . . .

We all know what that means when we talk about the military and the capabilities of the U.S. military—

plans for integrating the capabilities and assets of the United States military into all—

Not just a few, all—

aspects of the Strategy.

Well, I just wanted to read into the RECORD that excerpt from the committee bill.

Now, perhaps by the fact that these two distinguished Senators asked me questions today about it—a relative of the Senator from Minnesota was a signer of the Constitution of the United States, signing from the State of New Jersey on that occasion. So this fine Senator is here on the floor today and has asked me questions. And the equally fine and good and able Senator from Vermont has asked some questions.

So at last—at last—hallelujah, we are getting some questions. Somebody is beginning to pay attention to what is in this measure.

Perhaps the greatest and the gravest defect of the National Security Act to reorganize the Armed Forces, continuing in this vein, was the failure of Congress to provide oversight of the CIA. When the Central Intelligence Agency was established, there was no congressional oversight. It was responsible only to the National Security Council and the President, and what a mistake that turned out to be.

As a result, the late Clark Clifford wrote: "The CIA became a government within a government."

Listen to that—became a government within a government. That is exactly what we have here. We have the makings of a government within a government. If the administration were to have its way, we would have a government within a government. We would have a government that is run out of the White House, and the Cabinet officers would be put to one side. The Secretaries of the various Departments, just put them aside. Put the Congress off limits, forget it. We will run things from this White House. That is what I am concerned about, as I see here.

As the late Clark Clifford wrote:

The CIA became a government within a government which could evade oversight of its activities by drawing the cloak of secrecy around it.

(Mr. WYDEN assumed the Chair.)

Mr. BYRD. There you have it in a nutshell. The CIA became a government within a government which could evade oversight of its activities by drawing the cloak of secrecy around it.

For years my immediate predecessor as majority leader was Senator Mike Mansfield. There has been presiding in the chair up until a moment ago the Senator from Montana, Max Baucus, but now we have another Senator in the chair. That majority leader from the State of Montana—at the time, Senator Mike Mansfield—argued for the CIA to be brought under congressional supervision. There was Mike Mansfield. There was my predecessor as majority leader of the Senate. He was majority leader many years. I was his successor.

The late Mike Mansfield said:

What I am concerned with is the CIA's position of responsibility to no one but the National Security Council.

He continued:

The CIA is free from practically every form of congressional check.

That was his caution. He said:

There is no regular methodical review of this agency.

Now hear the voice of the late Mike Mansfield coming down through the years. Listen to him. Listen to the late Mike Mansfield:

What I am concerned with is the CIA's position of responsibility to no one but the National Security Council. The CIA is free from practically every form of congressional check.

The late Senator Mike Mansfield cautioned:

The CIA is free from practically every form of congressional check. There is no regular methodical review of this agency.

Senator Mansfield pointed out:

Our form of government is based on a system of checks and balances.

Hear that. Hear the voice of Mike Mansfield, his words coming down through the years, reverberating in this Chamber. I hope they will be reverberating in the hearts and minds of the men and women who sit today in

this great body, the august 100, the special 100 who have been elected by 280 million people in phases; according to our illustrious Framers, three classes—so that there would be a staged rotation of this body, with the Senate in transition all the time, so there would never be a completely new Senate, so there would never be a new complete turnover of the Senators. Today they number 100.

The House, theoretically, can turn over in 2 years. We could have a completely new House, theoretically, in 2 years under the Constitution. But not here. One-third of the Senate only every 2 years, one-third of the Senate only; and then another third for 2 years; and then the third third for 2 years. That was the genius of the Framers.

Here we have a continuing body, and we have checks and balances written into this Constitution. And there was Senator Mansfield pointing it out:

Our form of government is based on a system of checks and balances.

They are written into this Constitution which I hold in my hand.

I saw some of the greatest of the figures in our Government last Sunday on television. There was the Secretary of State. There was the Vice President of the United States, who is the President of the Senate but who cannot address the Senate except by unanimous consent. There was Dr. Condoleezza Rice, a very able person who is not confirmed by the Senate. She was on television. And there was the Secretary of Defense, Donald Rumsfeld, on television. There were others. I listened to all of them.

I don't often listen to television, even on Sundays, when more of the people who are most often seen and heard and read about in the media are on the Sunday shows. But I listened to them all last week because I expected them to say something about this subject of the war, the subject of an attack, an attack on a sovereign state.

Mrs. CLINTON. Will the Senator from West Virginia yield for a question?

Mr. BYRD. Let me finish this thought, and I will be happy to yield.

I saw all those on television. They were talking about the President launching an attack on Iraq.

I have no brief for the Government of Iraq. I have never met Mr. Ritter. I know nothing about Mr. Ritter. I think Iraq under the current regime is a threat. But not one of those individuals who are high in the Government of this country—not one—mentioned the Constitution of the United States. Every one of them had to swear an oath to protect the Constitution, but not one mentioned this Constitution. And to hear them talk, we were ready to go to war. We were prepared to go to war. The President had the authority—I am putting that in my words—the President had the authority to go to war, to launch an unprovoked military attack on a sovereign state. He has just as-

sumed that he has that power under the Constitution. No, not under the Constitution. It is assumed that the President of the United States has that power. There are smart lawyers around and they can take either side of the case and come up with a good argument. They can win either side—most good lawyers, who can take either side. But not Senators who have sworn to support and defend this Constitution and who are here in this august, 100-Member body. And I have seen this whole body change, except for one person. I have seen the whole body—300 Members of the whole body—change three times in my 44 years in the Senate. But not one mentioned the Constitution.

I know what the Constitution says. The Constitution says that Congress shall have power to declare war. We can split hairs all we want, but there are the words. I know there are traditionalists who believe every word of that Constitution, and that was the position that was generally held in this country up until the Korean war. But there are revisionists today who want to change that. They want to give the President power; they think he should have it. So that is what we hear from those who want the Commander in Chief to have that power.

The Commander in Chief was a title to be given to the civil authority at war—not to the military—and to make sure of that we don't have a four-star general sitting as Commander in Chief; we don't have a three-star general, or a two-star general, or a one-star general. We don't have a military officer sitting in that Oval Office. No, we have a man of the people, who is a civil authority. He is the President of the United States. He is the Commander in Chief.

You fellows with the stars on your shoulders, don't get too heady here. This Constitution says, in essence, a civilian, a civil officer, a civil authority shall sit at the top.

Those revisionists ought to read the "Federalist Papers," also. What do we have here? Our constitutional government that the Framers gave us in 1787—once the States, in their conventions, had ratified that Constitution—nine of them—said, in essence, the power to declare war and the power to make war shall not be reposed in the same hands.

So that person, who is Commander in Chief, is the civil authority down there. He is Commander in Chief, but he cannot declare war, except in a circumstance where this Nation is being subjugated to a sudden attack. The President has inherent power under the Constitution. I don't think anybody disagrees with that. The President has inherent power to use the military forces at his command in order to repel a sudden attack—sudden, unforeseen, where maybe Congress is at home, Congress is out on recess, Congress has gone home for the Christmas holidays, or the Thanksgiving holidays, or the Jewish holidays, or Congress may have

recessed for a month in August and they are not here. But the President has inherent power in this Constitution to use the military to repel a sudden attack against this country or its military forces. Nobody argues with that.

What is being debated here is the President launching, through some figment of the imagination, or some resolution which has run its course, and under the term "Commander in Chief," an unprovoked attack against a sovereign state—to use a military offensive. We are not talking about a defensive situation. We are talking about an offensive situation in which the President of the United States would attack a sovereign state—in this case, Iraq.

I think Iraq poses a threat under the present regime. I don't argue with that. I don't have any argument with the fact that Saddam Hussein is an evil man. Of course, we are all evil; every man is. The Bible says no man is good. If we look at the programming that appears on our television stations, we will probably conclude that this country is not exactly a nation that is not evil. It is an evil nation in some respects. So let's be careful. I would be careful throwing that word around—"evil"—and saying that this is a war between good and evil. It may be a war against evil, but it is not necessarily between a good nation and an evil nation. But that is off on another track.

The power to declare war and the power to make war are under different hands. Those powers are reposed in different entities. Our Constitution reposes the power to declare war in Congress, the duly elected, directly elected Representatives of the American people. Of course, the Members of the Senate were not directly elected by the people back in those days, but there was a requirement that the power to declare war was in Congress. Congress is made up of two bodies. At one time it was elected by the respective State legislatures, but no more. That has been changed by constitutional amendment, as we all know.

Today, the points are still there. The basis is still there. Declaring war and making war are two different things, and the Framers saw to it that the Commander in Chief would be not a person who would declare war. That is the person who will make war. That was discussed in the Constitutional Convention and that is the way we have it today.

Now, I, therefore, say that this President is not authorized to declare war. Why? Because there has not been a sudden, unforeseen attack on the United States.

Iraq is not attacking the United States at the moment. If the President were to launch a sudden offensive on Iraq, where is his authority to do so? He is not doing it to repel a sudden attack against the United States. No, he is doing it because he knows, as I know, that Saddam Hussein is a threat to us all, to the safety of the people in this area, his own people, and the peo-

ple in the region, and a threat, if you carry it far enough, to us. It is not all that sudden, and who should declare war in that event? Congress, not the U.N.

I applaud the President for going to the U.N. and laying out his case as to why the U.N. had its chances, had failed, had not lived up to its responsibilities, and he made that case well. But the case has not been made. It will be talked about eventually; it is being talked about a great deal now. I read all about it in the newspapers, I see it on television and hear it on the radio. The case is now being made for an attack unilaterally by this country against a sovereign state when this country has not been attacked.

The purpose is not to repel a sudden invasion of the United States or a sudden attack. If the President were to do this, it would be unprovoked at this moment. Where is the President's authority? They say it is in the resolution adopted by Congress in 1991. It is not there. The authority is not there for the President today to launch an unprovoked attack against Iraq. They said it was in the resolution last year. I say the authorization is not there. It is not there. We can argue and talk all night about that, but it is not there. Show me; anyone, show me. It is not there.

They say he is the Commander in Chief. Well, so what; he is the Commander in Chief. Once war is declared or authorized by the Congress, then the Commander in Chief will make the war. We will have one head at the military and that was the right thing to do. Then an attack, if it is authorized by Congress, can go forward.

Let's don't meddle with this Constitution. There will always be defenders of this Constitution, and there are some who will remind the country of the Constitution when they are on television. So do not assume or take for granted that the President has that power. It is this Constitution, the Constitution of the United States, with 39 names attached to it.

Not one word do I hear by those who appear on television, not one word about the Constitution. I said that yesterday. I am going to say it again today. Not one word did I hear. Perhaps I missed something, but I do not think I did. Not one word. They all just assume that the President is going to do it, he has a right to do it, he has an authority to do it. If our administration has its way, we will take this fellow out, and we will take him out unilaterally; we are not going to wait on anything.

Wait a minute, there came a second thought. Some people began to ask questions. Other nations began to ask questions. Our friends began to ask questions. Our friends in the region began to ask questions, and so a decision came. And so, we will hold up a little bit here. We will go to the U.N. That is right. That is good. Go to the U.N.

The U.N. should face up to its responsibilities and should lay down the precepts as to why this regime must go. The U.N. should express a world view to get the other nations of the world to see it is in their interest that there be a regime change or that there be inspections—bona fide inspections, not like the inspections that were going on up until a few years back, in 1998, I believe.

The President has done that. I say let's don't close our eyes to the fact that this Constitution still lives.

Mr. President, I apologize to the Senator from New York. I did not really intend to talk that long. I intended to yield the floor for a question from her, and I intended to do it earlier. I am very happy, with my apologies, to yield to the distinguished Senator. She is a very distinguished Senator from the State of New York; she is a former First Lady of this Nation. I yield to her.

I am grateful that she has a question, that she has perhaps some questions. I am glad somebody is beginning to listen. So I yield to the Senator.

THE PRESIDING OFFICER. The Senator from New York.

Mr. BYRD. The Chair does not recognize the Senator from New York. The Senator from West Virginia has the floor. I yield to the Senator from New York, Mrs. CLINTON, for a question on the condition that I retain my recognition from the Chair as holding the floor.

THE PRESIDING OFFICER. The Chair acknowledges the Senator from New York to ask a question.

Mr. BYRD. This Senator has yielded. The Chair can't yield to the Senator from New York for a question. I may not have yielded. Now, Mr. President, I only yield to the Senator from New York, Mrs. CLINTON, for a question. Under the rules, I can do that, and I do that with the understanding that I do not yield the floor. So if I yield the floor, how can the Senator from New York be recognized? The Senator from New York is recognized by virtue, under the rules, of my yielding for a question.

Mrs. CLINTON. Mr. President, I thank the Senator from West Virginia. I thank him for the courtesy of yielding to me for a question, but I thank him even more for his stalwart defense of our Constitution and his constant reminder of our founding document and the principles that it contains.

I ask the Senator from West Virginia, is it not also the case that under the Constitution, this issue about congressional power was very well debated, thought through, written about by our Founders, and that among the powers that were granted to the Congress was the power of the purse, the power to make the decisions about how the people's money would be used? Is that a correct reading of the Constitution that we cherish so greatly?

Mr. BYRD. Mr. President, the distinguished Senator from New York, Mrs.

CLINTON, is preeminently correct. That authorization for power of the purse is found in section 9 of article I of the Constitution.

Tie that together with the first section of article 1 and we find where laws are made and the fact that appropriations may be withdrawn from the Treasury in consequence only of an appropriation by law. Congress has to pay and pass the laws. The Senator is preeminently correct.

Mrs. CLINTON. Is it not the case that in the Senator's capacity as the chairman of the Senate Appropriations Committee that the committee, under the Senator's leadership, has held a number of hearings about the various needs that our country faces with respect to both military and homeland security?

Mr. BYRD. Again, the Senator is correct.

Mrs. CLINTON. Is it further the case that in taking testimony and receiving evidence, the Senator has helped to create a better understanding of what the needs are that we should be meeting as we attempt to prepare our country for the unfortunate but realistic possibilities of terrorism?

Mr. BYRD. Mr. President, in response to the question, that has certainly been the intention of the Senator from West Virginia who currently is the chairman of the Appropriations Committee in the Senate. That is the intention, and I believe I am beginning to be successful in getting some ears attuned. The Senator is correct.

Mrs. CLINTON. Further to that point, I believe it is the fact, is it not, that in the course of examining the many needs which our country has, in order to deal with the vulnerabilities we currently experience, the Senator has come up with a number of items that the Appropriations Committee has determined would further our security, fulfilling the responsibility that the Congress is given under our Constitution?

Mr. BYRD. In response to the question from the distinguished Senator from New York, Mrs. CLINTON, that is absolutely correct. Senator STEVENS, as the ranking member of the Appropriations Committee, and I—and the full committee of 29 members made up of 15 Democrats and 14 Republicans—have responded in that spirit, and we have provided for the consideration of the Senate and ultimately the entire Congress our views as to the appropriations that are needed.

Mrs. CLINTON. Is it further correct that among those items the Senator has reviewed, studied, and analyzed for the validity of their claims and the importance of their priorities, was a recognition we had some additional work to do because of the terrible attacks of September 11? And as a Senator from New York, I want to pause for a moment and acknowledge with great gratitude the leadership of the Senator from West Virginia in this body and the response of this Nation. We had

some unfinished business that we learned about because of those horrific attacks on September 11, which the Senator from West Virginia is attempting to address.

Mr. BYRD. Mr. President, in response to the question from the very able Senator from New York, Mrs. CLINTON, I respond in the affirmative with a resounding "yes."

The Senator from New York has written me on two occasions about the needs of her constituents. And without losing my right to the floor, I ask unanimous consent that—I believe the Senator has sent me one or two letters. She has spoken to me a number of times off the floor and on the floor in this regard. My memory is not infallible, but she sent me one or two letters. I do not have them right now, but I ask unanimous consent to have printed in the RECORD, at the conclusion of our remarks that are taking place in this colloquy, those two letters.

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

(See exhibit No. 1)

Mrs. CLINTON. I thank the Senator from West Virginia because these are matters of grave importance to my constituents. Beyond that, they are of great importance to all Americans. I very much appreciate the Senator's attention because he has studied these issues, he understands how we have to demonstrate clearly our resolve and our preparedness.

I ask the Senator from West Virginia, as he has moved forward with his work on behalf of the Appropriations Committee, and very importantly the work of homeland security, if he has determined there is a need for additional money to be sent to our frontline responders, our frontline soldiers, our firefighters, our police officers, our emergency workers, so they may do the important job of protecting us as we expect them to do?

Mr. BYRD. Mr. President, I thank the distinguished Senator for stating so lucidly and so articulately a reference to the needs of the people of her State, in reference to the needs of the people who are on the ground, in reference to the needs of the first responders, in reference to the needs of the firefighters. She is preeminently correct in her summation of what has happened in that Mr. STEVENS and I—and again the full Appropriations Committee, Republican and Democratic—acted in a very bipartisan way, have time and again responded affirmatively and effectively to the needs of the people of New York and the people of the Nation.

New York was attacked, and within 3 days my committee, the committee of Mr. STEVENS, the Appropriations Committee, appropriated \$40 billion.

Time and again, we have responded, and time and again the distinguished Senator—both Senators from New York, the Senator who is now at her desk and the senior Senator from New York who talked with me before having

to catch an airplane today and had to leave. He could not be on the floor today because he had something else he was required to do and was expected to do. So he is not present now, but he talked with me today on the floor when the Senate returned to the homeland security bill. And while the Senate was on the Department of Interior appropriations bill, he talked with me again about the needs of his State, the State which he so ably represents. And just a few days ago, within this last week it was, the Senator from New York came to see me in my office. It was not the first time she had come to me to talk about the needs of that great city, the city of New York, and its great people. Many times, she and the senior Senator, Mr. SCHUMER, have come to my office.

Last week, she came to my office in the early evening hours of the day and expressed to me the need for three items especially. She wanted those items in the appropriations bill. We are debating an appropriations bill and it is taking a long time. It should not take this long. We ought to have had this bill passed and sent to the President.

In this Appropriations Committee which I chair and which Mr. TED STEVENS, I will say, cochairs realistically, that committee has reported all 13 appropriations bills several weeks ago which have to be passed this year. They have been reported from my committee. They have been sent to the Senate and they appear on the Senate calendar.

Those 13 appropriations bills are very slow in getting to the President. Not one has gone to the President. The House Appropriations Committee—and I do not speak with disrespect there; they have a wonderful chairman over there in Congressman YOUNG and a wonderful ranking member over there in DAVE OBEY. They speak their minds. They speak their hearts. But that chairman over there has some people, other high offices he has to deal with in that body. He cannot always do what he may wish to do. The House is a little different from the Senate. In the Senate, of course, we can talk and kind of speak our minds, and we can take independent actions here.

That Senator from New York who holds the floor over there at this moment, she is standing right by her desk. She came to my office last week and importuned me to find a way at some point that she would like to introduce an amendment or she wanted an amendment introduced or wanted to amend one of those bills, take care of those three items in particular that she addressed to me. And then, lo and behold, earlier this week I held up a letter brought to me, delivered to me, not by the U.S. Mail but by someone from the Senator's office. I believe she came by my office and did not find me in the office at that time, so she left a letter, which I have already gotten consent to have printed in the RECORD.

She wrote me a letter. She was not just saying, I want mine. She was saying, these are needed, also by the people in the other States of this Union.

So yesterday Senator STEVENS and I joined in an amendment to the Interior appropriations bill which comes out of the Appropriations subcommittee that I chair, the subcommittee on the Department of the Interior. In that amendment, Senator STEVENS and I have entered and offered, we have attempted to address the needs of the firemen, of the security of our nuclear plants, and other pressing homeland security needs among which are the three items in which the Senator expressed interest.

So, time and again we have done this. Time and again, the Republicans and Democrats on that subcommittee have joined to deal with the home security needs.

So the answer is, yes, those needs have been expressed by the Senator, those needs have been addressed by the Appropriations Committee, and even now, or when the Senate gets back on the Interior appropriations bill, there is the amendment by Senator STEVENS and myself which will address some remaining needs in the amount of over \$900 million in that amendment.

So it is national in scope, but within that national-in-scope measure is the State of New York.

Mrs. CLINTON. I thank the Senator for his understanding and compassion and his leadership.

As I yield back the floor because of a courtesy that was extended to me by the Senator to be part of this colloquy, I point out that dealing with homeland security is a very heavy responsibility.

Mr. BYRD. Mr. President, I yield for the purpose without losing my right to the floor.

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

Mrs. CLINTON. I thank the Senator because he has shouldered this heavy responsibility.

We have a process that we have had for many decades about the money we appropriate for our military, and the needs are discussed within the civilian and military leadership of the Department of Defense. It comes to the Congress, and there is a process.

But we are faced with new challenges. It is my observation and opinion that the Senator from West Virginia and his very worthy colleague, the Senator from Alaska, have taken it upon their shoulders to create a process where none was before so we could begin to address these very serious issues—not wait for a Department to get set up, not wait for it to get organized or get its first budget.

But right now, in the face of the ongoing threats, of having an orange-level threat just a few days ago, it brings home how important the work is the Senator is doing. I express my gratitude to him. I thank him for the courtesy of yielding to me for these questions.

EXHIBIT 1

U.S. SENATE,

Washington, DC, September 3, 2002.

Hon. ROBERT C. BYRD,
Chairman, Senate Committee on Appropriations,
Washington, DC.

DEAR MR. CHAIRMAN: I want to thank and commend you again for all your hard and important work to help New York recover from the terrorist attacks and on the issue of homeland security more generally. We are all greatly indebted to you.

As the FY 2003 Interior Appropriations bill comes to the floor tomorrow, I understand there may be some effort to offer an amendment to provide the emergency funding requested by the Administration to battle the wildfires in the western part of the country. As a part of this effort, I thought I would raise a couple relevant items of particular importance to me that were left short-changed by President Bush's decision to not make the emergency designation on the \$5.1 billion you included in the FY 2002 Supplemental Appropriations bill. The following emergency items are especially relevant to address the urgent needs of firefighters and emergency responders in New York and across the country:

\$90 million to HHS/CDC for clinical examinations and the monitoring of long-term health consequences for police, fire and other first responders at Ground Zero. Each day there are new reports of emergency rescue personnel who worked at the World Trade Center site suffering from respiratory and other ailments. The \$12 million appropriated last year provided sufficient funding to begin baseline screenings for approximately one-third of the workers at the site. This additional funding is necessary to continue the screenings for the remaining first responders, as well to monitor their health for the coming years.

\$150 million in firefighting grants as authorized under the FIRE Act. As you know, fire departments from New York and across the country have filed applications that exceed \$3 billion in need for \$360 million in available resources. These resources will help our fire departments meet the demands and safety needs of our communities.

\$100 million in grants to make fire and police equipment interoperable—these resources are split evenly between FEMA and DOJ's Office of Domestic Preparedness. One of the primary causes of the death of most firefighters on September 11th was their inability to communicate with each other and with the Police Department. These resources are critically needed to protect the health and lives of our bravest domestic soldiers.

As you can see, these are all emergency items and ones that you had the foresight to include in the Supplemental Appropriations bill Congress passed earlier this year. I very much appreciate all your hard work and support in making sure these important items get the funding they so critically need.

Sincerely yours,

HILLARY RODHAM CLINTON.

U.S. SENATE,

Washington, DC, September 10, 2002.

Hon. ROBERT C. BYRD,
Chairman, Committee on Appropriations,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I am writing to follow up on my letter of September 3 with some recent findings on the health of emergency response workers at the World Trade Center site.

New information on the health impacts of working at Ground Zero was released yesterday in the New England Journal of Medicine and the Centers for Disease Control and Prevention's Morbidity and Mortality Weekly

Report (attached). This new data confirms, what many of us have known for some time, that there will be continuing health consequences for the workers and volunteers who responded at the World Trade Center site. Specifically, Dr. David Prezant and colleagues presented new data showing that both a "World Trade Center cough" and permanent, asthma-like symptoms are directly correlated with intensity of exposure to the collapse of the towers. In fact, in just six months since the attacks, eight percent of those highly exposed displayed the cough, and twenty-three percent of those highly exposed showed asthma-like symptoms. Of those identified with the cough, 87 percent also had gastrointestinal reflux disease.

In addition, during the 11 months after the attacks, the number of respiratory medical leave incidents increased five-fold and the number of stress-related incidents increased seventeen-fold among FDNY workers. As of the end of August, more than 360 firefighters and EMS workers remained on medical leave or light duty assignment because of respiratory illness that occurred after WTC exposure, and 250 FDNY rescue workers remained on leave with service-connected, stress-related problems. It is estimated that 500 FDNY workers will have to retire on the basis of their injuries in the aftermath of the WTC attacks.

With this new evidence, which was also reported this morning on the front page of The New York Times, I feel more strongly that we must immediately provide the emergency funding you included in the FY 2002 Supplemental Appropriations bill earlier this year. As we have discussed, the three key pieces are:

\$90 million to HHS/CDC for clinical examinations and the monitoring of long-term health consequences for police, fire and other first responders at Ground Zero.

\$150 million in firefighting grants as authorized under the FIRE Act.

\$100 million in grants to make fire and police equipment interoperable. These resources are split evenly between FEMA and DOJ's Office of Domestic Preparedness.

I look forward to working with you on this as we proceed on the FY 2003 Interior Appropriations bill.

Sincerely yours,

HILLARY RODHAM CLINTON.

Mr. BYRD. Mr. President, I thank the distinguished Senator from New York for her questions and her comments.

Mr. President, I have been informed that the distinguished occupant of the chair, Mr. WYDEN, has to leave soon, has to depart the chair; is that correct?

The PRESIDING OFFICER. The Senator from West Virginia is correct, but given the importance of the matters of the Senator from West Virginia, I want to make sure the Senator from West Virginia gets all the time he needs to complete his remarks, and I will stay for this.

Mr. BYRD. Mr. President, I thank the Senator. I have been a Member of this body 44 years. I don't think I have ever seen a time when I was pressed to complete my statement on the premise that there were no other Senators available to preside over this body and that the occupant of the chair would have to leave soon, thus forcing me to complete my statement before I intended to complete it.

This comes down to a pretty serious juncture. I will not go any further than

to say that in this body no Senator should be required to end his statement on the basis that after a certain hour there will be no further Senators available to preside. Now, Mr. President, that is pretty serious.

I have been a Senator a long time, 44 years come next January 3. I have been a Member of the Congress for 50 years come next January 3. Never have I had it put to me that at a certain hour we will have no more Senators available to preside. Now, something is wrong with the Senate if it has come to that. Suppose I want to speak until 6 o'clock this evening. Suppose I want to deliver a speech that I consider very, very important.

I am not here addressing a Mother's Day speech, making one of my holiday speeches. I am not here talking about Mother's Day or Christmas Day or Thanksgiving or Independence Day. I am addressing what I consider to be one of the most important questions to come before this Senate in my 44 years in this Senate. I am very well aware of the fact there needs to be a Senator in the chair as I speak. As President pro tempore of this body, I should know that. The office of President pro tempore is a constitutional office, unlike the office of, say, the majority leader, minority leader, majority whip, or minority whip. These are offices and officers who are voted on by this body and elected by this body. But I am President pro tempore of the U.S. Senate. I am the 86th President pro tempore of the U.S. Senate. The President pro tempore is the President of the Senate for a time being, temporarily, while the Vice President, who is the President of the Senate, is away, is not presiding, or is assuming the responsibilities of the Presidency in the event, very unfortunate event that that should happen. The President pro tempore, he is the first constitutional officer elected by the Senate in March 1789. He is a constitutional officer. You don't find words in the Constitution about the majority leader or minority leader or majority whip or minority whip. I have been in at least three of those positions, majority leader, majority whip—at least two of them. And minority leader, so I have been three of them. But the President pro tempore is a constitutional officer.

I happen to be a Senator from West Virginia. And I happen to have on my heart, which is heavily burdened, a speech. And I want to unburden my heart.

I don't intend to take undue advantage of the person who is presiding now. Perhaps he is caught in the unfortunate circumstance that there is no other Senator available to take the chair, in which case nobody will hear me; I cannot speak.

This Senator wants to raise a concern, wants to express a concern about the situation, if we have come to that in the U.S. Senate. Senators ought to ponder that. And there ought to be some Senators at least who would be

willing—and I am sure there are Senators in town—not every one of the Senators who happen to not be on the floor today, not every one of them is absent from the city. They know what their duties are as Senators. I know what my duty is. It is my duty to get out of my bed and come here and preside, if no other Senators can be found and if it is important that the Senate stand in—I get out of my bed if that happens. I know what my responsibilities are, and it kind of offends me that we seem to have come to a situation this afternoon when no other Senators “are available to take the chair,” and the Senator in the chair has to leave shortly.

I am very thankful to the Senator in the chair. I asked him a question and he, I am sure, needs to go soon. But he has expressed the viewpoint and the willingness to stay here as long as I want to speak.

I am not going to take advantage of him and pretty soon I will yield the floor. But I would put it in these words: It is a dreadful thought to me, when I am told that there are no other Senators available. I don't say this critically of the individual who carried this message to me. It is not the making of that individual, that person who is carrying out the duties of that person in doing that. I am sure there must be difficulty in finding Senators.

But what is wrong? What has become of the Senate and its place in the Constitution? What has become of the Senate? It has been here, now, for 215 years. What has become of the Senate? What has become of the Senate, the greatest deliberative body, we hear so often, a body in which a Senator can stand on his or her feet and speak as long as those feet can carry that Senator?

The floor cannot be taken from a Senator unless he has offended the Senate and a point of order is made that the Senator take his seat and he is required to take his seat. If he speaks in terms that are offensive to another Senator, that person's character, he might be asked to take his seat. Or if he speaks offensively concerning a State of this Union, he might be required to take his seat.

But now I am going to be required to take my seat because there is no other Senator available, I understand, to take the duties of the chair.

Mr. President, we ought not in this Senate to have that situation arise again, and I am sorry it arose because it kind of takes away from the theme that I was trying to say here. But it is worth bringing out. Certainly, I think it is worth surfacing because, if that is going to be the situation, then we are in bad shape.

The distinguished Democratic whip earlier today told me that he had an engagement. He had an appointment, I believe, back in his home State. He had to leave at around 3 today and I understood that. That is fine. He told me in plenty of time. He told me this prob-

ably before noon today that if I was going to make a lengthy speech, he would have to leave. So I understand that. But there should be some other Senator willing to take the chair, and I have a feeling there are other Senators in town who would come and preside if need be.

All that aside, now, let me close my remarks. In closing I want to thank the officers of the Senate, the staff members of the Senate who have to remain here. They are here in front of us—the Parliamentarian, the journal clerk, the reading clerk and counting clerk and the pages and the people at the desk. They are here. I want to thank them and apologize for my taking the time this afternoon, but we all know what the responsibilities are of officers of the Senate. We know what the responsibilities of clerks and employees of the Senate are when we sign on, and we know what the responsibilities of Senators are when we sign on.

Having said that, I offer my apologies to everyone if I imposed on their time. I offer my apologies, most appropriately and more precisely, to the Senator from Oregon, Mr. WYDEN, who is presiding at this moment and who has very graciously indicated his willingness to sit in that chair until I close.

The whip asked me to close the Senate. So if the whip or the majority leader had any special requests or any Senator had any special request to make before I close the Senate, I will be very happy if someone would present me with those requests.

In the meantime, let me close my printed remarks. It is only a page and a half, and they will go very fast.

Our form of government—

Senator Mansfield pointed out—

is based on a system of checks and balances. If this system becomes seriously out of balance at any point, the whole system is jeopardized.

Senator Mansfield noted:

There is a profound difference between an essential degree of secrecy to achieve a specific purpose and secrecy for the mere sake of secrecy. Once secrecy becomes sacrosanct, it invites abuse.

Senator Mansfield recognized, as I do, that the CIA is by nature and necessity a secretive organization, but it is not an organization that should operate outside our constitutional system, not outside our system of government.

With the Senate select committee to study government operations with respect to intelligence agencies—in other words, the Church Committee, named after the chairman of that committee, the late chairman, Frank Church, the Church Committee—we embarrassingly and tragically learned just how “seriously out of balance” that agency was.

The Senate committee discovered that the CIA had been involved in illegal, improper, and unethical activities, including the overthrow of democratically elected governments, attempted assassinations of foreign leaders, and in violation of foreign countries.

In testimony before the Church Committee, the late Clark Clifford acknowledged:

The lack of proper controls has resulted in a free-wheeling course of conduct on the part of operations within the intelligence community that has led to spectacular failures and much unfortunate publicity.

That was one of the architects of the National Security Act of 1947 speaking.

Three decades after its enactment, Mr. Clifford was complaining about continuing imperfections and the damage that had been done to our country.

I am very concerned that 30 years from now Congress will be struggling to rectify the problems we will be creating with the hastily considered enactment of this legislation as it is written, creating the Department of Homeland Security, according to the legislation that is written and before the Senate.

How much harm could be done in the meantime cannot be imagined. I am referring to damage to the rights and the liberties that we hold most dear: civil rights, labor rights, labor protections, civil liberties of all Americans.

I will go into those further. I intended to get into some of them this afternoon. I will not do so. I am talking about damage to our constitutional process.

I see one other Senator, the distinguished Senator on the Republican side of the aisle. I assume he would like to take the floor, if I give it up. I didn't intend to give it up until we adjourned. But if the distinguished Senator wishes me to yield to him 5 minutes before I adjourn the Senate, I will adjourn in the absence of the majority whip and the majority leader. But I will do so by their request.

Does the Senator wish me to yield for a question?

Mr. SESSIONS. Mr. President, I thank the Senator from West Virginia.

Mr. BYRD. Does he wish me to yield for a statement?

Mr. SESSIONS. I would like to make a statement. I had hoped to speak for 10 or 15 minutes. I understand we have a problem. I have been here since before noon. I know the Senator had his time reserved, as he has every right to do. I was hoping I would have a few moments to talk about the important developments with regard to the President's position on the United Nations and Iraq. I believe it is important to make some remarks today.

The PRESIDING OFFICER (Mr. DAYTON). The Chair is here for the duration, as long as it may take to complete his remarks.

Mr. BYRD. Mr. President, this is the Senator to whom the Senator from Alabama is addressing his remarks. This Senator will answer the Senator.

Mr. President, since there is another Presiding Officer at the moment, the distinguished Senator from Minnesota, who has been in his individual chair in the Chamber—he sits over here to my left—all afternoon during all of the time that this Senator has been talk-

ing about the homeland security matter. He is still here. I thank him. He has taken the chair to relieve Senator WYDEN. I am glad of that. I am still not going to impose on the Senate. But I am going to hold the floor until the Senator from Alabama gets through with his statement.

I ask unanimous consent, Mr. President, that I may yield to the distinguished Senator from Alabama, Mr. SESSIONS, for not to exceed 15 minutes.

I ask unanimous consent that the Senator may proceed on the statement only, that I may retain my rights to the floor, and that he may proceed for not to exceed 15 minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Alabama.

Mr. SESSIONS. Mr. President, I thank the Senator from West Virginia. I appreciate his leadership in the Senate, his concern for our constitutional order, and his serious historical understanding of the separation of powers. We might not always agree on where those separations are, but I certainly respect his dedication to preserving those separations.

PRESIDENT BUSH'S ADDRESS TO THE UNITED NATIONS

Mr. SESSIONS. Mr. President, I believe it is important today to talk about the remarks President Bush made at the United Nations. I believe he has made a courageous call on the United Nations to defend its credibility in its dealings with Iraq by ensuring that Iraq does not continue to update its weapons of mass destruction and does not continue to violate with impunity the 16 U.N. resolutions of which he is in violation. I think those remarks were a true example of world leadership.

President Bush spoke as one who knows right from wrong, who has honest convictions, and he has the courage to express and to act on them. In direct words, he detailed the incontrovertible case that Saddam Hussein deliberately used his promises at the time of his defeat in the Gulf War as a considered strategy to cause the allies to stop their hostilities before removing him from power, which has proven to be a trick. Since then, his actions have clearly confirmed his deception and have shown his insincerity, his duplicity, and his complete rejection of the U.N. resolutions—his rejections, indeed, of the United Nations itself and of the United States and the nations that joined together to defeat him in 1991. He rejects them. He does not respect them and his promises made to them.

Those agreements, he has said he will follow, but he has never intended to follow them because he doesn't give them respect or credibility.

The "Economist" magazine of London said it is well and good to talk about multilateralism, but it asked,

"what happens when people agree to things and do not do them?" That brings up a problem, particularly when their failure to do so deals with matters that threaten the peace of the world.

I don't think anyone can deny that Saddam Hussein's consistent policy has been to defeat, obstruct, and get around the agreements he has made.

Some tell us that the world—the international community—is all against us. They say we are acting unilaterally. Some leaders around the world have indeed said that. But the truth is that President Bush is consulting regularly with world leaders. His speech to the U.N. struck the right balance. And progress is being made in obtaining support around the world—with not enough help, I am afraid, from this Congress.

But who would ever deny that Saddam Hussein is a unilateralist? With whom did he consult before he invaded Kuwait in 1991? With whom did he consult before he utilized poison gas to kill thousands of his own citizens, the Kurds, in the 1990s?

Who did he consult with, what other nation did he consult with, when he plotted to assassinate the former President of the United States of America? Who has he consulted with, as he deals to construct, develop, and produce weapons of mass destruction?

So I would like, Mr. President, to just make a few comments here to bring us some perspective that I think is very important at this time on the kind of support we have around the world.

First of all, I think one of the clearest-headed nations—a nation that consistently gets it right around the world on matters of foreign policy—the United Kingdom, is in total support of the United States. Indeed, it was reported in the paper today that they were moving troops into the Middle East, and prepared to use them, if necessary, with us.

So the Foreign Minister of the U.K., commenting on President Bush's speech to the U.N. said it was "tough and effective", and the speech received quite good remarks from the British leadership.

The Belgian Foreign Minister, heretofore a critic of the United States action, Louis Michel, said, after the speech: "Now we have to press Iraq." He added, if the U.N. "doesn't deliver, it will be uncomfortable for some European countries not to support the United States." That was in today's Washington Times.

Kofi Annan, the Secretary General of the U.N., who has criticized the United States recently, also "urged Council members yesterday to take action or lose legitimacy."

Even France, which has been pretty outspoken against the United States actions, accusing the United States of unilateral activities, has said: "We