

public acclaim that comes from proposing a bureaucratic reorganization.

Words, and promises, need to be backed up with the money to make those words a reality. Empty promises and hollow rhetoric, no matter how stirring, how bedecked in flags and bunting, will not protect our families, our neighbors, and our fellow citizens.

Iraq is not the only crisis on the American agenda. Hundreds of thousands of troops are shipping out for distant lands while the threat of terrorism is growing here at home; while the Nation, for the first time, is being put on orange alert.

These troops have our support and our prayers for their safe return. The families they leave behind also need the very best that we can do for them. They need our prayers, and they need more than our prayers; they need to have programs designed to improve their safety and security funded and implemented, not put on hold.

Having lost the \$5 billion, then I sought to come through with a \$3 billion homeland security amendment. The same thing happened.

I hope the view from the White House will expand to focus, not just beyond our shores, but also within our shorelines. We must not leave America unguarded.

**THE PRESIDING OFFICER.** The Senator from Nevada.

**Mr. REID.** Mr. President, the Senator from West Virginia has had a cold the last week or so, so we have missed him in the Chamber. It is good to hear you have your voice back and are gaining your strength. It is good to sit and listen to you.

I have had a lot of good education. As I said once in a debate in the Senate Chamber—we were talking about the distinguished Senator from Maryland, who is a Rhodes scholar. It was a colloquy between the Senator from West Virginia and the Senator from Maryland. I interrupted, with the consent of the Chair, and said: I am not a Rhodes scholar; I am a Byrd scholar. And I really am. I appreciate the Senator's remarks. He always pushes to better things. Better parts of us come out when you lead us. I appreciate very much the Senator's statement.

**Mr. BYRD.** Mr. President, I thank the distinguished whip for his comments. I thank him for his work that he performs here daily for his country, for his State, and for his colleagues in the Senate.

**Mr. REID.** I thank Senator BYRD very much.

#### VOTE EXPLANATION

**Mr. DURBIN.** Mr. President, before I address the issue of Miguel Estrada, as a matter of personal privilege, I note I missed three rollcall votes last night on the three judicial nominees. I would have voted in the affirmative on all three nominees. The reason for my absence has to do with the fact—and I am holding two boarding passes—I boarded

a plane in Chicago to come to Washington and we were grounded because of mechanical difficulties. Because of the delay in that flight, it was impossible for me to make the rollcall votes. As I said earlier, I would have voted affirmatively on all three of President Bush's nominees who came before the Senate last night.

**Mr. BIDEN.** Mr. President, as you know, yesterday the Senate unanimously confirmed the nominations of John R. Adams to be a judge for the United States District Court for the Northern District of Ohio, S. James Otero to be a judge for the United States District Court for the Central District of California, and Robert A. Junell to be a judge for the United States District Court for the Western District of Texas. I was in Delaware meeting with constituents and, accordingly, was unable to attend yesterday's votes. I wish to note for the RECORD, however, that I would have voted in favor of all three nominees yesterday, having voted to report favorably their nominations from the Judiciary Committee last week.

#### SENATOR LIEBERMAN'S REMARKS TO NATO ALLIES

**Mr. DASCHLE.** Mr. President, last weekend in Munich, our colleague, Senator LIEBERMAN, gave a remarkable speech to the annual Wehrkunde Security Conference. Alliances have contributed to America's strength since the end of World War II, and Senator LIEBERMAN, like many of us, has watched with concern as those alliances have weakened over the last 2 years. He makes a compelling case on why those alliances remain vital to our security and why it is important that the administration redouble its efforts to strengthen those alliances.

I ask unanimous consent that the text of his speech be printed in the RECORD.

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

#### "HALTING THE CONTINENTAL DRIFT AND REVITALIZING THE U.S.-EUROPE RELATIONSHIP"

(By U.S. Senator Joe Lieberman; Feb. 8, 2003)

#### REMARKS TO WEHRKUNDE CONFERENCE (AS PREPARED FOR DELIVERY)

We come together in trying times with an urgent responsibility: to fortify our transatlantic alliance, which has vanquished many foes, spawned many democracies, and promoted many freedoms—but is now struggling to find a common voice in the face of many dangers.

The growing reach of NATO and its principles belies a disheartening truth. In a world facing new and evolving threats—terrorists, rogue regimes, and Weapons of Mass Destruction—NATO is split, and risks not only becoming the shell some predicted it would be after the fall of the Berlin Wall... but a dangerous stumbling block to a safer world.

The big question before us today is not who will join NATO or whether NATO will field a rapid response force, but instead, can our alliance survive a world in which our enemies are less defined, the dangers are more

dispersed, and the road to victory is much less clear?

We who are privileged to be leaders of NATO countries must make sure that the answer to that question is yes. The world of the 21st Century and each of our nations will be much safer if our alliance becomes not just larger but stronger, united around shared principles and the need for a common defense to the uncommon new threats that now face us all.

This process might best begin with some family therapy, since we have been acting too often in recent years like a dysfunctional family.

Let me begin with our side of the family. Since NATO'S inception, the strength of our alliance has always depended on American power. But America's power to lead has always depended on America's ability to listen. During the last two years, the American administration has turned a deaf ear to Europe. Some in America have sent the message that they see NATO and its member countries as a rubber stamp for the crisis that matters most to the United States at the moment, instead of a multilateral alliance of nations who listen to each other's concerns.

But I assure you that most Americans understand that America is not an island; it is part of an interconnected world. No matter how mighty a country's army or how large its treasury, vigorous and resilient alliances built on mutual respect are essential to securing the peace and making the world a safer place.

At the same time, we Americans are upset that so many Europeans seem so much less anxious about the new threats of terrorism, rogue nations, and weapons of mass destruction than we are. We accept the fact that for more than 50 years, U.S. leadership of NATO and our unique role in the world has meant that our security responsibilities have been more global than Europe's. While we worry about missiles in North Korea or conflict in the Taiwan Straits, Europe has mostly been able to focus on securing its own borders. But if September 11th has taught us anything, it's that none of us can retreat behind borders—because terror recognizes no borders. In today's world, enemies of freedom anywhere are a threat to safety everywhere.

I understand why the heavy hand from Washington has lately been seen less as a source of protection and more as a cause of resentment. But I'm here today to argue for your enlightened self-interest. Robert Kagan rightly asks: why should free people—citizens of our closest European allies—seem more worried about America than about terrorism—more anxious about Bush than about bin Laden?

We must urgently and honestly confront and resolve the differences that now divide us. If we fail to, the current continental drift will become a permanent rift, and we will all risk losing much more than family harmony. We will endanger our common security and future prosperity. And the world will lose its most reliable force for freedom and stability.

#### THE ANATOMY OF OUR DISHARMONY

We NATO allies still share three basic bonds, as we have since the beginning: common values and aspirations, common enemies who threaten those values, and common fates should we fail to work together. That those bonds are being weakened is an urgent threat that we must confront and resolve without delay.

#### THE WORLD WE SEE

The first wedge between us is in the way we see the world and its newest problems. Prime Minister Blair put it well when he said recently: "The problem people have

with the U.S.—not the rabid anti-Americans but the average middle ground—is not that, for example, they oppose them on WMD or international terrorism. People listen to the U.S. on these issues and may well agree with them; but they want the U.S. to listen back.” As an American, I believe we haven’t and we must—and many of my fellow Americans agree.

Consider global warming. America is the single biggest global contributor to the problem. Americans know it, and in strong majorities consider global warming to be a serious problem. Yet the Bush Administration turns a deaf ear to American opinion and European pleas to do something about it.

It is also clear that the Bush Administration’s precipitous withdrawal from the long-term efforts to build an International Criminal Court and strengthen the Nuclear Test Ban Treaty. Again, in large numbers the American people support joining the court and improving the Test Ban Treaty. Even with imperfect world agreements such as these, removing our nation and our priorities from the global conversation creates an unnecessary breach with our allies.

If some in America have viewed the world with blinders on—blocking out all concerns except our own—some in Europe seem to us unable to see threats that stare you and us right in the face.

For example, when we speak of the terrorists as evil—and of Saddam Hussein as a dangerous tyrant and torturer who has viciously murdered his own people, we are puzzled why many Europeans recoil at those descriptions—which, to us, are thoroughly justified by the facts.

Terrorism is not just America’s problem. We know full well that Europe has known more than its share of terror, so we don’t presume to preach. But Al Qaida and its ilk consider all of our people as their enemies and targets—because all our nations represent the values and the way of life they hate. They also seek to inflict pain upon moderate Muslim regimes. The fact that citizens from more than 70 countries—including many Muslims—died in the attacks on the World Trade Center is more than a symbolic reality. If we cannot cement our alliance in our own minds, let the hatred of our terrorist foes for all of us do it for us.

#### WHAT WE SAY

Second, the differences between us have been exacerbated by the words we use to describe each other. Along the way, honest policy differences and critiques have given way to caricature and hyperbole.

We in America should work for a strong and united Europe, not divide it with our words. There is no “old Europe” separate from a “new Europe.” A Europe divided was the incubator for mankind’s bloodiest century. A Europe united provides the best hope for a more peaceful and secure future, for you and us.

And when Europeans caricature America and its leaders as naive or ignorant “cowboys,” it offends Americans—even some of us who hail from a place far from cowboy country called New England. The point is: we should challenge each other’s policies, not personalities, and question each other’s decisions, not motives.

Europe and America have often had our differences. Just think about these news headlines about U.S.–European disputes: “Allies Complain of Washington’s Heavy Hand,” “France to NATO: Non, Merci,” “U.S. Declares Economic Warfare on Allies,” and “Protesters Rally Against American Arms Plan.” As former President Clinton once reminded us, the first of these headlines is from the Suez crisis in 1956. The second is from 1966, when France left NATO’s military

command. The third is from 1981, during the Siberian Pipeline Crisis. The Fourth is from 1986 during the debate about deploying intermediate nuclear missiles in Europe.

Like any good dysfunctional family, we’ve hurled invectives and insults across the Atlantic intermittently for more than 50 years. But the difference is, leaders on both sides have always in the past worked to douse the rhetorical flames, not fan them. It’s time we return to that shared compact. Now, more than ever, words have consequences.

#### HOW AND WHEN WE FIGHT

The last and most serious area of contention is when, why, and how we commit our military might to protect our people and principles.

We Americans must recognize that no matter how strong our military or our economy, we still need help. Defeating the dangers arrayed against us requires more than the forced compliance of our European allies; it requires a genuine partnership.

Regrettably, over the past two years, the Bush Administration has too often kept our European friends at bay. NATO’s invocation of Article 5, declaring the September 11th attacks an attack on us all, was a powerful and moving act of solidarity and sacrifice. But the Bush Administration failed to grasp NATO’s outstretched hand in Afghanistan, and that was a mistake. When we made the war our own, the subsequent peace became far too much our own as well.

The Administration’s declaration of its policy of military preemption has also understandably and unnecessarily raised anxieties in Europe and throughout the world. It made no sense to publicly announce this doctrine without offering our friends and foes alike clarification as to how and when the policy might be exercised. The fact is, the United States, like most countries in the world, has always reserved the right to use force to prevent an attack against its people. But some policies are best left undeclared, to be announced only when it is necessary to implement them. In the case of pre-emptive military action, that ought to be rarely.

But it takes two hands to tear a seam. And the fact is, the hand of the Bush Administration has been assisted by the hand of many in Europe in tearing the seam that has united us for more than a half century now.

Rather than coming together with one voice to enforce United Nations Resolutions all have supported to disarm Saddam Hussein, we hear many reflexive notes of discord from Europe. Rather than consent to the use of force when all other options have been exhausted, important parts of Europe have pulled back from our shared responsibility to put military muscle behind our policies to protect our security.

And the transatlantic gulf between military capabilities doesn’t help us overcome this rift. We all know that Europe has grown too dependent on American strength, and that that dependency undermines our partnership. I understand that Europe is focused today on the remarkable challenges of finishing the peaceful integration of Europe, new membership in the E.U., the Euro, and a constitutional convention.

But as John Lennon once said, “life is what happens to us while we’re making other plans.” Global terrorists are not waiting for our European allies to complete their domestic work before planning their next attacks—and it’s not enough for Europe to rely upon the military might of America to ensure its own safety. It’s time for Europe to take more of its own responsibility. The new NATO rapid response force, authorized at last year’s Prague summit, is a start in a better direction. But it is only a first step. A deeper commitment and more money must follow.

As I said a few moments ago, we have heard the European complaints that NATO has been ignored by the United States. But now President Bush has come to NATO and asked for the alliance to help in disarming Iraq. While we are very grateful that most member nations have responded positively, two of our closest and most important allies, France and Germany, have resisted NATO requests and taskings. That hurts. The NATO alliance itself made possible the historic reconciliation between Germany and France. I would hope the shared principles that led to that reconciliation would be remembered now.

In the interest of our security and our unity, I want to urgently appeal to all NATO nations to rise to help the U.N. and the U.S. meet the threat posed by Saddam Hussein. Thousands of years ago, Sophocles told the Greeks, “What you cannot enforce, do not command.” The contemporary corollary of that axiom is: what the world through the United Nations commands, it must enforce—or the judgments of the U.N. will lose their force, and the world that we and you live in will grow much less secure.

Our friend Joe Joffe, editor of *De Zeit*, has said with characteristic insight and edge: “We are now living through the most critical watershed of the postwar period, with enormous moral and strategic issues at stake, and the only answer many Europeans offer is to constrain and contain American power. So by default they end up on the side of Saddam, in an intellectually corrupt position.”

I respectfully suggest that the nations of Europe define their positions on Iraq independently and affirmatively—not in reaction to America or its President. As you know, I am a Democrat. In fact, I’m a Democrat seeking to replace George Bush in the Oval Office. But he and I agree on the danger posed by Saddam and the need to do something soon to eliminate that danger to us, to you, and most immediately to his neighbors in the Arab world—as do most other Democrats, Republicans, and Independents in the U.S.

In fact, five years ago, after Saddam ejected the U.N. inspectors, JOHN MCCAIN and I gave up on containment and introduced the Iraqi Liberation Act, which, when it became law, made a change of regime in Baghdad official U.S. policy. You might therefore say that, when it comes to Iraq, President Bush is just enforcing the McCain-Lieberman policy.

The facts here are stark and even more clear after Secretary Powell’s chilling and convincing testimony at the U.N. on Wednesday. For twelve long years, Saddam has flaunted every attempt to get him to keep his promise to disarm and instead has continued building weapons of mass destruction. If we shrink from challenging his defiance, we will not only leave a ticking time bomb ticking, we will have undermined the remaining credibility of the United Nations, and further diminished the power of NATO to protect the peace of the world.

#### CONCLUSION

The battles against tyranny, terrorism, and weapons of mass destruction, and for freedom, opportunity, and security, are the great causes of our time, and the greatest alliance of all time must lead the way in winning those battles.

More than forty years ago, on the Fourth of July, 1962, President Kennedy spoke at Independence Hall in Philadelphia. His words echoed the covenant of our American Constitution, and should guide us now in our Transatlantic relations. “Acting on our own, by ourselves, we cannot establish justice throughout the world; we cannot insure its domestic tranquility, or provide for its common defense, or promote its general welfare,

or secure the blessings of liberty to ourselves and our posterity. But joined with other free nations, we can do all this and more.”

Americans and Europeans are proud people—and justifiably so. We both want to control our own destinies. We both want to shape our own futures. But neither one of us can let pride or politics block the unity by which we will all achieve greater security, freedom, and prosperity. Our values are shared. Our fates are interlocking. We will rise or fall together.

And when we rise, the terrorists and tyrants will fall. America still needs Europe, and Europe still needs America, and it is time that all the leaders on both sides of the Atlantic started acting in a way that says we understand that overarching truth.

Thank you.

#### THE SARBANES-OXLEY BAN ON INSIDER CORPORATE LOANS

Mr. LEVIN. Mr. President, about 6 months ago, we enacted into law an important set of reforms to curb some of the corporate abuses that have shaken investor confidence in American business, from dishonest accounting to price manipulation to cases in which company executives have walked away from poor corporate performance with millions of dollars in their pockets, while investors, shareholders, and employees have watched their savings evaporate.

These corporate reforms, included in the Sarbanes-Oxley Act of 2002, addressed a host of problems. Today, I want to take a few minutes to discuss one of the most important reforms included in that bill, Section 402, which has so far received very little attention.

Section 402 established, for the first time, a prohibition against publicly traded corporations using company funds to give personal loans to company officers and directors. This simple prohibition is having an impact on corporate America, and I want to take a few minutes to explain the importance of this loan prohibition, the abuses it is correcting, and why it must be protected from efforts to narrow or weaken it.

Last year, the Permanent Subcommittee on Investigations, which I then chaired, conducted an extensive, bipartisan investigation into the collapse of Enron. The Subcommittee reviewed 2 million pages of documents, conducted 100 interviews, held four hearings, and issued two reports. One of the issues we looked at were the loans that Enron gave to its CEO.

In a report entitled, “The Role of the Board of Directors in Enron’s Collapse,” issued in July, the subcommittee found that multimillion-dollar loans, using company funds, had been approved by the Enron board for the personal use of Mr. Lay, then chairman of the board and chief executive officer. The subcommittee found that the board’s compensation committee first gave Mr. Lay access to a \$4 million line of credit, increased this credit line in August 2001 to \$7.5 million, and authorized repayment with either cash or company stock.

The subcommittee found that, in 2000, Mr. Lay began using what one Enron board member called an “ATM approach” toward his credit line, repeatedly drawing down the entire amount available and then repaying the loan with Enron stock. Records show that Mr. Lay at first drew down the line of credit once per month, then every 2 weeks, and then, on some occasions, several days in a row.

In the 1-year period from October 2000 to October 2001, Mr. Lay used his company credit line to obtain over \$77 million in cash from the company. In every case, he repaid the borrowed cash by tendering shares of Enron stock. In most cases, he obtained these shares by exercising stock options granted to him as part of his executive compensation. Mr. Lay withdrew these millions of dollars from company coffers at a time when Enron was experiencing cash flow shortages, Enron’s shares were dropping, and Enron shareholders were suffering losses. After Enron’s collapse, it was discovered that Mr. Lay had borrowed a total of \$81 million from the company in 2001, and failed to repay about \$7 million.

When asked about these loans at a subcommittee hearing, the head of Enron’s compensation committee said that his committee had no duty to monitor the CEO’s loan activity. He also indicated that, while Mr. Lay’s loans were more extensive than anticipated, appeared to have functioned as secret stock sales to the company, and affected company cash flow at a critical time, he was not prepared to characterize the CEO’s actions or failure to repay \$7 million as an abuse. He declined to criticize Mr. Lay’s conduct. The subcommittee concluded that the Enron board had failed to monitor or halt abuse by Mr. Lay of his company-financed credit line.

Enron was an eye-opener, but it turns out that it is far from the only U.S. company handing out multimillion-dollar loans to executives, often without regard to whether the issued loans benefit the corporation or whether they will be repaid.

In December 2002, the Corporate Library, a non-profit organization that provides information to help investors and stockholders, published the most comprehensive analysis yet of the pervasiveness of company loans to executives prior to enactment of Section 402. The report, entitled “My Big Fat Corporate Loan,” presents information compiled from reviewing SEC filings for 1,526 of the largest U.S. corporations in the United States. This report relies solely on what companies have disclosed to the public about their loans to executives, without any attempt to verify or supplement these disclosures. The result is data that may provide a conservative picture of company lending to executives.

The Corporate Library report has determined that over one-third of the largest 1,500 companies in the U.S. have outstanding loans to company ex-

ecutives. According to the report, the average size of these loans was 10.7 million in 2001, and the total amount of lending exceeded \$4.5 billion. The report also points out that when company loans to purchase split dollar life insurance, described later, for corporate executives are included, the percentage increases to over 75 percent. When short-term company loans allowing executives to exercise stock options are included, the percentage tops 90 percent.

The list of companies issuing these loans include not only companies marked by scandal, such as Enron, Tyco, Adelphia, WorldCom, and Global Crossing, but also many companies perceived as solid investments with good corporate practices and reasonable executive pay.

The report describes the purpose of the loans as reported by the companies in their SEC filings. The largest proportion of the loans, about 35 percent, had a stock-related purpose, such as to allow a company executive to exercise stock options, purchase stock, or retain stock after a margin call. The report expresses dismay at examples of executives using interest-free loans to buy company stock, being excused from repayment of the loan, and thereby acquiring a substantial company investment without expending any of their own money.

Loans to help an executive relocate to a new area, including buying a house, comprised the second largest portion of company loans to executives. These loans comprised about 27 percent of the total, according to the report. While relocation loans sound reasonable, the report provides examples of disturbing abuses, including loans for millions of dollars. In one case, Millennium Pharmaceutical issued a loan to a senior vice president to buy a house in the Boston area and allowed the loan to be forgiven over time. In another case, the president of a Nike business unit was given a so-called loan for a second home. By its terms, that loan was intended to be forgiven over 5 years. Another example, not mentioned in the report but discussed in the media, is the \$16.5 million loan issued by Tyco International to its CEO Dennis Kozlowski to buy property in Boca Raton and Nantucket. Tyco also loaned \$14 million to its general counsel, Mark Belnick, for a New York apartment and to build a home in Utah, a State where Tyco has no operations.

It boggles the mind to think that high-paid corporate executives were using company funds to build themselves mansions and then, in some cases, skipping repayment of the funds altogether. It is unlikely that a company would issue a loan to an average employee to build a multimillion-dollar residence or to build a second home, since there would be no business justification for it. There is no justification for lending company funds to a corporate executive either, yet these