

encouraged a lesser officer to retire, but Jon was too valuable a soldier to lose. Unfortunately, the Army, and especially the military intelligence community, realizes every day how valuable COL Jake Jones was. Perhaps the words of one of his fellow officers said it best when he stated:

Jake Jones did more than command a Brigade in war. He commanded the respect and confidence of his peers, his superiors, and his soldiers. He had a special aura about him—a calming presence that bespoke competence and reason.

All of the virtues that made Jon a good soldier also made him a devoted husband and father. In a career that takes you away from your family for extended periods of time, he made it home for his children's birthdays and other special events. The only birthday of Nick's he ever missed was last year when duty to country called him to stay in Iraq. He made it home in time for Lena's birthday last year, and only God's call home kept him from making that commitment this year.

He was driven to be a good example to his children and to make them proud. This drive contributed to his desire to continue in command even as he fought his own personal battle with a fierce enemy. Although his time with Nick and Lena was inexplicably cut short, I know the love he gave them and the lessons he taught them will shore them up, inspire them, and comfort them throughout their lifetime.

Mentor, hero, charismatic leader, humble individual, inspiring commander, confident, patient, steadfast, stalwart, a rock—these are a few of the descriptions used to communicate the man he was. Jon had the determination and perseverance to accomplish any task with which he was presented.

The role in life he cherished the most, after the role of father, was that of a mentor, whether to his soldiers or to his children. He simply loved to teach. Having been raised by a mother who was a teacher, he paid her the greatest compliment a child can give a parent: He followed in her footsteps. He taught those of us who knew him how much fun it was to live, and that quitting was not an option.

Jon Jones was a friend of our family, a neighbor, and an inspiration to all who knew him. His death is our Nation's loss. Rarely does a soldier so capable and so completely committed step forward to answer the call to service. And rarely has a family been so blessed to have such a father and husband.

May it be recorded this day that the people of the United States are grateful to COL Jon Jones for his years of service in the U.S. Army. His memory will live on in the hearts and minds of the many who knew him, admired him, followed him, and loved him.

Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from Louisiana yields the floor.

The Senator from New York is recognized.

Mr. SCHUMER. Mr. President, I ask to be recognized to speak in morning business.

The PRESIDING OFFICER. The Senator is recognized.

THE 9/11 COMMISSION REPORT

Mr. SCHUMER. Mr. President, I am going to speak on two issues: first, the imminent release of the final report of the 9/11 Commission, and then on the three judges we are voting on shortly.

First, on the imminent release of the report: First, I thank the commissioners. They have done an incredible job. In this town, racked by partisanship, to come up with bipartisan recommendations is an amazing accomplishment in itself. But when you look at what the recommendations are and the thoroughness with which the Commission investigated the mistakes that were made in the past, the report assumes even greater magnitude.

We will have a real challenge in Washington, at each end of Pennsylvania Avenue, to make sure these recommendations are implemented.

The area I want to touch on right now is homeland security, but I do want to say the reforms that were recommended, in terms of intelligence gathering, were right on the money. Many of us were puzzled after 9/11, learning that the FBI knew this little piece of information and an agent in another part of the FBI knew another piece, and the CIA knew this piece and that piece. The question was, why weren't these pieces tied together, which might have drawn the picture of what was going to happen? And I underline the word "might." Who knows if it would have? But it certainly would have given us better odds.

The reason, as the Commission unveiled, is very simple: These intelligence agencies do not talk to one another. They regard the intelligence they have gathered, their work product, as so valued that they do not want to give it up to another agency. The recommendations of the Commission are outstanding—outstanding—in terms of requiring the intelligence agencies to talk to one another.

I am very pleased the Commission did not engage in the blame game or finger pointing but, rather, looked at the facts—just the facts, ma'am; that seems to be their underlying view—and then looked at recommendations based on those facts so that another 9/11, God forbid, would never happen again.

There is a particular area that has not received too much focus that I want to mention today. That is homeland security. The Commission's report shows that while mistakes were made in intelligence gathering and while mistakes after September 11 have certainly been made in fighting the war overseas—we need a strong foreign policy, a muscular foreign policy to fight terrorism—those are mistakes of commission. In a brave new world, a post-September 11 world, anyone is going to

make certain mistakes. The mistakes that have been made on homeland security, on protecting our Nation from another terrorist attack, are mistakes of omission. We are simply not doing enough. That is what the Commission's report is going to reveal when they release it at 11:30. I have been briefed on it already, and I guess many Members are being briefed today.

To win this war on terror—it is the same as a good sports team. We need a good offense, we need a good defense. Most of the focus has been on the offense. There has been verbiage devoted to homeland security, but the actual dollars, the actual focus, the actual changes that have to be made are not being made, plain and simple.

The bottom line is that in area after area, when billions of dollars are required, the administration recommends and Congress allocates tens of millions of dollars. They do not do nothing. They don't want to say we are not putting any money into port security, rail security, truck security, or improving security at the borders. But they do the bare minimum essential to get away with saying we are doing something.

It is frustrating to me, particularly coming from New York and knowing too many of the people who were lost on September 11, that we are not fighting a war—it is a war on homeland security—the way we are fighting a war overseas in Iraq and Afghanistan. What is interesting is the technology is there. We know how to detect nuclear materials which, God forbid, might be shipped into this country. We know how to detect explosives if somebody were to walk into a railroad station or Disney World or somewhere else loaded with explosives that they might detonate. We know how to make our truck security more secure so people cannot use truck bombs. We know how to tighten up the borders.

The question is twofold: will and money. We are not doing either. As we stand here today, what are we doing in the Senate? We are debating three judges from Michigan who we know will not pass in a controversial and partisan way while Homeland Security appropriations languish. It has not been brought to the Senate. Why? What are our priorities? This is not a Democrat or Republican issue. This is not a liberal or conservative issue. This is an American issue. We want to preserve our homeland security. We want to make people secure. We want to make people safe.

Over and over again, we are not doing what we should be doing. The number of bills introduced and even passed out of committee to tighten homeland security are too many. It is not just homeland security legislation, it is legislation on ports, legislation on borders. Over these past few months, the Senate has been occupied by partisan political issues when nonpartisan and bipartisan issues that are far more important related to homeland security languish.

I hope the Commission's report is a clarion call. Let's get our act together. Again, this is not a partisan issue. This should not instigate fighting with one another. We should just do it.

I wish the White House in their budgets had allocated more money. When people in the Senate, both Democrat and Republican, said, We need to do this, that, and the other, had the President said, Yes, sir, right on—but we do not have that. We do not have leadership on homeland security. That is what the Commission's report shows.

Being a great leader and being a strong leader does not just mean fighting wars overseas in this brave new post-September 11 world; it means tightening things up at home. The bottom line is simple: Why aren't we protecting our airplanes from shoulder-held missiles which we know the terrorists have? Why aren't we saying more than 5 percent of the big containers that come to our ports on the east coast, the west coast, the gulf coast, should be inspected to see if they might contain materials that could hurt us? Why aren't we doing more to protect the borders? My State of New York has a large northern border. They have not allocated the dollars, the bottom line is they do not have enough manpower at the borders to prevent terrorists from sneaking in. They are doing a great job with the resources they have, but Lord knows they don't have them. We are not doing any of these things.

I point out one other thing the Commission has mentioned—here, Congress is as much to blame as the White House—and that is the allocation of homeland security funds. The Commission is very strong on this issue. The moneys that go to police, fire, and the others who are our first responders—we learned in New York how valuable they were. The report today will show the number of people who died below where the planes hit the World Trade Center towers was few—too many, but few—because of the great job the police and the firefighters did. Yet we are treating that money as pork barrel.

My State has greater needs than, say, the State with the smallest population, Wyoming. Yet Wyoming gets much more money on a per capita basis. To the credit of the administration, that did not happen the first year we allocated homeland security money. Mitch Daniels, a true conservative, the head of OMB, says he does not want to waste these dollars. He is sending dollars to the places of greatest need. I might have wanted more dollars, but at least the dollars that were allocated were allocated fairly. But now we have slipped away from that. Frankly, we do not hear the voice of Tom Ridge, who was the successor as we created a new Homeland Security Department, saying, allocate this money fairly. We do not hear the voice of the President, and we do not hear the voices of the House and Senate.

This wonderful report is very critical of what our Nation is doing on homeland security. It is saying we are not doing enough in area after area. I hope and pray this report will be a wakeup

call. We do not want to be in the "what if" situation. God forbid there is another terrorist attack and the next morning we say: What if? What if we had done the job? What if the attack was by shoulder-held missiles? And we say: What if we had done the job. What if the attack was from ships and ports? We say: What if we had done the job on port security or on the rails? Or because someone got across our borders and shouldn't have? We do not want to be in a "what if" situation.

JUDICIAL NOMINATIONS

Mr. SCHUMER. Mr. President, my colleague from Michigan is here, and I know she will probably want to speak on the three votes on judges.

The first point I make is, I would much rather be debating the Homeland Security bill than these judges. Where are our priorities in this body? What are we doing? We have had weeks and weeks where many have called for bringing Homeland Security appropriations to the Senate. Instead, we have been debating all the political footballs. I know it is a Presidential election year, I know it is election season, but some things should have a higher calling.

On this particular issue, I make one point before yielding the floor to my colleague from Michigan. Anyone who thinks this is a tit-for-tat game at least misreads the Senator from New York. Were there bad things done on judges when Bill Clinton was President by the Republican-controlled Senate? You bet. But that does not motivate me in terms of what we ought to do in the future.

What motivates me is that in the issue of appointing judges—and I remind the American people that now 200 judges have been approved and 6 have been rejected. My guess is the Founding Fathers, given that they gave the Senate the advice and consent process, would have imagined a greater percentage should be rejected.

I am always mindful of the fact that one of the earliest nominees to the U.S. Supreme Court, Mr. Rutledge, from the neighboring State of the Presiding Officer, South Carolina, nominated by President George Washington, was rejected by the Senate because they didn't like his views on the Jay Treaty. That Senate, which had a good number of Founding Fathers in it—the actual people who wrote the Constitution, many of them became Senators the next year or two—didn't have any qualms about blocking a judge they thought was unfit.

Now all of a sudden when this body stops 6 of 200, we hear from the other end of Pennsylvania Avenue: That is obstructionist.

That is not obstructionist. That is doing our job. The Constitution didn't give the President the sole power to appoint judges. It was divided. In fact, for much of the Constitutional Convention the Founding Fathers thought the Senate ought to appoint the judges and only at the last minute did they say the President, with the advice and consent of the Senate.

This President—regretfully, in many instances—has not consulted the Senate. The two Senators from Michigan—they happen to be of a different party than the President but we know they enjoy working with the other party—were not consulted. I know it can be done. We have done it in my State of New York. We don't have a single vacancy in either the district courts or the Second Circuit because finally, after I said I was not going to allow judges to go through unless I was consulted, the White House came and consulted, and there is a happy result. All the vacancies are filled. The judges tend to be conservative, but they are mainstream people. I may not agree with them on a whole lot of issues, but they have all gone forward. In Michigan we have had no consultation.

Today when I vote against these three nominations, I am not just backing up two Senators from Michigan; I am defending the Constitution. That is what all of us who vote this way will do. Because for the President to say on judges, it is my way or the highway, no compromise, is just not what the Founding Fathers intended. It is not good for America. It tends to put—whoever is President—extreme people on the bench instead of the moderate people we need.

I regret that we have come to vote on these judges, but I have no qualms that I will vote and recommend to my colleagues that we vote against all three.

I suggest the absence of a quorum. The PRESIDING OFFICER (Mrs. DOLE). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. I ask unanimous consent that the order for the quorum call be dispensed with.

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

Mr. REID. Would the Chair advise the Senator from Nevada what the status of the floor is at this time?

The PRESIDING OFFICER. There are 2 minutes remaining under morning business.

Mr. REID. I yield that time back. The PRESIDING OFFICER. Time is yielded back.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

EXECUTIVE SESSION

NOMINATION OF HENRY W. SAAD TO BE UNITED STATES CIRCUIT JUDGE FOR THE SIXTH CIRCUIT

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session and resume consideration of Calendar No. 705, which the clerk will report.

The assistant legislative clerk read the nomination of Henry W. Saad, of Michigan, to be United States Circuit Judge for the Sixth Circuit.

The PRESIDING OFFICER. Under the previous order, the time until 11