down when Secretary Richardson—now the Governor of New Mexico—was in, and I have brought every particular benefit that I could possibly bring to this particular facility, but apparently the contractors want to move ahead and certainly the Department of Energy wants to move ahead and not have to pay out the full sums. If they can get a precedent set for the reclassification in a surreptitious fashion of this kind called low-level waste, then it will set a precedent for the other States and we have an environmental disaster in the offing because we will not be here.

That is about the attitude around here, that if it can be handled in a day's time, then let us forget about the future. This is a highly dangerous procedure. It is wrong for the State of South Carolina. It is wrong for the Nation. It is wrong for the Department of Energy.

I had misgivings when the Secretary of Energy came up for nomination. I remembered very clearly my debate with Spencer Abraham. He wanted to abolish the Department of Energy and abolish the Department of Commerce. I can see him over on that side of the floor right now. We had a debate about that. I was sort of shocked that he would want to be Secretary of a Department that he wanted to abolish, but he is a good fellow. I got along with him, and I said, all right, I will cast a vote and keep my fingers crossed. But this is monkeyshines. We cannot go along with this one.

If they want a reclassification—this is not a money problem, this is a reclassification problem—then let us reclassify it in the orderly fashion in which we made the classification back some 22 years ago in the Congress.

The House of Representatives says let us handle it that way, so let us handle it that way over in the Senate. If we want to give permission to have hearings and then change that law, that is fine business, let us do it in that fashion, but do not put a rider that says this is for the interest of the State of South Carolina because it is not. It is not in the interest of the United States of America.

I do not know how else we can solve this. I know the other States are involved. The Senator from Michigan on the Defense appropriations has been very alert on this particular measure. I am just a Johnny-come-lately to it, but it affects my State, and it affects an area that I have been vitally interested in for over 50 years now. I have worked with every particular facet that one can think of. Never has this Senator been contacted about this deal. I know the Governor, I know his position on the environment, and I know he will not approve of this one.

I can tell my colleagues right now that reclassifying high level as low level, saying that we protect the State of South Carolina when we know the legalistic wording is just that, legalistic wording, has already been found ineffective by the highest court of the land.

I yield the floor.

The PRESIDING OFFICER (Mr. GRAHAM of South Carolina). The Senator from Virginia.

ORDER FOR RECESS

Mr. WARNER. I ask unanimous consent that the Senate stand in recess at the hour of 12:45 to accommodate the Secretary of Defense, who will be briefing us, and resume at 2:15.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. I think the two managers are very wise, offering the opportunity for everyone to go to hear the Secretary of Defense and the three generals who testified yesterday. It is commendable. It speaks well of the management of the Senate floor because there would be nothing happening here anyway. Everyone needs to go there. So I commend the two managers of this bill.

Has the Senator offered a unanimous consent that we would be out from 12:45 to 2:15?

Mr. WARNER. That is correct. It is essential that Senator LEVIN and I be present with the Secretary.

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

Mr. WARNER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WARNER. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CRAIG). Without objection, it is so ordered.

RECESS

Mr. WARNER. Mr. President, the distinguished Senator from Michigan and I, together with the distinguished Senator from Nevada, are doing our very best to try to arrange the debate on the pending amendment to accommodate both sides. It is not likely we are going to achieve that in the next few minutes, so I ask unanimous consent the pending unanimous consent request for 12:45 be revised to reflect that the recess start now and terminate at 2:15.

There being no objection, the Senate, at 12:37 p.m., recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. ALEXANDER].

The PRESIDING OFFICER. The Senator from Idaho.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2005—Continued

AMENDMENT NO. 3226 TO AMENDMENT NO. 3170

Mr. CRAPO. Mr. President, I call up amendment No. 3226.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Idaho [Mr. CRAPO] proposes an amendment numbered 3226 to amendment No. 3170.

Mr. CRAPO. I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

Strike all after the first word of the matter proposed to be inserted and insert the following:

3119. TREATMENT OF WASTE MATERIAL.

(a) AVAILABILITY OF FUNDS FOR TREATMENT.—Of the amount authorized to be appropriated by section 3102(a)(1) for environmental management for defense site acceleration completion, $350,000,000 shall be available for the following purposes at the sites referred to in subsection (b):

(1) The safe management of tanks or tank farms used to store waste from reprocessing activities.

(2) The on-site treatment and storage of wastes from reprocessing activities and related waste.

(3) The consolidation of tank waste.

(4) The emptying and cleaning of storage tanks.

(5) Actions under section 3116.

(b) SITES.—The sites referred to in this subsection are as follows:

(1) The Idaho National Engineering and Environmental Laboratory, Idaho.

(2) The Savannah River Site, Aiken, South Carolina.

(3) The Hanford Site, Richland, Washington.

(c) This section shall become effective 1 day after enactment.

Mr. CRAPO. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Mr. President, I came to the floor with the understanding that we are in a moment where we haven't been able to move forward legislatively as far as the schedule goes. I wanted to take a few minutes of leader time to comment on a number of specific issues.

PAUL WELLSTONE MENTAL HEALTH EQUITABLE TREATMENT ACT

Mr. DASCHLE. Yesterday I spoke about the Paul Wellstone Mental Health Equitable Treatment Act. This is a critical piece of health care legislation. One in five Americans today suffers from a mental illness every year. Many are now denied health care they need because of legal discrimination by their health insurers. Such discrimination often takes a terrible toll on people with mental illness, their families, and all of us.

It is estimated that not treating mental illness costs our society $300 billion a year. The Wellstone bill will end that discrimination for all Americans. It is modest, affordable, and urgently needed.

I mentioned yesterday people from across America were coming to Washington on June 10 for a rally in support of mental health parity and the Wellstone bill. The famous Wellstone green bus that Paul loved to campaign on is coming back here for that rally.

It is my hope the majority leader will agree to allow the Senate to vote on the Wellstone bill prior to the June 10 rally. I think it would be a fitting tribute to Paul, and it would make a profound difference for millions of Americans who live with mental illness.

(The remarks of Mr. DASCHLE pertaining to the introduction of S. 2451 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

COMMEMORATION OF MEMORIAL DAY

Mr. DASCHLE. Mr. President, 2 weeks ago, in the Black Hill National Cemetery, SD, SSG Cory Brooks was laid to rest.

A member of the South Dakota National Guard, Sergeant Brooks died in Iraq in late April, and his friends and family gathered to remember his laughter, his joyful spirit, and his love of country.

Among the mourners was a man Cory Brooks had never met, Pat Red Fox.

Mr. Red Fox came as a representative of the Cheyenne River Sioux Tribe.

Six months earlier, the tribe had suffered the loss of PVT Sheldon Hawk Eagle, who died when his Black Hawk helicopter collided with another above Mosul.

The families of Sheldon Hawk Eagle and Cory Brooks had little in common on the surface.

But each passed along the values of service and patriotism to their children.

With pride and sorrow, each said good-bye as their loved ones were shipped overseas. And each prayed that Sheldon and Cory would complete their mission unharmed. Today, they are bound to one another in mourning.

And so to acknowledge this bond, this sacred bond that transcends all apparent differences, the family of Sheldon Hawk Eagle sent Pat Red Fox to Cory Brooks' funeral with one of the most valued gifts in the Sioux tradition—a star quilt bearing the colors of our Nation, and the Sioux symbol representing the immortality of the soul and the connection between the living and the dead.

During the upcoming recess, our Nation will commemorate Memorial Day with a special unity, immediacy, and poignancy.

As we honor those who gave their lives for their country in generations past, young American soldiers today face mortal danger.

As we offer thanks for the sacrifice of families who suffered the loss of loved ones, hundreds of American families are today mourning the deaths of their children, spouses, and parents.

For them, the cost of war and the price of freedom is not a thing of memory. It is the inescapable fact of their lives. And their pain and shock reverberate throughout American communities.

All Americans stand together in awe of the courage of our soldiers, and in gratitude for their sacrifice.

But the urgency of this Memorial Day also serves to amplify and clarify our understanding of America's history.

Within the sacrifices of today's soldiers, we see a clear reflection of the sacrifice of those who came before.

Like our soldiers today, our veterans, too, left families behind. They, too, woke up to uncertain dangers. They, too, saw their friends fall. Yet, knowing both their risks and their responsibilities, they, too, performed their duty each day. And many gave their lives.

Forty years ago, President Kennedy noted that no nation ''in the history of the world has buried its soldiers farther from its native soil than we Americans—or closer to the towns in which they grew up.''

At our proudest moments, the American people have sent our sons and daughters across the globe to fight for freedom.

Today, the honor of defending those who cannot defend themselves is carried forward by young American soldiers. But their service is doubled, for in addition to offering a chance for freedom to the Iraqi people, they are renewing our understanding of the cost of war, the price of freedom, and the immeasurable depths of American valor.

Seven hundred and ninety one Americans have lost their lives in Iraq. Another 122 have died in Afghanistan during the course of Operation Enduring Freedom.

As was true in World War I, World War II, and the Vietnam War, South Dakotans have volunteered for service in disproportionate numbers. And as before, South Dakota has borne a disproportionate share of loss. Seven of South Dakota's sons have lost their lives in this conflict:

CWO Hans GOO-Keye-sen, of Lead; PFC Michael DOOL, of Nemo; CWO Scott Saboe, of Willow Lake; CPT Chris SOUL-zer, of Sturgis; SP Dennis Morgan, of Winner; PFC Sheldon Hawk Eagle, of Eagle Butte; SSG Cory Brooks, of Philip.

For them and for the hundreds more who have lost their lives in service to their country, America is united in sorrow, and in debt for their sacrifice.

But this sorrow, and this debt, is not unique to us. In many ways, it has been the central experience of each and every American generation.

My father was an Army sergeant in World War II. He landed on the beaches of Normandy with the 6th Armored Division on ''D Plus 1''—June 7, 1944.

He was injured during the landing, and, as he was recovering, one of his duties was sending word back to the States of those who had died so their loved ones could be notified.

That experience left my father with a profound sense of respect for the sacrifices that freedom sometimes demands, and he passed that lesson on to his four sons.

When I was a boy, every Memorial Day, my parents would take my brothers and me to the cemetery to pay our respects to the heroes who lie buried there.

Later in life, when I was in the service, I learned the lesson in a deeper way, as friends of mine lost their lives in Vietnam.

The men whose names my father sent home from Normandy, the men whose names are carved into The Wall in Washington, and all of the other noble heroes we honor gave their lives to preserve our freedom.

We are in their debt—today and every day. Now a new generation of Americans is called to battle—in Iraq, Afghanistan, and many other areas around the world. And once again, they are answering the call, and making us proud.

In 1868, just three years after the end of the bloodiest conflict our Nation has ever known, General James Garfield led the first observance of the holiday we now know as Memorial Day.

Standing among the graves of Union and Confederate soldiers alike, he said:

> If silence is ever golden, it must be here beside the graves of fifteen thousand men whose lives were more significant than speech and whose death was a poem the music of which can never be sung.
>
> We do not know one promise these men made, one pledge they gave, one word they spoke; but we do know they summed up and perfected, by one supreme act, the highest virtues of men and citizens.
>
> For love of country they accepted death, and thus resolved all doubts, and made immortal their patriotism and virtue.

No words, no ceremony could add to the honor they won in their lives.

So this year, with the heroism of our soldiers so radiant, we must acknowledge that Memorial Day is not commemorated for the sake of those who gave their lives, but for our own.

We remember their courage because within it lie the seeds of our own courage.

We remember their sacrifice, because it shows us both the cost, and the value, of freedom.

Memorial Day is not merely a time to remember those who died in uniform, but a time for each of us to rededicate ourselves to trying in our own way, in our own lives, to meet the the example of patriotism set by all the men and women who defend our Nation.

It is a time to rededicate ourselves to carrying forward the legacy that has been passed down from one generation to the next.

As with the families of Sheldon Hawk Eagle and Cory Brooks, it is a legacy that binds together every American.

It transcends borders and generations and all political divisions.

Above all else, it is this shared legacy, and the great gifts that it has conferred upon our Nation, that we reaffirm on Memorial Day.

I yield the floor.

The PRESIDING OFFICER. The assistant Democratic leader is recognized.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

RULE OF LAW

Mr. REID. Mr. President, the core concept which has guided this Nation for 200 years has been the rule of law. That is why we have a Constitution. That is why we have a judiciary. That is why we have a national legislature, to make and revise the laws which rule our conduct, one and all, no exceptions. Therefore, no one, not the mightiest in his mansion, not the lowest begger on the street, is above, beneath, or outside the law.

If a law is outmoded, has lost its utility, if it is obsolete, it is not the place of any citizen, no matter how high or how low, to decide it must no longer be obeyed. That decision rests only with the Congress or with an interpretation by the Federal courts. That is the only place that decision can rest.

Yet I have in front of me a memorandum written in January of 2002 by Alberto Gonzales, the White House counsel to President Bush, telling the President of the United States that the Third Geneva Convention of 1949 is obsolete, that the War Crimes Act, which we passed in 1995 making it a felony to commit a grave breach of that Convention, is inapplicable, and that as a result, prisoners captured on the battlefield can be questioned using means that would violate the Third Geneva Convention.

I am not talking about members of al-Qaida. The Gonzales memo specifically discusses members of the Taliban. It makes an extremely questionable argument that the Taliban are not prisoners of war because they were not the government of a state.

That argument is most disturbing. In the first place, it represents precisely the kind of arguments which the drafters of the Third Geneva Convention tried to defeat, drafters who included representatives of the United States. Those drafters repeatedly expressed their concern that the German Government, the Nazi government during World War II, used trumped-up legalisms to avoid applying the 1929 POW Convention to captured prisoners. One of those arguments was that Polish prisoners were unprotected because, according to the Nazis, Poland had ceased to exist as a state. That is precisely why articles 4 and 5 of the current Convention are written in such broad language with such inclusive presumptions.

I am equally disturbed by Mr. Gonzales's argument that because the Taliban were generally unrecognized as a legal government, they should not be afforded the protection required for soldiers of a de facto government. What particularly bothers me about that is the statement issued by the White House late in 2001 that the United States recognized that the Taliban was a de facto government of Afghanistan. You cannot have it both ways. Did Mr. Gonzales forget that statement? Did he ignore it or did he just not care that it squarely contradicted his memo of January 25, 2002, made just days later?

When he sent that memo to the President, over the objections of the Secretary of State, Mr. Gonzales and everyone else involved in its drafting and preparation sowed a bitter harvest. They sowed the seeds of solitary confinement, of sensory deprivation, of physical mistreatment, of violations of religious right, of legal rights, of rights against intimidations and threats and torture—all grave breaches of the Third Geneva Convention. They sowed the wind, and now we are reaping their whirlwind caused by that memorandum from the legal representative of the President of the United States.

AMENDMENT NO. 3170

The PRESIDING OFFICER. The Senator from Washington.

Ms. CANTWELL. Mr. President, I rise to speak on the Graham amendment.

It is almost unbelievable that we are on the DOD authorization bill, a very important bill that we need to discuss and move forward, as it supports a lot of important things for our troops, and our military strategy. But somehow the other side of the aisle and the Department of Energy think they can sneak in language to this Defense authorization bill that would allow the reclassification of hazardous, high-level nuclear waste and basically call it incidental waste. Basically it would reclassify nuclear waste that is in existing tanks in my State, in South Carolina, in Idaho, and in New York, and basically say that waste can be covered over with cement, with sand, and could be grouted. Basically, it says we can take high-level nuclear waste and grout it—grout it.

For most Americans, grout is something they see in their bathroom, not something they do with nuclear waste. Yet this is what we have before us in the underlying Department of Defense authorization bill. It is a shame. It is a shame that this body would allow such a significant change, really a change to the Nuclear Waste Policy Act on how nuclear waste is classified in this country, without public debate, without a public vote, without a public hearing, even without legislation discussing that change. Yet the other side of the aisle thinks they can come at 1 o'clock in the afternoon and offer an amendment to change 30 years of policy, and that in the blink of an eye, they are going to get a vote on changing that policy without discussion.

The underlying bill is flawed. As far as I am concerned, it has made the whole DOD bill radioactive itself. Why do they play politics on an issue that is so important to our country? Why do they try to sneak through a change that ought to be debated in public in full daylight, with people weighing in on what is appropriate science?

Mr. President, if I sound as if I am a little upset about this underlying bill and the fact that it has this sneak attack language to reclassify high-level nuclear waste, you are right.

Fifty-three million gallons of nuclear waste reside at the Hanford nuclear reservation in the State of Washington.

This Senator wants to see that waste cleaned up. I do not believe that can happen by pouring cement on top of it and putting sand in those tanks and all of a sudden now say we have cleaned up waste. Nowhere has that policy been promulgated as sound science.

This is a picture of the Hanford Nuclear Reservation and one of its reactors in proximity to the Columbia River. My constituents in Washington State already know the 53 million-gallon tanks of nuclear waste are leaking, and there are toxic plumes that have already gained access to the Columbia River. So, yes, Washington State wants the tanks to be cleaned up. They want the material that has been part of the nuclear mission of this country removed from the tanks, the tanks cleaned up, the ground cleaned up, the plumes removed to the best possible extent, in order for us to go on with our mission and our life at the Hanford Reservation.

What we do not want is somebody to come in and say all of a sudden these underground storage tanks that exist below ground should be taken and cement poured on top of them and that means they are cleaned up.

It is amazing to me because when I think about the Hanford project and what I think it meant to our country, these were men and women in 1943 who started on a mission to produce a product that would help us win the war. In less than 2 years, they had the world's first reactor going and they produced plutonium that provided a very valuable tool for our country. Those men and women did their job.

Now we have been left with the aftermath of that and we should handle it in the same professional way those men and women did, by cleaning up the waste and recognizing that these tanks are leaking and they are causing hazard to the environment. The appropriate way to clean them up is by making sure the material is removed and that that material is placed in a more permanent storage. That is exactly what science has been saying. Yet my colleagues believe that in this underlying bill, the Defense authorization, it

was somehow appropriate, in a closed-door session, with no public, no public testimony, no public witness to this language, no bill saying they were going to put this in the DOD bill, they can now sneak through this policy.

Well, thank God some people in America are paying attention because they are starting to respond. I will share some of that with my colleagues. For example, the Idaho Falls Post Register basically said those on the other side are choosing the wrong side.

What happened in this case is the Department of Energy—maybe I should stop for a second and give some of my colleagues a little reminder of how we got to this point, because everybody thinks reclassification of waste is something that belongs to the States. It does not belong to the States. It belongs in the Nuclear Waste Policy Act that was passed in 1982. That was passed by Congress, after much debate. It went through the Energy and Natural Resources Committee and the EPW Committee. They had a discussion about what nuclear waste cleanup should be. They have the authority.

So when the Department of Energy recently said ''let us accelerate the cleanup of waste, let us do it faster, we have an idea, instead of removing all of the material from these tanks we can just pour cement and sand on top of it and somehow we can get this done quicker and cheaper''—I am sure everybody in America agrees that pouring sand and cement on top of the waste that is there instead of cleaning it up is cheaper. But no one says it is safer and no one says it satisfies current law in the Nuclear Waste Policy Act.

That is why when the Department of Energy tried to use an order basically reclassifying waste, saying, ''let us try this accelerated cleanup, let us try this notion of grouting and see if it, in fact, is the way we can do this.'' The courts have said the Department of Energy does not have that authority to reclassify the waste; the definition lies within the Nuclear Waste Policy Act, and DOE was not consistent with that act.

So what did the Department of Energy do when they lost that case? Yes, it is on appeal. They can go through the appeal process. But instead of coming to Congress and asking for public hearings on changing the Nuclear Waste Policy Act, saying, ''listen, we think some waste that ought to be able to be reclassified,'' they have snuck language into the DOD authorizing bill.

Let me be clear again. Sneaking in language is having a closed-door session, without public debate, without public scrutiny, without a hearing on the change in this reclassification.

Now all of a sudden we are presented with this bill and people think we ought to move ahead without removing this radioactive language that is in the DOD bill, which I say has no business being here. If people want to debate this policy, let us debate it in the broad daylight of a hearing and discuss what hazardous waste is and the changes to the Nuclear Waste Policy Act that might be appropriate.

I guarantee, if somebody wants to change the Nuclear Waste Policy Act, that bill would not go to the Senate Armed Services Committee. It would be a policy that was debated by the Energy and Natural Resources Committee and by the EPW Committee. It is not the Armed Services Committee's jurisdiction to change the Nuclear Waste Policy Act. This underlying bill basically will put in place language contradictory to the Nuclear Waste Policy Act.

What are newspapers around America saying about this? Basically, the Idaho Falls Post Register says, ''if the courts are uncooperative, try blackmail. That is what DOE is doing by holding $350 million in cleanup funds, including $95 million for Idaho's national engineering and environmental laboratory.

They go on to say, ''if blackmail fails, start cutting deals in secret with Congress. DOE found an ally and behind closed doors in the Senate Armed Services Committee won a provision in the Defense authorization bill that would allow DOE to reclassify the high-level Savannah River waste.''

I think they said it best when they said the view from Boise is more accurate, and that Kempthorne, the Governor, believes the measure ''would wreck Idaho's position in the court by setting a precedent in short order, it would undermine the State's landmark decision.''

It goes on to say: ''Why would you reward DOE for its heavyhandedness against the State by passing something in the committee with the thinnest of claims to jurisdiction? If the Nuclear Waste Policy Act needs revision, do so in the open. Hold hearings. Conduct them in germane committees. What is going on here is not science, it is bare-knuckle politics.'' That is from the Idaho paper.

The Seattle Post-Intelligencer said a similar thing: ''The Senate should halt the nuclear waste plan.'' Why? Because the bill gives the DOE the reclassification authority and withholds funds, and that this is a scheme to reclassify, hoping the States will cave in. It is not a good idea.

What did the Idaho Statesman say? Well, basically in a headline that said ''State Cleanup Faces An All or All Proposition,'' it said: ''We expect the Feds to clean up and move out all the highly radioactive liquid waste now stored in Idaho. No haggling, no shortcuts. Our political leaders need to hold firm even when politicians in other States are willing to cut deals.''

What did the Spokesman Review in my State say? I thought the Spokesman Review had an interesting take. They said: ''For example, let us say the next step would be to persuade the affected parties and the public there is scientific consensus on this matter. Without that, there will be no hope of political consensus. The U.S. Department of Energy believes leaving some waste behind is a good idea but is trying to slip this in as a seismic policy shift in the Defense authorization bill without comment or without congressional debate.''

I think these newspapers have it right. In fact, another newspaper in my State, the Tacoma News Tribune, said: ''It was bad enough that the U.S. Department of Energy was trying to carry out illegal, quick, and dirty disposal of the Nation's most dangerous radioactive waste. Now a Senate committee is helping the Department circumvent the law.''

I think these newspapers are on to it. The Buffalo News, in their editorial, called it ''A Dangerous Game.''

The Federal Department of Energy is trying to use administrative sleight of hand to avoid its responsibilities in the cleanup of nuclear waste at West Valley and several other sites. DOD is trying to downgrade the threat of nuclear waste altered in this bill. The department argues that the waste should be classified as high level based only on how it originated, not on what they are. But what they are still is bad. It's still radioactive and it's still a Federal responsibility.

That is from the Buffalo News.

Mr. President, I ask unanimous consent to have all those editorials printed in the RECORD.

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

[From the Buffalo News, May 10, 2004]

DANGEROUS GAMES—FEDERAL EFFORT TO BURY NUCLEAR WASTES AT WEST VALLEY IS UNCONSCIONABLE

The federal Department of Energy is trying to use administrative sleight of hand to avoid its responsibility in the cleanup of nuclear waste sites at West Valley and several other states.

This contemptible effort involves downgrading the threat of nuclear waste, thereby allowing the government to bury that dangerous material at West Valley and other sites instead of shipping it to a permanent repository as called for in a 1982 law.

Fortunately, New York Sens. Charles E. Schumer and Hillary Rodham Clinton recognized this downgrading for what it was, a threat to West Valley and surrounding areas from the possibility of future leakage of this radioactive material. After they protested the legislation, Sen. Lindsey Graham, a Republican from south Carolina who introduced the bill that would have allowed the DOE to downgrade the threat of nuclear wastes, altered his bill. It now will apply only to the waste remediation project at Savannah River, S.C.

But that doesn't remove the danger. The House, essentially led by Republican Majority Leader Tom DeLay, still has to consider the DOE legislation. That cannot be a comforting thought to residents living near West Valley.

The department argues that the wastes should be classified as ''high-level'' based only on how they originated, not what they are. But what they are is still bad, still radioactive and still a federal responsibility.

Decades of expensive cleanup progress have improved safety at West Valley, but the work is far from over. The radioactive liquid wastes from a nuclear fuels reprocessing effort have been solidified into safe glass logs, which were supposed to be stored elsewhere. But the anticipated long-term storage facility at Yucca Flats is years from completion.

Tanks and residual wastes still remain at West Valley, and an underground plume of water is contaminated with radioactive strontium. Covering wastes with concrete won't help that.

The 600,000 gallons of West Valley wastes have their counterpart in nuclear weapons production wastes at other sites—53 million gallons at Hanford on the Washington-Oregon border, 34 million gallons at Savannah River near Aiken, S.C., and 900,000 gallons at the Idaho National Engineering and Environmental Laboratory.

West Valley is the only site where the state shares the cost of cleanup.

Those costs may run into the tens of billions of dollars over decades, but the mess remains a federal issue. At West Valley, the risk includes not only the site's land but water drainage that flows into Buttermilk Creek, Cattaraugus Creek and Lake Erie. Trace amounts of that radioactivity have been tracked as far as Buffalo.

The DOE also is threatening to withhold $350 million in cleanup money from military-related cleanup efforts unless it gets a change in the definition of what constitutes high-level waste. That bit of weaseling does the department no credit. These sites were created by the federal government, and the federal government should not be allowed to walk away from them.

Acceptable cleanup at West Valley involves removal of all wastes and dismantling and removal of the contaminated structures that were used to process and store them. The government cannot be allowed to escape that responsibility through administrative trickery.

If the federal government truly could end a problem by renaming it, we'd already be at ''mission accomplished'' in Iraq.

[From the Idaho Falls Post Register, May 19, 2004]

CHOOSING THE WRONG SIDE

Why would Idaho's two U.S. senators support the Department of Energy against their own state?

You'll have to ask them.

A big vote is coming up—possibly today or tomorrow—in the Senate.

Idaho has a lot at stake.

The outcome is expected to be close.

Idaho Gov. Dirk Kempthorne is on the right side.

Sens. Larry Craig and Mike Crapo intend to be on the wrong side.

At issue is nearly 1 million gallons of high-level radioactive wastes stored in Idaho. The Hanford nuclear site in Washington has 53 million gallons. Savannah River in South Carolina had 37 million gallons.

Federal law says that waste may be collected and stored in a national repository. DOE wants to reclassify it, leave some material behind and save a few bucks.

But it can't get a judge to go along. Last year, U.S. District Judge Lynn Winmill ruled DOE couldn't do that on its own. DOE appealed.

If the courts are uncooperative, try blackmail. DOE is withholding $350 million in cleanup funds—including about $95 million for the Idaho National Engineering and Environmental Laboratory.

And if blackmail fails, start cutting deals—in secret—with Congress. DOE found an ally in freshman Sen. Lindsey Graham, R–S.C. Behind closed doors in the Senate Armed Services Committee last week, Graham won a provision in the Defense authorization Bill that would allow DOE to reclassify high-level wastes at Savannah River. Another provision allows DOE to continue holding cleanup funds hostage in Washington and Idaho until the accede to DOE's demands.

Fortunately, the House version contains none of this mischief. So even if the Senate goes along, there's still hope a conference committee will reject it.

Craig and Crapo say they're willing to defer to Graham on something they believe affects only his state—as long as the cleanup funds are kicked loose. They also believe Graham will be appreciative down the road when Idaho needs his help.

The view from Boise is the more accurate one, however. Kempthorne believes the Graham measure could wreck Idaho's position in the courts by setting a precedent. In short order, it would undermine the state's landmark 1995 settlement with DOE, which requires the agency to clean up the INEEL and ship wastes out of the state.

That's not to say Idaho isn't willing to negotiate. But no governor can surrender unilaterally to DOE demands without unraveling the 8-year-old truce that ended the statewide battle over the INEEL, its future and the waste issue that has raged for more than a decade.

Politically, two states are weaker than three. If South Carolina cuts a private deal on waste, Washington and Idaho are left to fight on their own.

And why would you reward DOE for its heavy-handedness against the states by passing something in a committee with the thinnest of claims to jurisdiction? If the Nuclear Waste Policy Act needs revision, do so in the open. Hold hearings and conduct them in the germane committees—Energy or Environment and Public Works.

What's going on there isn't science. It's bare-knuckle politics.

So as early as today, Sen. Maria Cantwell, D–Wash., will offer a motion to strip Graham's language from the defense bill. She has the support of Graham's colleague, Sen. Ernest Hollings, D–S.C. But it's going to be close, and the Idaho delegation could make the difference.

Does Graham may have more to offer Craig and Crapo than Idaho voters?

Maybe. Craig is in the second year of a six-year term. Crapo just got re-elected to a second term. Although the election isn't until November, Idaho Democrats have forfeited the race.

Just the same, both Idaho senators ought to reconsider.

[From the Seattle Post-Intelligencer, May 18, 2004]

SENATE SHOULD HALT NUCLEAR WASTE PLAN

Senators should halt the Bush administration's Department of Energy's attempts to boss everyone around on nuclear waste policy and end run the federal courts. The administration's bullying tactics should be met with a firm refusal to submit.

The DOE has a responsibility to clean up the heavily contaminated radioactive waste in tanks at Hanford and several other sites around the country. A federal judge already has overruled the department's attempts to reclassify the waste in order to save money and leave it at the sites.

Legitimately, Energy has filed an appeal. But is has shown horrid judgment with attempts to dictate changes in federal law to evade its responsibility, blackmail states into accepting the waste and free itself of state controls.

Sen. Lindsey Graham, R–S.C., has put language into a defense authorization bill to give the department much of what it wants. The bill would authorize reclassification of the waste in his state and let DOE withhold $350 million in cleanup money for Hanford and other sites until their states cave in to reclassification schemes.

Sen. Maria Cantwell, D-Wash., is leading a fight against the plan. Tank waste at Hanford threatens to pollute the Columbia River. Environmental groups rightly complain about rewriting the waste law in a defense bill without public hearings.

The Senate should strip Graham's amendment from the bill. The Energy Department needs to clean up nuclear waste fully, not evade public accountability.

[From the Idaho Statesman, May 11, 2004]

STATE CLEANUP FACES ALL-OR-ALL PROPOSITION

Idaho's political leaders need to hold the Department of Energy to a simple standard.

We expect the feds to clean up and move out all the highly radioactive liquid waste now stored in Idaho. No haggling and no shortcuts. Our political leaders need to hold firm even when politicians in other states are willing to cut deals.

About 900,000 gallons of high-level radioactive waste sit in underground tanks in the Eastern Idaho desert, above an aquifer that provides water for many Idaho farms and communities.

After decades of nuclear defense work in states like Idaho, it's time for the Energy Department to fully clean up the sites that helped produce the implements of the Cold War.

Unfortunately, the Energy Department has been more interested in cutting corners than in cleaning up. The agency wants to clean up most of the waste but leave a fraction of it in the tanks, sealed with grout.

The Energy Department has been trying to foist off less-than-clean cleanup as adequate and cost-effective. B. Lynn Winmill, an Idaho federal judge, ruled last year that the DOE plan violated federal law. Since then, the Energy Department has pushed the idea in Congress, and it may have a taker. With the help of Sen. Lindsey Graham, R–S.C., the Energy Department now has language in a defense bill limiting its cleanup obligations in South Carolina, where 34 million gallons of waste are stored at its Savannah River Plant.

The language covers only South Carolina, not Idaho. Still, it could set an alarming precedent, and could put pressure on Idaho's political leaders to cave to the federal government.

In Idaho, cleanup should be non-negotiable. Idaho has the law and Winmill on its side and has in hand a binding agreement with the feds mandating the tank cleanup. Then-Gov. Phil Batt reached a comprehensive waste cleanup deal in 1995, and Idaho voters ratified it a year later.

The deal gives Idaho leverage—but only if state officials and the Idaho delegation hold the feds to every word of it. Especially the word ''all.''

[From the Tacoma News Tribune, May 10, 2004]

FIX ENERGY DEPARTMENT, NOT THE LAW IT'S BREAKING

It was bad enough that the U.S. Department of Energy was trying to carry out an illegal quick-and-dirty ''disposal'' of some of the nation's most dangerous radioactive waste. Now a U.S. Senate committee is helping the department circumvent the law.

The law in question is the Nuclear Waste Policy Act, which Congress passed in 1982. Among other things, this act requires the federal government to safely dispose of high-level nuclear waste in a deep underground repository. The law quite explicitly specifies that the radioactive byproducts of plutonium creation—a category of waste all-too-abundant at the Hanford Nuclear Reservation—must be buried in such a repository.

Despite what the law says, the Energy Department has other plans. Hanford's high-

level wastes are presently being stored on site in steel-walled tanks, many of which have leaked dangerous radioisotopes into the surrounding soils. The department does intent to encase most of the wastes in these tanks in glass cylinders, which will be buried. But it also wants to leave significant quantities on site. Naturally, the idea is to save money.

The Nuclear Waste Policy Act, however, doesn't say, ''Bury what's convenient, and don't spend too much trying to get the rest.'' It says, ''Bury it, bury it all, and bury it deep.'' A federal judge in Boise last year called the Energy Department on its scheme, ruling that the leave-it-in-place plan would violate the law.

Laws, however, can be altered. That is what Sen. Linsey Graham (R-S.C.) is now trying to do, so far with success. At this behest, the Senate Armed Services Committee last week amended a defense bill with a measure that partially exempts the Energy Department from the requirement that all high-level waste be sent to a repository.

The amendment applies only to South Carolina wastes, but it's a scary precedent for this state. The Energy Department has already made clear its desire for an incomplete cleanup at Hanford, the nuclear contamination capital of America.

If Congress attempts to relax the disposal standards in Washington as well, the state had better be given consultation rights and veto power over whatever plan the Energy Department comes up with. The department simply cannot be trusted to act in the interest of Washington and its environment.

As for Graham, his constituents in South Carolina ought to be giving him an earful about the prospect of living in perpetuity with the world's most lethal garbage.

[From the Spokesman-Review.com, May 9, 2004]

DEBATE NEEDED ON NUCLEAR WASTE

For the sake of argument, let's say leaving some lethal waste buried at nuclear weapons sites is a good idea, because the cost benefits outweigh the risks.

The next step would be to persuade affected parties and the public there is a scientific consensus on the matter. Without that, there would be no hope of a political consensus. The U.S. Department of Energy believes that leaving some waste behind is a good idea, but it is trying to slip this seismic policy shift into a defense authorization bill, without public comment or congressional debate.

Last year, DOE tried to get House-Senate conferees on an already passed energy bill to accept this change. But that bill has bogged down. Now it has found an opening in a bill that otherwise has nothing to do with energy matters. U.S. Sen. Lindsay Graham, R-S.C., is pushing the change, but according to a Seattle Post-Intelligencer article, a deputy assistant energy secretary is listed as ''author'' in supporting documents.

In effects, Graham's measure would exempt DOE from the 1982 Nuclear Waste Policy Act, allowing the agency to solely determine when a site has been ''cleaned.'' This is just the latest DOE maneuver to shut states out of the decision-making process, which is in direct conflict with the 1989 Tri-Party Agreement.

DOE has been trying to reclassify some ''high-level'' waste as ''low level'' for two years, but the states, Congress and the courts have said no. A federal judge's ruling sent DOE back to Congress to get the law changed. Such a change would have enormous implications for sites such as the Hanford Nuclear Reservation and the Idaho National Engineering and Environmental Laboratory, both of which are near major rivers. DOE previously announced a plan that would redefine as ''low level'' 53 million gallons of waste at Hanford and 900,000 gallons at INEEL.

Idaho and Washington are against reclassifying the waste. Said Sen. Maria Cantwell of Washington: ''Trying to rename high-level nuclear waste doesn't change the fact that it is still dangerous, toxic, radioactive sludge that needs to be cleaned up.''

Critics say another danger in allowing such waste to be reclassified and permanently buried where it sits is that it paves the way for the importation of any other waste DOE deems to be ''low level.'' Hanford could be a dumping ground for another state's waste. The National Academy of Sciences has concluded that the best approach is to bury nuclear waste deep underground. Since that conclusion, Yucca Mountain in Nevada has been chosen as the national repository.

Without a scientific or political consensus, it is unconscionable for DOE to seek such a major change on such an important matter, especially in the absence of an open debate. The agency needs to stop the repeated end-runs and make a good-faith effort to involve all affected parties if it sees the need for change.

Ms. CANTWELL. Mr. President, let's go back for a second to what this issue is as it relates to the Nuclear Waste Policy Act and what the underlying change in this bill does. That is the question at hand.

My colleagues on the other side of the aisle hope we can get rid of this issue in one afternoon—again, without public debate, without the scrutiny of changing the definition of highly radioactive waste. They think we should just pass what is in the underlying bill. It has only seen the daylight because of the objections of myself and other colleagues and the scrutiny of the press. That is what has gotten them now to offer the amendment on the floor. The amendment on the floor is not sufficient to strike the language relating to the reclassification of waste.

So what is the issue? In 1982, when we passed the Nuclear Waste Policy Act—I wasn't here but other Members were—basically we came up with a definition. We said:

> Highly radioactive material resulting from the processing of spent nuclear fuel, including the liquid waste produced in the reprocessing. . . .

That is what this reactor did for us in World War II. It basically processed spent nuclear fuel and that liquid waste was then stored in tanks still at Hanford.

> That the solid material derived from such waste that contains fission products in sufficient concentrations. . . .

So that is what we said high-level radioactive waste was. We went on to add to the definition:

> Highly radioactive material that the Commission says is consistent with the law requires permanent isolation.

That is what we said in 1982, that the spent fuel from these reactors required permanent isolation. That is what the current law says. The current law says spent fuel requires permanent isolation. That means you have to remove it from the tanks that are there, because the tanks are leaking and you cannot guarantee permanent isolation.

So the tanks have started to be cleaned up and the process for cleaning them up is underway. But now the Department of Energy wants to say, ''let's have a new definition of that.'' In fact, in the underlying DOD bill, in section 3116, it basically says:

> High-level radioactive waste does not include radioactive material resulting from the processing of spent nuclear fuel.

How about that? One change in the DOD bill and billions of gallons of waste in my State is no longer high-level radioactive nuclear waste. Just like that, changing the definition. Yes, it says the Secretary can determine whether various hurdles have been scaled, but that is contradictory to the current law in the 1982 act.

I remind my colleagues this is an act that was passed through this body after hearings, after discussion. I think the process may have taken more than a year. It took more than a year to define high-level radioactive waste. Yet now we want to pass the DOD authorizing bill with this change in it and basically say, ''let's go ahead and reclassify nuclear waste.''

I am not for reclassifying nuclear waste without a debate and a discussion and, frankly, the notion that this underlying bill would reclassify it in such an inappropriate fashion, to say you could somehow call this grouting and that this would be a sufficient way to deal with the country's nuclear waste, is incredible. It is incredible that this is the scam being used on the American public just to get this process in place.

Let's go through some of the history, because as I said, I think this is really sour grapes by the Department of Energy, which has tried to get this policy pushed through and has not been successful. In fact, in 2001, basically, the Department said that they would recreate a better cleanup process. But, they said, we obviously have to get States to agree.

They came to us in Washington State and we said: We have an agreement with you about the level of waste that is going to be cleaned up under the requirements of the Nuclear Waste Policy Act, so we don't really know what you mean by reclassification. At that time they refused to say that they meant they would clean up 99 percent, or all that was technically possible, of this waste.

So we in Washington State said: Listen, it doesn't sound like you have a serious plan for reclassifying waste when you just want to call it a different name. That is not an appropriate process. In fact, Washington State decided not to do that.

Wisely enough, the Idaho court basically said DOE didn't have that ability, they didn't have the ability to reclassify that waste. That is exactly why they are trying to sneak this language in today, because they would like to

continue to say that they can move ahead on a plan that, sure, would save money, but who wants to save money by leaving nuclear waste in the ground, where it is leaking into the Columbia River or the Savannah River, or other areas of the country?

If somebody thinks this is an issue that affects the State of Washington, or affects just Idaho, or affects South Carolina—it doesn't. These are bodies of water, with the potential of nuclear waste in them, that flow through many parts of our country. To pass legislation without debate on changing the Nuclear Waste Policy Act is an incredible statement, that people are willing to override 30 years of law just to do that.

There are other issues I think we need to talk about. I am very pleased the Governor of Idaho, Governor Kempthorne, issued a release saying:

> Federal legislation undermines the cleanup that was to take place in Idaho, at the Idaho facility.

In fact, Governor Kempthorne has said his opposition to the legislation that was passed by the Senate Armed Services Committee is because it allows the Secretary of Energy to withhold an estimated $95 million from cleanup funds, which is part of the debate we are going to have on the underlying amendment. But then he goes on to say:

> I recognize the need to ensure public confidence in how we manage nuclear waste. This legislation would be a huge step backwards, reinforcing public fears about our Nation walking away from nuclear cleanup obligations. I am also concerned this legislation will negatively impact DOE's compliance with the 1995 court settlement case in Idaho.

I think Governor Kempthorne, who has to deal with this, just as Governor Locke does in the State of Washington, has realized what a bad deal this is for Idaho. He realizes the underlying language, when it tries to reclassify waste, is a danger.

I find it interesting that we will forget the Nuclear Waste Policy Act, no problem. We will write our own rule about what hazardous waste is. We will come up with our own definition.

The states of Washington, Idaho, Oregon, South Carolina, New Mexico, and New York filed into the court case and in their amicus brief said:

> DOE cannot ignore Congress' intent . . . by simply calling [high level] waste by a different name.

South Carolina joined that case. South Carolina went to the courts, put its name on a brief, objecting to the DOE attempt to reclassify high-level nuclear waste by issuing an order.

Why all of a sudden are we now going to listen to one State tell us they have the right to decide they are going to keep nuclear waste in their State and they are going to call it something else? Nuclear waste that reaches the Savannah River does not affect just South Carolina, and a definition in statute that conflicts with the Nuclear Waste Policy Act does not just affect South Carolina; it affects everyone. That is not the way to legislate, by sneaking it in without having full public debate about this issue and the obligations we have for nuclear waste cleanup.

What has the Atomic Energy Commission said? Basically, it said in 1970 that over the life of these tanks, basically you have a problem. Basically, what you are saying when you assume that you will take those Hanford tanks or Savannah River tanks or Idaho tanks or West Valley tanks, and you are going to leave material in them and somehow put cement over the top of them and everything will be okay—that is counter to all the science we have had for 50 years.

The Atomic Energy Commission said ''over periods of centuries,''—guess what, that is what happens when you leave it in the tanks for a long period of time; you are talking about centuries—''one cannot assure the continuity of surveillance and care which tank storage requires.''

(Mr. CRAPO assumed the Chair.)

Ms. CANTWELL. They are saying if you put in high-level waste, we cannot tell what will happen to that over a long period of time. That is why the decision was made to take it out and put it in a permanent storage facility somewhere else, because these tanks do not have the capacity.

The science says that once you do the grouting of this waste, unfortunately, your opportunity to do other things is much more difficult. Once you have poured cement on the ground and solidified it, the process of getting it out and retrieving it is made immensely more difficult. In fact, the Institute for Energy and Environmental Research in 2004 said:

> Grouting residual high-level waste in tanks that contain significant quantities of long lived radionuclides . . . Is a policy that poses considerable risk to the long-term health of the water resources in the region.

This statement is from 2004. In 2004, people have said this grouting technique, which basically is storing this in the leaking position in underground tanks, is a threat to the water resources of the region. These tanks are not more than 7 miles from the Columbia River, not 7 miles from one of the major water resources of the Pacific Northwest. It already has a plume of nuclear waste that has reached the river. Fortunately, it is at a level that we can contain today but only if we continue to clean up the tanks.

This proposal to pour cement and sand on top of it and just keep the waste in the ground has not been proven as a secure way to keep the waste intact and water resources clean. So what you are leaving us with in the Pacific Northwest—in Washington, in Oregon, in the tributaries feeding in and out of the Columbia River and into the Pacific Ocean—is the threat of 50 million gallons of nuclear waste not being cleaned up in a sufficient fashion and that waste ending up in the Columbia River. Or in the South Carolina, Savannah River. Governor Kempthorne said it right: this is a huge step backward because it reinforces the public fears about this process.

This Senator wants to have the nuclear waste cleaned up in our State. Some people may not understand the process, or some people listening to this debate may even think this is somehow about four or five States in this country. It is not about four or five States in this country and just about whether we will change the definition of high-level radioactive waste and what we will do about the definition.

That is what I am concerned about today in the underlying bill. This Nation has a responsibility—as it had a responsibility in development of the reactors, the development of the plutonium, and the development of that product—this Nation has a responsibility for the cleanup of those facilities. Oftentimes my colleagues forget about that responsibility until it comes time to do the budget and people see the huge amount of money that is spent on nuclear waste cleanup.

I would be the first Senator to say we have made mistakes in this process. It is mind-boggling to think prior to my coming here that at one point in time somebody gave contracts to a company to produce vitrified logs, and they were not going to pay them until they made the vitrification work. Somewhere along the way people figured that would not work, that the vitrification process was not underway and operating. But now we have been successful and vitrification is starting to take place. That means we are taking the nuclear waste out of the ground and solidifying it into a glass log substance and that glass log substance will then go to permanent storage. So it will be in a facility that can help store that product for an indefinite period of time. That has been the plan. That is the plan on the books. That is the plan of record.

But that is not what the DOE authorizing bill does. It says, ''no, let's reclassify that waste and say that it is not high level. Let's just call it another name, let's call it grout and say it is okay to keep in the ground, let it contaminate water, and let's keep the savings from that unbelievable shortcutting of our responsibilities in the cleanup process.'' I don't think that is something we want to do as a body and government.

I would like to talk about how this legal process worked and why DOE is attempting to do this. What my colleagues seem to want to think today is that this is all about giving the State of South Carolina the ability to negotiate with DOE what nuclear waste cleanup should be. In fact, as I said, in the underlying bill, instead of saying that high-level waste is something that needs to be retrieved, basically that spent fuel from reactors is something

that needs to be retrieved from tanks and put in permanent storage, basically the DOE underlying bill says, no, high-level radioactive waste resulting from fuel process can be reconsidered and considered for a different kind of storage permanently in the tank. And that is something South Carolina and DOE can do together.

That is not what the cleanup partnership really is. The cleanup partnership is not about the State of South Carolina and the Federal Department of Energy interpreting the Nuclear Waste Policy Act in a new way by passing contradictory language.

Let's imagine for a second that we let the State of Michigan determine what the clean air standards are for the State of Michigan. Let's say that EPA and the State of Michigan decided, well, the clean air standards for Michigan are going to be at X level, and that somehow that is OK for Michigan, but somehow we do not think that is going to apply to the rest of the country.

Does anyone think that once it applies to Michigan, some other State is not going to say: How come you gave Michigan an exemption? They continue to pollute the air at a level that the rest of the country does not, which has a higher standard. We are talking about a recipe for disaster in the courts and for predictability in the process. I think it is very detrimental, where we are going with this legislation.

The court process that took place is now on appeal to the Ninth Circuit Court. We are still waiting for a decision. I think the appropriate thing for the Department of Energy to do, while they are waiting for their decision on appeal, is to say they want to come to Congress and have hearings on changing radioactive waste definitions, that they want to come and have a discussion about that.

I appreciate the fact the Senator from Michigan, Mr. LEVIN, as this issue was discussed in the Armed Services Committee, understood the dangerous precedence of this language, and understood how important it was to get the DOD bill done. He basically asked that they not include that language in the bill.

Now, it was a closed-door session. I do not know what the real vote was. I am sure it was a closely, hotly debated issue. But, really, what they put in was section 3116, which would overturn 30 years of carefully crafted laws and 50 years of scientific consensus related to the cleanup of the Nation's radioactive defense waste.

As written, this provision—because it allows DOE to reclassify waste that, as I said, for decades has been classified as high-level waste—basically says the radioactive and chemical toxic components would stay the same. So basically the same toxic level of waste is there, but we are just going to call it another name. I appreciate the fact that the Senator from Michigan tried to change this language and prevent it from being in the bill. Unfortunately, it is in the underlying bill before us.

The underlying bill before us also created a slush fund of $350 million. I find it intriguing. I love knowing a little bit about software because when you share documents and you basically try to make changes to documents, and you e-mail those around to everybody, you can look at the text and see where the changes came from. It is very interesting, this legislation was proposed by a member of the Senate Armed Services Committee. But when you check on who was really the author of the legislation, when you look at who was making the changes to the legislation, it was the Department of Energy.

The Department of Energy wrote the statute and basically submitted it to the committee, and tried to make it look like it was a Member's idea. This is coming straight from the Department of Energy, that lost a court battle, and does not want to wait for an appeal, does not want to come here and fight their battle in the daylight, but wants to try to sneak language in a bill, in the hopes these people will blink on a Thursday afternoon. Well, I am not prepared to have this bill move forward without having this discussion today about this change.

Now, what was DOE's great idea that they submitted through a member of the Senate Armed Services Committee? What was their wonderful idea? Well, besides reclassifying waste, they decided, ''well, let's create a $350 million slush fund that gives the Secretary of Energy the authority to withdraw cleanup funds from the States of South Carolina, Washington, and Idaho—until they agree with our reclassification plan.'' Basically, it was to hold them hostage and blackmail them into agreeing.

As I said, when the State of Washington was offered this deal 2 years ago, we said: ''We are not taking any deal unless we understand what you are cleaning up and how you are cleaning it up. The fact that you think you are going to reclassify and rename this is not good enough for us. Let's see the details.'' When they refused to show us that they planned on cutting cleaning up all this waste, we refused to accept the deal. Now they are hoping they will buy off some other State.

If the Department of Energy really believes science is on their side, if it really believes this grouting technique works, if it really believes this is the process we ought to pursue, then come before the Energy and Natural Resources Committee, come before the EPW Committee, and debate a change to the Nuclear Waste Policy Act, the policy that defines highly radioactive waste and how it should be cleaned up.

I think it is a tragedy, especially when you think about the good job the people did at Hanford, the process by which these people speedily got to the business of helping us in World War II, in the cold war years, and providing us with help and support. They got the job done. They did their job. Now it is our turn to do our job and clean this up.

When you are talking about 100 million gallons of highly radioactive waste that is stored in 253 deteriorating tanks in all of these States—as I said, at Hanford we have 53 million gallons of this tank waste, about 60 percent of the whole national inventory. So 60 percent is in Washington State, along with other high level waste stored in the Hanford 200–Area. That includes spent fuel and miscellaneous volumes that contain high-level waste from offsite which are also buried in the ground.

I am all for considering new technology and new ways to clean up waste and to retrieve waste that is buried in the ground that is considered high-level waste, which may have come from other States or have been basically brought to the Hanford Reservation. Some has been dumped on the Hanford Reservation and then has been part of the storage there for some time, but that is a different issue.

The Nuclear Waste Policy Act makes it very clear that spent nuclear fuel from reactors needs to be placed in a permanent isolated area. That does not mean pouring cement in tanks and calling it incidental. It is very clear about that. So we can talk about other technologies to clean up other kinds of waste, or we can come back and debate changing the Nuclear Waste Policy Act. But because 67 of the 177 tanks that we have in Washington State have already leaked 1 million gallons of waste into the ground, that is 1 million gallons of nuclear waste, this Senator does not take this issue lightly.

DOE estimates that at Hanford, 270 billion gallons of ground water is contaminated above the drinking water standards across 80 miles of this site, and that plumes containing numerous toxins have reached the Columbia River.

I think we have another picture of the Hanford site. I encourage all my colleagues, at some point in time, to go to the Hanford site. This site is in Washington State, but this is a Federal responsibility. It is a Federal responsibility to clean up nuclear waste. It is not just the province or jurisdiction of four or five States in the country. We spend budget money on this issue, and we need to get the job done.

You can see one scene of the Hanford reservation, which is almost as big as—a third of the size—the State of Rhode Island. It is an immense property. I know the senior Senator from Washington State has joined me, and she can tell you—because she was instrumental in getting the Hanford Reach Monument created, preserving some of this as a national monument for us. On the one hand we are preserving it as a national monument and then deciding one day we are going to take high-level radioactive waste, rename it, let the plume that is already reaching the Columbia River to stay in the ground, and that somehow by putting cement

and sand on it, we are all going to be OK.

Everybody wants to say how much cheaper that proposal is. I think everybody in America gets how cheap it would be to pour concrete and sand. What they want to know is whether it is safe, whether it is the right technology, whether it is going to stop the plumes or leaking tanks, whether you are going to change the current law first to get there.

This is a beautiful, pristine area of our country that we can preserve, but only if we do the job we are responsible to do, as the people who created the B reactor and created this facility were responsible in doing.

To be irresponsible today by offering this on the DOD authorizing bill and thinking we are going to have a debate about it in a few short hours and change 30 years of law and 50 years of science is shameful. It is shameful that we think we can have this kind of discussion in a few hours and wrap up a decision. If people are so sure about their position, then hold the public hearings and have the debate. Because these tanks are leaking and one million gallons have already leaked in my State. It is not something that is a tomorrow issue.

What about the science? Let's go back, so my colleagues are clear about how we got here. Congress required DOE to clean up these sites and make it a priority, and they did that in that 1982 act. That act reflected science dating back to 1950, when the National Academy of Sciences recognized that high-level radioactive waste, such as the waste at Hanford, must remain isolated from human beings and the environment long enough for the radioactivity to decay. That is a long process.

That is why the Atomic Energy Commission, a precursor to the Department of Energy, also recognized something must be done to treat high-level radioactive waste in the tanks and at these DOE sites, and they referred to ''over a period of centuries.'' As I said earlier, this isn't a problem where you think about it for a few years or even a decade. You have to come up with a solution for centuries.

Over a period of centuries, the Atomic Energy Commission wrote in 1970, ''one cannot assure the continuity of surveillance of care with storage tanks.'' Basically they said, you can't get it done with storage tanks. So the science has not changed since then.

Yet there are provisions in this bill where DOE says, let's throw out the science. And the provision in this bill would allow DOE to take 50 years of science and leave an indeterminate amount of toxic sludge in these leaky tanks and simply say: Mission accomplished. I think we have heard that statement before.

What science says is that grouting residual high-level waste in tanks that contain significant quantities of long-lived radionuclides is a policy that possesses considerable risk to the long-term health of the water resources of the region. That is what science says.

The grouting proposal that is in this bill is a considerable risk. In the State of Washington, we are very familiar with this. In Washington State, thank God our Department of Ecology has had strong reservations about grouting and we have vocalized those. For us, because it is 50 million gallons of this highly radioactive waste, it would have to have been a plan for durability for 10,000 years. That is what you would have to have. That is how radioactive the waste is.

What is bothersome is when people say an indeterminate amount, that is what DOE can decide. An indeterminate amount? The last 8 percent of the waste in the tanks has 50 percent of the radioactivity. Think about that. So we are saying in this underlying bill, go ahead, DOE. Leave an indeterminate amount in the tanks. Maybe they will say let's leave 10 percent. Maybe they will say, let's leave 5 percent. We know at 8 percent it is 50 percent of the radioactivity.

We think the grouting plan is something that is not the way to go. We set it aside in Washington State. We said that basically glassifying or vitrifying the waste was the way to go. That means that process of turning it into a glass structure so it is a solid structure and taking it to permanent storage was a better way to go.

As I said, in 2002, DOE wanted to use this accelerated initiative. We in Washington State had people come and talk to us about what accelerated cleanup was and what the schedule would be on high-level waste. And we said: We want to understand how you are going to comply with the agreements that are already on the table and with the Nuclear Waste Policy Act, with the triparty agreement, because this isn't the first time the Department of Energy has had debates with the State about their responsibilities for cleanup.

I can't imagine that there is an OMB director or a DOE executive who does not come to that post and look at the numbers involved in cleanup and basically says: Boy, there has to be a way we can get this done quicker and cheaper. I am all about getting it done quicker, given that I have a million gallons already leaking and running into the Columbia River. I am all about quicker. But I am not about a plan that has not been verified by science, that has not had a hearing in a full committee as to this process and what it will mean.

Everybody gets the quick factor, but who said cleaning up nuclear waste in America should be about doing it on the cheap? It is about doing it the right way. As the Atomic Energy Commission said, it is about keeping it out of the reach of humans for centuries.

Subsequently DOE has insisted upon researching new technologies for the treatment of Hanford tanks, this new form of grout, cast stone, steam reforming, and different forms of vitrification. In all, I think there were three cases. DOE said they would still retrieve waste from the tanks, but try to treat it and bury it in steel containers and lined trenches in the Hanford site.

I can tell you, even the new and improved grout was quickly rejected by the State of Washington and by other scientists.

According to the officials at the Washington State Department of Ecology, grouting would have violated the State requirement that any alternative waste that was not performed at the vitrification objected to. And, in addition, the State found that this grouting would still pose ground water risks and create leaching; furthermore, that this would violate drinking water standards.

Even more interesting is the fact that the grouting was not to be found more efficient. In some instances, grouting wasn't found to be any cheaper than other options of cleaning up the tanks. While everybody says that pouring cement and sand on this is a great way to clean up nuclear waste, most people figured out that leaking would still happen and that nuclear waste would still need to be removed. They figured out that it was even more expensive to remove than waste.

So those are the scenarios with which we are dealing. Those are the scenarios that have been discussed. This debate—whether we want to reclassify nuclear waste and call it low-level waste and say we are going to grout it—might be new to some of my colleagues in the Senate as to. But for the State of Washington, we already said this plan wasn't acceptable science, and that reclassification was something we didn't think we should go along with, when DOE wasn't willing to give us a definition on how they were going to clean up the waste.

So this is very difficult because the tanks holding sludge and salt cake and hard heels—this would mean the waste in those tanks would not be penetrated to remove and segregate the radionuclides. The hazardous material would not be separated out and removed. It means those tanks would not be thoroughly mixed without the right level of product. Basically, what they found is that grout, as engineered, is not an option that protects human health and the environment for such a significant portion of tank waste, when we don't know the definition, because it is an indeterminate amount of tank waste.

As I said, even the last 8 percent of tank waste includes 50 percent of the radioactivity. How do you know, by using this grouting process, that you have successfully rendered this a nonhazardous substance? So grout as an in-tank treatment for significant waste volume will be, as I said, probably more expensive than other routes when we find out that it is not successful.

The best science says is don't hold States hostage by reclassifying waste

and telling them we are not going to give them money for cleanup unless they agree to our definition. This definition is something that the Department of Energy thinks they can come up with on their own. But the courts have determined that DOE doesn't have that authority.

The courts have not sided in DOE's favor. The courts have not said don't go ahead with cleanup. They didn't say you cannot move forward on cleaning up the tanks. The courts said: DOE cannot move forward on its plan of reclassifying waste and saying that it is a grout process and that is going to work. It says you cannot move forward on that.

So back to the underlying bill and what happened in the Defense authorization bill. There was an amendment that would enable the Department of Energy to exempt an intermediate amount of highly radioactive waste from regulation as high-level radioactive waste.

I am reading from legal counsel's interpretation of this underlying provision in the DOD bill. This interpretation says the amendment would allow the Department of Energy to continue to store waste long thought destined for deep geologic repository in existing storage tanks or send them to waste isolation pile-up plants or low-level radioactive waste burial sites. It also would exempt the Department's handling of those wastes from the license and regulation by the Nuclear Regulatory Commission. It will, in short, overturn the fundamental legal principles that have governed the disposal of these wastes for the past 30 years.

This legal briefing goes on to point out—which I think is very important—that for nearly half a century, when the DOE and its predecessors made plutonium for their nuclear weapons, they did so by irradiating uranium fuel, transforming it into plutonium, and reprocessing the spent fuel, as I showed in the picture with the reactor. And that became high-level radioactive waste. This is the term given to the plutonium spent fuel from the reactors was high-level waste.

So what did the Nuclear Waste Policy Act say? In 1981, the Nuclear Waste Policy Act said: Let's establish a comprehensive program for the disposal of this spent nuclear fuel, and put it in deep geologic repositories licensed by the Commission.

So let me be clear about this point, because I am sure we will hear about this in the debate. The Nuclear Regulatory Commission was given the responsibility of the deep geological repository license procedure. The Nuclear Regulatory Commission was not given the responsibility for these low-level tanks. The Nuclear Regulatory Commission was not given the responsibility to interpret this change in the DOD bill as it relates to whether this is a cleanup plan and whether they can license it because that is not their responsibility. Their responsibility, as the Nuclear Regulatory Commission, is on Yucca Mountain and the deep geological solution. That is what their responsibility is.

The act directed the President to decide whether high-level radioactive defense waste should be disposed of in the same repository as civilian waste, or in a separate repository. So in 1985, President Reagan decided this defense waste should be put in the same repository as civilian waste.

The 1982 act defines high-level radioactive waste. We had a decision by the President in 1985 that military waste should be treated as civilian waste, and that the civilian waste should be put in the same spot.

So that is the plan we have been on. Now, I have had some concerns about how much waste you are actually going to take out of Hanford because, I tell you what, I want more than 17 percent of the waste taken from Hanford to go to Yucca Mountain. I want it cleaned up and I want it in a permanent place.

I don't want grouting and I don't want to have plumes continuing to leak. But that was the decision made in 1985, and the President made that decision. They said, let's vitrify this waste, glassify it, take it out of the tanks, turn it into glass logs, and take that to a site for permanent storage, wherever that site is.

The plan, since 1985, has not been to pour cement and sand and create grout leaving some percentage, some indeterminate amount of waste in tanks.

I cannot emphasize how important it is if DOE believes in this philosophy, this science, if DOE thinks this is the successful course of discussion that should happen with spent nuclear fuel, then come to the broad daylight of a Senate hearing and make their case and put that before the appropriate Senate committees. If they are so proud of their science and the standing of their decision, they should have no problem doing that. As Governor Kempthorne of Idaho said, when you don't end up achieving public consensus, you don't do anybody any favors.

The issue is the Department of Energy knows all too well, because these States of Washington, Oregon, Idaho, and South Carolina challenged the Department of Energy in court, that these States do not believe this order or plan for reclassifying waste is sound science. They do not believe it is sound science. That is why they challenged it in court.

I know the Department of Energy knows they cannot waltz into the Senate hearing rooms and make their case without hearing the critiques of the experts who have been dealing with this issue for years and years. And by ''the experts,'' I mean not only the scientists, but the people who have to live with the economic and health consequences of having a million gallons of nuclear waste leak into the ground and make its way to the Columbia River. Those people are paying attention, and they are paying attention to the fact that this science is not standing the test of daylight and scrutiny. If it were, they would be here debating it.

I am saying to them now, this Senator, and I am sure members of other committees, welcomes the opportunity to understand this technology, to understand this new process, to understand exactly how taking some level of spent fuel from these reactors in these underground tanks and somehow pouring a grouting material on them is going to make for a successful cleanup effort.

I am sure my colleagues would love to hear if it actually saves billions of dollars and can be safe and sound science. But if that is the case, then we should not be in a rush today. After the courts have already said DOE does not have the authority to change this policy without the approval of Congress, the Nuclear Waste Policy Act, my colleagues should not be in a hurry to pass this legislation that basically says in a contradictory form: Go ahead, DOE Secretary, reclassify the waste because nuclear waste from spent fuel does not have to be classified as highly radioactive.

The definition of highly radioactive waste that is used in the Nuclear Waste Policy Act was initially modeled after the definition found in the West Valley demonstration project. That is a commercial site in New York. I am again reading from the legal opinion Energy counsel has provided to us.

It basically said waste produced by reprocessing of spent fuel, that it included both liquid waste and that waste directly from reprocessing and dry solid material derived from that solid waste.

In addition, it gave the Nuclear Regulatory Commission the authority to include other waste in the definition of such material. Significantly, West Valley gave the Commission power to add material other than reprocessing waste to the definition, but not to exempt any part of the processing of waste.

We have had this debate, and I know the Department of Energy objected to the definition. I know they wanted the regulatory agencies to be able to exclude material from high-level radioactive waste. I know that is what they wanted. But Congress rewrote the definition, not as the Department asked, but, as enacted, the final definition provides, as I said earlier, high-level radioactive waste means material from reprocessing of spent nuclear fuel, and that other radioactive material that the Commission, consistent with existing law, determines requires permanent isolation.

That is the process by which we, as the legislative branch, have gotten to the point of making decisions about this incredible product that was made by men and women throughout our country in the 1940s. It was a time of great military need, during World War II and the cold war. And they did their job, as the federal government had asked.

Now we are saying we are going to ignore the definitions and the process and not really have a hearing on the Nuclear Waste Policy Act or the fact that the DOE has already been turned down in the courts in its ability to reclassify that waste.

Mr. ALLARD. Mr. President, I wonder if the Senator from Washington will allow me a moment.

Ms. CANTWELL. Does the Senator have a question?

Mr. ALLARD. Pardon?

Ms. CANTWELL. Does the Senator have a question?

Mr. ALLARD. I do not have a question. I wanted to know how much longer the Senator from Washington will take because we have Members in the Chamber who would like to speak. They have schedules and would like to get some feel of when their opportunity may come up to speak.

Ms. CANTWELL. Without yielding the floor.

Mr. ALLARD. Mr. President, I ask the Senator from Washington how much longer she anticipates taking to complete her remarks.

Ms. CANTWELL. Mr. President, I have some more material on the history of the process. I see 2 of my colleagues in the Chamber who are also very concerned about this issue, but I imagine at least another half hour or so longer, maybe more.

Mr. ALLARD. I thank the Senator for that guidance.

Ms. CANTWELL. Does the Senator from Washington have a question?

Mr. ALLARD. I would hope we could go back and forth. I think that is the way the debate has been going. The next Senator I will call on is Senator INHOFE, and then whoever on your side.

Ms. CANTWELL. I obviously want my colleagues to join in the debate on this issue, but the reason this Senator feels so strongly about this process is because I do believe this measure does not belong on the Defense authorization bill. We have a very important piece of legislation that needs to move through the process, and yet we have an entity the courts have turned down, that believes that States have turned them down, that believes this is a controversial issue, and thinks they ought to sneak it in on a DOD bill and that is a way to do legislation. It is not the way to do legislation.

This is the only opportunity we have to expose the fact this legislation has been drafted this way and the unbelievable effect it has on so many people in this country when the Department of Energy can author legislation and give it to a member of the Senate Armed Services Committee who then offers it in a mark-up in private and includes it in the legislation.

I am going to take a little more time to go over these facts because I think the bright light of day needs to shine on the fact the Nuclear Waste Policy Act of 1982 ought to have the attention of the Energy and Natural Resources Committee and ought to have the attention of the Environment and Public Works Committee and not be proposed on the Defense authorization bill without the scrutiny of public debate and foresight that such a huge, significant change in policy would bring about.

This is why I am going to take as much time as necessary to explain this policy and to say to the members of the Senate Armed Services Committee that while any member has the ability to offer any amendment they want, including in an authorizing bill, usually it is the other way around. We have authorizing on appropriations and issues of that nature that have caused——

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

Ms. CANTWELL. The Senator will yield for a question.

Mr. INHOFE. I remind the Senator from Washington, if she is concerned about the action that we had proposed with the Environment and Public Works Committee, I chair that committee and I am waiting to be heard concerning this issue because I also have a lot of interest in it. I appreciate the fact that the Senator is suggesting our jurisdiction should be heard, and that is what I am waiting to do.

Will the Senator agree with that?

Ms. CANTWELL. I thank the Senator for his question. The issue is that the Senate Armed Services Committee should never have voted and considered this legislation in a closed door session without those hearings. So I certainly want the Member to be heard but—I think I have the floor, Mr. President.

Mr. INHOFE. Will the Senator yield the floor for a question?

Ms. CANTWELL. I think I have the floor, Mr. President, and I will yield in a moment for another question.

The issue is that we have been trying to work with the author of this legislation on a compromise that would promote a dialog and a hearing. My staff has been working diligently since the language came out of the Senate Armed Services Committee.

This morning we learned without warning, without notice, that perhaps now they did not want to continue discussion on that, they did not want to continue discussion on how we brought this issue to light.

I really did not want to spend the afternoon on the Senate floor. We had hoped we would actually propose a better process and procedure, but others want to move forward on changing the underlying bill, which in this amendment is still flawed. The proposed amendment by Senator GRAHAM of South Carolina makes a bad situation slightly better but does not correct the underlying problem. And this Senator whose home state has one million gallons of nuclear waste flowing to the Columbia River—is going to be heard on the details of this proposal.

The fact that we have not had a full public hearing on a significant change in 30 years of policy and 50 years of science is something that, if it takes me 5 hours to explain, I will take it. I will take the 5 hours to explain to my colleague the significance of these changes.

Mr. WARNER. Mr. President, will the distinguished Senator yield for a question?

Ms. CANTWELL. I will yield to the Senator for a question.

Mr. WARNER. I thank the Senator. May I most respectfully explain that under the Senate rules of allocation of committee responsibilities, this issue of the nuclear waste is directly within the purview of the Senate Armed Services Committee. We control, through oversight, 70 percent of the budget of the Department of Energy. The cost of nuclear waste cleanup comes before our committee. So I want to say to my distinguished colleague, while she may have concerns about the legislative process as a whole, there is no doubt about the jurisdiction of the Armed Services Committee over this subject.

We have put in our bill, which is now at the desk and the subject of debate, the specific provisions the Senator is addressing. Jurisdictionally we had the perfect right to incorporate in our bill such legislative language we deemed as a committee necessary for dealing with this question of this specific type of nuclear waste. I was not certain that the distinguished Senator was aware that clearly this is in the jurisdiction of this committee.

Ms. CANTWELL. I thank the Senator for his question, but under rule XXV, the Armed Services Committee has jurisdiction over national security aspects of nuclear energy, the Energy and Natural Resources Committee has jurisdiction over nonmilitary development of nuclear energy, and the EPW Committee has jurisdiction over the nonmilitary environmental regulation and control of nuclear energy.

Undoubtedly SASC has jurisdiction over the reprocessing that created the tanks to begin with because DOE was responsible for the national security, but I do not see how anyone could seriously argue how the waste, disposal, and cleanup of the Nuclear Waste Policy Act is a part of the national security aspect of the Senate Armed Services Committee's jurisdiction.

While I am more than happy that the committee has used this authority to bring this issue up, I think the committee is doing an injustice to say to our colleagues that a change that is in contradiction to the Nuclear Waste Policy Act ought to be passed by the committee without hearing, without debate, without full scrutiny of public daylight. This provision would really contradict 30 years of law on the books when the agency promulgating that rule change lost a court battle basically telling it it does not have the authority to redefine high-level nuclear waste.

I fully respect, because of all the committees that I work with, I know that the chairman of the Armed Services Committee always strives to be fair and balanced at his hearings. And

there are difficult challenges that we have had over many sensitive subjects in the last several weeks. The chairman has gone way out of his way to make sure the continuity of that committee works well and that the rules and processes are followed. But I say to the chairman that if the Department of Energy is so sure about these statutory changes they are promulgating through his committee without debate, then they ought to be willing to have the hearings and have the debates with the other committees that have jurisdiction for the cleanup, not the national security efforts the Senator was responsible for as the chairman of that committee.

Mr. WARNER. Mr. President, if I could reply, without the Senator losing her right to the floor, I will shortly bring the President's budget request for funds. I will bring appropriations acts and I will show the Senator the direct linkage of the request for funds coming to the Armed Services Committee, the Armed Services Committee bill going to the Appropriations Committee, and action by the Appropriations Committee on the authorizations of expenditure of the funds for nuclear waste and cleanup. It is irrefutable, and I will take a little time to go out and get the documentation. Then I will ask unanimous consent to print that documentation in the RECORD.

I thank the Senator.

Ms. CANTWELL. I thank the chairman again for his statement. I point out to him that the difference between authorizing for appropriations and oversight of policy, and what I am debating is that the committee's oversight over nuclear waste cleanup policy as set out in the Nuclear Waste Policy Act. When that was passed in 1982 and moved through the legislative branch and made its way through the debates, it was debated in the Energy and Natural Resources Committee and EPW Committee. As the parliamentarian referred to those committees, I am sure that the SASC, because of its nature of the appropriated funds, has some responsibilities. But I do not think that the SASC is the committee of jurisdiction for changing the Nuclear Waste Policy Act. I do not think that is the primary responsibility of that committee.

So, I don't know. I say to the Senator, the chairman of the Senate Armed Services Committee, I have a great deal of respect for his willingness at all times in the most difficult of situations to try to have consideration of issues be as fair and balanced as possible, and to give Members their opportunity. I am happy to continue to discuss with him the nuances of this particular issue. But I have a feeling that if we had this Nuclear Waste Policy Act before us today and we asked the Parliamentarian—this change that is in your bill, under a separate act, under a separate stand-alone bill—it would not be referred to that committee. It would be referred jointly to those other committees and maybe to SASC in the authorizing of an appropriation, but not for the policy change.

Mr. WARNER. Mr. President, I will reply later today with the documents in hand.

Ms. CANTWELL. Mr. President, I think there are several other people here.

Mr. REID. Will the Senator respond to a question from the Senator?

Ms. CANTWELL. Without losing my right to the floor.

Mr. REID. Yes. I say to my friend from Washington, having spoken with her, it is my understanding the Senator has said publicly that if we came back after the break, the Senator would be willing to look very closely at the amendment pending and would be willing to offer one of her own, that she would agree to a time certain on that amendment. Is that true?

Ms. CANTWELL. I simply want the issue to have the appropriate amount of debate and dialog. All of us will have the opportunity to vote up or down on any of the amendments anybody wants to offer to this section. But the question before us was, all of a sudden at 11:30 today, without notice, when we had been in negotiations on this language, to bring it to the floor, this Senator feels obligated to make sure this time period is used to bring committee members and colleagues up to speed about the contents of the underlying bill.

Mr. REID. Does the Senator yield for another question?

Ms. CANTWELL. Yes.

Mr. REID. It is my further understanding the Senator, who has spoken for some time now, has a lot more to say, is that right, on this amendment, on this date? She has only gotten warmed up; is that right?

Ms. CANTWELL. That is correct.

Mr. REID. And you, as a matter of courtesy, will allow Senators HOLLINGS and MURRAY and anyone on the majority side to speak and you will be back at a later time for another round or two; is that correct?

Ms. CANTWELL. That is correct. I will give my colleagues from Washington and South Carolina an opportunity to join in this debate and participate because I think it is very important that this issue receive the full attention of Members. As I said at the beginning of this discussion, I do not believe this is an issue—even though a lot of my colleagues would like to classify it as an issue that only affects Washington State, South Carolina, or Idaho perhaps with some impact on Oregon and maybe Georgia, or New York in its commercial facility. I have never thought of this nuclear waste issue as a geographic-specific debate.

Our responsibility as a body is to make sure nuclear waste cleanup happens in a process that the science determines will not be with harm to humans or to the environment. We now have a proposal before us that science says will be harmful, that is not based on sound science, that has not met the test, nor has our approval.

While I am willing to have this debate, I hope my colleagues will use this debate as an opportunity to understand our challenge on nuclear waste cleanup and the tremendous amount of resources that are spent by our Government on that cleanup and the efficiencies that need to happen to make that process go more smoothly than it has in the past.

But I can guarantee to my colleagues that wanting that process to go more smoothly in the future, and wanting it to be more cost effective, does not simply mean coming up with a short-term proposal, a fix that is counter to what existing statute and law is. If we want to have that debate, let's go through the normal committees and have that debate, and let's have the scientists come in and discuss it with us, and let's not end up with a process where we are going to be battling in the courts. I don't think that does any of us any good. Certainly, for us in the State of Washington, with a 1-million-gallon plume heading toward the Columbia River, it doesn't do us any good.

I hope my colleagues will use this opportunity to focus attention not just on the question at hand, of high-level radioactive waste, but I would say the consistency by which the States of Washington, Oregon, Idaho, South Carolina, and others have banded together in the last year or two in authorizing and appropriations language that has done a good job to make sure the processing of radioactive waste is completed.

I remind my colleagues, this is the first time I think the Department of Energy has successfully picked off a State. At first the underlying language was actually blackmail: We are going to make this change and nuclear waste is going to be reclassified, and if you are going to agree with us, we will give you some money, and if you don't agree with us, we are not cleaning up your waste. That is blackmail. That is what the current language in the DOD authorizing bill is. It is blackmail.

Now, after my colleagues have seen what ludicrous language that is, Senator GRAHAM wants to offer an amendment that will not tie up the funds. But we still remain with the underlying problem, which is the Department of Energy is trying to reclassify highly radioactive waste as low-level ancillary waste and say it can be grouted, that is that cement and sand can be poured on it and somehow, leaving incidental amount of tank waste is a sufficient way to clean up tanks.

I will continue to fight on this issue until Members understand the significant policy change that is before this body.

I ask unanimous consent after the remarks of Senator INHOFE that Senators MURRAY, ALLARD, and HOLLINGS be recognized, and that I immediately be recognized after them.

Mr. REID. I object.

The PRESIDING OFFICER. Objection is heard. The Senator from Washington has the floor.

Ms. CANTWELL. I want to accommodate the Senator from Nevada. I was proposing to accommodate and trade off recognition of the four Members who are present on the floor?

Does the Senator have a question?

Mr. REID. When the Senator yields the floor, I will speak.

Ms. CANTWELL. The Senator from Nevada—I am happy to yield the floor to the Senator from Nevada.

Mr. REID. Pardon me?

The PRESIDING OFFICER. Is the Senator yielding the floor?

Several Senators addressed the Chair.

Ms. CANTWELL. Does the Senator from Nevada have a question?

Mr. REID. Mr. President, I yield to the Chair. I have a question on that statement. The Senator from Washington has a right to speak, but we are not going to set a long list of speakers here at random, what speakers are going to speak. I think what we are going to do, we have a number of speakers on the floor, Senators INHOFE, HOLLINGS, ALLARD, MURRAY—people who have been here for a long period of time.

It appears to me we are not going to have a vote on this in the near future. I suggest what we do is enter into agreement for the next several however long it takes. We have people who want to speak. We can go forward and whoever gets the jump ball, have people be recognized whenever they get the floor.

Senator HOLLINGS has said Senator INHOFE has been here longer than he has. Senator INHOFE could be recognized for whatever time he feels appropriate. I would like to get some idea of what the time should be. Then, Senator HOLLINGS, I think that would be the best way to go.

But in the meantime, it must be under some agreement, whoever gets the floor.

Mr. ALLARD. Will the Senator from Nevada yield?

Mr. REID. I am happy to.

The PRESIDING OFFICER. The Senator from Washington has the floor.

Ms. CANTWELL. The Senator from Washington is happy to entertain a question that would allow the various Members who are here——

Mr. REID. The Senator from Washington has to understand—she has the floor, and if she wants to keep talking, let her keep talking. When she finishes, we will be happy to——

Mr. ALLARD. If the Senator from Washington will yield, I would like to pose a plan of how we can go through this. I suggest that maybe we can sit down with leadership and work out some time for debate. I know Senator GRAHAM on this side of the Senate floor would like to wrap up this debate. Maybe we can get some time limits to give everybody an opportunity to speak. I know there is some interest in having some votes tonight. I believe I need to work with leadership on this side, if Senator REID will work with leadership on his side, to determine if we can work this out. The Senator from Washington can finish, and I can call on the Senator from Oklahoma. Maybe we can sit down and work out a time agreement.

Mr. REID. Mr. President, if the Senator will yield——

Mr. ALLARD. I yield.

Mr. REID. The Senator from Washington has the floor.

Let me say this: Everyone should understand that there is not going to be a vote on this amendment tonight. Everyone should understand that. There is going to be no vote on the pending amendment tonight. I told people that 5 hours ago. No one believed me. There is not going to be a vote on the Graham amendment tonight.

Mr. ALLARD. Nobody is calling for a vote on this amendment tonight, but there might be other votes.

Mr. REID. We will not agree to set this one side. If the Senator from South Carolina wishes to withdraw his amendment and set some orderly procedure to take it up when we get back after the Memorial Day break, we are in agreement. But we are not going to agree to set this aside to go to another amendment.

Ms. CANTWELL. Mr. President, this Senator is happy to yield the floor to my colleague to discuss this issue. I want to make it clear that after 30 years of standard policy, they are not willing to just have a few hours of debate and then vote on this significant a change. The underlying Graham amendment does not fix the underlying DOD committee-passed authorization language that allows the Department of Energy to reclassify waste.

That is the key issue at hand. We do not want to leave this bill with this reclassification of highly radioactive waste to an amendment on spent fuel storage tanks to then be grouted over. We need to have the attention of this body, my colleagues who are members of the various committees I mentioned and my colleagues from those States directly affected, although I said it is a policy everybody should be discussing, and the public needs to have an idea and an opportunity to understand that this is a major policy proposal which is being proposed in this underlying bill.

I would have preferred that the Graham amendment not be brought up today, not to this particular issue of the DOD bill being discussed. We are still talking. We hoped we might able to work something out and save our colleagues the time and attention of studying a nuclear waste policy proposal and what level of radioactivity could be sufficiently removed from tanks and what couldn't be. But if my colleagues want to continue to pursue the subject, we are going to continue to pursue and discuss this issue.

With that, I know various Members of both sides of the aisle are waiting, and I will have more to say on this subject as we continue to debate the DOD authorizing bill and continue to debate whether the Graham amendment is sufficient in disposing of the problem that has now been created in the underlying bill in overriding 30 years of law and science about how this country should clean up nuclear waste. I don't believe anybody in America wants to do it on the cheap. We need to give the American public the certainty that this body will not propose major policy changes without hearings, without debate, without committees of jurisdiction having oversight of this policy proposal that is in the Defense authorization bill.

I yield the floor.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. REID. Mr. President, we are trying to work out, subject to the approval of the majority leader, to allow Senator INHOFE to speak for 15 minutes and Senator HOLLINGS for 45 minutes. They have waited a long time. Senator ALLARD, being the gentleman he is, did want to talk about the subsequent votes; there are a couple of judges who need votes. We have 25 to do before the end of June, so we have a lot of voting to do. Then, of course, everyone should understand that we will be right back on the Defense bill following those votes.

We appreciate the courtesy of the Senator from Oklahoma for being patient and the Senator from South Carolina. The order has not been entered, but that is what we will order. It would be appropriate for the Senator from Oklahoma to start his speech.

Members should understand that we will have a couple of votes around 5:30.

Mr. ALLARD. I yield 15 minutes to the Senator from Oklahoma.

Mr. INHOFE. I ask the manager if I could have 20 minutes, but I will probably not take that long. I am saving the best for last and I don't want to miss it.

Mr. ALLARD. I amend that and ask unanimous consent that the Senator from Oklahoma be allowed to speak for 20 minutes.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized for 20 minutes.

Mr. INHOFE. Mr. President, I will clarify a couple of things that were said by the distinguished Senator from Washington that I am sure she believes are true but need to be elaborated upon. First, characterizing the consideration of going back to the old policy as something that happened in the middle of the night, something that happened in the dark, something that

happened in a less than honest way is not at all accurate.

I suggest two things. First, I chaired the Subcommittee on Clean Air, Wetlands, Private Property and Nuclear Safety of the Environment and Public Works Committee in 1998 and 1999. During that time, of course, we had jurisdiction over the Nuclear Regulatory Commission. During that time, they had countless hearings. They had comment periods. They talked about this out in the open, with people given an opportunity to be heard. I happened to be chairing the committee that had oversight at the time. I remember that very well.

Second, I suggest this was discussed in the Senate Armed Services Committee. It certainly was not something that was done in any way that was less than totally honest and totally done in the daylight. By suggesting that Senator JOE LIEBERMAN and Senator JACK REED and the other Members on this side of the issue did something that was not out in the open, I don't think is quite fair.

We had a hearing this morning with the Nuclear Regulatory Commission. It is an oversight hearing we have had ever since 1998. That is when, in the NRC, I believe we saw a major change. They have done a good job. The NRC says we should manage waste based on the risk it poses, not how it is defined.

The Department of Energy was attempting to pursue this very policy when it was stopped in its tracks. What stopped it? Several of my colleagues already mentioned a lawsuit was brought against the DOE by the Natural Resources Defense Council. This is the allegedly charitable organization that uses a substantial amount of taxpayer dollars in the form of discretionary grants to achieve its goals.

Three weeks ago I spoke in the Senate about the spurious and misleading advertisement run by the NRDC. This organization places a higher priority on imposing ridiculously stringent environmental standards than on essential elements of national security. They have proven this many times in the past by filing lawsuits to limit the Navy readiness exercises and otherwise hampering our military. Now the NRDC has hamstrung the Department of Energy in the faithful execution of its responsibilities.

This amendment allows the DOE to pursue the best plan to dispose of this nuclear material. That plan saves our taxpayers money. It shortens the amount of time the waste remains in the tanks. It is a safe way to do it. It is a well-thought-out way of doing it and one that has been the subject of a lot of daylight. It is merely going back to a policy that has worked for a long period of time.

We know the background. Sometimes it is necessary to repeat it. During the cold war, the national security of the United States necessitated the building of nuclear weapons. Now, 50 years later, we are faced with the legacy of this effort and the need to clean up the sites where there is waste from the reprocessing of spent nuclear fuel. The creation of this waste was a necessary result of the chemical processes needed to make defense nuclear material. We all understand that.

Last summer, this very important cleanup effort, which is the single largest ongoing environmental risk reduction project for the Department of Energy, took a crushing blow when the district court issued a ruling that created significantly illegal uncertainties and enormous problems for the Department's tank waste cleanup at the Savannah River site, the West Valley, the Hanford site, and the Idaho National Engineer Environmental Laboratory. Unless these legal uncertainties are resolved, the only path the Department of Energy could in theory pursue that does have the necessary legal certainty would be to involve sending all the waste in tanks and the tanks themselves to Yucca Mountain no matter how long or short lived is the radioactivity they contain.

This dramatic change in course would increase the costs of the cleanup itself in terms of human lives sevenfold and also delay completion of simply emptying the tanks and treating the waste there by four decades, thereby further substantially increasing the risk, as the NRC pointed out, to the public health and safety during the time period by leaving the waste in tanks for that much longer. It would also increase the cost of simply emptying and treating the tank waste, according to the DOE estimates, by an additional $86 billion, only $1 billion less than last year's supplemental appropriation for the Iraq war, for approximately a total cost of $138 billion.

We are talking about something really big. The estimates for delay and the additional costs do not take into account the very complex logistics of transporting and disposing of all the additional waste at Yucca Mountain or the complex logistics of preparing for disposal, transporting, and disposing of the tanks themselves. Keep in mind, it is not just what is in the tanks. The tanks themselves would have to go there and be disposed of at the Yucca Mountain facility. These would also add additional decades and tens, if not hundreds, of billions of dollars to the cleanup cost.

Furthermore, under this scenario, the number of canisters of waste that would be transported to Yucca Mountain would increase from 20,000 canisters to approximately 200,000 canisters.

I know there are a lot of members in the Senate concerned about the transport of waste to Yucca Mountain. That would increase it tenfold. Some have asked, why not just authorize and appropriate $350 million needed for the cleanup activities in fiscal year 2005 and force the Department of Energy to continue its work? This is not a responsible path. If the Department of Energy constructs the facility necessary to prepare waste for disposal as low-level or transuranic waste and prepare the waste for disposal and then finds out after the fact that it lacked the legal authority to classify the waste in this manner, hundreds of millions of dollars of the taxpayers' money would already have been wasted and years of cleanup work lost. The Department may have actually made it harder to put the waste in the form needed to dispose of it at Yucca Mountain.

The fundamental root cause of the dilemma that faces our Nation today is the ambiguity presented by the Nuclear Waste Policy Act's definition of high-level waste and that, if left unclassified, is producing this technologically irrational result without environmental benefit that, in fact, increases health and safety risks.

It is up to this committee and this Congress to resolve ambiguity in order for the cleanup of the sites which played such a key role in the national security of our Nation. The language before the Senate clarifies the ambiguity, and I urge adoption of this language.

What had happened on this, back in the time it was considered in SAS Committee—the Senate Armed Services Committee—was that it was an amendment to actually go back and do it as it had been done before, to do it in the best way, as determined by the multitude of hearings that were conducted by the Nuclear Regulatory Commission and which were conducted during the time I chaired the oversight committee. So we were there. We knew it was taking place.

The thing that I guess bothers me the most—I see the ranking minority member of the Senate Armed Services Committee on the Senate floor. We acted very responsibly. This was not a partisan issue. This was a bipartisan issue. To infer in any way that things were done in the dark of night or in any way inappropriately is to say that I and several others—certainly the chairman of the committee; certainly Senator JOE LIEBERMAN; certainly Senator JACK REED, who supported this effort and supported the Senator from South Carolina—were acting inappropriately. I do not think that is realistic.

By the way, it has been said several times that there is some doubt as to what the NRC's position is on this issue. I will read the last paragraph of a letter that was sent to me, on May 18, as chairman of the Environment and Public Works Committee. This last paragraph says:

> It is our understanding that some opponents of DOE's proposed plans believe that the tanks and the waste residuals should be disposed of as high-level waste in a geologic repository. While either approach could potentially be implemented within NRC regulatory requirements, we note that removal of the tanks, packaging of the tanks and residuals for transport and disposal, and disposal of the waste at a geologic repository, if feasible, would incur significant additional worker exposures—

That is human lives. We are exposing individuals.

and transportation exposures—

The transportation exposures we have talked about on this floor many, many times—

at very large financial costs.

You might conclude that, at this time, with all the terrorist threats around, these could become prime targets while being transported. Still quoting the letter:

Whereas, if DOE's proposed plans meet appropriate criteria, such as those used in NRC's previous reviews, then the NRC believes that public health and safety can be maintained while avoiding unnecessary additional exposures and risks associated with removal and transport of the waste and unnecessary additional expenditures of Federal funds.

I hope this letter satisfactorily addresses your questions.

Mr. President, I ask unanimous consent that the entire letter from the NRC to me dated May 18 be printed in the RECORD.

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

NUCLEAR REGULATORY COMMISSION,
Washington, DC, May 18, 2004.

Hon. JAMES M. INHOFE,
Chairman, Committee on Environment and Public Works, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: This letter responds to your request of May 18, 2004, for the U.S. Nuclear Regulatory Commission's (NRC's) views on waste-incident-to-reprocessing (WIR). Specifically, you requested NRC's thoughts on: (1) the U.S. Department of Energy's (DOE's) plan to grout in place the remaining residues left in the tanks at the Savannah River Site (SRS), the Hanford site, and the Idaho National Engineering and Environmental Laboratory (INEEL); and (2) the risks to human health and the environment by following DOE's plan or the Natural Resources Defense Council' (NRDC's) plan. The concept underlying WIR is that wastes can be managed based on their risk to human health and the environment, rather than the origin of the wastes. For wastes that originate in reprocessing of nuclear fuel, such as the tank residuals at the DOE sites, some are highly radioactive and need to be treated and disposed of as high-level radioactive waste. Others do not pose the same risk to human health and the environment, and do not need to be disposed of as high-level waste in order to manage the risks that they pose.

At the outset, it must be understood that the NRC does not have regulatory authority or jurisdiction over SRS, Hanford, or INEEL. In the past, DOE has requested NRC review of some of its WIR determinations and supporting analysis. The NRC entered into reimbursable agreements to perform these reviews, which were provided as advice and did not constitute regulatory approval. NRC performed comprehensive and independent WIR reviews for Hanford in 1997, SRS in 2000, and INEEL in 2002 and 2003. These reviews involved both waste removed from tanks, and waste residuals remaining in the tanks for grouting and closure. NRC assessed whether DOE's determinations had sound technical assumptions, analysis, and conclusions with regard to specific WIR criteria. These criteria are: (1) the waste has been processed to remove key radionuclides to the maximum extent that is technically and economically practical, and (2) the waste is to be managed so that safety requirements comparable to the performance objectives in NRC's regulation 10 CFR Part 61 (Licensing Requirements for Land Disposal of Radioactive Waste), Subpart C, are satisfied. In all cases, the NRC staff found that DOE's proposed methodology and conclusions met the appropriate WIR criteria and therefore met the performance objectives and dose limits that would apply to near-surface low-level waste disposal and would protect public health and safety. It should be noted that the Commission did not review all of DOE's actions with regard to WIR at those sites, and that the NRC conclusions applied only to those actions that the NRC reviewed. It should be noted that the Commission in its ''Decommissioning Criteria for the West Valley Demonstration Project (M–32) at the West Valley Site; Final Policy Statement'' (67 FR 5003, February 1, 2002), established WIR criteria for that site identical to those used in our reviews of the three DOE sites.

It is our understanding that some opponents of DOE's proposed plans believe that the tanks and the waste residuals should be disposed of as high-level waste in a geologic repository. While either approach could potentially be implemented within NRC regulatory requirements, we note that removal of the tanks, packaging of the tanks and residuals for transport and disposal, and disposal of the waste at a geologic repository, if feasible, would incur significant additional worker exposures and transportation exposures at very large financial costs. Whereas, if DOE's proposed plans meet appropriate criteria, such as those used in NRC's previous reviews, then the NRC believes that public health and safety can be maintained while avoiding unnecessary additional exposures and risks associated with removal and transport of the waste and unnecessary additional expenditures of Federal funds.

I hope this letter satisfactorily addresses your questions.

Sincerely,

NILS J. DIAZ.

Mr. INHOFE. We have a lot of commissions and a lot of organizations in the committee that I chair. We have some 17 Departments for which we have oversight and we deal with on a daily basis. When the Nuclear Regulatory Commission was originally formed, it was to have the expertise and the knowledge as to what is going to assure the most safety for the public in the cheapest way you can get things done. They have done a good job. We have a lot of organizations such as this throughout Government. We have CASAC, the Clean Air Scientific Advisory Committee. We look to them because they have expertise. We look to the NRC because they have expertise.

I do not want to imply that any of the Members here would have necessarily less expertise than the NRC, but I suspect that is the case. So we rely on that expertise. Here we have the Department of Energy with all of its experts saying: This is the safe way to do it. This is the cheapest way to do it. And we have the NRC, which is charged with the responsibility of public safety, saying: This is the best way to do it.

So I believe, when the time comes, we need to look at this rationally and not try to make disparaging remarks about some of the members of the Armed Services Committee in our consideration of this amendment. Keep in mind, this was years in the making. Six years ago we started hearings on how to properly dispose of this, and the conclusions they came to were unanimous.

With that, Mr. President, I yield the floor.

Mr. REID. Mr. President, I ask the Senator, are we in a position now to do anything on this request we had?

Mr. ALLARD. No. We are still hearing. Senator INHOFE has finished his statement. I would suggest we recognize the Senator from South Carolina for 40 minutes.

The PRESIDING OFFICER. The Senator from South Carolina is recognized—

Mr. REID. No. The Senator is recognized for whatever time he wants. He has the floor.

The PRESIDING OFFICER (Mr. CORNYN). The Senator from South Carolina.

SETTING THE RECORD STRAIGHT

Mr. HOLLINGS. Mr. President, I thank my distinguished colleagues. I have, this afternoon, the opportunity to respond to being charged as anti-Semitic when I proclaimed the policy of President Bush in the Mideast as not for Iraq or really for democracy in the sense that he is worried about Saddam and democracy. If he were worried about democracy in the Mideast, as we wanted to spread it as a policy, we would have invaded Lebanon, which is half a democracy and has terrorism and terrorists who have been problems to the interests of Israel and the United States.

It is very interesting that on page 231, Richard Clarke, in his book ''Against All Enemies,'' cites the fact that there had not been any terrorism, any evidence or intelligence of Saddam's terrorism against the United States from 1993 to 2003. He says that in the presence of Paul Wolfowitz. He says that in the presence of John McLaughlin of the CIA. In fact, he says: Isn't that right, John? And John says: That is exactly right.

The reason was when they made the attempt on President Bush, Senior, back in 1993, President Clinton ordered a missile strike on Saddam in downtown Baghdad, the intelligence headquarters, and it went right straight down the middle of the headquarters. It was after hours so not a big kill—but Saddam got the message: You monkey around with the United States, a missile will land on your head.

So, in essence, the equation had changed in the Saddam-Iraq/Mideast concerns whereby Saddam was more worried about any threat of the United States against him than the United States was worried about a threat by Saddam against us.

I want to read an article that appeared in the Post and Courier in Charleston on May 6; thereafter, I think in the State newspaper in Columbia a couple days later; and in the Greenville News—all three major newspapers in South Carolina. You will find

that there is no anti-Semitic reference whatsoever in it.

The reason I emphasize that upfront is for the simple reason that you cannot put an op-ed in my hometown paper that is anti-Semitic. We have a very, very proud Jewish community in Charleston. In fact, it is where reform Judaism began. The earliest temple, Kadosh Beth Elohim, is on Hasell Street. I have spoken there several times. I had the pleasure of having that particular temple put on the National Register. This particular Senator, with over 50 years now of public service, has received a strong Jewish vote.

Let me emphasize another thing because the papers are piling on and bringing up again a little difference of opinion I had on the Senate floor with Senator Metzenbaum. It was not really a difference. What had happened was we were discussing a matter, and we referred to each's religion in order to make sure there would not be any misunderstanding or tempers flaring. The distinguished Senator from North Carolina, Mr. Helms, referred to himself as the Baptist lay leader, Senator Danforth as the Episcopal priest. I referred to myself as the Lutheran Senator. And when Senator Metzenbaum came on the floor, I referred to him as the Senator from B'nai B'rith, and he took exception. He thought it was an aspersion. I told him: Wait a minute, I will gladly identify myself as the Senator from B'nai B'rith. I did not mean to hurt his feelings. I apologized at that time but not for the legitimacy and the circumstances of the particular reference.

Now here we go again, some years later. The Senator from Virginia, Mr. GEORGE ALLEN, and I are good friends. Maybe after this particular thing he might feel different, but I know his role as the chairman of the campaign committee. And so I have an article here where Senator ALLEN denounces Senator HOLLINGS' latest political attack, Senator HOLLINGS' antisemitic, political conspiracy statement. Let me read the statement here from the May 6 Post and Courier, and you be the judge:

> With 760 dead in Iraq, over 3,000 maimed for life—home folks continue to argue why we are in Iraq—and how to get out.
>
> Now everyone knows what was not the cause. Even President Bush acknowledges that Saddam Hussein had nothing to do with 9/11. Listing the 45 countries where al-Qaida was operating on September 11 . . . the State Department did not list Iraq.

They listed 45 countries and at that particular date on September 11, 2001, they did not even list Iraq.

> Richard Clarke, in ''Against All Enemies,'' tells how the United States had not received any threat of terrorism for 10 years from Saddam at the time of our invasion.
>
> On page 231, John McLaughlin of the CIA verifies this to Deputy Defense Secretary Paul Wolfowitz. In 1993, President Clinton responded to Saddam's attempt on the life of President George H.W. Bush by putting a missile down on Saddam's intelligence headquarters in Baghdad. Not a big kill, but Saddam got the message—monkey around with the United States and a missile lands on his head. Of course there were no weapons of mass destruction. Israel's intelligence Mossad knows what's going on in Iraq. They are the best. They have to know.
>
> Israel's survival depends on knowing. Israel long since would have taken us to the weapons of mass destruction . . .

Let me divert for a second there. I was here when Israel attacked the nuclear facility in Baghdad during the 1980s. In all candor, when President Bush, on October 7, 2002, said, after all that buildup by Cheney, Wolfowitz, Rumsfeld and everybody else, that facing clear evidence of peril, we cannot wait until the smoking gun is a mushroom cloud, I thought we were attacking for Israel. I thought that they knew about some kind of nuclear development there. And rather than getting them in further trouble with the United Nations and the Arab world, that its best friend, the United States, would knock it out for them. That is why I voted for it. I got misled. Our attack on Iraq, the invasion of Iraq is a bad mistake. I will get into that later. But let me read even further:

> . . . if there were any [weapons of mass destruction] or if they had been removed. With Iraq no threat, why invade a sovereign country? The answer: President Bush's policy to secure Israel.
>
> Led by Wolfowitz, Richard Perle and Charles Krauthammer, for years there had been a domino school of thought that the way to guarantee Israel's security is to spread democracy in the area. Wolfowitz wrote: ''The United States may not be able to lead countries through the door of democracy, but where that door is locked shut by a totalitarian deadbolt, American power may be the only way to open it up.''

Namely, invasion. That is Wolfowitz talking.

> And on another occasion: Iraq as ''the first Arab democracy . . . would cast a very large shadow, starting with Syria and Iran but across the whole Arab world.'' Three weeks before the invasion, President Bush stated: ''A new regime in Iraq would serve as a dramatic and inspiring example for freedom for other nations in the region.''

I referred to those three gentlemen because I know them well. They are brilliant. I have been for years associated one way or the other with each of them. I read Charles Krauthammer. I wish I could write like he can. With respect to Richard Perle, he was sort of our authority in the cold war, best friend of Scoop Jackson. That is how I met him 38 years ago almost. I followed him and I followed his advice, and that is in large measure how we prevailed in the cold war. So I have the highest respect for Richard Perle.

And, of course, the other gentleman, Paul Wolfowitz, Paul Wolfowitz, I met him out in Indonesia when he was Ambassador. He came back. We were good friends. He was looking around for a position, and I know I offered him one—in fact, we might go to the records and find temporarily he might have been on my payroll for a few weeks. But I have always had the highest regard for Paul Wolfowitz.

That is why I referred to him. I had their sayings and everything else. But let me go, diverting for a minute, right to the Project For The New American Century. I have a letter that was written on May 29, 1998, to Newt Gingrich, the Speaker, TRENT LOTT, the Senate majority leader. These are the gentlemen who said this:

> We would use U.S. and allied military power to provide protection for liberating areas in northern and southern Iraq, and we should establish and maintain a strong U.S. military presence in the region and be prepared to use that force to protect our vital interests in the Gulf and, if necessary, to help remove Saddam from power.

And that is signed by—and I want everybody to remember these names—Elliot Abrams, William J. Bennett, Jeffrey Bergner, John R. Bolton, Paula Dobriansky, Francis Fukuyama, Robert Kagan, Zalmay Khalilzad, William Kristol, Richard Perle, Peter Rodman, Donald Rumsfeld, William Schneider, Jr., Vin Weber, Paul Wolfowitz, James Woolsey, Robert B. Zoellick. There is a studied school of thought of the best way to secure Israel. We have been going for years back and forth with every particular administration, you can see where we are now.

But in any event, the better way to do it is go right in and establish our predominance in Iraq and then, as they say, and I have different articles here I could refer to, next is Iran and then Syria. And it is the domino theory, and they genuinely believe it. I differ. I think, frankly, we have caused more terrorism than we have gotten rid of. That is my Israel policy. You can't have an Israel policy other than what AIPAC gives you around here. I have followed them mostly in the main, but I have also resisted signing certain letters from time to time, to give the poor President a chance.

I can tell you no President takes office—I don't care whether it is a Republican or a Democrat—that all of a sudden AIPAC will tell him exactly what the policy is, and Senators and members of Congress ought to sign letters. I read those carefully and I have joined in most of them. On some I have held back. I have my own idea and my own policy. I have stated it categorically.

The way to really get peace is not militarily. You cannot kill an idea militarily. I was delighted the other day when General Myers appeared before our Appropriations Subcommittee on Defense and he said that we will not win militarily in Iraq. He didn't say we are going to get defeated militarily but that you can't win militarily in Iraq.

Mr. ALLARD. Will the Senator yield?

Mr. HOLLINGS. Not until I complete this thought. Time is running out on me.

The papers are the ones that pointed out Wolfowitz, Pearle, and Charles Krauthammer were of the Jewish faith. They are the ones who brought all this Semitism in there. I can tell you that right now, I didn't have that in mind. I had my friends in mind and I followed them. We had this in the late 1990s

under President Clinton, when we passed a resolution that we ought to have Saddam removed from power, have a regime change. I was wondering how it went. I had to find my old file—on this Project For The New American Century.

Now, going back to my article: ''every President since 1947 has made a futile attempt to help Israel negotiate peace. But no leadership has surfaced amongst the Palestinians that can make a binding agreement. President Bush realized his chances at negotiation were no better. He came to office imbued with one thought.''

Mr. ALLARD. I wonder if the Senator will yield, preserving his time, for a unanimous consent request to move forward with the judge vote we have at 5:40.

Mr. HOLLINGS. Without losing my right to the floor, I will yield.

UNANIMOUS CONSENT AGREEMENT—EXECUTIVE CALENDAR

Mr. ALLARD. Mr. President, as in executive session, I ask unanimous consent that at 5:30 today the Senate proceed to executive session to consider the following nominations en bloc on today's Executive Calendar: No. 556, the nomination of Raymond Gruender to be U.S. Circuit Judge for the Eighth Circuit; and Calendar No. 557, the nomination of Franklin S. Van Antwerpen, to be U.S. Circuit Judge for the Third Circuit.

I further ask unanimous consent that following 10 minutes of debate, equally divided between the chairman and ranking member of the Judiciary Committee, or their designees, that the Senate proceed to consecutive votes on the confirmation of the nominations, with no further intervening action or debate; further, that following the vote, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Mr. President, I ask that the Senator modify his request so that the statement of the Senator from South Carolina will stop at 5:40, and the rest of the unanimous consent kick in at 5:40, rather than 5:30, so we will be voting at 5:50.

Mr. ALLARD. I am willing to modify it.

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

Mr. HOLLINGS. Mr. President, let me again read from my article:

President Bush came to office imbued with one thought: reelection.

I say that advisedly. I have been up here with eight Presidents. We have had support of all eight Presidents. Yes, I supported the President on this Iraq resolution, but I was misled. There weren't any weapons, or any terrorism, or al-Qaida. This is the reason we went to war. He had one thought in mind, and that was reelection. I say that about President Bush. He is a delightful fella, a wonderful campaigner, but he loves campaigning. You cannot get him in the White House or catch him there, hardly. He doesn't work on these problems at all.

I have worked with all of the Presidents. I know the leadership goes to the White House and tries to work with him. He is interested in one thing, and that is to be out campaigning. So he had one thought in mind, and that was reelection.

Again, let me read: Bush thought tax cuts would hold his crowd together and that spreading democracy in the Mideast to secure Israel would take the Jewish vote from the Democrats.

Is there anything wrong with referring to the Jewish vote? Good gosh, every 1 of us of the 100, with pollsters and all, refer to the Jewish vote. That is not anti-Semitic. It is appreciating them. We campaigned for it.

I just read about President Bush's appearance before the AIPAC. He confirmed his support of the Jewish vote, referring to adopting Ariel Sharon's policy, and the dickens with the 1967 borders, the heck with negotiating the return of refugees, the heck with the settlements he had objected to originally. They had those borders, Resolution No. 242—no, no, President Bush said: I am going along with Sharon, and he was going to get that and he got the wonderful reception he got with the Jewish vote. There is nothing like politicizing or a conspiracy, as my friend from Virginia, Senator ALLEN, says—that it is an anti-Semitic, political, conspiracy statement.

That is not a conspiracy. That is the policy. I didn't like to keep it a secret, maybe; but I can tell you now, I will challenge any 1 of the other 99 Senators to tell us why we are in Iraq, other than what this policy is here. It is an adopted policy, a domino theory of The Project For The New American Century.

Everybody knows it because we want to secure our friend, Israel. If we can get in there and take it in 7 days, as Paul Wolfowitz says, then we would get rid of Saddam, and when we got rid of Saddam, now all they can do is fall back and say: Aren't you getting rid of Saddam?

Let me get to that point. What happens is, they say he is a monster. We continued to give him aid after he gassed his own people and everything else of that kind. George Herbert Walker Bush said in his book All The Best in 1999, never commit American GIs into an unwinnable urban guerrilla war and lose the support of the Arab world, lose their friendship and support. That is a general rephrasing of it.

The point is, my authority is the President's daddy. I want everybody to know that. I don't apologize for this column. I want them to apologize to me for talking about anti-Semitism. They are not getting by with it. I will come down here every day—I have nothing else to do—and we will talk about it and find out what the policy is.

Let me go back to this particular column:

> But George Bush, as stated by former Treasury Secretary Paul O'Neill and others, started laying the groundwork to invade Iraq days before the Inauguration.

There is no question, he got a briefing. That was the first thing he wanted out of former Secretary of Defense Bill Cohen. Then the nominee, about to take the oath of office as President of the United States, wanted to be briefed on Iraq. They had this policy in mind coming to town. Mr. President, 9/11 had nothing to do with it, and we all know it now. We have to understand it because that is the only way really to help Israel and get us out of the soup. Everybody is worrying about Iraq. We better worry about Israel because we certainly have put her in terrible jeopardy with this particular initiative.

> Without any Iraq connection to 9/11, within weeks President Bush had the Pentagon outlining a plan to invade Iraq. He was determined. President Bush thought taking Iraq would be easy. Wolfowitz said it would take only 7 days. Vice President Cheney believed that we would be greeted as liberators, but Cheney's man, Chalabi, made a mess of de-Baathification of Iraq by dismissing Republican Guard leadership and Sunni leaders who soon joined with the insurgents.
>
> Worst of all, we tried to secure Iraq with too few troops. In 1966 in South Vietnam, with a population of 16 million, General William C. Westmoreland, with 535,000 U.S. troops, was still asking for more troops. In Iraq, with a population of 25 million, General John Abizaid, with only 135,000 troops, can barely secure the troops, much less the country. If the troops are there to fight, there are too few. If they are there to die, there are too many. To secure Iraq we need more troops, at least 100,000 more. The only way to get the United Nations back in Iraq is to make the country secure. Once back, the French, Germans, and others will join with the U.N. to take over.
>
> With President Bush's domino policy in the Mideast gone awry, he can't keep shouting ''Terrorism war.'' Terrorism is a method, not a war. We don't call the Crimean war, with the charge of the light brigade, the cavalry war, or World War II the blitzkrieg war. There is terrorism in Northern Ireland, there is terrorism in India, and in Pakistan. In the Mideast, terrorism is a separate problem, to be defeated by diplomacy and negotiation, not militarily.
>
> Here, might does not make right. Right makes might. Acting militarily we have created more terrorism than we have eliminated.

The title of this article is ''Bush's failed Mideast policy is creating more terrorism, '' and, I could add, jeopardizing the security of Israel.

They say: He talks like a big fan of Israel. I am. I have a 38-year track record. I will never forget some 34 years ago meeting with David Ben-Gurion. He talked about little Israel, less than 3 million at that time in a sea of 100 million.

Let's say Israel has 5 million people there now, but there are 150 million Muslims surrounding it. If you punch the particular buzzer I did with Yitzhak Rabin 1 day down on the Negev to scramble the air force, I think it was 21 seconds they were up in the air, and

in a minute's time, they were outside over Jordan.

Militarily, Israel is a veritable aircraft carrier. You can hardly fly and you are out of the country, and everybody has to understand that. You cannot play the numbers game Sharon plays. He thinks he can do it militarily.

I want to remind you, it was in that 6-day war—the book is ''Six Days of War'' by Michael Oren. Look on page 151, and Major Ariel Sharon says: Look, we are going to decimate the Egyptian army and you will not hear from Egypt again for several generations. And Levi Eshkol, the Prime Minister, on page 152 says: ''Militarily victory decides nothing. The Arabs will still be here.''

That is my theme. I have watched it over the years. You have to learn not to kill together, but to live together. The finest piece I ever read was right in this morning's paper. There is still hope. I refer to an article: ''Israeli Arabs Exalting in a Rare Triumph.''

There are a million Israeli Arabs. They won a soccer match in Tel Aviv. The majority of the team was of Israeli heritage, and they held an Israeli flag, if you can imagine that in the political United States of America. They are living together. Every Prime Minister since David Ben-Gurion has realized that fact: that they have to learn to live together. They all moved, and they almost had it under Ehud Barak and President Clinton. Arafat proved he did not want peace. He did not accept it. That was our one chance.

Unfortunately, rather than working on that one chance and continuing, Ariel Sharon went in their face at Temple Mount, the intifada started, and he has been killing 10 to 1. He plays the numbers game, almost like we had in Vietnam. He thinks he can eliminate by moving the ball some, getting some more settlements, bulldozing a house, but he is creating terrorism.

I had a headline the other day. When I saw it, I showed it to my staff. I said: You all come in here, I want to ask you something. ''Israel plans to destroy more Gaza dwellings.'' You see that headline? I asked staff members: Suppose they bulldoze your daddy's home. Wouldn't you want to cut their throat?

They said: In a New York minute.

How do you create terrorists? Where is the front line in the so-called war on terrorism? I learned the answer recently on a trip I was on with the distinguished chairman of the Appropriations Committee and the chairman of the Armed Services Committee. We talked for over an hour with the King of Jordan. He finally cautioned at the very end, when we stood up, he said: You have to settle this Israel-Palestine question. That is the only way to get on top of this. We went over to Kuwait to the Prime Minister when he got through, he said: You have to settle the Israel-Palestine situation.

I will quote Mr. Musharraf, the President of Pakistan. When we got there, he cautioned if you can settle the Israel-Palestine question, terrorism will disappear around the world.

Then we came in on a Friday evening to make a little courtesy call with the French. The distinguished Senator from Virginia with Lafayette—and I have slept in Lafayette's bed over there in Richmond, VA, and I helped with that particular thing because I believe and remember the French help. I will never forget—everybody is going to the 60th anniversary of D-Day, but I was at the 50th anniversary and we went over to Ste-Mere-Eglise, where a major, who was a Citadel graduate, had broken through the line and saved us from having to leave the beachhead and go back to England. They made a movie of it. A shell burst killed him. They laid him down on their side. He is buried on the side of the chapel.

We went to the services. We had talks there. This little old lady came. She was about 80 years old, walking with a cane. I was listening to the mayor, and she pulled my jacket and she said: Thank you, Yank. If you had not come we would be goose-stepping.

I turned to her and I said, thank you, madam, because if you had not come, we would still be a colony.

The majority of the troops on the field at Yorktown with the surrender of Cornwallis were French troops. We had French troops that helped us get this so-called freedom. All this anti-French stuff, do not give me french fries and everything else, is crazy.

I was proud to appear with the Senator from Virginia. But Chirac, he said, look, we have to have western solidarity. We have to work together now and we have to watch this competition from China in the Far East, and we in the western world have to stick together. He said he wanted to help in Iraq, but he needed a U.N. resolution to cover. He said what we have to do is do something about Israel and Palestine.

I said, what would you do?

He said, I would put a peacekeeping force.

I said, would French troops come?

He said, French troops would come immediately. We would be part of it and we would separate them from killing each other every day.

My position is, and I believe in this particular policy as strongly as I know how, might does not make right, but right makes might. We have lost our evenhanded posture and reputation in the Mideast. We are in worse off shape with Israel, our principal interest in the gulf.

Sharon has not helped us at all. We see him going back and forth. They say, oh, no, it is negotiation. But we are throwing over the United States-Israel policy of some 35 years insofar as negotiating the settlements and the refugees. We are saying forget about all of that, let Sharon keep bulldozing them. Now in the morning paper on the front page one sees the killing of children, they are saying, we are defending Israel. That is the U.S. policy. That is not just Israel's policy.

They are coming in there with U.S. equipment, U.S. gun helicopters, U.S. tanks that are bulldozing. That is our policy. That is the reason for 9/11 and Osama. He said, I do not like American troops in Saudi Arabia, get the infidel out. That is why they went right into that thing. Where do you think we get all this talk about hate America? I do not buy that stuff. I have traveled the world. They love Americans.

Recently we met with the Ambassadors of Germany and France, and Britain in our policy committee and they said the young people are disillusioned. They always look to the United States for the moral position and taking and defending that particular position. They do not look there anymore.

We are losing the terrorism war because we thought we could do it militarily under the domino policy of President Bush, going into Iraq. That is my point. That is not anti-Semite or whatever they say in here about people's faith and ethnicity. I never referred to any faith. I should have added those other names from the Project For The New American Century, but I picked out the names I had quotes for. And for space, I left other things out.

Mr. President, on May 12 of this year, I had printed in the RECORD the article in its entirety.

I diverted from the reading of the article several times, so for the sake of accuracy I wanted the whole article printed.

This particular op-ed piece appeared in the Post and Courier. Never would they have thought, having read it, if it was anti-Semitic, that they would have ever put it in there. Nor would the Knight Ridder newspapers in Columbia, SC. Nor would the Metro Media newspapers in Greenville, SC. But the Anti-Defamation League picked it up and now they have given it to my good friend, Senator ALLEN of Virginia. I have his particular admonition how I am anti-Semitic and I cannot let that stay there.

My staff knew I was coming over and waiting my turn in order to talk under the Pastore rule. I know I am as vitally interested as anybody can be about this issue. Our distinguished colleague from Washington, Senator CANTWELL, knows this subject backward and forward.

The reason I had not known or gotten all fired up is I have been doing some other work and South Carolina has already looked to me for everything at that Savannah River plant. I am on the Energy Appropriations Subcommittee and we have gotten all the money—do not worry about money. This is a policy of nuclear waste disposal, high-level waste, being reclassified under an end-around-end deal of trying to make it low-level waste and, as Senator CANTWELL says, pouring in some sand and concrete on top of it. The scientists say, watch out, the remains in these tanks are 50 percent as deadly and dangerous as the entire tank container.

Back to Saddam, everybody is glad we have gotten rid of Saddam, but we can see what has happened. There is an old saying we learned in World War II that no matter how well the gun is aimed, if the recoil is going to kill the gun crew, you do not fire.

Did this White House and administration ever think of the recoil? It severely injured the gun crew. Yes, ordinarily to get rid of Saddam, like they put a missile on the intelligence head, they could have put a missile on him any time they wanted, but they did not want to do that. They wanted the domino policy to ensue.

No, no, getting rid of Saddam was not worth almost 800 dead GIs and over 3,500 maimed for life. Some say every time we want to criticize the policy, we are weakening the GIs. I am strengthening the GIs. I said let's get enough in there so they can secure themselves. We have 135,000 now. A third of those are guarding the other third, and that means leaving a third, 35,000 or 40,000 troops, running out like a fire drill to any particular trouble and coming back in and eating. I have been there.

You can see it in Rafah. They are building a big old thing like in Kosovo, where we hunker down and act like we are in charge of Kosovo. The Albanians are in charge of Kosovo.

You can't force-feed democracy. It has to come from within. We helped liberate Morocco, Algeria, Tunisia, 60-some years ago, and Morocco, Algeria, Tunisia have not opted for democracy, nor has Libya, nor has Egypt, nor has Lebanon, nor has Syria, nor has Iraq, nor has Iran, nor has Afghanistan, nor has Pakistan, nor has Jordan, nor has Yemen, nor has Aden, nor has Saudi Arabia, nor has the organization of Arab states.

Come on. So we have to go out and not speak sense with respect to policy, and when you want to talk about policy, they say it is anti-Semitic. Well, come on the floor, let's debate it. Because my friend from Virginia admonishes me. Referring to me he says, ''I suggest he should learn from history before making accusations.'' I didn't make any accusations. I stated facts. That is their policy. That is not my policy.

Mind you me, when we went into Iraq, the only people in the world who favored that policy were the people of the United States and the people of Israel. The people of Jordan, Iraq, Britain, Spain, Poland, Italy, Japan, everywhere around the world said you just don't invade a sovereign country no matter how bad the rascal is. We have Kim Jong of North Korea—he has weapons of mass destruction, but we don't do anything there.

Don't give me this about how we saved this and we did this or did that. We have to sort of learn that the front line now is not the Pentagon but the State Department. We have to work through diplomacy. We live in a global economy and a global world. That is only going to come about economically, politically, diplomatically, and by negotiations.

The United States, until this invasion and this domino policy for Israel—don't tell me it is otherwise, about spreading democracy. They know what they are talking about. They are insisting on it. It is not a Jewish policy or a Semite policy. It is their domino policy. That is exactly what it is. But they know how to make you tuck tail and run. Not the Senator from South Carolina. We don't run, we don't win, we are not right, we are wrong a lot of times, but I have thought this out as thoroughly as I know how, and it worries me that here we are.

I said after we got into that thing in Vietnam with the Gulf of Tonkin—I came there at that particular time, in 1966, went to Vietnam when we were under fire three times—actually over into Cambodia before and that kind of thing. We finally came up with McNamara writing a book saying he was wrong.

I'll never forget, McNamara comes out to Allie Richenberg near Saint Albans to get his tennis lesson at 7 o'clock, and Bob Mcnamara turned to Allie and said, ''Allie, what do you think about my book?'' He said, ''It's as bad as your backhand. You should not have written it.''

But we had to wait 20 years for that one, and we killed 58,000 Americans. Now we have killed almost 800, maimed for life thousands of others. Are we going to just continue on?

What would the Senator from South Carolina do if I were king for a day? Yes, I would put the troops in to get security, and I would step up the election. I can tell you right now, I have run for all kind of offices, 20-some statewide offices and campaigns. But don't put me in on that temporary coalition. That fellow, El Baradei, who is running around the United Nations to get a temporary coalition or government to turn power over to on June 30—don't put me in that. I immediately have to repudiate the United States, that I am not a stooge for the United States. We just have our fingers crossed that we can hold law and order so we can have an election. But don't wait until 2005, or December; by September 30, let's get that election going.

Let's realize we are in real trouble. Saudi Arabia is in trouble. Israel is in trouble. The United States is in trouble. I am going to state what I believe to be the fact. In fact, I believe it very strongly. They just are whistling by on account of the pressures that we get politically. Nobody is willing to stand up and say what is going on.

It was a mistake like Vietnam. We got misled with the Gulf of Tonkin, we got misled here, and we are in that quagmire. ''Municipal guerrilla war and a quagmire,'' that says George Herbert Walker Bush. I will end on my authority—President George Herbert Walker Bush said:

> Never commit U.S. troops into an unwinnable urban guerrilla war and turn off the Arab world.

Look in that book of his and you will see exactly what I am talking about. He is not anti-Semitic. He is sensible. He didn't go in.

Yes, Colin Powell, General Powell said if you are going in, let's have enough troops. They tried to do it on the cheap. They were ill advised. My friend Paul Wolfowitz said you will do it in 7 days. Come on. And they let the Republican Guard back into the city of Baghdad and into the Sunni triangle, and the next thing you know, when Chalabi, who has now been demoted or set aside—he did away with their leadership and everything, so they got turned off and they buddied up with the insurgents, and now we have hell on our hands. Everybody knows that.

So it has been ill prepared, ill advised, and ill administered. The entire thing is a mess. Don't give me ''support the troops, support the troops.'' I have been with troops, about 3 years in combat, so don't tell me about troops. I have always supported the troops.

You ask how many Senators have gotten a Woodward Award from the U.S. Army. They don't give that out lightly. I have been with every Secretary of Defense until this one, and I think he is brilliant, but I think he has made a mistake going along with this domino policy. We have it now out on the table, and we will all talk about it, and we will be around and ready to debate it.

I appreciate the colleagues yielding to me. I wish I had all the time to put all these articles in.

I want to thank—and I am going to sit here and support my friend from Washington. She has done a magnificent job stating what the issue is.

It is simply under the auspices of an accelerated disposal plan going around end to reclassify—and it is around end. I had not heard anything about it. I have been handling everything at Savannah River for 30 some years. I called up the South Carolina Department of Health and Environmental Control—DHEC—and they were adamantly opposed and gave me the brief they signed a few weeks ago adamantly opposing it, with the assistant attorney general's name on it. They say this is DHEC policy. I talked to two members of DHEC and they said it was never brought up at their meetings. They do not know anything about it.

So, yes, it is a little rider for one special State that is injurious not only to the State itself—I say that advisedly—but also to the United States.

I yield the floor.

EXECUTIVE SESSION

RAYMOND W. GRUENDER, OF MISSOURI, TO BE UNITED STATES CIRCUIT JUDGE FOR THE EIGHTH CIRCUIT

FRANKLIN S. VAN ANTWERPEN, OF PENNSYLVANIA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE THIRD CIRCUIT

The PRESIDING OFFICER (Mr. COLEMAN). Under the previous order, the Senate will now go into executive session. The clerk will report the nominations.

The legislative clerk read the nominations of Raymond W. Gruender, of Missouri, to be United States Circuit Judge for the Eighth Circuit, and Franklin S. Van Antwerpen, of Pennsylvania, to be United States Circuit Judge for the Third Circuit.

The PRESIDING OFFICER. There is 15 minutes of debate evenly divided.

Who yields time?

Mr. ALLARD. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time be equally counted on both sides.

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

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BOND. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

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

Mr. BOND. Mr. President, shortly we are going to be voting on the nomination of Raymond Gruender to be United States Circuit Judge for the Eighth Circuit Court of Appeals.

I want to tell my colleagues this is one of the finest young men I know. He worked his way through Washington University, getting an MBA and a law degree in 6 years while working full time to support himself. His personal story is a very touching one, with very significant difficulties which he overcame.

He served as an assistant U.S. Attorney under Republican and Democratic administrations.

He has been in private practice of law and has tried cases in district courts—criminal and a wide range of civil cases.

He served as an appellate lawyer.

Most recently, he has been U.S. Attorney for the Eastern District of Missouri.

I can assure you this is a man who will bring not only integrity, legal skills, and judicial knowledge to the Eighth Circuit, but he is a person of great human understanding and intellect. He will be a pleasure to appear before.

We can be proud the President has nominated a man who has such great respect among the bar in the Eastern District of Missouri and law enforcement personnel, as well as plaintiffs' and defendants' attorneys.

I urge my colleagues to vote for Raymond Gruender.

Mr. HATCH. Mr. President, I rise today to express my strong support for the confirmation of Raymond W. Gruender, who has been nominated to the U.S. Court of Appeals for the Eighth Circuit.

Our nominee has ideal qualifications for the Federal bench. An honors graduate of Washington University School of Law, Mr. Gruender has nearly ten years of experience as a trial attorney in private practice along with a solid record in public service. He joined the U.S. Attorney's Office for the Eastern District of Missouri as an Assistant U.S. Attorney in 1990, specializing in white collar and economic crimes, including fraud and corruption cases.

Mr. Gruender has the bipartisan support of the Missouri legal community, including: Senators BOND and TALENT; Edward L. Down, Clinton appointed U.S. Attorney for the Eastern District of Missouri; Lee Lawless, First Assistant Federal Public Defender for the Eastern District of Missouri; Howard Shalowitz, President of the Bar Association of Metropolitan St. Louis; Joseph Mokwa, Chief of Police of City of St. Louis; and Dean Joel Seligman, Washington University in St. Louis School of Law.

In 2000, Mr. Gruender returned to the U.S. Attorney's Office in the Eastern District of Missouri, and specialized in fraud and corruption prosecution. A year later, he was unanimously confirmed as the United States Attorney for the Eastern District of Missouri, where he manages both the civil and criminal litigation handled by the office, as well as overseeing the administration of the office, which includes 60 attorneys. Mr. Gruender and his office have been active in helping to reduce violent crime in the St. Louis area. He has also been a leader in strengthening our nation's readiness in the war on terror.

Mr. Gruender also believes in giving back to his community, and in addition to devoting a significant amount of his career to public service, he has been very active in civic affairs. He has volunteered his time on domestic violence issues, serving at various times as President of the Board of Directors, Vice President, and Secretary of Alternatives to Living in Violent Environments, ALIVE. ALIVE is a not-for-profit organization dedicated to eliminating domestic violence. He also serves as a volunteer on the Allocations Committee of the Variety Club of St. Louis, which raises and distributes funds to disadvantaged and disabled children.

Raymond W. Gruender III has a fine background, which will serve him well as a circuit court judge. He will be a terrific addition to the Court, and I urge my colleagues to join me in supporting his nomination.

Mr. LEAHY. Mr. President, earlier this week, we were able to obtain a firm commitment from the White House that there would be no further judicial recess appointments for the remainder of this presidential term. That undertaking led immediately and directly to the Senate vitiating a cloture vote and proceeding to confirm the nomination of Marcia Cooke to the federal bench in Florida. Today we debate and vote on the nomination of Raymond Gruender to the Eighth Circuit.

Thus, despite the pessimism expressed by some last week, I continued working to conclude an arrangement between the White House and the Senate that would allow additional progress on judicial confirmations. Working with Senator DASCHLE, Senator FRIST, Judge Gonzales and the White House chief of staff Andy Card, we were able to reach an agreement on Tuesday. I again commend our two leaders. I have been working with Senator DASCHLE for months, as well as with the White House, to find a way out of the impasse in judicial confirmations. Senator FRIST and I have spoken at length about this, and he has been working on that, too. I was delighted to see the meeting of Senator DASCHLE, Senator FRIST, and Mr. Card finally take place this week. Most importantly, I was pleased that the White House agreed to no more recess appointments of judges.

I think we have demonstrated our good faith. In the 17 months that the Democrats were in charge of the Senate, we confirmed 100 of President Bush's nominees to lifetime positions on the federal bench. And the Republicans, during the 23 months that they have been in charge of the Senate, have now confirmed another 74. With the consideration of the Gruender nomination today, that total reaches 75.

This is the 75th confirmation for 2003 and 2004, of the 108th Congress. That matches the total for the entire two-year 1995–1996 period in which Republicans controlled the 104th Congress and exceeds the total for the entire two-year 1999–2000 period in which Republicans controlled the 106th Congress. Of course in those years Senate Republicans were reviewing President Clinton's judicial nominees. Further, with 175 confirmations, we will have matched the total confirmation for the most recent 4-year Presidential term 1997–2000.

It is significant that this is the first circuit court nomination the Senate will have considered this Presidential election year. The last time a President ran for reelection was 1996. During that session, with the Republican majority controlling the Senate agenda not a single circuit court nominee was considered. Accordingly, when the Senate acts to confirm the first circuit court nominee this year, we will have bested the total for the entire 1996 session.

I am pleased that the Senate has received assurances from the White House that the President will not further abuse the recess appointment