

wrote purchase orders, steered contracts to favored vendors, received and accepted deliveries, certified contract performance by signing receiving reports like the DD-250, and submitted invoices to the finance office for payment.

In Mr. Krenik's organization—the 7th Communications Group—there was no separation of duties. In that environment, it was so easy for Mr. Krenik to fabricate phony invoices and receipts and get paid.

He said it was a piece of cake. It was just too easy.

This is what Mr. Krenik said after being apprehended:

I saw how others had manipulated the DD-250s [receipts], so I thought I could do that also. . . . It was so easy to generate fake billings and open the Post Office box.

I fear that Mr. Krenik was led into temptation by lax internal controls.

With separation of duties, it would have been very difficult—if not impossible—for him to do what he did. More scrutiny by others would have greatly increased the probability of detection. That fear alone is sometimes enough to deter fraud.

With duties properly separated, the goods are delivered to a central warehouse. After a receipt is certified by an independent warehouse-person, the goods are then turned over to the customer or user—someone like Mr. Krenik.

In the right circumstances, a certified receipt can be a powerful weapon, and I want the certified receipt to be a powerful weapon in the DOD Comptroller's arsenal.

I want receipt verification to be at the top of the checklist of things to do before making a payment.

Above all, I do not want to see this body gut DOD's internal financial controls—or what remains of them—in the name of “defense reform.”

Section 401, as written, would gut DOD's remaining internal controls.

Knowing that DOD's internal controls are already weak or non-existent, the GAO and the IG oppose Section 401, as written.

Section 401 would eliminate what's leftover, and it “ain't” much.

And the crooks are hard at work. We know that for a fact because there is a new case at Dayton AFB, Ohio.

Though we don't yet have all the details on the case, it looks like a carbon copy of the Krenik case—fraudulent invoices and receiving reports valued at nearly \$1 million.

Dayton happened, despite Air Force assurances to the contrary.

The Air Force assured me on July 18, 1997, in no uncertain terms, that a Krenik-style operation could never happen again.

The Air Force said it had “more internal controls to prevent this type of action from happening again.”

I hate to say it but Dayton was happening as those words were being placed on paper.

Weak or non-existent controls combined with heightened embezzlement activity do not argue for Section 401.

So why push pay and chase now?

Pay and chase is a bad idea. It would make DOD's accounts more vulnerable to theft and abuse.

They are already far too vulnerable.

What we need to do now is strengthen internal controls not weaken them.

We need to make the certified receipt the potent anti-fraud weapon that it should be.

DOD should not be authorized to make payments without receipts.

And those responsible must be held accountable for erroneous and fraudulent payments—as they are today.

As I see it, there are two ways to handle Section 401:

(1) remove it entirely from the DRI package; or (2) modify it.

Mr. President, I am ready to work with the Armed Services Committee in developing a mutually acceptable modification to Section 401.

It can be done, and I could help the Committee do it.

There is a way to do it that will serve the best interests of the taxpayers and the Armed Forces.

I yield the floor.

Mr. GORTON. Mr. President, I ask unanimous consent to proceed as in morning business for not to exceed 7 minutes.

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

MICROSOFT

Mr. GORTON. Mr. President, my esteemed colleague, the senior Senator from Utah, Senator HATCH, was on the floor this morning once again after his letter of last Friday denouncing Microsoft's use of its First Amendment rights to defend itself against an unwarranted attack by the Department of Justice and a handful of state Attorneys General.

At one level, at least, he went beyond the remarks in his letter with the totally unsubstantiated claim that the many C.E.O.'s who joined with Microsoft last week and again today to plead with the Department of Justice not to inhibit or to postpone the marketing of Windows' 98 were somehow or another coerced into taking this position. As a consequence the Senator from Utah not only questions the right of men and women leading major American corporations to speak out on behalf of their products, but also insults them by saying they acted outside of their own freewill. Mr. President as I have said, there isn't the slightest evidence for this proposition.

These C.E.O.'s were and are defending the right of a magnificent and innovative American corporation to keep on innovating, to keep on providing newer and better products for the people of the United States, and for that matter, for the people of the world.

The Senator from Utah buttressed his position by quoting from Judge Robert Bork, who has had a dramatic late-life conversion from free market principles to support willing govern-

ment intervention in perhaps the most dynamic of all of our free markets. While the Senator from Utah defended Judge Bork's objectivity in this, he failed to note that the judge has recently been hired by Netscape and by others.

Now, Judge Bork's historic position is perhaps quoted best in just two lines from his book “The Antitrust Paradox,” in which he says “the responsibility of the federal courts for the integrity of virtue of law requires that they take consumer welfare as the sole value that guides antitrust decisions.” The sole value that guides antitrust decisions should be consumer welfare. Mr. President, in this entire debate, we haven't heard a breath, a whisper, or a sentence about consumer welfare.

This is a campaign by Microsoft's unsuccessful competitors to limit Microsoft's competitive ability to benefit consumers. Consumers aren't complaining, competitors are.

Judge Bork has dramatically changed positions from that of a consumer advocate to an advocate of government control. I must confess, Mr. President, that there is precedent for his position. There are antitrust cases that might justify some sort of move of this nature by the Department of Justice. In 1945 in a decision relating to ALCOA, the Supreme Court determined that ALCOA's “superior skill, foresight and industry,” were exclusionary of less efficient forms. In 1953, in a case involving the United Shoe Machinery Company, it was decided that United's long line of superior shoe machines and low leasing rates illegally excluded higher cost rivals. Now if that is the theory of antitrust under which Judge Bork is operating, Senator HATCH is operating and the Department of Justice is operating, let them say so. Let them say that they don't want innovation, that they don't like the new developments, and that they do not want advancing technology.

But, Mr. President, the whole fight in this case is over whether or not we are going to permit the next generation of operating systems to go to market. It is that that is at issue, and only that.

Finally, Mr. President, in this connection, Senator HATCH ended his remarks with a line from the Rolling Stones. In the interests of fairness and impartiality, I think that we ought to try another one. When I hear Senator HATCH defending Janet Reno and lawyers of the Justice Department I figure he has been listening to “Sympathy for the Devil” a little too much lately. There is another Rolling Stones song that describes what Microsoft does for it's customers: a little hit called “Satisfaction.” Microsoft has been satisfying their customers for 20 years and that's what they ought to continue to do. To the Senator from Utah and everyone at the Justice Department who wants to stand between Microsoft and its customers, all I can say is, fellas, “you can't always get what you want.”