

SENATE—Monday, March 15, 1999

The Senate met at 12 noon, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Almighty God, we thank You for Your blessing and care for the Senators and the crucial work of this Senate. We praise You for the way the Senators of both parties worked together on the passage of the educational legislation last Thursday. May this spirit of cooperation continue as the strategic legislation of this week is considered. As the Senators do their work here, continue to bless their families. Watch over them with Your gracious protection. Also, we thank You for all the people who work to make the Senate run smoothly: the officers of the Senate, the Senators' staffs, the many Senate staff departments, the police officers, the reporters of debate, the pages, those who run the subways and elevators, the food service people, and the custodial staff. Give each person a renewed sense of his or her importance in the effectiveness of the operation of the Senate. Keep us all working together as a family of loyal Americans privileged to serve our Nation. Through our Lord and Saviour. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The distinguished Senator from Oklahoma, Senator INHOFE, is recognized.

SCHEDULE

Mr. INHOFE. Mr. President, following morning business, the Senate will resume consideration of S. 257, the missile defense bill. The majority leader has announced there will be no roll-call votes during today's session. However, Members are encouraged to come to the floor and offer amendments in relation to the missile defense bill. Any rollcall votes ordered today on amendments will be postponed to occur on Tuesday at a time to be determined by the two leaders.

I thank my colleagues for their attention.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER (Mr. ROBERTS). Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a

period for the transaction of morning business, not to extend beyond the hour of 3 p.m.

Under the previous order, the Senator from Oklahoma is recognized to speak for up to 30 minutes.

Mr. INHOFE. Mr. President, I ask unanimous consent that I be recognized for up to 35 minutes in morning business.

The PRESIDING OFFICER. Is there objection? Hearing none, without objection, it is so ordered.

Mr. INHOFE. I ask unanimous consent that at the conclusion of my remarks Senator ORRIN HATCH be recognized for 10 minutes.

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

The Senator is recognized.

CHINA'S THEFT OF NUCLEAR SECRETS

Mr. INHOFE. Mr. President, I want you to listen. I am going to tell you a story of espionage, conspiracy, deception, and coverup, a story with life and death implications for millions of Americans, a story about national security, and a President and an administration that deliberately chose to put national security at risk, while telling everyone that everything was fine.

If it was written in a book, Mr. President, it wouldn't sell, because no one would believe it. If it was fictionalized in a novel, few could conceive it. But it is true.

For the sake of my statement today, I am stating that the President withheld information and covered up the Chinese theft of our technology. But I am realistic enough to know that a person with the history of deception this President has will have provided himself with some cover in case he got caught. So I am sure there is a paper trail that he can allege. The way the President probably covered himself was to include tidbits about this theft buried in briefings of 40 or 50 other items so the significance of it would not be noticed. But a paper trail would be established.

Anticipating that, I, over the weekend, talked to the chairman of the House Intelligence Committee, Congressman PORTER GOSS, and the chairman of the Senate Intelligence Committee at the time of the discovery of this secret, this information, Senator ARLEN SPECTER. Neither chairman was notified of the W-88 nuclear warhead technology theft. And these would have been the first to be notified, Mr. President.

There can be no doubt that President Clinton engaged in a coverup scheme.

Let me read three paragraphs from last week's op-ed article by Michael Kelly in the Washington Post, entitled "Lies About China." I am quoting now, Mr. President:

In April 1996, Energy Department officials informed Samuel Berger, then Clinton's deputy national security advisor, that Notra Trulock, the department's chief of intelligence, had uncovered evidence that showed China had learned how to miniaturize nuclear bombs, allowing for smaller, more lethal warheads . . .

Further quoting:

The Times reports that the House Intelligence Committee asked Trulock for a briefing in July 1998. Trulock asked for permission from Elizabeth Moler, then acting energy secretary. According to Trulock, Moler told him not to brief the committee because the information might be used against Clinton's China policy. . .

Further quoting:

The White House's secret would have remained secret had it not been for a select investigative committee headed by Republican [Representative] Christopher Cox. . .

But even using the President's fictitious paper trail, the earliest either chairman could have known about it would have been late in the spring of 1997, years after the Clinton administration learned of it and, of course, after the 1996 election.

I start, Mr. President, by listing a few things which we now know to be true, factual, incontrovertible, and nonclassified.

For years, the Clinton administration covered up China's interest of top secret U.S. nuclear weapons data. They never informed the Congress or the American people about what had happened or its significance to our national security.

Let me tell you what President Clinton did during this period of time.

During this period of time, the President misled the American people on numerous occasions about the threat posed by strategic nuclear missiles in the post-cold-war era.

During this period of time, President Clinton made statements on over 130 separate occasions, such as the following:—and I am quoting—

For the first time since the dawn of the nuclear age, there is not a single solitary nuclear missile pointed at an American child tonight. Not one. Not a single one.

During this period of time, he knew that China was targeting up to 18 intercontinental ballistic missiles at American children.

During this period of time, President Clinton signed export control waivers which allowed his top campaign fundraisers' aerospace company to transfer sensitive U.S. missile guidance technology to China.

During this period of time, he shifted the prime satellite export responsibility from the State Department, where it had always been to maintain security, to the Commerce Department so that it would be easier to share sensitive information with the Chinese and others.

During this period of time, President Clinton hosted over 100 White House fundraisers as a part of a larger aggressive scheme to raise campaign contributions, many from illegal foreign sources primarily, including sources in China. Among guests permitted to attend these White House fundraisers were a convicted felon and a Chinese arms dealer.

During this period of time, John Huang, Charlie Trie, Johnny Chung, James Riady, and others with strong ties to China, were deeply involved, with the President's knowledge, in raising Chinese-tainted campaign cash for the Clinton campaign.

During this period of time, John Huang, who had been given a security clearance without a background check, was permitted to receive numerous classified CIA briefings, both during and after his stay at the Commerce Department.

And during this period of time, President Clinton was successfully stopping the deployment of a national missile defense system—exposing every American life to a missile attack, leaving us with no defense whatsoever against an intercontinental ballistic missile.

Mr. President, China's theft of secret data on the so-called W-88 nuclear warhead may be one of the most serious breaches of national security in the history of our Nation, more serious than Aldrich Ames; perhaps more serious than the Rosenbergs.

The public needs to understand that this story is true. This is not about partisanship. It is not about some ancient history of some long gone cold war.

This is about the real world here and now. It is about national security in its most important aspects. It is about protecting our freedom and our existence as a Nation. This is ultimately a matter which concerns the life and death of every American citizen.

The W-88 is the most advanced nuclear warhead in the U.S. arsenal and is carried on top of a Trident submarine-launched ballistic missile. This is the cornerstone weapon of our Nation's nuclear deterrent. As many as 8 can fit on top of a submarine-launched missile; as many as 10 can fit on top of a land-based missile—either ours or China's. We are talking about a miniaturized warhead much smaller in size than the Hiroshima atomic bomb but 10 times more powerful.

This chart appeared in the New York Times on March 6 of this year. The first atomic bomb dropped on Hiroshima weighed almost 9,000 pounds,

yielded 15 kilotons and was dropped from a plane. By contrast, the modern W-88 is more powerful than this. It is 2.6 feet in length and weighs about 300 pounds and yields up to 150 kilotons. Several fit into the head of one missile. The technology on which it is built is super top secret and represents billions of dollars and years, if not decades, of investment on the part of dedicated scientists and engineers working in the supreme American national interest.

Some ask, why does America have such a weapon? Because it is part of our responsibility as a world superpower to have the most advanced, efficient, and credible nuclear deterrent, not only to protect our own freedom but the freedom of our allies. It is part of our policy of peace through strength.

I think about my friend from Texas, the Senator who is always talking about how we want to see the day when the lion and the lamb lie down together. But when that happens, we want to make sure we are the lion and not the lamb. We don't intend to use any of these nuclear weapons. It is a fact of life, in the most dangerous world we live in, we have to be prepared to deter any potential adversary.

The W-88 allows for multiple warheads to be placed on one missile. With this technology, China will now be able to put up to 10 warheads on a single long-range missile. Each warhead is targeted at a different city, each city subject to an explosion 10 times as great as that which destroyed Hiroshima at the end of World War II.

Mr. President, I am from Oklahoma. I can remember in 1995 when the bomb went off. It was a truck bomb. A 4,800-pound truck bomb destroyed the Murrah Office Building, maiming and killing 168 Oklahomans. I remember standing out there and watching the police and the firemen enter the building where there was no security and pulling out parts of bodies and bodies. It was the most devastating thing I have ever experienced. It was the worst act of terrorism ever recorded on American soil. That bomb had a force of 1,000 pounds of TNT, half of 1 ton. By contrast, the Hiroshima bomb had an explosive force of 15 tons, or 30,000 times as large as the Oklahoma City bomb. The W-88, while smaller in physical size, had a force of 150 kilotons, or 300,000 times the explosion power of the Oklahoma City bomb. By carrying 10 of these, it would be 3 million times the force of the Oklahoma City bomb.

The more compact W-88 warhead makes possible what is called MIRV technology, or multiple independent reentry vehicle, which allows the missile to reenter and then go to various targets. This is technology that we thought China was many, many years away from developing on its own, and they stole this technology, and President Clinton covered it up.

We also used to think North Korea was many years away from building a long-range multiple stage rocket. I got a phone call and a letter from Henry Shelton, Chairman of the Joint Chiefs of Staff, on August 24. In this letter he said he was confident we would have 3 years warning of any new long-range missile threat—that is, any new country that we already didn't know about. Seven days later, on August 31, a multiple-stage rocket was launched in North Korea. Part of it reached the coast of Alaska.

Because of the disparity over what our nuclear threat is, in the wisdom of the House and the Senate, the Democrats and the Republicans commissioned the Rumsfeld Committee. We were charged with the responsibility of finding the nine most informed scientists and authorities on missile technology, who formed a committee for assessing the threat that we have in this country. This was a bipartisan committee, appointed jointly by Democrats and Republicans. Of the nine, five were Republican appointments and four were Democrat appointments. They concluded unanimously that when it comes to advanced missiles and weapons, with countries willing to buy, sell, and steal technology, "We live in an environment of little or no warning." That means we must immediately be prepared.

Last year, you may remember it was revealed that the Clinton administration had changed the approval process for high-technology satellite transfers, how waivers were granted for American companies so they could launch satellites in China. This ultimately resulted in China acquiring advanced United States missile guidance technology, making their missiles more accurate and more reliable. President Clinton personally signed the waiver allowing China to acquire this missile technology. Let me repeat, President Clinton personally signed the waiver allowing China to achieve this missile technology.

Executives of these two corporations which benefited, Loral and Hughes, were among the largest financial creditors to President Clinton's campaign ever but this is not important. The motive for aiding and abetting our adversaries could be money, or it could be some kind of perverted allegiance to some of these countries, or it could be just a callous disregard for the lives of American citizens. The motive is not important. The fact is, President Clinton did it and he knew exactly what he was doing.

Accompanying the transferred missile guidance technology with the stolen nuclear weapon technology, China can threaten United States cities with accurate, reliable, and horribly destructive multiple-warhead nuclear missiles. This is not science fiction. Two years ago, a high-ranking Chinese

official made a statement. Two years ago, when the Chinese were trying to intimidate the elections of the Taiwanese and they were launching missiles at the Taiwan Straits, it was suggested to this high-ranking military official in China that it could be that America would come to Taiwan's defense and would intervene. His response was, "No, they are not going to do that because America would rather defend Los Angeles than defend Taipei." At the very least, that is an indirect threat to use missiles on the United States of America.

By helping China develop their long-range missiles, President Clinton also helped North Korea and other rogue nations with theirs—nations like Iran. Let me read three paragraphs from last week's Washington Times article entitled "China Assists North Korea Space Launches."

China is sharing space technology with North Korea, a move that could boost P'yongyang's long-range missile program, White House and Pentagon officials told the Washington Times. . . .

Another Pentagon report on the 1996 Chinese booster that failed to launch a U.S. satellite concluded that "U.S. national security was harmed" by the improper sharing of technology with China by Hughes and other satellite maker Loral Space & Communications Ltd. . . .

Keep in mind, it was President Clinton who signed the waiver to give the Chinese this technology.

In 1994, the Pentagon's Defense Intelligence Agency reported that it believed China had helped design the Taepo Dong 2 missile (this is the North Korea missile) because its first stage diameter is very close in size to the Chinese CSS-2 immediate range missile.

It is factual to say that President Clinton knew he was giving our missile technology to North Korea as well as China.

I take this moment to remind my colleagues once again that America today has no defense whatever against such a threat. The Clinton administration today, despite its rhetoric, opposes the deployment of any national missile defense system. Someone who is pretty smart, back in 1983 when they determined that we would have to have a defense against an incoming missile by fiscal year 1998—that is, last year—so during the Reagan administration, then the Bush Administration, they embarked on this thing called SDI, Strategic Defense Initiative, to make sure that by 1998 we would have something to defend ourselves in the event an ICBM came over from China, from Russia, from Iran, from North Korea, from anywhere. So we were on schedule to have this deployed by fiscal year 1998.

Well, in 1993, that came to a screeching halt when President Clinton vetoed the defense authorization bill and vetoed all further efforts, including the bills that were introduced to put us on

line with the national missile defense system. As an excuse for this, he said he had to protect the integrity of the 1972 ABM Treaty. Let me remind you that treaty was not a Democrat-inspired treaty. That was Republican-inspired; it was President Nixon and Henry Kissinger. The idea was that we had two superpowers, the U.S.S.R. and the United States of America. So we made a deal with them. Under the ABM Treaty, we said we won't defend ourselves, and you don't defend yourselves, and that way, if they launch a missile that goes to us, we launch one that goes back to them and everybody dies. I didn't like that theory back then, but it made sense when there were two superpowers. That is not true today.

Today, virtually every country has a weapon of mass destruction. We have missiles that we are finding that now even North Korea has. China is exchanging technology and systems with Iran and other countries like that. So there is a proliferation of missiles as well as weapons of mass destruction. I have to say that the mutual assured destruction concept which was adopted at that time has no relevance today. Even Henry Kissinger, who was the architect of the ABM Treaty of 1972 said, "It's nuts to make a virtue out of our vulnerability." He said we should not be looking at that. Besides, somebody should remind the President that was a treaty that was made in 1972, and it was made between the United States and the Soviet Union. The Soviet Union no longer exists. So I have to say that President Clinton is solely responsible for the fact that we are totally defenseless against an incoming ICBM from China or any other place in the world.

Now, Mr. President, from news reports, this is some of what we know about China's theft of our nuclear secrets. Apparently, a spy at the Los Alamos weapons lab succeeded in transferring data on this highly classified W-88 warhead technology to China in the mid-1980s. That was not during the current administration; nobody refutes that. But our Government did not find out about it until April of 1995. That is 3 years into the Clinton administration.

This is a critical date, Mr. President. We did not know about the theft until April of 1995. Detection came when experts analyzed data from then-recent Chinese underground nuclear tests and saw remarkable similarities to the W-88 U.S. warhead to what they were experimenting with. Later in 1995, secret Chinese Government documents confirmed that there had been a security breach at Los Alamos. That was in 1995.

Deputy National Security Advisor Sandy Berger was first briefed about it. President Clinton did not respond then because he was obviously a little pre-

occupied with what he considered to be more important matters at that time. After all, there were White House fundraisers to host, foreign campaign contributions, satellite transfers to approve, high technology trade with China to promote and, of course, an election to be won—at all costs. Mr. Berger was well aware of all this. We know that he sat in on strategy sessions for the campaign for 1996.

So this was also the time when President Clinton was running around the country telling audiences that "for the first time since the dawn of the nuclear age, there is not a single, solitary nuclear missile pointed at an American child tonight. Not one. Not a single one." Of course everybody cheered, wanting to believe he was telling the truth.

Of all the lies this President has told, this is the most egregious of all.

He repeated this misleading, deceptive lie over 130 times between 1995 and 1997, right at the very time he and his national security advisors knew that this horrible breach of nuclear security had occurred and was under investigation. It was also at that very time that he knew that up to 18 American cities were being targeted by Chinese long-range missiles, missiles that had and have the potential of killing millions of Americans. During this time, he said 130 times: "For the first time since the dawn of the nuclear age, there is not a single, solitary nuclear missile pointed at an American child tonight. Not one. Not a single one."

So while the American people consume his misleading and dishonest public statements—helping to secure his reelection—nothing was done for over a year about the security breach at Los Alamos.

The likely suspect spy was identified in early 1997, and the FBI urged that he at least be transferred to a less sensitive position. But inexplicably, he was allowed to keep his sensitive job at Los Alamos for another year and a half. This was the spy who was responsible for the theft, and President Clinton kept him in that sensitive job for another year and a half. Finally, he was fired by Energy Secretary Richardson last Monday—a week ago today, March 8, 1999—but only after he was publicly identified in news reports as having failed two previous lie detector tests.

In all of this, was Congress ever informed? As a Member of the Senate Armed Services Committee and the Senate Intelligence Committee, I certainly was not. As I said earlier, I talked to the chairmen of both the House Intelligence Committee and the Senate Intelligence Committee and they weren't informed either.

Did the President ever take the appropriate aggressive and timely steps that should have been taken in order to protect the national security interest

in the wake of this matter? No, he did not.

Why? Why the delays? Why the lack of consultation and communication? Why the seeming indifference to this very, very serious breach of national security? We will be asking some tough questions about this in the days to come. I note that the Armed Services Committee will have a hearing on this, and the Intelligence Committee will have a hearing the day after tomorrow, Wednesday. We will have a lot of questions. The American people need to know what is going on here.

The President's National Security Advisor, Mr. Berger, has a lot to answer for here. He had better be prepared to answer questions from Members of Congress honestly, forthrightly, and without intention to deceive, mislead, or change the meaning of words. Otherwise, he should resign now and take the rap for President Clinton.

I am convinced that we have not yet scratched the surface of the national security scandal exposed by these most recent revelations.

This administration obviously wanted nothing to interfere with developing good relations with China. While it was soliciting and accepting campaign contributions from China, it was dragging its feet on investigating the most egregious espionage operation China had ever succeeded in pulling off in the U.S., a breach of security which could potentially put the lives of millions of Americans at great risk.

This is, without doubt, the worst example yet of how this administration has put its own selfish motives above the national security interests of this country and above the protection of American lives.

The American people and the Congress must demand that the President be held accountable for this gross dereliction of duty. I guess the question is, What can we do? We are Members of Congress and what can we do? I am not sure there is anything we can do except inform the American people and let public outrage solve the problem. And why are we in Congress so limited in what we can do?

Our Founding Fathers never envisioned we would have a President who would do these kinds of things and act in these ways. This is why the Constitution gives the President great latitude of action in carrying out his duties and why he is protected from the other branches of Government under the separation of powers.

When John Adams wrote to his wife after the first night he spent in the White House in 1799, he spoke of the expectations of all the founders during that time: "May only honest and wise men rule under this roof." The White House.

There was an assumption that the American people would always elect Presidents with a basic level of moral-

ity, honesty and integrity, who out of patriotism would always put the welfare of the country above any personal ambitions for power or glory.

This President knew he was covering up information vital to the safety and well-being of every American—that China had stolen from us the advanced technology which would give them the capability to kill millions of Americans in multiple cities with just one missile, and he knew it.

In 1945, World War II was ended when the atomic bombs were dropped in Nagasaki and Hiroshima. Each explosion destroyed an entire city, killing tens of thousands. The death toll in Hiroshima was about 75,000 lives from that 15-ton nuclear bomb.

Just think, that with the technology that this President has transferred to China and what China has stolen and the President has covered up, China is now capable of producing a 150-kiloton bomb small enough to fit ten of them on top of one missile, each bomb targeted at a different American city with accuracy and reliability.

Just extrapolating the numbers, that—in theory—is enough destructive power to kill as many as 7,500,000 Americans—with just one missile.

And, due to this President who stopped our national missile defense effort, we have no defense. We have a President who acts as if he doesn't care about us.

So finally, Mr. President, let me repeat the six proven incontrovertible facts:

1. President Clinton hosted over 100 campaign fundraisers in the White House, many with Chinese connections.

2. President Clinton used John Huang, Charlie Trie, Johnny Chung, James Riady, and others with strong Chinese ties to raise campaign money.

3. President Clinton signed waivers to allow his top campaign fundraiser's aerospace company to transfer United States missile guidance technology to China.

4. President Clinton covered up the theft of our most valuable nuclear weapons technology.

5. President Clinton lied to the American people over 130 times about our Nation's security while he knew Chinese missiles were aimed at American children.

6. President Clinton single-handedly stopped the deployment of a national missile defense system, exposing every American life to a missile attack, leaving America with no defense whatsoever against an intercontinental ballistic missile.

Again, it doesn't matter whether President Clinton did these things for Chinese campaign contributions because the motive for aiding and abetting our adversaries is not important. The fact is President Clinton did it and he knew exactly what he was doing.

I'm not a lawyer, Mr. President, but I have to ask, could President Clinton

have been tried for impeachment for the wrong crime?

Why am I here telling the truth about the President?

I think it is because I haven't heard anyone else do it. They know this President will lie with such conviction that the American people will continue to believe him, and they don't want to take the risk.

I happened to go yesterday to the McLean Bible Church, and the sermon was about taking risks—being willing to take a risk. They talked about the Israelites who were in the desert, and they sent a team up to Canaan to look to see what the risk was up there. They came back, and they said: There are giants up there. We don't have a chance. We are like mosquitoes next to them, except for Caleb." Caleb came back, and he said, "We should take the risks. We can win. We can fight and win."

What happened? The rest of the story you know. You know what that is. God left the Israelites out in the desert, and he sent Caleb to the Promised Land. With all these blessings, we just do not seem to learn. I think Henry Ward Beecher said it in a different way. He said, "I don't like those cold, precise, perfect people who, in order not to say wrong, say nothing . . . and in order not to do wrong, do nothing."

We have a lot of people around here who are more concerned about their jobs that they would go ahead and do nothing. So somebody has to tell the truth about this President. We can't all be appeasers. An appeaser is a guy who throws his friends to the alligators hoping they will eat him last.

Hiram Mann said, "No man survives when freedom fails, the best men rot in filthy jails, and those who cry appease, appease are hanged by those they tried to please."

I believe that truth will ultimately prevail. It is just stubborn. Winston Churchill said, "Truth is incontrovertible. Ignorance may deride it, panic may resent it, malice may destroy it, but there it is."

Mr. President, everything I have said during the course of the last 30 minutes is absolutely proven and true. I hope America is listening. We have a nation to save from this President.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The distinguished Senator from Utah is recognized.

Mr. HATCH. Mr. President, I ask unanimous consent that I be permitted to speak for 15 minutes and that immediately following my remarks Senator HOLLINGS be recognized.

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

The Senator is recognized.

Mr. HATCH. I thank the Chair.

COMPETITION IN THE DIGITAL AGE: UNITED STATES VERSUS MICROSOFT

Mr. HATCH. Mr. President, today I rise to speak for a few moments on the Justice Department's ongoing case against Microsoft, and to discuss the Judiciary Committee's upcoming agenda in examining competition in the digital markets.

As my colleagues know, the Department of Justice and 19 states have sued Microsoft for violating federal antitrust laws. In the case brought by the Department of Justice, the Government has completed its case in chief, and Microsoft rested its case on Friday, February 26.

While the trial is proceeding in the courts, I have not held hearings on Microsoft's apparent monopolistic activities and their impact on competition within the software and related technology markets. However, as I noted last November, the Judiciary Committee will continue to examine the important role proper and timely enforcement of federal antitrust laws can have on fostering both competition and innovation for emerging technologies, while minimizing the need for government regulation of the Internet.

I believe an important area of inquiry is evaluating the significant public policy concerns posed by the question of what remedies should be imposed in cases where, notwithstanding the generally dynamic and competitive nature of Internet-related industries, high technology companies have been found to have violated the antitrust laws.

As I have maintained in the past, these dynamic high-technology industries are different from other traditional industries of the past, and antitrust remedies must take these differences and the special characteristics of the respective high-tech industries into account.

Mr. President, if, at the close of the trial, Microsoft is found to have violated the law, the remedies that the court would apply will implicate many policy concerns with respect to how business in the high-technology industry is transacted. Any resolution of the matter—including any settlement, I believe, should aim to restore competition and ensure that neither Microsoft, nor any other monopolist similarly situated, is allowed to continue to benefit from the market advantages it gained unfairly.

Promoting real and vigorous competition, which respects intellectual property rights, will not only ensure better prices for the consumers, but will also ensure that innovation is not hampered due to the market stranglehold of a monopolist. Ensuring that true competition exists in the market is also the best way to keep the government out of the business of regulating the Internet.

Government should not exert unwarranted control over the Internet—even if Vice President GORE still thinks he created it. Nor should any one company. Indeed, I share Senator GORTON's interest in knowing where the Vice President stands with respect to the Microsoft case. After all, doesn't the father of the Internet have a view on who should be able to control his creation?

In the trial, we saw the government put forth a powerful case against Microsoft. And, we saw Microsoft put forth a not so stellar defense. Many experts, even those who were skeptical at first, now believe that the government may well prevail.

I ask unanimous consent that several illustrative articles related to this case be printed in the RECORD.

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

[From the New York Times, Feb. 11, 1999]

U.S. HAMMERS AT MICROSOFT'S BROWSER DEALS

(By Joel Brinkley)

A senior Microsoft official acknowledged in Federal court today that the company's contracts had prohibited Internet service providers from offering its browser on the same Web page as its main competition because Microsoft executives "thought we would lose in a side-by-side choice."

The admission clearly pleased David Boies, the Government lawyer who elicited it from the witness, Cameron Myhrvold, a vice president in the Microsoft Corporation's Internet Customer Unit division—so much so that Mr. Boies asked the same question four different ways and got the same answer each time.

"Was it true you were trying to prevent Internet service providers from presenting Netscape and Internet Explorer side by side so users could choose?" he asked at one point. Internet Explorer is the name of Microsoft's browser; the Netscape Communications Corporation's Navigator is its principal rival.

"We thought we would lose in a side-by-side choice," Mr. Myhrvold answered, because Netscape was already so firmly established in the market.

In all, it was another bad day in court for Microsoft in its antitrust battle with the Justice Department, which charges that the software giant used a monopoly in personal computer operating systems to achieve a dominant position in Internet software. Hour after hour, Mr. Boies chiseled away at Mr. Myhrvold's testimony, forcing him to acknowledge incorrect assertions, misleading omissions and deceptive statements.

Mr. Myhrvold repeatedly acknowledged that he made misstatements in E-mail memos. He also testified that he disagreed with Microsoft employees whose memos contradicted his own assertions.

As he completed his testimony this evening it was clear the Mr. Myhrvold's appearance had not helped Microsoft's case. In fact, as Microsoft's defense reached its midpoint this evening, none of its first five witnesses had proved particularly effective advocates of the company's position.

Mr. Myhrvold, a brother of Nathan Myhrvold, Microsoft's chief technology officer, is in charge of the Microsoft division that negotiates agreements with Internet

service providers, the companies that give computer users access to the Internet. The Government charges that Microsoft's restrictive contracts with these companies are anticompetitive and illegal. Mr. Myhrvold tried to make the case that the contracts were largely ineffective or benign.

Many of these companies have agreements to be listed in the Internet Referral Service in Microsoft's Windows operating system, which enables users to subscribe to an Internet service posted there. On Tuesday, Mr. Myhrvold insisted that the Government's assertion that these companies had to favor Explorer over Navigator to be included in the service was "absolutely wrong."

But under further cross-examination by Mr. Boies today, Mr. Myhrvold admitted that in most cases the companies had been required to ship Explorer to at least 75 percent of their customers. Mr. Myhrvold added that they were free to stop shipping the Microsoft product if they wanted, in which case they could be dropped from the Windows referral service.

"It's a fairly subtle point," Mr. Myhrvold acknowledged.

Similarly, in his written direct testimony, Mr. Myhrvold pointedly noted that several Internet service providers in the referral service were not shipping Explorer as required, and yet the company had decided not to enforce the contracts.

For example, he wrote, "of the copies of Web browsing software shipped by Concentric," a reference to Concentric Networks, a small Internet service provider, "only 17 percent were Internet Explorer."

But those figures were for 1997, Mr. Boies entered into evidence a Microsoft document showing that by the first quarter of 1998, 100 percent of Concentric's browser shipments were Internet Explorer.

Mr. Myhrvold repeatedly noted that Netcom, a Internet service unit of ICG Communications Inc. that has a contract with Microsoft, made no real effort to switch customers to Internet Explorer, testifying that one point in 1997—when 10 percent of Netcom's customers were getting the Microsoft product—was "the high-water mark."

But Mr. Boies then displayed a Microsoft document showing that in early 1998 the percentage had risen to 40 percent. Then Mr. Boies offered another Microsoft document showing that Netcom was actually able to control the browser choice of only a small percentage of the people who signed up for its service; most customers were handed to Netcom by computer makers, or by Netscape. That same document showed that Microsoft won an agreement with Netcom that 90 percent of the customers Netcom did control would switch to Internet Explorer.

To that, Mr. Myhrvold said only that the author of the Microsoft document "was a pretty good salesman."

Later, the response to a question from a Microsoft lawyer, Mr. Myhrvold denied a Government assertion that his staff had offered a British division of Uunet, an Internet service owned by MCI Worldcom, \$500,000 to switch to Internet Explorer. He said he told his staff that "it would not be appropriate to tie payments to shipments of Internet Explorer."

Moments later, Mr. Boies displayed still another E-mail that Mr. Myhrvold had written to a subordinate in Britain in which he said, "I think tying the payment to their shipping of IE is a great idea, though I would not do this formally." Mr. Myhrvold explained that the message had not meant what it said, and he had called the subordinate later to tell him not to tie the two.