

to the head as well as the terrors of the vivid memories of that night. My father was a pastor, which meant his job provided us with a house. With his death we not only lost a father (which hurts more than words can tell) but we also lost our home.

I write this by no means to ask for a hand out but instead to ask that you do all you can to make the penalties against drunk driving as strict as possible.

Most of us have seen the public service advertisements on television about drunk driving, and most of the advertisements we see these days from non-profit organizations are of some wonderful people—in many instances children—on a video camera. Then we learn after 15 or 20 seconds of the video that this is a young child who was killed in a drunk driving accident.

Let me again reiterate that we can prevent many of these accidents if we as a country decide to treat drunk driving differently, if we get serious about dealing with this issue. One amendment which is going to be offered to this legislation deals with a national standard of .08 blood alcohol content. The other, I hope, will be a prohibition of open containers of alcohol in vehicles across this country.

Mr. President, I have spoken longer than I intended. I appreciate the contribution of the Senator from West Virginia, as well as the contribution of the Senator from Virginia, Senator WARNER. I look forward to coming back to the floor and offering my amendment. Again, I hope very much that we will move quickly with this piece of legislation.

Let me finish, as I started, by complimenting Senator LOTT, the majority leader, for bringing this legislation to the floor now. I commit, and I hope my colleagues will, as well, to work in a very serious way to move this legislation along as quickly as possible and get it to conference so we can finally pass a highway bill and provide some certainty about highway investment and safety programs in this country's future.

I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

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

#### AVOIDING WAR IN IRAQ

Mr. LEAHY. Mr. President, the agreement signed by UN Secretary General Kofi Annan and Iraqi Deputy Prime Minister Tariq Aziz has averted, for at least the time being, the use of military force against Iraq.

Contrary to the statements of some Members of Congress, I do not believe this signifies that the President of the

United States has subcontracted the nation's foreign policy to the United Nations. Rather, I believe the President, who has said he would use force as a last resort, had good reason, indeed an obligation, to delay while the Secretary General sought a diplomatic resolution of this crisis.

I also believe the agreement, while not perfect, deserves the support of the international community, including the United States, and I say that even if, as many predict, Saddam violates this agreement as he has every other agreement since the end of the Gulf War.

I have said repeatedly that force cannot be justified until every diplomatic option has been exhausted. The agreement obtained by the Secretary General shows that we have not yet reached that point.

Seven years ago the United States led a military coalition of Western and Arab nations to force Iraqi President Saddam Hussein to withdraw from Kuwait. The United States invested an enormous amount in the Gulf War. 246 American soldiers lost their lives. Since then, we have maintained the no-fly zone and provided humanitarian relief to Iraqi Kurds who have been brutalized repeatedly by Saddam Hussein's army.

The Gulf War ended when Iraq signed a cease-fire agreement, in which Iraq agreed to promptly disclose and destroy its entire arsenal of weapons of mass destruction. Shortly thereafter, the UN Security Council adopted Resolution 687, which clearly described Iraq's obligations under the cease-fire agreement. Those obligations have the force of international law. Subsequent resolutions have reaffirmed the need for complete Iraqi compliance.

Since that time, Saddam Hussein has systematically reneged on his commitments under the cease-fire agreement. He and his government have repeatedly denied the UN weapons inspectors access to sites they sought to inspect and which they have every right to inspect.

In his speech last Tuesday, President Clinton described the numerous instances that the Iraqis have lied about their chemical and biological weapons programs, and revised their reports describing what they possess only after their lies were exposed. Any number of times the inspectors have closed in on a suspicious site only to be refused access, or to see an Iraqi truck drive away in an obvious attempt to hide incriminating evidence.

If Saddam Hussein had nothing to hide, why would he have gone to such lengths to prevent the UN inspectors from doing their job, particularly since there is no way the UN sanctions will be lifted as long as the Iraqis fail to cooperate fully with the weapons inspectors? There is no doubt that since 1991, Saddam Hussein has squandered his country's resources to maintain his capacity to produce and stockpile chemical and biological weapons.

That history of deception is what brought us to the brink of war. The

agreement obtained by the Secretary General reaffirms, at least on paper, Iraq's obligations regarding the UN inspectors. It also gives Iraq some basis to hope that the sanctions could eventually be lifted.

Had the Secretary General failed, the missiles and bombs might already be raining down on Iraq. We would have had to expect American casualties. Out of hundreds or thousands of sorties, some American pilots may well have been shot down and taken prisoner. Iraqi civilian casualties were predicted to number in the thousands.

While there is no doubt that we can do tremendous damage to Iraq's military capabilities, war is fraught with uncertainties. Victory can be bitter sweet, and short-lived. Those who have taken the Secretary General to task should explain what gives them confidence that more would have been achieved through bombing. Do they really believe that the lives of thousands of innocent people are not worth the time it takes to test the agreement? Are they prepared to refight the Gulf War, with ground troops, to get rid of Saddam? I seriously doubt it.

I fully agree with the President that nothing short of free, full and unfettered access for UNSCOM must be our objective. I have been deeply concerned, however, that the use of military force would not achieve that objective, and that it might well cause the inspectors, who have been doing 90 percent of their job without interference, to be barred from Iraq entirely.

Then we would know even less about his arsenal of biological and chemical weapons, while Saddam Hussein emerges defiant and victorious in the Arab world for having successfully stood up to the military might of the United States. Damaging Iraq's facilities is a poor substitute for Iraq's compliance with the terms of the cease-fire agreement, if that can be achieved by other means.

Having said that, I am not against using force under any circumstances. Nor do I believe that we can achieve our objectives in Iraq without the credible threat of force, because it is the only thing Saddam Hussein understands. The Secretary General suggested as much himself, although he used the words of a diplomat. But if it is as likely as not that force will not coerce Saddam to permit full access for UNSCOM, and that it could even result in an end to inspections in addition to thousands of civilian casualties, and enhance Saddam's standing in the Arab world. This may show again that it would have been wrong to give up on diplomacy.

It is elementary that diplomacy requires flexibility, just as it requires creative thinking. Both, I am sad to say, have been in short supply during this crisis. I was not prepared to support the use of force against Iraq prior to the Secretary General's trip to Baghdad because I was not convinced

that there had been a serious attempt at creative diplomacy. In fact, I was concerned about the apparent inflexibility of the administration, not on the question of access for the UN inspectors which I do not believe can be compromised, but on other issues such as the sale of oil so Iraq has some realistic hope of being able to meet its obligations under the cease-fire agreement, which include compensation for Kuwait and Israel.

I was also concerned that administrative assertions that the embargo would not be lifted until Saddam Hussein is removed from power, as desirable as that is, were inconsistent with the cease-fire agreement, and gave the Iraqi Government little reason to even attempt to comply.

The Secretary General's initiative showed that a degree of flexibility and creative thinking can prevent bloodshed. While Saddam has shown many times that he is ruthless and untrustworthy, that is not a reason to abandon diplomacy as long as there is a glimmer of hope. It may produce a better outcome. That is worth finding out.

Or it may not. Saddam has not agreed to anything different than he had before and the agreement is devoid of details on several important points. There is uncertainty about which facilities are "presidential sites," and the procedures for inspections of such sites have yet to be determined.

There are concerns that the agreement could undercut the independence of UNSCOM if its authority is shifted to a commission named by the Secretary General. However, according to Secretary of State Albright, the Secretary General has assured her that Richard Butler, the current head of UNSCOM, will remain in charge.

There are unresolved questions about the role of the diplomats who are to accompany the inspectors. UNSCOM's success has been a result of its independence, and that absolutely must be preserved, both for purposes of its activities in Iraq and for inspections elsewhere. The wrong precedent here could come back to haunt us years from now somewhere else. The proof will be in the interpretation, and whether or not UNSCOM is able to do its job without physical or political interference.

Whether the use of force would be justified, or wise, if the agreement fails I will leave for another day. But we should remember that despite all the destruction leveled on Iraq during the Gulf War, it was not enough to prevent Saddam Hussein from defying the international community and using every trick in the book to rebuild his military arsenal.

If we bomb Iraq again, he would be right back at it, claiming victory for standing up to the US, but no longer under the watchful eye of UNSCOM's cameras. Then what would we do, after we are blamed for causing more innocent deaths on top of the Iraqi victims of the embargo for which we are deemed primarily responsible?

How do we avoid being back in the same situation in six months or a year? What about the risk of exposing our forces to poison gas or biological toxins, which might be inadvertently released in a bombing attack?

How do we weigh the risks of further damaging our relations with the Arab world, and with Russia? If we cannot get rid of Saddam, what is our long-term policy? Or are we prepared to do what it takes to get rid of him?

These questions need answers, especially if Saddam breaks his word again and the President decides to use force. If that day comes I would urge him, as others have done, to first seek authorization from the Congress.

This is not a situation where the United States is facing imminent attack. It is not the type of situation that was contemplated by the War Powers Act, when the President could single-handedly involve the country in a war for a limited period of time because there was not adequate time for the Congress to declare war. There would be time. The Congress has that responsibility. Some Members of Congress would duck that responsibility and put it all on the President. That is not why we are here. We owe it to the American people to speak.

The use of force on this scale, under the circumstances contemplated here, would have grave consequences for the American people, for our entire country. Likewise, the failure to use force if Iraq again violates the cease-fire agreement could have lasting implications for the international community's efforts to deter the manufacture and use of chemical and biological weapons and to uphold international law. For these and other reasons, the Congress should fully debate these issues and render its own judgment.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, I ask unanimous consent to speak as if in morning business.

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

#### MICROSOFT

Mr. GORTON. Mr. President, the Senate Judiciary Committee has scheduled a hearing on Tuesday March 3 entitled "Market Power and Structural Change in the Software Industry." As most of my colleagues know, I am deeply concerned that the true aim of this hearing is not to improve the software industry, but to attack Microsoft and to give the federal government more control over the future of this company. If my suspicions are correct, this attack is not, as some may argue, an attempt to protect the American consumer, but rather, a concerted effort to handcuff Microsoft and provide its competitors with an opportunity to play catch-up that their competitive merits have not provided them in a free market.

In a recent interview with Salon, the Chairman of the Judiciary Committee,

my friend and colleague Senator HATCH, announced that his committee will release a report the morning of the hearing detailing its findings from an in-depth investigation of Microsoft. That report, no doubt, will claim that Microsoft is engaging in anti-competitive business practices. Releasing such a report only minutes before Bill Gates is scheduled to testify before the committee, without giving him adequate time to read and respond to its allegations, would be grossly unfair.

I raised these concerns with the committee and was assured that the report would not be released before Mr. Gates has an opportunity to testify. I trust that my friend Senator HATCH will stand by his word and do what is fair and right.

Witnesses at the hearing include some of the biggest players in the high-tech industry: Bill Gates, Scott McNealy of Sun Microsystems, Jim Barksdale of Netscape, Michael Dell of Dell Computer, and Doug Burgum of Great Plains. These men and their colleagues in the high-tech industry are responsible for the technological revolution that has taken place in America. Twenty years ago, computers were hulking, outrageously expensive, inefficient machines accessible to only the wealthiest corporations. Today, personal computers are in virtually every business and in many homes and schools. This is the modern day version of the Industrial Revolution.

Not only are the men and women of the hi-tech industry properly credited with allowing businesses to run more efficiently, making information on virtually any subject imaginable accessible to anyone with a PC and a modem, and providing our schools with increasingly effective learning tools, they are also responsible for the amazing pace of economic growth the United States has witnessed over the past 20 years.

The computer software industry has grown more than seven times faster than the U.S. economy as a whole, and today provides 600,000 good paying jobs to Americans across the nation. Indirectly, thousands more jobs are provided through subcontractors and small businesses serving these corporations and their employees. Industry revenues totaled \$253 billion last year.

Clearly, Mr. President, the software industry is the quintessential American success story with Microsoft, Sun Microsystems, and Netscape at the helm. The women and men responsible for these amazing achievements should be congratulated and thanked for their contribution to a better, smarter, richer America.

But, Mr. President, the high-technology industry achieved these successes in a free market environment from which government was virtually absent. Government, of course, always lags behind commerce. When Bill Gates first developed what has today become