

uncertainty of our Nation's continued access to foreign military bases around the world, the role of air power based at sea is increasing. The mobility afforded by the sea, by international waters, is essential to our overall military deterrence.

The Commonwealth of Virginia and Newport News Shipbuilding are proud to play such an important role in the construction of these new carriers. Born in the same year that the Statue of Liberty was dedicated, Newport News Shipbuilding has produced more than 700 ships—from tugboats to aircraft carriers, from submarines to passenger liners. Since its founding in 1886 as a repair facility for coal ships by industrialist Collis P. Huntington, one of the builders of the Transcontinental Railroad, the shipyard has grown to be Virginia's largest private employer and the Nation's largest private shipyard. And as the shipyard has developed over this century, it has become a vital national security asset. In fact, Newport News Shipbuilding is the only shipyard in the United States capable of building *Nimitz*-class carriers.

In becoming what I consider to be the finest shipyard in the country, Newport News Shipbuilding has done so by pioneering computer-aided ship design and advanced construction techniques which have made it a leader in ship construction repair. But the most impressive resource at the shipyard always has been its committed employees dedicated to building the best ships in the world.

During my many visits to Newport News Shipyard, there is an unmistakable feeling of pride among employees, many of whom are fourth and fifth generation shipbuilders. This proud tradition reflects the employee bond that has made the shipyard what it is today.

I have every confidence that the faith President Reagan has placed in the workers at Newport News Shipbuilding to build two new *Nimitz*-class carriers is well-placed. And I have further confidence that Newport News Shipbuilding will continue to build on its first 100 years of service to the Nation and remain the premier shipbuilding force in the United States for years to come.

Further, it is a great honor for Virginians to build one of these carriers to be named, in accordance with the wishes of the President of the United States and the Congress of the United States, for the senior Senator of Mississippi Senator JOHN C. STENNIS who has served the people of the United States in the Senate for over 40 years. He is one of the principal architects of the present force structure of the Armed Forces of the United States. For generations to come, Navy men and women will take great pride in sailing "his" ship.

Mr. President, seeing no other Senator seeking recognition, 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. NUNN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. NUNN. Mr. President, in a few moments I think we will be considering a nomination, and I will go ahead and address that nomination at this moment.

I see the majority leader is here, and I will be glad to defer to him. I was about to make remarks relating to the nomination of General Powell, to be the National Security Adviser, which has, according to my understanding, been cleared with all parties. But I will defer and yield to the majority leader at this point.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I do wish to inform the majority leader that the nomination is clear on this side.

Mr. BYRD. Very well.

The PRESIDING OFFICER. Does the Senator from Georgia yield?

Mr. NUNN. I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia yields the floor. The majority leader.

EXECUTIVE SESSION

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the nomination of Calendar Order No. 465.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER. The nomination will be stated.

ARMY

The assistant legislative clerk read the nomination of Colin L. Powell, to be lieutenant general.

The Senate proceeded to consider the nomination.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, on November 17 the Senate received the nomination of Lt. Gen. Colin Powell for reappointment to the grade of lieutenant general and to be assigned in that grade to the position of Assistant to the President for National Security Affairs.

Normally the appointment of an individual to serve as Assistant to the President for National Security Affairs does not require confirmation by the Senate. Lieutenant General Powell's appointment is different, however, because of the Senate's statutory

role regarding confirmation of senior military officers. I want to take a minute to inform our colleagues why Lieutenant General Powell's nomination is before the Senate and what action the Armed Services Committee has taken on this nomination.

In considering the assignment of Lieutenant General Powell to be the Assistant to the President for National Security Affairs, the President had three options:

First, Lieutenant General Powell could have retired from active duty and been assigned to the position in a civilian status. This option would have restricted action by the Senate only to consideration of his retirement in the grade of lieutenant general. This is what happened in the case of Brent Scowcroft when President Ford appointed him to this job.

Second, Lieutenant General Powell could have elected to relinquish his temporary rank as lieutenant general and be assigned to the position in his permanent military rank of major general. This option would not have required any action by the Senate.

Third, Lieutenant General Powell could be assigned to the position with reappointment as a lieutenant general. This option requires action by the Senate under section 601 of title 10, United States Code. Under that statute, when a senior military officer—meaning a three- or four-star officer—changes assignments, the law requires that he or she must be reconfirmed by the Senate in that grade for the new position.

The President chose this third option.

Since the President has proposed that Lieutenant General Powell serve as the Assistant to the President for National Security Affairs and has nominated him to serve as a lieutenant general in that position, the Senate must confirm him to that rank for that position.

In this instance, the Senate, technically, will be deciding whether Lieutenant General Powell will hold three-star rank when he becomes the National Security Adviser to the President. However, I should note for the record that the committee has received a letter recently from Arthur Culvahouse, Counsel to the President, in which he says that the President will defer assigning Lieutenant General Powell to the position until the Senate has had a chance to act on Lieutenant General Powell's nomination.

I ask unanimous consent that Mr. Culvahouse's letter to me be printed in the RECORD.

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

THE WHITE HOUSE,

Washington, DC, November 20, 1987.

Hon. SAM NUNN,
Chairman, Committee on Armed Services,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: This is in response to your inquiry concerning the November 17, 1987, nomination of Lieutenant General Colin L. Powell for appointment to the grade of Lieutenant General, in conjunction with his assignment to a new position of importance and responsibility—Assistant to the President for National Security Affairs (National Security Advisor). General Powell is currently serving as the Deputy Assistant to the President for National Security Affairs in the grade of Lieutenant General, United States Army.

Upon Senate confirmation of Frank Carlucci as Secretary of Defense, General Powell will assume the additional duties of acting National Security Advisor. In order for General Powell to continue in the grade of Lieutenant General, the President will defer assigning him to the position of National Security Advisor until the Senate has had a chance to act on the November 17 nomination of General Powell.

I hope this information is satisfactory for your needs.

Sincerely,

ARTHUR B. CULVAMOUSE, Jr.,
Counsel to the President.

Mr. NUNN. This nomination raises the serious issue of whether a military officer should serve as the Assistant to the President for National Security Affairs.

The Assistant to the President for National Security Affairs is one of the most important positions in our Government. He or she must be able to provide the President with the best possible advice on national security matters. He must also be able to coordinate the advice from the major departments and agencies in the area of national security; namely, the Departments of State and Defense and the CIA. He must also be able to coordinate action among those agencies. Of course, that requires enormous knowledge and skill, but it also requires independence. A military officer knows that his next promotion depends on the Secretary of Defense and the top generals and admirals in the Pentagon. I do not suggest that General Powell does not have the required independence, and certainly I know he has the skills. I only raise the concern that any active duty officer who serves in that position may be subject to an inherent conflict between his responsibilities to the President and his own professional future in the service.

Assignment of a military officer to this senior, sensitive position also raises serious questions about civilian control of the military. The Assistant to the President for National Security often enjoys greater access to the President on a day-to-day basis than the senior civilian leadership in the Pentagon.

Senior military officers have expressed another but equally valid concern. Admiral Crowe said in his deposi-

tion before the Iran-Contra Committee: "I don't think an active military man should lead the NSC, I just really don't believe that." Admiral Crowe went on to say that if the President wants military views, he believed the President should turn to the Chairman of the Joint Chiefs of Staff and not the Assistant to the President for National Security Affairs.

In its final report, the Iran-Contra Committee recommended "that Presidents adopt as a matter of policy the principle that the National Security Advisor to the President should not be an active military officer." Legislation has already been introduced in the Senate to put this recommendation in statute. The Armed Services Committee has pending before us S. 715, a bill introduced by Senator HARKIN last March that would prohibit any active-duty commissioned officer from serving as the Assistant to the President for National Security Affairs.

Mr. President, Senator WARNER and I have discussed this matter. We have had committee meetings on the matter. We have not had any formal hearing. We have had conversations with the White House and with General Powell. I have had conversations on this subject with the President. I have also had conversations with Howard Baker and with Secretary of Defense Carlucci.

This is an unusual situation because, speaking only as an individual Senator—not as chairman of the committee, because our committee has not made this decision—I am very reluctant and will be reluctant to see this action we will be taking this afternoon, if the Senate concurs, repeated in the future.

Why, then, make an exception now? Why go ahead and have a confirmation on the three-star rank at this point in time?

Speaking again only for myself, I believe that this is a rather unique set of circumstances. We are at the end of a term of the President of the United States, the second term, with approximately 1 year left in the Reagan administration. We have had considerable turmoil in the office of the National Security Council. Without going into all of the details, we have had numerous people in that position over the last 4 or 5 years. We are in very important negotiations concerning not only arms control but critical foreign policy matters.

General Powell has been in the position of deputy to Frank Carlucci, who has now moved from the position of Adviser to the President on National Security Affairs to being the Secretary of Defense. We need a period of continuity. We need a period of understanding. We do not have a long time for someone else to come into this position and to go through the learning curve which would take, without any

doubt, a considerable number of months.

So, for these unusual reasons, I am setting aside my overall concern in this respect, and I will support confirmation of this particular nomination.

Mr. WARNER. Will the Senator yield for one observation at this point?

Mr. NUNN. I am glad to yield to my friend from Virginia.

Mr. WARNER. I think the Senator would join me and add a further reason for taking this course of action, and that is the unusual distinction that this fine officer has brought to the Nation and himself through so many, many years as a professional officer.

I will ask at the conclusion of the remarks of the chairman and myself, to include, by unanimous consent, a detailed biography of General Powell.

Mr. NUNN. Mr. President, I concur with my friend from Virginia to the extent of the main thrust of his point, and that is that I believe General Powell has had an outstanding record. He is an outstanding officer. But, in the future, speaking again only as an individual, no matter how outstanding the military officer is that may be appointed by a President in the future, I would take a very dim view of that officer serving as the adviser in the national security position, even if he is the most outstanding member of the Armed Forces.

So I would agree with the main thrust and point that the Senator made, but not the implication that an outstanding officer would cause me to set aside my overall concerns in this area.

Mr. President, there are many people who believe that the President has a right to appoint anyone he wants as a personal adviser in this position. And, in general, I share that view. I have never really advocated the view that we should have to confirm the National Security Adviser, although I would reserve the right to reconsider that position in the future.

So I generally share that view, but I do have serious reservations about a military officer serving as Assistant to the President for National Security Affairs.

I also would have to say that I reserve judgment on whether we should prohibit this in the future by statute; whether we should actually pass a law that says the President cannot appoint a military officer. It is one thing to believe as a matter of policy we should not have that as a national policy, it is another thing to say whether we should pass a law precluding that. And we will be having hearings next year on Senator HARKIN's bill and that will be the crux of those hearings; whether, indeed, the Congress should say to the President: "We will not have any

more active duty military officers in this position."

This is in no way denigrating military personnel. I do not know anyone that has served with more distinction in that position than Gen. Brent Scowcroft, under President Ford. He was one of the most capable National Security Advisers and still is one of the most capable individuals we have in our city and in our country. And yet he took the position that he did not believe he should be an active duty military person in that position, so he retired from active duty and served in a civilian capacity.

So this is not a question of whether our military personnel, many of them, are qualified to serve. I think they are among the most qualified to serve in these positions. The real question is whether they should serve in this important role while they are still wearing the uniform. I reserve judgment about whether this should remain a matter for the President to decide, even with a strong expression from Congress, or whether it should be a matter of law.

I believe, also, that it is important to point out that the National Security Adviser, when we are talking about civilian control, many times has almost daily or hourly access to the President of the United States. And the question has to be raised as to whether that impinges in any way, indirect though it may be, on civilian control, because the top two civilians in foreign policy and defense are in much more remote, although frequent, contact with the President; that is, the Secretary of State and the Secretary of Defense.

Mr. President, the Armed Services Committee has not considered yet S. 715. I should point out for the record that the President indicated his intention to nominate Lieutenant General Powell to the position just before the Iran-Contra Committee issued their final report. By all accounts, and from my own personal experience—as Senator WARNER already observed—Lieutenant General Powell is an extremely capable and talented military officer.

After careful discussion, the Armed Services Committee voted unanimously to favorably report Lieutenant General Powell's nomination to the Senate. We did not have a formal hearing. We did have informal dialog. Some of the members of the committee, including myself, submitted written questions to Lieutenant General Powell which he has answered in writing. Senator WARNER and I discussed this at some length with Senator INOUE and Senator RUDMAN, the chairman and vice chairman of the Iran-Contra Committee, and we believe they would fully support the committee's recommendation on this nomination, although they stand by their committee's recommendation as a long-term policy.

In recommending that the Senate confirm the nomination of Lieutenant General Powell, I would like to make it clear that I, personally—again, I am not speaking for the whole committee—I, personally, will not support the nomination of another senior military officer to the position of Assistant to the President for National Security Affairs, at least until the Armed Services Committee has had an opportunity to address the larger question of whether an active duty military officer should serve in this important position. It is my intent to conduct a hearing in the Armed Services Committee on S. 715 next year to consider whether we should report legislation on this matter.

I thank my friend from Virginia for his usual splendid cooperation in this and I urge the Senate to approve this nomination.

The PRESIDING OFFICER. The Senator from Georgia yields the floor. The Senator from Virginia.

Mr. WARNER. Mr. President, I wish to thank the distinguished majority leader and Republican leader and, most significantly, the chairman of the Armed Services Committee, Mr. NUNN, for expediting this nomination. It is vitally important to the President in the conduct of the affairs of this Nation that the Senate act expeditiously, and momentarily we shall do so.

Mr. President, while I differ with my distinguished colleague with reference to whether or not the Senate should take action in the future on this legislation proposed by Mr. HARKIN or other forms of legislation restricting a President's selection of his principal aids, I feel very strongly that all should be equally qualified.

I certainly join him and thank him once again for the support of this nomination, and likewise the members of the Armed Services Committee who joined with us this week in making the review that was necessary to bring the nomination to the floor.

At no time during the deliberations of the Armed Services Committee have I heard, nor have I heard from any other Member of the Senate, anything but the highest praise for this extraordinary professional officer and I anticipate that he will serve in this capacity with great distinction and that it will enable him to go along to even higher rank and post as a professional officer of the U.S. Army.

Mr. President, returning once again to the issue of a President's options to select members of his staff, I bring to the attention of the Senate a law, section 720 of our statutes, title X which reads as follows:

The President, by and with the advice and consent of the Senate, may appoint a general officer of the Army, Air Force, or Marine Corps or a flag officer of the Navy as a Chief of Staff to the President and may des-

ignate such position as a position of importance and responsibility under section 601 of this title.

At the conclusion of my remarks, Mr. President, I ask unanimous consent that the legislative history on this particular section of our laws be included in the RECORD to follow my statement and just precede the biography of General Powell.

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

(See exhibit 1.)

Mr. WARNER. As the Senate addresses the issue of a President's ability to select his National Security Adviser, it most certainly must take into consideration the fact that the Congress has already spoken on the eligibility of an officer, a professional military officer, to take the position of the more senior member and the most senior member of the President's staff, namely, his Chief of Staff. It seems to me, if it was Congress' will that he could select a professional for that position, it would bear directly on any decision of the Congress with respect to the subordinate position of National Security Adviser.

Nevertheless, at an appropriate time the Congress, certainly the Senate, will address this issue and we will have further debate on it and I shall have further remarks with respect to my strong belief that a President should have a free hand to select whomever he wishes for the position of National Security Adviser as well as any other member of his staff.

EXHIBIT 1

Section 504(a) and (b) of the Officer Personnel Act of 1947, August 7, 1947, 61 Stat. 886

GENERAL OFFICERS—ASSIGNMENTS—POSITIONS CARRYING RANK OF GENERAL AND LIEUTENANT GENERAL

SEC. 504. (a) General officers holding office in any general officer grade, under permanent or temporary appointments, including general officers of the Army of the United States, or any component thereof, serving on active Federal duty, may be assigned or detailed to any duties or positions under regulations prescribed by the President.

(b) The President is authorized, from time to time, to designate certain positions of importance and responsibility which shall carry the rank of general and lieutenant general, respectively, and to designate and assign to such positions any of the general officers holding office in the grade of major general or higher grade, under permanent or temporary appointments (including general officers of the Army of the United States and general officers of each of the components thereof who may be serving on active Federal duty), and such officers, so designated and assigned, shall have the rank, title, pay, and allowances of a general or lieutenant general, as the case may be, while so serving, without vacation of their permanent grade, and, upon termination of such an officer's service in any such position he shall resume his permanent grade or whatever temporary grade he may, at that time, be entitled to hold: *Provided*, That

such officers shall have the rank, title, pay, and allowances of a general or lieutenant general under the provisions of this section only when appointed in such positions by the President, by and with the advice and consent of the Senate: *Provided further*, That the number of such positions and the number of officers serving in such positions shall not exceed 15 per centum of the total number of general officers serving on active Federal military duty (including those holding office under temporary appointments and general officers of the Army of the United States, and the several components thereof), and, of such number not more than 25 per centum may be positions carrying the rank of general: *Provided further*, That, unless a national emergency is declared after the date of this Act and before July 1, 1948, there shall, after such date, and until a national emergency is thereafter declared, be no additional officers appointed in any grade above that of general and the total number of officers serving on active duty in grades above major general under this section or any other provision of law, shall not exceed the following: Forty-four in grade of lieutenant general or higher grade, of which not more than nine shall be above the grade of lieutenant general, and of the nine above the grade of lieutenant general, one shall be the Chief of Staff of the Army and one shall be the officer occupying the corresponding position of the Army Air Forces, and of the remaining seven above the grade of lieutenant general there shall be not more than four in the Army less the Air Corps and not more than three in the Air Corps and of the total forty-four in grade of lieutenant general or higher, there shall be not more than twenty-seven in the Army less the Air Corps and not more than seventeen in the Air Corps; *except that there may be a general officer, either of the Air Corps or other than of the Air Corps, appointed as Chief of Staff to the President, and such officer, unless he be entitled to rank, title, or grade, and the pay and allowances of a general, or of a higher grade under some other provision of law, shall, when appointed to such position by and with the advice and consent of the Senate, have the rank, title, pay, and allowances of a general and he shall be additional to the numbers hereinbefore set forth in this proviso: And provided further*, That the numbers of general officers set forth in this subsection and in the several provisos thereof shall be exclusive of general officers on the active list of Regular Army who are specifically authorized by Acts of Congress to hold appointments in the Diplomatic or Consular Service of the Government or to hold any civil office under the Government or any instrumentality thereof.

RÉSUMÉ OF SERVICE CAREER OF COLIN LUTHER POWELL, LIEUTENANT GENERAL

Date and place of birth: 5 April 1937, New York, New York.

Years of active commissioned service: Over 29.

Present assignment: Deputy Assistant to the President for National Security Affairs, 1st Floor, West Wing, The White House, Washington, DC 98431, since January 1987.

Military schools attended: The Infantry School, Basic and Advanced Courses, United States Army Command and General Staff College, The National War College.

Educational degrees: City University of New York—BS Degree—Geology George Washington University—MBA Degree—Business Administration.

Major duty assignments, (from, to, and assignment):

June 1958 to October 1958—Student, Unit Officer Course, Infantry Unit Commander Course, Infantry Officer Basic Course, Ranger Course, and Airborne School, United States Army Infantry School, Fort Benning, Georgia.

October 1958 to July 1959—Platoon Leader, Company B, 2d Armored Rifle Battalion, 48th Infantry, United States Army Europe.

May 1959 to July 1959—Assistant Adjutant, Combat Command B, 3d Armored Division, United States Army Europe.

August 1959 to October 1960—Platoon Leader and later Executive Officer, Company D, 2d Armored Rifle Battalion, 48th Infantry, United States Army Europe.

December 1960 to October 1961—Liaison Officer and later Executive Officer, Company A, 1st Battle Group, 4th Infantry, 2d Infantry Brigade, 5th Infantry Division (Mechanized), Fort Devens, Massachusetts.

October 1961 to February 1962—Commander, Company A, 1st Battle Group, 4th Infantry, 2d Brigade, 5th Infantry Division (Mechanized), Fort Devens, Massachusetts.

February 1962 to September 1962—S-1 (Personnel), 1st Battalion, 2d Infantry, 5th Infantry Division (Mechanized), Fort Devens, Massachusetts.

October 1962 to November 1962—Student, United States Army Special Warfare Center, Fort Bragg, North Carolina.

December 1962 to January 1963—Self Defense Corps Training Center Advisor, 2d Infantry Division, I Corps, Military Assistance Advisory Group Vietnam.

January 1963 to November 1963—Senior Battalion Advisor, Unit Advisory Branch, and later Assistant G-3 (Operations) Advisor, 1st Infantry Division, Army of the Republic of Vietnam, Military Assistance Advisory Group, Vietnam.

November 1963 to June 1964—Test Officer, United States Army Infantry Board, Fort Benning, Georgia.

August 1964 to May 1965—Student, Infantry Officer Advanced Course, United States Army Infantry School, Fort Benning, Georgia.

May 1965 to February 1966—Test Officer, Supporting Weapons Test Division, United States Army Infantry Board, Fort Benning, Georgia.

February 1966 to June 1967—Instructor/Author, Operations Committee, United States Army Infantry School, Fort Benning, Georgia.

August 1967 to June 1968—Student, United States Army Command and General Staff College, Fort Leavenworth, Kansas.

June 1968 to September 1968—Executive Officer, 3d Battalion, 1st Infantry, 11th Infantry Brigade, Americal Division, United States Army Vietnam.

September 1968 to July 1969—Assistant Chief of Staff, G-3 (Operations) and later Deputy G-3 (Operations), Americal Division, United States Army Vietnam.

September 1969 to July 1971—Student, The George Washington University, Washington, DC.

July 1971 to June 1972—Operations Research Analyst, Office of the Assistant Vice Chief of Staff, United States Army, Washington, DC.

September 1972 to August 1973—White House Fellow, Office of Management and Budget, The White House, Washington, DC.

September 1973 to September 1974—Commander, 1st Battalion, 32d Infantry, 2d Infantry Division, Eighth United States Army, Korea.

September 1974 to July 1975—Operations Research Systems Analyst, Office of the Deputy Assistant Secretary of Defense (Manpower Requirements and Analysis), Office of the Assistant Secretary of Defense (Manpower and Reserve Affairs), Washington, DC.

August 1975 to April 1976—Student, The National War College, Fort Lesley J. McNair, Washington, DC.

April 1976 to July 1977—Commander, 2d Brigade, 101st Airborne Division (Air Assault), Fort Campbell, Kentucky.

July 1977 to December 1978—Executive to the Special Assistant to the Secretary and Deputy Secretary of Defense, Washington, DC.

January 1979 to June 1981—Senior Military Assistant to the Deputy Secretary of Defense, Washington, DC.

June 1981 to August 1982—Assistant Division Commander, 4th Infantry Division (Mechanized), Fort Carson, Colorado.

August 1982 to June 1983—Deputy Commanding General, United States Army Combined Arms Combat Development Activity, Fort Leavenworth, Kansas.

July 1983 to June 1986—Military Assistant to the Secretary of Defense, Office of the Secretary of Defense, Washington, DC.

June 1986 to December 1986—Commanding General, V Corps, United States Army Europe, APO New York.

PROMOTIONS AND DATES OF APPOINTMENT

	Temporary	Permanent
Second Lieutenant	June 9, 1958	June 30, 1958
First Lieutenant	December 30, 1959	June 30, 1961
Captain	June 2, 1962	June 30, 1965
Major	May 24, 1965	June 30, 1972
Lieutenant Colonel	July 9, 1970	June 30, 1979
Colonel	February 1, 1976	
Brigadier General	June 1, 1979	January 22, 1982
Major General		August 1, 1983
Lieutenant General		July 1, 1986

U.S. decorations and badges:
Defense Distinguished Service Medal (with Oak Leaf Cluster).

Defense Superior Service Medal.
Legion of Merit (with Oak Leaf Cluster).
Soldier's Medal.

Bronze Star Medal.

Purple Heart.

Air Medal.

Joint Service Commendation Medal.

Army Commendation Medal.

Combat Infantryman Badge.

Parachutist Badge.

Pathfinder Badge.

Ranger Tab.

Army General Staff Identification Badge.

Source of commission: ROTC.

Summary of joint experience (Assignment, dates, and grade):

Self Defense Corps Training Center Advisor, later Senior Battalion Advisor, Unit Advisory Branch, 1st Infantry Division, Army of the Republic of Vietnam, Military Assistance Advisory Group, Vietnam, December 1962 to November 1963—Captain.

Fellow, White House Fellowship Program, The White House, Washington, DC, September 1972 to August 1973—Lieutenant Colonel.

Operations Research Systems Analyst, Office of the Deputy Assistant Secretary of Defense (Manpower Requirements and Analysis), Office of the Assistant Secretary of Defense (Manpower and Reserve Affairs), Washington, DC, September 1974 to July 1975—Lieutenant Colonel.

Executive to the Special Assistant to the Secretary and the Deputy Secretary of Defense, Office of the Secretary of Defense, Washington, DC, July 1977 to December 78—Colonel.

Senior Military Assistant to the Deputy Secretary of Defense, Office of the Deputy Secretary of Defense, Washington, DC, January 1979 to June 1981—Brigadier General.

Military Assistant to the Secretary of Defense, Office of the Secretary of Defense, Washington, DC, July 1983 to June 1986—Major General.

Deputy Assistant to the President for National Security Affairs, The White House, Washington, DC, January 1987 to Present—Lieutenant General.

Mr. NUNN. Mr. President, I ask the Chair to put the question.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Lt. Gen. Colin L. Powell, U.S. Army, to be lieutenant general? Is there further debate? If not, all those in favor, signify by saying aye. All opposed, nay.

The ayes appear to have it. The ayes do have it.

So the nomination was confirmed.

Mr. NUNN. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. WARNER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WARNER. Mr. President, may the record reflect the vote was unanimous in the judgment of this Senator and, I think, the Chair.

The PRESIDING OFFICER. The record will so indicate.

Mr. NUNN. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of the nomination.

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

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

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

LEGISLATIVE SESSION

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

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

UNITED STATES-JAPAN NUCLEAR COOPERATION AGREEMENT

Mr. PELL. Mr. President, on November 9 the President submitted to the Congress a proposed United States-Japan Nuclear Cooperation Agreement. Yesterday, December 17, the

Committee on Foreign Relations voted 15 to 3 to send a letter to the President expressing the conclusion of the committee that the proposed agreement is not in conformity with existing law with respect to nonproliferation. This letter expresses the deep concerns of many members of the committee. It calls upon the President to either renegotiate the agreement or to resubmit it with a waiver of certain provisions of the law, which would require congressional approval to take effect.

There are serious issues involved. The proposed agreement calls for long term, 30 year, advanced consent to the widespread commercial use of United States origin plutonium in Japan and for shipment of many tons of plutonium from reprocessing plants in Europe to Japan via a polar route. A likely refueling stop would be in Alaska.

The risk of nuclear terrorism, accident, or diversion of plutonium under the programmatic approval authorized in this agreement is of great concern to the committee. I therefore ask unanimous consent that a copy of the letter to the President be printed in the RECORD.

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

U.S. SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, DC, December 17, 1987.

The PRESIDENT,
The White House, Washington, DC.

DEAR MR. PRESIDENT: In accordance with the provisions of Section 123b. of the Atomic Energy Act of 1954, as amended, 42 U.S.C. §2153(b) (the "Act"), we are writing to advise you that the Senate Foreign Relations Committee has concluded that the proposed Agreement for Cooperation between the Government of the United States of America and the Government of Japan Concerning Peaceful Uses of Nuclear Energy, submitted to the Congress on November 9, 1987 (the "Agreement"), is not consistent with Section 123 of the Act. The Committee respectfully requests that you renegotiate the Agreement to bring it into conformity with U.S. law. If the Agreement is not renegotiated, then it must be resubmitted to the Congress with an exemption of statutory requirements. In accordance with Section 123a. of the Act, and must await affirmative action by Congress through enactment of a joint resolution of approval.

As made clear in the Conference Report accompanying the 1985 amendment to the Act, "(t)he Congress fully expects . . . that the President will resubmit any agreement for which he has not submitted an exemption if either (Foreign Affairs) Committee during the prior consultation period recommends that an exemption is required."

In submitting the Agreement to Congress, your Administration expressed the conclusion that the Agreement "meet all statutory requirements". The Committee cannot accept this assertion. The proposed Agreement would provide for thirty-year advance consent of extraction, transport and widespread commercial use of plutonium by Japan—activities which, as the Administration itself states, are "unprecedented in

... nature and scope. . . ." In our judgment, Section 123 of the Act unqualifiedly requires that the United States retain prior approval rights in its agreements for cooperation over the transfer and reprocessing of nuclear material. While the Administration asserts that these requirements are met, the Implementing Agreement exercises in Article 1 the consent rights provisions on a one-time basis for the life of the Agreement, a proposal totally incompatible with the provisions of the Act.

The Committee also has serious reservations about the finding that the Agreement will promote, and will not constitute an unreasonable risk to, the common defense and security—inasmuch as this determination was made arbitrarily in the face of serious, written objections from both the Department of Defense and the Nuclear Regulatory Commission. The Committee also finds fault with the Administration's interpretation of the Act's requirements with regard to the "timely warning" criterion. Congress intended in the Nuclear Nonproliferation Act for timely warning to be something more than a mere restatement of the general test of "inimicallity" which the Act provides for subsequent arrangements. Rather, Congress intended timely warning to be a technically-based criterion, judged in light of the workability of safeguards and physical security measures. Since the Administration has not made such a determination, we do not believe that the exercise of consent rights in the Agreement is consistent with the requirements of Section 131b(2) of the Act. Consequently, the safeguards and physical security criteria of Section 123 of the Act are not met.

The Committee is deeply concerned about the major policy implications of the precedents which would be established by entry into force of this Agreement. Testimony taken by the Committee indicates that the U.S. is preparing to give blanket authorization for the next 30 years to air-shipment of several hundred kilograms of weapons-usable plutonium each month over and through U.S. territory. Before embarking on such a perilous course—which could seriously jeopardize our nonproliferation interests while posing a grave environmental risk—we wish to consult with the Administration very closely. It is therefore our purpose in this letter to stop the "ninety day clock", and to begin a good faith dialogue with all parties on how the fundamental deficiencies in the Agreement can be corrected.

The Committee has reached these judgments of the basis of its own investigations, as well as its lengthy hearing conducted on December 15, 1987. Accordingly, the Committee finds that the Agreement must either be renegotiated, or, at a minimum, resubmitted with an exemption from the appropriate provisions of Section 123 of the Act. The Committee requests that your Administration communicate its intentions to the Chairman and to the Ranking Republican Member by January 11, 1988, in order to provide sufficient time to consider necessary legislative action and other remedial options.

Sincerely,

Clalborne Pell, Chairman; Jesse Helms, Ranking Republican Member; Alan Cranston, Chairman, Subcommittee on Asia and Pacific Affairs; Frank H. Murkowski, Ranking Republican Member, Subcommittee on Asia and Pacific Affairs; John F. Kerry, Rudy Boschwitz, Paul Simon, Terry San-