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Before the

COMMITTEE ON
ARMED SERVICES

UNITED STATES SENATE

HEARING TO
RECEIVE TESTIMONY ON
CIVILIAN CONTROL OF THE ARMED FORCES

Tuesday, January 10, 2017

Washington, D.C.

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6 U.S. Senate
7 Committee on Armed Services
8 Washington, D.C.
9

10 The committee met, pursuant to notice, at 9:29 a.m. in
11 Room SH-216, Hart Senate Office Building, Hon. John McCain,
12 chairman of the committee, presiding.

13 Committee Members Present: Senators McCain
14 [presiding], Inhofe, Wicker, Fischer, Cotton, Rounds, Ernst,
15 Sullivan, Perdue, Reed, Nelson, Shaheen, Gillibrand,
16 Blumenthal, Donnelly, Hirono, Kaine, King, Heinrich, Warren,
17 and Peters.
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1 OPENING STATEMENT OF HON. JOHN McCAIN, U.S. SENATOR
2 FROM ARIZONA

3 Chairman McCain: The committee meets this morning to
4 receive testimony on civilian control of the Armed Forces.

5 I'd like to welcome our witnesses: Dr. Eliot Cohen,
6 Robert E. Osgood Professor of Strategic Studies at the Johns
7 Hopkins School of Advanced International Studies -- that's
8 very impressive; Dr. Kathleen Hicks, also impressive, Senior
9 Vice President, Kissinger Chair and Director of the
10 International Security Program at the Center for Strategic
11 and International Studies. Welcome.

12 Civilian control of the Armed Forces has been a bedrock
13 principle of American government since our Revolution. A
14 painting hanging in the Capitol Rotunda celebrates the
15 legacy of George Washington, who voluntarily resigned his
16 commission as Commander of the Continental Army to the
17 Congress. And this principle is enshrined in our
18 Constitution, which divides control of the Armed Forces
19 among the President, as Commander in Chief, and the Congress
20 as coequal branches of government. Since then, Congress has
21 adopted various provisions separating military and civilian
22 positions.

23 In the 19th century, for example, Congress prohibited
24 an Army officer from accepting a civil office. And, more
25 recently, in the National Security Act of 1947 and

1 subsequent revisions, Congress has prohibited any individual
2 from serving as Secretary of Defense within 7 years of
3 Active Duty service as a commissioner officer in the Armed
4 Forces. Of course, it was only 3 years later, in 1950, that
5 Congress granted General George Marshall an exemption to
6 that law and the Senate confirmed him to be Secretary of
7 Defense.

8 Indeed, the separation between civilian and military
9 positions has not always been so clear. Twelve of our
10 Nation's Presidents previously served as generals in the
11 Armed Forces. Over the years, numerous high-ranking
12 civilian officials in the Department of Defense have had
13 long careers in military service. Our current Deputy
14 Secretary of Defense, for example, served 27 years in the
15 United States Marine Corps.

16 The basic responsibilities of civilian and military
17 leaders are simple enough: for civilian leaders, to seek
18 the best professional military advice while under no
19 obligation to follow it; for military leaders, to provide
20 candid counsel while recognizing civilians have the final
21 say or, as James Mattis once observed, to insist on being
22 heard and never insist on being obeyed.

23 But, the fact is that the relationship between civilian
24 and military leaders is inherently and endlessly complex.
25 It is a relationship of unequals who nonetheless share

1 responsibility for the defense of the Nation. The stakes
2 could not be higher. The gaps in mutual understandings are
3 sometimes wide, personalities often clash, and the unique
4 features of the profession of arms and the peculiarities of
5 service cultures often prove daunting for civilians who
6 never served in uniform.

7 Ultimately, the key to healthy civil-military relations
8 and civilian control of the military is the oath soldiers
9 and statesmen share in common, to protect and defend the
10 Constitution. It is about the trust they have in one
11 another to perform their respective duties in accordance
12 with our republican system of government. It is about the
13 candid exchange of views engendered by that trust and which
14 is vital to effective decisionmaking. And it is about
15 mutual respect and understanding.

16 The proper balance in civil-military relations is
17 difficult to achieve, and, as history has taught us,
18 achieving that balance requires different leaders at
19 different times. The President-Elect has announced his
20 intention to nominate James Mattis to be our next Secretary
21 of Defense. In light of his recent military experience, his
22 nomination will require Congress to pass legislation
23 providing a one-time exception allowing him to serve as
24 Secretary, legislation this committee plans to consider this
25 Thursday. The members of this committee will have to reach

1 their own conclusion, but, as for me, I will fully support
2 that legislation and Mr. Mattis's -- and General Mattis's
3 nomination. There is no military officer I have met in my
4 lifetime with a deeper understanding of civil-military
5 relations than James Mattis. He even co-edited a book on
6 the subject. He has upheld the principle of civilian
7 controlling the Armed Forces in four decades of military
8 service, as well as in civilian life. His character,
9 judgment, and commitment to defending our Nation and its
10 Constitution have earned him the trust of our next Commander
11 in Chief, Members of Congress on both sides of the aisle,
12 and so many serving in our Armed Forces. In short, I
13 believe James Mattis is an exceptional public servant worthy
14 of exceptional consideration.

15 The committee is fortunate to have with us two of the
16 foremost scholars on civil-military relations, both of whom
17 have a record of distinguished government service. I'm
18 eager to hear their views on this important subject. And
19 I'd like to add, it was the Ranking Member, Senator Reed's
20 request and legitimate concern about this issue that we are
21 having this hearing. And I want to thank my friend, the
22 Ranking Member, for making sure that this hearing is held.

23 Senator Reed.

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1 STATEMENT OF HON. JACK REED, U.S. SENATOR FROM RHODE
2 ISLAND

3 Senator Reed: Well, thank you very much, Mr. Chairman,
4 for holding this hearing, because I do think, as you have
5 indicated so well, how critical this issue is to the
6 country.

7 Also let me welcome our distinguished witnesses, Dr.
8 Eliot Cohen and Dr. Kathleen Hicks. Thank you very much for
9 your scholarship and your service to the Nation.

10 Civilian control of the military is enshrined in our
11 Constitution and dates back to General George Washington and
12 the Revolutionary War. For almost 230 years, this principle
13 has distinguished our Nation from many other countries
14 around the world, and it has helped ensure that our
15 democracy remains in the hands of the people.

16 When the Department of Defense was created by the
17 National Security Act of 1947, the law included a
18 stipulation that an individual appointed to serve as the
19 Secretary of this new agency could not be within 10 years of
20 Active Duty as a commissioned officer in a regular component
21 of the Armed Services. However, an exception to this
22 statute was enacted into law shortly thereafter, in 1950, to
23 permit George Marshall to serve as Secretary of Defense
24 shortly after he concluded his service as Secretary of
25 State. It then stood untouched for nearly six decades,

1 until the Fiscal Year 2008 National Defense Authorization
2 Act modified the requirement by reducing the integral from
3 10 years to 7 years. But, the principle was very clear, and
4 still was sustained.

5 This requirement has served our Nation well for the
6 past 70 years, and only once has Congress waived or modified
7 this statute. For only the second time since the creation
8 of the Department of Defense, Congress must make a
9 determination if an exception should be made to allow
10 recently retired General James Mattis to serve as the
11 Secretary of Defense. As this committee considers
12 legislation to provide an exception to General Mattis, I
13 believe that it is extremely important that we carefully
14 consider the consequences of setting aside the law and the
15 implications such a decision may have on the future of
16 civilian and military relations. We must always be very
17 cautious about any actions that may inadvertently politicize
18 our Armed Forces.

19 During this past presidential election cycle, both
20 Democrats and Republicans came dangerously close to
21 compromising the nonpartisan nature of our military when the
22 nominating conventions featured speeches from recently
23 retired general officers advocating for a candidate for
24 President. As former Chairman of the Joint Chiefs of Staff,
25 General Martin Dempsey, stated shortly after the

1 conventions, "If senior military leaders, active and
2 retired, begin to self-identify as members or supporters of
3 one party or another, then the inherent tension built into
4 our system of government between the executive branch and
5 the legislative branch will bleed over into suspicion of
6 military leaders by Congress and a further erosion of
7 civilian-military relations." I hope our witnesses today
8 will speak to the issue and share any reflections they may
9 have.

10 Another issue we should consider is whether the total
11 number of retired senior military officers selected for
12 high-ranking positions in the Trump administration will
13 impact the dynamic of the interagency process and the advice
14 that the President receives. It is true that, throughout
15 our history, retired general officers have often held
16 positions at the highest levels of government as civilians.
17 One notable example is General Colin Powell, when he ably
18 served as Secretary of State under President George W. Bush.

19 What concerns me, however, is the number of retired
20 senior military officers chosen to lead agencies critical to
21 our national security and the cumulative effect it may have
22 on our overall national security policy. In addition to
23 General Mattis, General John Kelly has been nominated to
24 lead the Department of Homeland Security, while General
25 Michael Flynn will serve as the National Security Advisor,

1 both of whom, like General Mattis, have retired from Active
2 Duty service in the past few years.

3 While he is not a civilian and remains on Active Duty,
4 if we include the Chairman of the Joint Chiefs of Staff,
5 General Joseph Dunford, the leadership of our national
6 security apparatus would be comprised of two retired four-
7 star generals, one Active Duty four-star general, and one
8 retired three-star general.

9 Now, diversity of opinion is important when crafting
10 policy and making decisions as weighty as those facing the
11 next administration. I think it is appropriate for the
12 committee to consider the consequences that so many leaders
13 with similar military backgrounds will have for the
14 development of defense policy, the impact it could have on
15 the civilian and military personnel serving in these
16 organizations, and how it may shape the advice that will
17 ultimately be provided to the President of the United
18 States.

19 Finally, if Congress provides an exception for General
20 Mattis, a question this committee must address is the
21 precedent this action sets for such waivers in the future.
22 The restriction was enacted into law for good reason. And
23 General George Marshall is the only retired military officer
24 to receive this exception. I hope our witnesses will
25 provide their assessment of this issue and if they believe

1 providing an exception at this time opens the door to more
2 waivers in the future. I personally believe such waivers
3 would destroy the principle that is so critical to the
4 central tenet of our civil-military relations. Congress is
5 in a position where they are making a critical decision, and
6 your advice would be deeply appreciated on this point,
7 particularly.

8 I want to make it clear that I -- concerns I've
9 expressed are not a reflection on the personal attributes of
10 General Mattis. General Mattis will testify before this
11 committee later this week. I look forward to having a
12 robust discussion on his record as well as his views on
13 defense strategy and policy.

14 Additionally, it is not my belief that previous
15 military service is a disqualifying factor for leading the
16 Department of Defense. Nothing could be further from the
17 truth. Many former members of the Armed Forces have served
18 their country with distinctions as civilians after leaving
19 the military service. One only has to look at many of my
20 colleagues on this committee to appreciate how their prior
21 military service has positively impacted their work in the
22 Senate, and those who have served know better than most the
23 sacrifices required to defend our Nation, including full-
24 weighting consequences of making the decision to send our
25 men and women in uniform into harm's way.

1 What this hearing is about is the principle of civilian
2 control of the Armed Forces, the bedrock of civilian-
3 military relations and one of the defining tenets of our
4 democracy. We must protect against it being compromised or
5 weakened. Any changes or waivers must be cautiously and
6 carefully considered.

7 Again, I want to thank the Chairman for holding this
8 hearing so that we can do just that. And I look forward to
9 the testimony of the witnesses.

10 Thank you, Mr. Chairman.

11 Chairman McCain: Thank you.

12 Welcome, Dr. Hicks.

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1 STATEMENT KATHLEEN H. HICKS, SENIOR VICE PRESIDENT;
2 HENRY A. KISSINGER CHAIR; DIRECTOR, INTERNATIONAL SECURITY
3 PROGRAM, CENTER FOR STRATEGIC AND INTERNATIONAL STUDIES

4 Dr. Hicks: Thank you, Chairman McCain, Ranking Member
5 Reed, and distinguished members of the committee, for the
6 invitation to appear before you today. And thank you also
7 for taking the time to consider civilian control of the
8 Armed Forces as it pertains to the nomination of James N.
9 Mattis, U.S. Marine Corps, Retired, as Secretary of Defense.

10 The issue before you today regarding a possible
11 exception to the limitation against appointment of persons
12 within 7 years of relief from Active Duty as a regular
13 commissioned officer is one that has caused significant
14 discussion within the national security community. We are
15 blessed in the United States with a strong civil-military
16 relations history. Tensions do exist, however, and we
17 should never take for granted that civilian control of the
18 military, nor healthy civil-military relations more
19 generally, are a foregone conclusion for the Republic.

20 Congress's passage of the limitation on previously
21 commissioned officers serving as Secretary of Defense within
22 10 years of the cessation of their service, subsequently
23 amended to 7 years, has been one of the primary means
24 employed to maintain civilian control. The Defense
25 Secretary position is unique in our system. Other than the

1 President acting as Commander in Chief, the Secretary of
2 Defense is the only civilian official in the operational
3 chain of command to the Armed Forces. Unlike the President,
4 however, he or she is not an elected official. It is my
5 view that the principle of excluding recently retired
6 commissioned officers from serving as the Secretary of
7 Defense is a prudent contribution to maintaining the
8 constitutionally grounded principle of civilian control,
9 both symbolically and in practice.

10 A permanent elimination or modification to this statute
11 would be detrimental to the health of our civil-military
12 relations and our national security. So, too, would be
13 substantially populating the upper ranks of our national
14 security structures with recently retired senior military
15 personnel or Active Duty personnel well beyond those
16 positions already designated in statute. I come to this
17 conclusion based on a number of factors.

18 First, a regular reliance on former commissioned
19 officers to serve as the Secretary of Defense or to widely
20 populate the national security establishment's senior cadre
21 would undermine the international security advantages that
22 accrue to the United States from modeling strong civilian
23 control. Others watch our behavior closely. They note that
24 our leadership typically communicates through civilian
25 channels, that our policymakers appear in civilian attire,

1 and that our military demonstrates respect and deference to
2 civilian leaders. It is also important to our citizens and
3 those around the world that they witness a model in which
4 senior civilians manifest appropriate approaches to civil-
5 military relations demonstrated in their respect for the
6 professionalism, sacrifice, and expertise of military
7 personnel and in their knowledge of issues important to the
8 profession of arms. These outward actions by our military
9 and civilian officials support U.S. efforts to promote the
10 embrace of freedom and democracy in the world, which reduces
11 the instability, external aggression, and internal
12 repression typically associated with military governments.

13 Second, were recently retired or Active Duty military
14 officers routinely selected for Secretary of Defense or to
15 widely populate senior civilian positions in government, it
16 would risk furthering incentives for Active Duty officers to
17 politicize their speech and/or actions and for civilians to
18 seek to ascertain the political viewpoints of officers as
19 part of the recruitment and hiring process for political
20 positions.

21 This leads to a third concern, a coterie of individuals
22 with like background typically accompanies a senior
23 appointee into government. Academics know lots of
24 academics. Economists know many economists. And former
25 military personnel have extensive military networks. This

1 is natural. But, what is unique in the national security
2 world is the imperative for healthy civil-military
3 relations. This requires guarding against an over-reliance
4 on military viewpoints, just as it relies on ensuring those
5 coming from civilian backgrounds act as respectful and
6 knowledgeable counterparts.

7 Fourth, the United States has an interest in developing
8 knowledge and expertise about the Armed Forces among those
9 who have not served, especially in those who have not served
10 at very senior levels. Motivating civilians to invest in
11 careers in the defense sector requires having positions of
12 meaning to which they can aspire. More generally, it
13 requires validation that such career pathways are
14 legitimate, that civilians can bring value, expertise, and
15 perspectives to the defense enterprise.

16 Fifth, a recently retired senior officer at the helm of
17 DOD risks prejudice with regard to service interests.
18 Resources are always more constrained than one would like,
19 so competition for dollars and mission space among the
20 military departments is a constant reality. A Secretary of
21 Defense who is closely associated with a particular service
22 may find it difficult to be perceived as unbiased on
23 important questions regarding service roles, combatant-
24 command missions, and resource shares.

25 These reasons undergird the Congress's general prudence

1 with regard to the limitation on commissioned officers
2 recently relieved from Active Duty from assuming the
3 position of Secretary of Defense and for this committee to
4 remain vigilant to the possible negative effects of a broad
5 representation of former senior officers in the national
6 security cadre. I do not foresee imminent militarization of
7 our national security architecture, but the concerns about
8 civilian control that motivated our founders and the
9 architects, the post-World War II security architecture,
10 have continued validity. We should not risk a failure of
11 imagination.

12 Despite all of these considerations, however, it is my
13 personal conclusion that it is appropriate to create a
14 specific exception to the statute for the Senate to consider
15 the confirmation of General James N. Mattis. I reach the
16 assessment based on two primary factors: the qualities of
17 the specific nominee together with the safeguards in place
18 to protect civilian control of the military in the presence
19 of such an exception. Based on my professional interactions
20 with General Mattis and a review of available material, I
21 believe his recent retirement from military service should
22 not be disqualifying to his consideration by this committee.
23 I am persuaded not only by his grasp of the most important
24 security issues our Nation faces, but also by his clear
25 commitment to, and embodiment of, the principles of civilian

1 control of the military. That commitment was evident in
2 every interaction I had with General Mattis when I served as
3 a senior -- a civilian defense official, an experience
4 shared by all such officials with whom I have spoken. His
5 recently published work on civil-military relations
6 reinforces my personal impressions.

7 The second reason I believe it is acceptable to make an
8 exception to consider the President-Elect's preferred
9 nominee is that I assess that the state of U.S. civil-
10 military relations to be strong enough to withstand any
11 risks such a once-in-two-generations exception on its own
12 could pose. The United States Congress, the Nation's
13 statutes and courts, the professionalism of our Armed
14 Forces, and the will of the people are all critical
15 safeguards against any perceived attempts to fundamentally
16 alter the quality of civilian control of the military in
17 this country. Should an exception be made in this case and
18 General Mattis be confirmed as Secretary of Defense,
19 oversight by this and other committees will be critical in
20 reassuring domestic and foreign audiences that civilian
21 control of the military is alive and well in the United
22 States of America.

23 As I stated earlier, I believe General Mattis's own
24 behavior will reinforce that message. If it does not, this
25 Congress and the courts of the United States should hold him

1 accountable.

2 I would like to close with an important caveat to my
3 endorsement for this exemption. I have grave concerns about
4 the issuance of any exemption to Section 103(a) of Title 10
5 being portrayed or perceived as the result of the United
6 States Senate agreeing with the President-Elect that it is,
7 quote, "time for a general," unquote, to serve as Secretary
8 of Defense. It should never be considered "time for a
9 general" to fill the senior-most non-elected civilian
10 position in the operational chain of command. Rather, this
11 exemption is about a particular individual who is well
12 qualified for the position to which the President-Elect has
13 nominated him, the anticipation that the exemption will be a
14 rare generational one, and an assessment that there is at
15 this time a healthy appreciation of the principle for
16 civilian control of the military in this country.

17 Although I would likely not agree with a Secretary
18 Mattis on every major defense issue of the day, I am
19 convinced that he passes the standard set forth during
20 consideration of George Marshall's exemption for this
21 position, whom the Washington Post referred to as "a truly
22 authentic American in his respect for, and devotion to, our
23 American system of government."

24 And I have submitted a fuller written statement for the
25 record.

1 Thank you.

2 [The prepared statement of Dr. Hicks follows:]

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1 Chairman McCain: Thank you, Doctor.
2 Dr. Cohen.
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1 STATEMENT OF ELIOT A. COHEN, ROBERT E. OSGOOD
2 PROFESSOR OF STRATEGIC STUDIES, JOHNS HOPKINS SCHOOL OF
3 ADVANCED INTERNATIONAL STUDIES

4 Dr. Cohen: Thank you, Senator McCain. It's an honor
5 to appear before you. I have a -- I also have a written
6 statement, which I'd like to submit for the record --

7 Chairman McCain: Without --

8 Dr. Cohen: -- if I might.

9 Chairman McCain: Without objection.

10 Dr. Cohen: I have to say, listening to my friend and
11 colleague, Dr. Hicks, it is very striking to me that the two
12 of us are, I think, pretty much in complete agreement. I'll
13 be making a somewhat different set of arguments, but I find
14 myself very much convinced by hers, and I share her views.

15 My bottom line on the issue of the day is simple. I
16 strongly support the law that prohibits individuals that
17 have -- who have served in the military from becoming
18 Secretary of Defense within 7 years of leaving the service.
19 At the same time, I favor an amendment to permit General
20 Mattis to serve in that office despite having met that
21 cooling-off period.

22 To explain these positions, let me begin with some
23 basic propositions about our country's experience with
24 civil-military relations. The principle of civilian control
25 of the military -- not collaboration with it, not mere

1 direction of it, but civilian control -- is central to the
2 American experience since Colonial times. The bill of
3 particulars directed at King George III in the Declaration
4 of Independence reads, among other things, that he has
5 effected to render the military independent of, and superior
6 to, the civil power. For a century before the Constitution,
7 and certainly throughout the history of the Republic, firm
8 civilian control has been a matter of American consensus
9 challenged only on such rare occasions as the Truman-
10 MacArthur controversy in 1951 and then resolved
11 unambiguously in favor of civilian authority.

12 Some degree of civil-military tension has always
13 existed in our country, and that is usually a good thing, a
14 source of productive divergence of views about everything
15 from strategy to internal administration. At times, the
16 difference of views have been acrimonious, as, for example,
17 during the famous standoffs between Abraham Lincoln and
18 George McClellan during the Civil War, or in the late 1940s
19 over the desegregation of the Armed Forces, or the dispute
20 over ending the Draft in the early 1970s. In these cases,
21 the civilian political view properly and beneficially
22 prevailed.

23 The practice embodied in the law of having a civilian
24 Secretary of Defense stems from both that history and, I
25 think, from four sets of concerns:

1 The first is that it reflects the notion that control
2 over the largest bureaucracy in our government, with the
3 largest budget, and with enormous power in many dimensions,
4 including, potentially, over the lives of our own citizens,
5 must rest with someone who represents the American
6 citizenry, not a military elite, which, in the nature of
7 things, is appropriately self-selected along military lines
8 until the very top ranks.

9 Second, it stems from the belief that there is a
10 breadth of view and perspective essential to running the
11 military and making war that is not likely to be found in
12 someone who has spent 30 or 40 years in uniform. The Armed
13 Forces are what one sociologist has called "a total
14 institution," comparable in some ways to the priesthood in
15 the Catholic Church. A career of military service affects
16 every feature of one's life, down to how one wears one's
17 hair. Living in such an institution and removed from civil
18 society throughout the prime of one's life can be a
19 narrowing as well as a broadening experience, and it
20 certainly leaves an indelible mark. It is one reason why,
21 in a certain sense, generals never retire.

22 Third, having a recently retired general officer as
23 Secretary of Defense poses all kinds of practical problems.
24 Would they be inclined to favor the Joint Chiefs of Staff,
25 military, over the Office of the Secretary of Defense,

1 civilian? Would they be inclined to favor their own service
2 over the others? Would they bypass the Chairman of the
3 Joint Chiefs of Staff as the senior military advisor to the
4 President? Would they allow the normal rivalries or close
5 friendships of their military career to affect their
6 position of civilian head of the Department? Even the
7 appearance of such biases, let alone the reality, would make
8 effective leadership of the Department of Defense difficult
9 or indeed impossible.

10 Fourth, the Secretary of Defense is in many ways the
11 chief interlocutor or bridge, if you will, between our Armed
12 Forces and our society, the President being too busy and
13 burdened with many other responsibilities. It is the
14 Secretary of Defense who represents the concerns, values,
15 and interests of the Armed Forces to politicians and to
16 society. In turn, he or she guarantees that democratic
17 values, attitudes, and needs will inform and shape the
18 American military.

19 Furthermore, countries that have routinely installed
20 generals as Ministers of War or Defense have often had
21 deeply problematic patterns of civil-military relations and
22 suffered military failure, as well. France and Germany in
23 the late 19th and early 20th centuries, Japan during the
24 1930s and World War II are two -- are examples of this.
25 Such is the practice in recent years in Russia, as it was in

1 the Soviet Union. Even democracies that have gone down this
2 route have suffered from the politicization of the senior
3 officer corps by the routine appointment of retired military
4 figures to this top civilian position. A prime case is
5 Israel, whose politics are often roiled by maneuvering among
6 Active Duty and retired generals, a point that has been
7 noticed by American generals familiar with that country and
8 well documented by Israeli scholars.

9 The long question, therefore, makes eminent sense.
10 But, it was amended in September 1950 to allow for the
11 appointment of General George C. Marshall as Secretary of
12 Defense, for two reasons. The first had to do with the
13 sense of national emergency. The Korean War had gone on for
14 3 bitter months. The Inchon landings were about to begin,
15 and with them a bloody campaign to reunify the peninsula in
16 the face of warnings of Chinese intervention. At the same
17 time, the United States was sending four divisions to
18 reinforce the two already in Europe, our first peacetime
19 commitment of substantial Armed Forces abroad. War with the
20 Soviet Union, which had, only a year before, detonated a
21 nuclear weapon, seemed a real possibility. In that setting,
22 and having lost confidence in Secretary of Defense Louis
23 Johnson, President Truman correctly believed that he needed
24 an exceptional leader for the relatively new Department of
25 Defense. Truman had tremendous trust in Marshall because of

1 the General's character and judgment, as well as the
2 exceptional breadth of experience of a man who had after all
3 been an important Secretary of State as well as one of the
4 architects of the greatest coalition in military history.

5 Second -- and this clearly influenced Congress as well
6 as President Truman -- was the desire to reassure the
7 American people in extremely difficult times. American
8 political leaders correctly believed that Marshall, a
9 revered figure because of his monumental role as Chief of
10 Staff during World War II, could do that. Congress,
11 therefore, amended the law reluctantly, insisting that, by
12 so doing, it was not creating a precedent, and advising that
13 this not be repeated in the future.

14 I believe, however, that our current circumstances
15 warrant taking this step a second time. I have known
16 General Mattis for well over a decade. He is probably the
17 most widely read and reflective officer I know. He is a
18 writing general, too, as Dr. Hicks has pointed out, the
19 coeditor of a recent important book on civil-military
20 relations. More important than any of that, he has shown
21 himself to be a man of exceptional character and judgment
22 and exemplary commitment to legal and constitutional norms.
23 I would trust him to conceive and execute policy as anyone
24 on this committee would wish. He's not General Marshall,
25 but he is, indeed, a man of similar integrity and soundness,

1 and of very wide experience.

2 Much as I admire and respect him, however, I would not
3 advocate this change were it not for two other aspects of
4 the question. We face a world that may not be quite as
5 dangerous as that of 1950, but has some deeply troubling
6 similarities to it. We are waging our third war in Iraq in
7 a generation. We are not close to ending the Afghan war.
8 We face a contest with jihadi elements seeking to inflict
9 violence and destroy regimes across broad swaths of the
10 globe. We must deal with a rising China with hegemonic
11 aspirations in Asia, a revanchist Russia that has committed
12 blatant aggression against its neighbors and even interfered
13 in our own elections, an Iran that has paused but not halted
14 its drive for nuclear weapons and regional ascendancy. We
15 will soon be looking at a North Korea that has built
16 intercontinental ballistic missiles that can hit the United
17 States with nuclear weapons. Ours is a very dangerous world
18 that can tip into crisis with very little notice.

19 And yet, even this sense of danger would not bring me
20 to the point of urging a revision of the law were it not for
21 my concerns about the incoming administration. I have
22 sharply criticized President Obama's policies, but my
23 concerns pale in comparison with the sense of alarm I feel
24 about the judgment and dispositions of the incoming White
25 House team. In such a setting, there is no question in my

1 mind that a Secretary Mattis would be a stabilizing and
2 moderating force, preventing wildly stupid, dangerous, or
3 illegal things from happening, and, over time, helping to
4 steer American foreign and security policy in a sound and
5 sensible direction.

6 Under these conditions, then, I urge you to amend the
7 law to permit the appointment of General Mattis, but, at the
8 same time, I urge you equally strongly to keep the law on
9 the books, even restoring, if it seems proper to you, the
10 10-year cooling-off period. The principle of civilian
11 control of the military is precious and essential to our
12 form of government. Making an exception twice in nearly 70
13 years while keeping the fundamental legislation intact and
14 reaffirming the arguments behind it will not, in my
15 judgment, threaten that principle, but, rather, reinforce
16 it.

17 [The prepared statement of Dr. Cohen follows:]

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1 Chairman McCain: Well, thank you both.

2 Both of you have known General Mattis for some period
3 of time. Has he always -- or, have you ever known him not
4 to have the utmost commitment to the civilian control -- our
5 fundamental principle of civilian control of the military?

6 Dr. Cohen: I have always known him to have exactly
7 that commitment.

8 Chairman McCain: Dr. Hicks?

9 Dr. Hicks: Agree.

10 Chairman McCain: I guess just one other comment or
11 question. What you bring to mind, Dr. Cohen, is that, at
12 least in the minds of some of us, the world is in greater
13 danger than it's been since the days of then-General, slash,
14 Secretary Marshall. And there's very few people in -- both
15 in and out of the military that have the experience with
16 these challenges that General Mattis does at this time.
17 Would you agree?

18 Dr. Cohen: Yes, sir, I would agree, although I would
19 just add that, as has long been pointed out, the Secretary
20 of Defense is, other than the presidency, probably the most
21 difficult job in the Federal Government. And I would trust
22 General Mattis as much as, or more than, just about anybody
23 else. But, I do think the range of challenges he's -- he
24 will face, if he is confirmed, will be enormous.

25 Chairman McCain: So, there is some historic parallel

1 between the selection and need for General Marshall as there
2 is today a need for the experience and knowledge and
3 leadership of General Mattis. Is that -- is it -- do you
4 agree with that assessment, Dr. Hicks?

5 Dr. Hicks: I -- with the emphasis on the individual
6 characteristics of General Mattis, I agree with that. I
7 would hesitate to ever say, as I said, that there's any
8 indication that dangerous times require a general. I don't
9 think that's the issue. I think dangerous times require
10 experience and commitment, which I think -- as your question
11 suggests -- which I think General Mattis can bring.

12 Dr. Cohen: If I may, Senator, just to add to that. I
13 don't think one can consider this case -- rather somewhat
14 unlike the case of 1950 -- without regard to the President.
15 I mean, the President has to have somebody that they will
16 listen to. And I guess I do tend to believe that President-
17 Elect Trump will be inclined to listen to General Mattis.
18 And that, for me, is a very, very important consideration.

19 Chairman McCain: One can only hope.

20 Senator Reed.

21 Senator Reed: Well, thank you very much, Mr. Chairman.

22 Let me thank the witnesses for very thoughtful and
23 eloquent testimony about a very significant issue.

24 And again, let me thank the Chairman for structuring
25 this process so that we could have careful deliberation of

1 the policy before we actually consider the legislation.

2 Thank you very much, Mr. Chairman.

3 Dr. Hicks, you pointed out that this is a rare
4 generational moment. And I think, Dr. Cohen, you would
5 agree also. And that leads to a sort of very pragmatic
6 question, if I may, that if, indeed, General Mattis is
7 confirmed, but if he leaves office, that we would almost
8 have to reflexively object to a replacement of another
9 recently retired military officer. Would that be your view,
10 Dr. Hicks?

11 Dr. Hicks: It would be. In fact, I think less a risk
12 that this sets a new precedent, I think it's an opportunity
13 cost. That is to say that I would not imagine, in the next
14 20-plus years, that we would see ourselves back in a hearing
15 of this nature over another recently retired general
16 officer.

17 Senator Reed: Dr. Cohen, your thoughts?

18 Dr. Cohen: I very much agree with Dr. Hicks.

19 Senator Reed: Thank you.

20 Dr. Cohen, you pointed out in your testimonies one of
21 the areas of concern that I raised, which is a dynamic that
22 results when a non-civilian is the head of the Department of
23 Defense, which is -- the principal military advisor to the
24 President is the Chairman of the Joint Chiefs of Staff.
25 Yet, you have two very competent -- ironically, Marine four-

1 stars, probably with at least tangential service, if not
2 joint service. In -- how do we avoid -- or how would the --
3 if General Mattis is confirmed, how does he consciously
4 avoid that? How do we monitor -- in fact, you both made the
5 point, we have a role of making sure that this, if it takes
6 place, is done aboveboard entirely, completely. Could you
7 comment?

8 Dr. Cohen: Well, the first thing I would say is,
9 absolutely, the role of congressional oversight, and
10 particularly by this committee, I think -- never be
11 important than it's going to be in coming years. I first
12 met General Dunford, actually, when he was General Mattis's
13 Chief of Staff in Iraq, when General Mattis was commanding
14 1st Marine Division. And I've -- I know both of them
15 reasonably well. I guess my feeling about that is, these
16 are both men with a -- an exceptional sense of professional
17 ethics and rectitude. This will basically come down to
18 relationships between two personalities. And I think they
19 will both be very conscious about what the lanes are that
20 they operate in. But, there's no question, it will be
21 challenging.

22 I guess the other point one will have to make is, it'll
23 be interesting to see how long General Dunford is going to
24 stay as the Chairman and who's the next Chairman.
25 Presumably, it'll become a little bit easier. But, this

1 will undoubtedly be an issue, and it would be the most
2 natural thing in the world for a President Trump to ask
3 General Mattis to act as kind of a military advisor. I
4 think General Mattis will be -- as Secretary Mattis -- will
5 be self-conscious enough to say, "You know, you really
6 should be directing that question -- I have my views, but
7 you should be directing that question to the Chairman."

8 Senator Reed: And let me ask you both, too. The
9 Secretary of Defense has responsibilities strategic, but
10 huge responsibilities when it comes to running a huge
11 bureaucracy with all of the management issues and personnel
12 issues and logistical issues and other issues. Your sense
13 of this exemption in that context. Typically, a civilian
14 going into this role would have great expertise in business
15 or in other management positions within government. And
16 that's not the case. General Mattis has a complete
17 dedication to the Marine Corps since -- 17 or so. So -- Dr.
18 Hicks first, and then Dr. Cohen.

19 Dr. Hicks: Well, I think it's fair to say every
20 Secretary comes in truly with a unique set of skills. And
21 when you're staffing in and around that, not just in the
22 national security team, but in the Defense Department, you
23 do need to take account, absolutely, in the fuller staffing,
24 the deputy position and others, what kind of management
25 expertise is being brought in. I don't think it's fair to

1 put every attribute of necessary management quality,
2 international security experience, experience with the
3 military or the Armed Forces, understanding of the
4 bureaucratic elements -- it's too much, really, to layer
5 onto one person, but it's very important, as this committee
6 looks at confirmations for the whole team for defense, that
7 those attributes are covered.

8 Senator Reed: Dr. Cohen, your comment.

9 Dr. Cohen: I completely agree with Dr. Hicks.

10 Senator Reed: Thank you very much.

11 Thank you, Mr. Chairman.

12 Chairman McCain: Senator Inhofe.

13 Senator Inhofe: Thank you, Mr. Chairman.

14 It's rare that a confession like this is made, but I
15 really did come here to learn. It's been really good
16 testimony. I -- one thing that has occurred to me is -- we
17 keep repeating over and over again that the senior -- the
18 senior officer. What about enlisted personnel?

19 Dr. Cohen: I think that's a completely different
20 issue, Senator. I really do. I think there's -- you know,
21 I could give you a long lecture, which would bore you to
22 tears, about the history of civil-military relations, but I
23 think the distinction between officer and enlisted is quite
24 important. But, more importantly, you know, the purpose of
25 the law is really to exclude general officers from moving

1 from --

2 Senator Inhofe: Yeah.

3 Dr. Cohen: -- being generals to Secretaries.

4 Senator Inhofe: I understand that. The -- of course,
5 we had Chuck Hagel.

6 And do you have any thoughts about that, Dr. Hicks?

7 Dr. Hicks: I would just agree, it is very different.
8 Secretary Hagel, coming as a former enlisted, really did
9 bring --

10 Senator Inhofe: And lots of time, too.

11 Dr. Hicks: Yes. He brought a unique perspective in
12 that sense, but it is unlike the idea of someone coming from
13 the top of the organization, the military hierarchy, into
14 the top of the civilian --

15 Senator Inhofe: Yes.

16 Dr. Hicks: -- hierarchy.

17 Senator Inhofe: No, I understand that.

18 Dr. Hicks: So, it just has a different character.

19 Senator Inhofe: Okay. The -- I understand that.

20 That's --

21 Well, you know, each one of you talked about what would
22 justify a -- treating this differently than it's been
23 treated since George Marshall. And I -- the only
24 disagreement I would have -- and I think that you come up
25 from a much more learned perspective, but -- when you made

1 the statement that the sense of national emergency and --
2 was not as dangerous as it was back in the '50s, I have a
3 hard time with that one, because I look and see that -- and
4 I've often said that I look wistfully back at the days of
5 the Cold War. But, right now, we have mentally deranged
6 people who are developing a capability of inflicting huge
7 damages on this country. And that does --

8 And so, whom do you -- explain, just very briefly, when
9 you say there's never a time for a general. Tell me what
10 you mean by that.

11 Dr. Hicks: Sure. What I mean to say is, because of
12 the way our framers put forward civilian control of the
13 military as central --

14 Senator Inhofe: Yeah.

15 Dr. Hicks: -- President is Commander in Chief, always
16 in a civilian capacity, even if the President, like
17 Eisenhower, is a former general -- in the same instance, the
18 Secretary of Defense is a very unique position in our
19 system. It's non- -- it's -- it also carries an operational
20 chain-of-command responsibility, but is not nonelective, so
21 there is special concern around it. My point being, that
22 position may be filled with someone with military experience
23 or not military experience. What we want to look for is
24 someone who has the right desire for knowledge and expertise
25 and judgment and character to live out the principles about

1 Secretary of Defense issues. And we don't pick them because
2 they're a general officer. That is antithetical --

3 Senator Inhofe: That's clear.

4 Dr. Hicks: -- to our very system.

5 Senator Inhofe: Yeah. That's clear.

6 Dr. Cohen: Senator, if I could just -- the historian
7 in me wants to point out -- in 1950, people thought there
8 was a serious possibility that World War III was just around
9 the corner. You know, I don't think any of us really quite
10 feel that as -- and, although I agree with your basic
11 assessment of where we are these days.

12 Senator Inhofe: Yeah, of capabilities that are out
13 there that weren't there before. That's good. And I
14 appreciate very much and enjoyed your testimony.

15 Thank you, Mr. Chairman.

16 Chairman McCain: Senator Gillibrand.

17 Senator Gillibrand: Thank you, Mr. Chairman and
18 Ranking Member Reed, for hosting this hearing. I think this
19 is such a critical discussion for our Nation.

20 Interestingly, both of you believe so deeply in
21 civilian control, but not because of this President. And
22 that is a enormously weighty and serious statement that you
23 both said.

24 Now, Dr. Hicks, you didn't define what your concerns
25 were. You just said "the attributes of this President."

1 And, Dr. Cohen, you were quite specific about the fears that
2 you had on judgment. Can you please be specific that -- why
3 this enormous exception should be made because of the
4 judgment of this President or the attributes of this
5 President? Because you both made a very strong case about
6 why civilian leadership is essential to our democracy and a
7 very important provision of our founding fathers' concept
8 for what our democracy would look like.

9 Dr. Cohen: As you may know, Senator, I was one of the
10 ringleaders in these two letters by Republican national
11 security experts that were very critical of then-candidate
12 Trump. I will just mention one of the issues which is
13 referred to in both of those letters, and that's the issue
14 of torture. As a candidate, the President-Elect indicated
15 that he would be in favor of the ample use of torture, not
16 only against suspected terrorists, but against their
17 families. That's outrageous. It's illegal. It's
18 profoundly immoral. And I think a General Mattis -- a
19 Secretary Mattis would refuse to comply with that kind of
20 order, and I think that's very important.

21 Dr. Hicks: Senator --

22 Senator Gillibrand: Excuse me. You just said that you
23 believe the Secretary of Defense wouldn't comply with an
24 order from the Commander in Chief?

25 Dr. Cohen: A Secretary of Defense should never comply

1 with an illegal order from the Commander in Chief.

2 Senator Gillibrand: Dr. Hicks?

3 Dr. Hicks: Senator, I don't recall referring to the
4 President-Elect's attributes. I did make reference to the
5 statement he has made about, "It's time for a general,"
6 which worries me greatly. I will say -- so --

7 Senator Gillibrand: You said -- your quote was
8 "qualities of the nominee."

9 Dr. Hicks: I'm sorry, I don't think I have that in my
10 statement.

11 Senator Gillibrand: I wrote it down.

12 Dr. Hicks: I apologize.

13 Okay. In any case, my view is that there ought to be a
14 strong national security team at all times in any
15 presidency. In this particular configuration that we have,
16 as has already been mentioned, there's a number of retired
17 general officers coming in. There's a seeming lack of
18 attention to career diplomatic skills inside that mix. I
19 have concerns about the way in which that whole apparatus
20 will operate. I think General Mattis could be a very strong
21 figure in that. It is clear, as Professor Cohen has
22 indicated, that the President-Elect, at least in one
23 instance that we know of quite publicly, has listened, in a
24 way that's very effective for civilian control, to the
25 advice of General Mattis. This being with regard to

1 reversing any kind of viewpoint on illegal torture.

2 So, my view is that he could play a very helpful role
3 in this administration. I would like to think that we --
4 were we sitting here with a different President-Elect who
5 had nominated General Mattis, I would nevertheless probably
6 come to the same conclusion. I think our -- we may
7 different slightly on that. Because I think, again, our
8 system is healthy enough, and you are able, as part of that
9 system, to regulate it and oversee it. And I believe that
10 we are also looking at a person who has attributes that are
11 on the level of Marshall's attributes for Secretary of
12 Defense.

13 Senator Gillibrand: Okay. So, now let's focus on the
14 points that you both make in your writings, that are very
15 clear, about the importance of civilian control.

16 Dr. Cohen, you specifically talk about the unequal
17 dialogue and how important it is to have the diversity of
18 opinions in advising on national security, and that there's
19 a push and a pull that results in better outcomes. And, Dr.
20 Hicks, you talk about the importance of thinking through the
21 full range -- range of implications -- operational
22 implications, strategic implications, pragmatic
23 implications, meaning technical feasibility, dollars and
24 cents, et cetera, and political elements. So, without the
25 diversity of opinion, with this particular group of national

1 security advisors, where do you think this committee will
2 need to have vigilance because we have a blindspot? What
3 diversity of opinion will now not be offered because we have
4 such a high complement of extraordinary public servants,
5 extraordinary generals with extraordinary capabilities, but-
6 - you've both outlined the importance, because of the
7 diversity, and we now lack that. So, I need you to tell
8 this committee where are the blindspots that we will need to
9 be aggressively providing oversight?

10 Dr. Cohen: I would say, in addition to all the other
11 things that you do, the question of strategy. What are we
12 using our Armed Forces for? I mean, traditionally Congress
13 spends a lot of time on the administration of the Department
14 of Defense, acquisition, lots and lots of things. But, I
15 think you also have an enormous role to play in examining,
16 exploring, in some cases critiquing the way in which we use
17 military power to achieve political ends. And you've done
18 that before. But, I think it will be particularly urgent in
19 the period going ahead.

20 Dr. Hicks: Again, I think I would emphasis, more than
21 anything, the diplomatic skillset and how that's going to
22 play out. That's obviously an issue for State Department,
23 but it is an issue within the Department of Defense, as
24 well. There's a lot of defense-to-defense diplomacy that we
25 rely upon. You know, short of the -- of actual use of arms,

1 we have a lot of alliances and partnerships that are
2 important to maintain and sustain and push forward. I think
3 that will be something to pay close attention to,
4 particularly given the President-Elect's statements during
5 the campaign with regard to allies.

6 Chairman McCain: I thank you, Dr. Cohen, for pointing
7 out that the oath that is taken is to support and defend the
8 Constitution of the United States, not to obey the orders of
9 the President of the United States. There is a law against
10 torture. And no Secretary of Defense or officeholder should
11 violate the law. And that's what I would rely on General
12 Mattis or any other Cabinet member or anyone in position of
13 responsibility. Their first obligation is to obey the law.

14 Senator Fischer.

15 Senator Fischer: Thank you, Mr. Chairman.

16 One issue that we have seen come up in this debate is
17 the so-called militarization of foreign and national
18 security policy decisions. And I've heard some arguments
19 that if we confirm General Mattis, we're going to continue
20 that trend. So, I would ask both of you, first, Do you
21 think there is a trend towards that?

22 Dr. Cohen: Let me -- I'll -- let me speak as a former
23 diplomat. I was the counselor of the Department of State
24 for several years. There is clearly an imbalance simply
25 because of the size of the Department of Defense and the way

1 our combatant commands operate. I don't think the presence
2 of a Secretary Mattis at the head of the Department of
3 Defense matters, one way or another. You know, it gets down
4 to much more mundane things, like, when a combatant
5 commander shows up, they've got an airplane, they've got,
6 you know, spear carriers and people in a vast entourage.
7 When an Assistant Secretary of State shows up, they are kind
8 of poured out of the back of a United Air Lines plane, and
9 they are not in -- on a plane that has the seal of the
10 United States. And so, it's not surprising that the locals
11 look at that and say, "Okay, we know who matters. It's the
12 General." I think it's those kinds of issues. And, you
13 know, I'm not being facetious, actually. It sounds
14 humorous, but I'm not being facetious. I have personally
15 seen that happen in capitals around the world, and that is
16 something that is worthy of your attention.

17 Senator Fischer: But, those actions aren't really the
18 result of any decision or any action taken by any senior
19 military leader, are they? It's more of a perception that
20 is out there, right?

21 Dr. Cohen: Yes and no. I mean, part of it -- you
22 know, a combatant commander has resources. A combatant
23 commander can do things. They can move airplanes and people
24 and supplies and so forth. So, there is built-in this kind
25 of asymmetry to the advantage of the Department of Defense,

1 which is not exercised in a malign way or with malign
2 intent. It just is. You know, if you need relief -- flood
3 relief or something like that, State Department can't do a
4 whole lot for you. Department of Defense can.

5 Senator Fischer: Okay.

6 Dr. Hicks?

7 Dr. Hicks: I completely agree with Professor Cohen. I
8 think if you layer onto that the high level of trust that
9 the American public puts in the military, which I think is
10 right, but it is much higher than at places in other parts
11 of government, and you combine those things along with the
12 alacrity of the system with regard to DOD funding, with
13 regard to even authorization for DOD, which I think you all
14 know is -- runs quite smoothly every year compared to that
15 for other agencies -- it's sort of -- it's a bias inside the
16 system that we just have to watch for. It's not malign,
17 necessarily, but it is something to be careful about.

18 Senator Fischer: And, Dr. Cohen, you mentioned the
19 word "imbalance." We've seen, recently, I think,
20 centralized power within the White House -- National
21 Security Council and not the Pentagon. And yet, some would
22 argue that confirming General Mattis is going to, I guess,
23 in their view, continue a growing trend of military
24 influence. How would you respond to that?

25 Dr. Cohen: I think, in this particular context, not so

1 much. I think, in this -- in the particular context of the
2 incoming administration, the -- it is entirely true, more
3 power has gravitated to the White House, and more, actually,
4 than I think is healthy. I think, because General Mattis is
5 such a forceful character, and if the Senate decides to
6 confirm Mr. Tillerson as Secretary of State, you will have
7 powerful Cabinet Secretaries. And I'm hoping that part of
8 what will happen will be, we'll see a little bit more
9 authority going back to the Departments, at the expense of a
10 very controlling White House. So, I think it may work the
11 other way, actually.

12 Senator Fischer: And wouldn't that also reinforce what
13 is the role of Congress? If we do have Secretaries who
14 regain -- Cabinet Secretaries who are able to regain that
15 power that they are given, wouldn't that bring more
16 transparency to the agency itself, but also to reinforce the
17 role of Congress, when it comes to the larger debate of the
18 duties of Congress, when you have a Cabinet Secretary who
19 respects and values the responsibilities of oversight, of
20 developing relationships with committees here in Congress,
21 with coming before committees in Congress and being truthful
22 and transparent and open about their needs?

23 Dr. Cohen: I would say, absolutely. Your ability to
24 hold the people you've confirmed accountable is just
25 absolutely indispensable to the functioning of our system of

1 government. And it's going to be more important than ever.

2 Senator Fischer: And a strong Secretary would do that.

3 Dr. Cohen: I believe so.

4 Senator Fischer: Thank you, sir.

5 Thank you, Mr. Chairman.

6 Senator Reed [presiding]: On behalf of Chairman
7 McCain, let me recognize Senator Warren.

8 Senator Warren: Thank you, Ranking Member. And thank
9 you for urging us to have this hearing today.

10 We've spoken a great deal today about civilian control
11 of the military in terms of the President and the Secretary
12 of Defense, but I want to raise a broader question about the
13 relationship between the military and our citizens as a
14 whole which relates to this question about civilian control.

15 I come from a military family. All three of my
16 brothers serve. But, this isn't as common as it used to be.
17 It's been more than a generation since we've had massive
18 mobilization on the scale of World War I and World War II
19 and Vietnam. America has an extraordinary professional
20 fighting force, the best the world has ever seen, but many
21 people in our country are disconnected from our military.
22 And I think our founders would have been surprised by this
23 development. They were deeply worried about our country
24 getting tied up in foreign wars, and they were especially
25 worried about a President using the military to increase his

1 own fame and to perpetuate his own power. And that is why
2 Congress, not the President, retains important war powers.
3 It's also why the founders expected citizens to pay for
4 military engagements and to serve in the military.

5 Now, Dr. Hicks, I know you also recognize the
6 extraordinary skill and professionalism of our military,
7 but, when we think about civilian control of the military,
8 are there consequences to having wide portions of the
9 population that no longer have substantial ties to an active
10 military?

11 Dr. Hicks: Senator Warren, I do think there are
12 consequences. I think it's a distortion that can play out
13 both positively, if you will, and negatively with regard to
14 decisions about use of force. I would just say, if I had to
15 pick just a few items to focus on, I am concerned that the
16 lack of understanding of the long-term cost of conflict is
17 exacerbated by individuals in the country being less
18 familiar with the military. And I think you see that play
19 out, if you will, in the longer-term stabilization decisions
20 we've had to make over time in the United States.

21 Senator Warren: Thank you. You know, when -- one of
22 history's great military strategists, Carl von Clausewitz,
23 talked about warfare, he noted the need to pay attention not
24 only to the military and to political leaders, but also to
25 the people of the Nation. So, I want to ask a related

1 question about public support for decisions about when to
2 use our military.

3 If we want to be successful in future wars, do you
4 think we need to develop a strategy to get citizens more
5 engaged? And, if so, why? Dr. Hicks? Dr. Cohen? Whoever
6 would like to on this.

7 Dr. Hicks: I do think we're facing a crisis on civic
8 engagement on foreign and security policy. We have seen,
9 over time, a general consensus about what the U.S. role in
10 the world is fraying -- not breaking, but fraying -- and
11 there seems to be a lot of confusion and uncertainty. As a
12 matter of fact, two of the most recent major polls of the
13 public on foreign and security policy, the Pew Poll and the
14 Chicago Council Poll, use "uncertainty" in their titles.
15 And it just goes to this idea that the public and the elite,
16 if you will, no longer are having a constant dialogue about
17 what the U.S. role is in the world.

18 Senator Warren: Thank you.

19 Dr. Cohen, would you like to add anything to --

20 Dr. Cohen: Yes, I would.

21 First thing, to that immediate point, I would say, in
22 my view, it is extremely important that Congress authorize
23 the use of military force. And I was deeply disappointed
24 that, for our third Iraq war and for the Libyan
25 intervention, that did not occur. I'm not going to assign

1 blame, I'm just saying, as a citizen, I found that
2 profoundly disappointing.

3 To your earlier point, I would say that there are a
4 number of things that you can do, that we should do. One is
5 simply -- and I'm -- by the way, I speak as the father of
6 two servicemembers -- the first is to get ROTC programs out
7 on all kinds of campuses, including campuses where they are
8 not -- have not traditionally been. And we're both from
9 Massachusetts, so we know what we're talking about there.
10 And even if it's not entirely efficient, to have ROTC out
11 there as a presence.

12 I also have to say that I think that a lot of the
13 attempt to rationalize our base structure didn't help us in
14 this regard. And again, I'll speak as somebody from
15 Massachusetts. When I was in ROTC, we were always at Fort
16 Devins, trampling around in the mud. There was a military
17 presence in New England. There's much less of a military
18 presence today. That's not healthy. And even if it's not
19 entirely administratively rational or economically rational,
20 I think it is very important for people to have contact with
21 the military. And for a number of reasons, one of which is,
22 it's also I'm sorry not to put the military on too much of a
23 pedestal. You know, Harry Truman was a great President
24 because he had been a National Guard captain, and he knew
25 the underside as well as the things that are truly noble and

1 inspiring about the military and about military service.

2 So, I really worry about it, from -- if you will, from
3 both ends.

4 Senator Warren: Well, I just want to say thank you
5 very much. You know, it seems to me that the broader divide
6 between our citizens and our military makes it even more
7 important that we continue to keep front and center the
8 importance of having civilian control over the military.

9 Thank you.

10 Thank you, Mr. Chairman.

11 Senator Reed: On behalf of Chairman McCain, let me
12 recognize Senator Ernst.

13 Senator Ernst: Thank you, Mr. Chair.

14 And thank you both today. This has been a very, very
15 enlightening hearing, so I appreciate your testimony.

16 And, Dr. Cohen, thank you for your support of ROTC
17 programs. As a proud member of the Cyclone Battalion from
18 Iowa State, I thank you for that. And I do believe that we
19 need more of those programs in other areas that aren't maybe
20 as widely accepting today. So, thank you very much for
21 that.

22 While I still do have many commitments to garner from
23 retired General Mattis before I affirm that I will be
24 supporting him for Secretary of Defense, I strongly believe
25 he understands and respects the importance of civilian

1 control of our armed services. I retired just a little over
2 a year ago from the military, and I do consider myself a
3 civilian. I view retired General Mattis as a civilian also.

4 Dr. Cohen, in your written statement, you suggested
5 that Congress confirmed George Marshall because the United
6 States faced imminent and substantial national security
7 threats requiring his expertise. You drew a parallel
8 between things that are ongoing today. We have North Korea,
9 we have Russia, China, radical Islam terrorism. And what I
10 want to do is add to that list. I would also include there
11 a hollowed-out military, which is what I believe that we
12 have right now. As a result of Obama administration
13 policies, our Army has fewer soldiers, and our Navy has
14 fewer ships, our Air Force is flying antiquated aircraft.
15 U.S. servicemembers, while proud, are understandably
16 anxious. Do you see the need for a strong soldier statesman
17 such as -- for Secretary of Defense -- just like we did in
18 the '50s? And, if so, does James Mattis, like George
19 Marshall, really fit into that mold?

20 Dr. Cohen: You know, I'm -- again, I'll just speak as
21 an historian. The buildup of the 1950s was not the work of
22 one individual. It was a whole team of quite exceptional
23 public servants and great presidential leadership, as well.
24 But, I would say that I completely agree with your
25 assessment of the situation. I've, in fact, just written a

1 book on the subject. And I think there is a need for what
2 will probably be a fairly substantial expansion in military
3 spending, because we're facing quite -- a quite diverse set
4 of challenges, perhaps none of them as overwhelming as the
5 possibility of a third world war -- in this case, with the
6 Soviet Union -- but our forces are not adequate for that
7 right now. So, this is partly going to be an issue of
8 resources, but it will partly be the nature of the team that
9 is then created to supervise a substantial increase in
10 defense spending.

11 Senator Ernst: Okay.

12 Dr. Hicks, anything to add to that?

13 Dr. Hicks: Well, I would just say, I agree that
14 General Mattis, if confirmed as Secretary of Defense, could
15 be a very effective spokesperson for the requirements of the
16 military. And again, to my prior answer to Senator Warren
17 on the issue of what's the U.S. role in the world, we
18 clearly have a gap between the perception of what we want to
19 be able to achieve in the world and what we're willing to
20 put toward it and what it requires. And I think the
21 strategic man inside General Mattis, if a Secretary Mattis,
22 would come forward to help us close that gap, which I think
23 many of us would greatly appreciate.

24 Senator Ernst: Thank you.

25 And, Dr. Hicks, you concluded in your statement that it

1 is appropriate to create a specific exemption, a once-in-a-
2 70-year exception to the law for this nominee based on his
3 unique qualifications and because of the safeguards in place
4 to protect civilian control of the military. And you state
5 that the ultimate safeguard is the United States Congress.
6 And I agree with that assessment. But, in light of that,
7 what commitments should we garner from General Mattis in
8 order to ensure that we are doing our part and our due
9 diligence in vetting him for the position of Secretary of
10 Defense?

11 Dr. Hicks: I think, first and foremost, is the comment
12 that came up earlier in the discussion about adhering to the
13 Constitution of the United States, not to any individual
14 President or other political official. I think that is
15 first and foremost. When General Marshall served as
16 Secretary of Defense, it was well prior, of course, to
17 Goldwater-Nichols, but it was prior to having a truly strong
18 Chairman of the Joint Chiefs of Staff. In statute, I think
19 securing and understanding of how he would look at this
20 pretty unique situation of a recently retired four-star, and
21 what has been strengthened over time as a very centrally
22 powerful Chairman of the Joint Chiefs of Staff, how that
23 would operate. And again, that he's always bringing his
24 best judgment without bias to his prior Marine allegiance,
25 if you will. I know a marine is always a marine. That

1 would be very important, in my mind, as well.

2 Senator Ernst: Very good. Thank you very much, both
3 of you.

4 Thank you, Mr. Chair.

5 Chairman McCain [presiding]: Senator Kaine.

6 Senator Kaine: Thank you, Mr. Chair.

7 And thanks, to the witnesses.

8 Dr. Cohen, you mentioned, just a second ago, that you
9 believe, based on the current array of challenges in the
10 world, we may need an expansion of military spending. I
11 assume you believe that the arbitrary budget sequester that
12 has put a cap on defense spending as well as nondefense
13 discretionary spending is not smart.

14 Dr. Cohen: I would say I share the Chairman's view of
15 sequester.

16 Senator Kaine: Great. Thank you. That view is well
17 known to the members of the committee and shared on a --

18 Dr. Cohen: That's why I put it that way.

19 Senator Kaine: -- shared on a bipartisan --

20 Chairman McCain: This is --

21 Senator Kaine: -- view.

22 Chairman McCain: This is an R-rated hearing.

23 [Laughter.]

24 Senator Kaine: Two items. The title of the hearing is
25 not just about the waiver for General Mattis, it's testimony

1 on civilian control of the Armed Forces. And, to touch upon
2 two points that have already been raised, civilian control
3 over our Armed Forces is throughout the Constitution in
4 different ways, not just the notion of this waiver, which is
5 not constitutional, but statutory, the requirement that
6 we're talking about, but also the role of Congress in
7 warmaking powers in Article 1. You referred to this a
8 second ago, Dr. Cohen. In a book retrospect, the former
9 Secretary of Defense Robert McNamara said this about the
10 Gulf of Tonkin Resolution, "We failed to draw Congress and
11 the American people into a full and frank discussion and
12 debate of the pros and cons of a large-scale military
13 involvement in Southeast Asia. It wasn't that we didn't
14 have formal authority. We did. The problem wasn't with
15 formalities. The problem was the substance." Neither the
16 Congress nor the President intended that those words would
17 be used as we used them. We're in the 15th year of using a
18 60-word authorization passed in the aftermath of the attack
19 of 9/11, stretching it far beyond probably what was the
20 original intent in a Congress that is nearly 70-percent
21 people who weren't even here to vote on that authorization.
22 You talked about your concern about the absence of an
23 authorization for current military operations. Isn't the
24 congressional warmaking power, the Article 1 power that
25 gives that decision to the people's elected legislative

1 body, part of the framework of civilian control that we are
2 obligated to uphold?

3 Dr. Cohen: Senator, I think you're absolutely right.
4 There are many different aspects of civilian control that --
5 to the -- to include the fact that the President is the
6 Commander in Chief, which is different than other countries
7 do it. I completely agree with you on authorizations for
8 the use of military force. I think -- without wishing in
9 any way to be critical of Congress, I think in -- on some
10 occasions, it's also been a way of avoiding responsibility.
11 And so, it -- there's a requirement for Congress to step up
12 and say, "I'm going to vote yea or nay on something like
13 that." I also think one has to have a certain acceptance of
14 the fact that you're going to authorize the use of force and
15 then there's a limited extent to which you can predict the
16 way that things are going to go.

17 But, that was also why I was, in response, I think, to
18 Senator Gillibrand earlier, I said, "It's not just the vote
19 about the authorization of the use of military force, it's
20 also, you know, over -- looking at strategy, getting those
21 kinds of discussions going." And I think that is one of the
22 things I would hope you would ask General Mattis about,
23 because I do think you should be part of that discussion.
24 You're not going to be in the chain of command, but you
25 should be part of that discussion.

1 Senator Kaine: Dr. Hicks, any additional comments on
2 that?

3 Dr. Hicks: I would just agree completely with regard
4 to the important oversight role of Congress, and
5 specifically with regard to declarations of war and
6 authorization for the use of military force. And I want to
7 thank you personally for how much you have invested in this
8 issue, which I'm sure seems Sisyphusian at times. But, I
9 really do hope, in this Congress, that there can be movement
10 forward on a new authorization for these --

11 Senator Kaine: Multiple years of effort, I think I've
12 managed to persuade two or three people on this, but I'm
13 going to keep trying, because I think it matters.

14 [Laughter.]

15 Senator Kaine: It matters.

16 A second issue dealing with civilian control -- and
17 this touches upon questions that Senator Fischer asked -- is
18 the role of congressional oversight -- budgetary oversight,
19 the confirmation of a Secretary of Defense. We did some
20 reforms in the most recent NDAA to reduce the size of the
21 NSC operation. We don't confirm the National Security
22 Advisor. We have less oversight over the NSC operation as
23 we do over the -- a Secretary of Defense and a Pentagon.
24 And I actually would like each of you to comment upon the
25 relationship between the NS- -- National Security Advisor

1 and the NSC and the Secretary of Defense and what you think
2 the right balance in that relationship should be in
3 connection with this question of maintaining appropriate
4 civilian control through the civilian elected Congress over
5 military operations.

6 Dr. Cohen: You know, I would just say that this is
7 really one of the most delicate and complicated questions of
8 this kind one can deal with. So, I suppose my position
9 would be, first, that, you know, the President really does
10 deserve to have the staff that he or she wants, who are
11 organized in the way that suits him or her best, and that
12 they think are most effective.

13 Secondly, I have my own views about how a -- having
14 seen a bunch of National Security Advisors up close, there's
15 a certain way that they should do their business, that they
16 should not be understood to be principals, in the sense that
17 a Cabinet Secretary is. And the NSC staff should not be
18 operational. It is largely a coordinating function. It is
19 staffing the President of the United States. And I think
20 there may be something more to be gained by making sure that
21 the functions of the NSC staff, rather than its particular
22 size and so forth, are appropriate. And, I mean, I get very
23 anxious when National Security Council staffers begin
24 negotiating treaties with other countries. Again, speaking
25 as an old State Department guy, that's really wrong. That

1 should not happen.

2 Chairman McCain: Not only negotiating, but deciding
3 rules of engagement in faraway places.

4 Senator Kaine, I appreciate very much your advocacy on
5 this whole issue, that you have been, sometimes, a voice in
6 the wilderness, but you've also been absolutely correct.
7 And I know Senator Reed would like to work with you. And
8 perhaps one of the ways to try to address this issue would
9 be to have a hearing or two on this issue. Because,
10 certainly, Congress has not exercised its responsibilities
11 in conflicts that are going on throughout the globe. So, I
12 thank you for raising that issue. I thank you for your
13 continued tenacity. And I want to commit to us making this
14 a priority for this committee in the coming year.

15 Senator Kaine: I appreciate that, Mr. Chairman.

16 Chairman McCain: I thank you.

17 Senator Perdue.

18 Senator Perdue: Thank you, Mr. Chairman.

19 I agree with both of you in your testimony and comments
20 so far in preparation for today. I think this is an
21 extremely important tenet, one that we should strive to
22 uphold, going forward. And any exception to it should be
23 taken very, very seriously. So, I appreciate your comments
24 on that.

25 Having said that, I agree with you, also, that I think

1 we're facing a very unique and dangerous global security
2 crisis today. I can't compare it to 1950. It's different.
3 They didn't have cyberwarfare back then. They didn't have a
4 nuclear North Korea. They didn't have an arms race in
5 space. I think the need for integration between diplomacy
6 and development and military capability has never been
7 greater or more complicated. And because of that unique
8 circumstance, I think, like General Marshall, General Mattis
9 offers us a unique combination of skillsets and mindsets
10 that make him an ideal candidate for right now, with certain
11 cautions that you both have laid out.

12 Having said that, and having broad experience from the
13 Foreign Relations Committee here, I'm very concerned about
14 the relationship between diplomacy and development debates
15 inside the Cabinet room between two military officers when
16 it's a military option or a diplomatic option. Could you
17 both speak to that with your personal experience of General
18 Mattis?

19 Dr. Hicks?

20 Dr. Hicks: I'll begin.

21 I think you're right to have that concern,
22 particularly, if I may, on development. It -- the last 15
23 years of war, I think, have brought home, more than ever
24 before, to members of the military the importance of
25 development, or the role -- maybe more precisely said, the

1 role it plays. But, your average officer, I think, still
2 maybe doesn't fully understand the role of USAID, in
3 particular.

4 That said, I do think General Mattis, through his --
5 both his role -- well, his variety of roles, but
6 particularly the roles as the head of U.S. then-Joint Forces
7 Command, looking broadly at the future and at the
8 integration of the military with other instruments of power,
9 and, of course, as the Commander of U.S. Central Command,
10 where a region, like many others, where you absolutely have
11 to understand how these pieces integrate together, is
12 critical. I think he will have a deep appreciation of the
13 need for development and diplomacy experts that are
14 nonmilitary.

15 Dr. Cohen: I guess I would have a couple of thoughts.

16 The first is that, it seems to me it's very rare that
17 one has a choice between a military and a diplomatic option.
18 The choice is much more likely to be diplomacy of one kind,
19 backed by a military option, or diplomacy of a different
20 kind, maybe not backed by a military option. And so,
21 therefore, what matters most is actually the cooperation
22 between the State Department and the Defense Department.

23 I was very privileged to serve, along with Senator
24 Sullivan, under Secretary Rice, and to see the exceptionally
25 close relationship that she had with Secretary Gates as

1 Secretary of Defense. And, you know, anybody who is in an
2 administration tends to feel that way, but I thought I was
3 seeing an exceptionally close integration of diplomacy and
4 military power. And I think that's really the model. So, I
5 think the question might be more to General Mattis, if he's
6 Secretary Mattis, with the Secretary of State.

7 Senator Perdue: Dr. Cohen, you had mentioned that, you
8 know, we're not the first ones to do this as a country. I
9 mean, certain countries have done this, historically, and
10 some not so very well. And you've called that out in your
11 writings. Would you relate to us just a little bit about
12 the cautionary comments that you've made about that,
13 relative to other people's experience, other countries'
14 experience with doing what we're talking about doing today,
15 but also talk about the unique character of Dr. Mattis and
16 why this might be a unique situation?

17 Dr. Cohen: Well, let me start with General Mattis. I-
18 - for me, what I find myself focusing on is not just the
19 experience and the expertise, and so on; it is fundamentally
20 my judgment about his character and his judgment. And
21 that's why I think it's very unfortunate people have used
22 the phrase "Mad Dog." I've never heard anybody in the
23 uniformed military refer to him as that. That is not what
24 he is like. This is an extremely thoughtful, careful,
25 prudent man. And I think that's -- that is a tremendously

1 important thing.

2 To speak to the history of civil-military relations,
3 the fact is, say, if you look at the French or the Germans,
4 or even the Russians, the -- when you begin to have retired
5 generals as Ministers of Defense or Ministers of War, you
6 are setting up the kinds of tensions and problems and
7 blurring that we talked about, and the kind of isolation of
8 the military from normal politics. And, in some ways, this
9 is what has happened in Israel, which is probably, for us,
10 the most interesting case, because it is a liberal
11 democracy. But, I know that country pretty well. There is
12 a serious problem with the politicization of the senior
13 officer corps, there is a serious problem in distinguishing
14 between the military advice of the serving Chiefs of the
15 General Staff and a Minister of Defense, who, only a couple
16 of years before, was a general officer. And, in fact,
17 what's interesting is, the Israelis are -- have introduced,
18 and they've actually recently increased, their own time gap
19 between when you can take off the uniform, when you can run
20 for public office and serve in those kinds of positions.

21 Senator Perdue: Thank you, Mr. Chairman.

22 Chairman McCain: Senator Peters, welcome again to the
23 committee.

24 Senator Peters: Thank you, Chairman McCain. It's a
25 pleasure to be here and to serve.

1 And I'd thank our witnesses today for your testimony,
2 both Dr. Hicks and Dr. Cohen. Thank you for addressing this
3 very serious issue.

4 Just to pick up on Senator Perdue's comments about the
5 need to make sure we're balancing military options with
6 diplomatic, economic, the full range of power that can be
7 projected around the world -- soft power in addition to hard
8 power -- I think it's important to remember the last time we
9 did grant this waiver, the -- General Marshall, the -- in
10 addition to his extensive military experience, also served
11 as a Special Envoy to China, was the Secretary of State and
12 president of the American Red Cross. So, quite a diverse
13 background, something that we're not looking at right now,
14 despite all of the qualifications of General Mattis, but
15 certainly a very rounded background, going into that
16 position.

17 But, I'd like to turn to the book that General Mattis
18 edited, which I think both of you have referenced. In that
19 book, "Warriors and Citizens," he has a chapter from Dr.
20 Thomas Owens, who's a professor at the Institute of World
21 Politics. And it's entitled, "Is Civilian Control of the
22 Military Still an Issue?" which raises the prospect if
23 that's even something we should be thinking about.

24 Dr. Owens writes that civil-military relations can be
25 seen as a bargain. I'm going to quote from his writing

1 here, "There are three parts to the bargain: the American
2 people, the government, and the military establishment.
3 Periodically, the civil-military bargain must be
4 renegotiated to take into account political, social,
5 technological, or geopolitical changes."

6 So, my question to both of you, first, is, Do you agree
7 with that assessment, that, basically, as we're discussing
8 the civil-military relations, that this is, basically, a
9 bargain between the people, the government, and the
10 military?

11 Dr. Cohen: No, I do not.

12 Senator Peters: And why is that?

13 Dr. Cohen: Because the principle is civilian control
14 of the military, full stop.

15 Senator Peters: Ms. --

16 Dr. Hicks: I agree with that. I do think there is
17 this issue of how, exactly, it manifests, again, in any
18 given environment. An example would be that the particular
19 statute that we're discussing now did not arise until 1947.
20 And I think, in large part, it arose -- and there are a
21 variety of reasons, but a large reason it arose is because
22 we had come out of two world wars, we had seen militarized
23 societies and their effects, and we were facing the
24 prospect, which we still have, of a much larger and very
25 capable standing military. And so, the exact structure of

1 how we operationalize civil-military relations changed in
2 that context.

3 I do think that has been true throughout the history of
4 the United States, of course, which is, we maintain the
5 principle, and the particular way -- just as this waiver
6 would be, the particular way in which we judge what it
7 requires to be healthy at a given time is assessed at that
8 time.

9 Dr. Cohen: If I could, you know, the patterns clearly
10 do change, but the word that I would really push back at is
11 "bargain," as if it's a deal that gets cut between different
12 segments of society. And I think that's not the way our
13 Constitution was intended to operate.

14 Senator Peters: Well, thank you.

15 And later in his book -- and this -- that -- the quote
16 that I had was from a different author; it wasn't General
17 Mattis -- later in his book, General Mattis writes -- and
18 I'd love to have your comments on his thoughts on this
19 issue-- he writes, "If there is a contemporary departure
20 from the American norm, it is that military commanders are
21 more, not less, hemmed in by political leaders, because the
22 wars we are fighting are more removed from everyday
23 experience of most Americans." And he goes on to say --
24 this is his writing again, quote, "The combined effect is
25 worrying, since elites without military experience alienated

1 from the advice offered by the military are more likely to
2 use military force ineffectively. We believe we have been
3 seeing exactly this in American national security policies
4 over the last dozen years."

5 Your response, please.

6 Dr. Cohen: I'm not sure I would agree with that. I
7 mean, I understand it as a point of view. I think there has
8 undoubtedly been a fair amount of friction, particularly in
9 the last 8 years, but there was friction in the -- during
10 the Bush administration, as well.

11 I think, you know, sometimes people like to think that
12 there was a halcyon period, where generals and politicians
13 got along very well. There wasn't. Again, I'm essentially
14 a military historian. And so, I can give you chapter and
15 verse on that if you like. And I -- we -- that is why I
16 said in my statement that a certain amount of tension is the
17 norm and is actually a healthy thing. But, I don't think I
18 really, fully believe that.

19 I mean, look, the biggest 20th-century blowup in our
20 civil-military relations was between President Truman and
21 General MacArthur. President Truman had an outstanding war
22 record in the first World War as a National Guard battery
23 commander.

24 I would like to add just one thing. Having edited a
25 bunch of books, I've stopped doing it, because you can't

1 really control what the people in the book are going to say.
2 And I'd rather just say what I'm going to say. So, I
3 wouldn't hang General Mattis with what some feckless author
4 has put in there. You -- it's -- you have much less control
5 than you might think.

6 Senator Peters: Well, but let me be clear, the last
7 two quotes that I read were General Mattis.

8 Dr. Cohen: Yes. No, I understand. I was --

9 Senator Peters: Right.

10 Dr. Cohen: -- referring to the previous quote.

11 Senator Peters: The previous one, right.

12 Dr. Hicks: I, basically, agree with Professor Cohen.
13 I would simply say, again, it's always hard to take quotes
14 and assess them, but my recollection of that portion of his
15 essay with his coauthor, Cory Shockey, was -- the context
16 was also about this issue, again, of the societal removal,
17 the 1 percent issue. And I do think, again, it -- that has
18 effects. It distorts how we think, sometimes, about
19 military force. It doesn't mean it's more likely we use it,
20 which I think is more the implication, perhaps, of that
21 passage, or we're less likely to use it. I do think it
22 means that the more distant citizens become from their
23 understanding of, if you will, the profession of arms, the
24 more dangerous that is for us, because we remove ourselves
25 from very real understanding of what the implications of use

1 of force are.

2 Dr. Cohen: If I could, you know, there -- I think
3 there are other sources of tension, as well. And people
4 may conflate them. So, for example, simply the fact that
5 anything that happens is instantaneously visible around the
6 world -- and when I'm -- say "visible," I mean on YouTube --
7 and, therefore, is a big deal, does mean that there's going
8 to be more political attention. So, when you have an Abu
9 Ghraib, it's not something that comes out, you know, a long
10 time later and there are no photographs; it's right there in
11 front of you, and it has real repercussions.

12 I also think some of this has to do with the nature of
13 the particular wars that we've been fighting, which, in a
14 variety of ways, are -- have been conducive to civil-
15 military tension. So, I think -- I may agree with the
16 diagnosis of the phenomenon. I might have a somewhat
17 different analysis of some of the causes.

18 Senator Peters: Thank you.

19 Chairman McCain: You've exceeded your time, Senator
20 Peters.

21 Senator Rounds.

22 Senator Rounds: Thank you, Mr. Chairman.

23 Part of the discussion earlier had to do with whether
24 or not we were losing contact between the civilian and
25 military members. And I would just suggest that there are

1 some areas where I just don't believe that that has
2 happened. And one area is with regard to the National
3 Guard. All you have to do is to attend a single deployment
4 ceremony or a welcome home ceremony or a funeral and you'll
5 see that, when you mobilize the National Guard, you mobilize
6 the entire community, and there is clearly a connection
7 there which has not faded.

8 And I think one thing that leads to that is, is that --
9 that very, very close connection, where these folks are
10 maintaining their relationship with their families and with
11 that community, and folks see them actively involved, but
12 they also see the sacrifice of the family, as well. And
13 sometimes I suspect that our military members that have
14 family back here, that sacrifice that those families make is
15 probably not as evident in their local communities as it is
16 when you recognize the Guard.

17 Let me just ask a just a couple of quick questions.
18 And I don't mean to split hairs, but we've talked a lot
19 about the comparisons between General Marshall and General
20 Mattis, and about the connectivity between the two, the
21 similarities and so forth. Can I ask about what you see as
22 the differences between the recommendation -- the nomination
23 at that time and the nomination that we have before us to
24 date -- the differences that, in your study and your review,
25 that you've found, that you would point out to us.

1 Dr. Cohen: Before I do that, let me just -- on your
2 point about the National Guard, I completely agree, but I
3 think there are many dimensions to that issue, and it's --
4 seems to me it would be a good thing for our country if our
5 business leaders, our academic leaders, our leaders of
6 nonprofits also had family members or people that they knew
7 who were serving, and that has other kinds of implications
8 for how we go about recruiting people.

9 There are a number of differences. Obviously, General
10 Marshall had -- his military experience is different. He
11 had -- he was not a combat commander, as General Mattis most
12 definitely has been. He was one of the masterminds of this
13 great coalition effort. He had served as Secretary of
14 State. I think that's tremendously important. A very
15 effective Secretary of State for 2 years.

16 Conversely, I think one does have to point out, General
17 Marshall was quite a sick man when the waiver was made. I
18 think historians think that he was an extraordinarily
19 effective Secretary of Defense, partly -- I believe he had
20 lost a kidney by then. And he was in for about -- he was in
21 for about a year. So, General Mattis, I think, is a much
22 more vigorous type, and that's actually nontrivial, I
23 believe.

24 So, those, it would seem to me, would be the largest
25 differences that you're dealing with. And, you know,

1 General Marshall, finally, did have -- he had one enormous
2 challenge. And that was, of course, dealing with General
3 MacArthur with -- whom he did not like, but who he tended to
4 respect as the guy who was in charge out in the Far East.
5 And MacArthur was a very different kind of problem that --
6 Mattis is not going to face any MacArthurs out there.

7 Dr. Hicks: I would add just two other factors. One
8 relates to what Eliot just said, that, you know, he -- he
9 served a very short period of time. And, in fact, it -- all
10 evidence points to the fact that that was a prearranged
11 agreement, that he would only serve for a limited period of
12 time. He was essentially helping the President out, if you
13 will, in a case where he had, I think, as you referenced
14 earlier, a Secretary of Defense who was not working out for
15 him. And so, this was a way to transition with a very
16 popular -- politically, publicly popular figure, in the case
17 of General Marshall. You can parse how much of that is
18 similar and different in this case, but it is the fact that
19 it wasn't his out-of-the-gate Secretary of Defense, it was
20 a-- more of a transitional approach.

21 The other thing I think bears in -- repeating is that
22 General Marshall, as best I recall, had come out -- he had
23 gone back into an Active Duty an status, so he was extremely
24 recently retired just before taking on the position.

25 Dr. Cohen: He was actually technically not retired,

1 because the way it worked, if you're a five-star general,
2 which is what he was, was that you never retire. And so, a
3 lot of the discussion and the testimony is about, What do we
4 do about his pay? I mean, what -- the lofty issues were
5 addressed, too, but some of it was pretty mundane.

6 Senator Rounds: Thank you, Mr. Chairman.

7 Chairman McCain: Senator King.

8 Senator King: Thank you, Mr. Chairman.

9 Dr. Cohen, first, you mentioned a few minutes ago that
10 you were reluctant to be critical of Congress. I don't know
11 why you alone, among all the citizens of this country,
12 should feel any reservations on that front.

13 [Laughter.]

14 Senator King: I would suggest that -- yes, that's
15 right.

16 And I also have to point out -- a statement was made
17 earlier about President Obama eviscerating the military or
18 hollowing out the military. Again, this was -- the budgets
19 for the military come out of this body, and we impose
20 limitations that the President's budgets reflect. And so,
21 again, I think we don't want to avoid responsibility for our
22 role, either historically or on a going-forward basis.

23 The other point, it seems to me probably one of the
24 greatest challenges to civilian control of the military
25 occurred in the election of 1864, when George McClellan, one

1 of the leading generals of the Union Army, ran against the
2 President of the United States. And Lincoln, himself, wrote
3 his wife, in August of that year, saying he was likely to
4 lose that election, and probably would have, other than for
5 Sherman's taking of Atlanta in September, shortly before the
6 election. I apologize to the Senator from Georgia for
7 raising that difficult point.

8 [Laughter.]

9 Senator King: When I was a smalltown lawyer in Maine,
10 one of the principles we used to discuss was, "Hard cases
11 make bad law." Cases that are very appealing on the merits
12 that -- widows and orphans and other kinds of difficult
13 issues, you end up creating precedents that are bad law.
14 And that's what I'm struggling with in this case. I think
15 that's exactly what we're talking about here.

16 I have decided to support this amendment, because I
17 don't think it will make bad law, because of the narrow way
18 that it's drafted. And I think it's important -- we haven't
19 discussed the specific language, but the language is, "This
20 section applies only to the first person appointed as
21 Secretary of Defense as described in subsection (a) after
22 the date of this Act, and to no other person." That means
23 it can't even be used by another appointment of this
24 President. It is an extremely narrow precedent. And the
25 precedent was broken, if you will, 70 years ago, hasn't been

1 broken since. And I'm comforted by this language. And I
2 suspect that, if a future occasion of this nature arises,
3 number one, there's no statutory basis for providing an
4 automatic exemption; we will have a hearing like this. It
5 will be decided upon the facts of the case, just as you both
6 have suggested today.

7 Mr. Cohen, would you agree with that analysis?

8 Dr. Cohen: Yes. But, I would add to that that I -- it
9 seems to me it's very important that the committee and the
10 members of it make very clear the principles that they --
11 that are guiding them, and how they think about the law,
12 going forward, so that there's a record. You know, in the
13 same way that I think both of us looked at the record of the
14 testimony in the Marshall case, that people will go back and
15 look at the record, and, most importantly, look at the
16 things that you Senators said at the time, to help them
17 think this through.

18 If I could, just -- you know, I figured I had taken a
19 swipe at the Obama administration, I've taken a swipe at the
20 Trump administration. Taking on Congress, too, just seemed
21 to be a little bit too much, even for me.

22 [Laughter.]

23 Senator King: The other subject that's come up today
24 which I think is important is the danger of a development of
25 a military case cast. And I was discussing this recently

1 with a high-ranking officer in charge of personnel who
2 indicated that something over 80 percent of the current
3 servicemembers come from military bloodlines or from
4 military families. And I think that is -- and he said,
5 "That's a dangerous situation, because we don't want our
6 military separated from the society." And when we made a
7 decision about all-volunteer service, that created a
8 professional military. And I completely concur with the
9 idea of broadening ROTC and broadening recruitment efforts
10 so that we don't have a separate group that feels separated
11 from the rest of the society, particularly the civilian
12 government.

13 Dr. Hicks, your thoughts?

14 Dr. Hicks: I completely agree with that. I'm from a
15 military family, myself. It is a way of life, and it can
16 seem, I think, for those who haven't lived it,
17 extraordinarily odd and nomadic in nature. And I think it's
18 dangerous when we start to look at folks from military
19 families as sort of a self-perpetuating cone of future
20 military service, and the rest of society going about its
21 business differently. So, I do think that's a danger.

22 Senator King: And it also makes it too easy for the
23 rest of society -- meaning Presidents and Congresses -- to
24 talk about wars and deployment of troops if there's no
25 widespread of -- element of sacrifice.

1 Dr. Cohen: If I could, I think that's true, but I
2 would also just caution that, as you go forward with this,
3 the military personnel bureaucracies will not be on your
4 side. You know, the easiest, the most efficient thing, from
5 their point of view, is -- go to those parts of the country
6 or to those universities which have massive ROTC programs
7 that they can bring in, obviously, from -- they -- I mean,
8 I've had these kinds of discussions with people -- they --
9 if you look at, say, efforts to try to get ROTC back on the
10 Harvard campus, the opposition was not from President Larry
11 Sommers. The opposition was actually from the United States
12 Army. And I hate to say that, having been a former --
13 having been an Army officer at one time. But, it was --
14 they just thought it was too much of a pain in the neck,
15 "We'd have to deal with the Harvard faculty, wouldn't be
16 that high a yield of officers, blah, blah, blah," and
17 completely missing this larger point of the connection --
18 having a connection between people who wear the uniform and
19 people who are going to end up in positions of leadership in
20 other sectors of our society.

21 Senator King: Thank you.

22 Thank you both for your excellent testimony.

23 Thank you, Mr. Chairman.

24 Chairman McCain: Senator Sullivan.

25 Senator Sullivan: Thank you, Mr. Chairman.

1 And I appreciate the outstanding testimony. Professor
2 Cohen, I want to thank you for your service to our Nation.
3 And, as usual, your testimony is very insightful and
4 helpful.

5 You know, just as someone who served as a Marine Corps
6 staff officer to the CENTCOM Commander and then later as an
7 Assistant Secretary of State, I can -- I certainly agree
8 with your sense of the imbalance between DOD resources and
9 the State Department, which I think we need to look at. But
10 also, I think it's helpful in this discussion on ROTC. I
11 certainly hope that all universities will heed the call to
12 establish ROTC programs.

13 You know, Senator Warren was talking about this issue.
14 And where she taught and where I went to college, you just
15 name the university, where I -- when I went to Harvard, the
16 Sparticus Youth League, which was a organization for young
17 Communists, was allowed to meet on campus, but if you wanted
18 to be part of the ROTC, you were not welcome. And I think
19 that was an embarrassment. It took 40 years to get ROTC
20 back after it was kicked off the campus there. And the
21 opposition was the professors and the faculty, who were
22 extremely anti-military. And I think we should be looking
23 at all universities that continue to ban ROTC, and penalize
24 them. So, hopefully, we'll continue to focus on this.

25 You know, there's a lot of talk about 1950. You're

1 both historians. Let me just ask the basic question. In a
2 historical context, is that waiver now viewed as something
3 that was in the U.S. interest? Is it -- do most historians
4 agree on that?

5 Dr. Cohen: I think people understand why Truman did
6 it. I mean, Johnson was really a very dysfunctional
7 Secretary of Defense. Everybody hated him. And he was
8 clearly not the right guy to supervise a substantial
9 buildup. There was a bit of a whiff of desperation about
10 this. And I think the general consensus is that, although
11 Marshall did some good things as Secretary of Defense, you
12 know, he was not -- does not go down as one of the best
13 Secretaries of Defense, by a long shot.

14 Senator Sullivan: But, the historical record's not
15 widely critical of it, is it?

16 Dr. Cohen: No.

17 Senator Sullivan: And are the analogies that many of
18 my colleagues have raised today about, you know, Senate --
19 or Dr. Kissinger testifying before the committee last year
20 about the world -- the United States not facing -- you know,
21 hadn't seen this many crises since the end of the World War
22 II. Some of us are concerned about a hollowed-out Army.
23 Are those -- and the character and reputation of General
24 Mattis -- are those historical analogies apt when you look
25 at 1950 and General Marshall?

1 Dr. Cohen: I think they go a little bit too far. I
2 mean, the United States military was in much worse shape in
3 1950. And, you know, if you know the history of the Korean
4 War, it is a pretty sorry tale, with a few exceptions in
5 that first year, as we were putting ourselves back together.
6 And I think the overall sense of threat was much greater,
7 because, you know, again, there really was this chance that
8 you'd have World War III. So, it's not --

9 Senator Sullivan: Can I ask you -- and let me just --
10 sorry to cut you off, but -- let me ask about kind of a
11 question that relates to the Korean War. You know, there's
12 a conventional wisdom -- and we've heard it today, we've
13 heard it in the media a lot on this issue -- that there's a
14 growing trend of military influence in our government. But,
15 is that really the case? Let me give you a couple of
16 counter-examples.

17 With the incoming Trump administration we'll have now,
18 three out of the last four Presidents will have not served
19 in the military. Much of the Obama White House staff never
20 served in the military. Congress now has 20 percent
21 veterans. In 1971, it was 73 percent veterans. And in your
22 view, can this create situations where important military
23 matters are not well understood or emphasized by civilian
24 leaders?

25 And let me give you one that relates to the Korean War.

1 And that's the issue of rigorous military training. Very,
2 very difficult, hard, dangerous military training. I think
3 sometimes people aren't comfortable with that. I think
4 sometimes Members of Congress don't understand it. And when
5 you don't have military training, you end up with, you know,
6 situations like Task Force Smith in the Korean War. General
7 Mattis certainly understands that. I've talked to him about
8 it. But, do we risk, when we don't have much military
9 experience in our civilian government, that other leaders
10 don't understand what Task Force Smith is? I guarantee you
11 a lot of the members of the Obama White House right now
12 don't even know what I'm talking about. Isn't that an issue
13 that we should be concerned about, as well, rigorous
14 military training and having people who actually understand
15 those kind of military issues through their own military
16 service, which is increasingly less and less in our civilian
17 government?

18 Dr. Hicks: Senator Sullivan, I -- first of all, I
19 think military readiness and training is a major issue. And
20 I do know what Task Force Smith is. But, I do not believe
21 you have to have served in the military in order to have
22 knowledge and appreciation of the profession of arms. Is it
23 different than serving? Absolutely.

24 Senator Sullivan: I'm not talking knowledge and
25 appreciate, I'm talking about rigorous military training.

1 Dr. Hicks: Understand. And again, I do think -- as I
2 said before, I do think there's a distortion when you have a
3 society that's becoming less familiar with the military,
4 that has had less service in the military. I think it's a
5 problem when there is distrust between the military and
6 civilian leadership. And I think we can point to instances
7 both in the current administration and in the Bush
8 administration and throughout history where that has --
9 those tensions have moved from helpful to unhelpful. But,
10 I-- the only thing I'm going to say -- and obviously, it's
11 biased, because I have not served in the military, but I
12 have dedicated my entire professional life to the Department
13 of Defense and service -- that I do not think you have to
14 have served in the military in order to be an effective
15 civilian leader in military affairs.

16 Dr. Cohen: And I completely agree with Dr. Hicks on
17 that. I don't think prior military experience makes any
18 difference to those kinds of things. You know, they're --
19 again, we can have a long discussion about the history of
20 training in the United States military. They had to
21 completely overhaul our training in the middle of World War
22 II, which was completely in the hands of the United States
23 Army. It was partly because they had had no combat
24 experience, and they found themselves having to change
25 things.

1 Our greatest Commander in Chief was a man with zero
2 military -- or almost zero military experience: Abraham
3 Lincoln. The other competing Commander in Chief, Jefferson
4 Davis -- distinguished war record, chairman of this
5 committee's predecessor -- he was a terrible Commander in
6 Chief, luckily. So, I don't think that, per se, military
7 experience is what matters, although I think it's a good
8 thing.

9 The fact is, we're not going to get it back. You know,
10 in 1971, the World War II vets were still around, and
11 dominated Congress. Well, that's not coming back. And I
12 think we have to accept that and find other ways of doing
13 with it.

14 But, I very much agree with Dr. Hicks, it's important
15 not to denigrate people who have not served, for whatever
16 reason.

17 Chairman McCain: Could I say, Dr. -- both doctors -- I
18 totally agree. And some of the challenges we face in the
19 military today, particularly the much needed reforms in
20 acquisition and other areas, require talents that have
21 nothing to do with the military. And I agree with you, some
22 of our finest leaders have not -- it should not be a
23 requirement.

24 Thank you.

25 Senator Shaheen.

1 Senator Shaheen: Thank you, Mr. Chairman.

2 And thank you, to both of our panelists, for your
3 testimony and for your thoughtful and pragmatic approach to
4 this issue. Because I think this is an issue that it may
5 not be helpful to be doctrinaire on.

6 You know, I totally agree with the statements that have
7 been made that it's important for the country to have skin
8 in the game when it comes to military engagement and
9 conflict around the world. As a -- someone who came of age
10 during the Vietnam era, I very clearly remember the debate
11 over draft versus a volunteer -- all-volunteer Army. And I
12 think some of the ideas about what would happen at the time
13 have not proved to be accurate, and we have a very
14 professional, very well-trained military. But, it's only
15 about 1 percent of the population who actually have skin in
16 the game, and that that's not healthy for the long-term
17 future of the country.

18 Now, having said that, I want to pick up on the
19 comments you just made, Dr. Cohen, because, in 2002, for the
20 Washington Post, you wrote an article called "Hunting
21 Chicken Hawks," where you made the point that I think you've
22 just made, which is that there's no evidence that generals,
23 as a class, make wiser national security policymakers than
24 civilians. And so, I wonder if you can talk a little bit
25 more about that, beyond just Lincoln and Jefferson Davis,

1 and what you've seen that makes you come to that conclusion.

2 Dr. Cohen: Well, it's a result of, basically, being a
3 military historian. I -- you know, if you look at things
4 like the Vietnam War, where there have been some very
5 interesting books, including one by my friend H.R. McMaster,
6 "Dereliction of Duty," all about the Joint Chiefs not
7 standing up to Robert McNamara, my reservation about the
8 book -- and I've talked to General McMaster about this --
9 is, it's not like they really had a better idea. I mean,
10 when you really press into the history of the Vietnam War,
11 did they have a different conception which would have
12 allowed us to achieve our national objectives?

13 You know, this is why in my book, "Supreme Command," I
14 talk about an unequal dialogue. It has to be a dialogue.
15 It has to be give-and-take. At the end of the day, the
16 civilians are responsible, the civilians are accountable.
17 The military absolutely has to be heard, and they have a
18 duty to speak up. But, it -- it can only be forged in a
19 dialogue. And I think the -- we have to be very careful in
20 our understanding of, What is the nature of military
21 expertise? Because when you go to war, you're trying to use
22 force to achieve political purposes. I -- if I might, I'd
23 say one other thing, which is, I do think it's important to
24 have skin in the game. Speaking as someone who had skin in
25 the game, you know, I was in favor of the Iraq War, and my

1 son went off and fought in it twice. I would have been in
2 favor of it in exactly the same way, I think, if he hadn't
3 made that decision entirely on his own, actually before
4 9/11, to join the service. It does affect how you think
5 about things. It affects how you think about the political
6 leadership. It affects about how you hold them accountable.
7 But, I think, if you're a serious individual, I don't think
8 it actually changes how carefully you weigh decisions about
9 sending young men or young women into harm's way.

10 Senator Shaheen: So, I think the argument that I find
11 most persuasive, that you make, Dr. Cohen, and, to some
12 extent, you also made it, Dr. Hicks, about why this waiver
13 at this time might be appropriate, is because of your
14 comments that a Secretary Mattis might be a stabilizing and
15 moderating force preventing stupid, dangerous, or illegal
16 things from happening in the incoming administration. So,
17 with that in mind, I want to ask you a little bit more about
18 an issue that Senator Perdue raised with respect to the
19 interaction between the National Security Council, under
20 former General Flynn, and the Department of Defense and how
21 policy might get made with that kind of interaction.

22 So, do you have any insights, either one of you, into
23 what we might expect and who we might expect to come out on
24 top in those kinds of debates about what policy should be?

25 Dr. Hicks: Senator, I would be foolish to predict what

1 is going to happen here. I think, in any administration,
2 you see, in the first 9-plus months, for really the cycle of
3 Congress, some shaking around, if you will, inevitably in
4 every administration; and there is a particularly combusive
5 combination, potentially, in this set of factors we have
6 coming in, in a few weeks. So, I can't predict what that
7 will look like.

8 I do want to add to the very good comments that
9 Professor Cohen made earlier with regard to this issue of
10 the National Security Council's role and the President's
11 ability to choose his own staff, that it's always important
12 for the Secretary of Defense, of course, but also throughout
13 the national security system, to remember that the National
14 Security Advisor is not in the chain of command. And that
15 sounds so very straightforward, but, in the day-to-day
16 actions inside an administration, it can become confusing
17 about whether that National Security Advisor, to use
18 Professor Cohen's words, is a principal or not.

19 And certainly with regard to where orders come from,
20 how they are communicated -- is it from the President, is it
21 from the National Security Advisor? -- I think that tension,
22 which, again, is present in many administrations, will play
23 itself out here, and we will see what the answer to your
24 question is very soon.

25 Dr. Cohen: Once again, I agree with Dr. Hicks. You

1 know, you -- it seems -- I also have no idea what this will
2 turn into, but, from what I've read of the President-Elect's
3 decisionmaking style, he likes to have lots of competing
4 power centers competing for his ear, and jockeying around
5 and bouncing into each other. My personal preference is for
6 orderly processes, but, then again, I'm not President, so I
7 don't get to make that decision. I think there will be a
8 lot of pushing and shoving.

9 Senator Shaheen: Thank you both.

10 Chairman McCain: Senator Nelson.

11 Senator Nelson: Flynn versus Mattis and Kelly. That's
12 going to be an interesting tension. A three-star versus two
13 four-stars. But, the three-star has the President's ear
14 daily. You want to comment on that?

15 Dr. Cohen: I think you summarized it very well. It is
16 one of the arguments, in the long run, for not having
17 retired general officers in these -- you know, in a position
18 like Secretary of Defense or even possibly as National
19 Security Advisor, because they never forget their rank. And
20 I have yet to meet a General who says, "Please, just call me
21 Bob." Well, that's not entirely true, but their -- you
22 know, their rank carries with them after they retire. And
23 that's just a psychological fact that you cannot get around.

24 Senator Nelson: Dr. Hicks, you used the term "self-
25 perpetuating cone of military service." That's going to

1 occur as long as we don't have a draft, isn't it?

2 Dr. Hicks: Well, I don't necessarily think that's
3 true. And I certainly don't recommend a return to a draft.
4 And I do think, inevitably -- we don't need a military,
5 let's say, two to three times the size it is now. I think
6 most people would agree with that. So, we're not really
7 looking to vastly grow the size of our military; and thus,
8 the percent of the population. It really gets back to the
9 issue of, Is it all occurring -- is all that recruitment and
10 accession occurring within a population that's never
11 changing? That's not healthy, if that's true.

12 And it goes back to some of the issues about looking
13 for new pools of interest. That obviously can relate to
14 opening up, for instance, positions to women, looking at
15 areas like cyber, new skillset areas, where different types
16 of people, maybe, would be attracted to service than have
17 been before and that we need.

18 So, I think there are a variety of ways to get at this
19 issue. I don't think there's a single solution. And it's
20 certainly not the draft.

21 Dr. Cohen: Dr. Hicks said it better than I could.

22 Senator Nelson: Dr. Cohen, you gave the dramatic
23 example of civilian control of Truman over MacArthur. Can
24 you think, in history of the country, any examples in
25 reverse, where the military has actually overcome the

1 civilian control? Maybe other countries. But, you --

2 Dr. Cohen: Oh, I mean -- yeah, but that -- well --

3 Senator Nelson: Not a dictatorship, a democracy. You
4 mentioned the situation in Israel.

5 Dr. Cohen: Well, you know, the most effective Israeli
6 Minister of Defense was also the Prime Minister, David Ben
7 Gurion, who leveled out as a junior corporal in the British
8 Army, I think, over a period of about 3 months in World War
9 I. And I think anybody who knows anything about Israeli
10 military history knows he was far and away the most
11 effective Minister of Defense that they ever had. He's
12 really the guy who built the Israel defense forces.

13 Whereas, conversely, let's say, if you look at the Yom
14 Kippur War, Moshe Dayan, great military hero, in many ways
15 got in the way. And it was Prime Minister Golda Meir who
16 ended up being a much more effective strategic
17 decisionmaker, working with the chief of staff. And so, I'd
18 say Dayan in the '73 war is a pretty good example of that.

19 By and large in the United States, you know, the
20 civilians always win. Not -- but not without, occasionally,
21 some serious pushing and shoving.

22 Chairman McCain: "An American Caesar."

23 Senator Nelson: Yes.

24 Dr. Hicks: May I just simply add -- I want to answer
25 that question a different way than I'm sure you intended it,

1 but -- it bears stating here that there are heavy political
2 costs sometimes for exercising that civilian control of the
3 military. The MacArthur case is a good example. MacArthur
4 was very popular. Truman was very much not popular. And he
5 returned, after being fired, to tickertape parades. And
6 Truman didn't seek an additional term in office. And, in
7 fact, the next general was Eisenhower, who had been an aide
8 to MacArthur. So -- and I think you could even look at the
9 McChrystal issue more recently and the sort of -- the --
10 where the political or the public weight of approval of the
11 military may be very strong, and, even when civil-military
12 analysts look at it and say, "Yes, these are good cases of
13 exercising civilian control," there can be a significant
14 political cost to pay for that.

15 Senator Nelson: And what was the cost that the
16 President paid in firing McChrystal?

17 Dr. Hicks: Well, I think that will be left to
18 historians, but my view is that there is a lack of trust
19 between the military and the Obama senior leadership, as
20 Senator Sullivan said, and particularly in the White House.
21 And, I think, you know, to the extent that that might have
22 further fueled that sense of distance, I think that's a
23 possibility. But, I haven't seen any actual historical
24 reporting on that.

25 Chairman McCain: Senator Blumenthal has arrived.

1 Senator Blumenthal: I wish that were true. Thank you,
2 Mr. Chairman.

3 [Laughter.]

4 Senator Blumenthal: Thank you, Mr. Chairman.

5 I want to thank the Chairman and the Ranking Member for
6 holding this hearing, because civilian control over the
7 Department of Defense and the military in general is really
8 a bedrock principle, one of the founding principles of this
9 democracy recognized from the inception of our great Nation.
10 And I have deep respect for General Mattis and his service
11 to this country, having met with him over numerous years and
12 having had the benefit of his advice and insights over my
13 service in the United States Senate.

14 We're here today to discuss, in general, the issue of
15 civilian control over the military and how that principle is
16 served, or not, by his appointment. But, the general issue
17 applies, regardless of what we think of him. And to
18 emphasize the uniqueness of the waiver contained in this
19 statute, Congress included a nonbinding section expressing
20 the intent that Marshall's waiver was to be an exception,
21 quote, "This Act is not to be construed as approval by the
22 Congress of continuing appointments of military men to the
23 office of Secretary of Defense in the future," and -- end of
24 quote -- and, quote, "No additional appointments of military
25 men to that office shall be approved," end quote.

1 I'm concerned -- I think many of us are -- that a
2 waiver here would set a precedent. And I wonder if you have
3 advice to us as to how a waiver here can avoid setting
4 precedent. I know, in response to one of the questions
5 previously, I think perhaps by my colleague Senator Reed,
6 you have emphasized a waiting period or a period of time as
7 avoiding the repetition of that precedent, but the exception
8 may swallow the rule. And my question to you is whether
9 there is anything by way of legislative intent in what we
10 may have to say about doing a waiver here, or perhaps even
11 in the legislative statutory language, whether we can assure
12 that, in fact, we are making a very unusual and unique
13 exception so as to avoid some of the concerns, the general
14 concerns that have been expressed, even if we want to move
15 ahead with General Mattis's nomination and confirmation.

16 Dr. Cohen: Senator, I'm no expert on draftsmanship of
17 the law, but I -- you know, I do think it makes sense to put
18 things into the text of the law that make it very clear just
19 how exceptional you all believe this case is.

20 The one other thing which I suggested in my testimony,
21 which may or may not be helpful, is that you consider
22 restoring the 10-year rule and going back from the 7-year
23 rule. I think that would be, actually -- that would send a
24 certain message about how seriously Congress takes that.
25 But, that would be my only additional thought. And I'm not-

1 - I'm -- and that really, obviously, is a matter for you
2 folks to deliberate on.

3 Dr. Hicks: I would just add, I think, again, that the
4 very narrow way in which the legislation, as I have it in
5 front of me at least, is construed is very helpful, and, as
6 you point out, the additional language with regard to how
7 exceptional -- and, you know, I think in generational term -
8 - people may want to use different language, but --
9 generationally exceptional this decision would be.

10 Senator Blumenthal: I would just point out, it's an
11 obvious point, that -- the difference between 10 years, 7
12 years, 3 years, 15 years -- these are all sort of arbitrary
13 time periods. I don't know of the fact-based justification
14 for any specific numbers of years. It's more the principle
15 that's important. So, I do agree that the language is
16 narrow, but I'm just trying to, in effect, narrow the intent
17 so that it's clear to future Presidents -- or this
18 President, for matter -- that it is truly an exception based
19 on General Mattis's extraordinary qualifications and the
20 very extraordinary time in which we live.

21 Thank you.

22 Thanks, Mr. Chairman.

23 Chairman McCain: I think Senator Gillibrand has asked
24 for another question.

25 Senator Gillibrand: No. Thank you, Mr. Chairman.

1 Senator Reed: Oh.

2 Chairman McCain: No?

3 I thank the witnesses.

4 I don't know why, Dr. Cohen, I was reminded of --
5 probably one of the seminal moments was the firing of Harry
6 Truman, an authentication of civilian -- the adherence of
7 civilian control of the military, since he was the most
8 popular man at the time. And Truman, in later years, said,
9 "I didn't fire MacArthur because he was an SOB, which he
10 was." He said, "I fired him because he was dumb." Do you
11 remember that quote? As only Harry Truman could have put
12 it. An individual that history treats with much more
13 admiration and respect than it did at the time. And the
14 more I study, the more I appreciate that seminal moment. It
15 took enormous courage to dispense with the services of,
16 arguably, one of the most popular Americans. It's hard to
17 describe the way Americans revered war heroes at that time.

18 Would you have any closing comments? Or have you had
19 enough?

20 [Laughter.]

21 Chairman McCain: I thank the witnesses. This has been
22 very helpful.

23 [Whereupon, at 11:32 a.m., the hearing was adjourned.]

24

25