

Business

| | | |
|----------------|-----------|--------|
| ▲ Dow | +15.44 | 13,120 |
| ▲ Nasdaq | +2.75 | 2,557 |
| ▼ S&P 500 | -0.18 | 1,494 |
| ▼ Russell 2000 | -4.10 | 829 |
| ▶ 10-yr. note | No change | 4.70% |

Technology

By Fred Reed

Trials of tech issues complex

From time to time one reads of a jury, or a judge, who has just handed down a decision involving technology.

A recent example was Verizon's victory over Vonage, the voice-over-Internet telephone company, in a suit over infringement of patents. Perhaps the most famous was the government's antitrust suit against Microsoft. Corporations frequently sue each other over technical matters. Criminal cases now often involve DNA.

These trials often differ from nontechnical trials in fundamental ways that are not talked about. The problem is that neither the judge nor the jury is likely to have much idea what the trial is about.

This isn't always true: The issues in patent infringement can be pretty clear. But the jury system worked fine for simple cases. Bob's donkey broke into Bill's garden and ate the vegetables. Who owed how much to whom? The issue was simple, the law was simple, and what was needed was common sense from the jury.

Then laws got complex and trials got long. I have watched trials lasting a month or more and could not keep the testimony in my head. Probably the jury couldn't either. It seemed to me that the idea of an informed rational decision, as distinct from a well-intentioned guess, was a dead letter.

Now throw in technology. If the verdict turns on understanding the technical issues, the likelihood of a thought-out decision sinks very low.

A problem is that technology is nearly infinite in scope, but the human mind isn't. Biochemistry for example is a sprawling broad field that breaks into dozens of complex subspecialties and has nothing in common with radar engineering, which is a small part of electronics yet is phenomenally difficult.

In the world of 1750, with blacksmiths and waterwheels and sailing ships, the reasonably intelligent could have a reasonable grasp of most things around them.

Not now. All sorts of people know something of some aspects of technology — doctors, dentists, mechanical engineers, computer hobbyists, photography buffs. But the number of people on a jury who will know any particular field is small.

I remember the trial of O.J. Simpson, which involved DNA evidence. How many people on a normal jury will be able to understand DNA? The prosecution in such cases typically said that DNA analysis revealed that there was one chance in, say 50,000, that someone other than the accused had done it. This sounds damning. Actually it isn't always, but it takes a bit of probability theory to see why. Most of us have forgotten algebra.

Then the defense talks about contamination of the DNA samples through amplification by polymerase chain reaction (PCR), which again is black magic to most people. Why shouldn't it be? There are hundreds of thousands of techie tidbits like PCR and few have the slightest reason for wrestling with them.

Now, if I were a lawyer arguing a case involving, say, authorship of computer code in an operating system, and I thought my side was in the right, I would want a jury of high-end system programmers. If I thought my case was weak, I'd want a normal jury. Then I would try to look sincere and trustworthy and appeal to emotion.

The problem is that it is difficult to empanel juries of such people. Further, they would then know vastly more about the issues than would the lawyers, who would look foolish. Attorneys do not relish jurors who are smarter and better informed than they are.

Someone said that trials don't provide justice, but resolution. Maybe. I don't see how courts can reach sound decisions on very difficult technical matters.

Area sales of luxury SUVs in high gear

By Bryce Baschuk
THE WASHINGTON TIMES

The sport utility market may be down nationally, but some Washington-area auto dealers say their SUV sales are just fine. "Our [Cadillac] Escalade sales have not stopped, it is our best-selling SUV," said David Marshall, a sales manager at Capital Hummer in Greenbelt. "The clientele that buys Escalades can afford it, so gas doesn't seem to be an issue," he said.

Local SUV dealers attribute their continued sales to the economic stability of the Washington region.

Gas prices don't slow down affluent buyers

"This area is very affluent and our business is somewhat immune to people who consider fuel economy as a motivating factor in purchasing an SUV," said Steve Browdy, general sales manager at Moore Cadillac Hummer in Vienna.

Mr. Browdy said that despite high gas prices, his sales of Escalades have been so strong that he has trouble keeping them in stock.

"The people who are buying [full-sized SUVs] don't really care about gas prices," he said.

The 2005 Cadillac Escalade has a fuel economy of 13 miles per gallon in city driving conditions, according to the Department of Energy.

The upbeat perspective of local dealers stands in contrast to the doom and gloom felt by dealers elsewhere around the country.

Nationally, the forecast for midsized SUV sales fell 22 percent in the first three months of 2007 compared with last year, said a report conducted by Global Insight Inc., an automotive research and forecasting

firm in Boston.

Full-sized SUV sales are predicted to fall 2.8 percent for the first three months of 2007 compared with the previous year. Premium SUV sales were predicted to increase by 8.6 percent for the same period.

Analysts said steadily rising gas prices have become a major factor for many buyers who are now opting for smaller, more fuel-efficient automobiles.

"High gasoline prices have made SUVs impractical and have driven people out of the

marketplace who would have wanted the distinction of owning an SUV," said George Magliano, and automotive analyst from Global Insight.

Some Washington-area dealers acknowledge this trend, such as Greg Jones, a sales manager at Crystal Ford in Silver Spring.

"Nobody is setting the world on fire here, but sales are holding up pretty good compared to everyone else."

Mr. Jones said SUV sales have declined since the early 2000s, but he is hopeful that they will pick up with Ford's new product lines.

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The fake meat at Sublime, the upscale vegan eatery in Fort Lauderdale, Fla., does not taste like mystery meat. It often tastes like hearty meatloaf, pork tenderloin or chicken skewers.

Associated Press photographs

TEMPPEH

of the

TIMES

Vegan eateries abound as chefs work wonders with soybeans

By Kelli Kennedy
ASSOCIATED PRESS

T FORT LAUDERDALE, Fla. he fake meat at this upscale vegan eatery doesn't taste like mystery meat. Depending on the night it's more like hearty meatloaf with a mushroom sauce, pork tenderloin or Mediterranean grilled chicken skewers.

At Sublime, cascading waterfalls trickle from 10-foot windows in a low-lit dining room filled with live palm trees and customers sampling \$19 caviar — made of seaweed, not fish eggs.

Once a network of grungy, obscure cafes, the vegetarian and vegan experience in some cities has blossomed on par with its carnivorous counterparts, complete with Zagat ratings and celebrity clientele.

There are between 1,000 and 1,200 vegetarian restaurants in the United States, almost double the number seven years ago, according to Dennis Bayomi, president of VegDining.com, an online guide to vegetarian restaurants. Besides Sublime, he estimates there are more than a dozen fine-dining vegan eateries nationwide, though



Sublime owner Nanci Alexander has never turned a profit since opening in 2003 and doesn't receive a paycheck. She says she only opened the Florida restaurant to help carnivores stop eating meat.

that number is harder to track.

Part of the transformation owes to advances in cooking that allow chefs to prepare proteins like tofu with a taste and texture similar to meat. They can do the same thing with tempeh, which consists of fermented soybeans with a more grainy texture, and seitan, a concentrated wheat gluten.

Experts also credit the rise to an expanding global pantry, where vegetarian dishes are no longer relegated to the back of a menu, but have become main-plate specials.

"The door is wide open," said Eve Felder, associate dean for culinary arts at the Culinary Institute of America in Hyde Park, N.Y. "It's been going on in pockets for years, but it's much more of a trend across restaurants now."

New York-based Candle 79 has carved a profitable niche among vegetable-loving foodies with New York Times reviews, a popular cookbook and takeout items sold at Whole Foods Market. Paul McCartney, Alicia Silverstone and Woody Harrelson are all regulars, said owner Bart Potenza. One zealot flew two Candle chefs to Arizona recently just to cater his birthday bash.

"We've taken it to a whole other level. It couldn't have happened five or 10 years ago," Mr. Potenza said.

see VEGAN, page C11

MySpace makes belated bid to enter China

BEIJING (AP) — News Corp.'s popular social networking site MySpace began a test version of its new China service yesterday, making a late entry into the intensely competitive Chinese Internet market.

MySpace China will be a Chinese-owned company with backing from MySpace Inc., the IDG venture capital firm and a Chinese investment fund, the company said. A spokesman for the company refused to give an ownership breakdown or say which investor would control it.

MySpace allows users to share text, pictures and video. It was bought by News Corp. in 2002.

"Based on the MySpace global brand and technology platform, we will develop products and features that are tailored to today's Chinese citizens," Luo Chuan, a former Microsoft Corp. executive who is to lead the venture, said in a prepared statement.

The strategy of having a Chinese company operate the service follows the approach of Yahoo Inc., eBay Inc. and other Internet competitors that

have turned to local partners to run their China operations after struggling to win market share.

News Corp. Chairman Rupert Murdoch said in September the company was looking for a way to enter China without running into political obstacles and "heavy weather" faced by Google and Yahoo.

Mr. Murdoch said his Chinese-born wife, Wendy Deng, was playing a key role in helping to start the China-based service.

News Corp. has tried to ex-

pand in China but has been stymied by restrictions on foreign media ownership.

China has the world's second-biggest population of Internet users after the United States, with 137 million people online.

The communist government promotes Internet use for education and business but tries to block material considered subversive or pornographic. Dozens of people have been jailed for posting political essays online.

see MYSAPCE, page C11

Merck arthritis drug nixed by FDA

Side effects seen similar to Vioxx

By Gregory Lopes
THE WASHINGTON TIMES

The Food and Drug Administration turned down Merck & Co.'s attempt to market a new arthritis drug following evidence it has side effects similar to the company's banned drug, Vioxx, Merck said yesterday.

The expensive and lengthy process that resulted in a rejection highlights skepticism over the class of drugs known as Cox-2 inhibitors since September 2004, when Vioxx was found to double the risk of heart attacks and strokes.

Merck submitted a new drug application to the FDA for Arcoxia in December 2003, following a forced withdrawal of the company's original arthritis drug Vioxx. Merck announced the FDA's decision yesterday.

"We are disappointed with today's decision," said Peter Kim, president at Merck Research Laboratories. "We pursued FDA approval of Arcoxia because we believe strongly that new medicines are needed for patients whose osteoarthritis pain is inadequately managed with currently available therapies."

An estimated 21 million people in the United States suffer from osteoarthritis. Cox-2 inhibitors, a type of anti-inflammatory therapy, are developed to be gentler on the stomach than other medications but have run into problems because of an increased risk of heart attacks.

Merck asked the FDA to approve Arcoxia to treat osteoarthritis, the most common form of arthritis.

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Stocks falter on weak growth

NEW YORK (Bloomberg) — Stocks fell, tempering their fourth-straight weekly advance, after the slowest economic growth in four years revived concern that profit growth won't justify this year's rally.

Merrill Lynch & Co. and Citigroup Inc. led financial shares lower after weaker growth didn't curtail inflation. The Dow Jones Industrial Average reached its third record in three days after Microsoft Corp. boosted its sales forecast.

About five stocks fell for every three that rose on the New York Stock Exchange. The Standard & Poor's 500 Index slipped 0.18 to 1494.07. It has surged 5.3 percent in 2007, the most to start a year since 1999.

The Dow gained 15.44, or 0.1 percent, to 13,120.94, while the Nasdaq Composite Index climbed 2.75, or 0.1 percent, to 2557.21. Some 1.5 billion shares changed hands on the Big Board on below-average trading volume. The Russell 2000 Index of smaller companies fell 0.5 percent to 829.70.

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CHECKLIST

A roundup of top business news today

Regional

➤ **Marriott International** said its board of directors has declared an increase in its quarterly dividend from 6.25 cents to 7.50 cents per share of common stock, a 20 percent increase.

➤ **Coventry Health Care Inc.**, a Bethesda insurance provider, said earnings rose less than 1 percent in the first quarter because of a charge to renege debt. Net income increased to \$121.7 million (76 cents) from \$121 million (74 cents), a year earlier. Earnings without the charge matched estimates.

➤ **VSE Corp.**, a government contractor in Alexandria, said net income for the first quarter ended March 31 rose 83 percent to \$2.73 million (\$1.12 cents per diluted share) from \$1.49 million (61 cents) a year ago.

➤ The sharp decline of the **subprime housing** market offering high-cost mortgages hasn't yet hit bottom, the head of home mortgage buyer **Freddie Mac** said. The number of home buyers starting such loans peaked last year, and interest rates for those buyers are due to rise in the next few years, which could cause foreclosures to spike further, Richard F. Syron said.

National

➤ **AT&T Inc.** Chief Executive Officer Ed Whitacre, who built the company into the largest U.S. provider of telephone services, will retire

June 3 and be replaced by Chief Operating Officer Randall Stephenson.

➤ **General Motors Corp.** has suspended development activities on vehicles at two major assembly plants as the **United Auto Workers** union has backed out of negotiations on cost cuts at the factories.

➤ **Conrad Black** and two Hollinger International board members never told other directors about three deals that routed \$5 million to him and a company he controlled, a witness at Mr. Black's fraud trial said. Economist Marie-Josée Kravis, who served more than seven years on the board, told the jury that the money belonged to shareholders.

➤ **Airbus' A380**, the largest commercial airliner in the world, is so big that U.S. airports may have to curb capacity to handle it, the Government Accountability Office said. Eighteen airports plan limits on the operation of A380s or other planes. An Airbus spokesman said the report doesn't take into account the plane's substantially greater passenger capacity.

International

➤ **South Korea**, formerly the third-biggest buyer of U.S. beef, said it had cleared a 6.4 ton shipment after inspections, allowing the meat to enter the country for the first time since 2003.

From wire dispatches and staff reports

SUVS

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Other area dealers are more upbeat about luxury SUV sales. "The new Chevy Tahoes and Suburbans are doing quite well, so gas isn't affecting sales that much," said Jason Fischbein, truck manager at Criswell Chevrolet in Gaithersburg.

"These are \$40,000 vehicles so if gas is an issue, people don't buy these products," Mr. Fischbein said.

The 2003 Chevrolet Tahoe and Suburban both get 14 miles per gallon in city driving conditions, the Energy Department said.

Analysts link this phenomenon to the idea that there are consumers who want the status that comes with driving a large, expensive SUV.

"There are still going to be people who prefer driving a

large SUV regardless of fuel prices," said Mike McKenzie, an analyst at the automotive institute of PricewaterhouseCoopers LLP, one of the Big Four accounting firms.

"We're still going to see full-sized SUVs on the road because of the market demand, but fuel economy is going to play a bigger role."

Mr. Browdy is optimistic that the local demand for large, luxury SUVs will continue into the future despite the emergence of smaller, fuel-efficient automobiles.

"I remember one person who recently came in and traded his Toyota Prius for a Hummer. His wife told him buy a Prius but he hated it. He traded it in after a few months, saying it had no panache and it was too slow."

"For most people your car is an extension of you ego, and for us Americans we love to drive something that has lots of technology and power."

VEGAN

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They've sold 3 million vegan meals in the last 20 years and do about \$3 million in annual business, serving up seitan piccata with lemon caper sauce and ancho-seared tempeh with roasted sweet potato puree and pomegranate reduction.

No matter how sumptuous the stir fry, Mr. Potenza concedes vegan restaurants can have more trouble becoming cash cows.

"They say it's harder to change people's food habits than their religion or politics," he said.

It's also more expensive. While the "meat" may be

cheaper, Mr. Potenza says it costs 40 percent more to serve organic products.

Sublime owner Nanci Alexander has never turned a profit since opening in 2003 and doesn't receive a paycheck. The animal rights activist has no experience in the restaurant business, and says she only opened Sublime to help carnivores stop eating meat. All proceeds, if there are any, would go to the Animal Rights Foundation of Florida.

"They can't stop if they don't have someplace to go," she said. "I thought, 'How else can I help the animals?' I never wanted to be in the restaurant business."

Celebrities like Pamela Anderson, Bob Barker and Alec Baldwin are fans of the fare and philosophy.

STOCKS

From page C10

The S&P 500 added 0.7 percent this week, while the Dow and Nasdaq rose 1.2 percent.

The Reuters/University of Michigan's final index of consumer sentiment for April was 87.1, down from 88.4 in March. The latest figure topped the median estimate of 85.3.

"Today's data (on economic growth and inflation) are disappointing," said Jeffrey Kleintop at LPL Financial Services. "There are some ingredients here that suggest this is one of the worst quarters of the year."

Merrill Lynch fell 89 cents to \$90.11, while Citigroup lost 19 cents to \$53.37 after the data failed to give the Fed leeway to reduce borrowing costs.

Microsoft rose \$1.02, or 3.5 percent, to \$30.12 for the top advance in the Dow. The world's largest software maker said revenue may top estimates next fiscal year.

Third-quarter net income also surged 65 percent. Earnings increased to \$4.93 billion on sales of the new Windows and Office programs. Per-share profit of 50 cents beat estimates and the company said sales next year will rise to as much as \$57.5 billion, higher than the \$56.6 billion average estimate.

JetBlue Airways Corp. fell 37 cents, or 3.6 percent, to \$10, the lowest since October. JPMorgan cut its recommendation for the low-cost carrier to "underweight" from "neutral," saying JetBlue is "the most expensive airline money can buy."

"For all the talk of 'supply discipline,' the industry does a very poor job at policing itself," JP-Morgan analyst Jamie Baker wrote. "Investors hoping for the next 'big chunk' of capacity relief are likely to be disappointed."

AMR Corp., UAL Corp., Continental Airlines Inc., US Airways Group Inc. and Alaska Air Group Inc. were also downgraded. AMR retreated \$1.34 to \$26.35. UAL fell \$2.94 to \$34.01. The Amex Airline Index declined 4.1 percent to the lowest since October.

General Electric Co. had the Dow's second-best gain, rising \$1, or 2.8 percent, to \$36.84. The world's second-largest company by market value should spin off NBC Universal, GE Money and the real-estate division, according to Citigroup analysts.

Earnings at members of the S&P 500 likely increased 9.4 percent during the first quarter, according to a Bloomberg survey of analysts. That's up from a forecast of 3.1 percent two weeks ago. Almost 68 percent of S&P 500 members that have reported first-quarter results have beaten estimates.

China pledges to stem pollution

BEIJING (AP) — China's prime minister pledged yesterday to phase out tax breaks and discounts on land and electricity for highly polluting industries, conceding that the country's environmental situation was grim and required urgent action.

"More work on energy conservation and emissions reduction is urgently required to deal with global climate change," Prime Minister Wen Jiabao said. "Our country is a major coal producer and consumer and reducing polluting emissions is a responsibility we should bear."

China is a major producer of greenhouse gases, mainly carbon dioxide, which many scientists blame for damaging the

ozone layer and causing global warming.

The country had been forecast to surpass the United States as the world's top emitter of greenhouse gases in 2010, but its galloping economic growth has pushed the date forward, according to the head of the International Energy Agency. The prediction has refocused attention on China's pollution policies and its role in global warming.

"We must clearly recognize that the situation the nation faces regarding energy conservation and emissions reduction is still quite grim," Mr. Wen said at a meeting of other government leaders. "Last year, the nation did not meet its goals on reducing polluting emissions or on energy conservation, making

our work to fulfill our five-year plan even more difficult."

China has committed itself to cutting 20 percent of its energy use per every unit of gross domestic product by 2010, but last year failed to meet the first phase of that goal — a 4 percent reduction. Instead it fell by 1.2 percent.

Emissions are meant to fall by 10 percent by 2010, but last year sulfur dioxide emissions and chemical oxygen demand, a water pollution index, shot up 1.8 percent and 1.2 percent, respectively.

A transcript of Mr. Wen's speech was posted on the government's official Web site.

Mr. Wen said the government would "clean up and rectify preferential policies that give land and electricity discounts or

tax breaks to energy intensive or highly polluting industries."

He said China should create a system in which polluters have to pay for their damage, while enterprises that invest in clean energy should be rewarded.

He also called for continued price reforms on natural gas, heating fuel and water to encourage energy conservation, without giving a time frame for the price adjustments.

China is a signatory to the Kyoto Protocol for reducing greenhouse gases, but as a developing nation is exempt from its restrictions. Mr. Wen and Japanese Prime Minister Shinzo Abe signed an environmental agreement this month that calls for the countries to work on a successor to the Kyoto Protocol.

MERCK

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Studies linked Arcoxia to elevated rates of blood pressure and tissue swelling that can lead to heart problems and congestive heart failure, the same problems that had been seen in studies of Vioxx.

Making the FDA's decision mildly surprising is the fact that Arcoxia is available in 63 countries abroad including in Europe, Latin America and Asia. In addition, the FDA sent Merck an approval letter for Arcoxia in 2003, giving the company the go-ahead to conduct clinical trials.

Two weeks ago a FDA advisory panel on arthritis drugs recommended the agency reject Arcoxia 20-1. The panel said that to overlook any risk of heart attacks, it would need significantly more data to show Arcoxia is a better painkiller than existing drugs.

The advisory panel has been viewed as a rubber stamp by some that monitor the drug industry. Sidney Wolfe, director of Public Citizen's Health Research Group, said the advisory panel's decision is the first time in his over 20 years experience with the panel that it rejected a drug. However, he added that the panel had little choice.

"You would have to be brain-dead to allow any of these drugs [Cox-2 inhibitors] on the market," he said.

In its letter to Merck this month, the FDA asked for "additional data in support of the benefit-to-risk profile" for Arcoxia to be approved.

Still, the agency decision coupled with the advisory panel's harsh rebuke of Arcoxia are evidence of a new and more stringent focus by the FDA on Cox-2 inhibitors.

"Was it logical to not approve Arcoxia, yes. But it is going to be tougher for all drug companies to get these types of drugs approved by the FDA after having been burned on Vioxx," said Bill Vaughn, a policy analyst in the health sector of Consumers Union.

A Merck spokeswoman said the company is in the process of determining the next step for Arcoxia.

Mr. Kim said Tuesday — before the FDA alerted Merck the drug would not be approved — that more long-term safety data on Arcoxia exists than other drugs in the same class and traditional anti-inflammatory medicines.



MySpace China will be a Chinese-owned company with backing from MySpace, a venture capital firm and a Chinese investment fund.

MYSAPCE

From page C10

Web logs and bulletin board services are immensely popular, with 7.7 million blogs and 17.5 million active bloggers, the government's Internet agency says.

MySpace spokesmen referred questions about restrictions on the networking site to the Chinese company.

MySpace will face competi-

tion from established Chinese networking sites. The biggest, WangYou.com, with 11 million users, offers distinctly Chinese features such as a service to upload karaoke songs.

"MySpace China is not yet optimized to fully meet the needs of Chinese users and we continue to improve products and services based on the feedback and recommendations from our test and trial users," Mr. Luo's statement said.

Lott settles suit over Katrina insurance

ASSOCIATED PRESS

Sen. Trent Lott has agreed to settle the lawsuit he filed against State Farm Fire and Casualty Co. for refusing to cover Hurricane Katrina's damage to his Gulf Coast home, an attorney for the Mississippi Republican said yesterday.

The terms of Mr. Lott's settlement with State Farm were not disclosed. Zach Scruggs, one of the senator's attorneys, said he expects the deal to be completed early next week.

State Farm agreed in January to pay about \$80 million to as many as 640 policyholders, including Mr. Lott, who sued the Bloomington, Ill., insurer. Most of those policyholders accepted the settlement and received their money, but Mr. Lott was among a handful of plaintiffs who balked.

Mr. Lott, whose case was set to be tried in a federal court in September, said last month that he was weighing a settlement offer from the company.

Efforts to reach a spokesman for Mr. Lott weren't immediately successful yesterday.

"We are pleased to have reached a tentative agreement to settle Senator Lott's claim and to have avoided litigation that might have been lengthier and more expensive for both parties," State Farm spokesman Fraser Engerman said.

Mr. Lott was among hundreds of Gulf Coast policyholders who sued their insurer in the aftermath of the Aug. 29, 2005, storm. State Farm and other companies have refused to pay for damage from Katrina's storm surge, which they say is excluded from their homeowner policies.

BREAKING NEWS

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April 27, 2007

U.S. Customs and Border Protection Commissioner W. Ralph Basham says a "no-confidence" vote against Border Patrol Chief David V. Aguilar by leaders of the agency's rank and file is "derisive, detrimental and blatantly unfair" and wants to meet with union leaders to tell them the chief is the right man for the job.

The Senate's No. 2 Democrat says he knew that the American public was being misled into the Iraq war but remained silent because he was sworn to secrecy as a member of the intelligence committee.



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